PREM 19/1984

Movements in Volume of Trade by Commodity.

International ~~Tin~~ Tin Council

TRADE

PART ONE
January 1985

PREM 19/1984

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
~~7.12.85~~		~~20.12.85.~~					
~~15.3.85~~		~~31.12.85~~					
~~23.5.85~~		~~3.1.86~~					
~~11.10.85.~~		~~6.1.86.~~					
~~25.10.85~~		~~10.1.86~~					
~~30.10.85~~		~~11.1.86.~~					
~~7.11.85~~		~~16.1.86~~					
~~8.11.85~~		~~20.1.86~~					
~~12.11.85~~		~~23.1.86~~					
~~14.11.85~~		~~24.1.86~~					
~~20.11.85~~		~~29.1.86~~					
~~21/11/85~~		~~30.1.86~~					
~~22.11.85~~		~~5.2.86~~					
~~25.11.85.~~		30.1.86					
~~27/11/85~~							
~~28/11/85~~		PART 1 ENDS					
~~30.11.85~~							
~~4/12/85~~							
5/12/85							
~~17.12.85~~							
~~17.12.85~~							
~~19.12.85~~							

Dd 533270 5M 2/78 8362633 JET

PART ONE ends:-

CC(86)4th Item 4 30.1.86

PART TWO begins:-

FCO to CDP 5.2.86

TO BE RETAINED AS TOP ENCLOSURE

Cabinet / Cabinet Committee Documents

Reference	Date
CC(85) 37th meeting, item 3	19/12/1985
CC(86) 3rd meeting, item 2	23/01/1986
CC(86) 4th meeting, item 4	30/01/1986

The documents listed above, which were enclosed on this file, have been removed and destroyed. Such documents are the responsibility of the Cabinet Office. When released they are available in the appropriate **CAB** (CABINET OFFICE) CLASSES

Signed _____ Date 21/10/2014

PREM Records Team

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der Bundesrepublik Deutschland
Embassy
of the Federal Republic of Germany

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Diplogerma London

London, 30 January 1986

Mr. Charles Powell
Private Secretary to
the Prime Minister
No 10 Downing Street
London SW1

CDR 31/1

Dear Mr. Powell,

with reference to the letter of the Chargé d'Affaires a.i. of this Embassy dated 16 January 1986 I have been asked to transmit to you the original letter from the Federal Chancellor to the Prime Minister.

Yours sincerely,

Oskar Rudolph

(Oskar Rudolph)

Mr. Charles Powell
Private Secretary to
the Prime Minister
No 10 Downing Street
London SW1

London, 30 January 1986

with reference to the letter of the Chargé d'Affaires a.i. of this Embassy dated 16 January 1986 I have been asked to transmit to you the original letter from the Federal Chancellor to the Prime Minister.

(Baker Rudolph)

T9C/86.
(Already in T book)

BUNDESREPUBLIK DEUTSCHLAND
DER BUNDESKANZLER

Bonn, den 15. Januar 1986

IhrerExzellenz
Frau Margaret Thatcher, MP
Premierminister des
Vereinigten Königreichs
Großbritannien und Nord Irland

London

Liebe Margaret,

für Ihr Schreiben vom 20. Dezember 1985 danke ich Ihnen. Ich habe großes Verständnis für Ihre Besorgnisse angesichts des Scheiterns des 6. Internationalen Zinnübereinkommens und der daraus resultierenden finanziellen Schwierigkeiten des Internationalen Zinnrats.

Ich glaube, wir stimmen überein, daß die gegenwärtige Krise zum Anlaß genommen werden muß, den Zinnhandel wieder von den Marktkräften - frei von den bisherigen Interventionen des Ausgleichslagers - bestimmen zu lassen.

...

Zur rechtlichen Frage, ob die Mitgliedstaaten des Abkommens für die Verbindlichkeiten des Zinnrates unmittelbar oder auch nur mittelbar haften, vertritt die Bundesregierung mit anderen Mitgliedstaaten, wie Ihnen bekannt ist, die Ansicht, daß eine solche Haftung nicht besteht. Ebensowenig gibt es nach ihrer Auffassung eine Nachschußverpflichtung der Mitgliedstaaten für Verbindlichkeiten des Internationalen Zinnrats.

Bei den weiteren Überlegungen sollte es aus unserer Sicht der Dinge in erster Linie darum gehen, die durch das Scheitern des Zinnabkommens entstandenen Nachteile für den Weltzinnmarkt zu begrenzen, um bruchartige Entwicklungen zu vermeiden. Dabei kommt es vor allem darauf an, daß sich Produzenten und Lagerhalter - vor allem also auch die Banken - beim Abbau der vorhandenen beträchtlichen Zinnvorräte und bei der weiteren Produktion die notwendige Zurückhaltung auferlegen. Damit würde insbesondere einer Preisbildung entgegengewirkt, die durch die Ungewißheit über die Behandlung der Lagerbestände zu einem zusätzlichen Preisdruck führen müßte. Indem der neue Marktpreis für Zinn nicht durch einen unvorhersehbaren Abbau des Lagers belastet wäre, würden auch die Verluste der Banken und Händlerfirmen verringert.

Unbeschadet ihrer Rechtsüberzeugung ist die Bundesregierung weiterhin bereit, etwaige neue Lösungsüberlegungen der Hauptbetroffenen sorgfältig zu prüfen. Angesprochen sind hier vor allem diejenigen, die durch die bisherige Hochpreispolitik für Zinn besonders begünstigt waren, sowie diejenigen, die unmittelbare Nachteile von einem Preissturz bei Zinn erleiden würden. Dabei sollte die EG nicht von sich aus initiativ werden. Das könnte nur falsche Er-

...

wartungen wecken und würde damit der Sache eher schaden. Gerade im Hinblick auf unser gemeinsames Interesse am internationalen Handel und guten Beziehungen insbesondere zu den betroffenen Entwicklungsländern sollten wir das vermeiden.

Es wird geduldiges und behutsames Vorgehen vonnöten sein, wenn die Bemühungen, die Nachteile für den Weltzinnmarkt zu begrenzen, Erfolg haben sollen.

Mit freundlichen Grüßen

Translation

Federal Republic of Germany
The Federal Chancellor

Bonn, January 1986

The Rt. Hon.
Mrs Margaret Thatcher, MP,
Prime Minister of the United Kingdom
of Great Britain and Northern Ireland

London

Thank you for your letter of 20 December 1985. I do appreciate your concern about the failure of the 6th International Tin Agreement and the resultant financial plight of the International Tin Council.

I think we agree that the present crisis must be seen as an occasion to let the tin trade again be governed by market forces, free from buffer stock interventions.

As to the legal question whether countries members of the Agreement are directly, or even only indirectly, liable for the ITC's obligations, the Federal Government, together with other member countries, takes the view, as you know, that no such liability exists. Nor in its opinion is there any obligation to make additional payments to cover the Council's debts.

As we see the situation, the main purpose of further deliberations should be to limit the harmful effects which the failure of the Tin Agreement is having on the world tin market in order to avoid any abrupt developments. In so doing it will be especially important for producers and holders of tin stocks - thus principally the banks - to exercise the necessary restraint in

reducing the substantial tin stocks and with regard to further production. This would in particular prevent the uncertainty as to what will be done with the stocks from putting yet more pressure on prices. As the new market price for tin would thus not be burdened with unforeseeable stock reductions, the losses to banks and traders would be reduced accordingly.

Notwithstanding its legal position, the Federal Government will continue to give careful consideration to any new proposals for solving the problems of those mainly affected. These are for the most part the ones who have up to now particularly benefited from the high price of tin as well as those who would suffer immediate losses if the price were to drop sharply. The European Community should not take the initiative here since this might arouse false expectations and would, if anything, only make matters worse. This we should avoid, precisely in view of our mutual interest in international trade and our good relations especially with the developing countries affected.

A patient and circumspect approach is called for if the attempts to keep the damage to the world tin market in bounds are to prove successful.

Yours sincerely,

(sgd.) Helmut Kohl

TRADG 1/85

Volume by Trade

FILE

DA

10 DOWNING STREET

From the Private Secretary

29 January 1986

Dear Michael,

TIN

The Prime Minister was grateful for your Secretary of State's minute of 28 January reporting the latest position in the tin discussions. She agrees that there is no need for a further Ministerial discussion at this stage.

I am copying this letter to Robert Culshaw (Foreign and Commonwealth Office), Rachel Lomax (HM Treasury), Richard Broadbent (Chief Secretary's Office), Michael Saunders (Law Officers' Department) and John Bartlett (Bank of England).

Yours ever

David.

(David Norgrove)

Michael Gilbertson, Esq.,
Department of Trade and Industry.

CONFIDENTIAL

PRIME MINISTER

TIN

The purpose of this minute is to bring you up to date with developments since the meeting you held on 16 January.

2 The International Tin Council (ITC) continued its meetings last week. The most important development was that the EEC has now agreed that the Council should enter into negotiations with the bankers and brokers and has tabled a statement to that effect (copy attached). The Japanese have also put forward a proposal for a negotiated settlement. Although this has a number of unwelcome features such as definitive entry into force of the Agreement and a levy on trade in tin which would need careful examination, it is now clear that the Japanese are firmly committed to the principle of a negotiated solution.

3 Although these are welcome developments, there are still a number of issues to be resolved. In particular the statement in the last sentence of the EEC document that "even the figure of £100m that has been mentioned unofficially is still too high" indicates that there is likely to be considerable difficulty in persuading Member States of the Community to be prepared to go along with a figure which the

1786 1986 BOARD OF TRADE BICENTENARY

banks and brokers would regard as a reasonable basis for negotiation. In this context a reported Ministerial statement that the Netherlands were thinking of a maximum figure of £30m for the consumers is not encouraging. You will recollect that the bank and broker proposal envisages a contribution of £200m from the ITC.

4 There are a number of other points which need further clarification within the Council, including the distribution of any burden as between producers and consumers. Some of the consumer countries particularly the FRG and the Netherlands, believe that the producers having the greater interest in a soft landing, should bear a greater share of the burden than the consumers. We believe that such an approach is difficult to justify in logic, and would be unacceptable to the producers in practice. We therefore propose to take the line that burden sharing within the ITC should be on the basis of a 50-50 share between producers and consumers which is the normal basis for funding the ITC.

5 It is also clear as was mentioned at your meeting on 16 January, that there will be pressure from some other countries particularly the Netherlands and the Federal Republic, for the UK to take an even larger share of the burden than is currently proposed, in view of its particular interest in seeking a settlement. At the end of the day we may find this pressure difficult to resist, if we see an opportunity to secure a reasonable settlement. But for the moment I believe that we should strongly oppose any proposal for an increased UK share.

1786 1986 BOARD OF TRADE BICENTENARY

CONFIDENTIAL

6 The preparedness of the ITC to negotiate has encouraged the London Metal Exchange to keep the tin market closed for a further week until 31 January in order that negotiations may begin. It is therefore important that the International Tin Council should get down to negotiations quickly.

7 For the moment, there is no need to arrange a further Ministerial discussion on the tin crisis. I will monitor progress closely and report to colleagues on any significant developments. We should all continue to impress on other members of the ITC the importance of maintaining the momentum towards a settlement of the tin crisis, now that it has been formally agreed that the ITC can negotiate with its creditors.

8 I am sending copies of this minute to the Foreign Secretary, the Chancellor of the Exchequer, the Chief Secretary, the Solicitor General, and the Governor of the Bank of England.

P C

28 January 1986

DEPARTMENT OF TRADE AND INDUSTRY

1786 1986 BOARD OF TRADE BICENTENARY

As has been stated on several occasions, we are ready to participate in a constructive way to a solution making possible:

- an orderly re-opening of the market
- an orderly disposal of the buffer stock.

In this perspective, the proposal made by Messrs Graham and Kestenbaum on 23 December 1985 appears to us to be the first serious attempt towards a solution to the present crisis. Although it presents considerable legal and financial difficulties, we think that it could be used as a basis for discussions with all parties concerned. In our attempts to find a solution we are also considering the recent Japanese proposal.

At this stage we can now inform you that we are willing to negotiate.

However, our willingness to negotiate can in no way be interpreted as an admission of legal liability for the ITC debts. Instead it is an attempt to avoid a drastic fall in prices and to restore order to the tin market and its harmonious development over the years to come. In order to be able to negotiate successfully with other parties involved, a number of important matters need first to be addressed within the ITC. These matters include:

1 The legal framework, excluding all liabilities of member states. There should be no legal actions whatsoever against the Council and its member states.

2 The distribution key to be applied to a possible financial contribution by the ITC to a solution of the tin crisis.

3 The transition to orderly market conditions, including:

a achieving a soft landing of prices;

b orderly disposal of tin stocks;

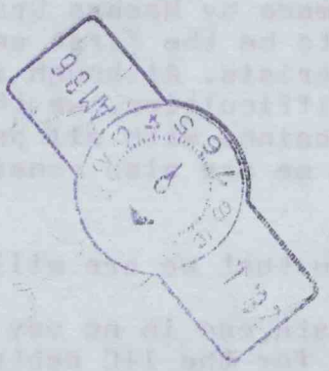
c future export levels;

d suspension of buffer stock operations;

e link between ITC and a possible Newco.

4 The burden-sharing, taking into account the varying degress of interest of all parties concerned.

At this stage, we can also inform the Council that we are in a position to make a gesture on a purely voluntary and non-committal basis provided there will be a general consensus amongst all parties concerned inside and outside of the Council. The figures mentioned by the bankers and the brokers are, however, unacceptable. It is felt by all delegations, except the UK that even the figure of £100m that has been mentioned unofficially is still too high.



CCBG

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
Telephone (Direct dialling) 01-215) 5422
GTN 215)
(Switchboard) 01-215 7877

Secretary of State for Trade and Industry

PS/

24 January 1986

David Norgrove Esq
Private Secretary to the
Prime Minister
10 Downing Street
LONDON
SW1

NBPL

Dear David,

TIN

At the Prime Minister's meeting on 16 January it was agreed that a note would be provided on the Department of Trade and Industry's best guess about the real deadline in the tin crisis.

2 In summary, failure to enter into substantive negotiations by the ITC by the end of this week would be likely to cause the LME to decide to bring the tin crisis to a head by announcing a date for reopening the market for trading in tin. This date would be unlikely to be after 3 February. But the LME Chairman in his letter to the Prime Minister of 21 January indicates that such a course would lead to the end of the LME as a whole.

3 If the ITC does agree to enter into positive negotiations, the LME could possibly delay a decision on reopening for a further week or two after 3 February.

... 4 The attached note spells out the position as we see it in a little more detail. The Bank of England has undertaken to clarify some of the points relating to the likely position should trading on the LME be resumed in the absence of a solution to the crisis.

5 I am copying this letter to Philip Wynn Owen (HM Treasury), Robert Culshaw (Foreign and Commonwealth Office), Paul Pegler (Chief Secretary's Office), Henry Steel (Law Officer's Department) and John Bartlett (Office of the Governor of the Bank of England).

Yours ever,

Michael

JF4AUM

MICHAEL GILBERTSON
Private Secretary

Encls

1786
1986
BOARD OF TRADE
BICENTENARY

999-1

The position is complex, and a breakdown could arise through various factors, including a decision by the LME to reopen for trading in tin before a settlement was reached; a decision by the banks and/or brokers that there was no point in further talking to the International Tin Council; or various actions by traders against LME ring members for the fulfilment of contracts or actions by traders to force the LME to open. The situation may also be approaching where certain LME ring dealers will begin to suffer so seriously from their inability to trade in tin whilst having to meet other commitments that they would be unable to continue.

2 The LME decided at its meeting on 20 January that it would put off a decision on when to reopen for trading in tin until 24 January. It had been thought that the LME would not be prepared to stay closed for trading in tin beyond 3 February, but it has now been indicated by some brokers that if there are positive signs of progress it might be possible to stay closed for at least a week or two longer. The Chairman of the LME and at least some ring dealers believe that to open the LME for trading in tin without a solution to the crisis would precipitate an immediate collapse of the market, through the calling by some dealers for margins. Thus it would appear logical that the LME would not reopen for trading if a solution appeared likely to be achievable.

3 The most likely factor which would precipitate a breakdown would appear to be that the banks and brokers would decide that it was no longer worthwhile continuing discussions with the International Tin Council. The banks which are reasonably well secured, haved no great incentive to continue talking without prospect of success. So far the Council has proved unwilling to enter into serious negotiations on the bank and broker rescue package, mainly because of resistance from certain members of the EEC, led by the FRG. We believe that if the Council does not show itself willing to negotiate in a meaningful way by the end of this week, then the banks and brokers would no longer be prepared to talk further. The Japanese tabled a new proposal on 21 January, which would be compatible with Newco, in order to try to secure the basis of a settlement, but it has not so far secured the support of the EEC countries.

4 If the International Tin Council does give serious indications that it is prepared to talk properly about a negotiated solution, it is likely that the deadline could be postponed for at least two or three weeks longer. At present, however, with no clear indications from the FRG in particular, and to a lesser extent from the Belgiums, French and the Netherlands, that they are prepared to agree to negotiations, the prospects of serious talks getting under way this week do not appear good.

Trade: Volume movement of Trade etc: Jan 85

Prime Minister

To note that Mr Graham is asking for the ITC's legal immunity to be lifted. No need to read.

DLV
21/1

CC/BU

P.A. Graham
Senior Deputy Chairman

38, Bishopsgate,
London, EC2N 4DB.
Telephone 01-280 7500

20th January, 1986

The Rt.Hon. Leon Brittan QC., MP.,
Secretary of State for Trade and Industry,
Department of Trade and Industry,
1-19 Victoria Street,
SW1H OET.

Dear Mr. Brittan

I refer to my letter of the 19th December 1985. I am disappointed that the element of realism which I detected at that time has failed to materialise despite the sustained and constructive efforts of the Consortium. The ITC and most of the Member States are apparently intent on reneging on their obligations to the financial institutions which comprise the Consortium. Indeed none of the proposals which we have made has elicited any response other than a few unnecessary questions.

The Consortium is close to the point where legal recourse appears to be the only solution and I would request you to give further consideration to the question of revoking or varying to the extent (if any) necessary, any immunity enjoyed by the ITC., its members officers or others.

The immunity which the ITC has is provided for under an Order in Council pursuant to the International Organisations Act 1968. Section 1(6) of the 1968 Act provides inter alia that any Order in Council made under sub-section (2) or sub-section (5) of Section 1 shall be so framed as to secure that the privileges and immunities conferred by the Order are not greater in extent than those which, at the time when the Order takes effect, are required to be conferred in accordance with any agreement which the United Kingdom or Her Majesty's Government in the United Kingdom is then a party. Section 10 (3) of the 1968 Act expressly provides that any power conferred

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by any provision of that Act to make an Order in Council shall include power to revoke or vary the Order by a subsequent Order in Council made under that provision.

You pointed out that the U.K. is bound by the Headquarters Agreement to maintain the immunities set out in that agreement. With respect we cannot agree that, as a matter of English or even international law, Her Majesty's Government is in the circumstances bound to maintain those immunities to the fullest extent and under the most liberal interpretation.

The fundamental point which I would make on behalf of the Consortium, is that the immunity which the ITC has is conferred in order to enable it to conduct its activities pursuant to, and strictly within the objectives of, the Sixth International Tin Agreement.

The events of recent months and the information which has come to light concerning the activities of the ITC demonstrate not only that the ITC has failed so spectacularly to achieve its constitutional objectives, but that the manner in which it conducted its affairs with regard to the buffer stock are highly questionable. For the ITC now to be permitted to shelter behind its immunity would be a gross abuse of the purposes for which it was originally conferred and it seems very improbable that the immunity would originally have been conferred had it been known in respect of what transactions it might later be invoked.

On a specific point arising from the terms of the Headquarters Agreement, it is to be noted that Article 23 provides that the ITC when entering into certain contracts shall include an arbitration clause whereby any disputes arising out of the interpretation or execution of the contract may at the request of either party be submitted to private arbitration. As you know, the existence of compulsory arbitration has in this country always been regarded as the essential counter part of the immunity of international organisations from the jurisdiction of the Courts. Yet, by violating its treaty obligation in failing to submit to arbitration in qualifying contracts, the ITC may have rendered Article 23 of the Headquarters Agreement without effect. At the very least, it would seem appropriate for the immunity of the ITC to be revoked in respect of claims made under contracts in which the ITC should have inserted

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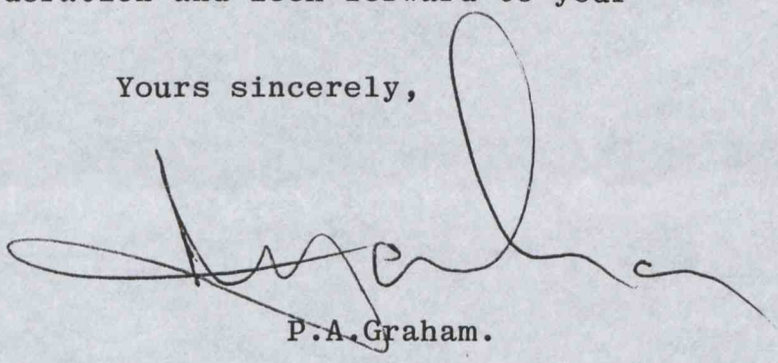
aribtration clauses.

I am grateful to you for giving this matter further consideration and look forward to your response.

Yours sincerely,



P.A.Graham.

CONFIDENTIAL

FILE 103A54
Dcc Prof. Griffiths

10 DOWNING STREET

CeMaster

From the Private Secretary

16 January 1986

Dear Catherine,

TIN

The Prime Minister today held a meeting to discuss your Secretary of State's minute of today and the papers attached to your letter to me of 15 January. Present were your Secretary of State, Foreign Secretary, Chancellor of the Exchequer, Chief Secretary, Solicitor General, the Governor of the Bank of England, Mr. R. Mountfield and Mr. Murray (Department of Trade and Industry), Mr. Braithwaite (Foreign and Commonwealth Office), Mr. P. Mountfield (H.M. Treeasury) and Mr. Farrow (Bank of England).

The meeting discussed the fall-back options described in the note by officials. The analysis suggested that the fall-back options would cost the Exchequer almost as much as an uncontrolled collapse, and that expenditure under the fall-back options would arise immediately, whereas expenditure after an uncontrolled collapse would only become payable some years in the future, as a result of successful legal action. There were, of course, major uncertainties about all the figures, but on that basis it would be difficult to justify a bail-out to the PAC (the Government would need to point to the benefits to the national economy of preventing damage to the City and our invisible earnings) and it would also make a bail-out politically even more difficult. It was further noted that the failure of an Arab bank's application for an injunction against the ITC (paragraph 4 of your Secretary of State's minute) suggested that the cost of collapse could be reduced, perhaps by as much as £210 million.

Some of the countries which had previously been obdurate were now showing signs of movement, including the Japanese, French and Dutch. The Germans continued to be difficult, arguing that they in any case had no legal basis for further expenditure. The response to the Prime Minister's message from Chancellor Kohl (enclosed) was seen as somewhat discouraging, but it was quite possible that the Germans were seeking to hold out in the expectation that the British Government and the banks and brokers would agree to pay a larger share. They needed to be convinced that this was most unlikely.

CONFIDENTIAL

CJ.

There were signs that the banks were on the verge of walking out of the negotiations: they were fully secured in physical tin and had much less to lose than the brokers. If negotiations collapsed, parent companies of brokers might refuse to stand behind their subsidiaries, citing the failure of Governments to meet their demands. The results would be damaging to the City, in part because of the loss of business ancillary to the LME's activities, and it would demonstrate the truth of the Prime Minister's arguments in her messages to other Heads of Government that the financial system generally would be damaged by a failure of negotiations.

The LME had said that they could not postpone a reopening beyond the first week of February. They had, however, set similar deadlines in the past, and if a package had been agreed in principle by then it was almost certain that the Chairman of the LME could be persuaded to keep it closed while the details and legal agreements were tied up. However, the crunch could come as early as next week.

It was suggested that if the tin price collapsed one of the three Cornish tin mines would certainly collapse. The other two might possibly survive if the tin price recovered as some had forecast. But in any case, the certain damage to the Cornish tin industry would make it the more difficult to adopt one of the fall-back options to help the banks and brokers.

It was agreed that the Government's present line should be maintained. All those concerned should continue to make every effort to bring pressure to bear on other countries. The Foreign Secretary and the Chancellor would consider speaking by telephone to Dutch Ministers. The Chancellor would have an opportunity to tackle a number of colleagues from other countries over the weekend, and the Foreign Secretary would be able to speak to French and Japanese colleagues on Monday. It was agreed that briefing would be provided for the Chancellor and others on the Department of Trade and Industry's best guess about the real deadlines. The best hope was that as negotiations moved closer to the brink it was possible that other options would come forward and that other countries would move towards an agreement. At that stage, which would have to be before the market re-opened (the position would then be irretrievable), it might well be helpful for the Prime Minister to send a further message to other Heads of Government indicating that their Governments would be joined in any legal action. The Foreign and Commonwealth Office had prepared a draft which would be cleared with other Departments and the Law Officers.

It was also agreed that in answer to a request from banks and brokers for advice on whether they should invite help from Dr. Kissinger, they should be told that it was for them to decide, but that the Government did not believe it would assist a solution at present, as far as the Government was concerned.

The Chancellor reported that he had received an approach from Drexel Burnham Lambert about a new proposal. Your Secretary of State said that he, too, had had an approach, in which a variant of the present proposals had been suggested. There would be no point in the Chancellor seeing a representative from that company unless it was clear that they were going to make a proposal which was different from the one of which he had been told.

I am copying this letter, and enclosure, to Tony Kuczys (H.M. Treasury), Len Appleyard (Foreign and Commonwealth Office), Richard Broadbent (Chief Secretary's Office), Henry Steel (Law officers' Department) and John Bartlett (Office of the Governor of the Bank of England).

Yours ever
David.

DAVID NORGROVE

Miss Catherine Bradley,
Department of Trade and Industry.

Courtesy Translation

Federal Republic of Germany
The Federal Chancellor

Bonn, 15 January 1986

The Rt. Hon.
Mrs. Margaret Thatcher, MP,
Prime Minister of the United
Kingdom of Great Britain and
Northern Ireland
London

Dear Margaret,

thank you for your letter of 20 December 1985. I do appreciate your concern about the failure of the 6th International Tin Agreement and the resultant financial plight of the International Tin Council.

I think we agree that the present crisis must be seen as an occasion to let the tin trade again be governed by market forces, free from buffer stock interventions.

As to the legal question whether member countries of the Agreement are directly, or even only indirectly, liable for the ITC's obligations, the Federal Government, together with other member countries, takes the view, as you know, that no such liability exists, Nor in its opinion is there any obligation to make additional payments to cover the Council's debts.

As we see the situation, the main purpose of further deliberations should be to limit the harmful effects which the failure of the Tin Agreement is having on the world tin market in order to avoid any abrupt developments. In so doing it will be especially important for producers and holders of tin stocks - thus principally

...

the banks - to exercise the necessary restraint in reducing the substantial tin stocks and with regard to further production. This would in particular prevent the uncertainty as to what will be done with the stocks from putting yet more pressure on prices. As the new market price for tin would thus not be burdened with unforeseeable stock reductions, the losses to banks and traders would be reduced accordingly.

Notwithstanding its legal position, the Federal Government will continue to give careful consideration to any new proposals for solving the problems of those mainly affected. These are for the most part the ones who have up to now particularly benefited from the high price of tin as well as those who would suffer immediate losses if the price were to drop sharply. The European Community should not take the initiative here since this might arouse false expectations and would, if anything, only make matters worse. This we should avoid, precisely in view of our mutual interest in international trade and our good relations especially with the developing countries affected.

A patient and circumspect approach is called for if the attempts to keep the damage to the world tin market in bounds are to prove successful.

Yours sincerely,
Helmut Kohl

CONFIDENTIAL

JU175

PRIME MINISTER

TIN

You have arranged a meeting for the afternoon of 16 January and it may be helpful in advance of that meeting for me to set out the current position and the issues we may need to address.

2 The International Tin Council met on 14 and 15 January. The main item discussed at the Council was the package of proposals put forward by the banks and brokers, which we agreed to support at your meeting on 3 January. Little progress was made at the ITC meeting, which has now been adjourned until Friday 17 January. All members of the ITC consider the bank and broker package to be a significant step forward, but the ITC has not been able to agree to set up a negotiating team to act on its behalf in further discussions with the banks and the brokers: the European Community countries, led by France, Germany and the Netherlands, blocked a renewed proposal from the tin producing countries for formal negotiations to begin. An informal team of ITC delegates, on which the UK will be represented, will be having discussions with the banks and brokers on 16 January. The objective of these discussions is to explore the possibility of improving the proposals put forward by the banks and brokers; the main difficulty for most ITC member countries is that the

999-49

size of the financial contribution required of them collectively, at £200m, is too high.

3 This lack of real progress is disappointing, especially the fact that the position of the German, French, Dutch and Japanese delegates at the ITC meeting do not appear to have changed significantly despite the messages which you have sent to their respective heads of government. Reports from our posts in the countries concerned, however, indicate that your messages have provoked a reappraisal of policy towards the tin crisis, and the results have perhaps not yet had time to work through to the level of the ITC delegates.

4 There are two other developments to report. First, an Arab bank which had made a loan to the ITC lost an application in a court today for an injunction against the ITC. I do not yet have details of the judgement, but I gather that the judge ruled that the ITC had immunity. Second, I have heard that the brokers have approached Dr Henry Kissinger with a view to his acting as a mediator to try to find a solution to the tin crisis. If there is any prospect of a negotiated settlement being reached, this could be a constructive move on the part of the brokers.

5 At our meeting on 3 January we deferred consideration of possible fallback options open to us if a negotiated settlement could not be reached. A paper by my officials was circulated by my office last night which analyses in more detail the likely costs which might fall

to HMG in the event of a failure to resolve the tin crisis, coupled with a description of three possible alternative fallback options. You will see from the cover note describing these fallback options that officials do not consider that any of the fallback options which they have identified would lead to a significant reduction in Exchequer costs. However, officials do suggest that the analysis points to the possibility of HMG contributing more financially to a solution to the crisis than the guarantee of a £50m loan as proposed in the bank and broker package.

6 I am very concerned at the reports I have had of the pressures being put on the UK delegates to the ITC for HMG to make a greater contribution to a solution to the crisis. I am quite sure that, at this stage, we should continue to resist all such suggestions vigorously, and insist that it is for other delegations now to come forward with indications that they are prepared to pay their share of the financial contributions required of them in order to resolve the tin crisis.

7 At your meeting on 16 January we will need to consider what further steps we should take internationally to promote a settlement to this crisis. A further formal approach at Ministerial level, so soon after your own messages to other heads of government, might be counter-productive. But we should all continue to press our colleagues informally, at every available

opportunity, of the need to find urgently a solution to this crisis.

8 I believe we should rule out the possibility of HMG financing a rescue package for the banks and brokers if no solution can be found and the tin market collapses, in the light of the conclusions reached by officials in their paper on fallback options.

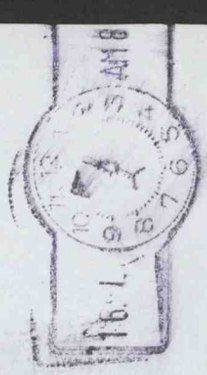
9 I am sending a copy of this minute to the Foreign Secretary, the Chancellor of the Exchequer, the Chief Secretary, the Solicitor General and the Governor of the Bank of England.

L. B.

L B

16 January 1986

Department of Trade & Industry



cc PC

Chargé d'Affaires a.i.
~~DER BOTSCHAFTER~~
DER BUNDESREPUBLIK DEUTSCHLAND
Baron Hans von Stein

16 January 1986

CDP 17/1

Dear Prime Minister,

I have been instructed to transmit to you the enclosed letter from Herr Helmut Kohl, Chancellor of the Federal Republic of Germany.

A courtesy translation is attached.

I am, dear Prime Minister,

Yours sincerely,

Hans v. Stein

Her Excellency
The Rt. Hon. Margaret Thatcher, MP
Her Majesty's Prime Minister and
First Lord of the Treasury
L o n d o n

Courtesy Translation

SUBJECT

Federal Republic of Germany
The Federal Chancellor

Bonn, 15 January 1986

cc Master
OPS

The Rt. Hon.
Mrs. Margaret Thatcher, MP,
Prime Minister of the United
Kingdom of Great Britain and
Northern Ireland
London

PRIME MINISTER'S
PERSONAL MESSAGE
SERIAL No. T9C/86

Dear Margaret,

thank you for your letter of 20 December 1985. I do appreciate your concern about the failure of the 6th International Tin Agreement and the resultant financial plight of the International Tin Council.

I think we agree that the present crisis must be seen as an occasion to let the tin trade again be governed by market forces, free from buffer stock interventions.

As to the legal question whether member countries of the Agreement are directly, or even only indirectly, liable for the ITC's obligations, the Federal Government, together with other member countries, takes the view, as you know, that no such liability exists. Nor in its opinion is there any obligation to make additional payments to cover the Council's debts.

As we see the situation, the main purpose of further deliberations should be to limit the harmful effects which the failure of the Tin Agreement is having on the world tin market in order to avoid any abrupt developments. In so doing it will be especially important for producers and holders of tin stocks - thus principally

...

the banks - to exercise the necessary restraint in reducing the substantial tin stocks and with regard to further production. This would in particular prevent the uncertainty as to what will be done with the stocks from putting yet more pressure on prices. As the new market price for tin would thus not be burdened with unforeseeable stock reductions, the losses to banks and traders would be reduced accordingly.

Notwithstanding its legal position, the Federal Government will continue to give careful consideration to any new proposals for solving the problems of those mainly affected. These are for the most part the ones who have up to now particularly benefited from the high price of tin as well as those who would suffer immediate losses if the price were to drop sharply. The European Community should not take the initiative here since this might arouse false expectations and would, if anything, only make matters worse. This we should avoid, precisely in view of our mutual interest in international trade and our good relations especially with the developing countries affected.

A patient and circumspect approach is called for if the attempts to keep the damage to the world tin market in bounds are to prove successful.

Yours sincerely,
Helmut Kohl

BUNDESREPUBLIK DEUTSCHLAND
Der Bundeskanzler

Bonn, den 15. Januar 1986

Ihre Exzellenz
Frau Margaret Thatcher, MP,
Premierministerin des Vereinigten Königreiches von
Großbritannien und Nordirland
L o n d o n

Liebe Margaret,

für Ihr Schreiben vom 20. Dezember 1985 danke ich Ihnen. Ich habe großes Verständnis für Ihre Besorgnisse angesichts des Scheiterns des 6. Internationalen Zinnübereinkommens und der daraus resultierenden finanziellen Schwierigkeiten des Internationalen Zinnrats.

Ich glaube, wir stimmen überein, daß die gegenwärtige Krise zum Anlaß genommen werden muß, den Zinnhandel wieder von den Marktkräften - frei von den bisherigen Interventionen des Ausgleichslagers - bestimmen zu lassen.

Zur rechtlichen Frage, ob die Mitgliedstaaten des Abkommens für die Verbindlichkeiten des Zinnrates unmittelbar oder auch nur mittelbar haften, vertritt die Bundesregierung mit anderen Mitgliedstaaten, wie Ihnen bekannt ist, die Ansicht, daß eine solche Haftung nicht besteht. Ebensowenig gibt es nach ihrer Auffassung eine Nachschußverpflichtung der Mitgliedstaaten für Verbindlichkeiten des Internationalen Zinnrats.

Bei den weiteren Überlegungen sollte es aus unserer Sicht der Dinge in erster Linie darum gehen, die durch das Scheitern des Zinnabkommens entstandenen Nachteile für den Weltzinnmarkt zu begrenzen, um bruchartige Entwicklungen zu vermeiden. Dabei kommt es vor allem darauf an, daß sich Produzenten und Lagerhalter - vor allem also auch die Banken - beim Abbau der vorhandenen beträchtlichen Zinn-

...

vorräte und bei der weiteren Produktion die notwendige Zurückhaltung auferlegen. Damit würde insbesondere einer Preisbildung entgegengewirkt, die durch die Ungewißheit über die Behandlung der Lagerbestände zu einem zusätzlichen Preisdruck führen müßte. Indem der neue Marktpreis für Zinn nicht durch einen unvorhersehbaren Abbau des Lagers belastet wäre, würden auch die Verluste der Banken und Händlerfirmen verringert.

Unbeschadet ihrer Rechtsüberzeugung ist die Bundesregierung weiterhin bereit, etwaige neue Lösungsüberlegungen der Hauptbetroffenen sorgfältig zu prüfen. Angesprochen sind hier vor allem diejenigen, die durch die bisherige Hochpreispolitik für Zinn besonders begünstigt waren, sowie diejenigen, die unmittelbare Nachteile von einem Preissturz bei Zinn erleiden würden. Dabei sollte die EG nicht von sich aus initiativ werden. Das könnte nur falsche Erwartungen wecken und würde damit der Sache eher schaden. Gerade im Hinblick auf unser gemeinsames Interesse am internationalen Handel und guten Beziehungen insbesondere zu den betroffenen Entwicklungsländern sollten wir das vermeiden.

Es wird geduldiges und behutsames Vorgehen vonnöten sein, wenn die Bemühungen, die Nachteile für den Weltzinnmarkt zu begrenzen, Erfolg haben sollen.

Mit freundlichen Grüßen
Helmut Kohl

PRIME MINISTER

TIN

You are holding a meeting tomorrow afternoon to discuss tin.

The ITC met yesterday and again today. I have not had an authoritative account of what has happened, but DTI say that this week may well be the crucial week. We have been told that before, but it really does seem that a crunch is close.

I suggest you start the meeting by asking Mr Brittan to describe the position so far reached. The meeting then falls into two parts: what would happen if the negotiations collapse and whether the Government should be prepared to go beyond the £50 million loan guarantee already offered.

On the options if there is a collapse, the essence is in paragraphs 4 and 5 of the DTI note. In effect there is for practical purposes little difference between the fall-back options which have been identified and the likely cost to HMG if there is an uncontrolled collapse. The fall-back options the DTI put at £200 million and uncontrolled collapse they say might cost £250 million. Expenditure on fall-back options would arise immediately; expenditure after an uncontrolled collapse would only become payable after a long legal action which we lost.

The essential questions to be answered about the fall-back options are:

(i) would it be worthwhile financially to adopt a fall-back option;

(ii) can the Government politically afford to participate in a rescue as the only Government involved?

The second area for discussion is whether the Government should be prepared to offer more than the £50 million loan guarantee. This is mentioned but not discussed in detail in paragraph 7 of the DTI note. Should the Government be prepared to offer more support within the package? Where would the negotiators be able to draw the line once they agreed to put up more cash than the UK share?

(Duty Clerk)

pp DAVID NORGROVE

15 January 1986

SL3AOL

~~BG~~
BJ

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JU173
Secretary of State for Trade and Industry

15 January 1986

COVERING CONFIDENTIAL

David Norgrove Esq
Private Secretary to the
Prime Minister
10 Downing Street
London SW1

Dear David

TIN: MEETING AT 16.00 - 16 JANUARY

I enclose a copy of a paper on possible fallback options which may be useful background information for this meeting tomorrow.

I should emphasise that my Secretary of State has not seen or authorised this paper, but I think it is helpful to circulate it at this stage rather than later.

I am copying this letter to Colin Budd (Foreign & Commonwealth Office), Philip Wynn-Owen (Chancellor of the Exchequer's Office), Paul Pegler (Chief Secretary's Office), Henry Steele (Law Officers Dept), and to the Office of the Governor of the Bank of England. I am also attaching a copy to Ruth Rawling (MAFF) for information.

Yours sincerely,

C Bradley

CATHERINE BRADLEY
Private Secretary

CONFIDENTIAL

FALLBACK OPTIONS

We have now considered in more detail the costs which might fall to HMG in the event of a failure to resolve the tin crisis, resulting in a collapse in the price of tin and legal action being taken by the banks and brokers against HMG.

2 The results of this analysis are set out in the first part of the attached paper, together with a fuller description of three alternative fallback options which HMG might possibly consider, in order to stabilise tin prices and reduce the potential exchequer costs if the crisis cannot be resolved.

3 The best estimate that we can make of the likely cost to HMG if there is an uncontrolled collapse is that it would be about £250m. Such a sum would only become payable some years in the future, as a result of successful legal action. This estimated net cost is much lower than the £500m gross costs estimated earlier, because we believe that there is a good chance of recovering, from other ITC member countries, at least half of the costs awarded against HMG on a joint and several basis by the Courts.

4 We have been unable to identify any fallback option which is likely to cost HMG significantly less than £200m. Such expenditure would arise immediately. A table summarising the costs of various options is at Annex 1.

5 The reason why there is such a small disparity between the estimated net costs to HMG of an uncontrolled collapse on the one hand, and the costs of controlled fallback options on the other, is that we consider that the likelihood of recovery of any contribution to HMG's costs in a fallback option from other ITC member countries is very slight.

6 The conclusion to be drawn from this analysis is that it would be difficult to recommend any of the fallback options we have identified purely as a means of reducing exchequer costs. It may be, however, that if it became clear that the ITC member countries were not prepared to agree to any reasonable proposals to resolve the crisis, a cheaper solution might conceivably be negotiable with the brokers in the very short period which might remain before the tin market reopened.

7 A further conclusion from this analysis is that, if a negotiated solution to the ITC crisis is close to being reached, and all that would be required to clinch would be an extra contribution from HMG, then it would make sense to consider moving from our present position under which we are prepared to make a contribution of a £50 million guarantee of loan finance to the new company proposed to acquire and dispose of the ITC's tin stocks. There have been several suggestions made by other delegates to the ITC that the UK Government should be prepared to put up £50 million in cash to facilitate a settlement, rather than simply a guarantee. These suggestions are of course firmly rejected by UK delegates to the ITC.

ANNEX 1

	Cost to HMG £ millions	
Uncontrolled Collapse	Worst Case	Estimate of Most Likely Outturn
Average selling price of tin		
- £4,500/tonne	409	
		225
- £3,500/tonne	516	
Option I		
Newco sells tin at:		
- £6,000/tonne	175	
		200
- £5,000/tonne	225	
Option II		
HMG sells tin at:		
- £6,000/tonne	120	
		220
- £5,000/tonne	220	
Option III		
HMG sells tin at:		
- £6,000/tonne	328	
		209
- £5,000/tonne	368	

Uncontrolled Collapse

1 Assumptions

a The price of tin falls to £3,500/tonne and the bank and broker losses crystalise as follows:

- banks (including broker loans) sell 44,000 tonnes held as security against loans of £281 million at an average price of £3,500 realising £154 million leaving a deficit of	£127m
- brokers sell 61,000 tonnes of tin purchased for delivery to BSM at £8,900/mt at £3,500 realising £213.5m leaving a deficit of	£329m
- Loss on provisionally priced sales (6,810 tonnes)	£40m
- Banks' interest	£20m
TOTAL	£516m

b Banks and brokers are successful in suing HMG for the full amount of their losses.

c No other ITC member government contributes voluntarily to the financial settlement of the action.

2 Comment

All the assumptions listed above are open to possible modification:

a In an uncontrolled collapse, the price of tin is expected to fall dramatically but it is not certain that the average price realised by banks and brokers would be as low as £3,500 per tonne. An increase of £1,000 per tonne in the average price would reduce the potential costs to HMG by a £105m. (In this connection it is worth noting that since average production costs of tin are believed to be in excess of £6,000 per tonne some holders of tin might consider it worth hanging on to their metal in the expectation that prices would rise significantly after the initial sharp fall). It is also possible that at least in the case of tin held in the UK, the banks would be under an obligation to act prudently in realising their security if they were to receive judgment for the difference between the value of the security and the value of the loan.

The calculation of the broker losses assumes that the Courts would award damages based on the Buffer Stock Manager's total

purchase commitment of 61,000 tonnes. Although it is believed that the brokers would only be able to present some 40,000 tonnes of physical tin, almost all those concerned would sustain a loss if their contracts were not honoured and we believe would have a case for legal action. We do not therefore believe that there is much scope for saving here.

b Our lawyers have advised that an action against HMG would probably succeed, however, this is by no means certain as some of the legal issues which would arise are in uncharted territories. In any event, a successful legal action against HMG would not, necessarily, result in an award of damages equal to the creditors' losses if for example some had not taken adequate action to mitigate their losses or if the courts found they had not acted sufficiently prudently in their dealings with the ITC.

c The assumption that no other member governments would pay up if a legal action against HMG succeeded is particularly questionable. The FRG has said that it would regard it as self-evident that it would meets its legal obligations and, in practice, other consumers and Australia would probably do likewise. If these countries contributed in proportion to their contributions to the ITA, the cost of any settlement would be reduced by more than half. It might, although this is less likely, also be possible to persuade them to share the burden imposed by any defaulters. The possibility of taking sequestration action against the assets of defaulting countries would be available in the event of a judgment against those countries, but the amounts available from such action are likely to be insignificant.

d Countries which decline to pay in the face of a clear obligation imposed by a court decision could find themselves disadvantaged in the international money markets, particularly if the judgment against them related to the failure to meet an obligation arising out of an ITC loan. This could be a significant factor in the US, where lending to sovereign borrowers tends to be on terms which contain cross default clauses. Regardless of the formal legal position however, market perceptions there are likely to be adversely influenced against countries which refused to recognise clear obligations and could be manifest in the interest rates and other conditions imposed on those countries.

3 An uncontrolled collapse of the ITA would pose a grave but unquantifiable threat to the future of the LME. The costs of the demise of the LME are not known, but it is likely that a certain amount of tax revenue both from companies and from individuals would be foregone, although in relation to the total sums involved the amount is unlikely to be significant. No allowance has been made for Cornish job losses and the exchequer costs of these, as it is thought that most are likely to disappear anyway in the event of the various options involving a price of around £6,000 per tonne.

Conclusion

4 In a situation of uncontrolled collapse, the maximum sum which might fall to HMG could be around £500m. This sum has not been discounted even though it would probably be some years before it had to be paid, because as a counter-balance to discounting, the courts are likely to award interest to the successful litigants. However given the possibility of recovery of at least part of the sum awarded in the courts it seems unlikely that the eventual costs to the UK of a settlement determined by the courts would exceed £250m. It also needs to be borne in mind that the lawyers have estimated that the chances of litigation succeeding is roughly 6:4 in favour of the potential litigants. One further benefit in public expenditure terms of this course compared to any of the possible rescue options, is that the sums of money due would only be called for after several years, which would be easier to handle from the public expenditure standpoint.

OPTION I

"Newco" with no initial participation from other ITC member countries. Broadly the same as the bank and broker proposals but slightly modified.

A new company would be formed to take up the ITC tin purchase contracts with LME brokers and to take over from the banks their existing loans to the ITC together with the tin held as security. The new company would be financed as follows:-

	£m
Equity capital, subscribed by banks and brokers	80
Contribution by HMG	175
Bank loan guarantee by HMG	50
*Banks' existing loans	271
*New bank loan facility	up to 150

*(It is estimated that financing costs would be £70m over the three year period.)

Assumptions

a The new company would hold 85,000 tonnes of tin at 31 January 1986.

b The tin would be sold over a 3 year period and would realise an average price of £6,000/tonne.

c There would be no legal actions by banks or brokers against HMG and they would assign their legal rights to Newco.

d No other ITC members join.

Comment

This proposal would result in immediate additional expenditure by HMG of £175m. The maximum total cost to the UK (£225m if the average price of tin sales fell below £5,200/tonne and the full £50m guarantee was called) would be limited and would be known from the outset. The arrangements for Newco would have to be in place on the day on which the tin market re-opened; a great deal of preparatory work would, therefore, be necessary.

Newco would require the support of all interested parties and this cannot be taken for granted, particularly in the case of the ITC's existing bank creditors.

It would be open to HMG to pursue contributions towards the cost of Newco from other ITC members through diplomatic and political channels but the likelihood of any sum being forthcoming would not be strong, and would depend on it being clearly demonstrated that member countries had a legal liability.

Conclusion

The immediate costs of this option would be £175m. It is probable that at least part of HMG's guarantee would be called although this might not happen for 3 years (£50m discounted at 10% = £41.5). These costs would be offset by whatever sum we were able to extract from other countries but the prospects of any significant contribution would be much less than in the case of uncontrolled collapse where a clear legal liability was established.

As regards equity contributions of banks or brokers we could require them to pay amounts from successful court action into Newco. But the chances of recovery would be problematical.

OPTION II

HMG to buy 61,000 tonnes brokers' tin at a price which would ensure agreement not to take legal action, estimated at £7,500 tonne. It would simultaneiously sell the 21,000 tonnes required to make tin available at £7,500.

Under this proposal the brokers would be required to waive their rights to legal action against HMG, and the banks would be offered a deal that HMG would hold or partially hold tin off the market whilst the banks sold some of their tin, if the banks undertook not to, take legal action in return.

Assumptions

a A purchase by HMG of the brokers' tin at £7,500/tonne would be sufficient to secure an undertaking that no legal action would be taken.

b HMG would realise an average price of £5,000/tonne when selling the tin, except (see above) for its first 21,000 tonnes of sales).

Comments

Since some of the brokers have indicated that they would be willing to contribute to a settlement under the Newco proposals, it seems likely that they would be prepared to agree to a settlement which involved HMG in buying their tin below the contract price of £8,900 per tonne; the exact figure would be a matter for negotiation but, since a price of £7,500/tonne would imply a "contribution" of £85 million by them, as opposed to some £60m in the Newco proposal, it is unlikely that any lower figure would prove acceptable.

Costs

Purchase of net 40,000 tonnes at £7,500 gross cost of £300m. Financing cost, on basis of sales 2-3 years @ £6,000 mt:	£60m
Loss on sales of 40,000 if sold at £6,000 per tonne:	£60m
	£120m

Conclusion

Under this option the total cost would be less than under the other options, but there would be virtually no prospects of recovering anything from other ITC members. The prospects of selling at £6,000 mt over 2-3 years might not be good, bearing in mind

the banks would also be selling 44,000 tonnes. Nor might the banks agree to forego legal action. If they were not prepared to forego legal action against the UK it could cost about £16m at a price of £6,000 or £60m at a price of £5,000 mt.

D17b/RR4

OPTION III

Purchase by HMG of 40,000 tonnes of brokers' tin at £6,000/tonne.

The Government would offer to purchase, at £6,000/tonne, the tin which brokers had contracted to sell to the Buffer Stock Manager. The purchases would be undertaken either directly or through a new company. The resulting tin stock would be held off the market for up to one year to allow the banks to dispose of the tin which they hold as security for their loans to the ITC, or possibly sold pari passu with the banks, if the latter were prepared in return to forego legal action against the UK.

Assumptions

a The Government would purchase the 40,000 tonnes of tin; which were physically available; the maximum finance required would be £240m. [It is assumed the brokers would have no incentive at £6,000 mt to find immediately the 21,000 tonnes of tin not physically available.]

b The purchases would be financed mainly by borrowing, using the tin as security.

c The Government would sell the tin, at an average price of £5,000/tonne, over a 3 year period and borrowing would be reduced proportionately. Total financing costs would be in the region of £35 million.

Comment

The principal objective of this option would be to reduce market disruption. HMG's agreement to withhold its tin from the market would be conditional on the banks undertaking not to take legal action in respect of any losses incurred following the sale of their tin. If the banks were unwilling to give such an undertaking, financing costs might be reduced but the chances of the tin price falling below £5,000/tonne would be increased if both the banks and HMG were selling at the same time. If this option were pursued, the brokers would still take legal action against HMG (and possibly others). Subject to the qualifications set out above (see uncontrolled collapse), the maximum possible award against HMG would appear to be some £238 million representing a loss of £3,900/tonne on 61,000 tonnes of tin (£156m if 40,000 tonnes of tin is assumed instead). The net costs would depend on whatever is recovered from the member states. The threat of legal action, might encourage other ITC members to reach a settlement with the brokers, in conditions of greater market stability than in the case of an uncontrolled collapse.

Conclusion

The cost of financing this option would be in the region of £35m. The additional risks can be quantified as follows.

a	Successful legal action by banks if their tin sold at £5,000 (assuming they would not agree to refrain from legal action in return for the UK holding or partially holding tin off the market):	£60m
b	Successful legal action by brokers depending on tonnage for which legal action succeeds:	£178-238m
c	HMG's tin sells at £5,000/tonne	£40m
	TOTAL	£343m
	If 50% of legal costs were recovered, total costs would be:	£209m

(The same assumption as in uncontrolled collapse has been made, namely that any discounting of future payments would be cancelled out by award of interest in legal actions.)

10 DOWNING STREET

PRIME MINISTER

There is a message in one of your boxes from Mr. Nakasone about tin. The Foreign Office are proposing to send instructions to Tokyo to follow up the message through our Ambassador. Can we please proceed on these lines?

C.D. Powell

11.1.86

RT4.36

CONFIDENTIAL

CCBG

FROM: A W KUCZYS
DATE: 10 January 1986

Ponie Minister

DTI officials are pessimistic about the chances of reaching agreement in time, even though there has been a little movement. A meeting has been arranged for next week.

DLV
10/1

cc PS/Chief Secretary
PS/Financial Secretary
PS/Economic Secretary
PS/Minister of State
Sir P Middleton
Sir G Littler
Mr F E R Butler
Mr Lavelle
Mr Cassell
Mr Norgrove - No.10
Mr Appleyard - FCO
Miss Bradley - DTI

MR MOUNTFIELD

this is the bank and other proposal.

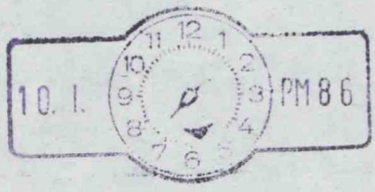
TIN

The Chancellor spoke on the phone yesterday evening to Herr Stoltenberg in Bonn. He said that the UK supported the Swiss proposal, and its success now hinged on Germany coming in. He hoped very much that the Germans would agree to do this. He recognised that the legal position was unclear, but said that the sovereign Governments had a moral obligation not to run away from debts incurred in their name.

2. Stoltenberg explained that he had only that afternoon been made aware of the Swiss proposal. As he understood it, Governments were being asked to put up £200 million in total (the Chancellor said the figure should be in the range of £160 to £200 million) and this seemed disproportionate to the amount other parties were to provide. The German share would come to about DM 60 million. He would now need to discuss this with his Ministerial Colleagues in the Federal Republic. But his first impression was that the Federal Government had no authority to pay this money unless there was a clear legal obligation to do so. He might not be able to complete Ministerial discussions for at least a week.

3. The Chancellor stressed the urgency of the matter, and hoped both that Stoltenberg would be able to hold discussions more quickly than that, and that a way could be found round the question of whether the German Government had authority to pay this money. He recalled that when the previous tin agreement had been replaced in 1982, both the UK and Germany had been reluctant to join the new agreement, but at the Anglo-German Summit in that year they had decided to join because of wider issues. Similarly there were wider issues which applied now. Stoltenberg promised to consider carefully what the Chancellor had said.

A W KUCZYS



RESTRICTED

TIN.

CC BG PC

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PS/ *Secretary of State for Trade and Industry*

RESTRICTED

10 January 1986

Prime Minister
An unhelpful reply.
I shall take advice on Monday.
But a further message from you would probably have no greater effect. The ITC is any case meeting on

David Norgrove Esq
Private Secretary to the
Prime Minister
10 Downing Street
LONDON
SW1

Dear David,

TIN

.. I enclose a copy of the message delivered to Mr Mountfield by the Commercial Minister of the Japan Embassy. As Mr Mountfield will have already told you he responded forcefully to the contents of the message.

2 I have copied this letter and its enclosures to Len Appleyard (FCO), Rachel Lomax (Treasury), Richard Mottram (Chief Secretary) and Michael Saunders (Solicitor General).

Yours sincerely

John Mogg

J F MOGG
Private Secretary

Encls

JF4ATH

999-1

EMBASSY OF JAPAN,
46, GROSVENOR ST.,
LONDON,
W1X OBA

01-493 6030.

Prime Minister

Mr Mountfield responded forcefully to this when he was given it.

FCO are advising tomorrow (Saturday) whether it would be worthwhile for you to send a further message this weekend.

First thoughts are against: Nakasone will be hard to shift; the Europeans are the key; and the next ITC meeting is on Tuesday. DLR 10/1

10 January 1986

Dear Mr. Mountfield,

I am instructed by my Government, to transmit to The Right Honourable Mrs. Margaret Thatcher, Prime Minister of the United Kingdom, the message of Mr. Yasuhiro Nakasone, Prime Minister of Japan in response to Mrs. Thatcher's message concerning the International Tin Council dated 5 January 1986.

I have pleasure in enclosing this message herewith.

Yours sincerely,

S. Uchimura

Shunichi Uchimura
Commercial Minister

Mr. R. Mountfield,

Deputy Secretary,
Department of Trade and Industry,
Ashdown House,
123 Victoria Street,
London SW1.

Enc.

Subject cc Ops
Master

PRIME MINISTER'S
PERSONAL MESSAGE
SERIAL No. T6A/86

Reply From Prime Minister Yasuhiro Nakasone
to The Right Honourable Margaret Thatcher,
Prime Minister of the United Kingdom

10 January 1986

I read your message of 5 January fully appreciating the great concern you felt about the International Tin Council's financial obligations. I consider your Government's efforts to resolve this crisis extremely valuable.

Sharing your grave concern, I have instructed the Ministries concerned to work energetically for a settlement of this issue, in keeping with Japan's position as a major consumer member country.

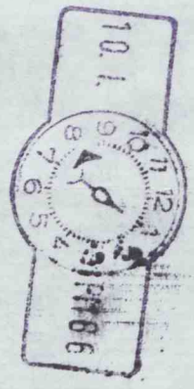
The Government of Japan has been studying all the aspects of this issue, taking fully into account your Government's proposal announced in November by the Secretary of State for Trade and Industry, Mr. Brittan, and the successive proposals made by banks and brokers. We have also participated actively in the Council's discussions.

As regards the legal obligations of the member countries, my Government continues to be of the view that in principle a member country's liability shall be limited to the amount of its contribution. My understanding is that this is also the position of many other members. Whatever may be the legal position, we consider it beneficial to the international community to seek practical 'soft landing' measures so that when tin trading is resumed order may be restored to the market and that the ITC's debt may be reduced.

/To that end,

To that end, it is important to reach without delay a consensus embracing both producer and consumer member countries. We hope that, on the basis of further cooperation by all the parties concerned, a solution acceptable to all member countries may be found by such consensus.

The problem continues to be very difficult to solve, given the probable vast amount of the final total debt. I earnestly hope that your Government will continue to play a positive role. We will continue our pursuit of an early solution, consulting with good will and very closely with your Government and other member countries.



PRIME MINISTER

TIN

The informal meeting of the International Tin Council yesterday made a little progress. The Germans and Dutch were more forthcoming than had been expected about the package put forward by the banks and brokers, though the French continued to stand out against it. (Your messages may have begun to have some effect).

I am arranging a meeting for the end of next week to discuss what the Government should do if the discussions about the package come to nothing. A meeting at that time should be able to take account of the outcome of the full meeting of the ITC scheduled for next Tuesday.

DAVID NORGROVE

8 January 1986

DG2ASW

File

Confidential Registry

With the compliments of

Rosser

THE PRIVATE SECRETARY

for your files

R. G.

FOREIGN AND COMMONWEALTH OFFICE
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Already T'd
1) T3/86
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OF 051000Z JANUARY 86
AND TO DESKBY 060900Z THE HAGUE

MIPT: TIN

1. PLEASE PASS AS SOON AS POSSIBLE ON MONDAY THE FOLLOWING MESSAGE FROM THE PRIME MINISTER TO PRESIDENT MITTERRAND, AND TO PRIME MINISTER LUBBERS.

QUOTE:

I AM WRITING TO YOU TO EXPRESS MY VERY GREAT CONCERN ABOUT THE FAILURE OF THE INTERNATIONAL TIN COUNCIL TO MEET ITS FINANCIAL OBLIGATIONS.

AS YOU KNOW, SINCE THE ANNOUNCEMENT ON 24 OCTOBER THAT THE ITC COULD NO LONGER HONOUR ITS CONTRACTS, THE MEMBER COUNTRIES OF THE 6TH INTERNATIONAL TIN AGREEMENT HAVE BEEN UNABLE TO AGREE ON ANY COURSE OF ACTION TO RESOLVE THE CRISIS IN THE TIN MARKET.

FROM THE OUTSET, THE UK GOVERNMENT MADE IT CLEAR THAT WE WERE PREPARED TO MEET OUR SHARE OF THE ITC'S COMMITMENTS, AND WE CALLED ON OTHER GOVERNMENTS TO DO LIKEWISE. WE ALSO CIRCULATED TO OTHER MEMBER GOVERNMENTS A NOTE SETTING OUT OUR ANALYSIS OF THE LEGAL POSITION.

IF A SETTLEMENT IS TO BE REACHED, THE POSITION OF THE EUROPEAN COMMUNITY COUNTRIES, AS THE LARGEST CONSUMER GROUP WITHIN THE ITC, WILL BE CRUCIAL. WITHIN THE EUROPEAN COMMUNITY, I UNDERSTAND THAT UP TO NOW YOUR GOVERNMENT HAS REJECTED ANY LEGAL RESPONSIBILITY FOR THE DEBTS OF THE ITC, AND HAS OPPOSED A PROPOSAL THAT REPRESENTATIVES OF THE COMMISSION OF THE EUROPEAN COMMUNITIES SHOULD TAKE THE LEAD IN SEEKING TO NEGOTIATE A SETTLEMENT.

(I REALLY)

I REALLY MUST ASK YOU TO LOOK AGAIN URGENTLY AT THE POSITION NOW BEING TAKEN BY YOUR GOVERNMENT. THE DISCUSSION HAS SO FAR CONCENTRATED ON THE EXTENT OF THE LEGAL LIABILITY OF MEMBER STATES. THIS COULD ONLY BE FULLY TESTED IN THE COURTS. BUT WHAT CONCERNS ME ABOVE ALL IS THE IMPRESSION WHICH WE, AS MEMBERS OF THE ITC, WOULD GIVE TO THE REST OF THE WORLD IF WE APPEARED TO DISCLAIM ALL RESPONSIBILITY FOR THE ACTION OF A BODY SET UP TO ACT ON OUR BEHALF, AND ON WHOSE GOVERNING COUNCIL WE AS MEMBER STATES ARE DIRECTLY REPRESENTED. I NEED HARDLY REMIND YOU OF THE IMPORTANCE WE HAVE ALL PLACED ON AN ORDERLY SOLUTION TO THE DEBT CRISIS WHICH AVOIDS ANY QUESTION OF UNILATERAL DEFAULT. THE MAINTENANCE OF GOOD FAITH AND INTEGRITY IN INTERNATIONAL FINANCIAL DEALINGS IS OF VITAL IMPORTANCE TO YOUR COUNTRY AND TO MINE.

YOU WILL KNOW THAT THE PRODUCER GOVERNMENTS HAVE AGREED TO WORK TOWARDS A NEGOTIATED SETTLEMENT. THIS WAS THE FIRST ENCOURAGING DEVELOPMENT IN WEEKS OF DISCUSSION. AS A RESULT, ON 23 DECEMBER A PACKAGE OF PROPOSALS WAS PUT TO THE MEMBER COUNTRIES OF THE ITC BY BANK AND BROKER REPRESENTATIVES AS A MEANS OF RESOLVING THE CRISIS. THE STAND TAKEN BY THE CONSUMER GOVERNMENTS WILL DECIDE WHETHER IT MAKES ANY HEADWAY. DESPITE THE HEAVY BURDEN WE IN PARTICULAR ARE ASKED TO BEAR, WHICH IS THE LIMIT OF WHAT WE ARE WILLING TO UNDERTAKE BY WAY OF SUPPORT FOR THIS PROPOSAL, THE UK GOVERNMENT HAS DECIDED TO PARTICIPATE IF AND ONLY IF ALL OTHER ITC GOVERNMENTS AGREE TO DO SO. I BELIEVE THAT IF YOU WERE TO JOIN US IN TAKING A CONSTRUCTIVE POSITION IN FAVOUR OF THE PROPOSAL OTHER COMMUNITY AND OTHER CONSUMER GOVERNMENTS WOULD BE LIKELY TO FOLLOW. IF NO SUCH SOLUTION CAN BE FOUND IN THE VERY NEAR FUTURE, DESPITE THE SUPPORT OF THE UK GOVERNMENT AND OTHERS. THOSE RESPONSIBLE FOR THE FAILURE WOULD RISK CONSIDERABLE CRITICISM FOR THE DAMAGE THEY WOULD HAVE CAUSED TO INTERNATIONAL MARKETS AND TO THE INTERNATIONAL ECONOMY.
UNQUOTE.

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INTERNATIONAL TIN AGREEMENT

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SIR W HARDING
MR DAVID THOMAS

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MR J DENISON CROSS " "
MR K HALL (MK) " "
MR T VENESS ITP2 DTI 1 VICTORIA ST
MR R TAYLOR ITP2 " "
MR BRIAN MURRAY " "
MR R THOMAS, MAFF
MR D FRY , MAFF
MR MOUNTFIELD, HM TREASURY
MR M REDLEY, HM TREASURY
MR B GUNN, BANK OF ENGLAND
MR M SAUNDERS, LAW OFFICERS DEPT, ROYAL COURTS OF JUSTICE, THE STRAND

Already T'd: T 4/86

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CONFIDENTIAL

FM FCO
TO DESKBY 060200Z TOKYO
TELNO 7
OF 051015Z JANUARY 86

TIN

1. PLEASE PASS AS SOON AS POSSIBLE ON MONDAY THE FOLLOWING MESSAGE FROM THE PRIME MINISTER TO PRIME MINISTER NAKASONE. QUOTE:

I AM WRITING TO YOU TO EXPRESS MY VERY GREAT CONCERN ABOUT THE FAILURE OF THE INTERNATIONAL TIN COUNCIL TO MEET ITS FINANCIAL OBLIGATIONS.

AS YOU KNOW, SINCE THE ANNOUNCEMENT ON 24 OCTOBER THAT THE ITC COULD NO LONGER HONOUR ITS CONTRACTS, THE MEMBER COUNTRIES OF THE 6TH INTERNATIONAL TIN AGREEMENT HAVE BEEN UNABLE TO AGREE ON ANY COURSE OF ACTION TO RESOLVE THE CRISIS IN THE TIN MARKET.

FROM THE OUTSET, THE UK GOVERNMENT MADE IT CLEAR THAT WE WERE PREPARED TO MEET OUR SHARE OF THE ITC'S COMMITMENTS AND WE CALLED ON OTHER GOVERNMENTS TO DO LIKEWISE. WE ALSO CIRCULATED TO OTHER MEMBER GOVERNMENTS A NOTE SETTING OUT OUR ANALYSIS OF THE LEGAL POSITION.

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LEGAL

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UNQUOTE.

INTERNATIONAL TIN AGREEMENT

FRAME EXTERNAL

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NAD
UND

SIR W HARDING
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MR B GUNN, BANK OF ENGLAND
MR M SAUNDERS, LAW OFFICERS DEPT, ROYAL COURTS OF JUSTICE, THE STRAND

CONFIDENTIAL

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cefo
DTI

10 DOWNING STREET

THE PRIME MINISTER

6 January 1986

SUBJECT cc OPS
MASTER

PRIME MINISTER'S
PERSONAL MESSAGE
SERIAL No. T 5/86

My dear President,

I am writing to you to express my very great concern about the failure of the International Tin Council to meet its financial obligations.

As you know, since the announcement on 24 October that the ITC could no longer honour its contracts, the member countries of the 6th International Tin Agreement have been unable to agree on any course of action to resolve the crisis in the tin market.

From the outset, the UK Government made it clear that we were prepared to meet our share of the ITC's commitments, and we called on other governments to do likewise. We also circulated to other Member Governments a note setting out our analysis of the legal position.

If a settlement is to be reached, the position of the European Community countries, as the largest consumer group within the ITC, will be crucial. Within the European Community, I understand that up to now your Government has rejected any legal responsibility for the debts of the ITC, and has opposed a proposal that representatives of the Commission of the European Communities should take the lead in seeking to negotiate a settlement.

/I really

I really must ask you to look again urgently at the position now being taken by your Government. The discussion has so far concentrated on the extent of the legal liability of member states. This could only be fully tested in the courts. But what concerns me above all is the impression which we, as members of the ITC, would give to the rest of the world if we appeared to disclaim all responsibility for the actions of a body set up to act on our behalf, and on whose Governing Council we as member states are directly represented. I need hardly remind you of the importance we have all placed on an orderly solution to the debt crisis which avoids any question of unilateral default. The maintenance of good faith and integrity in international financial dealings is of vital importance to your country and to mine.

You will know that the producer governments have agreed to work towards a negotiated settlement. This was the first encouraging development in weeks of discussion. As a result, on 23 December a package of proposals was put to the member countries of the ITC by bank and broker representatives as a means of resolving the crisis. The stand taken by the consumer governments will decide whether it makes any headway. Despite the heavy burden we in particular are asked to bear, which is the limit of what we are willing to undertake by way of support for this proposal, the UK government has decided to participate if and only if all other ITC governments agree to do so. I believe that if you were to join us in taking a constructive position in favour of the proposal other Community and other consumer governments would be likely to follow. If no such solution can be found in the very near future, despite the support of the UK Government and others, those responsible for the failure would risk considerable criticism for the damage they would have caused to international markets and to the international economy.

Yours sincerely

Margaret Thatcher

His Excellency Monsieur Francois Mitterrand.

LR

cc FO
DTI

10 DOWNING STREET

THE PRIME MINISTER

6 January 1986

SUBJECT cc OPS
MASTER

PRIME MINISTER'S
PERSONAL MESSAGE
SERIAL No. T 4/86

Dear Prime Minister.

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Yours sincerely

Margaret Thatcher

His Excellency Mr. Yasuhiro Nakasone.

LR.

afo
DTI

10 DOWNING STREET

THE PRIME MINISTER

6 January 1986

SUBJECT cc OPS
MASTER

PRIME MINISTER'S
PERSONAL MESSAGE
SERIAL No. T 3/86

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/I really

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Yours sincerely

Margaret Thatcher

His Excellency Dr. Ruud F. M. Lubbers.

Foreign and Commonwealth Office

London SW1A 2AH

3 January 1986

Dear Charles,

Tin: Messages from the Prime Minister

Following this morning's discussion, officials have revised the draft messages to the French President and the Dutch Prime Minister on the lines suggested by the / Prime Minister and her colleagues. I enclose draft texts. The first four paragraphs are identical to those in Annex B of Mr Brittan's minute of 2 January to the Prime Minister.

/ I also enclose a draft to the Japanese Prime Minister, which omits references to the European Community. Sir Geoffrey Howe considers that this message could be despatched without waiting for a response from the Europeans.

If you, Rachel Lomax and John Mogg have no comments, we shall telegraph the messages this evening for delivery by our Ambassadors in Paris, The Hague and Tokyo.

Yours ever,

Len Appleyard

(L V Appleyard)
Private Secretary

C D Powell Esq
10 Downing Street

DSR 11 (Revised)

DRAFT: minute/letter/teleletter/despatch/note

TYPE: Draft/Final 1+

FROM:

PRIME MINISTER

DEPARTMENT: TEL. NO:

Reference

SECURITY CLASSIFICATION

Top Secret
Secret
Confidential
Restricted
Unclassified

TO: 1. THE PRESIDENT OF FRANCE
2. THE PRIME MINISTER OF THE NETHERLANDS

Your Reference

Copies to:

PRIVACY MARKING

.....In Confidence

CAVEAT.....

SUBJECT:

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If a settlement is to be reached, the position of the European Community countries, as the largest consumer group within the ITC, will be crucial. Within the European Community I understand that up to now your Government has rejected any legal responsibility for

/ the

Enclosures—flag(s).....

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I really must ask you to look again urgently at the position now being taken by your government. The discussion has so far concentrated on the extent of the legal liability of member states. This could only be fully tested in the courts. But what concerns me above all is the impression which we, as members of the ITC, would give to the rest of the world if we appeared to disclaim all responsibility for the actions of a body set up to act on our behalf, and on whose Governing Council we as member states are directly represented. I need hardly remind you of the importance we have all placed on an orderly solution to the debt crisis which avoids any question of unilateral default. The maintenance of good faith and integrity in international financial dealings is of vital importance to your country and to mine.

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/government

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HE M
François Mitterand

France

My dear President

Netherlands

~~My dear Pr~~

Dear Prime Minister

HE Dr
Ruud F M
Lubbers.

Japan Dear P M

HE Mr Yasuhiro
Nakasone

DSR 11 (Revised)

DRAFT: minute/letter/teleletter/despatch/note

TYPE: Draft/Final 1+

FROM:

PRIME MINISTER

DEPARTMENT: TEL. NO:

Reference

LO3 ASA

SECURITY CLASSIFICATION

Top Secret
Secret
Confidential
Restricted
Unclassified

PRIVACY MARKING

.....In Confidence

CAVEAT.....

Enclosures—flag(s).....

TO:

PRIME MINISTER OF JAPAN

Your Reference

Copies to:

SUBJECT:

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/favour

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03. I.
PM 8 6

SUBJECT
cc MASTER

CONFIDENTIAL

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bc BG.

10 DOWNING STREET

3 January 1986

From the Private Secretary

Dear Catherine,

TIN

The Prime Minister today held a meeting to discuss your Secretary of State's minute to her of 2 January. The Foreign Secretary, Chancellor of the Exchequer, Chief Secretary, Solicitor General, the Governor of the Bank of England, Mr. Robin Mountfield (Department of Trade and Industry), Mr. Farrow (Bank of England), Mr. Peter Mountfield (H.M. Treasury), Mr. R. Braithwaite (Foreign and Commonwealth Office) and Professor Brian Griffiths were present, with your Secretary of State.

Your Secretary of State explained that he was not in favour of the package proposed by banks and brokers as a means of helping the banks and brokers themselves or the City. But it might be a means of reducing the possible costs to the Exchequer. The balance of probability was that in any legal action the Governments of the ITC would be held to be jointly and severally liable for the obligations entered into by the Buffer Stock Manager. The UK Government would be the obvious target for banks and brokers to sue and the advice was that it would probably not be possible to recover damages from other Governments through the Courts. We would have to rely on political and diplomatic pressure. UK representatives had consistently said that we were prepared to meet our share of the commitments of the ITC and we had called upon other Governments to do likewise.

Continuing, Mr. Brittan said that the banks and brokers had now proposed a burden-sharing package (as described in his minute). The UK's share in this was greater than its share in the International Tin Agreement. The extent of the call on the £50 million bank guarantee would depend on the price of tin when obligations under the outstanding contracts crystallised. It was by no means certain that the package would prove acceptable to other member Governments - the French, Germans and Dutch were proving particularly obdurate - but it was probably the best deal the UK could hope for.

The following points were made in discussion:

(i) the opinion given by Michael Beloff, Q.C., seemed diffident and uncertain in its views of the legal

/liability

liability. It would undoubtedly be right to defend any action brought against the UK Government with the utmost vigour. However, as Mr. Brittan had said, even with all the doubts the balance of probabilities was that the Government would lose. Other Governments claimed to have received advice that they were not legally liable; it was not clear what they might believe in private;

(ii) other countries expected the UK to carry more than its share of the costs of the package arguing that the UK had a greater interest in a rescue;

(iii) there was a substantial risk that the Government's £50 million guarantee would be called: the present market in tin was artificial and the price could fall substantially;

(iv) it would be extremely hard to defend the Government's agreement to take a greater share than other countries. It would look like another City rescue, and eight out of ten of the brokers with the largest exposures (representing 96 per cent of the total exposures) were foreign or foreign owned. UK participation could not be defended in terms of the potential loss of City earnings since in that case other Governments would press the UK to carry a still larger share;

(v) an argument to be used with European countries might be the need to keep metals trading in Europe rather than allow it to move to the United States which would happen if the tin market in London collapsed;

(vi) it would only be possible to persuade the LME to stay closed if members accepted that a package was being discussed seriously. They would need by 17/18 January to see the prospect of a resolution if they were to be persuaded to stay closed until the end of the month. If the LME were to re-open without a resolution to the crisis, contracts would be crystallised at a very low price. Some banks and brokers might be prepared to hold back from selling their tin at distress prices, though their willingness and ability to do this would depend on whether parent companies stood behind their subsidiaries;

(vii) it was common ground that the aim should be to ensure an orderly rundown of tin stocks. There was no question of wishing to continue intervention in the market to stabilise the price of tin.

/In the light

In the light of the discussion it was agreed that the UK should be prepared to support the package described in your Secretary of State's minute. The Government would not be able to mention its understanding of the legal position in defending this decision unless and until the package was accepted by other member Governments and the banks and brokers. However, the Government could point to the need to maintain integrity in financial dealings. One possibility would be to say that the Government had agreed to support the package in the interests of securing a settlement without which the gravest doubt would be cast on the good faith of the international community in discharging its obligations to the Third World. This form of words should be considered further. Indeed, the presentation would need to be considered with the greatest care.

It was also agreed that every possible action should be taken - in private - to bring pressure to bear on the Governments which were standing out against negotiations. The Prime Minister would send messages to President Mitterrand and Prime Minister Lubbers. (I understand amendments to the draft attached as Annex B to your Secretary of State's minute were discussed after the meeting.) The Foreign Secretary would contact Herr Genscher and other colleagues. A message to the Japanese Government would be prepared. The Governor of the Bank of England would urge his Central Bank colleagues to point out to their Governments the importance of meeting their ~~obligations.~~ share of the commitments of the ITC.

The Prime Minister concluded that if other Governments remained obdurate the UK Government should take a high profile in its criticism of their position. The problems caused by the Tin Agreement illustrated yet again the folly of entering into commodity agreements - a point acknowledged by many of those at the meeting.

It was agreed that consideration of the action, if any, to be taken if no settlement was reached should be deferred, but work on the options should continue.

I am copying this letter to Len Appleyard (Foreign and Commonwealth Office), Rachel Lomax (H.M. Treasury), Richard Broadbent (Chief Secretary's Office), Henry Steel (Law Officers' Department), and John Bartlett (Bank of England).

Yours ever,

David.

DAVID NORGROVE

Miss Catherine Bradley,
Department of Trade and Industry.

cc NC
BN
BG

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PS/ *Secretary of State for Trade and Industry*

2 January 1986

David Norgrove Esq
Private Secretary to the
Prime Minister
10 Downing Street
LONDON
SW1

Dear Mr Norgrove

TIN

Thank you for your letter of 30 December.

I attach a minute from my Secretary of State to the Prime Minister which he has seen and approved.

The annexes have been drawn up by officials for the meeting and have not been seen by my Secretary of State in final form.

I am copying this letter to Philp Wynn Owen (HM Treasury), Richard Broadbent (HM Treasury), Colin Budd (Foreign and Commonwealth Office), Henry Steel (Law Officer's Department), John Bartlett (Bank of England) and Professor Griffiths (No 10 Policy Unit).

Yours sincerely

C Bradley

CATHERINE BRADLEY
Private Secretary

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PRIME MINISTER

TIN

You have arranged a meeting on 3 January to discuss the tin crisis. It may be helpful if, in advance of that meeting, I set out my views on the issues we need to consider, to supplement my Private Secretary's letter to yours dated 24 December.

2 There are three questions to be considered:

(i) What should be HMG's response to the package of proposals for a negotiated settlement put forward by bank and broker representatives to the International Tin Council (ITC) member countries on 23 December?

(ii) What further steps should we take to persuade other countries to take a constructive attitude towards a negotiated settlement, following your personal message to Chancellor Kohl on 20 December?

(iii) What action, if any, should we take if no settlement is reached and the tin market collapses?

Response to bank and broker package

3 A note summarising the essential features of this package is at Annex A. The proposal is for a new company to

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be formed which would take over the ITC's obligations to the banks and brokers, and manage the orderly sale of the tin stocks thus acquired over a three year period. The finance for the new company would be provided by £70m equity subscriptions by brokers and banks; a £200m contribution by ITC member countries, of which the UK share would be £8m; and bank borrowings, of which it is proposed that HMG should guarantee £50m.

4 The bank and broker package has not yet been agreed by all the banks and brokers concerned: indeed I understand that, of the 16 banks which have outstanding loans to the ITC, two have already indicated that they are not prepared to participate in the package.

5 Many ITC member Governments are likely to find the bank and broker package disappointing. They would prefer to see a higher contribution from the bank and brokers than £70 million, or just over 25 per oent of the total anticipated losses. There will also be pressure for a higher contribution from HMG. There may be further negotiations aimed at altering the package to the detriment of the position of the banks, brokers and of HMG.

6 We can readily accept that we will contribute our 4 per cent share of the proposed £200m ITC contribution to the package. I consider that, in the circumstances, we should also be prepared to accept that HMG should guarantee up to £50 million of bank loans to the new company. We would only lose money under this guarantee if the average price at which the new company sold tin fell below £6,000 a tonne. There is clearly a risk that this may happen, but informed market opinion indicates that about £6,000 a tonne is the likely level at which the tin price will settle in a free market,

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and an increasing amount of tin has recently been traded off-market at about this price level.

7 In accepting the extra contribution by HMG of a guarantee of £50m borrowings, we will need to make it clear that we are doing so only in order to secure a settlement. We should make it a condition of our agreement to the guarantee that all other ITC member governments are prepared to contribute their share of the £200m contribution required.

Further international moves

8 The main stumbling block preventing a constructive approach to a settlement of the tin crisis is now the collective attitude of the European Community Governments. Three countries, FRG, France and the Netherlands, have been particularly strong in opposing negotiations, and indeed these three countries ensured that the EC group blocked, on 19 December, proposals by the producer members of the ITC to set up a formal group to negotiate on the ITC's behalf. You have already written to Chancellor Kohl; I suggest you should now write to the French President and to the Dutch Prime Minister. A draft, which follows closely your letter to Kohl, is at Annex B.

9 Given the generally constructive attitude shown by other ITC member countries, it could be counter-productive at this stage to make a general high-level diplomatic approach. We should first see how other countries react to the bank and broker proposals: these will be discussed at an informal meeting of the ITC on Tuesday 7 January.

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13 No decisions are required on Friday on the details of any of these fallback options. But it will be essential, if we do not rule out the possibility of intervention, for work to go ahead to prepare the ground thoroughly, since if there is no negotiated settlement we would need to have a fallback mechanism in place and ready to operate by 24 January.

C Bradley

L B

January 1986

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

DEPARTMENT OF TRADE AND INDUSTRY

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Action if no settlement

10 If no settlement can be reached to the crisis, it is clear that the LME will reopen the tin market by the end of January; there will be a collapse of the tin price with a number of brokers going into liquidation. The future of the LME as a whole may be in doubt. What is certain is that there will he litigation by banks and brokers against the ITC the Member Governments, and HMG.

11 We do have a straightforward option of doing nothing in such circumstances. The ITC is not a body which HMG controls, or in which we have a major direct interest. We made strenuous attempts in 1983 to improve the control and reporting systems within the ITC, but found no support. We would of course vigorously defend any action brought against HMG. But the Solicitor General advises that such an action against us has a good chance of success At the worst, the cost to us of such an action might he £500 million. The prospects of recovering the bulk of this sum against other countries by legal action are not good and by diplomatic action highly problematic.

12 Attached at Annex C is a note by officials outlining alternative ways in which HMG could intervene to stabilize the tin market and reduce or eliminate the likelihood of successful legal action. As indicated in the minute dated 24 December, I do not think we should be prepared to intervene in order to save the LME, but we should at least consider doing so in order to reduce the potential costs on the Exchequer.

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ANNEX A

PROPOSAL TO ITC MEMBER GOVERNMENTS BY BANK AND BROKER REPRESENTATIVES

The essential features of this proposal, circulated to ITC Member Governments on 23 December, are as follows:

2 A new company is to be formed to take up the ITC tin purchase contracts with LME brokers and to take over from the banks their existing loans to the ITC together with the tin held as security.

3 The new company to be financed as follows:

Equity capital, subscribed by banks and brokers	£70m
Contributions by ITC member countries	£200m
Bank loan guaranteed by HMG	£50m
Banks existing loans	£271m
New bank loan facility	up to £150m.

why?

4 It is expected that the new company would hold 85,000 tonnes of tin at 31 January 1986, and would sell all this tin in a controlled manner over a three year period. It is expected that the average price at which tin will be sold will be £6,000 a tonne. At this price all the equity and ITC contributions would be lost, but the HMG guaranteed loan would be repaid in full. For the whole of the £50m HMG guaranteed loan to be lost, the average price realised for tin would need to fall to about £5,400 a tonne.

5 It is stipulated that ITC member countries which participate by contributing their share to the new company would not have legal action taken against them by the banks and brokers subscribing equity to the new company.

6 The proposal has been put forward to the ITC on a personal basis by Mr Graham of Standard Chartered Bank and Mr Kestenbaum of brokers Gerald Metals. The banks and brokers generally have not yet agreed to participate.

ANNEX B

DRAFT LETTER FOR THE PRIME MINISTER TO SEND TO THE FRENCH PRESIDENT AND THE DUTCH PRIME MINISTER

I am writing to you to express my very great concern about the failure of the International Tin Council to meet its financial obligations.

As you know, since the announcement on 24 October that the ITC could no longer honour its contracts, the member countries of the 6th International Tin Agreement have been unable to agree on any course of action to resolve the crisis in the tin market.

From the outset, the UK Government made it clear that we were prepared to meet our share of the ITC's commitments, and we called on other governments to do likewise. We also circulated to other Member Governments a note setting out our analysis of the legal position.

If a settlement is to be reached, the position of the European Community countries, as the largest consumer group within the ITC, will be crucial. Within the European Community, I understand that up to now your Government has rejected any legal responsibility for the debts of the ITC, and has opposed a proposal that representatives of the Commission of the European Communities should take the lead in seeking to negotiate a settlement.

I really must ask you to look again urgently at the position now

being taken by your Government. Although you and we may disagree about the extent of the legal liability of Member States - an issue which could only be fully tested in the Courts - it cannot be right for governments to disclaim responsibility for the actions of a body set up to act on their behalf, and on whose governing Council they are directly represented. If no solution can be found, and the ITC fails, leaving massive debts, I believe the repercussions will be widespread, and highly damaging to the international financial and commercial community. We should be giving an appalling example for other negotiations, including in particular international debt negotiations.

You will know that the producer governments have agreed to work towards a negotiated settlement. This was the first encouraging development in weeks of discussions. As a result, on 23 December a package of proposals was put to the member countries of the ITC by bank and broker representatives, as a means of resolving the crisis. The stand taken by the consumer governments will decide whether it makes any headway. The UK Government has decided, despite the heavily disproportionate risk we are asked to bear under this proposal, to give it our support if and only if all other ITC Governments agree to participate . [It is at the limit of what we are willing to undertake.] I believe that if you were to join us in taking a constructive position in favour of the proposal, other Community and other consumer governments would be likely to follow.

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FALLBACK OPTIONS

Three options are considered. A central point in each is a mechanism for the disposal of tin by a single agent so as to avoid a drastic fall in the price of tin, and thus minimise the total default.

2 The first option is for HMG to contribute the whole of the ITC contribution required by the bank and broker package (see Annex A). The cost of this would be £200 million maximum, plus the guarantee for a £50 million loan.

3 The cost of this option would be reduced if other ITC member countries were to join HMG in making contributions to the new company. It seems likely that the company would not be able to sue the ITC or member governments, and the banks and brokers would have incurred no loss themselves giving rise to a legal claim. We should therefore be limited to political and diplomatic pressure to secure contributions from other governments. However in this respect we should not be significantly worse off than were we to take no action and wait to be sued under joint and several liability since the Solicitor General's advice has been that in that event we should need to rely on political and diplomatic rather than legal action.

4 A second option would be for HMG either directly or through a new company to buy the tin at a fixed price say £6,000 per tonne with the sole object of minimising market disruption. The finance required would be about £270m including £30m interest costs, of which the greater part could be borrowed using the 40,000 tonnes of tin purchased from the brokers as security. HMG or the company would hold this tin off the market for a year, in order to allow the banks to sell the tin they hold (as security for loans to the ITC) in an orderly manner, but the new company would not otherwise be concerned with the banks. On the eventual sale of tin held by the company, losses would arise only if the price fell below £6,000 a tonne, apart from the costs of servicing the company's debt.

5 Under this option the costs to HMG might be only £30 million interest costs, with a further loss of £40 million if the average tin price fell to £5,000 a tonne. But all that would be achieved would be a stabilisation of the tin market: the banks and brokers would still be likely to take legal action against HMG; and a number of LME brokers could go into liquidation. There is a risk of additional costs to HMG, as a result of legal action, of up to £120 million to cover losses by the brokers and possibly a further £50m on losses by the banks, although in each case there might be some chance of recovery from other governments.

6 A third option would be similar to Option 2, but at a higher tin price in return for undertakings from brokers and banks that they would not take legal action against HMG. If a price as high

as £7,500 were necessary, and if the tin could be sold over a period at £6,000, a loss of £60m plus £40m financing costs would be incurred by HMG; if the price fell to £5,000 this loss would be £100m plus £40m financing costs.

COSTS OF POSSIBLE OPTIONS

	Selling Price £3500 per tonne £m	Selling Price £5000 per tonne £m	Selling Price £6000 per tonne £m
Uncontrolled collapse; UK sued for whole loss, no recovery from other countries.	500	-	-
Option 1			
New Co on basis proposed by banks and brokers but UK pays full ITC share.	-	250	200
Option 2			
UK buys brokers' tin at £6000 per tonne	-	70 (40 loss, 30 financing)	30 (financing)
+			
Risk of successful litigation against HMG, no recovery from others.	-	170	120
Total		240	150
Option 3			
HMG buys at £7500 from brokers in return for no litigation from banks and brokers.	-	140 (100 loss, 40 financing)	100 (60 loss, 40 financing)

PRIME MINISTER

TIN

Legal Liability

The Solicitor General had advised that the brokers could have a "good" chance of winning a suit against HMG for the entire £500 million owed to them by the ITC. Furthermore, we could not rely on the Courts to secure contributions from other ITC members. Our entire negotiating position rests on this judgement so you should satisfy yourself tomorrow that it is not an excessively cautious one.

An alternative view is that the brokers would have an uphill job in sueing HMG for the ITC's liabilities. They would be entering unknown legal territory. Michael Beloff QC, who has advised the Solicitor General on this, could find no authority which deals specifically with a situation where an international body corporate (the ITC), which is given legal status by a statutory order, defaults.

Opinion attached

HMG's defence would be that the ITC is a statutory body with a legal personality. This status was confirmed by the ITC (Immunities and Privileges) Order 1972 (SI 1972/120). Insofar as the ITC acted within its vires, the liabilities of the ITC members would be restricted to contributions which they have already made. Thus in any law suit, if HMG succeeded in establishing that the ITC is a corporate body, the plaintive would have to show that the ITC's liabilities arose from actions which were ultra vires.

What are the ITC's vires? Michael Beloff regards the International Tin Agreement as the legal basis for the vires but under the ITA, the ITC's powers are very wide. Would it be easy to demonstrate the extent that they were exceeded? The ITC definitely exceeded its powers by accumulating a buffer stock of over 63,000 tonnes, whereas the ITA provides only a stock of 39,660 tonnes. But the ITC's undoing was to

borrow against this stock in order to buy forward in the hope that when the time came to complete these transactions, the ITC could unload its stock in the spot market at a price sufficient to cover its purchases. This is a risky strategy but the ITA rules do not expressly exclude it. Article 24, concerned with borrowing, allows the Council to borrow "for purposes of the buffer stock ... Such sums as it deems necessary". The ITA is silent on the question of forward commitments.

The ITA clearly assumed that the ITC would not get into difficulties but there is no built-in guarantee against default. Quite the contrary, the ITA contains the seeds of its own destruction. One of its purposes is to sustain, at some periods, a tin price in excess of a free-market level. The ITC is empowered to borrow against the value of its stock but since this stock is bound, in circumstances where the ITC is supporting the tin price, to be over-valued in relation to a free market price of tin, the ITC was likely to get into difficulties at some point if it used its full borrowing powers.

You should enquire what proportion of the ITC's liabilities could be attributed to operations which were ultra vires. We should question the view that the size of the ITC's liabilities reflects, in a simple way, the degree to which the ITC exceeded its powers under the ITA. The ITA itself may have been fundamentally flawed.

Options

All the interventions offered by Leon Brittan look good compared with the do-nothing option, but the latter is described in the most pessimistic terms - total disaster for us in the Courts and an "uncontrolled collapse" in the tin price to £3,500/tonne. Is this a balanced comparison?

The possibility of a partial recovery of the brokers' debts is discussed above. Should we assume that the price would

"collapse" only in the do-nothing option? Are we to believe that the same companies, who are apparently seeing sense in trickling their tin stocks onto the market under a government-organised package, are likely to simply to throw their stock into the market if left to themselves? Conversely, if £3,500 is judged to be a free market price, is it realistic to expect the new company, which will take over the ITC's obligations, to prevent the price from falling below £5,000/tonne? Two banks are unwilling to join the package Leon Brittan proposes; won't they undercut the new company, making it more difficult for it to unload its tin?

Finally, should we, alone among ITC members, guarantee a loan (of £50 million) to the new company? Will acceptance of this element expose us to pressure to bale out the company, if it requires additional funding?

Conclusion

The costs of intervention may be higher than has been presented; the cost of doing nothing may be less.

NICHOLAS OWEN

2 January 1986

Opinion by Richard Belsyo QC

RE: THE INTERNATIONAL TIN COUNCIL

ADVICE

1. I am asked to advise Her Majesty's Government ("HMG") as to the potential liability of members of the Sixth International Tin Agreement ("ITA6") in respect of various claims that may be made by bankers and/or brokers in respect of transactions ("the transactions") entered into by the buffer stock manager ("BSM") of the International Tin Council ("ITC") on the basis that the ITC may not be liable in law or alternatively (as appears certainly to be the case) lacks the resources to meet such claims. My advice is confined to the liability that might exist in municipal law as interpreted by the High Court. I am not invited to consider what the position might be in international law. The factual position is not yet clear. It is accepted that the Peat Marwick Report dated 8th November 1985 ("PMR") may not present a full or accurate picture.

2. The transactions have been provisionally identified as follows:

(1) Transactions the effect of which was to increase at any time the tonnage of buffer stock above 39,666 tonnes.

(2) Transactions involving the use of buffer stock held for the purposes of ITA 5 as security for borrowings under ITA 6 ~~semicolon This would also entail a breach of obligation under ITA 5 to those member countries of ITA 5 who are not also member countries of ITA 6~~.

(3) Transactions known as 'special borrowings', that is the acquisition of tin with finance provided by a broker, interest on the loan being paid to the broker in return for his keeping the tin off the market. The tin warrants

are retained by the broker and sold on by him to recover the capital costs. ~~This is not considered to be borrowing for the purposes of the buffer stock~~.

(4) Any unmatched forward transaction in tin (buying forward at a fixed high price, selling forward at the price ruling on settlement day) such that, on the basis of the price ruling at the date of the contract and taking into account any free resources of the ~~Council~~ ITC, the ~~Council~~ ITC would not on that basis be able to meet all its obligations as they fell due.

(5) Where the price of tin is in the lower sector of the range between floor and ceiling prices, operating on any non-recognised market (that is, any market other than London or Penang).

3. There appear to me to be three possible bases for liability of members in these circumstances.

(i) The transactions were intra vires the ITC, and in the absence of any limitation on their liability, the members are personally liable.

(ii) The transactions were ultra vires the ITC, and on a proper analysis of the facts, the transactions were carried out by the BSM on behalf of the members as distinct from the ITC.

(iii) The transactions were ultra vires the ITC, and, on a proper analysis of the facts, the members warranted to the other parties to the transactions that the ITC had authority to enter into the transactions.

I shall examine each potential head of liability in turn after considering the vires issue, which must necessarily be looked at first.

4. The ITC was given, for the purposes of municipal law "the legal capacities of a body corporate" pursuant to the International Tin Council (Immunities and Privileges) Order 1972 SI 1972 No.129 ("the Order") made under the International Organisations Act 1968 ("the Act") (The Order, para.5). "Corporations may be either statutory or non-statutory, and a fundamental distinction exists between the powers and liabilities of the two classes. Statutory corporations have such rights and can do such acts only as are authorised directly or indirectly by th statutes creating them: non-statutory corporations, speaking generally, can do everything that an ordinary individual can do unless restricted directly or indirectly by statute" (Halsburys Laws, 4th ed. Vol.9 para.1326). In my view, in terms of municipal law, the ITC is a statutory corporation, created from the perspective under statute.

5. What acts then is the ITC "authorised directly or indirectly" to do pursuant to the statutory order? There is no provision in the order or elsewhere which specifically described the nature of such authority. However the ~~Council~~ ITC, endowed as stated, with the legal capacities of a body corporate, is identified in the Order as "The International Tin Council... an organisation of which Her Majesty's Government in the United Kingdom and the governments of foreign sovereign powers are members". (The Order para.4). It appears accordingly to me that it is implicit that the Council is only authorised to act as the ITC. The extent of the powers of

the ITC can, in my view, only be derived from ITA6 which established it. In British Airways v. Laker Airways Lord Diplock said "the interpretation of treaties to which the United Kingdom is a party but have not either expressly or by reference been incorporated in English domestic law is not a matter which falls within the interpretative jurisdiction of an English Court of law" (1985 AC 58 at p.86). It appears to me to be strongly arguable that the treaty has 'by reference' been incorporated in English domestic law for the purposes of determining the ambit of the ITC's powers. Any other conclusion would result in there being no means of ascertaining the powers of the ITC in domestic law. ITA6 would certainly have to be interpreted for the purpose of determining its entitlement to various exemptions eg. from taxes (The Order, para.2,8ff); and, although it could be argued that it can be interpreted for those purposes only, I incline to the view that it can be looked at for the purpose under consideration as well.

6. What then are the limits on the powers of the ITC pursuant to ITA6? If Article I of ITA6, setting out its objectives, is to be treated as the objects clause of a limited liability company, then its powers are very wide, and any action taken eg. for the objective of preventing "excessive fluctuations in the price of tin" (Article I(b)), which might characterise the aim of the transactions, would be intra vires the ITC (see eg. Rolled Steel Ltd. v. British Steel Corporation (1985) 2 WLR 908 per Slade LJ 939, 946-7, Browne-Wilkinson LJ 954). However I am persuaded that the

analogy is inappropriate. The ITC is endowed quoad powers "with the... powers provided for in this agreement". ITA6 Article 3.1). If this be so, then a Court would construe the entirety of ITC so as to discern the extent of those powers. ITA6 Article 24 (borrowing for buffer stock) and ITA6 Article 28 (operation of the buffer stock) exemplify the relevant limits on the powers. Upon a reasoned construction of those Articles it appears that the transactions are outwith the powers of the ITC. "Forward transactions" per se are manifestly permitted (see eg. ITA6 Article 29.1). But the particular type of forward transaction which has been identified (see para.2(4) above) is not expressly provided for. To establish buffer stock over and above the prescribed size (see Article 21 and Article 22) would also be ultra vires (see para.2(1) above and PMR passum). Borrowing for the buffer stock in a manner not provided for by Article 24 would similarly be ultra vires (see para.2(3) above) (NB Article 24(2) which was not operated). And there is arguably no express or implied power to do that which is embraced by the other transactions (see para.2(2) and (5)).

7. If the views expressed in paragraph 6 be incorrect (i.e. that on a proper construction of ITA6 some or all of the transactions were within its corporate capacity), members may still not be immune from claims either by ITC itself or by persons who seek to enforce an arbitration award made under Article 23 of the Headquarters Agreement ("HQ Agreement") in respect of which the ITC does not enjoy immunity from suit (The Order para.6(1). Under Article 23 of the HQ Agreement the ITC is required in the case of contracts concluded

with persons resident in the United Kingdom or bodies incorporated having their principal place of business in the United Kingdom to include in the relevant instrument an arbitration clause. This clearly embraces LME contracts into which the ITC have entered). "The nature of a corporation may be shown by contrasting it, as a legal conception, with the individuals or mass of individuals in which it resides. In law the individual corporators, or members of which it is composed are something wholly different from the corporation itself; for a corporation is a legal person just as much as an individual. If a man trusts a corporation, he trusts that legal person, and must look to its assets for payment; he can only call upon individual members to contribute if the Act... creating the corporation has so provided ... After the dissolution of a corporation, the members, in their natural capacities, can neither recover debts which are due to the late corporation or be charged with debts contracted by it." (Halsbury ibid. para.1209. Re Sheffield and South Yorkshire Permanent Building Society (1889) 22 QBD 470 esp. per Cave H. at p.476. Gower Company Law 4th ed. p.100-101). Again it appears to me that the question is what has been here provided by ITA6, if it has been incorporated into English domestic law (para.5 above). It is at least arguable that it is to be implied the overall scheme of ITA6 that individual members are liable for the ITCs debts (at any rate up to their unpaid contributions) although it is not anywhere expressly so provided. Equally there is no express limitation in ITA6 on members liability.

8. If the views expressesd in paragraph 6 be correct (i.e. that the transactions are ultra vires the ITC), then it is arguable that in sanctioning the transactions, in so far as they did, the members were authorising the BSM as their agent to enter into the same. Absent any immunity from suit in the domestic courts on account of the commercial nature of the transactions, they would be liable as principals. It would be a question of fact as to which members had so authorised the BSM. If the transactions have all occurred within a period after all members had knowledge of what was being done, then they would on this analysis arguably be fixed with liability as principals. "Where two or more persons give authority to an agent, it is presumed that the authority is to act for their joint account only, unless a contrary intention appears from the nature of the terms of the authority, or from the circumstances of the particular case" (Bowstead Agency, 15th ed. p.50). This analysis of the possible basis of members liability would certainly be well founded if the members involved appreciated that what was being done by the BSM was ultra vires the ITC. If they did not, it might be well to argue that they were not constituting themselves as principals of the BSM vis à vis third parties, but rather warrantors that the ITC, as apparent principal, had capacity to enter into the same (see para.9).

9. "As agents of the company, the directors who induce the other party to enter into a contract which the company is incapable of making, may be liable for breach of warranty of authority" (Gore-Browne on Companies 43rd ed. paras.3-9. Pennington Company Law

4th ed. p.553-4). Where a memorandum imposed a limitation on the company's borrowing powers, and the directors continued to borrow after this limit has been exceeded, or where debenture stock issued after the power to do so was exhausted, claims for breach of warranty of authority have been allowed (Chapleo v. Brunswick Building Society (1881) 6 QBD 696. Firbanks Executors v. Humphreys (1886) 18 QBD 54(CA). Mutatis mutandis, it could be argued that the members by permitting the BSM over a period of time to engage in transactions which, upon this hypothesis, were ultra vires the ITC, the members were warranting to third parties that the ITC via the BSM had capacity to engage in such transactions, which might ~~not~~ be within the usual authority of an employee in the BSM's position. The measure of damages would be the difference between the value of the other party's actual rights against the BTC, and the value which those rights would have had had the BTC been bound by the transaction (Pennington op.cit.554. Bowstead op.cit.466). However if the ITC is insolvent, damages may pro tanto be nugatory.

10. I should add for completeness that if the transactions were ultra vires the ITC, I do not consider that ~~third parties~~ members could (if they wished to do so) avail themselves of the provisions of the Companies Act 1985 s.25 for reasons developed in the letter from the Solicitor-General to the DTC dated 6th November 1985.

11. On any basis upon which members might be liable, I consider that each would by necessary implication have rights of contribution against the others, if in any circumstances any one were the object of a successful suit.

12. I should add in conclusion that one is very much in the realm of terra incognita in connection with this whole matter; not simply because the facts are obscure, but because on the basis of my research I can find no authority which deals specifically with the type of problem here under consideration i.e. the consequences in municipal law of the default of an international body corporate, given legal status in municipal law by an instrument in the nature of the order.

4/5 Gray's Inn Square,
Gray's Inn,
London WC1R 5AY

22nd November 1985

PRIME MINISTER

TIN

You are holding a meeting tomorrow at 1100 hours.

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

Legal Liability

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

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

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

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

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

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

Amanda Ross

pp David Norgrove

2 January 1985

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PS/ *Secretary of State for Trade and Industry*

31 December 1985

David Norgrove Esq
Private Secretary to the
Prime Minister
10 Downing Street
LONDON
SW1

NBPM

Dear David,

Regarding your letter to Michael Gilbertson of 22 November, enclosing a letter from Mr Phelps, Secretary of the International Tin Council, I attach a copy of my Secretary of State's reply. I am sorry for the delay in getting this to you.

Yours ever
Gina M. Davis

GINA M DAVIS
Private Secretary

DW2AHT

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File CAHAAU

cc BG

10 DOWNING STREET

30 December 1985

From the Private Secretary

TIN

The Prime Minister, as you know, intends to hold a meeting, if possible on Friday to discuss the UK's position in the next round of discussions about tin, following Michael Gilbertson's letter to me of 24 December. You are preparing a note to serve as a basis for that meeting.

The Prime Minister believes that we shall in any event need to make a further forceful attempt to bring Community partners to recognise their obligations, taking account of the appalling example which is being set for other negotiations, including in particular debt negotiations. The Prime Minister has of course already written to Chancellor Kohl. You will wish to consider urgently what other messages might be sent or action taken with Community partners, and I should be grateful if drafts could be prepared so that there is the basis for very quick action, if necessary, after Friday's meeting.

I am copying this letter to Richard Broadbent (HM Treasury), Colin Budd (Foreign and Commonwealth Office), Henry Steel (Law Officer's Department), John Bartlett (Bank of England) and Ruth Rawling (Ministry of Agriculture, Fisheries and Food).

J. Bowers
Duty clerk

pp. DAVID NORGROVE

Miss Catherine Bradley,
Department of Trade and Industry

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Secretary of State for Trade and Industry

24 December 1985

David Norgrove Esq
Private Secretary to the
Prime Minister
10 Downing Street
LONDON
SW1

Dear David,

TIN

I am writing to let you know the current position on the tin crisis, together with an assessment of the outlook.

2 The ITC adjourned its special session on Friday and has decided to reconvene on 14 January with an informal meeting on 7 January. The LME has decided to keep the tin market closed until 13 January to enable further discussions to take place with the ITC to try to find a solution to the crisis.

3 All the member countries of the ITC, including the UK but with the exception of the other European Community countries, are prepared to enter into negotiations with the LME brokers and the banks on a without commitment basis. Although several other EC delegations, including particularly the Belgians and the Italians tell us informally that they would be prepared to agree to negotiations, none is willing to support the UK in formal EC meetings or at the ITC itself.

4 Further discussions with the banks and brokers are now being undertaken by a very small informal group convened by the ITC Executive Chairman, Mr Peter Lai, supported by a Malaysian and a Swiss delegate drawn from the producer and consumer sides of the ITC respectively. These discussions have continued over the weekend and, as a result, a new package of proposals was put yesterday to the ITC member countries. A decision is required on this new package by 14 January.

5 The contribution required from the ITC member countries to this new proposed package would be £200 million, with a return

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but how would that be achieved?

to orderly trading in tin at a price of £6,000 per tonne (as against an average price of £8,900 a tonne for the ITC Buffer Stock Manager's forward purchase contracts). The UK contribution to this cost would normally be 4 per cent, i.e £8 million. However, in putting this package together, the banks and brokers envisage that HMG would, in addition, guarantee £50 million of loan finance which would be at risk if the average price of tin fell below £6,000.

6 Ministers will need to consider, in the week beginning 6 January, whether HMG will be able to accept this new package, with its enhanced contribution from the UK. There can be no certainty that other ITC member countries will be prepared to accept this proposal as it stands; and for HMG to appear too eager to accept an enhanced contribution could backfire, with other ITC members trying to manoeuvre us into taking full responsibility for resolving the tin crisis.

7 We also need to consider our position if negotiations fail, the LME reopens the tin market, and the price of tin collapses. Estimates vary, but the tin price could fall as low as £3,500 a tonne in such circumstances. At this low price level, the claims of the brokers and the banks against the ITC could be about £500 million. A number of LME brokers would go into liquidation, and the whole future of the LME might be at risk.

8 If there is a collapse of this nature, my Secretary of State would not recommend that we should intervene in order to save the LME. However, there might be a case for intervention in order to reduce Exchequer costs. The LME brokers have made it clear that if a settlement is not reached they will take legal action in the UK courts. The brokers have been advised that they can sue HMG for the entire amount owed to them by the ITC, on the principle of joint and several liability. The Solicitor General's advice is that such an action (which we would vigorously defend) has a good chance of succeeding. But he further advises that recovery of contributions from other member countries would need to rely on diplomatic and political pressures, rather than by legal action through any international tribunal or court. It is therefore difficult to assess how much might be recovered from other ITC member countries if a UK court found HMG jointly and severally liable for up to £500 million.

9 On a contingency basis, DTI officials and the Bank of England are considering whether suitable mechanisms can be devised to reduce the extent of the losses suffered by the brokers and the banks if no negotiated solution can be found. Any such mechanisms will certainly entail a contribution by HMG of far more than the £8 million estimate for a negotiated solution. We will clearly need to consider very carefully, at the appropriate time, whether it would be likely to represent good value for money for the Exchequer to implement a rescue of this kind, whether financed wholly by HMG

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or by a group of ITC member countries, if we could persuade others to join us.

10 I am sending copies of this letter to Philip Wynn Owen (Treasury), Robert Culshaw (FCO), Henry Steel (LOD), John Bartlett (Bank of England and Ivor Llewelyn (MAFF).

Yours ever,

Michael

MICHAEL GILBERTSON
Private Secretary

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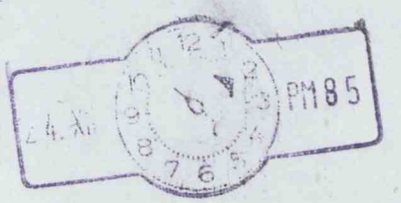
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Secretary of State for Trade and Industry

23 December 1985

N L Phelps
23 Connaught Avenue
East Sheen
LONDON
SW14 7RH

Dear Mr Phelps,

I have been asked to thank you for your letter to the Prime Minister of 19 November, the contents of which have been carefully noted.

As you recognise, the UK Government has made clear its view that other Governments should state their readiness to meet their share of the obligations of the Council's member countries. The UK is continuing to work both within and outside the Council to persuade member countries to support a solution which would provide conditions for an orderly return to trading in tin.

Although progress has not been as rapid as HMG would have linked, these efforts are continuing. As to whether you should pass a copy of this correspondence to Mr David Owen, that must be a matter for your own judgement.

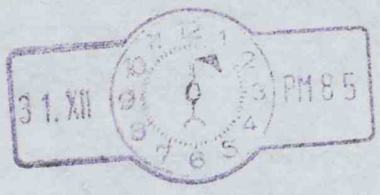
Yours sincerely,

LEON BRITTAN

Leon Brittan

DW5AFB

TRADE: Volume in movements : Jan 1985



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AND TO ROUTINE NEW DELHI
INFO ROUTINE LISBON, MADRID, BRASILIA, LA PAZ
INFO SAVING UKMIS NEW YORK, UKMIS GENEVA, WASHINGTON

MY TELNO 473: TIN

SUMMARY

1. THE TIN COUNCIL ADJOURNED ON 20 DECEMBER UNTIL 14 JANUARY. 'NEW AND MORE CONSTRUCTIVE PROPOSALS' FROM BANKS AND BROKERS WILL BE AVAILABLE ON 23 DECEMBER. FRANCE, FRG AND NETHERLANDS PREVENTED NEGOTIATIONS BETWEEN THE ITC AND ITS CREDITORS.

DETAILS

2. THE TIN COUNCIL MET FROM 18-20 DECEMBER. ON 18 DECEMBER, THE PRODUCERS

— We must — write again to each. What an appalling example to the 3rd world.

PRODUCERS ANNOUNCED THEIR READINESS FOR THE ITC TO ENTER INTO NEGOTIATIONS WITH BANKS AND BROKERS, ON THE EXPRESS UNDERSTANDING THAT ALL DISCUSSIONS WOULD BE WITHOUT PREJUDICE TO LEGAL LIABILITY AND THAT THE OUTCOME WOULD BE REFERRED TO AND CONSIDERED BY GOVERNMENTS. CONSUMERS AS A GROUP WERE UNABLE TO AGREE THAT NEGOTIATIONS SHOULD BE CARRIED OUT ON BEHALF OF THE ITC, BECAUSE THE FRG, FRANCE AND NETHERLANDS REFUSED TO GIVE THE ITC ANY MANDATE TO WORK FOR A SETTLEMENT. A NUMBER OF CONSUMERS, INCLUDING THE UK, CANADA, THE NORDIC COUNTRIES AND JAPAN, EXPRESSED SUPPORT FOR THE PRODUCERS' PROPOSAL, BUT PRODUCERS INSISTED THAT A CONSENSUS WAS REQUIRED BEFORE ANY NEGOTIATIONS COULD COMMENCE.

3. ALL MEMBERS EXPRESSED THE VIEW THAT NONE OF THE INFORMAL PROPOSALS PUT FORWARD BY BANKS OR BROKERS SO FAR WAS ACCEPTABLE AND THAT ITA MEMBERS EXPECTED A GREATER CONTRIBUTION FROM THOSE CONCERNED. SEVERAL CONSUMERS, NOTABLY FRANCE, FRG AND NETHERLANDS, STILL TAKE THE VIEW THAT NEITHER THE ITC NOR ITS MEMBERS SHOULD THEMSELVES PUT FORWARD PROPOSALS: THESE MUST COME FROM THIRD PARTIES. THE ONLY NEW PROPOSAL TO BE ADVANCED DURING THE WEEK WAS PRESENTED ON 18 DECEMBER BY DREXEL BURNHAM LAMBERT, AN AMERICAN CONSORTIUM WITH NO AUTHORITY TO SPEAK FOR THE ITC'S CREDITORS. THIS PROPOSAL WAS IN ESSENCE A SLIGHTLY MODIFIED VERSION OF EARLIER SCHEMES. IT WAS RECEIVED POLITELY BUT WITHOUT INTEREST BY THE ITC.

4. IT WAS AGREED ON 19 DECEMBER THAT THE ITC EXECUTIVE CHAIRMAN, SWITZERLAND AND MALAYSIA WOULD PURSUE INFORMAL CONTACTS WITH A VIEW TO ELICITING MORE ACCEPTABLE PROPOSALS FROM BANKS AND BROKERS. THE EXECUTIVE CHAIRMAN REPORTED ON 20 DECEMBER THAT, FOLLOWING A MEETING WITH REPRESENTATIVES OF BANKS AND BROKERS, 'NEW AND MORE CONSTRUCTIVE PROPOSALS' WOULD BE AVAILABLE TO ITA MEMBERS ON 23 DECEMBER.

5. THE ITC HAS ADJOURNED UNTIL 14 JANUARY. HEADS OF DELEGATION WILL MEET ON 7 JANUARY. THE LME WILL REMAIN CLOSED FOR TIN TRADING UNTIL AT LEAST 13 JANUARY.

COMMENT

6. THIS WAS A DISCOURAGING WEEK, AND UNLESS THE ITC'S CREDITORS COME

COME FORWARD WITH SUBSTANTIALLY IMPROVED OFFERS IT IS DIFFICULT TO ENVISAGE THAT A NEGOTIATED SETTLEMENT CAN BE ACHIEVED. WE SHALL CONTINUE TO DO WHATEVER WE CAN TO BRING THIS ABOUT, WHERE RELEVANT GIVING GREATER EMPHASIS TO THE POLITICAL DIMENSIONS OF THE PROBLEM (ESPECIALLY THE IMPORTANCE ATTACHED BY DEVELOPING COUNTRIES TO INTERNATIONAL COMMODITY AGREEMENTS) THAN TO OUR FAMILIAR ARGUMENTS ABOUT LEGAL LIABILITIES, THE NEED TO AVOID DEFAULT AND THE LIKELIHOOD OF CHAOS ON THE TIN MARKET. THERE IS LITTLE MORE THAT THE UK CAN NOW DO TO CONVINCE OTHERS TO WORK CONSTRUCTIVELY FOR A SETTLEMENT.

7. ADDRESSEES SHOULD CONTINUE TO TAKE OPPORTUNITIES TO PUT OUR CASE ACROSS, EMPHASISING THE POLITICAL DIMENSION AS APPROPRIATE AND MAKING THE ADDITIONAL POINT THAT THE TIN CRISIS IS NOW EIGHT WEEKS OLD AND THAT IF THE YEAR ENDS WITHOUT ANY PROGRESS THE REPUTATION OF RESPONSIBLE GOVERNMENTS WILL LOOK INCREASINGLY TARNISHED. EC POSTS SHOULD ALSO EXPRESS THE VIEW THAT IT IS GREATLY TO BE REGRETTED THAT THE COMMUNITY HAS PROVED UNABLE TO RESPOND TO THIS CHALLENGE.

HOWE

INTERNATIONAL TIN AGREEMENT

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SIR W HARDING
MR DAVID THOMAS

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MR J DENISON CROSS " "
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MR MOUNTFIELD, HM TREASURY
MR M REDLEY, HM TREASURY
MR B GUNN, BANK OF ENGLAND
MR M SAUNDERS, LAW OFFICERS DEPT,
ROYAL COURTS OF JUSTICE, THE STRAND

HOWEVER, UP TO NOW I UNDERSTAND THAT YOUR GOVERNMENT HAS REJECTED ANY LEGAL RESPONSIBILITY FOR THE DEBTS OF THE ITC, AND HAS OPPOSED A PROPOSAL THAT REPRESENTATIVES OF THE COMMISSION OF THE EUROPEAN COMMUNITIES SHOULD TAKE THE LEAD IN SEEKING TO NEGOTIATE A SETTLEMENT.

I AM WRITING PERSONALLY TO YOU BECAUSE MY GOVERNMENT AND YOURS WERE RELUCTANT TO JOIN THE 6TH INTERNATIONAL TIN AGREEMENT, AND IT WAS ONLY FOLLOWING DISCUSSION AT THE ANGLO-GERMAN SUMMIT IN MARCH 1982 THAT BRITAIN AND THE FEDERAL REPUBLIC OF GERMANY DECIDED TO JOIN THE AGREEMENT. OUR GOVERNMENTS REACHED THAT VIEW BECAUSE, DESPITE OUR RESERVATIONS ABOUT THE ITC, WE BELIEVED THAT WIDER INTERESTS WERE AT STAKE, CONCERNING INTERNATIONAL TRADE AND OUR RELATIONS WITH DEVELOPING COUNTRIES.

I REALLY MUST ASK YOU TO LOOK AGAIN URGENTLY AT THE POSITION NOW BEING TAKEN BY YOUR GOVERNMENT. ALTHOUGH YOU AND WE MAY DISAGREE ABOUT THE EXTENT OF THE LEGAL LIABILITY OF MEMBER STATES - AN ISSUE WHICH COULD ONLY BE FULLY TESTED IN THE COURTS - IT CANNOT BE RIGHT FOR GOVERNMENTS TO DISCLAIM RESPONSIBILITY FOR THE ACTIONS OF A BODY SET UP TO ACT ON THEIR BEHALF, AND ON WHOSE GOVERNING COUNCIL THEY ARE DIRECTLY REPRESENTED. IF NO SOLUTION CAN BE FOUND, AND THE ITC FAILS LEAVING MASSIVE DEBTS, I BELIEVE TGHE REPERCUSSIONS WILL BE WIDESPREAD, AND HIGHLY DAMAGING TO THE INTERNATIONAL FINANCIAL AND COMMERCIAL COMMUNITY.

YOU WILL KNOW THAT THE PRODUCER GOVERNMENTS HAVE NOW AGREED TO WORK TOWARDS A NEGOTIATED SETTLEMENT. THIS IS THE FIRST ENCOURAGING DEVELOPMENT IN WEEKS OF DISCUSSIONS. THE STAND TAKEN BY THE CONSUMER GOVERNMENTS WILL DECIDE WHETHER IT MAKES ANY HEADWAAY. I AM NOT APPROACHING ANY OTHER COMMUNITY HEAD OF GOVERNMENT AT THIS STAGE, BUT I BELIEVE THAT IF YOU WERE TO JOIN US IN TAKING A CONSTRUCTIVE POSITION IN FAVOUR OF A NEGBOTIATED SETTLEMENT, OTHER COMMUNITY AND OTHER CONSUMER GOVERNMENTS WOULD BE LIKELY TO FOLLOW.
UNQUOTE.

LIMITED
ERD
WED
PS
PS/MR RIFKIND
PS/ L YOUNG
PS/ MR EGGAR
PS/PUS

DEREK THOMAS
MR BRAITHWAITE
MR MAUD
MR SAMUEL

SUBJECT
cc Ops
Master

cc FCO
DTI
TSY
Law Officers
Bank of England

file Rb
Sir P Cradock

10 DOWNING STREET

PRIME MINISTER'S
PERSONAL MESSAGE
SERIAL No. T 237/85

THE PRIME MINISTER

20 December 1985

Dear Helmut,

I am writing to you to express my very great concern about the failure of the International Tin Council to meet its financial obligations.

As you know, since the announcement on 24 October that the ITC could no longer honour its contracts, the member countries of the 6th International Tin Agreement have been unable to agree on any course of action to resolve the crisis in the tin market.

From the outset, the UK Government made it clear that we were prepared to meet our share of the ITC's commitments, and we called on other governments to do likewise. We also circulated to other Member Governments a note setting out our analysis of the legal position.

If a settlement is to be reached, the position of the European Community countries, as the largest consumer group within the ITC, will be crucial. And within the European Community, the largest consumer of tin is the Federal Republic of Germany. However, up to now I understand that your Government has rejected any legal responsibility for the debts of the ITC, and has opposed a proposal that representatives of the Commission of the European Communities should take the lead in seeking to negotiate a settlement.

/I am writing

I am writing personally to you because my Government and yours were reluctant to join the 6th International Tin Agreement, and it was only following discussion at the Anglo-German Summit in March 1982 that Britain and the Federal Republic of Germany decided to join the Agreement. Our Governments reached that view because, despite our reservations about the ITC, we believed that wider interests were at stake, concerning international trade and our relations with developing countries.

I really must ask you to look again urgently at the position now being taken by your Government. Although you and we may disagree about the extent of the legal liability of Member States - an issue which could only be fully tested in the Courts - it cannot be right for governments to disclaim responsibility for the actions of a body set up to act on their behalf, and on whose governing Council they are directly represented. If no solution can be found, and the ITC fails leaving massive debts, I believe the repercussions will be widespread, and highly damaging to the international financial and commercial community.

You will know that the producer governments have now agreed to work towards a negotiated settlement. This is the first encouraging development in weeks of discussions. The stand taken by the consumer governments will decide whether it makes any headway. I am not approaching any other Community Head of Government at this stage, but I believe that if you were to join us in taking a constructive position in favour of a negotiated settlement, other Community and other consumer governments would be likely to follow.

Warm regards

Yours ever

Margaret

His Excellency Dr. Helmut Kohl.

Mr. Norgrove
cc

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TELNO 602
OF 192015Z DECEMBER 85
INFO ROUTINE UKREP BRUSSELS

YOUR TELNO 914: TIN

1. THERE IS SOME INDICATION THAT THE JAPANESE MAY BE MOVING TOWARDS A RATHER MORE FLEXIBLE POSITION IN THE INTERNATIONAL TIN COUNCIL. AT A MEETING OF CONSUMERS ON 18 DECEMBER, THE JAPANESE REPRESENTATIVE ADMITTED THAT A 'SOFT LANDING' WAS PROBABLY THE BEST AND MOST DESIRABLE OUTCOME, PROVIDED THAT THE VARIOUS CONDITIONS WERE MET. BUT THE JAPANESE WERE UNABLE TO RESPOND TO A PRESENTATION BY THE PRODUCERS MADE DURING THE AFTERNNOON SESSION OF THE ITC ON 18 DECEMBER. IN THIS PRESENTATION THE PRODUCERS EXPRESSED READINESS TO AGREE TO THE COUNCIL'S ENTERING INTO NEGOTIATIONS WITH THE BANKS AND BROKERS ON THE EXPRESS UNDERSTANDING THAT ALL DISCUSSIONS WOULD BE WITHOUT PREJUDICE TO LEGAL LIABILITY AND THAT THE OUTCOME WOULD BE REFERRED TO AND CONSIDERED BY GOVERNMENTS. TODAYS SESSION OF THE ITC IS STILL CONTINUEING.

2. PLEASE THEREFORE TELL KUNIHIRO THAT WE WELCOME JAPAN'S RECOGNITION OF THE ADVANTAGES OF A SOFT LANDING. ITA MEMBERS CANNOT TURN THEIR BACKS ON THE TIN COUNCIL'S OBLIGATIONS AND IT IS IN THE INTERESTS OF ALL TO MINIMISE THE DAMAGE BY NEGOTIATING AN ORDERLY SETTLEMENT. YOU SHOULD ALSO DRAW AS

APPROPRIATE ON PARAGRAPHS 8 AND 9 OF MY TELNO 473 TO UKREPS BRUSSELS.

3. IF KUNIHIRO ASKS ABOUT THE POSITION OF THE EEC, YOU SHOULD SAY THAT BECAUSE MEMBERS TAKE DIFFERENT VIEWS OF LEGAL LIABILITIES IT HAS NOT BEEN POSSIBLE FOR THE COMMUNITY TO AGREE A COMMON LINE. WE REGRET THIS, BUT BELIEVE THAT COMMUNITY MEMBERS WILL NOT STAND IN THE WAY OF NEGOTIATIONS BETWEEN THE ITC AND ITS CREDITORS. THE UK INTENDS TO PLAY AN ACTIVE PART IN THE TIN COUNCIL, IN COOPERATION WITH LIKE-MINDED DELEGATIONS. WE HOPE THAT JAPAN WILL BE AMONGST THESE.

HOWE

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MR J DENISON CROSS	"	"
MR K HALL (MM)	"	"
MR T VENESS ITP2	DTI	1 VICTORIA ST
MR R TAYLOR ITP2	"	"
MR BRIAN MURRAY	"	"

MR R THOMAS, MAFF
MR D FRY , MAFF
MR MOUNTFIELD, HM TREASURY
MR M REDLEY, HM TREASURY
MR B GUNN, BANK OF ENGLAND
MR M SAUNDERS, LAW OFFICERS DEPT, ROYAL COURTS OF JUSTICE, THE STRAND

SL2AEQ

PRIME MINISTER

The background is set out in the DTI letter below, including German views.

FCO are more doubtful about sending a message: the Foreign Secretary sent a message to Genscher within the last few days and FCO argue that the message is unlikely to do any good so why waste political capital on it.

There is also the fact that your message on Ptarmigan did not win the contract. Even though this was for no fault of yours, the Opposition would crow if a message on tin had no effect. It also risks associating you more closely with apparent City shenanigans.

Against this the DTI argue that a message could help tip the balance, and some hundreds of millions and possibly jobs are at stake.

Do you want to send a message?

Has the Tin Council failed?

MT.

Mongo Duty Clerk

pp D R NORGROVE

19 December 1985

OD

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
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TELEPHONE DIRECT LINE 01-215 5422
SWITCHBOARD 01-215 7877

JU7
Secretary of State for Trade and Industry

19 December 1985

CONFIDENTIAL

David Norgrove Esq
Private Secretary to the
Prime Minister
10 Downing Street
London SW1

Dear David,

TIN

We spoke yesterday about the possibility of the Prime Minister sending a personal message to the Chancellor Kohl. It is now our firm advice that such a message should be sent as soon as possible: a draft is attached. I understand the Foreign Office are content for a message to be sent.

It might be helpful if I give an update of where things now stand. The ITC met yesterday and will continue today. The producer countries unanimously recommended that the ITC should now negotiate with the banks and brokers with a view to reaching a settlement of the crisis. This is a major and encouraging new development. In contrast, consumer countries, in particular other EC States, continue to pursue a negative line.

The position of the Germans appears ambiguous. They have been leading the opposition within the EC to a settlement, and Genscher took a very strong line at the Foreign Affairs Council on Tuesday. However, the German Economic Ministry appears to take a softer line. We understand that the State Secretary of the Economics Ministry (von Würtzen) was behind a move yesterday by a number of German banks to approach Lord Richardson asking if he would act as an intermediary in negotiations between the ITC and the brokers. Lord Richardson is unavailable for personal reasons, but the German banks are continuing to look for alternatives. We also understand that von Würtzen considers that a message from the Prime Minister to Chancellor Kohl would have a very significant impact at this stage.

Given the hope of progress represented by the producers' decision yesterday, and the apparent division within the German Government, we believe that a Prime Ministerial message at this stage might just be sufficient to get the Germans to change their position. The pivotal role the Germans are playing in the EC on this issue means that a shift in their attitude to a settlement could well bring other EC States into line. You will also see from paragraph five of the attached draft that Germany played a particular role in the UK decision to join the 6th International Tin Agreement.

I am copying this letter and enclosure to Robert Culshaw (FCO), Philip Wynn Owen (Treasury), Henry Steel (LOD), and John Bartlett (Bank of England).

Yours ever,

Michael

MICHAEL GILBERTSON
Private Secretary

Enc

LOBARQ

Please type
tonight.
DHW

CONFIDENTIAL

JU986

letter

DRAFT MESSAGE FOR THE PRIME MINISTER TO SEND TO CHANCELLOR KOHL

INTERNATIONAL TIN COUNCIL

I am writing to you to express my ~~personal~~ concern about the failure of the International Tin Council to meet its financial obligations.

As you know, since the announcement on 24 October that the ITC could no longer honour its contracts, the member countries of the 6th International Tin Agreement have been unable to agree on any course of action to resolve the crisis in the tin market.

From the outset, the UK Government made it clear that we were prepared to meet our share of the ITC's commitments, and we called on other governments to do likewise. We also circulated to other Member Governments a note setting out our analysis of the legal position.

If a settlement is to be reached, the position of the European Community Countries, as the largest consumer group within the ITC, will be crucial. And within the European Community, the largest consumer of tin is the Federal Republic of Germany. However, up to now I understand that your Government has rejected any legal responsibility for the debts of the ITC, and has

opposed a proposal that representatives of the Commission of the European Communities should take the lead in seeking to negotiate a settlement.

I am writing personally to you because my Government and yours were reluctant to join the 6th International Tin Agreement, and it was only following ~~a~~ discussion ~~which I had with Chancellor Schmidt on 19~~ in March 1982 that Britain and the Federal Republic of Germany decided to join the Agreement. ~~We~~ Our Governments reached that view because, despite our reservations about the ITC, we believed that wider interests were at stake, concerning international trade and our relations with developing countries concerning commodity agreements more generally.

~~I would be grateful if you would review~~ I really must ask you to look again urgently the position taken by your Government concerning the default of the ITC. ~~Even though you may have doubts about~~ Although you and we may disagree about the extent of the legal liability of Member States, ~~(doubts which the UK does not share)~~ although you - an issue which in could only be fully tested in the Courts - it is I am sure a very bad example for Governments to disclaim responsibility for the actions of a body set up to act on their behalf, ~~especially~~ This is so where Governments are directly represented on the governing Council, as in the case of the ITC. If no solution can be found, and the ITC fails leaving massive debts, then I believe the repercussions of the ITC crisis will be widespread and damaging to the international financial and commercial community.

I am not approaching any other Community Head of Government at this stage, but I believe that if you were to join us in taking a constructive position in favour of a negotiated settlement, other Community and other consumer governments would be likely to follow.

cc BG

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JU964
Secretary of State for Trade and Industry

17 December 1985

CONFIDENTIAL

Philip Wynn Owen Esq
Private Secretary to the
Chancellor of the Exchequer
HM Treasury
Treasury Chambers
Whitehall SW1

1. CDP
2. PA.

Dear Philip,

TIN

I attach a note of the meeting chaired by my Secretary of State yesterday. I am copying this letter and enclosure to Paul Pegler (Chief Secretary's Office), Robert Culshaw and Alistair Harrison (FCO), Henry Steel (LOD), John Bartlett (Bank of England), Ivor Llewelyn (MAFF), and David Norgrove (No 10).

Yours ever,
Michael

MICHAEL GILBERTSON
Private Secretary

Enc

and this was disappointing. Mr Eggar said that the Germans, supported by the French and the Dutch had argued at COREPER that the Commmission should take a passive role. He suggested that they had unravelled our strategy of using the Commission to promote the idea of a settlement. COREPER had decided that tin should be raised informally over lunch at the Foreign Affairs Council on 17 December. Mr Channon suggested that it might be helpful to get the Presidency to raise the subject at that time, and it was agreed that we should try to arrange this.

2 Mr Tait said that in the meantime, the Foreign Secretary was already at the FAC, and was ready to raise the subject of tin with colleagues over lunch that day. It was agreed that this would be useful, and that he should be advised to pursue the following line: if the Agreement collapsed, everyone's liabilities would be greater; the ITC member countries were now looking to the EC to take the initiative, and failure of the EC to do this might be seen as a block on progress; if the EC Member States refused to acknowledge their obligations, this would damage their integrity.

3 Mr Eggar asked whether the Bank had any more information on whether there would be cross defaults if Governments refused to pay the ITC's debts. Mr Farrow replied that the Bank's view was that the legal position was crucial. If it were not shown that the ITC's debt represented an obligation on the part of Member Governments, then there would of course be no cross default. If Governments did have a legal obligation, then there would be cross default under such circumstances.

4 The Solicitor-General said that if the UK were in the event sued for all of the ITC's debts, then although the UK would stand a good chance of having its claim against other member countries recognised in law, the procedure laid down under the Agreement for recovering such claims was weak. The arrangement simply referred the matter back to the ITC for a decision. The International Court of Justice would probably maintain that such claims were outside its jurisdiction. Therefore, in such circumstances the UK would have to rely largely on diplomatic pressure. He was proposing to circulate later that day a paper setting out his views on the international legal position.

5 Mr Farrow reported that the brokers and the bankers had been moving the previous week towards a settlement. The brokers had even volunteered a contribution towards a burden-sharing arrangement, and had said that an increase in the level of that contribution might be open to negotiation. The banks, however, had been hardening their attitude. Their view was that their legal position was strong, and so there was no need for them to make a contribution to a settlement. The Malaysian banks and the Arab Banking Corporation had been taking a particularly strong line, and the Bank of England had no influence over them.

6 The Secretary of State then asked what would happen at the ITC on 18 December, if we had made no progress in the Community in the meantime.

CONFIDENTIAL

JU963

MEETING TO DISCUSS THE INTERNATIONAL TIN AGREEMENT: 16 DECEMBER 1985

Present
Secretary of State for Trade & Industry
Chief Secretary to the Treasury
Solicitor-General
Minister for Trade
Parliamentary Under-Secretary of State, Foreign & Commonwealth Office (Mr Eggar)
Deputy Governor of the Bank of England (Mr McMahon)
Mr Mountfield, DTI
Mr Rickford, DTI
Mr Murray, DTI
Mr Lunn, DTI
Mr Hosker, Treasury
Mrs Case, Treasury
Mr Braithwaite, FCO
Mr Tait, FCO
Mr Saunders, LOD
Mr Gardner, LOD
Mr Farrow, Bank of England
Mr Owen, No 10 Policy Unit

Summary

It was agreed that the Foreign Secretary should stress to Community colleagues later that day, the importance of reaching a settlement. It was agreed that it would be helpful to have the subject of tin raised at the FAC on 17 December, and it was agreed that we should try to get the Presidency to do this. It was agreed that, following the FAC, we should decide what tactics to adopt at the ITC meeting on 18 December. However, it was felt that trying to force a vote in the ITC on the issue of whether a negotiating team should be set up, might well be counter-productive. It was agreed that officials would update, where necessary, their assessment of the impact of the crisis on the tin market, and options for Government action. It was further agreed that work should be set in hand on drafting a statement for use in the event of a collapse of the Agreement.

Discussion

The Secretary of State said that until the meeting of COREPER on 13 December, the situation had not looked too bad, with the possibility of a burden-sharing arrangement being canvassed. However, the COREPER meeting had shied away from a settlement,

7 Mr Murray said that under those circumstances, we could try to force a vote in the ITC, on the question of whether or not to set up a negotiating group. If the FAC responded negatively on 17 December to the idea of a settlement, then we should give notice at the FAC of our intention to force a vote in the ITC. Otherwise, with no vote in the ITC, delegates would probably hold a round of inconsequential discussions, and the Council would drift away.

8 The Secretary of State said that forcing a vote was a high risk strategy. He asked what the consequences would be of either losing such a vote, or allowing the ITC to proceed without taking a decision. Mr McMahon said that a vote in the ITC against the establishment of a negotiating group would hasten the re-opening of tin trading on the LME. The Secretary of State suggested that if the ITC were left to drift without taking a decision, then things would happen more slowly, though the result would still be that the LME would re-open in time. Mr Murray said that in such circumstances, the banks would probably be the first to move, selling tin where they could. Mr Farrow agreed: although there would be questions over whether the banks actually had title to the tin they were holding, they could sell first and then wait to be sued.

9 Mr Eggar was anxious to ensure that we would not be trespassing on Community competence if we sought to force a vote. Mr Murray said that the UK could speak and vote independently at the ITC. The Community did not have competence on financial matters in the ITC.

10 Mr Eggar said that in market terms, there would be no real difference in the results of forcing a vote on the one hand, and not forcing a vote on the other. However, he could see advantage in going for a vote, since this could force member countries to come out into the open.

11 The Secretary of State was concerned, however, at the diplomatic risk of forcing a vote in the ITC. It could provoke an adverse reaction along the lines of an argument that although progress had been slow, progress had at least been made, and the forcing of a vote would jeopardise the limited progress there had already been. Mr Murray suggested that it might be possible to get the Canadians, the other member country most sympathetic to our view, to force a vote. It was agreed that the Foreign Secretary should at least float the idea of a vote with colleagues later that day, he should say that the EC would need to establish a position, in case a vote was called. It was agreed that we should wait to see the outcome of the Foreign Secretary's meeting on 16 December and the FAC on 17 December before deciding what the UK approach to the ITC meeting should be, though the feeling was that it would be better not to seek to bring about a vote at the ITC.

12 There was some discussion of the schemes which the Bank had put forward for giving assistance to brokers. The Chief Secretary stressed that he was very opposed to schemes of

assistance on these lines, although he had not considered fully the question of whether loans might be made to individual brokers. Mr McMahon said that it might be in the Government's own interest to bail out the worst hit brokers, if that avoided a collapse of the LME, and thus avoided a larger loss to the Exchequer. Mr Mountfield said, however, that even if assistance were given to one or two brokers, that would not stop the brokers suing the UK Government. Therefore, assistance to the brokers should be seen as more of an exercise to maximise invisible earnings, rather than an exercise to minimise Exchequer loss. The Secretary of State concluded that the idea of giving assistance to the brokers was very unattractive.

13 The Secretary of State said more generally that officials' analysis of the likely effects of the crisis, including what might happen if the LME re-opened and the implications of various options the Government might take with regard to the tin market, might now need updating, since they had last been put to Ministers several weeks ago. It was agreed that officials should, as a matter of urgency, examine the analysis which had already been done, and consider whether it needed updating.

14 Mr Murray suggested that it would be prudent to begin drafting a UK statement for use in the event of a collapse of the Agreement. Such a statement would need to play down our previously expressed views on the legal position. It was agreed that this work should be set in hand.

MICHAEL GILBERTSON

2

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PS/ *Secretary of State for Trade and Industry*

13 December 1985

David Norgrove Esq
Private Secretary to the
Prime Minister
10 Downing Street
LONDON
SW1

Prime Minister?
I am asked to see this.
DFN
13/12

Dear David,

TIN : LETTER FROM PETER GRAHAM

... I attach a copy of the letter my Secretary of State has today sent to Mr Graham. This is in response to Mr Graham's letter of 2 December to the Prime Minister, as well as his letter of 6 December to Mr Brittan, and the telex which he sent to the Governments of all member countries of the ITC on 5 December.

2 I am copying this letter and enclosure to Peter Ricketts (FCO).

Yours ever,
Michael

MICHAEL GILBERTSON
Private Secretary

Encls

JF5ARN

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Secretary of State for Trade and Industry

13 December 1985

P A Graham Esq
Standard Chartered
38 Bishopgate
LONDON
EC2N 4DE

Dear Mr Graham,

Thank you for your letter of 6 December and for the telex which I understand you sent on 5 December to the Governments of all member countries of the Council. I am also replying, on behalf of the Prime Minister, to your letter to her of 2 December.

I share your view of the importance of resolving this problem, and as you know I have made clear the UK's view that member countries of the International Tin Council should state their readiness to meet their share of the Council's obligations. We are continuing our efforts in the International Tin Council and bilaterally, particularly in the European Community, to persuade other countries to recognise the urgency of finding an early solution to the problem. I have noted carefully the proposals contained in your letter of 6 December. I hope that the ITC will enter constructive discussions on the basis of these ideas.

I note your suggestion that the Government might consider revoking or varying the immunities enjoyed by the ITC, its members and others. As host to the International Tin Council the UK is bound by the Headquarters Agreement to maintain the immunities set out in that Agreement. This means that before the immunities could be changed the agreement of the ITC would be required. Thus only in the event of the termination of the Headquarters Agreement would these immunities lapse.

I appreciate the efforts you are making to assist in the search of a solution. I assure you that the UK Government for its part will continue to do everything it can to that end.

Yours sincerely

LEON BRITTAN

DW3AEK

File 04

10 DOWNING STREET

From the Private Secretary

13 December 1985

TIN

The Prime Minister was grateful for the report on the current situation on tin prices which you gave in your letter to me of 12 December.

I am copying this letter to Rachel Lomax (HM Treasury) and to Len Appleyard (Foreign and Commonwealth Office).

(David Norgrove)

Michael Gilbertson, Esq.,
Department of Trade and Industry.

PRIME MINISTER

TIN

A note by the Policy Unit and a report by the Department of Trade and Industry are below.

2. The International Tin Council met today. They agreed to return to capitals to seek authority to enter into negotiations with the brokers and banks. They will reconvene next Wednesday.

3. As the DTI say, the Foreign Affairs Council is likely to discuss tin next week. The UK line will be that the best solution would be for member countries to meet their obligations. But the UK will accept as second-best that we would be prepared to consider burden-sharing arrangements.

4. Burden-sharing would mean the banks and brokers carrying some of the loss. The main disadvantage is that in effect the member countries of the ITC would be reneging on part of their obligations. The Chancellor in particular is concerned that this could be seen as a precedent in debt negotiations with developing countries.

5. My impression is that the DTI and Foreign and Commonwealth Office really are working as fast as possible to try to bring these discussions to a conclusion. But there are limitations, both because of the number of countries involved and because excessive concern could weaken our bargaining position.

6. Agree to note the DTI report?

DN

12 December, 1985.

JD3AGB

CONFIDENTIAL

PRIME MINISTER

12 December 1985

TIN

There appears to be a fighting chance of resolving the tin crisis by negotiation, at significantly lower cost to ITC members (possibly as little as £150 million, of which the UK's share would be £6 million). This would compare very favourably with the possible cost of walking away, which would place the UK on risk to be sued for the ITC's debts of £700 million and recovering, say, 60% of this from other ITC members, and that with some difficulty.

Neither the brokers nor the bankers want litigation, because of its uncertainties, and because it could only be preceded by a dramatic collapse in the price of tin. The recent letter to you from Mr Peter Graham, the Chairman of the consortium of financial institutions which have been financing the ITC's operations, suggests that the banks are not too confident that they could bring a successful legal action against the members of the ITC.

DTI have not yet replied, for tactical reasons.

Delaying the opening of the LME would reduce the losses of all parties. The ITC's losses arise from having to sell its physical stock in order to meet its forward contracts to buy tin at around £8,900 per tonne. While the LME remains closed, the demand for tin will build up, making it easier for the ITC to trickle its stock onto the market once trading resumes, at not too disastrous a price (say £6,000 per tonne).

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We recommend that, at this point, you merely acknowledge the DTI's report, and do not press for an early solution. We may be in a situation where there is as much pressure on the other parties to settle as on the Government. A self-imposed deadline might weaken our bargaining position.

NICHOLAS OWEN

DLD.

CC NO

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JU905
Secretary of State for Trade and Industry

CONFIDENTIAL

12 December 1985

David Norgrove Esq
Private Secretary to the
Prime Minister
10 Downing Street
London SW1

Dear David,

TIN

You asked for a report on the current situation on the tin crisis.

On Tuesday the International Tin Council agreed to set up an informal group of member countries to hold discussions with the LME brokers, and the banks which have made loans to the ITC, with the aim of exploring the possibility of an orderly resolution to this crisis. The informal group comprises four tin producers and four consumers, plus a representative of the EC Commission. The UK is not represented.

The setting up of this ITC Group follows informal discussions which have taken place over the last two weeks between the banks, the brokers, the Bank of England, and Commission officials. The LME brokers made a presentation to the full International Tin Council last Thursday which was followed by a very constructive discussion.

The first meeting of the ITC informal group took place yesterday; it is holding detailed discussions with the LME brokers. The ITC group are meeting the bankers this morning.

It is too early to be sure whether the current round of talks will lead to a successful conclusion. Most member countries of the ITC take the view that they have no legal responsibility for the ITC's debts. But there seems to be growing recognition that a negotiated settlement would be preferable to a complete collapse, followed by protracted legal action against the member countries.

It has been decided that the crisis should be discussed in COREPER on Friday. The Commission are firmly of the view that the subject should be discussed substantively in the Foreign Affairs Council next week. This is a welcome development.

In order to leave the field clear for constructive discussions to take place, the Select Committee on Trade and Industry agreed, following a private discussion with my Secretary of State, to postpone the urgent Inquiry it had intended to begin yesterday into the tin crisis.

If a negotiated settlement is to be reached, it will be essential for the LME to keep the tin market closed for a further period beyond Monday 16 December. The LME is meeting today to discuss this.

We will keep you informed of any further significant developments. Generally, there are a few hopeful signs, but the rate of progress towards a solution remains very slow and the outcome remains extremely uncertain.

I am sending a copy of this letter to the Private Secretary to the Chancellor of the Exchequer and to the Private Secretary to the Foreign and Commonwealth Secretary.

Yours ever,
Michael

MICHAEL GILBERTSON
Private Secretary

999-49

VR.

c Gutthke

10 DOWNING STREET

From the Private Secretary

5 December 1985

You will have seen a copy of the enclosed letter from Mr. Peter Graham to the Prime Minister about lifting the immunity enjoyed by the ITC. The Prime Minister's own copy has not yet arrived here.

I doubt that it is for the Prime Minister to reply to this. I am sending this letter to you rather than to the Foreign and Commonwealth Office because I imagine you may wish to reply to it on advice from the Foreign Office, in order to keep a single channel of communication with the banks.

BF

I am copying this letter to Peter Rickett (Foreign and Commonwealth Office).

(DAVID NORGROVE)

Michael Gilbertson, Esq.,
Department of Trade and Industry.

2

10 DOWNING STREET

Prime Minister

Your own copy of this letter has not yet arrived.

The essence is the last sentence.

I have asked DTI/FCO to reply.

DCW
5/12

5 December 1985

I am writing on behalf of the Prime Minister to acknowledge your letter of 2 December. This is receiving attention and a reply will be sent to you as soon as possible.

I regret the delay in sending this acknowledgement to you: the top copy of your letter to the Prime Minister has not yet been received here.

(DAVID NORGROVE)

P.A. Graham, Esq.

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TRADE AND INDUSTRY COMMITTEE

4 December 1985

INFORMATION FOR THE PRESS

1 The Committee has invited the organisations most directly concerned to give evidence on the Tin Crisis. The International Tin Council has declined to give evidence, and the Committee is unable to summon the Council because of its diplomatic immunity.

Oral evidence sessions have been arranged as follows:-

Wednesday 11 December: at 10.45 am representatives of the London Metal Exchange

at 11.30 am Mr G J O'Neill, F Murphy (Metals) Ltd

Wednesday 18 December: at 10.45 am Mr Peter Graham and Sir Adam Ridley, spokesmen for Creditor Banks

at 11.30 representatives of the Department of Trade and Industry.

2 Some newspaper reports today indicated that the Committee would be inquiring into the operation of Lloyd's of London. The Committee wishes to make clear that it has at present no plans to do so.

Sally de Ste Croix
Simon Patrick

Clerks to the Committee

put to the ITC without prejudice to the legal positions of Member States: this would take between a week and fifteen days. The Secretary of State said that this timescale appeared rather too relaxed. Mr Murray said that it was really other Member States who were dragging their feet, rather than the Commission themselves. Mr Mountfield (DTI) said that if even a modest amount of progress were made this week by the Commission, the LME might well now stay closed until the end of the year.

2 The Solicitor-General commented on the legal position. He had had a paper from Henry Darwin, which he wanted to consider further. He felt that we should not reveal details of our legal advice to the Select Committee, if it was asked for, since this might prejudice our negotiating position. The Chancellor said that although it was true that EC Member States would not move until the Commission came forward with proposals, they were also being held back by the fact that they did not accept legal liability for the ITC's debts. He asked whether the Commission had any views on the legal liability of Member countries.

3 Mr Mallinson said that some EC Member States did accept our analysis, but would not say so publicly. There was also some sympathy for our view in the Commission legal services, but since the Commission was not a financial contributor to the ITA, it wanted to leave it to Member States to make up their own minds on this issue.

4 The Secretary of State said that the issue of legal liability was not cut and dried, and there were legal arguments to support the view that Member countries did not have legal liability. Indeed, if the UK were sued for the whole of the obligations, we would fall back on those arguments. Mr Mountfield (DTI) said that politically it would be difficult to argue against paying, if writs were brought against the UK, given that we had previously argued that each member of the ITC should pay its share of the obligations. The Secretary of State said, however, that our willingness to pay our share of the obligations was dependent on other countries being willing to do the same. Our willingness to pay our share did not depend on strict liability.

5 The Secretary of State raised the issue of a negotiated settlement. He suggested that this would involve the UK paying less than its share of the total obligations, assuming all countries were party to such a settlement. Mr Mountfield (DTI) explained that a negotiated settlement would mean that those who took part in it would be free from further legal action: those who did not take part would not be. The Secretary of State said that it would be reasonable to explore this option, though what was negotiatiable was not yet clear, and in the event may not be acceptable.

6 Mr Renton said that there might be tactical advantage in getting the Commission to lead in pressing for a negotiated settlement. The Chancellor said that he was happy for the possibilities of a negotiated settlement to be explored, but he had two reservations. First, a negotiated settlement would be inferior to our preferred option of getting all Member countries to pay their share of the obligations. We had not yet written

off our third option, and we might be prejudicing its chances were we now to raise the possibility of a negotiated settlement. Second, he said that a negotiated settlement would involve a partial repudiation of debt. It was important that the UK should get credit for having said strongly that all Member countries should pay their share. Mr MacMahon said they did not consider that a negotiated settlement would in the event set an unfortunate example to international debtors.

7 The Secretary of State said that while it was unlikely that we would succeed in achieving our preferred option, it was still tactically better if the pressure for a negotiated settlement was led by the Commission. In the meantime, we could continue to hold out for a "100%" settlement.

8 It was agreed that on 2 and 3 December in the ITC, the UK should continue to press for a "100%" settlement, while in the meantime talking to the Commission about the possibilities of a negotiated settlement. Talks with the Commission should be conducted initially "a deux", and the banks and brokers should be brought in later. Then, on, say, 4 December, the UK would be able to shift its stance to say that while it would favour a 100% settlement, in the light of international reluctance for this, it would fall in behind the Commission's plan for a negotiated settlement. The Secretary of State would put it a public statement immediately, reaffirming the UK's readiness to pay its share of the obligations and calling on the rest to do the same. Such a statement would shut the door on a possible future negotiated settlement.

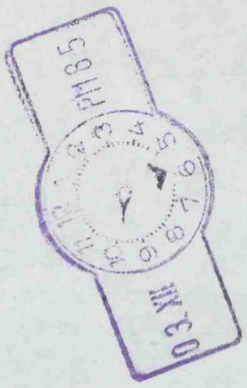
9 There was some discussion of the merits of a negotiated settlement. Mr Mountfield (DTI) said that if the banks and brokers assessed their chances of successful legal actions to recover the ITC's debts as being less than even, they might well be attracted by a negotiated settlement. Mr Renton said that if a negotiated settlement could help stop the price of tin falling as much as it would do otherwise, the brokers' and bankers' losses would be reduced. Mr MacMahon considered that the banks would be inclined to accept a negotiated settlement which was even only moderately good from their point of view in the end.

10 The decision of the Commons Select Committee on Trade & Industry to examine the tin crisis was then discussed. Mr Mountfield (DTI) said there were three areas which would cause difficulties in terms of giving evidence to the Committee. First, there was the legal advice we had received. Second, there was the issue of how far officials had warned Ministers of the crisis as it had arisen. Third, there were the proceedings of the ITC, which were confidential. Mr Murray suggested that we should write to the Executive Chairman of the ITC on the last point, to get a definitive view from the ITC on whether its proceedings could be disclosed to the Committee. He said that if the Select Committee put its weight behind a negotiated settlement, it might be useful in helping to explain any policy change in this direction by the UK Government. It was agreed that the memo the Committee had asked for by 6 December should be produced. It was also agreed that on 4 or 5 December, the

Secretary of State should see Kenneth Warren MP, the Chairman of the Committee, to try to persuade him to defer the hearing. The Chancellor warned that the Select Committee would have wide-ranging powers to obtain documents. It would be necessary to examine in advance what documents this might cover, and what effect their disclosure might have. It would be very important to avoid having to defend a decision not to disclose documents to the Committee, on the floor of the House.

MICHAEL GILBERTSON
PS/SOS/DTI
Rm 803 V/S 215 5422

3 December 1985


03 XII
1985

Standard Chartered

38 Bishopsgate London EC2N 4DE Telephone 01-280 7500

From P A Graham
Senior Deputy Chairman

2nd December, 1985

The Rt.Hon. Margaret Thatcher, MP.,
Prime Minister,
10 Downing Street,
SW1A 2AL.

Dear Prime Minister

International Tin Council (ITC)

I am writing to you on behalf of a group of 16 financial institutions, the names of which are attached, which have, for a number of years, been financing the operations of the International Tin Council. I am sure that I have no need to describe the position which has arisen since the Tin Council's buffer stock manager ceased operations. I would only say that if no settlement of obligations is made, then the repercussions which will take place, not only in this country but elsewhere, go very wide indeed.

The Secretary of State for Trade and Industry indicated in his statement made on the 1st November 1985, and has since reiterated, that the British Government firmly believes that the objective of the member countries of the ITC should be to enable all ITC's legal commitments outstanding at the date the buffer stock manager declared he had no further funds to be met. He further said that no new commitments should be undertaken save in order to fulfil that objective. The ITC is indebted to the group of 16 financial institutions for approximately £342 million. Since the start of the crisis these institutions have put forward several alternative ways in which the ITC and its members might achieve a resolution of the ITC's problems but have met with little response.

/.....

To date the ITC has seemed unwilling or unable to comply with its clear contractual obligation and it and its officers have failed to carry out the purposes for which the ITC was established. Nor has the ITC complied with the provisions of its own constituent instrument and the Headquarters Agreement under which it was permitted to do business in this country. In the light of this, and if it becomes clear that there is no move towards a constructive solution, the losses which the ITC is likely to cause to nationals of the United Kingdom and those doing business with the United Kingdom, would you, on behalf of Her Majesty's Government, consider revoking or varying, to the extent (if any) necessary, any immunity enjoyed by the ITC, its members, officers or others in order to enable all creditors full and equal access to the English courts and to permit due legal process to be carried out.

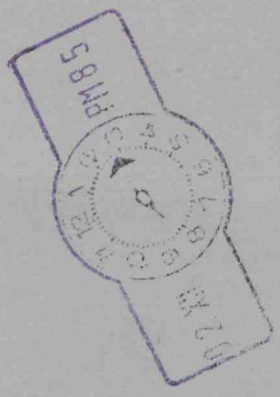
Yours sincerely,

P.A. Graham
Chairman, Group of 16 Banks'
Working Party.

c.c. Rt.Hon. Sir Geoffrey Howe, QC., MP.
c.c. Rt.Hon. Leon Brittan, QC., MP.,

LIST OF GROUP OF 16 BANKS

Algemene Bank Nederland NV
Arab Banking Corporation
Arbuthnot Latham Bank Ltd.,
Australia & New Zealand Banking
Bangkok Bank Ltd.
Bank Bumiputra Malaysia Berhad
Bank of Nova Scotia
Bank of Tokyo Ltd.
Banque Indosuez
Central Trustee Savings Bank Ltd.,
Hambros Bank
Kleinwort Benson Limited
Malayan Banking Berhad
Metallgesellschaft Ltd.
Shearson Lehman Bros.
Standard Chartered Bank



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38 Bishopsgate London EC2N 4DE Telephone 01-280 7500

ERD

PS

PS/Mr Burton

PS/Mr Eggar

Mr Braithwaite

Mr Mayd

From P A Graham
Senior Deputy Chairman

2nd December, 1985

The Rt.Hon. Margaret Thatcher, MP.,
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10 Downing Street,
SW1A 2AL.

Dear Prime Minister

2/12

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/.....

Standard Chartered Bank Principal Office situated in England at the above address Reference number ZC18.

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Bank Bumiputra Malaysia Berhad
Bank of Nova Scotia
Bank of Tokyo Ltd.
Banque Indosuez
Central Trustee Savings Bank Ltd.,
Hambros Bank
Kleinwort Benson Limited
Malayan Banking Berhad
Metallgesellschaft Ltd.
Shearson Lehman Bros.
Standard Chartered Bank

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021800Z DEC
GRS 372

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Do we have X?

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GR's looking.

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TO IMMEDIATE LUXEMBOURG
TELNO 187
OF 021800Z DECEMBER 85
INFO IMMEDIATE THE HAGUE, BONN, UKREP BRUSSELS

FOLLOWING FOR PRIVATE SECRETARY TO FOREIGN SECRETARY

TIN

1. MINISTERS AGREED THIS MORNING THAT THE UK SHOULD VERY SOON MOVE - DURING THE PRESENT MEETING OF THE ITC - TO SUPPORT EFFORTS TO PROMOTE A PRAGMATIC SOLUTION TO THE INTERNATIONAL TIN CRISIS. SUCH A SOLUTION WOULD HAVE TO INVOLVE AN ELEMENT OF BURDEN-SHARING BETWEEN GOVERNMENTS, CREDITOR BANKS AND LME BROKERS. WE HOPE THAT MEMBERS OF THE TIN COUNCIL WILL ADDRESS SERIOUSLY AND URGENTLY THE FORMULATION OF A PACKAGE WHICH COULD BE PUT TO THE ITC'S CREDITORS.

X

2. PETER GRAHAM, DEPUTY CHAIRMAN OF STANDARD CHARTERED AND LEADER OF THE GROUP OF 16 FINANCIAL INSTITUTIONS OWED MONEY BY THE ITC, HAS TODAY WRITTEN TO THE PRIME MINISTER COMPLAINING ABOUT THE ITC'S FAILURE TO COMPLY WITH ITS 'CLEAR CONTRACTURAL OBLIGATION' AND THE ABSENCE OF MOVES TOWARDS A CONSTRUCTIVE SOLUTION, AND REQUESTING THE PRIME MINISTER IF THERE IS NO MOVEMENT TOWARDS A SOLUTION TO CONSIDER REVOKING OR VARYING IMMUNITY ENJOYED BY THE ITC, ITS MEMBERS, OFFICERS OR OTHERS IN ORDER TO ENABLE CREDITORS 'FULL AND EQUAL ACCESS TO THE ENGLISH COURTS'.

3

3. WE SHALL PREPARE A DRAFT REPLY FOR THE PRIME MINISTER. BY WRITING TODAY, GRAHAM HOPES TO ENCOURAGE HMG TO BRING EVERY PRESSURE TO BEAR ON ITS FELLOW ITA MEMBERS, ESPECIALLY THE COMMUNITY. BUT WE ARE BOUND BY THE HEADQUARTERS AGREEMENT BETWEEN THE UK AND THE ITC TO MAINTAIN THE IMMUNITIES SET OUT IN THE AGREEMENT. NOR DO WE CONSIDER THAT THE THREAT OF LEGAL ACTION AND A REUEST TO REVOKE IMMUNITIES WOULD GREATLY IMPRESS OTHER GOVERNMENTS. WE DO NOT RECOMMEND THAT THE SECRETARY OF STATE OR PRIME MINISTER SHOULD MENTION THIS AT THE EUROPEAN COUNCIL.

4. IT MIGHT HOWEVER BE USEFUL IF THE SECRETARY OF STATE COULD URGE HIS DUTCH AND GERMAN COLLEAGUES TO INSTRUCT THEIR PEOPLE IN THE ITC TO CONTRIBUTE POSITIVELY TO THE SEARCH FOR A PRAGMATIC SOLUTION. THE RESERVATIONS THEIR REPRESTATIONS EXPRESSED TODAY ON THIS POINT EFFECTIVELY INHIBITED THE COMMISSION FROM ADVANCING PROPOSALS TO THIS END.

HOWE

INTERNATIONAL TIN AGREEMENT

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SIR W HARDING
MR DAVID THOMAS

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MR K HALL (MM)	"	"
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MR R TAYLOR ITP2	"	"
MR BRIAN MURRAY	"	"
MR R THOMAS,	MAFF	
MR D FRY ,	MAFF	
MR MOUNTFIELD,	HM TREASURY	
MR M REDLEY,	HM TREASURY	
MR B GUNN,	BANK OF ENGLAND	

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cc BG
Lopa.

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PP WASHI
FM FCOLN TO WASHI
021830Z DEC
GRS 147

CONFIDENTIAL
FM FCO
TO PRIORITY WASHINGTON
TELNO 1924
OF 021830Z DECEMBER 85

Pa

YOUR TELNO 3302: TIN CRISIS

1. PLEASE INFORM THE STATE DEPARTMENT THAT HMG IS DOING ALL IT CAN TO FIND A SOLUTION TO THE TIN CRISIS AND, THEREBY, A RESUMPTION OF TRADING. WE VERY MUCH APPRECIATE THE GSA'S RESTRAINT TO DATE. ALTHOUGH WE HOPE THE TIN COUNCIL WILL REACH A DECISION, AT LEAST OF PRINCIPLE, THIS WEEK, FURTHER TIME WILL BE NEEDED TO WORK OUT DETAILS AND TO NEGOTIATE WITH ITC CREDITORS. RELEASE OF GSA TIN WOULD HAVE A STRONGLY NEGATIVE IMPACT ON EFFORTS TO RESOLVE THE CRISIS AND WILL CLEARLY EXERCISE A DOWNWARD INFLUENCE ON THE PRICE OF TIN, ONCE TRADING RESUMES. WE THEREFORE HOPE THAT SOME WAY CAN BE FOUND TO ENABLE GSA TO CONTINUE TO WITHHOLD TIN UNTIL A RESOLUTION OF THE CRISIS IS IN SIGHT.

HOWE
OCMIAN 1001

INTERNATIONAL TIN AGREEMENT

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FED
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SIR W HARDING
MR DAVID THOMAS

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MR R THOMAS,	MAFF	
MR D FRY ,	MAFF	
MR MOUNTFIELD,	HM TREASURY	
MR M REDLEY,	HM TREASURY	
MR B GUNN,	BANK OF ENGLAND	

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GRS 1500

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CCBG

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TO DESKBY 300930Z FCO
TELNO 4189
OF 300005Z NOVEMBER 85
INFO IMMEDIATE EUROPEAN COMMUNITY POSTS, LISBON, MADRID
INFO ROUTINE UKMIS GENEVA, UKMIS NEW YORK, WASHINGTON, TOKYO,
INFO ROUTINE KUALA LUMPUR, JAKARTA, CANBERRA, OTTAWA, STOCKHOLM,
INFO ROUTINE OSLO, HELSINKI, BERNE, LAGOS, KINSHASA
INFO SAVING BRASILIA, LA PAZ

FRAME EXTERNAL

COREPER (DEPUTIES) 29 NOVEMBER
TIN

SUMMARY

1. UK, BELGIUM, FRANCE, ITALY AND GREECE INDICATED WILLINGNESS FOR THE COMMISSION TO UNDERTAKE SOUNDINGS FOR A SOLUTION TO THE TIN CRISIS (MOST REFERRED TO ''A SOFT LANDING'') AT THE TIN COUNCIL IN LONDON NEXT WEEK. NETHERLANDS AND GERMANY WERE RESERVED, BUT GERMANY WAS PREPARED TO AGREE ON THE UNDERSTANDING THAT THE COMMISSION WAS SIMPLY UNDERTAKING THE NECESSARY SOUNDINGS TO ENABLE THEM TO MAKE THE PROPOSALS THAT THE FOREIGN AFFAIRS COUNCIL HAD INVITED THEM TO MAKE EARLIER THIS WEEK. THE CHAIRMAN CONCLUDED ACCORDINGLY.

2. THE COMMISSION INTEND TO PROCEED STEP BY STEP, CONSULTING MEMBER STATES AT EACH STAGE. COREPER WILL REVERT TO THE QUESTION NEXT WEEK.

DETAIL

3. BRAUN (DIRECTOR-GENERAL, DG III, COMMISSION) SAID THAT THE COMMISSION COULD ONLY PROPOSE SOMETHING IF THEY WERE SURE THAT THE MEMBER STATES WOULD ACCEPT IT. THEY WERE PREPARED TO INVESTIGATE A SOLUTION FOR A SOFT LANDING, AND TO PROCEED TOWARDS AN ARBITRAGE ARRANGEMENT. BUT IT HAD TO BE CLEAR THAT ALL INVOLVED WOULD HAVE TO ACCEPT THE RESULT WITHOUT RESORTING TO LEGAL ACTION AND WOULD ACCEPT SACRIFICES.

4. ELLIOTT (UK) STRESSED THE URGENCY AND THE NEED TO AVOID CHAOTIC REOPENING OF TIN TRADING. THE LME COULD NOT STAY CLOSED MUCH LONGER. THE DIFFERENT LEGAL INTERPRETATIONS SHOULD BE SET ASIDE. OTHER MEMBERS OF THE INTERNATIONAL TIN AGREEMENT (ITA) LOOKED TO THE COMMUNITY FOR A LEAD. A PRAGMATIC SOLUTION WAS NECESSARY. FOR SUCH A SOLUTION TO BE PRESENTED AT THE TIN COUNCIL AT AN EARLY STAGE, IF POSSIBLE ON 2 DECEMBER, THE COMMISSION'S GOOD OFFICES WERE REQUIRED TO HELP PREPARE PROPOSALS AND THE COMMISSION NEEDED THE BACKING OF THE MEMBER STATES. THE UK WOULD GIVE ITS FULL BACKING TO ANY SUCH SOLUTION.

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5. KITTEL (GERMANY) THOUGHT A COMMUNITY INITIATIVE WOULD BE COUNTER PRODUCTIVE. IT WOULD WEAKEN THE COMMUNITY'S NEGOTIATING POSITION. THERE WERE TOO MANY UNCERTAINTIES. IT WOULD BE BETTER TO LEAVE THE MATTER TO EXPERTS IN LONDON.

6. SMETS (REPRESENTING BELGIUM AND CHAIRMAN OF THE WORKING GROUP) SAID THAT IF A CONCRETE PLAN COULD BE PUT TOGETHER IT WOULD HAVE TO BE ON THE BASIS THAT NO LEGAL RESPONSIBILITY WAS ACCEPTED. BELGIUM AGREED (AD REFERENDUM) THAT THE COMMISSION COULD HAVE AN EXPLORATORY MANDATE IN LONDON AS LONG AS THIS DID NOT PREJUDICE THE LEGAL POSITION.

7. RIEGERT (FRANCE) AGREED WITH BELGIUM. HE ASKED FOR THE COMMISSION TO INVESTIGATE THE POSSIBILITY OF A SOLUTION, MAKING IT CLEAR THAT THIS GESTURE WAS PURELY POLITICAL AND DID NOT PREJUDICE THE LEGAL POSITION. FRANCE FAVOURED COMMODITY AGREEMENTS AND DID NOT WANT TO SEE THE TIN AGREEMENT LIQUIDATED. THE TERMS OF THE SOLUTION COULD NOT BE WORKED OUT IN DETAIL AT THIS STAGE. IN DUE COURSE THE COMMISSION WOULD HAVE TO COME BACK WITH A PROPOSAL IN THE COUNCIL FRAMEWORK. FRANCE WAS NOT IMPLYING COMMITMENT TO THE PROPOSAL THAT MIGHT EMERGE.

8. ITALY AND GREECE ALSO AGREED THAT THE COMMISSION SHOULD BE GIVEN A MANDATE TO EXPLORE A SOFT LANDING WITHOUT LEGAL COMMITMENT.

9. NETHERLANDS AGREED WITH GERMANY. THE QUESTION WAS A TACTICAL ONE AND SHOULD BE DISCUSSED IN LONDON. BECAUSE OF THE CLEAR LEGAL POSITION, OTHERS INVOLVED WERE SURELY MORE NERVOUS THAN THE ITA MEMBER GOVERNMENTS. IT WAS FOR THEM TO COME FORWARD WITH A SOLUTION. NETHERLANDS WAS NOT AT ALL KEEN ON SAVING THE TIN AGREEMENT.

10. BRAUN DESCRIBED HOW HE SAW THE PROCESS GOING AHEAD. IF ANYONE CLAIMED THAT THEIR LEGAL POSITION MEANT THAT ONLY ONE SOLUTION WAS ACCEPTABLE, IT WOULD BE IMPOSSIBLE TO CONTINUE THE EXPLORATION. THE COMMISISON WERE PREPARED TO MAKE SOUNDINGS OF ALL INVOLVED AND WOULD REPORT BACK TO THE MEMBER STATES AT EACH STAGE. A PRAGMATIC SOLUTION WOULD BE ONE TO WHICH ALL WOULD HAVE TO CONTRIBUTE ACCORDING TO THEIR CAPACITY. THE SOUNDINGS WOULD SOON END IF THE BANKERS AND BROKERS WERE ONLY PREPARED TO MAKE OPTICAL SACRIFICES. IT WOULD BE A DIFFICULT AND SENSITIVE OPERATION. THE BURDEN WOULD HAVE TO BE SHARED. IT WOULD BE CONSIDERABLY HIGHER FOR SOME THAN FOR OTHERS. THE PRODUCERS MIGHT NOT BE WILLING. HOW FAR WOULD EACH BE PREPARED TO GO? THE BANKS WOULD BE THE LEAST LIKELY TO LOSE BECAUSE THEY WOULD TAKE THE TIN. THEY SHOULD BE PREPARED TO GIVE UP SOME INTEREST. BROKERS HAD OFTEN EARNT A LOT IN THE PAST. THEY COULD ''BE LEFT TO STEW''. THE UK HAD MENTIONED THAT THE LME WOULD PROBABLY REOPEN SOON. WAS IT CERTAIN THAT IT COULD NOT STAY CLOSED LONGER? EVENTUALLY THE TIME WOULD COME WHEN THE COMMISSION WOULD /HAVE

HAVE TO HAND OVER TO SOMEONE ELSE TO PUT A PACKAGE TOGETHER. ARBITRAGE WOULD ONLY BE POSSIBLE IF ALL PARTIES UNDERTOOK NOT TO HAVE RECOURSE TO THE LAW. THE COMMISSION NEEDED THE FULL BACKING OF THE MEMBER STATES IF THEY WERE TO PURSUE ANY SUCH COURSE, WHICH WOULD HAVE TO BE CLOSE TO THE IDEA HE HAD OUTLINED.

10. KITTEL WAS NOT PREPARED TO COMMIT HIMSELF NOW TO ARBITRAGE. HE DID NOT WANT TO HAVE TO AGREE TO GIVE TO COMMISSION A FORMAL MANDATE. HE THOUGHT THE COMMISSION COULD EXPLORE WITHOUT ONE. GERMANY WANTED TO STAND BY HER LEGAL PPOSITION. BRAUN WANTED SOMETHING MORE EXPLICIT THAN THIS. THERE WOULD HAVE TO BE SERIOUS DISCUSSIONS AT ON THE SPOT COORDINATION AT EACH STAGE FOR THE COMMISSION TO KNOW WHETHER OR NOT THEY COULD GO ON. MEMBER STATES' DELEGATIONS WOULD NEED TO CONTAIN MORE THAN TIN EXPERTS. IF ANY MEMBER STATE COULD NOT GO ALONG WITH HIS IDEAS THEY OUGHT TO SAY SO AT ONCE - ON MONDAY. THE COMMISSION COULD NOT PROCEED AGAINST THE WISH OF A MEMBER STATE. MORE DISCUSSION WOULD BE NEEDED IN COREPER IF ANY DLEEGATION HAD MORE RESTRICTIVE INSTRUCTIONS IN LONDON THAN THEY HAD IN BRUSSELS. TACTICALLY, IT WOULD BE WRONG TO GIVE THE IMPRESSION OF BEING TOO RUSHED. A WEEK TO 15 DAYS WOULD BE NECESSARY TO NEGOTIATE SOMETHING AND MORE TIME WOULD BE NECESSARY TO PUT A PACKAGE TOGETHER.

12. ELLIOTT SAID THAT WHILE UK WAS PRINCIPALLY CONCERNED FOR OBVIOUS REASONS, THE WHOLE COMMUNITY HAD AN INTEREST IN ORDERLY RESUMPTION OF MARKETING. MOST OF THE BANKS/BROKERS WERE NOT BRITISH OWNED. THE LME WAS OF VALUE TO THE COMMUNITY INDUSTRY AS A WHOLE. GOVERNMENTS WOULD NOT WANT TO BE ACCUSED OF IRRESPONSIBILITY IN THE FACE OF AN ACUTE FINANCIAL CRISIS. THE QUESTION WAS HOW BEST TO AVOID LOSING MONEY. ELLIOTT WAS GRATEFUL TO THE COMMISSION FOR EXPLAINING THE EXTENT OF THEIR THINKING. THE PROPOSAL OF THE BELGIUM CHAIRMAN OF THE WORKING GROUP FOR AN EXPLORATORY MANDATE WAS A GOOD ONE. LIKE OTHER DELEGATIONS THE UNITED KINGDOM RESERVED ITS POSITION ON THE LEGAL QUESTION BUT IT WAS NECESSARY TO START THE PROCESS OF LOOKING FOR A PRAGMATIC SOLUTION. HE WAS SURE THAT IT WOULD PROVE POSSIBLE FOR ALL CONCERNED TO WORK TOGETHER TO FIND A SOLUTION WHICH ENABLED TRADING TO BE RESUMED WITH MINIMUM HARM TO ALL INTERESTS.

13. THE CHAIRMAN CONCLUDED THAT COREPER TOOK NOTE OF THE COMMISSION'S INTENTION TO TAKE THE NECESSARY SOUNDINGS AND THAT COREPER WOULD REVERT TO THE ISSUE NEXT WEEK.

/COMMENT

COMMENT

14. EARLIER IN THE DAY VAN RHIJN (DEPUTY DIRECTOR-GENERAL, DG III) HAD TOLD US THAT THE COMMISSION AND OTHER MEMBER STATES LOOKED TO THE UK TO TAKE RATHER MORE OF A LEAD IN PUTTING FORWARD IDEAS FOR A PRAGMATIC SOLUTION. OUR POSITION ON THE LEGAL SITUATION OBVIOUSLY MAKES IT DIFFICULT FOR US TO DO THIS OR RESPOND COMPLETELY POSITIVELY TO THE IDEAS THAT THE COMMISSION HAVE SKETCHED OUT. BUT IF WE DO HAVE IDEAS THAT WE WOULD LIKE TO PROMOTE WHICH WE WOULD FIND DIFFICULT TO PUT FORWARD ON OUR OWN ACCOUNT, THE COMMISSION MAY WELL BE OPEN TO CONSIDER TAKING THEM OVER AND PRESENTING THEM AS PART OF THEIR OWN. THEIR DELEGATION IN LONDON WOULD CERTAINLY WELCOME ANY THOUGHTS WE MAY HAVE ON POSSIBLE WAYS FORWARD.

15. COREPER WILL REMAIN SEIZED OF THIS ISSUE. THIS MAY PROVE HELPFUL IN RESOLVING ANY DEADLOCKS WHICH OCCUR IN ON THE SPOT COORDINATION. WE SHALL NEED REGULAR REPORTS OF THE ITC.

HANNAY

YYYY
FRAME EXTERNAL
FCO ADVANCE TO:-
FCO - BRAITHWAITE, MAUD, TAIT, MS REID (ERD), MISS EVANS ECD(E)
DTI - MOUNTFIELD, MURRAY, MALLINSON, LUNN, DENISON-CROSS
TSY - MISS BARBER, REDLEY

INTERNATIONAL TIN AGREEMENT

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MR R TAYLOR ITP2	"	"
MR BRIAN MURRAY	"	"

MR R THOMAS, MAFF
MR D FRY , MAFF
MR MOUNTFIELD, HM TREASURY
MR M REDLEY, HM TREASURY
MR B GUNN, BANK OF ENGLAND

GRS 240

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FM STOCKHOLM
TO ROUTINE FCO
TELNO 298
OF 291530Z NOVEMBER 85
INFO ROUTINE OSLO, HELSINKI.

FCO TELNO 508 TO KUALA LUMPUR.
INTERNATIONAL TIN COUNCIL

1.

I TOOK OPPORTUNITY OF CALL ON OTHER BUSINESS TO TALK TO HEAD OF DEPARTMENT CONCERNED IN MFA.

2. SWEDISH POSITION REMAINS AS PREVIOUSLY REPORTED, I.E. THEY THINK IT IS FOR THE MORE SIGNIFICANT MEMBERS TO PUT FORWARD PROPOSALS, THEY WILL NOT TAKE ANY LEAD. THIS IS APPARENTLY A COMMON POSITION WITH NORWAY AND FINLAND. IN DISCUSSION I GATHERED THAT:

(A) THEY HAVE FORMED NO FIRM VIEW ON THE LEGAL OBLIGATIONS. THEY ARE NOT MEMBERS OF THE BUFFER STOCK COMMITTEE. ALTHOUGH THEY GET SOME REPORTS THEY DO NOT HAVE ALL THE PAPERS ON WHICH TO JUDGE WHETHER THE COUNCIL HAS INDEED ACQUIESCED IN BUFFER STOCK OPERATIONS OUTSIDE TERMS OF ITA 6:

(B) THEREFORE THEY ARE NOT IN A POSITION TO ENDORSE HMG'S VIEW THAT MEMBER STATES WOULD PROBABLY BE HELD LIABLE FOR ALL THE DEBTS INCURRED BY BSM:

(C) HOWEVER THEY THINK IT UNLIKELY THAT MATTERS WILL COME TO LITIGATION. THEY DISTINGUISH BETWEEN OBLIGATIONS AND A SETTLEMENT. WHILE THEY DO NOT CONSIDER THAT THERE IS NECESSARILY AN OBLIGATION UPON MEMBERS TO SETTLE ALL THE DEBTS, THEY WOULD BE INCLINED TO GO ALONG WITH A FAIR AND COMPREHENSIVE SETTLEMENT TO WHICH EVERYONE CONTRIBUTED, I.E. CONSUMER AND PRODUCER MEMBERS OF ITA AND THE BROKERS AND BANKS.

3. I FLOATED THE IDEA OF A LEGAL ADVISER JOINING THEIR REPPRESENTATIVE BUT THEY DID NOT BITE.

STREAMS

INTERNATIONAL TIN AGREEMENT

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MR R TAYLOR ITP2 " "
MR BRIAN MURRAY " "
MR R THOMAS, MAFF
MR D FRY , MAFF
MR MOUNTFIELD, HM TREASURY
MR M REDLEY, HM TREASURY
MR B GUNN, BANK OF ENGLAND

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Prime Minister
I suggest you do not intervene.
If you want to look at the paper, start at para 11.
DRN MT
29/11

PRIME MINISTER 2

INTERNATIONAL TIN COUNCIL

Leon Brittan has called a meeting to discuss options for resolving the tin crisis. The United Kingdom line so far has been that ITC member countries should state that they will meet their obligations, and that some form of stock management is necessary to minimise the fall in the tin price when the LME reopens, and hence, the ITC's liabilities.

The officials' paper now proposes that, in the highly likely event that the ITC fails at its next meeting to agree to meet its legal obligations, the United Kingdom representative should put forward a negotiated package, involving banks, brokers and governments.

This course could court risks which are disproportionate to the chances of success. It seems highly unlikely that member states will agree to such a package if they won't acknowledge their legal obligations, even in principle. But a package might acknowledge the extent of our legal obligations, when we have taken care up to now to remain non-committal on that point. Moreover, the banks have indicated that they are opposed to burden-sharing in view of the precedent it would set.

The Chancellor will also no doubt.

I propose to question the proposal at the meeting. It may be that the best course in the end would be to allow the market to reopen. Liabilities would then crystallise, and member states would be confronted with them. It is not yet certain that the tin price will fall initially, or if it does, that it will plummet. The market may by then be short of tin, particularly if the ITC's buffer stock manager releases his stock carefully.

This looks optimistic to me.

Nicholas Owen

Nicholas Owen

29 November 1985

010

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DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET 5422
TELEPHONE DIRECT LINE 01-215
SWITCHBOARD 01-215 7877

PS/
Secretary of State for Trade and Industry

29 November 1985

Rachel Lomax
Private Secretary to the
Chancellor of the Exchequer
HM Treasury
Parliament Street
LONDON
SW1P 3AG

Dear Rachel,

INTERNATIONAL TIN AGREEMENT

... I attach a paper prepared by officials in response to Ministers' instructions. As you will appreciate, my Secretary of State has not yet read the paper but it will serve as the basis for the discussion at the meeting here on Monday, 2 December.

2 I am copying this letter and its attachment to Peter Ricketts (FCO), David Norgrove and Professor Griffiths (No.10), John Bartlett (Bank of England), Henry Steel (LOD) and Ivor Llewellyn (MAFF).

Yours sincerely

John Mogg

J F MOGG
Private Secretary

Encl

JF5APB

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INTERNATIONAL TIN COUNCIL: MEETING 2 DECEMBER

Summary

This paper discusses the line which the UK delegation should take at the next meeting of the International Tin Council beginning on 2 December. It also sets out in an annex the cost of the various options open to the Tin Council and in the event of the tin Council failing to take any action, to the Government if it decides to assist those brokers on the London Metal Exchange put at risk as a result of the failure of the ITC to meet its obligations. The paper also examines possible forms of assistance for the Cornish tin industry.

Recommendations

i Given that it appears unlikely that agreement can be reached on the basis of member countries being ready to meet all their share of the obligations, the UK should support without prejudice to the legal position, the idea of a negotiated package involving burden sharing by all parties concerned - banks, brokers and member countries. Our preferred position, however, should remain that all countries should meet their share of the ITC's obligations in full and making it clear to the ITC that action is likely to be taken against all member countries.

ii In the likely event of no settlement being reached, and tin trading being resumed, Ministers will need to consider whether to put forward schemes to assist brokers on the LME and Cornwall.

Present Position

2 At its last meeting on 20 November, the Tin Council came to no decision as regards the resolution of the present crisis, but it decided to meet again on 2 December and to remain in session until a definitive decision relative to the resolution of the current crisis was reached. Meanwhile trading in tin on the London Metal Exchange which was suspended on 24 October remains suspended until at least close of dealing on Friday 6 December. There is already some activity on secondary markets with prices around £6,100, but this may not be any guide to the price when the LME reopens.

3 So far there is no indication of any widespread support for any scheme to resolve the crisis. The UK's call to other member countries to state that they would meet their obligations has met with limited support, confined to the Scandinavian countries and Canada. Although other members of the European Community are gradually coming to see that there could be circumstances in which member states could be held liable for the obligations of the Council, they are not yet satisfied that the facts of the case

would render them so liable.

4 The producer countries have still shown no signs of being able to agree on any common package and continue to play remarkably little part in the discussions.

5 At the EEC Council of Ministers held on 25-26 November, the Council asked the Commission to put forward some proposals for the resolution of the crisis. The Commission has not as yet produced any written proposals, although a possible package involving burden sharing was discussed at a Community Coordination meeting on 27 November. A further discussion will be held in COREPER on 29 November, and an oral report will be made.

6 Little progress has been made in talks between the banks and the International Tin Council, although the banks have put forward a number of different proposals. So far there is no indication that any of these proposals would find widespread acceptance amongst member countries.

Objectives

7 The UK's objectives have been:-

i To limit any calls on the Exchequer.

ii To ensure that the International Tin Agreement does not continue in its present form, and in particular that price support mechanisms are not reintroduced.

iii To limit the damage to the London Metal Exchange as a result of the crisis.

Tactics in the International Tin Council

8 The United Kingdom has taken the line that the way to solve the crisis is for member countries to state that they will meet their obligations and also in order to avoid too drastic a fall in the tin price, there should be some form of stock management. We have taken the view that it is essential to reach a resolution of the crisis before trading resumes, in order to avoid a large fall in the price which would mean that the obligations of the Tin Council would be greater than otherwise would be the case.

9 To this end, the UK has been endeavouring to persuade member countries that they are likely to be found to have obligations to meet their share of the Tin Council's debts in the event of it being unable to do so from its existing resources.

Possible Options

10 The three broad lines which it would be possible to follow in the Tin Council are:-

i For member countries to agree to honour all existing debts, together with some form of management of stocks, plus possibly a managed price.

ii For member countries to walk away and not to pay their debts leaving the UK likely to be pursued in the first instance.

iii Some form of negotiated settlement which would involve all parties, member countries, banks and brokers bearing some share of the commitments (the costs of these options are discussed in the Annex). (These costs are subject to grant uncertainty.)

Feasibility of Options

11 Although the UK's line has been that member states should state their readiness to meet their share of all the ITC's obligations and that there should be some form of stock management, it is becoming increasingly clear that it is not going to be possible to secure sufficient support for this line.

12 Given that we believe that for the UK a decision to walk away from the debts would be highly disadvantageous, we need to consider whether we should not be prepared to switch our support to the concept of a negotiated package if it appears that such a package could be agreed.

13 Although the Commission may put forward proposals on these lines, most member states are at present very reluctant to support any proposal which entailed financial commitments. In addition the banks have made clear that they are not prepared to consider burden sharing in view of the precedent it would set in other cases. There is also no clear indication that the producer countries would be prepared to go along with any package which did not involve a price support mechanism or indeed any package at all. Moreover a negotiated package would have some presentational problems for the UK as although our statements have of tin been deliberately ambiguous, they could have been read as saying we believe member countries have an obligation to meet their share of all the ITC's commitments. It could also set an undesirable precedent in international debt negotiations.

14 However, we believe that although the chances of a burden sharing package being adopted are no more than a possibility, they are better than those of member states being prepared to say that they will meet all their obligations regardless of the extent of those obligations. We therefore recommend that should the Community be persuaded to put forward the concept of a negotiated package involving burden sharing receive sufficient support, the UK should lend its weight to such a solution. This is unlikely to get off the ground unless the Commission proposes it.

Possible Government Assistance

15 In the event that the Tin Council is unable to reach a solution to the crisis, and trading in tin on the LME resumes, HMG will need to consider whether or not it is prepared to offer assistance

to LME brokers given that a severe fall in the price of tin could threaten a number of brokers, and in the worst case, possibly the ability of the LME as a whole to function. If assistance were given to the LME, it could be argued that it would be difficult presentationally to avoid giving assistance to the Cornish tin industry, which at any realistic assumptions on future tin prices, is unlikely to be viable in its present form, and were the price to fall much below £6,000, the industry as a whole might not be able to survive.

16 Given that much of the Cornish industry has sold its output forward at pre-crisis prices, there may not be an immediate problem, and Ministers might be able to consider the options to assist Cornwall once the tin price has settled down. Preliminary indications are that neither the case for assistance to individual companies nor on a regional basis is strong.

Possible Schemes to Assist LME Brokers

17 Assistance could be given either on a selective basis, or a broadly based scheme with loans on tough terms, as in the annex, as outlined by the Deputy Governor of the Bank of England in his letter of 20 November. Details of possible means by which the Cornish tin industry might be assisted either directly, or indirectly through regional aid to the area as a whole, are also set out. Another disadvantage of a selective scheme is the difficulty of deciding which brokers would be omitted.

18 One problem about assisting the LME brokers through a loan scheme, apart from the presentational difficulty of appearing to engage in a bail out, would be that these loans would in some way have to be linked to the ability of the brokers to secure through court action the payment of the obligations incurred by the ITC. Since such court action would almost certainly be taken in the first instance against the UK Government, it would need careful presentation since the repayment of the loan would be conditional on the winning by the brokers of a court case against HMG. Equally difficult, would be the position if the brokers were unsuccessful in their court action. HMG would then have to decide whether or not the loans should be repayable in such a case.

Legal Action

19 Ministers will also need to consider how given its view on legal liability, the UK Government should react to an legal action. We need to consider whether we should make clear if necessary in the International Tin Council, that in the event of any legal action being brought against us as the host country, we would join all other member countries in such action. We are advised that this is possible.

Excellent!

Select Committee on Trade & Industry

20 Ministers may know that the Committee has decided to hold an urgent inquiry into the tin crisis. This will relate to the

events giving rise to the present suspension of trading on the London Metal Exchange, and its consequences. In addition the Committee will examine the effect on tin mining in the UK. We understand that the inquiry is likely to begin on 11 December. Written evidence is asked for by 6 December.

21 Ministers will wish to consider the general approach we should take to the inquiry. The Law Officers have already indicated but no indication of what legal advice HMG has had can be discussed.

MM3

29 November 1985

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ANNEX A

Basic Assumptions Used for All Options

1 Bank/broker loans total £342m

2 The Tin security held against £342m bank/broker loans amounts to 55,481 tonnes.

3 The Buffer Stock Manager's forward purchases total a net 61,000 tonnes at £8,900 unmatched by pre-priced sales.

Assumptions on Tin Price

4 With Stock management/maintained price £6,000 per mt.
Debts paid, no management of stocks £5,000 per mt.
No debts paid, no stock management £4,000 per mt.

Pattern of Buffer Stock Manager's Future Sales/Purchases

5 The calculations on broker differences are based on the assumptions that future sales/purchases of the Buffer Stock Manager will roughly balance. If however on the opening day all his purchases become due, but he cannot sell to match, his total bill would depend on the amount of physical tin presented to him, with initially no offsetting sales. This has been calculated by the ITC as 35,000 tonnes. A figure of 40,000 tonnes has been used for this exercise. Eventually the gross figure of some £356m for these purchases would be partially offset by sales at a lower price.

Banks

6 It has been assumed that the banks will require repayment/financing of their loans, and thus the cost of the loan will fall in full on the ITC in Options A, B, and C.

Stock Realisations

7 It is assumed The Buffer Stock Manager can balance out his forward purchases with the same volume of sales over a fairly short period, but that the remaining stocks of about 60,000 tonnes currently held in the buffer stock, much of which is pledged as security to the banks, could only be sold over a number of years. Thus if he bought all the 61,000 tonnes of forward purchases, it is assumed that he could realise his 57,000 tonnes of forward sales.

8 Basic Data

£m

Price of tin £ per mt	Bank/broker loans	Value of Security against loans	Shortfall* in security	Loss to brokers (broker difference)	Cost of 40,000 tonnes of tin at £8900 per tonne
3,000	342	167	(175)	360	356
4,000	342	222	(120)	299	356
5,000	342	277	(65)	238	356
6,000	342	333	(9)	177	356
7,000	342	388	46	116	356

* The banks might insist on security being made up to (say) 130% of loan value. In such a case the shortfall would be greater.

OPTION FOR INTERNATIONAL TIN COUNCIL

Option A

Pay debts and take some steps to control stock disposals; with or without price support operations. Tin price assumed at £6,000 per mt with price support, or £5,000-6,000 per mt without, depending on how much stock control

Maximum Cost (at any price of tin)		Minimum Cost	
Repayment of bank loan	342	Payment of difference to banks at £6,000 mt	9
Buying 40,000 tonnes of tin	356	Payment of broker difference at £6,000 per mt	177
	698		
Less			
Assume sales 40,000 tonnes of tin at £5,000 or £6,000 per mt	200-240		
	498-458		186

On the maximum cost basis the ITC would acquire 55,000 tonnes of tin on repaying the bank loans. It is assumed however, that this could only be sold off over a number of years.

If price support continued, annual cost:

Working capital (say)	60*
Interest on bank loans if re-financed	54
Total on going costs	114

*The Bank of England believes this may be too small.

999-80

D16A/ML1

Option B

Walk Away, Pay no Debts, Tin Price Assumed £4,000 per mt

Maximum total obligations:

Bank loans	342
Payment due to brokers for 40,000 tonnes of tin	356
	698

If no debts were paid, the Buffer Stock Manager might not be in a position to sell any tin.

If the UK was sued for the whole debt, and then recovered 60% from other parties, it would pay some £280m. Lawyers estimate that a creditor would have a 6:4 chance of succeeding in an action.

Once obligations were met, the Buffer Stock Manager could sell say 40,000 tonnes of tin at £4,000 per tonne or £160m, which would reduce the total debt to £538m. If the UK had to pay 40% of this sum it would amount to £215m.

Option C

Burden Sharing: Tin Price Assumed £5,000 per mt

This option assumes:-

a The ITC meets 75% gross broker debts.

b The banks agree to sell off their tin securities on a gradual basis on the basis of £5,000 per tonne and are paid the difference between the minimal sales at £5,000 per tonne and the value of their security.

Costs:

75% cost of 40,000 tonnes of tin	267
Shortfall in bank security	65
	332
Less sales 40,000 tonnes of tin at £5,000 per mt	200
	132

The UK share would be £5m.

Government Assistance Options

These options would only come into effect if the Tin Council walked away from its obligations. Money would be provided by lans, repayable if other countries eventually met their obligations. If the money was not recovered from others, it would be necessary to consider whether the loans would be repayable.

A Broad concept of Meeting 50% Broker Losses on a Difference Basis of 75% of Gross Costs if 40,000 tonnes of Tin were Presented for his Purchases

Price mt	Maximum Exposure on basis of 50% broker difference £m	If 75% broker cost met on basis gross costs of 40,000 tonnes purchases
£3,000	180	)
£4,000	150	)
£5,000	119	) £267m
£6,000	89	)

If 75% of the gross cost were met, sales revenue from 40,000 tonnes at £160m assuming a tin price of £4,000 per mt should in the short term partly offset the £267m, leaving a maximum loan requirement of £107m.

The utilisation rate of the loan facility would be difficult to predict as it would depend both on the price level of tin and the readiness and ability of parent companies to under-write their subsidiaries' losses. At tin price of £6,500 or above, it appears it would be little used; below this figure demand would probably steadily increase. Below £4,000 loans might not stave off all insolvencies and doubts as to ultimate recoverability of ITC debts might persuade one or more companies that they should not seek to defend themselves against compulsory winding up orders.

Given that the loan money could be expensive, say 3-5% above LIBOR, and some brokers have parent companies of high standing, it is unlikely that more than 75% of the facility would be drawn on, and a more realistic estimate might be 40-50%. If the loan were only repayable on conditions other countries met their obligations this might make it more attractive and increase the take up.

Security of the Loan

This would be minimal, but it would be understood that it would have first call on any funds made available by a court order following action for recovery of debts due by the ITC.

Terms of the Loan

Three years or a recovery of debts due from the ITC, whichever is the earlier.

Loan Agency

A body to be determined but independent of the LME and of any company or firm with direct or indirect financial or commercial interest in any potential borrower. This body would have general responsibility for administering the loan scheme.

Advantages

Simple to administer; availability would encourage orderly trading; help to restore confidence in London commodity markets; would give a breathing space whilst the legal liabilities of the ITC and its member countries could be sorted out.

Disadvantages

It would be seen as a bail out of possibly an imprudent group of traders, and it would help those whose parents chose not to help them.

It might also appear to be linked to the recovery of debts against HMG iself. There could be presentational problems in deciding whether loans should be repaid if debts were not recovered ie if court actions were unsuccessful.

SCHEME B - NARROW CONCEPT

Objective: to provide by loan to LME Ring-Dealers at a commercially uncompetitive rate such support as is necessary to avert insolvency of firms financially embarrased by losses directly attributable to the default on payment by the ITC Buffer Stock on fixed price purchase contracts. As far as possible to ensure that parent companies' support is exhausted before such loans are provided.

Assumption: on re-opening of the tin market there is no other form of financial or price support; prices are established in free open market conditions.

Cost profile: highly problematical. Best available market intelligence suggests that perhaps three companies are "high risk" if prices fall below £6,000 - £6,250; thereafter these companies might need, together, support of around £10mn per £1,000 fall in price. With lower levels of price a further two "medium risk" companies might reach a critical point but there is nothing to indicate at what price this would occur. The combined requirement of these two companies would be some £8.5mn per £1,000 fall in price. Remaining companies would be regarded as "low risk". Funding requirements at various price levels must be purely conjectural with the margin of error increasing sharply at lower levels. Estimates are:-

£ 2.5-5mn at £6,000 a tonne
£15-20mn at £5,000 a tonne
£40-50mn at £4,000 a tonne
£75-100mn at £3,000 a tonne

Probable utilisation: wholly dependent on ultimate price levels of tin and support from parents but likely to be a high percentage of funding requirements estimated above.

Rate of interest: to be commercially uncompetitive but to be sufficiently reasonable for a loan to be regarded as a viable and attractive alternative to declaration of insolvency. This would imply a rate of 3-5% above that readily available from banks to a first class commercial borrower. Interest payable 6 monthly. (Alternative: interest rolled-up for the period of the loan).

Security for loan: minimum: first call on funds made available by court order following action for recovery of debts due by the ITC. A condition of granting the loan would be an undertaking to pursue such action individually or with others and to assign to the lender all or an agreed proportion of rights in ITC debt prior to voluntary liquidation.

Term of loan: maximum three years or settlement of court case - no penalty on early repayment.

Loan agency: a body independent of the LME and of any company or firm with direct or indirect financial or commercial interest in any potential borrower (to be determined - referred to hereinafter as "LA") responsible for administering the loans.

Advantages:

(a) Concentrates assistance on the weak links in the market.

(b) There is the ability to take a forward view of requirements, there being no test of "established losses" but rather an assessed financial requirement to achieve and maintain solvency.

(c) Assistance is on a "100% of need" basis and therefore theoretically effective regardless of the price of tin.

(d) In common with scheme A it will allow parent companies time to consider how best to provide for their subsidiaries' future activity or, alternatively, to organise an orderly withdrawal from the market place.

(e) In common with scheme A, the scheme provides support during a possibly extended period in which inter-governmental exploration of the legal obligations of the ITC may be carried to a conclusion, following which firms may, if necessary, mount individual actions for recovery of debts.

(f) Amount drawn likely to be much smaller than under A.

Disadvantages:

(a) The need to assess in a very short period of time both the company's own financial position and that of its parent.

(b) Since assistance is at a marginal point and companies will be reluctant to take expensive money in excess of absolute requirements, unforeseen events probably remote from the LME may precipitate insolvency before further assistance can be given.

(c) Singles out for assistance those who have been most commercially imprudent.

(d) None of the companies most likely to take up the assistance has a British passport.

(e) The loan would be linked to success in a court action, probably against HMG.

(f) How would money be recovered if the court action were not successful.

ANNEX B

SUPPORT FOR CORNWALL

Officials have recently held meetings with representatives of the two main mining companies: RTZ (which operates Wheal Jane and South Crofty through a wholly owned subsidiary, Carnon) and Geevor (the Geevor mine).

It appears the neither company is likely to take precipitate action even if the market opens at a very low price. At present, they both intend to maintain their operations for some months until they have a better idea of how the price of tin is likely to hold up in the longer term. They have said that, if the price of tin settles at around £7,000/tonne, they would be able to continue operations provided that Government assistance were made available towards the cost of investment in new equipment (in the case of the RTZ mines) and new workings at Geevor.

It would be open to the Government to support such investment under Section 7 or Section 8 of the Industrial Development Act or, in the case of new workings, under the Mineral Exploration and Investment Grants Act 1972.

This option would, at least, provide a breathing space during which the Department could appraise projects put forward by the companies in order to determine whether there were realistic prospects of viability in the longer term. It is not possible to estimate the likely costs of such support without detailed proposals from the companies. RTZ and Geevor have indicated that they would look for 100% grants towards programmes with a combined cost of more than £35 million.

Such investment would appear very high risk. Even at a production cost of £7,000/tonne, Cornish tin would, on average, be more expensive than two thirds of the world's production. (South Crofty might achieve £6,500 with investment which would put it about half-way in the cost league).

On balance, the best way forward might be to invite proposals from the mines to see if they can come up with programmes with a fair chance of success at a reasonable cost to HMG. This would inevitably raise expectations and cause disappointment if as seems likely, support were not forthcoming but, in that event, Ministers would be able to consider taking other steps to assist Cornwall.

Nonetheless, for the sake of completeness, a list of possible measures is attached.

D25AAS

TIN

Support for Cornwall

Should Ministers decide that they wish to provide additional DTI support for the Cornish economy following a fall in the price of tin, two main avenues of approach would be open to them:

- direct support for the mining industry;

- an extension of regional aid.

I Support for Tin Mining

a) Provision of Mineral Exploration Grants covering 35% of costs of explorations. Mineral Exploration Grants were made available until mid-1984 under the Mineral Exploration and Investment Grants Act 1972. The Act is still in force and a new scheme could be introduced by an announcement in Parliament.

Cost

Unlikely to exceed £0.5 million per annum unless a major new development at Geevor were supported.

b) Support for investment by mining companies. The Industrial Development Act 1982 provides the powers necessary to support capital investment by the mining companies. Ministers would decide to make such support available outside the normal guidelines for selective assistance. It might also be possible to consider support for investment in downstream metal-processing activities in return for some kind of understanding about the future of the mines.

Cost

Would depend on proposals coming from the mining companies.

c) Operating subsidy to bridge any gap between the market price and the cost of production. It appears that it would be possible to provide such a subsidy under the Industrial Development Act 1982. In the past such subsidies have been confined to nationalised and state-owned industry. EC clearance would be required. Unless for a specific short term this route should not be followed.

Cost

Maximum: £20 million per annum. Minimum: £2.25 million per annum.

d) Operating subsidy limited to supporting cost of care-and-maintenance.

As with I(c), such support would be made available under the 1982 Act.

Cost

Very uncertain. Unlikely to exceed £2 million per annum.

II Regional Support for Cornwall

Two of the TTWAs which would be affected by mine closures, Penzance and St Ives (Geevor) and Redruth and Cambourne (South Crofty) are already Development Areas and benefit from both Regional Development Grants and Regional Selective Assistance. The additional support which could be provided in Cornwall through an extension of regional measures is, therefore, limited.

(a) Designation of Truro as an Assisted Area

If the Wheal Jane were to close, unemployment in the Truro TTWA would probably rise immedately by about 2 percentage points to around 14% (there might be a further rise as indirect jobs dependent on tin were lost). It would be possible to alter the Assisted Area Map - by Statutory Instrument - to give Truro Intermediate or Development Area Status.

The cost of Development Area Status is difficult to predict because RDG and RSA are both demand led schemes but it is unlikely that it would exceed £2 million a year. However, there are serious objections to such a step. Even at 15%, unemployment would be below the average rate for Intermediate Areas: this would undoubtedly lead to pressure from other, worse off parts of the country for equivalent treatment. DA Status for Truro might also have an adverse impact on the other tin-mining TTWAs if projects which otherwise would have located in the far west of the county chose Truro instead.

(b) Special allocation of funds to EIEC for developments in Cornwall

Powers are available under the 1982 Act. The Government have provided for special factory building programmes in the past, in Steel Closure Areas. However, this proposal is open to the same sort of objections as AA Status. In addition, a number of advance factory units built by the County Council are lying vacant, it is the remoteness of the area which is the major disincentive to investment.

The cost of any special programme would be determined by Ministers. For presentational reasons, say £1 million.

D25AAS

(c) Enterprise Zones

It would be possible to designate new EZs in the Redruth and Cambourne and Penzance areas. Since there is little industry in the areas, the costs of such action would probably be limited to the rates foregone from incoming industry.

The DoE is opposed to using EZs as a measure to deal with problems caused by sudden closoure.

(d) Additional funds for promotion of Cornwall

The Devon and Cornwall Development Bureau could be provided with additional resources to promote the area as a location for investment. A sum of £100,000 would be appropriate.

(e) ERDF/European Social Fund/Tin Closure Scheme

The Department could seek to persuade the Commission to make funds available in the area affected by tin closures. Support might take the form of grants towards the cost of retraining redundant miners for work in incoming industry. Consideration could also be given to an extension of the Business Improvement Scheme to the South West. This would make grants available to new and small firms for a variety of activities including investment, the use of consultants and marketing. The costs of such an extension to the Department are unlikely to exceed £1 million.

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CCBC

Foreign and Commonwealth Office

London SW1A 2AH

28 November 1985

Dear Mike,

Tin

David Norgrove mentioned in his letter to you of 25 November that the Prime Minister had commented that an option, if the Commission were dragging their feet, would be to write a sharp letter to Delors.

The Foreign Secretary raised this question with Delors on 24 November and Delors responded sympathetically. Mr Channon also put the case at the Foreign Affairs Council on 26 November and spoke to Narjes and Lord Cockfield separately. As the reporting telegrams show (copies enclosed) the Commission are now taking a much more positive line. In the circumstances the Foreign Secretary does not think it is necessary for the Prime Minister to write to Delors.

I am copying this letter to David Norgrove at No 10 and Tony Kuczys in HM Treasury.

Yours ever,

Peter Ricketts

(P F Ricketts)
Private Secretary

Michael Gilbertson Esq
Department of Trade & Industry

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TRADE
MOVEMENTS IN
VOLUME OF
TRADE

JAN 85



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PS/

Secretary of State for Trade and Industry

27 November 1985

Philip Wynn-Owen Esq
Private Secretary to the
Chancellor of the Exchequer
HM Treasury
Parliament Street
LONDON
SW1P 3AG

Dear Mr Wynn-Owen

INTERNATIONAL TIN AGREEMENT

Further to Michael Gilbertson's letter of 25 November you may wish to note that Mr Braithwaite of the FCO also attended the meeting that my Secretary of State chaired on 22 November.

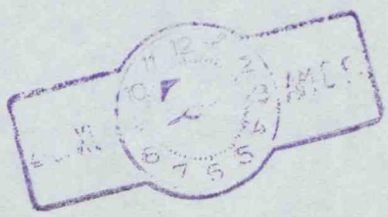
2 I am copying this letter to the same recipients of Michael Gilbertson's letter.

Yours sincerely

Carol Reid

CAROL REID
Private Secretary

JH3CLA



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JU734
Secretary of State for Trade and Industry

25 November 1985

Philip Wynn-Owen Esq
Private Secretary to the
Chancellor of the Exchequer
HM Treasury
Parliament Street
London SW1

CDP

See paras 12-21

DRW
26/11

Dear Philip,

INTERNATIONAL TIN AGREEMENT

I attach a note of the meeting which my Secretary of State chaired on 22 November.

I am copying this letter and attachment to Peter Ricketts (FCO), Henry Steel (LOD), John Bartlett (Bank of England), David Norgrove (No 10) and Ivor Llewelyn (MAFF).

Yours ever,

Michael

MICHAEL GILBERTSON
Private Secretary

999-1

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JU733

MEETING TO DISCUSS THE INTERNATIONAL TIN AGREEMENT: 22 NOVEMBER 1985

Present: Secretary of State for Trade and Industry
Chancellor of the Exchequer
Solicitor General
Minister for Trade
Minister of State, Foreign & Commonwealth Office
Deputy Governor of the Bank of England
(Mr McMahon)
Professor Griffiths (No 10 Policy Unit)
Mr Mountfield DTI
Mr Rickford DTI
Mr Murray DTI
Mr Mallinson DTI
Mr Lunn DTI
Mr Mountfield, Treasury
Mr Hosker, Treasury
Mr Saunders LOD
Mr Gardiner LOD
Mr Tate FCO
Mr Farrow Bank of England
Mr Braithwaite FCO

Summary

It was agreed that officials would keep in touch with the LME in a way that would reassure them, without revealing sensitive information. The Deputy Governor's paper of 20 November was discussed, and the Chancellor said that on the evidence he had seen to date, he would be wholly unable to support such proposals. However, it was agreed that officials should produce a paper setting out all the likely options the Government could take, with their costs. It was agreed that before further action was taken in the Community, Mr Hannay should be consulted.

Discussion

Mr Channon reported the outcome of his meeting with the Chairman of the LME the previous day. The LME were confident of being able to keep trading in tin closed until December 6. Mr Lion had floated the idea that the Bank of England could make available a bridging loan of around £550m to cover the ITC's debts until it reached agreement on its liabilities. The LME wanted the Government to give them more information, in particular on discussions in the ITC.

2 The Secretary of State asked if there were any difficulties in giving the LME more information. The Solicitor-General saw no particular difficulties. The Chancellor, however, warned that we could not share our legal advice with the LME, and Mr Murray said that we could not expose to the LME internal dissensions within

the ITC. Mr Farrow said that he understood that the auditors' report on the activities of the buffer stock manager was already in the hands of the LME, and that in talking to the LME we should start from that premise. It was agreed that we should keep in touch with the LME in a way that would reassure them, without revealing sensitive information. It was agreed that Mr Farrow and Mr Murray would work out what could be said to the LME, in more detail.

3 The Solicitor General said that he hoped his paper on the legal position, as agreed with Counsel, would be available later that day.

4 Mr McMahon introduced his paper, circulated on 20 November, which set out two alternative options for a UK-financed rescue of the LME if the ITC did not come up with cash or guarantees. Mr McMahon said that it was impossible at this stage to give a proper assessment, but there was a serious risk that failure to reach a solution would result in wide damage. The LME itself might be threatened, and brokers in other markets would be susceptible to a ripple effect. He did not judge that there was a real threat to any banks. The proposals in his paper aimed to minimise the payments which HMG might have to make. He stressed that fundamental to both proposals in the paper was that assistance should be provided by way of loans at a severe rate of interest which ought to be recoverable from any court judgement which may be enforced against the ITC. He said that the proposals were only suggestions, and the Bank was not recommending that they should be implemented.

5 The Secretary of State said that the cost of either proposal was greater than simply paying our share of the ITC's obligations. He was not convinced that a rescue package of the kind set out in the Bank's paper would be effective in stopping damage to the City's reputation, since that damage had already been done.

6 The Chancellor said that on the evidence he had seen, he would be wholly unable to support a proposal of the kind set out in the paper were it to be made. The cost of such a proposal would be large and might well in the end be much larger than initially thought. Politically, a rescue would be very difficult in the wake of the JMB affair. The Government would be rescuing brokers who had substantial parents, mostly foreign. Of the ten brokers who had the largest exposure in the market, only two were UK-owned, and these both had substantial parent companies (Dalgetty, and Berisfords).

7 Mr Farrow said that the tin trading on the LME was small compared with trading in aluminium and copper. He warned that if the LME collapsed, it was quite probable that dealing in aluminium and copper would move away from London. This might also be true of trading in soft commodities. Trading in metals other than tin on the LME was already down to less than half normal turnover, and some softs were now being sold elsewhere rather than in London because the producers did not have confidence in the London market. He said that if the cloud of insolvency which hung over the LME could be removed, then it might be possible to retrieve the situation. He said that dans (Igers) brokers on the LME, as principals, held £50,000 worth of tin which the BSM had contracted to buy. If they slid into bankruptcy, they would be forced to tip this tin onto the market in a

fire sale, and this would increase the fall in price of tin. The Secretary of State suggested that creditors would not unload tin in this way, since it was not in their interests to do so. Mr Farrow replied that some brokers would be under such intense pressure that they would be forced to sell.

8 Mr Renton said that some of the banks who held tin might also sell, since they operated arrangements which dictated that they should sell their stocks when the price fell below a certain threshold, perhaps £6,000 per tonne. He also said that many of the contracts to which Mr Farrow referred were forward purchases and it might be difficult to decide precisely who owned the tin involved.

9 The Secretary of State suggested that parents of brokers in difficulties would suffer damage to their reputations if they simply allowed their subsidiaries to go bankrupt. Mr Farrow said that the Deputy Governor's paper took account of that. Three traders in particular would be unlikely to be rescued by their parents: one was owned by a company for which commodity dealing was only a marginal interest, one was owned by a parent which was itself in trouble, and one had no substantial parent behind it at all. The Bank assumed that parents such as banks, Dalgetty, and Berisfords would stand behind their subsidiaries. The Chancellor said that his impression was that most of the parents involved would stand behind their subsidiaries. He said it would be helpful to have figures on this. In particular, he wanted to know what was the amount of tin belonging to those brokers whose parents, in the Bank's judgement, would not stand behind them. He repeated his opposition to a rescue on the lines proposed in the Bank's paper. There would be disadvantage in proclaiming publicly that sovereign states were defaulting on their debts. It would be difficult to explain to the PAC why we were embarking on a rescue of this kind (the explanation would be that we were cutting our losses, and in order to explain that fully we would have to disclose our full view of our legal liability; he was reluctant to do this).

10 Mr Murray warned that a City rescue would be difficult to explain to Cornwall, unless we took measures to help Cornwall as well.

11 The Solicitor General said that if the Government were to embark on any rescue package, it would be necessary to ensure that it was not champertous.

12 Mr Renton asked that officials should produce, late the following week, after the Foreign Affairs Council, and after the Commission attitude had become clearer, a paper setting out all the likely options the Government could take and an evaluation of the likely costs of those options. Such a paper would necessarily still largely be hypothetical; but it would enable the Government to consider the way forward more clearly.

13 The Chancellor said that he had attended an ECOFIN meeting on 18 November, where he raised the subject of tin. Finance Ministers had generally not been well informed about the issue. Those who had expressed a view had said that if there were a legal obligation on Member Countries, they would meet it, since it was a serious matter for sovereign states to default. However, none of them was satisfied that there was a legal obligation, and therefore they could not justify spending public money on meeting the ITC's obligations. Lord Cockfield, who was present at the meeting, had said that the Commission was considering the problem: the Finance Ministers at the meeting had told him to encourage the Commission to make as rapid progress as possible.

14 The Secretary of State said that he had written to Commissioner Narjes, and that Mr Channon was ready to raise the issue at the Foreign Affairs Council the following week.

15 Mr Murray said that the Commission's legal services were now dragging their feet. He reported that the meeting which was to have taken place on 26 November, between Member States and their legal advisers had been postponed and that the Commission would now not be putting forward proposals in the course of the week beginning 25 November. Mr Channon warned that Commissioner Narjes was strongly influenced by the German Government, and that there was a chance of a metal exchange emerging in Frankfurt.

16 Mr Mountfield (DTI) said that we needed to demonstrate to other countries the urgency of the situation. The longer a resolution was delayed, the greater the flood of tin would be onto the market when it reopened, and therefore the lower the price would fall, and the greater the debts of the ITC would be. The Chancellor said that the key point was to persuade Member Countries of their legal liability. The Secretary of State suggested that the UK could still argue with Member Countries that delay in resolving the problem would mean bigger losses, if they did turn out to be legally liable, than they would have been had the problem been resolved more quickly.

17 It was agreed that HMG should urge the Community to make faster progress. The Chancellor suggested that the UK could threaten that the Prime Minister would raise the issue at the European Council on 2 December, unless sufficiently rapid progress was made. Mr Renton said that, in the end, he did not believe that the Commission would help very much. But he agreed that tactically it would be useful to urge the Commission to act, since it left the UK slightly less exposed. The Secretary of State suggested that once one or two EC Member States admitted their legal liability, others might well follow suit.

18 It was agreed, however, that before further action such as that set out in paragraphs 14 - 17 above, was taken in the Community at Ministerial level, Mr Hannay should be consulted.

19 Mr Murray said that one reason why other Member Countries were reluctant to agree to a package might well be that they considered that a scheme to enable the buffer stock manager to

honour his forward contracts would be tantamount to allowing the BSM could continue as before. Mr Mountfield (Treasury), however, said that the proposal by the banks involved cash settlements only, and not more forward contracts.

20 Mr Channon said that he was seeing the Malaysian Minister of Mines, who was in the UK on a private visit over the next few days. Mr Renton said that Dr Mahathir had blamed London speculators for the crisis. Mr Farrow suggested that the Malaysians might not be too concerned about establishing a new Agreement, since they believed that to some extent, the current Agreement had led to producers, such as Brazil, who were outside the Agreement, being subsidised by Member Countries, including Malaysia.

21 The Secretary of State asked whether it would make banks wary about lending to Governments if those Governments were seen not to meet their obligations. Mr Farrow said that if Governments' obligations were purely moral ones, it would probably not matter too much, but if States were seen to be defaulting on legal obligations, then banks might well begin to seek more explicit guarantees in future.

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File JA 48

cc FCO HMT

10 DOWNING STREET

From the Private Secretary

25 November 1985

TIN

You gave me on Friday a report on where things stood on the discussions on tin and among other things told me that the Commission seemed to be dragging their feet.

The Prime Minister has commented that an option would be to write a sharp letter to Delors. You told me that David Hannay is to provide advice on how to deal with the Commission on this problem, and no doubt you will keep this possibility in mind.

I am copying this letter to Colin Budd (FCO) and to Tony Kuczys (HM Treasury).

(David Norgrove)

Michael Gilbertson, Esq.,
Department of Trade and Industry.

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PRIME MINISTER

TIN

You asked whether we could get more urgency into the discussions on tin. I have told DTI of your feelings on this, but also mentioned that you are aware of all they are doing. Mr. Brittan and Sir Geoffrey Howe have been very active and need no exhortation.

It has now been confirmed that the LME tin market will be closed at least until 6 December. DTI are keeping in touch with LME and have decided to keep in still closer touch in future. But they have to keep in mind that we and they may at some stage be on opposite sides in litigation. (Mr. Channon yesterday saw the Chairman of the LME, in your place).

Officials will be preparing a full paper on the options next week.

DTI tell me that the Commission, who have an important role vis-a-vis the Community members of the ITC, are dragging their feet. Mr. Brittan has it in mind to talk to Lord Cockfield. He may want to suggest that you might also raise the question of tin at the European Council.

Can we write a strong letter to Peters?

Mr. Channon may be seeing the Malaysian Minister of Mines this weekend.

[Told MG, DTI 25/11. D Hanway is advising.]

With divergent interests between and within producer and consumer countries, and apparently conflicting advice about the legal positions being given, progress is likely to remain slow, however great the efforts we make.

MT

DN

David Norgrove
22 November 1985

MJ2BJL

QF
Do you wish to keep?
JL 25/11

089

10 DOWNING STREET

From the Private Secretary

Ack/ 22 November 1985

TIN

(see 19.11.85) → The Prime Minister has received a letter, attached, from the Secretary of the International Tin Council, writing in a personal capacity. I suggest that it would be better for you to reply, and deal with the final paragraph as you see fit.

BF //

David Norgrove

Michael Gilbertson, Esq.,
Department of Trade and Industry.

10 DOWNING STREET

Prime Minister 2

Tin

The LME have decided to postpone reopening the tin market for a further two weeks.

DRN
21/11

We market just would be there if they go on like this. Can we not inject some more urgency into inter-government negotiations?

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cc B/G & others.

DEPARTMENT OF TRADE AND INDUSTRY
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From the Minister for Trade

David Norgrove Esq
Private Secretary to the
Prime Minister
10 Downing Street
LONDON
SW1

21 November 1985

NBPM -

Dear David

MR CHANNON'S MEETING WITH MR LION, CHAIRMAN OF THE LONDON METAL EXCHANGE, ON 21 NOVEMBER 1985

In advance of tomorrow's interdepartmental Ministerial meeting on tin, I attach for information a note of Mr Channon's meeting earlier today with Mr Lion. The meeting had been arranged following Mr Lion's letter to the Prime Minister of 7 November about the tin crisis.

I am copying this letter to Peter Ricketts (FCO), Philip Wynn Owen (Treasury), Henry Steel (Law Officers' Department) and John Bartlett (Bank of England).

Yours

Matthew Cocks

MATTHEW COCKS
Private Secretary to the
Minister for Trade (Paul Channon)

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MR CHANNON'S MEETING WITH MR LION, CHAIRMAN OF THE LONDON METAL EXCHANGE (LME), ON 21 NOVEMBER 1985 AT 14.45

Present
Rt Hon Paul Channon MP, Minister for Trade
Mr Murray MM, DTI

Mr J Lion, Chairman of LME
Mr M Brown, Chief Executive of LME

SUMMARY

Mr Lion expressed strong disappointment at the International Tin Council's (ITC) continuing inability to agree to meet their commitments. LME brokers had been asked to guarantee 10 per cent (around £90m) of the outstanding liabilities. Their parent firms were considering. Mr Lion floated the idea that the Bank of England could make available a bridging loan of around £550m to cover the ITC's debts until it reached agreement on its liabilities. Mr Channon said he would consider, but with no commitment whatsoever.

DETAIL

2 Mr Channon said he understood the LME's concern at the continued failure by other Member Countries of the ITC to join the UK in stating that they would meet their share of the ITC's obligations. The UK representative at the ITC meeting the day before had once again called on other Member Countries to come to a decision. In the event, the ITC members decided to reconvene on the 2 December, having spoken to their Governments.

3 Mr Lion thanked Mr Channon for seeing him. He said he had attended an informal working party at the ITC a few days before, and had come away more depressed than before about the prospects of solving the present crisis. He had had a rather one-sided interview with ITC members, with the FRG delegate acting as spokesman: the delegate had told him that frankly the ITC did not think it reasonable to be asked to go beyond their last subscription to the ITC. Mr Lion had argued that the Buffer Stock Manager (BSM) was the agent of the ITC and that therefore ITC members were responsible for the liabilities he had incurred. The FRG had said a few days' later that if it could be demonstrated that some impropriety had taken place, the ITC Member States would be responsible. Mr Lion found this a rather curious approach but felt that it showed the LME had made some headway, and it was a line of argument he was pursuing. He had consulted Lord Goodman about the crisis: although Lord Goodman's firm was not acting for the LME, he felt that he had nothing to lose by going to him for additional advice, even though this was a somewhat unorthodox approach. Lord Goodman felt that the issue of whether impropriety or recklessness had taken place was worth pursuing.

4 Mr Lion said that he had received a telex that afternoon from Turner Kenneth Brown, the solicitors to a firm called Manilow, which had Malaysian connections, saying that unless the LME assured them that afternoon that the Exchange would remain closed until the

negotiations of the ITC were concluded, they would take out an injunction to prevent the LME reopening. However, he felt that the LME should remain closed anyway, and would be putting the matter to his members the following day.

5 Mr Brown added that he could not see the LME reopening before December 6. He felt that a minority of members would like the LME to reopen earlier, for the sake of other metals, but that a majority would support closure until that date. Meanwhile some people seemed to be trying to trap the LME into setting a tin price. For example, a subsidiary of a Malaysian firm was trying to buy tin in London. Mr Lion said the LME would not publish a settlement price for tin since they were already long to some and short to others, and there was no price that would satisfy all the parties concerned.

6 Mr Lion said that various bankers had been discussing a £900m loan to meet the ITC's liabilities, but that people could not be forced to borrow if they did not want to. He thought that discussions on a possible loan should continue, and that details of the banking proposal should be finalised so that when the ITC decided how to resolve the situation, the banking details would already have been agreed. He said that the tin broking members of the LME had agreed to guarantee 10 per cent (around £90m) of the loan offered by the banks to the ITC, although he added that there may be queries and objections from the parent companies of those brokers before this could be finally agreed. Given the gravity of the crisis, in particular the effect of any default on the City's reputation, he floated the idea that the Bank of England could cover the ITC's debts until an agreement on how they would meet their liabilities had been reached. This would mean a bridging loan of £550m. He explained that there was some hope in the market that an as yet unseen lifeboat would appear, but that he was personally pessimistic about this. But in the circumstances he felt he should put forward the idea of a bridging loan of this type.

7 Mr Lion said that, more generally, the original mistake was in his view to allow the BSM to trade other than in cash. The BSM had been in effect buying forward without knowing he could meet his commitments. Mr Lion said that in his book this was "near fraud".

8 Looking ahead, Mr Brown said the LME recognised they would have to reopen at some stage regardless of how the ITC resolved the situation. In the end they might have to accept that the LME itself would fail. Other exchanges would probably come into being as a result, for example the Germans might set one up.

9 Mr Lion said that he felt the LME were not getting much feedback on the ITC meetings, and he wondered whether an LME advisor could be present. Mr Murray replied that he did not think this would be acceptable. For example, the ITC's legal advisors could not give their view in the presence of a potential litigant.

10 As to lobbying other ITC members, Mr Lion said that the LME were trying to influence other Governments through their parent companies, including for example in Japan. Mr Channon commented that HMG would not discourage pressure of this kind. We were making our own representations.

11 Mr Lion also said he felt the onward thrust of action on the crisis had fallen away recently and, speaking frankly, he wanted to stir it up again. He had therefore inspired Alex Fletcher MP to put down a priority written PQ calling for enquiries to be made into the present position.

12 Mr Channon concluded the meeting by saying that he would consider what Mr Lion had said, and in particular the question of a bridging loan, but, as he was sure Mr Lion would appreciate, this was without any commitment whatsoever.

Matthew Cocks

MATTHEW COCKS
PS/MfT
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THE DEPUTY GOVERNOR

BANK OF ENGLAND
LONDON
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20 November 1985

NBPM

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	Mr Lane/ITP

The Rt Hon Leon Brittan QC MP
Secretary of State for Trade & Industry
1 Victoria Street
London SW1H OET

Dear Secretary of State,

TIN

I understand that you may be convening a further meeting of Ministers to review policy after this week's meeting of the International Tin Council. The Bank has, of course, been strongly supportive of the efforts which you have been making to bring the members of the ITC to accept a responsibility for the Council's debts. So long as that appears to be a credible outcome within a reasonable time I would not wish to depart from that approach. This letter, which I am sending in the Governor's absence abroad, is addressed to the possibility that that outturn may soon appear not to be realistic.

As the Governor and I have both made clear in previous rounds of discussion, the potential consequences if the LME reopens tin trading with the ITC in default are extremely difficult to assess. It is likely that a small number of brokers would immediately be thrown into default. The number would rise if parent companies which were in a position to stand behind their subsidiaries decided not to do so. Failures of brokers caused directly by the default of the ITC will, in their turn, impose further losses on other members of the market. The risk, therefore, is that those further losses will result in consequential failures. These losses could spread out into other commodity markets in which the companies or their parent groups are also engaged. In these inevitably uncertain circumstances it is realistic to expect that banks would be cautious in the scale of finance that they would make available

to companies which face liquidity problems from the failures in the market. Because the scale of failure and the consequential effects depend so heavily on the price for tin which would be established in the reopened market, and on the attitude of parent companies, most of them not British, any assessment of the fall out effects can only be conjectural. However, we start from the fact that London is a major commodity dealing centre and that the invisible earnings whic these activities bring in are measured in hundreds of millions so that consequential damage to the commodities trading sector as a whole would be serious indeed.

Because of this prospect Bank staff have endeavoured, in consultation with your officials, to draw up possible arrangements for financial assistance to LME brokers to avoid failures as a consequence of the ITC's default. The appendices to this letter describe two possible schemes. Fundamental to both schemes is that assistance should be provided by way of loans at a severe rate of interest which should be recoverable from any court judgement which may be enforced against the ITC. While I appreciate that the legal position is complex, advice has in the past been that HMG should regard it as a strong possibility that enforcement could indeed be obtained against Britain and, hopefully other ITC members. If this is the case there certainly seems to be an argument for making some payments to avoid the damage to the City envisaged above, rather wait until such payments - or even larger ones - are required in settlement of court judgments later.

The proposal does not envisage any assistance being offered to bankers who will also suffer losses as a result of the default of the ITC. They hold substantial security and I see no reason to believe that any British banks would be seriously threatened by these losses.

While I well understand the political difficulty of assistance to City firms, I believe that, in the circumstances, these propositions should be very seriously considered.

I am sending copies of this letter to the Chancellor of the Exchequer, the Foreign Secretary and the Solicitor General.

Yours sincerely

Kit McMahon

SCHEME A - BROAD CONCEPT

Objective: to provide, on a non-selective basis, on demand, but at a commercially uncompetitive rate of interest, immediate support in the form of loans to LME Ring-Dealing members to meet up to 50% of trading losses arising directly from closing out at market prices positions left uncovered by defaults by the ITC Buffer Stock on fixed price purchase contracts.

Assumption: on re-opening of the tin market there is no other form of financial or price support; prices are established in free open market conditions.

Maximum exposure: estimated maximum funding requirements to meet 50% of losses incurred by trading out at freely established price levels would be:

£70mn at £6,000 a tonne
£95mn at £5,000 a tonne
£120mn at £4,000 a tonne
£145mn at £3,000 a tonne

Possible utilisation: very difficult to assess since it depends upon such variables as price level established in the market and the preparedness and ability of parent companies to underwrite their subsidiaries' losses. It appears likely that the facility would be little used if the tin price were to fall no further than £6,500. Below this figure demand for loans would be expected to increase steadily with decreasing price as far as perhaps £4,000. Below £4,000 support loans may not stave off all insolvencies and doubts as to ultimate recoverability of ITC debts may persuade one or more companies that they should not seek to defend themselves against compulsory winding up orders.

Companies generally are unlikely to use expensive money if any other course is open to them. Given the fact that some of the brokers concerned have parent companies of high standing it seems unlikely more than 75% of the facility would be drawn upon and a more realistic estimate would probably be 40-50%. If the loan was only repayable to the extent that the company was able to enforce a court judgment this would make it attractive even at a high rate of interest, and thus increase the take-up.

Rate of interest: to be commercially uncompetitive but to be sufficiently reasonable for a loan to be regarded as a viable and attractive alternative to the declaration of insolvency. This would imply a rate of 3-5% above that readily available from banks to a first class commercial borrower. Interest payable 6 monthly. (Alternative: interest rolled-up for the period of the loan).

Security for loan: minimum: first call on funds made available by court order following action for recovery of debts due by the ITC. A condition of granting the loan would be an undertaking to pursue such action individually or with others and to assign to the lender all or an agreed proportion of rights in ITC debt prior to voluntary liquidation. [Consideration might be given to requiring in addition a parent company or bank guarantee in appropriate cases.]

Term of loan: maximum three years or settlement of court case, whichever is the earlier - no penalty on early repayment.

Loan agency: a body, to be determined, but independent of the LME and of any company or firm with direct or indirect financial or commercial interest in any potential borrower (referred to hereinafter as "LA") responsible for:

(a) making funds available following verification of establishment of losses (highest priced buffer stock contracts maturing on any given date before lodgement of application for loan to be deemed to be traded out first);

(b) documentation, legal checks and general administration;

(c) establishing adequacy of and beneficial rights in prescribed or other security given for the loan;

(d) ensuring receipt of interest in accordance with the terms of the loan agreement and adherence to all general conditions of the loan;

(e) monitoring steps taken by borrowers to pursue by legal process recovery of debts due by the ITC.

Advantages:

(a) simple to administer;
(b) easy to present to potential users
(c) involves no arbitrary decisions on elegibility by LA;
(d) availability is likely to encourage more orderly trading out of positions by removing intense pressure to sell before or at the theoretical margin of solvency;
(e) the scheme is likely to be viewed externally as underpinning the Exchange as a whole and will have beneficial effects on general confidence in trading other metals and indeed in commodities in other markets;
(f) it will allow parent companies time to consider how best to provide for their subsidiaries' future activity or, alternatively, to organise an orderly withdrawal from the market place;
(g) the scheme provides support during a possibly extended period in which inter-governmental exploration of the legal obligations of the ITC may be carried to a conclusion, following which firms may, if necessary, mount individual actions for recovery of debts.

Disadvantage: presentationally, it may be seen as a "bailing out" of a complete and arguably imprudent group of traders. The possible cost is higher than for a selective scheme.

SCHEME B - NARROW CONCEPT

Objective: to provide by loan to LME Ring-Dealers at a commercially uncompetitive rate such support as is necessary to avert insolvency of firms financially embarrased by losses directly attributable to the default on payment by the ITC Buffer Stock on fixed price purchase contracts. As far as possible to ensure that parent companies' support is exhausted before such loans are provided.

Assumption: on re-opening of the tin market there is no other form of financial or price support; prices are established in free open market conditions.

Cost profile: highly problematical. Best available market intelligence suggests that perhaps three companies are "high risk" if prices fall below £6,000 - £6,250; thereafter these companies might need, together, support of around £10mn per £1,000 fall in price. With lower levels of price a further two "medium risk" companies might reach a critical point but there is nothing to indicate at what price this would occur. The combined requirement of these two companies would be some £8.5mn per £1,000 fall in price. Remaining companies would be regarded as "low risk". Funding requirements at various price levels must be purely conjectural with the margin of error increasing sharply at lower levels. Estimates are:-

£ 2.5-5mn at £6,000 a tonne
£15-20mn at £5,000 a tonne
£40-50mn at £4,000 a tonne
£75-100mn at £3,000 a tonne

Probable utilisation: wholly dependent on ultimate price levels of tin and support from parents but likely to be a high percentage of funding requirements estimated above.

Rate of interest: to be commercially uncompetitive but to be sufficiently reasonable for a loan to be regarded as a viable and attractive alternative to declaration of insolvency. This would imply a rate of 3-5% above that readily available from banks to a first class commercial borrower. Interest payable 6 monthly. (Alternative: interest rolled-up for the period of the loan).

Security for loan: minimum: first call on funds made available by court order following action for recovery of debts due by the ITC. A condition of granting the loan would be an undertaking to pursue such action individually or with others and to assign to the lender all or an agreed proportion of rights in ITC debt prior to voluntary liquidation.

Term of loan: maximum three years or settlement of court case - no penalty on early repayment.

Loan agency: a body independent of the LME and of any company or firm with direct or indirect financial or commercial interest in any potential borrower (to be determined - referred to hereinafter as "LA") responsible for:

(a) making funds available following verification that insolvency is inevitable and that all possible assistance has been obtained from any parent entity;

(b) documentation, legal checks and general administration;

(c) establishing adequacy and beneficial right in prescribed or other security given for the loan;

(d) ensuring receipt of interest in accordance with the terms of the loan agreement and adherence to all general conditions of the loan;

(e) monitoring steps taken by borrowers to pursue through legal process recovery of debts due by the ITC.

Advantages:

(a) Concentrates assistance on the weak links in the market.

(b) There is the ability to take a forward view of requirements, there being no test of "established losses" but rather an assessed financial requirement to achieve and maintain solvency.

(c) Assistance is on a "100% of need" basis and therefore theoretically effective regardless of the price of tin.

(d) In common with scheme A it will allow parent companies time to consider how best to provide for their subsidiaries' future activity or, alternatively, to organise an orderly withdrawal from the market place.

(e) In common with scheme A, the scheme provides support during a possibly extended period in which inter-governmental exploration of the legal obligations of the ITC may be carried to a conclusion, following which firms may, if necessary, mount individual actions for recovery of debts.

(f) Amount drawn likely to be much smaller than under A.

Disadvantages:

(a) The need to assess in a very short period of time both the company's own financial position and that of its parent.

(b) Since assistance is at a marginal point and companies will be reluctant to take expensive money in excess of absolute requirements, unforeseen events probably remote from the LME may precipitate insolvency before further assistance can be given.

(c) Singles out for assistance those who have been most commercially imprudent.

(d) None of the companies most likely to take up the assistance has a British passport.

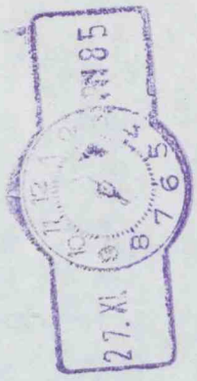
SOME GENERAL POINTS FOR CONSIDERATION IN WORKING UP SCHEMES A OR B

1 There will be a clear need to provide adequate publicity in the potential user area for the facilities to be made available in advance of re-opening of the tin market. Failure to do so will risk development of avoidable insolvency situations and/or squander the probable market-calming effects of known availability of under-pinning.

2 The rate of interest charged is quite critical. It should be high enough that the facility is unattractive to a company which has access to money on commercial terms, but not so penal as to undermine the company making use of the assistance.

3 The complete independence of the lending agency (LA) is most important. The information necessary for it to carry out its function will be highly sensitive commercially and even in the very difficult conditions following re-opening it is to be expected that firms will not seek to extend any favours to competitors and will demand absolute confidentiality. LA would ideally be a firm of accountants with good expertise in commodity company audit work but not retained by any potential users of loans. Scheme B in particular would demand availability of expert knowledge.

4 Provision should be made for acceptance at any stage of alternative security for the loan. Companies making use of the facilities will doubtless be considered as being in a "lifeboat". This has a slightly sour taste commercially and parent companies are likely to seek to take subsidiaries out as soon as possible. An intermediate step to full refinance may well be provision of a first class bankers guarantee. This should be welcomed since it would relieve LA of the major proportion of its monitoring role and reduce almost to nil the reporting by the borrower called for under the initial loan arrangements.


27. XI.
1985

PRIME MINISTER

TIN

Today's meeting of the International Council made tiny progress. They agreed to meet again on Monday, 2 December, to allow time for delegates to get authority from their capitals to commit resources. They will then stay in session until an agreement has been reached. DTI officials are, however, pessimistic about the outcome.

EEC countries are to have a coordinating meeting in Brussels on Tuesday.

The Japanese do not believe they have a legal liability. The French are also fairly clear that they have no legal liability, but they have said they will look again at the position. The Germans doubt that they can take decisions quickly enough.

The LME still plan to reopen on Monday. There is a chance that they may postpone this in the light of today's meeting of the ITC.

Mr Brittan is likely to hold a further meeting on Friday. It is possible that the Bank of England may come forward with a rescue package "costing in the tens of millions rather than in the hundreds of millions". I have told DTI that you would wish to have an opportunity to consider any proposals which may come forward, before any final decision is taken.

The Chairman of the London Metal Exchange asked earlier for a meeting with you. He has, however, already seen Mr. Brittan, and Mr. Brittan may well decide to see him again in the next day or so.

An account of the developments of the past week is attached in case you wish to follow the story in greater detail.

DLN

(DAVID NORGROVE)

20 November 1985

CONFIDENTIAL

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
TELEPHONE DIRECT LINE 01-215 5422
SWITCHBOARD 01-215 7877

JU689
Secretary of State for Trade and Industry

20 November 1985

Rt Hon Nigel Lawson MP
Chancellor of the Exchequer
HM Treasury
Parliament Street
London SW1

NBPI at this stage

Dear Nigel,

INTERNATIONAL TIN AGREEMENT

At the Ministerial meeting which I chaired on 13 November it was agreed that at the meeting of the International Tin Council (ITC) on 14 November the UK representative would take the line that the banks' proposals for meeting the bank and broker debts should be used as a basis for negotiations by the ITC. It was further agreed that whilst the negotiations would be without prejudice to the legal position, the ITC and member countries should have brought home to them an awareness of the legal liabilities they might face should the negotiations fail.

It was also agreed that should the other member countries be prepared to see the Agreement collapse, the only options open to the UK Government appeared to be either to do nothing and let events take their course, or to intervene with a guarantee covering all the ITC's obligations to banks and brokers. However, none of us considered that on the basis of the evidence available at the time, such a guarantee should be given by the UK Government although it was recognised this might need to be reconsidered should circumstances change.

At the meeting of the ITC on 14/15 November it was agreed that an informal working party of the ITC should talk to the London Metal Exchange, to the banks, and then to the bankers and brokers together. The UK is not represented on this informal working party, which has terms of reference that prevent it from entering into any form of negotiations, since to do so would be thought to admit liability.

The ASEAN group of producer countries announced at the ITC meeting on 15 November that they had failed to reach agreement on joint proposals on the future of the International Tin Agreement. Although individual ASEAN members reserved the right to put forward their own proposals, no indication has yet been given that any proposals will be put forward when the meeting is resumed on 20 November.

Little progress was made in getting member countries to accept that they have legal obligations in respect of the deficit on the Council's operations. After consultation with the Solicitor General, I decided, in view of the number of questions which had been raised on this subject at the ITC meeting, to circulate a note on 17 November to all member countries setting out the UK view on the legal position.

The London Metal Exchange met the informal working party of the Tin Council on 18 November, and I understand that the meeting achieved little. The LME were left with the impression that the ITC members would take no action to enable the Buffer Stock Manager to meet his obligations when the tin market reopens.

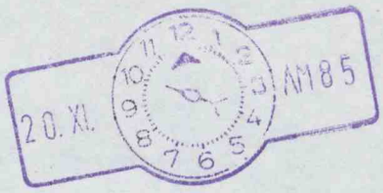
Although we wil continue to press other member countries, particularly other European Community countries, to accept their legal obligations, and I have sent an urgent message to Vice President Narjes to ask the Commission (who are now sympathetic) to take a constructive role, there seems little chance that the resumed meeting of the Tin Council on 20 November will result in any significant steps towards resolving the crisis. Indeed there are strong signs that, even where other countries such as the FRG are sympathetic to our legal arguments, they consider that the way forward is, first, for tin trading to reopen on the LME, so that the ITC's debts are crystallised, and then for the legal processes to begin to pave the way for a negotiated settlement of obligations by ITC member countries.

I did not think it necessary to hold a further meeting of Ministers before the ITC meets on 20 November, but I believe we may need to meet again to review the position before the weekend, particularly if we are moving towards the reopening of tin trading on the LME on 25 November with the ITC unable to meet its obligations.

I am copying this letter to the Prime Minister, the Foreign and Commonwealth Secretary, the Minister of Agriculture, Fisheries and Food, the Solicitor General and the Governor of the Bank of England.

Yours ever, Leon

LEON BRITTAN


20. XI.
AM 85

23 Connaught Avenue,
East Sheen,
London, SW14 7RH.

19 November 1985

The Rt. Hon. Margaret Thatcher, MP,
Prime Minister,
10 Downing Street,
London, SW1.

R20
David Norgrave (22/11)

Dear Prime Minister,

I find it incredibly difficult to write this letter, since I am neither fish nor fowl nor flesh, according to taste.

For my sins, I have been Secretary of the International Tin Council for some 15 years now and, hence, privy to exchanges of correspondence which would not normally be shared with the public at large.

I am writing to you now not in any official capacity but simply as a private citizen, who happens to be employed within the Tin Council's Secretariat, to say that, apart from the positive statement made by the UK Secretary of State for Trade and Industry, Leon Brittan, on 1 November 1985, and the subsequent proposal by the UK delegation to the ITC that its Members should, at least, confirm their intention that the deficit arising on commitments up to the date of cessation of the Council's buffer stock operations on 24 October would be met by each of them according to their legal obligations, both my colleagues in the Secretariat and myself have been appalled by the seeming indifference with which this proposal has been met by other Member Governments.

I understand that representations along the same lines have already been made to you through the medium of the London Metal Exchange as well as those financial institutions which have supported the buffer stock in its operations. Understandably, and perhaps cynically, it has been argued that the City's interests had to be defended, and that the statement by Leon Brittan was an expression of that cynicism by the UK Government.

A great number of us within the Council's Secretariat have, however, a broader view. We, probably naively, believe in the continued benefits to be derived from international co-operation. We understand the present problems involved and the fact that these will take some time to resolve - given the political and economic goodwill - which, since 1956 has characterised successive International Tin Agreements over the years, but which now seems to be sadly lacking, not least within our fellow EEC member States. We also appreciate that, behind the scenes, all parties involved are seeking to bring about the restoration of tin trading within an orderly market and at a reasonable price.

While these initiatives are being pursued I can only earnestly request the UK Government to prevail with its view, and to bring as much pressure to bear as possible on all Members of the Council to agree to a simple testament of faith - that its reasonable commitments will be honoured.

May I again stress, Prime Minister, that I am writing in a completely unofficial capacity. Subject to your discretion, it would however be appreciated if a copy of this letter could be sent to the Right Honourable Dr. David Owen, M.P.

Yours faithfully,

N. L. Phelps

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET 5422
TELEPHONE DIRECT LINE 01-215
SWITCHBOARD 01-215 7877

PS/ *Secretary of State for Trade and Industry*

14 November 1985

Philip Wyn Owen Esq
Private Secretary to the
Chancellor of the Exchequer
HM Treasury
Parliament Street
LONDON
SW1P 3AG

Dear Philip,

INTERNATIONAL TIN AGREEMENT

... I attach a note of the meeting chaired yesterday by my Secretary of State.

2 I am sending copies of this letter and the attachment to Paul Pegler (Chief Secretary's Office), Peter Ricketts and Alistair Harrison (FCO), Henry Steel (LOD), John Bartlett (Bank of England), David Norgrove (No 10) and Ivor Llewelyn (MAFF).

Yours ever,
Michael

MICHAEL GILBERTSON
Private Secretary

JF4AMX

CONFIDENTIAL

MEETING TO DISCUSS THE INTERNATIONAL TIN AGREEMENT : 13 NOVEMBER 1985

Present:

Secretary of State for Trade and Industry
Chief Secretary to the Treasury
Solicitor General
Minister for Trade
Parliamentary Under Secretary of State, Foreign and Commonwealth Office
Governor of Bank of England

Mr Mountfield	DTI
Mr Farrow	Bank of England
Mr Tate	FCO
Mr Mountfield	Treasury
Mr Rickford	DTI
Mr Saunders	LOD
Mr Murray	DTI
Mr Lunn	DTI

SUMMARY:

It was agreed that the UK representatives at the ITC meeting on 14 November would take the line set out in paragraph 11 of the paper circulated by DTI officials on 13 November. It was also agreed that if the agreement did collapse, the only options open to the UK Government would be either to do nothing and let events take their course, or to intervene with a massive guarantee covering all the obligations. It was agreed that on the basis of the evidence available so far, and our assessment of it, we should not contribute such a guarantee, though this may need to be re-considered if circumstances changed.

Discussion

2 Mr Lunn gave an oral report on the EC co-ordination meeting which had taken place that morning. There had not been a great deal of progress. There was a general lack of sympathy for the banks, and Member States thought they were asking for too much. The Commission had asked whether they could have a mandate to negotiate with the banks: this was a helpful move, but Member States had not been able to

agree to give the Commission such a mandate. There was on the whole more sympathy for the brokers. On whether member countries were legally liable, the Dutch and to a lesser extent the Belgians had shown some support for our view, but the French, the Danes and the Greeks maintained that member countries were not legally liable. There had been no discussion of joint and several liability. The Commission had been asked to produce legal advice, but both they and the Council were reluctant to do this. Generally, Member States were not enthusiastic about making a declaration of support for a package until they were clearer on what their legal obligations were and what it might cost them. A German representative had been present at the meeting, but he had had no authority to commit his Government. Mr Eggar said that he understood the Germans had said elsewhere that they would be prepared to pay their "legitimate debts". Mr Lunn's view was that it would take time to get the EC to fall in behind a suitable package, but that eventually it might be possible to get agreement on this.

3 The Secretary of State asked what the extent of the total liability to banks and to brokers might be. Mr Farrow said that the total ITC obligations were £352m to the banks and £550m to the brokers. There were gross figures. The banks currently held stock of some 48,000 tonnes, representing security over about two-thirds of the buffer stock. Not all the debts had yet fallen due, but they had probably all crystallized by now, because of arrears on interest payments. The ITC might be declared now to be in default, but no one had yet chosen to make such a declaration.

4 The Secretary of State asked what the views of producer countries were. It was reported that the Thais appeared favourable to paying their share of a package, but the Malaysians were still firmly against committing further funds. The producer countries had not yet produced any counter proposals. The Secretary of State said that since our proposal would be very unlikely to be accepted at the meeting on 14 November, the lack of a positive counter proposal from producer countries might save us potential embarrassment.

5 The Governor said that Sir Adam Ridley was trying to persuade the LME not to re-open on 18 November. The LME was still considering its position, but the Banks view was that if the 14 November meeting of the ITC was even only moderately encouraging, the LME might well be persuaded to stay closed beyond 18 November.

6 The meeting then discussed the line which the UK representatives should take in the ITC meeting on 14 November. The Secretary of State said that we must continue to seek to persuade other member countries to recognize that they might be legally liable for the obligations of the ITC. Mr Murray agreed, but said that we should now seek to shift the focus somewhat, in line with paragraph 11 of the note circulated by officials on 13 November. The immediate objective should be to get negotiations going on the basis of the banks' proposals, without prejudice to the legal position, though we should try to ensure that the ITC and the member countries had a strong awareness of the legal liabilities they may face if the negotiations failed.

7 The Chief Secretary had one reservation about the line in paragraph 11. He said that if we went that far, we would need to be sure that we had the support of other consumer countries, since otherwise we could be left isolated, and having to pay the whole cost of the package ourselves. The Secretary of State said that we would be encouraging negotiations on an "without prejudice" basis, and that we would not be saying that we necessarily accepted the banks' package, nor adopting any particular position on guarantees. We had continually said that we were prepared to pay our share of the obligations, and that we would encourage others to do likewise.

8 Mr Mountfield (DTI) said that he talked to Sir Adam Ridley about the possibility of making the bankers' package more attractive to member countries, in order to encourage talks. Mr Mountfield (Treasury) suggested that the bankers' package could be restructured so that some of the potential loss fell on the bankers and brokers, rather than on member countries. The Secretary of State said that we could not go into negotiations saying that we were not prepared to pay our share in full. The Governor added that the banks would not accept such a package. Mr Farrow suggested that there was a change that those banks which had lent the £352m to the ITC might be prepared to consider a modified package on these lines, but the other banks, who were simply protecting their customers' interests, would be very unlikely to accept.

9 The Secretary of State said that it would be essential to make it known, immediately following the ITC meeting, what the UK was doing. It was agreed that a statement would be prepared.

10 The Secretary of State asked what the consequences would be if negotiations failed, and the LME re-opened. The Governor said that enquiries that day had borne out the assessment in the Deputy Governor's letter of 12 November, that parent companies would stand behind their subsidaries on the LME, and that the LME as a whole would not be at risk. It was however very difficult to be certain. As for other markets, the general turnover on the LME an on commodity exchanges had been falling because of lack of confidence in counter-parties. The view of the commodity exchanges was that a collapse of the agreement would be messy but not fatal. The Governor could not at the moment identify any alternative option to that set out in paragraphs 18 and 19 of the officials note (namely that in the event of a collapse, we should let events take their course).

11 The Secretary of State asked whether we were prepared to see the Agreement collapse without doing anything about it. In practice, the only alternative he could see would be a massive Government guarantee, and this would probably mean that we would never get any of the money back from other member countries. The Chief Secretary agreed that we should not give such a guarantee. Mr Eggar said that on current evidence he too would oppose giving such a guarantee, but thought that we should not rule it out completely, in case the situation changed. The Governor agreed that such a guarantee should not be given, but he wanted to reserve the right to re-open the question if the Bank's assessment of the position was subsequently proved to have been wrong.

12 It was generally thought that the UK chances of regaining other member countries' shares of the obligations, once we had put ourselves in the position of paying for the whole amount, were slim. Mr Farrow suggested that since some Governments of member countries were borrowing on the Eurobond market, they might be inclined to comply with a UK Court ruling. Mr Eggar suggested that more work should be done on examining the cross default clauses on Eurobonds and Euro-syndicated loans, since this could be a good bargaining lever with other consumer countries.

13 Mr Murray said that we might come under pressure to share our legal advice with the banks. It was agreed that we should not accede to such pressure, since it might be seen in an unfavourable light by other member countries.

14 Mr Lunn said that we could not realistically expect to make a great deal of progress in the ITC on 14 November. The Secretary of State said that if we could keep negotiations going for long enough, he thought that there was a good chance that most member countries might pay their share, and the banks might take the rest of the burden.

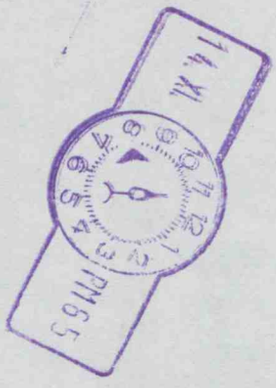
15 Mr Mountfield (Treasury) asked if there was any thing else we should be doing to mitigate the potential damage to HMG in the event of a collapse. The Solicitor General replied that he knew of nothing else at the moment, but that Counsel was now being consulted and may have ideas on this.

16 Mr Eggar said that until there were further developments it would be difficult to go back to the other member countries via diplomatic channels. The Secretary of State agreed, but also said that if it became clear that an irrevocable collapse was clearly imminent, then it may be necessary to make one last diplomatic effort.

Michael Gilbertson

MICHAEL GILBERTSON
14 November 1985

JF4AMW



10 DOWNING STREET

DN NBPM.

Brian Griffiths was invited to this meeting following a meeting he had with Brian Hayes. I deputised at short notice; could not get through to you.

I am more than happy to follow this topic if this would save you time.

I think that our concern, if and when ITC can be persuaded to act coherently and in the sense we want, will be to make sure that any package negotiated with the banks reduces, rather than increases, our liabilities. The banks are being greedy in seeking such comprehensive cover from member governments.

M.D.
14/11

CONFIDENTIAL

Mr. Norgrove

MR POWELL

14 November 1985

cc Mr Norgrove

INTERNATIONAL TIN AGREEMENT

I attended a meeting yesterday at the DTI, where it was agreed that the UK delegate should take the line at today's meeting of the International Tin Council, that the ITC should be prepared to negotiate with the banks on their proposal for a loan, without prejudice to the legal position of the ITC. It was thought that there was a chance the LME might be persuaded not to open on Monday next, if modestly encouraged by today's ITC meeting. It was judged that there is not much chance that the ITC will be able to concert a line today, given the lack of response from several other consumer countries to our suggestion that they should recognise their legal obligations. If the LME does open on Monday, Leon Brittan is prepared to let the cards fall where they will. In the Governor's view, the worst case would not be "fatal".

The main stumbling block to securing agreement in the ITC seems to be the French, who don't accept any legal obligation. They are supported by the Danes and Greeks. They do not appear to have sought legal advice. The Dutch, who have, have reached the same conclusions as we have.

Would it be a good idea for the Prime Minister to raise this with President Mitterrand on Monday? You may wish to ask FCO and DTI for briefing.

No. CDP.

NICHOLAS OWEN

CONFIDENTIAL

cc: PS/Solicitor General
PS/Chief Secretary, Treasury
PS/Mr Rifkind, FCO
PS/Governor, Bank of England
PS/Mr Channon
PS/Mr Howard
Professor Brian Griffiths, No 10 Policy Unit
PS/Sir Brian Hayes
Mr P Mountfield, Treasury
Mr Farrow, Bank of England
Mr Tait, FCO
Mr R Mountfield, Dep Sec
Mr Hilton FS
Mr Mallinson Sols
Mr Lane ITP
Mr Lunn MM3
Mr Riley MM3

To:
PS/SECRETARY OF STATE

From:
B MURRAY
HD/MM
906 Ashdown Hse
212 8705

13 November 1985

INTERNATIONAL TIN AGREEMENT

I attach as requested a paper to form the basis of the discussion at the meeting being chaired by the Secretary of State at 4.30 p.m. this afternoon. As agreed, I am distributing copies direct to the offices of all those who are expected to attend the meeting, as well as to others who have an interest.

B MURRAY

999-80

CONFIDENTIAL

INTERNATIONAL TIN AGREEMENT

Note by DTI officials

At the meeting to be chaired by the Secretary of State for Trade and Industry at 4.30 p.m. on 13 November, it is proposed that the discussion should cover the following points.

A. The Legal Position

2 The personal message sent by Mr Brittan to Ministers responsible in the other member countries of the ITA has led to greater awareness of the fact that there may be legal obligations on the member countries to meet their share of the ITC's debts. But the legal position is subject to a significant amount of questioning and argument; in particular a number of countries seek to distinguish between liabilities to the brokers and liabilities to the banks. Information obtained from the bankers representatives yesterday tends to confirm that the legal position of the banks may indeed be weaker.

3 The question of joint and several liability of the member countries for the debts of the ITC has been brought into the open by the Netherlands: they recognise that the Dutch Government could be at risk of legal action to recover the whole of the debts of the ITC.

4 The position of the European Community will be crucial to a decision by the consumer members of the ITC on whether they should meet their legal responsibilities for the ITC's debts. The Commission are now treating this matter seriously, but we will not know the Community position until after the EC Coordination Meeting which is taking place in Brussels on the morning of Wednesday 13 November. The outcome will be reported orally to the meeting of Ministers.

5 Whether or not we succeed in getting the European Community to back our stance, it is recommended that, at the ITC meeting on 14 November, the UK delegate should continue to press the member countries to declare that they will meet their legal obligations.

B. Proposal by the Banks

6 The Banks put forward yesterday detailed proposals to the ITC executive chairman and a working party of the ITC: these proposals, a copy of which is at Annex A, are aimed at enabling the ITC to borrow further funds, up to a maximum of £900 million, to enable existing obligations to both banks and brokers to be met and to enable tin trading to be recommenced in an orderly fashion.

7 These proposals were given a rather cool reception by the ITC representatives. The size of the facility at £900 million, is far larger than any estimate made so far of the net liabilities of the ITC. There is also criticism of the banks requirement of full security as well as Government guarantees, together with a

rather high interest rate of 1 per cent over LIBOR.

8 We do not consider that there is any possibility that the ITC could be persuaded to accept the banks' proposals at the meeting on 14 November. It is not recommended that the UK should seek to support the banks proposals in their present form. But since these are the only proposals before the ITC which offer a way forward, we do not wish to see them rejected. Instead, we suggest that the ITC should be steered towards negotiations with the banks and brokers on a modified package.

9 A suitable modified package might contain two separate (but linked) elements: first a 3 year loan to the ITC to refinance the bank debts of about £350 million. This would keep existing tin stocks pledged to the banks off the market during this period. Second a shorter term loan facility to finance the payment of the ITC's debts to the brokers, to be repaid by the member countries over, say, one year. Such a package would deal quite separately with the problems of the banks and the brokers, and would also clearly signal the end of buffer stock operations by the ITC to manage the tin price.

10 It will be essential, if the ITC is to negotiate effectively with the banks and brokers, for there to be a strong negotiating team with a clear mandate. This mandate need not be based on an acceptance of any specific legal obligation by the ITC or the member countries: the ITC negotiations would be conducted on a "without

prejudice" basis, as the banks themselves are doing.

11 It is recommended that at the ITC meeting on 14 November, the UK delegate should take the line that the banks' proposals should be used as a basis for negotiation by the ITC; that a strong negotiating team should be established to conduct the negotiations within a clear mandate and within a defined timescale; and that while the negotiations will be without prejudice to the legal position the ITC and member countries will have a strong awareness of the legal liabilities they may face if the negotiations fail.

C. Producer Countries

12 Of the producer countries only Thailand appears to favour a rescue package which would enable the ITC to continue to operate a buffer stock to maintain the tin price above market levels. The Thais have not revealed their proposals, hoping first to secure the support of other ASEAN producers. There are increasingly clear signs that such support will not be forthcoming.

13 In view of the lack of cohesion among the producers, it is recommended that the UK seek an opportunity to persuade the ITC, at the meeting on 14 November, to announce that it will withdraw permanently from buffer stock operations intended to maintain the level of tin prices. Such a decision by the ITC would ensure that the focus in future discussions will be confined to dealing with the present crisis.

D. The LME

14 The LME have announced that they will reopen the market for tin on Monday 18 November. The LME are expected to decide today on the special rules which will apply to tin trading when the market reopens; the aim will be to enable a market price to be set fairly quickly.

15 If the ITC decide to enter serious negotiations with the banks, along the lines indicated in paragraph 11 above, with the aim of reaching an early resolution of the crisis, then it is likely that the LME could be persuaded to keep the tin market closed for a further period. If the LME reopens the market on 18 November, the ITC will be in default of its obligations, brokers exposed to the ITC will quickly run out of funds, and a welter of legal actions will ensue.

E. Fallback

16 Despite the diplomatic efforts which have been made following the Secretary of State's message to Ministers in other ITA member countries and to the Commission, the ITC at its meeting tomorrow may nevertheless make little progress either in acknowledging the legal position or on entering into serious negotiations with the banks and brokers to resolve the crisis. What then?

17 In such circumstances it would be difficult to prevent the LME opening on Monday 18 November. The consequences of this are discussed in the letter from the Deputy Governor of the Bank of England dated 12 November (copy at Annex B). While he cannot

give clear predictions about the wider effects on London commodity markets if there is a collapse on reopening tin trading on the LME, Mr McMahon considers that most parent companies would stand behind subsidiaries which are LME traders, hence the immediate effects might not be too severe.

18 Without underestimating the possible wider damage from reopening the LME and putting both the ITC in default and certain traders in a position where they cannot meet their liabilities, the Government may have no practical alternative to allowing events to take this course.

19 The UK delegate at the ITC may well be asked if HMG is prepared to see this happen. It is recommended that the line to be taken is that HMG would much prefer not to see the collapse of the LME and the consequent initiation of legal actions against the ITC, but if the ITC and its member countries are unable to make any significant progress at this week's meeting, then no other course may be possible. We would greatly regret this, but would not be able to prevent it.

13 November 1985

ANNEX A.

STRICTLY CONFIDENTIAL 12TH NOVEMBER, 1985

DISCUSSION DOCUMENT ONLY
WITHOUT COMMITMENT

Borrower: The International Tin Council (ITC).

Amount: Up to a maximum of £900 million. limited to 3 yrs

Type of Facility: Syndicated term loan.

Purpose: The loan proceeds will be applied as follows:-

(a) £352 million plus accrued interest to prepay outstanding loans from banks and financial institutions.

(b) the balance to enable the ITC to meet its existing purchase obligations to the London Metal Exchange Tin Ring.

Drawdown Period: Up to 23rd January, 1986.

Cancellation: Any amount undrawn as at close of business 23rd January, 1986 will be cancelled.

Period: To be discussed. However it is envisaged that this would be linked to the period covered by the 6th International Tin Agreement and would not exceed three years in total.

There would be monthly repayments commencing after an agreed grace period.

Prepayment: As and when any tin forming part of the security package is sold, the loan will be prepaid in an amount not less than the proceeds of such tin sale.

Otherwise prepayment will be permitted in whole or part on any interest payment date.

Security: The security package will comprise 130% of outstandings, and this level will at all times be maintained.

Security will be made up of cash collateral, state guarantees (i.e. Central Bank or Government as appropriate) of acceptable producer and consumer member countries of the ITC, and tin stock, provided that:-

(a) cash collateral and guarantees provided by consumer countries will be for a minimum of 30% of the overall outstandings;

(b) physical tin warehoused in Europe will be such that its current market value will represent at least 70% of overall outstandings. – ? from producers.

(c) as to the balance not covered by (a) and (b) above, this would take the form of security acceptable to the banks.

Additional Security:

(a) Guarantees by the members of the LME for 10% of the outstandings as determined at the end of the drawdown period.

(b) Undertakings by all ITC member countries to cover interest on a monthly basis, storage, and insurance.

Lenders: A syndicate of banks and financial institutions, including the 16 who presently lend to the ITC.

Interest Margin: 1% p.a. over London Interbank Offered rate (LIBOR) for one month sterling deposits of a selection of reference banks, plus the additional costs to each bank of maintaining reserve assets, special deposits, or similar regulatory requirements.

Commitment Fee: 1/4% p.a. on the daily undrawn and uncancelled balance of the facility during the drawing period.

Arrangement Fee: 1/4% flat payable by the ITC to the lending banks.

Agent Bank: Standard Chartered Bank.

Agency Fee: To be determined.

Law: English law.

Jurisdiction: Non-exclusive jurisdiction of the English courts.

Waivers: Waivers of immunity from suit, legal process and execution by the ITC and member countries.

Expenses: All out-of-pocket expenses (including Banks' legal fees) incurred in the negotiation of these arrangements, the preparation of documentation and any enforcement of these arrangements or the Security to be paid by the ITC.

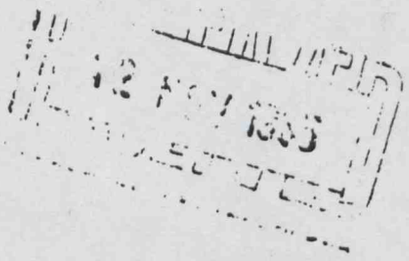
Documentation: Standard documentation (in form acceptable to lenders) for a facility of this type.

ANNEX B.

CONFIDENTIAL

THE DEPUTY GOVERNOR

BANK OF ENGLAND
LONDON
EC2R 8AH



12 NOV 1985

12 November 1985

TO Mr Lunn/MM3
FOR ADVICE (AND DRAFT REPLY IF APPROPRIATE)
PLEASE BY: ASAP
IF DEADLINE CANNOT BE MET PLEASE PHONE 215 5422

COPIES TO
PS/MFT
PS/MH
PS/LL
PS/Sir BH
Mr Mountfield
Mr Rickford
Mr Caines
Mr Brecknell EC
Mr Murray/MM
Miss Bowe/Int
Mr Corley/CTP
Mr Bradbury/EC
Mr Russell/FRM
Mr Hilton/FS
Mr Hutton/OT
Mr Lane/ITP
Mr Mallinson/Sol
Mr Mathers

The Rt Hon Leon Brittan QC MP
Secretary of State for Trade and Industry
1 Victoria Street
London SW1H OET

Dear Secretary of State,

TIN

In the absence of the Governor, who is abroad, I am writing to report on developments in the City over the default of the International Tin Council (ITC).

There has been an initiative by some of the banking interests with exposure to the ITC and to the members of the London Metal Exchange to offer a loan to the ITC sufficient in size to enable it to meet all its existing obligations. A loan of this magnitude - some £550mn - would only be feasible if it were guaranteed by the member governments of the ITC. It does not, therefore, offer any way out of the need for the members to accept the obligations of the ITC. What it is designed to do is to make it easier for the members to respect their obligations by avoiding the need for them to put up cash in the short term, and enabling them to pay off the debts to the market over a period of several years. It is not yet clear whether the banks will be successful in putting together a loan offer, but a substantial effort is being made. It is hoped that sufficient progress will be made today for it to be possible for the banks to advise the ITC that the proposal is being developed. One of the attractions of the proposal is the wide international spread of the banks concerned. If the proposal makes progress it is likely that the banks would require the members of the LME to contribute a part of the loan.

What is banks' alternative?

The continued uncertainty over the future of the tin market, and over the creditworthiness of the members of the LME if the ITC defaults on its obligations to them, is having a damaging effect on the LME as a whole. It seems, however, that matters can continue as at present until after the next meeting of the ITC. As you will know, the LME intends at present to reopen trading in tin next Monday. If in the event there is sufficient progress at the ITC meeting to hold out a real prospect that the ITC would be able to meet its obligations in a reasonable time, I am confident that the LME would keep the tin contract suspended. If, however, there is no sign of progress they will no doubt need to go ahead as they have announced.

I am unable to give any clear prediction about the wider repercussions on the London commodity markets if tin trading resumes with the LME in default. Much will depend on whether the parent companies of the LME brokers stand behind the debts of their subsidiaries. I would expect most to do so, in which case the short term repercussions should not be too severe. You will, however, have seen that one broker, MMC Metals, has been suspended. This was in essence because its Malaysian parent did not provide it support. That decision was no doubt taken against the strategic approach to the tin problem as a whole. I can certainly not rule out the possibility that other parent companies will walk away from their LME subsidiaries on the argument that the whole problem arises because governments have not stood behind the obligations of their joint enterprise. In that event, the ripples could spread out quite widely.

The Bank, in the circumstances, very strongly supports the efforts which you are making to get other governments to respect the obligations of the ITC. I hope that a bankers' loan might be prospectively available by the time that the ITC meets, though that is very far from assured. Thereafter the behaviour of the markets will, I believe, be largely determined by their assessment of the prospect of the ITC being able to meet its obligations within a reasonable period.

I am sending copies of this letter to the Chancellor of the Exchequer, the Foreign Secretary and the Solicitor General.

Yours sincerely

Kit McMahon

LPO

FILE

cc: DTI

10 DOWNING STREET

THE PRIME MINISTER

12 November, 1985

Dear Dr. Owen,

Thank you for your letter of 1 November.

I share your concern about the difficulties in the tin market and their possible implications for mining in Cornwall. The Government are making every effort to achieve an early solution to the current problem.

Leon Brittan made it clear at an early stage that the members of the International Tin Council (ITC) should declare that all legal commitments of the Council would be met. The United Kingdom took the lead at the ITC meeting of 6-7 November in putting forward firm proposals designed to give effect to this intention and to ensure an early return to orderly trading in tin on terms which took account of the interests of both consumers and producers. Over the next few days we shall continue our efforts to obtain support for our proposals in readiness for the next ITC meeting on 14 November. We shall also continue to give encouragement to all the financial institutions involved in the tin market to play their part in drawing up proposals for the resumption of orderly ~~training~~ trading.

Yours sincerely

Margaret Thatcher

The Rt. Hon. Dr. David Owen, M.P.

RM.

Papers removed from file

Date

DN

David

Sean

PM's letter to Dr Owen

is more or less exactly

as DTI drafted.

*NB Dr Owen's office have noticed typing error in last line – should be "trading" not "training"

I've told Nick Towers (Press Office) Margo.

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
TELEPHONE DIRECT LINE 01-215 5422
SWITCHBOARD 01-215 7877

PS/ *Secretary of State for Trade and Industry*

11 November 1985

David Norgrove Esq
Private Secretary to the
Prime Minister
10 Downing Street
LONDON
SW1

Dear David,

THE TIN CRISIS : LETTER FROM DR DAVID OWEN OF 1 NOVEMBER

Thank you for your letter of 1 November.

2 As requested, I enclose a draft reply to Dr Owen for the Prime Minister's consideration. The draft concentrates on the positive steps being taken by the Government rather than on the merits of Dr Owen's proposals. It is likely that the contents of the reply will be made public and it would be unwise to discuss any particular ideas at this stage while discussions are still in progress with other International Tin Council members and with that organisation's creditors.

3 Ministers do not, of course, share Dr Owen's views about the merits of maintaining an artificially high price for tin. Even if they did, there would still be serious objections to his proposals. It could be difficult to lower the price of tin gradually; unless contracts were already made, buyers would simply not trade until the agreed lower level had been reached.

4 Dr Owen also dismisses too easily the difficulty of persuading other ITC members to pay up after the proposed Bank of England led 'bridging loan' had been made. Many countries would, no doubt, eventually recognise their obligations but there could be no guarantee that all would do so. The size of the ITC's debts cannot be quantified until a new market price has been established but it could be over £400 million in net terms ie. after the tin held as collateral or sold at a lower price by banks and brokers had been set against the gross debt.

DW1ADC

5 The position of the Cornish tin mines is precarious but it is too early to judge whether they will survive the present crisis or for Ministers to decide whether any special action is required in the area. However Dr Owen's statement that they would be in difficulties were the tin price to fall much below £6,000 per tonne is correct.

Yours ever,

Michael

MICHAEL GILBERTSON
Private Secretary

DW1ADC

CONFIDENTIAL

Please type -
DAS.

DRAFT REPLY FOR THE PRIME MINISTER TO SEND TO:

The Rt Hon Dr David Owen MP
House of Commons
LONDON
SW1A OAA

L 03AOV

Thank you for your letter of 1 November.

I share your concern about the difficulties in the tin market and their possible implications for mining in Cornwall. The Government are making every effort to achieve an early solution to the current problem.

Leon Brittan made it clear at an early stage that the members of the International Tin Council (ITC) should declare that all legal commitments of the Council would be met. The United Kingdom took the lead at the ITC meeting of 6-7 November in putting forward firm proposals designed to give effect to this intention and to ensure an early return to orderly trading in tin on terms which took account of the interests of both consumers and producers. Over the next few days we shall continue our efforts to obtain support for our proposals in readiness for the next ITC meeting on 14 November. We shall also continue to give encouragement to all the financial institutions involved in the tin market to play their part in drawing up proposals for the resumption of orderly training.

DW1ADB

Prime Minister 2

This idea will need to be studied very carefully. But the Chancellor will I am sure share exactly your concern.

DLS
8/11

MR. NORGROVE

TIN

Leon Brittan has sent a message to all Tin Council governments urging them to rally round and honour their share of obligations under the agreement. A copy is on its way to us. attached

The London Metal Exchange decided this afternoon to remain closed until 18 November.

There is to be a meeting on Monday of all interested parties - banks, brokers, clearers, Bank of England - at which the idea will be floated of a loan to the ITC. This would be placed in a separate account and used to meet the ITC's obligations. The loan would be backed by guarantees from member governments. The Bank of England will be able to let you have fuller information.

You may like to put this in the Prime Minister's box.

C.D.P.

Charles Powell

8 November 1985

CONFIDENTIAL

Message from LBS to Tin agreement governments 8/11/85

I am sure that you share my deep concern about the difficulties which led to the suspension of the International Tin Agreement's buffer stock operation on 24 October. The International Tin Council has met twice to consider what should be done, but adjourned on 7 November without reaching any conclusion.

Since 24 October tin trading on the London Metal Exchange has been suspended. HMG has no powers to control whether trading reopens or not but is using its influence on the LME to try to ensure that the members of the LME exercise restraint. But we can only continue to influence them if we and they believe that an early settlement of the obligations to brokers and bankers is in prospect. If trading recommences without a clear undertaking that these obligations will be met, large losses on transactions entered into by the Buffer Stock Manager will be sustained, the tin price is likely to fall to low levels, and both banks and the brokers can be expected to initiate further legal action against the Council. It is in the interests of all members of the Tin Council to avoid such a situation arising.

As you will know, I announced on 1 November the UK's willingness to join with others to enable the International Tin Council to meet its obligations so that order could be restored to markets. We tabled a proposal to this effect at the Tin Council on 6 November. I enclose a copy. The members of the Council were unable to agree

to these proposals at their meeting on 6 and 7 November but the proposals remain before them for consideration at the meeting on 14 November.

I greatly welcome the Council's decision to establish a working party to study proposals made by the sixteen financial institutions which have provided credit to the Council. I hope that the working party will be able to present the Council with recommendations on 14 November in a form which will enable agreement to be reached.

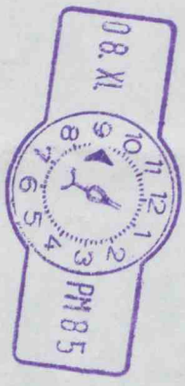
Beyond the severe practical problems of the tin market there is the important issue of principle, namely the treatment of debts incurred under an international agreement to which sovereign states are parties. Failure to honour these obligations promptly could risk establishing default as an acceptable solution to debt problems on a wider scale. Such a precedent would have seriously damaging repercussions for the international trading system ~~[and would complicate the settlement of current international debt problems about which we are all concerned. We should avoid setting an example of default.]~~

HMG is examining the legal position: this is extremely complex, but I should tell you that the legal advice in summary is that each member country would be found to be liable for its share of all liabilities on ITC tin contracts, not limited to the contributions specified under the Sixth International Tin Agreement. This is because they have acquiesced in the Buffer Stock Manager as their agent transacting business which we believe

This is of course only part of the legal advice: no limit that liability may be joint and several.

to have been outside the terms of the Sixth International Tin Agreement. Under UK law which governs the situation, member countries are therefore proportionately committed to that further extent. There is no state immunity in respect of these transactions.

I would be grateful if you would give personal consideration to the issues set out above, and ensure that your Government representative at the meeting of the International Tin Council on 14 November will be authorised to agree to a settlement of the immediate problem of the outstanding obligations entered into by the Buffer Stock Manager.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Press Notice

Department of Trade and Industry

1 Victoria Street, SW1H 0ET Press Office:01-215 5065
Out of hours: 01-215 7877

Ref: 684

7 November 1985

STATEMENT ON TIN BY LEON BRITTAN

The Secretary of State for Trade & Industry welcomes the fact that the International Tin Council (ITC) has decided to continue urgent talks with banks and brokers before its meeting next week.

The UK Government, which has already put forward specific proposals to deal effectively with the present situation, will be continuing its efforts in the days before the ITC reconvenes, to achieve an agreed and early resolution. The UK Government has already declared its readiness to meet its own share of the commitments and calls on all other member Governments to do likewise. Its aim is to restore orderly trading in tin as soon as possible, which will be in the interests of producers, traders and consumers alike.

ENDS

CCBG

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
TELEPHONE DIRECT LINE 01-215 5422
SWITCHBOARD 01-215 7877

PS/ *Secretary of State for Trade and Industry*

7 November 1985

Prime Minister 2

The UK proposal is still on the table, but the initial reaction was unfavourable.

The Chairman of the LME has asked to see you. DTI are advising, almost certainly against. DW 7/11

Philip Wynn Owen Esq
Private Secretary to the
Chancellor of the Exchequer
HM Treasury
Parliament Street
LONDON
SW1

MG

Dear Philip,

TIN

I attach for your information the communique which was issued at the end of the ITC meeting today, and a press statement from Secretary of State which was released orally to the press this evening.

2 I am copying this letter and attachments to Peter Ricketts (FCO), David Norgrove (No 10), John Bartlett (Bank of England), and Henry Steel (LOD).

Yours ever,
Michael

MICHAEL GILBERTSON
Private Secretary

DW4AAS

999-1

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ENDS

CONFIDENTIAL

Issued: 7.11.85

THE INTERNATIONAL TIN COUNCIL

1 OXENDON STREET, LONDON, SW1Y 4EQ

General (Sixth) No. 136

Draft press communiqué
[For immediate release]

The International Tin Council today issued the following press communiqué:

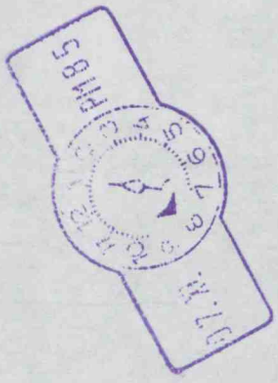
The Council continued its Special Session on 6-7 November 1985 and gave preliminary consideration to the proposals which had been put forward by the 16 financial institutions which provided finance facilities to the International Tin Council.

The Council received a letter from the Chairman of the Board of the London Metal Exchange and noted the sense of urgency expressed. The Council looked forward to further consultations with the London Metal Exchange.

The Council received a proposal from the UK Government which was designed to bring about conditions favourable to the resumption of orderly trading in tin. The Council Members noted ths proposal and agreed to study it closely.

The Council agreed to resume on 14 November 1985 and asked the Executive Chairman to continue his consultations with the bankers and brokers in the meantime.

The Council was of the view that a successful outcome also requires the cooperation of the ITC bankers and the LME and urged them to work constructively in finding an orderly solution to the present situation.



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DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
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SWITCHBOARD 01-215 7877

JU556
Secretary of State for Trade and Industry

6 November 1985

Philip Wyn Owen Esq
PS/Chancellor of the Exchequer
HM Treasury
Whitehall SW1

Dear Philip,

pa

TIN

The International Tin Council met today, inconclusively, and will meet again tomorrow to discuss what agreed statement it might make.

2 We have tonight given the attached line orally to the press. Our understanding is that it may be carried by the Financial Times and The Times. I am copying this letter and attachment to Peter Ricketts (FCO), David Norgrove (No 10), John Bartlett (Bank of England), and Henry Steel (LOD).

Yours ever,

Michael

MICHAEL GILBERTSON
Private Secretary

Enc

JU546

The Department of Trade and Industry said last night that the Secretary of State welcomed the continuation of discussions in the International Council and looked forward to the urgent resolution of the current difficulties in the tin market. It also said that in view of the Secretary of State's statement of 1 November, the UK representatives took a leading and constructive role in today's Council discussions urging an early resolution of the problems facing the Council.

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AND TO DESKBY 020830Z LAGOS, 020830Z KINSHASA, 020030Z TOKYO
AND TO DESKBY 020830Z STOCKHOLM, 020830Z OSLO, 020730Z HELSINKI
AND TO DESKBY 020830Z EEC POSTS, 020930Z BERNE, 021430Z OTTAWA
AND TO DESKBY 020400Z NEW DELHI
INFO PRIORITY BRASILIA, LA PAZ, UKMIS GENEVA, UKMIS NEW YORK
INFO PRIORITY WASHINGTON

MIPT INTERNATIONAL TIN AGREEMENT

1. FOLLOWING IS TEXT OF STATEMENT BY SECRETARY OF STATE FOR TRADE AND INDUSTRY.
BEGINS. FOLLOWING RECENT DEVELOPMENTS IN THE INTERNATIONAL TIN MARKET, THE UK GOVERNMENT AS A MEMBER OF THE INTERNATIONAL TIN COUNCIL IS TAKING URGENT STEPS TO CONSULT WITH THE OTHER MEMBERS OF THE COUNCIL WITH A VIEW TO THE COUNCIL'S AGREEING ORDERLY MEASURES FOR THE SETTLEMENT OF TE COUNCIL'S EXISTING OBLIGATIONS. THE UK GOVERNMENT URGES ALL ITS FELLOW MEMBERS TO TAKE PART IN THESE CONSULTATIONS IN A CONSTRUCTIVE MANNER AND FOR THAT PURPOSE TO RESUME ON 6 NOVEMBER THE COUNCIL SESSION ADJOURNED ON 30 OCTOBER 1985. THE OBJECTIVE SHOULD BE TO ENABLE ALL LEGAL COMMITMENTS OUTSTANDING AT 24 OCTOBER 1985 TO BE MET, BUT THAT NO NEW COMMITMENTS ARE UNDERTAKEN BY THE COUNCIL SAVE FOR THAT PURPOSE. ENDS.

HOWE

FRAME EXTERNAL
ERD
SEAD
SAMD
WAD
CAFD
LEGAL ADVISERS
SIR W HARDING
DR WILSON
MR DAVID THOMAS
FED
SAD
NAD
UND
PUSD

COPIES TO

MR M LUNN, MM, DTI
MR J DENISON CROSS, DTI
MR K HALL, MN, DTI

MR T VENESS, ITP2, DTI
MR R TAYLOR, ITP2, DTI
MR R THOMAS, MAFF
MR D FRY, MAFF
MR MOUNTFIELD, HM TREASURY
MR M REDLEY, HM TREASURY
MR B GUNN, BANK OF ENGLAND

CONFIDENTIAL

David Wardlaw
CDD

CONFIDENTIAL
FM KUALA LUMPUR
TO DESKBY 020900Z FCO
TELNO 524
OF 020430Z NOVEMBER 85
AND TO DESKBY 020630Z BANKGOK
TO IMMEDIATE JAKARTA, TOKYO, CANBERRA
INFO PRIORITY BRASILIA, LA PAZ, UKMIS GENEVA, WASHINGTON, ATHENS,
INFO PRIORITY BONN, BRUSSELS, UKREP BRUSSELS, COPENHAGEN, DUBLIN,
INFO PRIORITY THE HAGUE, LUXEMBOURG, PARIS, ROME.

FOR RESIDENT CLERK
FCO TELNOS 470 AND 471 TO KUALA LUMPUR: INTERNATIONAL TIN AGREEMENT.
I MET THE DEPUTY SECRETARY-GENERAL OF THE MINISTRY OF PRIMARY INDUSTRIES THIS MORNING, GAVE HIM A COPY OF THE TEXT OF THE STATEMENT MADE ON 1 NOVEMBER BY THE SECRETARY OF STATE FOR TRADE AND INDUSTRY AND WENT OVER THE SPEAKING POINTS IN YOUR TELNO 470.
2. YUSOF SAID THE MALAYSIAN GOVERNMENT HAD NOT YET DECIDED WHAT TO DO ABOUT THE TIN CRISIS. THEY HAD BEEN DISHEARTENED BY THE NON-COMMITTAL ATTITUDE OF OTHER DELEGATES AT THE ITC MEETINGS IN LONDON EARLIER THIS WEEK. YUSOF WOULD HAVE MEETINGS WITH THAI AND INDONESIAN COLLEAGUES LATER TODAY TO DISCUSS THE PROBLEM FURTHER. THE CABINET WOULD MEET ON 4 NOVEMBER TO REVIEW THE OPTIONS. AHEAD OF THAT MEETING, YUSOF COULD NOT GIVE AN OFFICIAL REACTION TO OUR PROPOSALS.
3. HIS PERSONAL VIEW HOWEVER WAS THAT OUR IDEAS WERE ATTRACTIVE. THERE WAS ALSO THE POINT THAT MALAYSIA HAD EXISTING COMMITMENTS TO ITC AND WOULD NOT WANT TO LOSE CREDIBILITY (IE BY RENEGING ON THESE COMMITMENTS). HE THOUGHT THE EFFECT OF OUR PROPOSALS WOULD BE TO ''FREEZE'' THE BUFFER STOCK. THIS WOULD BE MUCH BETTER THAN HAVING IT UNLOADED ONTO THE MARKET, AS WOULD HAPPEN IF THE AGREEMENT COLLAPSED COMPLETELY. THE INEVITABLY PAINFUL READJUSTMENT IN OUTPUT WOULD ALSO BE EASIER TO MANAGE. HE NOTED THAT UP TO 90% OF MALAYSIAN TIN PRODUCERS WOULD BE WIPED OUT IN THE EVENT OF COLLAPSE.
4. YUSOF ADDED HOWEVER THAT THE VIEWS OF THE MALAYSIAN TIN INDUSTRY WOULD ALSO NEED TO BE CANVASSED. AN ASSESSMENT WOULD HAVE TO BE MADE OF THE COSTS OF OUR PROPOSALS. SOME ARGUED THAT THE ITA WAS ALREADY DEAD AND THERE WAS NO POINT IN DEVOTING FURTHER RESOURCES TO IT.

CONFIDENTIAL

15.WE.

5. WE WILL CONTACT YUSOF (WHO IS THE OFFICIAL DIRECTLY CONCERNED WITH THE TIN PROBLEM) AFTER THE CABINET MEETING ON 4 NOVEMBER.
6. FCO RESIDENT CLERK PLEASE PASS TO DTI DUTY OFFICER AND INFORM HEADS OF ERD AND SEAD.

DAVIES

FRAME EXTERNAL

ERD
SEAD
SAMD.
WAD
CAFD
LEGAL ADVISERS.
FED
SAD
NAD
UND
PUSD
SIR.W. HARDING.
MR. WILSON
MR DAVID THOMAS.

COPIES TO.

MR. M. LUNN, MM
MR. J. DENISON CROSS
MR K. HALL, MM
MR T. VENESS, ITP2
MR TAYLOR, ITP2
} DTI

MR. THOMAS.
MR. D. FRY
} MAFF.

MR. MOUNTFIELD
MR. REDLEY
} TSY

MR. GUNN, B/ENGLAND.

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DD 020830Z LAGOS
DD 020830Z KINSH
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011200Z NOV
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AND TO DESKBY 021430Z OTTAWA
INFO PRIORITY BRASILIA, LA PAZ, UKMIS GENEVA, UKMIS NEW YORK,
INFO PRIORITY WASHINGTON

MY TELNO 297 TO JAKARTA (NOT TO ALL): INTERNATIONAL TIN AGREEMENT

1. MIFT CONTAINS TEXT OF STATEMENT BY SECRETARY OF STATE FOR TRADE AND INDUSTRY MADE AT 1345Z ON 1 NOVEMBER.

2. MINISTERS HAVE DECIDED THAT THE UK SHOULD ATTEMPT TO PERSUADE OTHER INTERNATIONAL TIN AGREEMENT MEMBERS THAT THE INTERNATIONAL TIN COUNCIL (ITC) SHOULD AGREE ORDERLY MEASURES FOR THE SETTLEMENT OF THE COUNCIL'S OUTSTANDING OBLIGATIONS. THIS WAS ONE OF THE OPTIONS OUTLINED BY THE TIN COUNCIL CHAIRMAN ON 30

OCTOBER. HMG INTENDS TO MEETS ITS SHARE OF THE OBLIGATIONS ON THE BASIS THAT THE OTHER MEMBERS INTEND TO DO THE SAME.

3. WE SHOULD PREFER TO RESTRICT ACTION BY THE ITC TO A DECISION TO TERMINATE THE AGREEMENT ON THIS BASIS. WE WOULD HOWEVER BE READY IF NECESSARY TO CONSIDER MEASURES TO CONTROL THE DISPOSAL OF EXISTING STOCKS IN ORDER TO AVOID UNDUE DISRUPTION OF THE MARKET.

4. PLEASE SPEAK AT HIGHEST APPROPRIATE LEVEL TO YOUR HOST GOVERNMENT , DRAWING ON THE ABOVE AND MIFT. YOU SHOULD EMPHASISE THAT IT IS IN THE INTERESTS OF PRODUCERS AND CONSUMERS TO REACH A VERY EARLY DECISION, IN ORDER TO PERMIT MARKETS TO OPEN AND REDUCE THE UNCERTAINTY CREATED BY THE SUSPENSION OF TRADING. YOU SHOULD EXPRESS SYMPATHY FOR THE IMPACT OF REDUCED TIN PRICES ON THE ECONOMIES OF THE PRODUCER COUNTRIES. YOU SHOULD SAY THAT AS MORE DETAILS HAVE BECOME AVAILABLE, WE HAVE CONCLUDED THAT THERE IS NO FEASIBLE WAY OF 'RESCUING' THE AGREEMENT. THE PRESENT LEVEL OF WORLD PRODUCTION AND STOCKS MAKE ANY PRICE RANGE SIGNIFICANTLY ABOVE MARKET LEVELS UNSUSTAINABLE. WE BELIEVE PRODUCER MEMBERS APPRECIATE THE PROBLEMS INVOLVED.

5. YOU SHOULD SEEK SUPPORT NOT ONLY FOR THE ACTION OUTLINED ABOVE BUT ALSO FOR THE EARLIEST POSSIBLE RESUMPTION OF THE TIN COUNCIL'S SUSPENDED EMERGENCY SESSION. HMG HOPES THE COUNCIL CAN MEET NOT LATER THAN 6 NOVEMBER AND HAS ASKED THE EXECUTIVE CHAIRMAN OF THE TIN COUNCIL TO MAKE THE NECESSARY ARRANGEMENTS.

DEFENSIVE

6. IF ASKED ABOUT HMG'S PERCEPTION OF THE LEGAL POSITION, YOU SHOULD SAY THAT WE ARE STILL URGENTLY EXAMINING THIS ASPECT, THAT PRELIMINARY ADVICE SUGGESTS THAT TIN COUNCIL MEMBERS ARE LIABLE FOR THE COUNCIL'S DEBTS, AND THAT SOVEREIGN IMMUNITY DOES NOT APPLY. YOU SHOULD REFUSE TO COMMENT IF QUESTIONED ABOUT THE IMPLICATIONS OF 'JOINT AND SEVERAL' LIABILITY OF THE MEMBERS.

7. IF ASKED IF HMG MIGHT NOTWITHSTANDING THE DECISION IN PARAGRAPH 2 BE WILLING TO CONTRIBUTE TO A 'RESCUE' PACKAGE INVOLVING A REDUCED PRICE RANGE AND OTHER REFORMS, YOU SHOULD SAY THAT EVEN IF AGREEMENT COULD BE REACH ON SUCH A PROPOSAL IT WOULD BE UNLIKELY TO DO MORE THAN PUT OFF THE CRISIS, AT GREAT EXPENSE

TO CONSUMERS AND PRODUCERS, BECAUSE OF THE INHERENT DIFFICULTIES MENTIONED IN PARAGRAPH 4 ABOVE.

BACKGROUND (STRICTLY FOR YOUR OWN INFORMATION)

8. IT IS OF GREAT IMPORTANCE TO THE CITY TO ENABLE TIN TRADING TO RESUME ON THE LME AT THE EARLIEST POSSIBLE DATE. THERE ARE HOWEVER CONSIDERABLE RISKS IN REOPENING THE TIN MARKET AT A TIME WHEN THE TIN COUNCIL WILL BE BOUND TO DEFAULT ON CONTRACTS. WE HOPE THE LME WILL DECIDE TO SUSPEND TRADING FOR A FURTHER PERIOD, BUT THEY CANNOT DO SO INDEFINITELY. THE TIN COUNCIL MUST THEREFORE MEET AND TAKE A SUBSTANTIVE DECISION AS SOON AS POSSIBLE.

9. REPORTS FROM ASEAN POSTS SUGGEST THAT PRODUCER MEMBER GOVERNMENTS ARE FULLY SEIZED OF THE PROBLEM AND ARE UNLIKELY TO SEEK TO INSIST ON A RESCUE PACKAGE. AT THE TIN COUNCIL ON 29-30 OCTOBER MALAYSIA PROPOSED A NEW MINIMUM PRICE OF POUNDS 7,000 TO BE SUPPORTED. THEY WERE LATER BELIEVED TO BE ABOUT TO PROPOSE POUNDS 6,000, BUT COULD NOT OBTAIN SUPPORT FROM OTHER PRODUCERS. IF REPORTS IN TODAY'S BRITISH PRESS ARE CORRECT, THE MALAYSIAN GOVERNMENT RECOGNISES THAT ALMOST ANY NEW MINIMUM PRICE WOULD BE LIKELY TO COST MORE TO SUPPORT THAN LETTING MARKET FORCES DETERMINE A NEW PRICE. WE WISH TO ENCOURAGE THIS VIEW.

10. FCO TELEGRAMS NUMBER 434 AND 459 TO KUALA LUMPUR AND 297 TO JAKARTA ARE BEING REPEATED IMMEDIATE TO THOSE ADDRESSEES WHO HAVE NOT PREVIOUSLY RECEIVED THEM AND MAY BE DRAWN ON AS APPROPRIATE FOR BACKGROUND.

HOWE

FRAME EXTERNAL

ERD

SEAD

SAMD

WAD

CAFD

LEGAL ADVISERS

FED

SAD

NAD

UND

SIR W HARDING

DR WILSON

DAVID THOMAS

PUSD

MR M LUNN MM DTI

MR J DENISON CROSS DTI

MR K HALL MM DTI

MR T VENESS ITP2 DTI

MR R TAYLOR ITP2 DTI

MR R THOMAS MAFF

MR D FRY MAFF

MR MOUNTFIELD HM TREASURY

MR M REDLEY HM TREASURY

MR B GUNN BANK OF ENGLAND

3

CONFIDENTIAL

COVERING CONFIDENTIAL

CC TSG

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
TELEPHONE DIRECT LINE 01-215 5422
SWITCHBOARD 01-215 7877

PS/ *Secretary of State for Trade and Industry*

DRNseen.

1 November 1985

COVERING CONFIDENTIAL

Rachael Lomax
Private Secretary to the
Chancellor of the Exchequer
HM Treasury
Parliament Street
LONDON
SW1

Dear Rachel,

INTERNATIONAL TIN AGREEMENT

I attach a note of the meeting, chaired by my Secretary of State, held here earlier today to discuss the International Tin Agreement. In addition, I attach a copy of the statement issued by my Secretary of State following the meeting.

2 I am copying this letter and attachments to Len Appleyard (FCO), John Bartlett (Bank of England), Richard Gardiner, (Law Officer's Department), Ivor Llewelyn (MAFF) and David Norgrove (No 10).

Yours ever,
Michael

MICHAEL GILBERTSON
Private Secretary

DW3ABB

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CONFIDENTIAL

MEETING TO DISCUSS INTERNATIONAL TIN AGREEMENT :
1 NOVEMBER 1985

PRESENT

Secretary of State for Trade & Industry
Secretary of State for Foreign & Commonwealth Affairs
Chancellor of the Exchequer
Solicitor General
Mr Channon
Lord Lucas
Governor of the Bank of England
Mr Mountfield, Treasury
Mr Farrow, Bank of England
Mr Mountfield, DTI
Mr Rickford, DTI
Mr Tait, FCO
Mr Mallinson, DTI
Mr Murray, DTI
Mr Saunders, LOD
Mr Gardiner, LOD
Mr Lunn, DTI
Mr Norgrove, No 10

SUMMARY

It was agreed that officials should be given the mandate to explore with other member countries options (b) and (c) set out in the paper circulated before the meeting by DTI officials. It was agreed that the Bank of England should explore the possibility of the banks undertaking to ensure the orderly disposal of stocks as outlined in option (b). It was further agreed that a statement should be issued in the name of the Secretary of State for Trade and Industry.

DISCUSSION

2 The Secretary of State for Trade & Industry said that the purpose of the meeting was threefold : to bring people up-to-date with the present position, to hear the opinion of the Solicitor General on the legal position, and to decide on further action.

3 The Governor explained that despite the call from Inco, nickel trading had not been suspended, and there had been no other significant developments in the market that morning.

DW3AAY

4 The Foreign Secretary explained that there had been little response from the tin producing countries. Malaysia had expressed alarm at the crisis, but had not offered to contribute its share of the Council's obligations.

5 The Solicitor General advised that the better view of the legal position was that the member Governments would be jointly and severally liable for all the debts of the Tin Council which could not be met out of its current resources. There were two opposing arguments to the effect that the liability for the deficit was restricted to the Tin Council as a corporation and not to its members but both stood a less than even chance of success. He advised that colleagues should proceed to consider the options on the basis of joint and several liability of the members. If sued for the deficit the UK would have a right of recourse to other members for their share of the liability but recourse could be lengthy, expensive and not necessarily successful in each case. (NB. the Solicitor General's advice will be recorded in detail in writing shortly).

6 The Chancellor said that the joint and several liability of member countries might extend to those liabilities of the BSM which were the result of ultra vires actions. He asked where this left the liabilities the BSM had incurred through intra vires actions. Mr Murray explained that it would be very difficult to separate out the two categories of liability.

7 The Secretary of State for Trade & Industry introduced the various options set out in the officials paper. He said that he had already ruled out the option of continuing with the Agreement on its present basis. He did not favour option (a) (rescuing the present agreement on the basis of a price of, say, £6,000 per tonne), and indeed member countries had not shown much enthusiasm for such an option. He regarded option (d) as potentially very risky and expensive, and did not favour it. His preferred options were (b) (involving stock management to avoid disruption of the market), and (c) (meeting our debts and doing nothing more). Under option (c), the tin price might fall to a lower level than under (b), and the costs to the UK should be lower. Option (b) might well be more attractive to producer countries, and might result in a slightly less difficult position for the Cornish tin industry in the short term than would be the case under option (c).

8 The Foreign Secretary said that the Government had stood by and allowed this crisis to develop, and there was now a need for quick action. He agreed that the choice lay essentially between option (b) and option (c). Option (b) might be cheaper than (c), but he thought that the difference in cost between the two may not be as large as

had been suggested in the paper. He considered that in the end it might come down to whichever of options (b) or (c) we were most likely to get other countries to agree to.

9 The Chancellor said that he understood that Clydes were to issue on 4 November a writ on behalf of Berisfords alleging joint and several liability of member countries and suing the UK Government on a several basis. Mr Murray said that the Chairman of Berisfords had telephoned Sir Brian Hayes to say that the writ was simply designed to encourage action by member countries. It was agreed that attempts should be made to persuade Berisfords to withdraw the writ.

10 The Secretary of State for Trade & Industry suggested that the Foreign Secretary might talk to the Malaysian Ambassador. The Foreign Secretary said that it might be better not to, since it would look as if we were assuming the status of the country which in the end might have to "carry the can". It was therefore agreed that the Malaysian Ambassador should not be visited, but that posts should be informed as soon as possible by telegram of the UK Government's position. (At this point the Foreign Secretary left the meeting).

11 The Governor considered that the difference between option (b) and option (c) was actually not that great. Both would require agreements with the banks. Following the meeting the Bank had held the previous day, he could report that the banks might well be prepared to help to dispose of stocks in an orderly manner, though they would probably require guarantees by the ITC. The Solicitor General had doubts about whether the ITC had the vires to give such a guarantee, since it might lead to them incurring liabilities outside the parameters of the ITA. Mr Farrow said that the banks would probably be looking beyond the ITC to the member countries for such a guarantee. The Chancellor warned that if guarantees were given to cover the whole potential liability, then the banks would lose some of the incentive to carry out the task effectively.

12 The Chancellor agreed that the preferred options should be (b) and (c). He had some reservations about the continuing obligation to dispose of stocks in an orderly manner, envisaged in option (b), but would be prepared to go along with this if it were handled by the banks. He was firmly of the opinion that the operation should not be entrusted to the buffer stock manager.

13 The Chancellor asked if anyone would be interested in purchasing the overhang of stocks on an off market basis. Mr Lunn replied that there was little prospect of this.

14 The Chancellor considered that the future of the Cornish tin industry was in a sense irrelevant in choosing between the various options put forward, since it would be unlikely to survive, whichever option were pursued. The Secretary of State for Trade & Industry replied that there was no precise estimate of the price level below which the Cornish industry would no longer be viable, and that the price levels forcast for the various options put forward were also inprecise. He considered that if option (b) would bring about a slow and more orderly reduction in the price, then the difficulties of the Cornish industry would be less immediate, and the position would be easier to defend politically. Our line would be that we had done our best to protect the industry, to the extent of keeping the Agreement going longer than perhaps we ought to have done, and that we were now doing all we could to soften the inevitable blow to the industry. Mr Channon had met two Cornish MPs the previous day (Mr Harris and Mr Penhaligon) and he emphasized the substantial political difficulties we would face if the Cornish tin industry failed to survive.

15 It was agreed that officials should be given a mandate to explore both options (b) and (c) with other member countries, and that the Bank should be given a mandate to explore with banks the possibility of their undertaking to ensure the orderly disposal of stock.

16 The Secretary of State for Trade & Industry raised the question of what would happen if some member countries refused to go along with a passage on the lines suggested. The Chancellor agreed that we would have to plan for that contingency, but for the moment any suggestions made by the UK would have to be presented as a package needing 100 per cent agreement, since otherwise members countries may be inclined not to agree. Mr Lunn considered that a large number of consumer countries would be prepared to support such a package, but was unsure about the position of producer countries. The Secretary of State for Trade & Industry said that all we could do at this stage was to take note of the difficulties that may arise.

17 The draft statement was then discussed. It was agreed that "save for that purpose" should be added to the end of the last sentence, since options (b) and (c) would both involve new commitments. The Governor was anxious that the statement should urge the Tin Council to resume at a particular date, since this would reassure the market. He suggested either the 5th or 6th of November. The Executive Chairman of the Tin Council was later consulted and confirmed that 6 November would be a practical proposition. It was agreed that if asked, we should say that the implication of the statement was that the UK accepted its share of the liabilities and was taking a moral lead in

encouraging other member countries to do the same. It was agreed that the statement should be issued as soon as possible in the name of the Secretary of State for Trade & Industry.

18 **The Secretary of State for Trade & Industry** made it clear that he was firmly of the view that any costs arising should be met by a claim on the contingency reserve.

19 The revised statement, as issued, is attached.

Press Notice

Department of Trade and Industry

1 Victoria Street, SW1H 0ET Press Office: 01-215 5068/9
Out of hours: 01-215 7877

Ref: 671

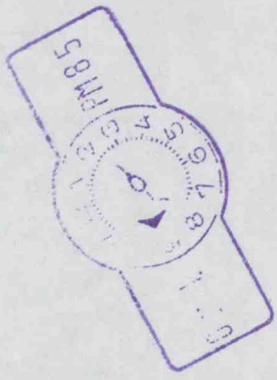
1 November 1985

TIN: STATEMENT BY SECRETARY OF STATE

In a statement issued today (1 November) Leon Brittan, Secretary of State for Trade and Industry, said:

"Following recent developments in the international tin market, the UK Government, as a member of the International Tin Council, is taking urgent steps to consult with the other members of the Council with a view to the Council's agreeing orderly measures for the settlement of the Council's existing obligations. The UK Government urges all its fellow members to take part in these consultations in a constructive manner and for that purpose to resume on 6 November the Council session adjourned on 30 October 1985. The objective should be to enable all legal commitments outstanding at 24 October 1985 to be met, but that no new commitments are undertaken by the Council save for that purpose."

ENDS



Dr. David OWEN MP

8/11

10 DOWNING STREET

From the Private Secretary

1 November 1985

I attach a copy of a letter the Prime Minister has received from Dr David Owen MP.

I should be grateful if you could provide an urgent draft reply for the Prime Minister's signature, to reach me by Friday 8 November.

(DAVID NORGROVE)

M. Gilbertson, Esq.,
Department of Trade and Industry.

THE RT HON DR DAVID OWEN MP

HOUSE OF COMMONS
LONDON SW1A 0AA

Prime Minister 2 see B1 BG

DTI are preparing an urgent draft reply.

DCV 1/11

1 November 1985

The Rt. Hon. Margaret Thatcher MP
Prime Minister
10 Downing Street
LONDON SW1

Dear Prime Minister

The current tin crisis extends beyond a bout of temporary turbulence in the international commodity markets. Today's decision by the London Metal Exchange (LME) not to resume trading next week means that the future of the tin market and even the LME itself will remain uncertain for the next twelve working days. The earliest the LME can reopen is now effectively November 11th and this gap can only serve to weaken London's premier role in the world metal markets and damage the position of a number of developing nations who depend on tin trading for valuable overseas earnings.

The Secretary of State for Trade and Industry's statement this afternoon has apparently succeeded in bringing forward the ITC meeting to November 6th. This is welcome news. But the statement makes it clear that Britain and the ITC should honour outstanding commitments to the LME up to October 24th, when trading ceased, only on the condition that no additional commitments are entered into by the ITC in future. This will mean effectively that the ITC ceases to exist, in terms of supporting the tin price in world markets, and that a price free-for-all will prevail. The implications of this will be highly disruptive for the tin mining industry worldwide and devastating for the Cornwall tin industry which will become uneconomic if the price plunges to below at least £6,000 per ton. It must be in the interests of all tin producers, both inside and outside the ITC, to maintain an effective International Tin Agreement.

To fill the gap of time before the ITC meeting next week, the Bank of England should be instructed to act. In concert with the central banks of other countries within the ITC, the Bank of England should put together a 'bridging loan' either for the LME brokers who are confronted with financial difficulties or directly to the ITC's Buffer Stock Manager so that he can continue to meet the ITC's financial obligations.

Once the ITC has appropriate funding the LME will then, in a carefully controlled manner, be able to reopen the tin market so that the normal pricing mechanism can be set in motion and the price of tin lowered gradually to a more competitive level. This would restore confidence to all the other metal markets and re-establish Britain's credibility in the eyes of the world's financial community.

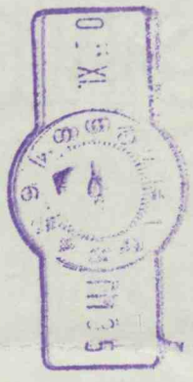
I stress that this would be a loan facility to the ITC and not a bail-out or take-over of that body. Once in place, the British Government could then approach the other twenty one signatories to the ITA and make appropriate arrangements with them to restructure the International Tin Agreement and repay the loan arranged by the Bank of England for the ITC. This is not interventionism to distort the workings of the metal market, it is to stabilise and re-order the market which must be in the interests of everyone. I accept that the price support mechanism of the ITC must be reformed, in order to bring the price into line with market realities, but there is a critical need to ensure that the tin price is adjusted downwards in a steady and controlled manner. A free market by itself is not in the interests of both tin producers and consumers either inside or outside the ITC at the present time.

It is helpful to no-one, least of all Britain, that the ITC should have no role in future. A long-term solution is essential. Were a banking consortium to be formed, backed by Government guarantees, then the tin price could yet be stabilised, say, at £6,000 - £7,000 per ton. This would be a very realistic tin price in the market and would cost the governments of the ITA much less than a freely falling tin price which could drop to below £4,000 per ton. The Government should take the lead in this direction by instructing and authorising the Bank of England to initiate such a consortium.

Action is needed now and next week whilst the markets remain closed. In view of today's decision by the LME and the statement by the Secretary of State for Trade and Industry, I am making this letter public and releasing it to the press.

Yours sincerely

David Owen



PRIME MINISTER

TIN

Mr Brittan chaired a meeting this morning, attended by the Foreign Secretary, the Chancellor, the Governor, and the Solicitor General, among others. The paper we discussed is attached.

The Solicitor General explained the legal position. It was quickly concluded that the meeting should work on the basis that the member Governments are jointly and severally liable for the obligations of the Buffer Stock Manager. The UK would be an obvious target and could be sued for as much as £400 million. We should then have to have recourse to the other Governments. One of the brokers (S & W Berisford) has plans to issue a writ on Monday against HMG, on a several basis.

Agreement was reached without too much difficulty that:

(i) the Government should work to achieve option b or c in the paper attached, though in practice there was probably not much difference between them either in substance or in cost;

(ii) if possible the banks should be brought to take responsibility for an orderly run down of tin stocks, though without a full guarantee of the risks they would be taking, in the view that this would be better than leaving it to the Buffer Stock Manager; the Bank of England should explore this;

(iii) the Bank should seek to dissuade Berisford from issuing their writ;

(iv) officials should work further on options b and c, discussing with the countries involved in the Agreement;

(v) a statement should be issued, also below;

(vi) posts should be informed of the UK government's position.

DTI officials believe the Japanese, Germans and Dutch may go along with a decision to pay off outstanding debts and to run down stocks in an orderly fashion. The likely attitude of producing countries was unknown.

There is clearly a high risk that this strategy will not work. But there seems to be no better alternative.

DLN

(David Norgrove)

1 November 1985

CONFIDENTIAL

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
TELEPHONE DIRECT LINE 01-215 5422
SWITCHBOARD 01-215 7877

PS/ *Secretary of State for Trade and Industry*

31 October 1985

CONFIDENTIAL

Mrs Rachel Lomax
Private Secretary to the
Chancellor of the Exchequer
HM Treasury
Treasury Chambers
Parliament Street
LONDON
SW1

Dear Rachel,

TIN

I enclose a paper provided by officials here, but not yet seen by my Secretary of State, which will serve as a basis for tomorrow's meeting which is scheduled to begin at 11.15 am at this office.

I am copying this letter and its enclosure to Len Appleyard (FCO), John Bartlett (Bank of England) and Richard Gardiner (LOD) and to David Nogrove (No 10)

Yours ever

John Mogg

J F MOGG
Private Secretary

DW3AAW

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INTERNATIONAL TIN AGREEMENT

Note by DTI Officials

PRESENT POSITION

On 24 October the International Tin Council told the London metal Exchange that it was no longer able to intervene in the market. Trading in tin on the LME was suspended and remains suspended until at least close of dealing on Friday, 1 November.

2 The International Tin Council met on 29 and 30 October to consider the situation. It agreed:

(a) Confirm the decision by the Executive Chairman on 24 October to suspend all buffer stock operations.

(b) To undertake an independent audit of the buffer stock accounts at the date of suspension of buffer stock operations on 24 October.

(c) To ask the Executive Chairman to maintain close contacts with banker/broker representatives over the interim period.

(d) To suspend its present session and to resume its work on 12 November 1985 in order to consider all possible options. The Council would reconvene earlier if necessary.

DW3AAT

3 Today the Chairman of the LME met the Secretary of State for Trade and Industry and subsequently the Governor of the Bank of England. He urged the Government to take the lead in calling for the member countries of the International Tin Council to agree to meet the obligations of the Council and to make an early statement to that effect. In the absence of such a lead by the UK, he believed the LME would quickly collapse.

THE LEGAL POSITION

4 It had previously been believed that although the legal position was uncertain it was likely that member countries would not be liable for any debts which the Tin Council might have incurred which could not be met out of its existing resources.

5 This view rested on the assumption that the acts of the Buffer Stock Manager as agent of the Tin Council had been intra vires the express terms of the Sixth International Tin Agreement. It now appears that this may not be so and the matter has been referred to the Law Officers for their opinion.

6 Should it be the case that the Buffer Stock Manager has in fact acted ultra vires, and the Council members have assented to such actions, member countries could be liable jointly and severally for the amount of money owing over and above the resources of the Council.

7 This means that depending on the size of the total debt, which in turn would depend on the level to which the price of tin fell, member countries could face being sued for £300m to £400m. The UK as the host country might well be the most likely to be sued, since the UK is the most appropriate jurisdiction. In the event of an award against the UK, it could seek contributions from the remaining member countries of the Agreement, but this would be a long and costly process and not necessarily successful. All the above is subject to the advice of the Law Officers.

OPTIONS

8 Assuming it is out of the question to continue the Agreement on its present basis, there are four broad options. The costs of each option are summarised in Annex A.

Resume the Present Agreement

(a) Rescue the Agreement on the basis of a lower price of say £6,000 per tonne together with stricter controls over the operations of the Buffer Stock Manager. This would entail the payment of debts due to brokers; interest payments on existing bank loans and sums would be required to ensure the value of the tin held as collateral covered the value of the bank loans. Furthermore, extra funds would need to be injected to continue the operation of the buffer stock. The initial costs to the UK might be £13m.

End Agreement; ITC pay debts; Managed stocks

(b) Member countries would agree to meet the existing debts of the Council and to try to ensure that existing stocks were disposed of in an orderly way in order to avoid undue disruption of the market. The total cost of existing debts would depend on the level to which the price fell, but it is assumed in this option that the price would fall to £6,000 per tonne. The option would entail the repayment of broker debts and the repayment (or guarantee) of bank debts. It might be possible to reduce the costs of this option by making arrangements with the banks to hold the stocks and dispose of these in an orderly manner. The initial costs of this option for the UK are estimated at £21m.

End Agreement. ITC pay debts. No formal stock management

(c) Member countries could decide to meet the debts of the Tin Council and do nothing more. Again in this situation the cost of the exercise would depend on the price level to which tin fell, but with stocks coming in to the market the price would probably be lower than in option (b), at say £5,000 per tonne. The costs would include a sum to bridge the difference between the total bank loans and the value of the tin held as collateral. In order to avoid the banks selling

off at an artifically low price, and collecting large sums of compensation. The tin held by the banks should be valued at a price which encouraged them to dispose of the stocks in an orderly manner. The initial costs of this option might be £13m.

Take no action

(d) The member countries would let the Agreement collapse and give no undertaking to pay the outstanding debts. In this case the cost to the UK would depend on the outcome of legal action, and as explained above, it is possible that the UK could find itself sued for the entire shortfall which it would in the event of an award against it have to try to recover from other member countries. The costs of this option could be as much as £400m.

CONSIDERATION

9 The general view among consumer member countries of the Tin Council is that the option of rescuing the Agreement (option (a) above) with a lower price is probably not feasible. If option (d) were followed, the UK would risk being sued for the total amount of the debt outstanding.

CONFIDENTIAL

10 The most satisfactory options in the circumstances would appear to be some variant of either b) or c). Option b) or some form of it would be more expensive than option c), but it could be more attractive to the producers in that the tin price could be higher than in option c). Both options would avoid the collapse of the London Metal Exchange provided action were taken early enough.

11 The possibility of being able to persuade other member countries to agree to some form of option b or c, is difficult to assess. However Japan, the Netherlands and Germany are believed to be ready to consider an option of this nature. It is not clear what the views of the producer countries might be.

TIMING AND NEXT STEPS

12 If the Government is prepared to adopt either option b or c, it is essential, if a collapse of confidence in the London Metal market is to be prevented that an early statement should be made. A draft of a statement which might be made on 1 November is attached at Annex B. It has been drafted to encourage other member countries to agree a solution, but does not commit HMG to take action independently.

The final version to be behind this paper

DEPARTMENT OF TRADE AND INDUSTRY

31 OCTOBER 1985

DW3AAT

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ANNEX A

COST TO UK OF VARIOUS OPTIONS

	Initial Costs		Ongoing Costs (per annum)	
	TOTAL	UK Share	TOTAL	UK Share
OPTION (a)	£325m	£13m	£54m-100m	£2m-£4m
OPTION (b)	£527m (Note (1))	£21	£10m-£60m (Note (2))	£0.5m-£2m
OPTION (c)	£316m	£13m	0	0
OPTION (d)	£0-£400m	£0-£400m	0	0

NOTE 1 This cost might be halved if the banks were prepared to hold and manage the tin stocks.

NOTE 2 Cost varies if bank loans guaranteed or if they are paid in full.

NOTE 3 All cost estimates very approximate at this stage.

31 OCTOBER 1985

DW3AAV

Press Notice

Department of Trade and Industry

1 Victoria Street, SW1H 0ET Press Office: 01-215 5068/9
Out of hours: 01-215 7877

Ref: 671

1 November 1985

TIN: STATEMENT BY SECRETARY OF STATE

In a statement issued today (1 November) Leon Brittan, Secretary of State for Trade and Industry, said:

"Following recent developments in the international tin market, the UK Government, as a member of the International Tin Council, is taking urgent steps to consult with the other members of the Council with a view to the Council's agreeing orderly measures for the settlement of the Council's existing obligations. The UK Government urges all its fellow members to take part in these consultations in a constructive manner and for that purpose to resume on 6 November the Council session adjourned on 30 October 1985. The objective should be to enable all legal commitments outstanding at 24 October 1985 to be met, but that no new commitments are undertaken by the Council save for that purpose."

ENDS

CONFIDENTIAL

2

PRIME MINISTER

INTERNATIONAL TIN COUNCIL

The International Tin Council has now broken up without an agreement, as expected. The producing companies made a vague, informal offer of a package of measures built around keeping the tin price at about £6,000 per ton. The International Tin Council will not meet again until 12 November.

Officials are working on a note to go to Ministers for the weekend. The reason for the delay is the need to get a definitive view - so far as that may be possible - on the legal position.

The aim then would be a meeting of interested Ministers on Monday. But this will be affected by whether the London Metal Exchange will be reopening on Monday. It is certainly closed for the rest of the week. But if the plan is for it to reopen on Monday, Ministers may need to meet over the weekend.

I assume that you would not wish to take such a meeting yourself. I doubt that there ~~will~~ would be a need for that unless there were serious interdepartmental disagreement.

DCN

(DAVID NORGROVE)
30 October 1985

The whole thing is far too leisurely. The legal point should be resolved by Friday & a meeting held then. Then I shall return to London.

MT

CONFIDENTIAL

CONFIDENTIAL

ANNEX B

DRAFT STATEMENT

Following recent developments in the international tin market, the UK Government as a member of the International Tin Council is taking urgent steps to consult with the other members of the Council with a view to the Council's agreeing orderly measures for the settlement of the Council's existing obligations. The UK Government urges all its fellow members to take part in these consultations in a constructive manner and for that purpose to resume ~~as soon as possible~~ the earliest possible date, the Council session adjourned on 30 October 1985. The objective should be to enable all legal commitments outstanding at 24 October 1985 to be met, but that no new commitments are undertaken by the Council, save for that purpose.

If asked: we shall accept our share also
& look to everyone else to meet
their obligations.

DW3AAT


31. X.

CONFIDENTIAL

file
C03ANN

10 DOWNING STREET

30 October 1985

From the Private Secretary

TIN

The Prime Minister was grateful for the Governor's letter of 29 October. She notes that the option that the Governments of the ITA might discharge the existing obligations of the Buffer Stock Manager without a new price support scheme is one which may need to be considered after we know the outcome of the meeting of the International Tin Council.

I am copying this letter to the Private Secretaries to the Foreign and Commonwealth Secretary, the Chancellor of the Exchequer, the Secretary of State for Trade and Industry and the Minister of State for Agriculture, Fisheries and Food.

DAVID NORGROVE

John Bartlett, Esq.,
Bank of England.

CONFIDENTIAL

FCS/85/278

SECRETARY OF STATE FOR TRADE AND INDUSTRY

International Tin Agreement

1. As my Private Secretary told yours on the telephone this morning, I do not believe that we yet have enough information to make a firm choice between the options in paragraph 10 of your minute of 28 October.

2. It is clear that there will be substantial costs whether the Agreement collapses or is allowed to continue in a modified form. You indicate that the potential cost to the exchequer following a collapse of the Agreement would be some £12-16 million. But as you say there would also be serious implications for the Cornish tin industry, for the London Metal Exchange and possibly for our relations with the producing states. There would also of course be costs involved in keeping a modified Agreement going.

3. I am concerned however at the degree of uncertainty over the legal issues involved, and therefore the extent of the financial consequences of the various options.

/For

For example, I understand that FCO lawyers do not in fact hold the view attributed to them in paragraph 5 of your minute that members of the International Tin Council "would probably not be liable" in the case of a collapse of the Agreement.

4. Given these uncertainties, I believe that our representatives at the emergency meeting of the Council today should be instructed to play for time. They should avoid finding themselves in the position of being alone in holding out against a package of measures which might enable a modified Agreement to continue in being. I agree with you that if others put forward a rescue package our representatives should undertake - without any commitment - to consider it. We should then use the extra time to ensure that we have a full and agreed assessment of the consequences of each of the options and therefore a sound basis for decisions. It may be right for the Law Officers to be consulted on the question of HMG's potential liability under the Agreement.

/5.

5. I am copying this minute to the Prime Minister, Nigel Lawson, Michael Jopling, the Governor of the Bank of England and Sir Robert Armstrong.

(GEOFFREY HOWE)

Foreign and Commonwealth Office

29 October 1985

CONFIDENTIAL

PRIME MINISTER 29 October 1985

INTERNATIONAL TIN AGREEMENT

You have supported Leon Brittan's line on this, but the FCS has not. If a further opportunity arises, you should reaffirm your support.

The main point of the Agreement was to establish a buffer stock which enables its manager to stabilise the tin market. A successful Buffer Stock Manager would make, not lose money, since he would be buying during a glut, and releasing stocks during a shortage. The fact that the Buffer Stock Manager is now bankrupt indicates either, that he is an incompetent operator, or that he is more concerned to sustain the tin price at an artificial level, rather than to stabilise it. Stabilisation is best left to the market. That is why Leon Brittan's preferred option is the best.

The FCS points to legal uncertainties and liabilities. Whatever these are, they are dwarfed by the benefits (£40 million a year) which British manufacturers would derive by being able to buy tin at a market price (recently at around £4,000-5,000 per tonne), rather than the ITA price (around £8,500 per tonne).

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These liabilities can only increase if a fundamentally unsound scheme is perpetuated, in whatever form. The LME's position should not sway our decision. The JMB case illustrates the dangers of rescue operations.

Nicholas Owen

NICHOLAS OWEN

CONFIDENTIAL

CC BE

The Governor

Bank of England
London EC2R 8AH

29 October 1985

The Rt Hon Margaret Thatcher MP
10 Downing Street
London SW1

Dear Prime Minister,

TIN

As attached

In his minute to you of 28 October the Secretary of State for Trade and Industry expressed the view that it is unlikely that the London Metal Exchange as a whole would fall in the event of a collapse of the International Tin Agreement. I am now not so sure of the basis for that view. As new evidence has come to light of the scale of the commitments of the Buffer Stock Manager, and of the extent of his prospective default, I believe that collapse of the LME as a whole is a very real possibility. The defaults of brokers in the tin market would inevitably affect the other metal markets; and there would also be damaging repercussions on other London futures markets both in soft commodities and in financial instruments as a result of the defaults of LME brokers who were also members of those other markets.

In addition to the options addressed in his minute it seems to me that there is one more that should be considered - that the member Governments of the ITA should discharge the existing obligations

undertaken by the Buffer Stock Manager, but should not agree to any new price support. It is at least arguable, whether or not there is a legal obligation, that governments have a responsibility for the acts of their agent, but this course of action would avoid the disadvantages of continuing subsidy - on which point I entirely share the views of the Secretary of State and the Chancellor of the Exchequer. It is not clear whether such an option is yet practical or what expenditure implications are involved.

By discharging this obligation the threat to the future of the LME would be removed, to the particular benefit of the UK. While the members of the LME are entirely responsible for the commercial risks they chose to incur in trading with the Buffer Stock, in spite of cautionary advice from the Bank, nevertheless the operations of the market in London bring a national benefit. The pre-tax earnings of LME members retained in the UK are estimated at around £50 million per annum. This has to be set in the balance against the cost of meeting the Buffer Stock Manager's existing commitments.

Yesterday they said 12-16.

I am copying this letter to the Foreign Secretary, the Chancellor of the Exchequer, the Secretary of State for Trade and Industry, and the Minister of Agriculture, Fisheries and Food.

Yours ever,

Robin


29 X.
PM
65

PRIME MINISTER

INTERNATIONAL TIN AGREEMENT

The news from today's meeting of the International Tin Council is that the consumer countries said they had no authority to offer extra funds for the Agreement. The discussion was inconclusive.

The Department of Trade and Industry think the outcome tomorrow may be an offer from the producer countries to put up their share of the funds needed to maintain the tin price at about £6,000 per ton. This compares with a price of somewhat over £8,000 just before the market closed and an estimated short-term free market price of £4,000 - £5,000.

The Department of Trade and Industry believe the consumer countries will reaffirm that they have no authority to offer further funds but that they will consider what the producer countries have said.

On this we can do no more than wait and see.

Meanwhile the Governer now believes that collapse of the London Metal Exchange "is a very real possibility" if the Agreement collapses (letter at Flag A). He therefore proposes a further option for consideration, namely that the member governments of the Agreement should discharge existing obligations undertaken by the Buffer Stock Manager but should not agree to any new price support.

This strikes me as extremely naive. If there is no legal obligation, does the Governor really think that Malaysia, Indonesia and others will pay out tens of millions solely on the grounds that they have a moral obligation?

The Chancellor is concerned that you should know that although the Governor discussed his letter with him he is in no way committed to it.

The Policy Unit minute at Flag B supports Mr. Brittan's view of the right way to proceed on the Agreement. It touches on a rather temporizing minute from the Foreign Secretary at Flag C.

Agree to note the Governor's letter saying that his option will of course need to be considered if the circumstances arise, but that it seems doubtful that the member governments would meet the obligations of the Buffer Stock Manager unless they had a legal obligation to do so?

Nevertheless - if they would, it seems to me, the best course of action. MT

DRN

David Norgrove
29 October 1985

CONFIDENTIAL

10 DOWNING STREET

From the Private Secretary

29 October 1985

INTERNATIONAL TIN AGREEMENT

The Prime Minister has seen your Secretary of State's minute of 28 October and the Chancellor's of the same date. I also received a message from the Bank of England to say - in summary - that while the exposure of the London Metal Exchange was larger than they had earlier thought and that they could not now say that the collapse would be unlikely if the ITC failed to meet the Buffer Stock Manager's obligations, they were in general agreement with the line proposed by your Secretary of State.

As you know, the Prime Minister also agreed with your Secretary of State's recommendations. She did, however, comment that she is concerned about the proposition that as a member of the Tin Council the Government would be partly responsible for the Council's default, if that is the way the decision eventually goes.

I am copying this letter to Len Appleyard (Foreign and Commonwealth Office), Rachel Lomax (H.M. Treasury), Ivor Llewelyn (Ministry of Agriculture, Fisheries and Food) and to John Bartlett (Bank of England).

DAVID NORGROVE

Michael Gilbertson, Esq.,
Department of Trade and Industry.

CONFIDENTIAL

PRIME MINISTER

INTERNATIONAL TIN AGREEMENT

The International Tin Council are to meet tomorrow (probably continuing into Wednesday) to discuss where to go on tin.

Mr. Brittan's assessment is below. His preferred option is to let the Tin Agreement collapse. However he expects that we may come under heavy pressure to agree a rescue package and in that case he recommends that we should undertake to examine without commitment any rescue package which may be put forward. We should only go along with such a rescue package if it involves substantial reforms, including a reduction in the price level to much nearer to what it would be in a free market, and proper control over the Buffer Stock Manager's operations.

The Chancellor agrees, though if we were pushed to look at an Agreement his instinct is then to refuse it.

The Foreign Secretary will be looking at the papers overnight, but he is in essence being recommended to go along with Mr. Brittan.

The Bank of England say they are also in general agreement with the proposed line. But they are now more uncertain than they were last week about the prospects for survival of the London Metal Exchange if the tin price collapses. They say the market's exposure is larger than they first thought. They believe survival will depend on whether the parent companies would support their subsidiaries and in turn they believe that the willingness of the parents to do so may be influenced by whether the Governments are prepared to stand behind the International Tin Council. The Bank do not say they would protect the LME at all costs. (They estimate that the LME is worth some £12-16 million a year in invisible earnings.)

Despite the Bank's doubts about the prospects for the LME it

would clearly be impossible politically, and economically wrong, for the Government to go into the negotiations other than with a view to letting the Agreement collapse. If after discussion the UK is isolated and comes under strong pressure to join in the rescue, then clearly we should have to consider what was on offer.

Agree Mr. Brittan's proposals?

Yes but I am worried about the proposition that as a member of the Community UK is in party responsible for the Community's defaults.

DAVID NORGROVE
28 October 1985

CONFIDENTIAL

PRIME MINISTER

file with DN?

INTERNATIONAL TIN AGREEMENT

I wrote to you on 11 October to say that there was a possibility that the International Tin Agreement (ITA) could be in difficulties in the near future. On 24 October I discusssed the situation with the Chancellor, the Foreign Secretary and the Governor of the Bank of England.

The present situation

2 On the 24 October the Executive Chairman of the International Tin Council (ITC) informed the London Metal Exchange that the Buffer Stock Manager (BSM) was no longer in a position to intervene in the market. The London Metal Exchange decided to suspend dealing in tin immediately and they will remain suspended at least until close of dealing on Monday, 28 October, and possibly longer.

3 The International Tin Council held a meeting on 25 October for Heads of Delegations to set out the position in preparation for a full meeting of the Council on 29 October.

4 At this meeting the Executive Chairman of the Council said that he would be seeking guidance from member countries as to the level at which they would like the price of tin to be maintained and he circulated a table showing the amount of money necessary to keep the agreement going at various

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price levels. In addition member countries would be asked to undertake that they would honour their share of any debts due by the Council which it could not meet from its existing resources as a result of a fall in the tin price. Subsequently, once confidence had been restored, member countries should get together to devise a package to reform the Agreement.

Member countries' liabilities

5 I am advised that the Council itself would be liable, to the extent of its existing resources, to meet the obligations of the Buffer Stock Manager (including obligations under contracts not contemplated by the 6th ITA but which the Council may have ratified). Whether individual Council members would be liable for that proportion of the BSM's debts which could not be met from the Council's existing resources is not clear. But lawyers from DTI and FCO advise that individual members would probably not be liable.

6 If these debts were to be met in full the precise amount which member countries would be required to cover cannot be quantified, because it would depend on the level to which the price of tin would fall in the absence of Tin Council support. Should the Agreement collapse and not be revived, it is likely that the price would fall to about £4-5,000 per tonne. In that case the total amount of additional money required to cover the ITC's obligations would be a once-off payment of between £3-400m, of which the UK share would be 4 per cent (i.e some £12-16m). In the light of the legal advice in paragraph 5 above, we might not be bound to pay this. But even if we did pay it, I believe that letting the Agreement collapse is almost certainly the cheapest option from the point of view of straight Exchequer cost.

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7 Should the Agreement be re-negotiated so that the price level were still maintained at, say, £7,000 per tonne (compared with the last supported level of about £8,500 per tonne) the total initial payment required to cover the debt which has been incurred and to keep the Agreement going would fall to around £250 million (of which the UK's share would be about £10m). But within this initial total would be ongoing costs which in subsequent years would continue to include at least £50m p.a. for interest payments (UK share about £2m p.a.) and perhaps £50m p.a. for working capital (UK share about £2m p.a.)

UK interests

8 We need to take three considerations into account:

(a) The Cornish tin industry (1,500 direct employees) would be unlikely to survive in the longer term if the price were to fall below about £7,000 per tonne.

(b) The London Metal Exchange (LME). The potential shortfall in the Buffer Stock Manager's existing resources in relation to members of the London Metal Exchange would be approaching £300m should the price of tin fall to about £4,000 per tonne. The Chairman of the Exchange believes that this might be sufficient to cause the Exchange as a whole to fall because a large number of brokers would be unable to meet their commitments. The Chairman of the London Metal Exchange considers that the ITC is now in default under its contracts to members of the Exchange,

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and that HMG, as a member of the Council, is a party to the default. He argues that there is therefore a moral obligation on HMG, which taken together with the importance of the LME to the British economy, requires us to take the lead in organizing a rescue operation. The Bank of England is uncertain whether in fact the Exchange as a whole would fall in the event of a collapse of the Agreement. But it is impossible to be sure, although on balance it seems unlikely.

The Bank would no longer say this - see my covering minute.

(c) It is possible that our relations with the producing states, chief of which are Malaysia, Indonesia and Thailand, would suffer, particularly in the case of Malaysia where the LME and the Bank of England who exercise an oversight of the LME might be seen, however unfairly, as the cause of the collapse. So far, however, since Thursday when trading was suspended, there does not seem to have been any attempt to lay the blame at our door.

9 However, set against these possible adverse implications is the essential point that if the Agreement collapsed or was satisfactorily re-negotiated UK consumers of 10,000 tonnes of tin per annum would benefit from the consequential price fall. If the price fell by £4,000 per tonne, the benefits to UK consumers would be about £40m p.a. If the Agreement were re-negotiated to set the price at a level somewhere between what would be the free market price and the last supported price of £8,500 per tonne, there would still be some benefit to consumers, though less than if we let the Agreement collapse.

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Options

10 We would appear to have three broad options:

(a) Agree to a package to enable trading to resume on condition that reforms to the Agreement would follow;

(b) Let the Agreement collapse.

(c) Be prepared to see the Agreement collapse, but, if international and domestic pressure is sufficiently strong, to undertake to examine, without commitment, any rescue package which may be put forward. But agree to give Government guarantees or additional resources only if the package includes fundamental reforms, including a more realistic market-related price and proper control over the BSM's operations.

11 In my view we should not be prepared to consider (a), not only because I am very reluctant to contemplate putting any more money into this agreement, but also because there could be no certainty that satisfactory reforms could be obtained.

12 However, the UK is to some extent bound by the position taken by other member countries (particularly consumer countries). It is possible that a two-thirds majority of both producer and consumer countries separately could vote to provide additional resources to the Agreement. In that case we would have two alternatives: either we could stay in the

999-49

ITC and necessarily comply with the new arrangements or we could leave the Agreement.

13 I believe that the consumers are unlikely to decide to commit additional funds to the Agreement without substantial reforms. But some, such as West Germany and Japan, appear ready to support a rescue package. Others, such as France and The Netherlands, appear less so. As yet, the producers have shown little inclination to make concessions by way of a price fall.

14 Although the European Community has competence in certain matters relating to the ITA, this competence does not extend to the injection of financial resources. Indeed, the Commission has implicitly accepted that some Member States might not be prepared to put in additional funds, even if others did.

Next Steps

15 I have already recommended that we do not pursue option (a) in paragraph 10 above.

16 I recommend that our preferred option should be (b): to let the Agreement collapse. Our representative at the ITC meeting on 29 October should not support moves to rescue the Agreement. I recognize that this course could have some adverse implications for the UK (paragraph 8 above) but I believe that the disadvantages of a rescue would outweigh the benefits.

17 However, I recognize that at the meeting on 29 October we may come under heavy pressure to accept a rescue package, particularly if our vote were required in order to make up a

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two-thirds majority among consumer countries for an Agreement. In that case, I recommend that we should hold to option (c) and say that we would require perhaps 2-3 days to examine the proposed package, before going back to the ITC. Following the 29 October meeting we would have to consider urgently, in the light of the details of the proposed package, whether we would be prepared to go along with it. It would need to involve substantial reforms to the Agreement, including a reduction in the price level to much nearer what it would be in a free market, and proper control over the BSM's operations. Otherwise, we should not agree to a rescue, since in its present form the Agreement is plainly absurd.

18 I am copying this minute to the Foreign Secretary, the Chancellor of the Exchequer, the Minister of Agriculture, Fisheries and Food, and the Governor of the Bank of England.

MPL

P L B

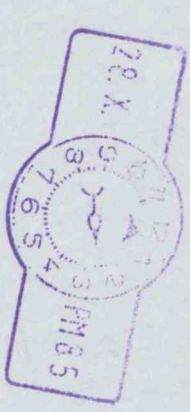
28 October 1985

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

Department of Trade and Industry

JF5AMO

Trade; Movements in Volume of Trade by Commodity; Jan '85



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COMMERCIAL IN CONFIDENCE
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Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

PRIME MINISTER

INTERNATIONAL TIN AGREEMENT

- with DRN?

I have seen the minute of 28 October from the Secretary of State for Trade and Industry. I strongly support his general line and the immediate action he proposes in para 17. But in the longer term, I believe it would be a great mistake - especially in present circumstances - to mount another rescue. The efficient working of markets requires that operators must take risks. It is important to demonstrate that this means accepting losses as well as receiving profits.

So like him I prefer his option (b), and completely reject option (a). As to option (c), I believe we should play no part in promoting it, and unless this week's Tin Council meetings produce something entirely unexpected, I would advocate leaving the Agreement rather than reinforcing it.

I am sending copies of this minute to the Foreign Secretary, the Secretary of State for Trade and Industry, the Minister of Agriculture, Fisheries and Food, and the Governor of the Bank of England.

N.L.

N.L.
28 October 1985

Trade Jan '85

Movements in Volume of Trade
by Commodity



File

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FM BRASILIA
TO PRIORITY FCO
TELNO 417
OF 281935Z OCTOBER 85
INFO SAVING KUALA LUMPUR, JAKARTA, LA PAZ, CANBERRA, LAGOS, KINSHASA, UKREP BRUSSELS, UK MIS GENEVA, UKMIS NEW YORK, RIO DE JANEIRO, SAO PAULO

CONFIDENTIAL

YOUR TELNO 459: INTERNATIONAL TIN AGREEMENT

1. WE HAVE SPOKEN TO LIGIERO, ASSISTANT HEAD OF MINERALS DIVISION IN ITAMARATY. HE REPEATED MUCH OF WHAT HE TOLD DE CHASSIRON BEFORE (SEE HIS TELELETTER TO ERD OF 27 AUGUST), EMPHASISING BRAZIL'S ROLE AS A MAJOR NEW PRODUCER, UNWILLING TO RESTRICT PRODUCTION OR JOIN THE ITC. THOUGH THE INTERNAL MARKET WAS DEPRESSED, HE WAS CONFIDENT IT WOULD RECOVER, AND BRAZILIAN TIN EXPORTS WERE DOING WELL. HE MENTIONED THAT A MALAYSIAN TECHNICAL MISSION HAD RECENTLY VISITED BRASILIA, BUT CLAIMED NO PRESSURE HAD BEEN BROUGHT ON THE BRAZILIANS TO JOIN THE COUNCIL.

2. THERE HAS BEEN NO SUGGSTION SO FAR FROM THE BRAZILIAN PRESS OR ITAMARATY THAT THE BANK OF ENGLAND OR HMG ARE IN ANY WAY RESPONSIBLE FOR THE PROBLEM, BUT WE DREW ON PARA 4 OF YOUR TUR WITH THE LATTER.

3. THE BRAZILIAN MEDIA REPORTING HAS SO FAR BEEN FACTUAL, QUOTING BRAZILIAN PRODUCERS AS SAYING THAT THE LME CLOSURE SHOULD NOT HAVE ANY MAJOR EFFECT ON BRAZILIAN EXPORTS, AS MOST ARE WITH PRE-FIXED PRICES. BOTH PARANAPANEMA AND BRUMADINHO (THE FIRST AND THIRD BIGGEST PRODUCERS) ARE QUOTED AS BEING UNWORRIED, SIMPLY AWAITING REOPENING OF LME (THOUGH THE FORMER'S SHARES HAVE FALLEN ON THE SAO PAULO STOCK MARKET), AND AS AGREEING WITH THE GOVERNMENT'S POLICY OF NOT JOINING THE ITC.

FCO PLEASE PASS SAVING TO ALL EXCEPT RIO DE JANEIRO AND SAO PAULO

URE

FRAME EXTERNAL
ERD
SEAD
SAMD
WAD
CAFD
LEG. ADV.
SIR W. HARDING
MR WILSON
MR DAVID THOMAS

THIS TELEGRAM WAS NOT ADVANCED

COPIES TO
MR M. LUNN MN
MR J DENISON CROSS
MR K HALL MN
MR P GENT ITP2
MR T VENESS ITP2
MR R TAYLOR ITP2
} DTI

MR D. FRY MAFF

MR MOUNTFIELD
MR REDLEY
} TRSY

MR B. GUNN B of E.

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GPS 340 CONFIDENTIAL

CONFIDENTIAL
FM KUALA LUMPUR
TO DESKBY 250900Z FCO
TELNO 505
OF 250730Z OCTOBER 85
INFO IMMEDIATE DTI (MM DIVISION)
INFO PRIORITY JAKARTA, BANGKOK

YOUR TELNO 459: INTERNATIONAL TIN AGREEMENT

1. THE SUSPENSION OF TRADING IN TIN CONTRACTS ON THE LONDON METAL EXCHANGE (LME) IS WIDELY REPORTED IN THE MORNING PRESS HERE TODAY. TIN TRADING IN KUALA LUMPUR HAS ALSO BEEN SUSPENDED TODAY.

2. THE BUSINESS TIMES REPORTS A REUTER TELEPHONE INTERVIEW WITH THE BUFFER STOCK MANAGER. IN COMMON WITH OTHER PRESS REPORTS, THE BUSINESS TIMES ARTICLE IS BALANCED AND CONTAINS NO HINT WHATEVER OF LAI'S ALLEGATIONS ABOUT THE BANK OF ENGLAND. IN THE REUTERS INTERVIEW, THE BUFFER STOCK MANAGER (BSM) ATTRIBUTES THE CRISIS TO OVER-SUPPLY BY NON-ITC MEMBERS, RECENT HEAVY SPECULATION AND HEDGING ON ACCOUNT OF WIDESPREAD KNOWLEDGE ON THE LIMITS ON THE BSM'S AND THE DELAY IN MAKING THE''SIGNIFICANT AND EFFECTIVE''CONTRIBUTIONS PROMISED BY SOME PRODUCING COUNTRIES.

3. THE BUSINESS TIMES ARTICLE GOES ON TO SAY THAT HIGH-LEVEL CONSULTATIONS BETWEEN ITC MEMBERS, TRADERS, NON-ITC PRODUCERS AND THE BANKS ARE NOW NECESSARY TO SHORE UP THE ITA. SUSPENSION OF TIN TRADING ON THE LME OFFERS THE CHANCE TO DO THIS.

4. ACCORDING TO OUR CONTACTS IN THE TIN INDUSTRY HERE, MUCH OF THE BLAME FOR THE PRESENT CRISIS STEMS FROM ARGUMENTS BETWEEN REGIONAL PRODUCERS WHICH HAVE DELAYED ADDITIONAL CONTRIBUTIONS FOR THE BSM. OUR SOURCES TELL US THAT MALAYSIA IS ONLY WILLING TO MAKE FURTHER CONTRIBUTIONS TO BUFFER STOCK FUNDS IF OTHER PRODUCERS MAKE A FULL PROPORTIONATE CONTRIBUTION. THAILAND HAS AGREED TO THIS, BUT INDONESIA, CLAIMING THAT MALAYSIA BENEFITS MORE FROM THE ITA, IS ONLY READY TO OFFER 70% OF ITS SHARE. MALAYSIA AND THAILAND HAVE ACCORDINGLY WITHHELD THEIR ADDITIONAL CONTRIBUTIONS IN A BID TO FORCE INDONESIA'S HAND.

5. SO FAR, THEREFORE, THERE APPEARS TO BE NO ATTEMPT HERE TO LAY THE BLAME FOR THE PRESENT SITUATION AT OUR DOOR. I DO NOT IN PRESENT CIRCUMSTANCES PROPOSE TO TAKE ANY INITIATIVE WITH THE MALAYSIAN AUTHORITIES. THERE IS A RISK THAT BY PROTESTING TOO MUCH OUR INNOCENCE, WE COULD STIMULATE THEM TO LOOK FOR GUILT WHERE THERE IS NONE. MEANWHILE DTI OR TREASURY MAY WISH TO TACKLE PETER LAI PRIVATELY IN ORDER TO DISABUSE HIM OF HIS OPINION ABOUT THE BANK OF ENGLAND'S ROLE. LAI HAS ALWAYS SEEMED TO US A SENSIBLE AND RATIONAL FELLOW. IF, HOWEVER, THERE ARE ALLEGATIONS HERE ABOUT THE BANK OF ENGLAND OR ANY OTHER BRITISH INSTITUTIONS, WE SHALL OF COURSE DRAW ON THE GUIDANCE IN YOUR TUR.

GILLMORE

FRAME EXTERNAL
ERD

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DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
TELEPHONE DIRECT LINE 01-215 5422
SWITCHBOARD 01-215 7877

Secretary of State for Trade and Industry

25 October 1985

Len Appleyard Esq
Private Secretary to the
Secretary of State for Foreign and
Commonwealth Affairs
Downing Street
LONDON
SW1

Dear Len,

INTERNATIONAL TIN AGREEMENT

... I attach a note of last night's meeting on this issue, chaired by my Secretary of State.

2 Copies also to to David Norgrove (No 10), Tony Kuczys (Treasury), Ivor Llewelyn (MAFF) and John Bartlett (Bank of England).

Yours ever,
Michael Gilbertson

MICHAEL R GILBERTSON
Private Secretary

Encl

JH3CIA

CONFIDENTIAL

MEETING TO DISCUSS THE INTERNATIONAL TIN AGREEMENT : THURSDAY, 24 OCTOBER 1985

Present: Secretary of State for Trade and Industry
Secretary of State for Foreign and Commonwealth Affairs
Chancellor of the Exchequer
Governor of the Bank of England
Mr Mountfield (Try)
Mr Tait (FCO)
Mr Lunn (DTI)
Mr Norgrove (No 10)

BACKGROUND

Earlier in the day the International Tin Council had told the London Metal Exchange that the Buffer Stock Manager would be unable to meet his commitments. The LME whad suspended trading in tin at least for that day and 25 October: no decision had been taken on when trading would resume. A meeting of the Heads of Delegations to the ITC had been called for the morning of 25 October and a full Council Session called for Tuesday, 29 October.

PURPOSE

2 To discuss the possible implications of these developments for the future of the International Tin Agreement, the London Metal Exchange (and the City as a whole) and our relations with producer countries, particularly Malaysia, and to discuss what action the Government might take.

SUMMARY OF DISCUSSION

3 It was unclear to what extent the LME as a whole might be under threat. The risk to the City as a whole was judged by the Bank not to be serious. There were risks to our relations with Malaysia, particularly because of allegations that the Bank had wrecked the agreement. Further clarification of the position would be sought urgently, following which the Secretary of State for Trade and Industry would circulate a note to colleagues, setting out options for action.

JH3CHZ

DETAIL

4 The Secretary of State for Trade and Industry began by arguing that the International Tin Agreement was an absurd arrangement from the UK's point of view. It had cost the UK £8m to join, it had meant that UK tin consumers had been paying £50m p.a. more than they would have done, and traders on the LME now stood to lose £200-300m. The only benefit for the UK had been keeping the Cornish tin industry, which employed 1,500, viable. Because the tin price had been set far too high, the BSM had been forced to buy more and more tin and engage in dubious transactions to sustain the price.

5 The Foreign Secretary was not familiar with the detailed structure of the agreement; he was very concerned however that we might have to meet some of the Buffer Stock Manager's unsecured liabilities. One further benefit for the UK of the ITA had been that it had sustained the LME market at a high level. He was concerned about the possible effects on our relations with Malaysia. At CHOGM, Dr Mahathir had been very critical of the role of Western Governments and dealers in the agreement, which he felt had operated to the disadvantage of producers such as Malaysia. It was known that Malaysia thought the Bank of England had sabotaged the agreement by advising brokers not to increase their exposure with the BSM. The Prime Minister had not had an opportunity to speak to Dr Mahathir about this issue at CHOGM.

6 The Chancellor said that had a free market been operating, London would have had its share of the market: it was the Agreement itself which now threatened the London market.

7 Mr Lunn said that legal advice was that members of the ITC were probably not liable for the debts of the BSM. It would be up to individual members to decide whether to contribute in respect of the BSM's commitments. As far as contributions to a new agreement were concerned two-thirds majorities among both producers and consumers would be required. The European Commission had sought competence in relation to new contributions by proposing a rescue package: Member States had rejected the proposals.

8 The Governor said that it had been known for some time that the BSM had been borrowing beyond his authorisation. The collapse of the Agreement would not be a fatal embarrassment to the banks: no one bank had more than £10m exposure. Three or four firms of metal brokers could be in dificulties, but might well survive. One was a subsidiary of a larger group; he believed the rest were independent. He was not yet clear how seriously the stability of the LME as a whole would be affected. Cessation of tin trading for

a few days would not seriously affect the rest of the LME. He did not yet know what the impact might be on Malaysian banks: it could be more severe than on UK banks. Collapse of the ITA would not be that serious a blow to the prestige of the City: collapse of the LME would.

9 Mr Lunn confirmed that the Chairman of the LME had said that brokers' exposure was so great that the whole of the LME might be at risk. DTI's view was that this view might be an exaggeration.

10 The Chancellor said that although a collapse of the LME would be a serious matter, bailing it out would be worse. It was essential that participants in financial markets recognized that they were in a risk business. In the case of JMB, where the risks to the banks and to the gold market were much greater than the potential implications in this case, the decision to intervene had still been a difficult one. It we rescued the LME, it would cause political difficulties, partly because it would be seen as an example of the Government aiding financial institutions when it was reluctant to aid manufacturing industry, and partly because it would be a signal to the LME that it could be as imprudent as it liked, with impunity. Moreover, the largest firm involved was a subsidiary of American Express.

11 The Secretary of State for Trade and Industry asked what the UK would be paying for if it contributed a 4 per cent share of the estimated £300m cost of a rescue of the agreement.

12 Mr Lunn said that the rescue would cover the BSM's liabilities to brokers and to banks, and possibly the cost of new buffer stock. If a new agreement fixed a sensible price, it might work: it would be foolish to rescue the agreement on its current terms.

13 The Foreign Secretary said that re-negotiating the agreement before it finally collapsed, and possibly being liable for the BSM's debts following a collapse were two separate issues.

14 It was agreed that it was essential to discover quickly more clearly what our legal obligations were. If we were legally liable for the BSM's commitments, it might make sense to intervene now, to save the agreement to mitigate further losses. If we were not legally liable, then it might be better to allow the agreement to collapse to allow a more rational state of affairs to be established in its place. The Chancellor did not consider that a package could be put together in time to save the Agreement, partly because a

collapse would happen so suddenly, and partly because other consumer countries would take a hard line: the ITA was therefore likely to collapse and the realistic question was whether we should then seek to re-constitute it or not.

15 The meeting then discussed what action should be taken:

(a) A telegram to Kuala Lumpur had been drafted at official level. It was agreed that this would be re-drafted, to reflect the following:

- the situation was serious and had been caused by the attempt to maintain prices at unrealistically high levels

- the Bank of England had not sought to undermine the Agreement. Collapse had been caused by market forces

- we were considering the serious situation that had arisen.

(b) It was agreed that the press line should for the moment be unchanged, viz no plans for restructuring the agreement had been put forward; if a plan were put forward we would look at it, without commitment. The Bank would also have to set out a press line refuting allegations that it had precipitated the difficulty.

(c) The approach at the Heads of Delegations meeting on 25 October would simply be to listen.

(d) Clarification would be sought urgently on the extent of our legal liability, the extent of Community competence to govern Member States' involvement, the likely effect on the City of the crisis, the LME's latest view, and the views of other consumer countries, especially Japan.

(e) The Secretary of State for Trade and Industry would circulate to colleagues a paper setting out the latest position and options for Ministerial decision on the line to take at the full ITC meeting on Tuesday, 29 October.


25. X.
PM85

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PRIME MINISTER

I am writing to say that there is a possibility that the International Tin Agreement (ITA) could be in difficulties in the near future.

2 The attached note sets out the main features of the ITA. The basic problem is that the Agreement is designed to maintain tin prices at levels well above what they would be in a free market. Some banks and brokers on the London Metal Exchange are becoming nervous about the ability of the Buffer Stock Manager to maintain the price of tin, and there have been some moves, as yet isolated, to reduce the extent of their dealings with him. At the last meeting of the Tin Council, the Executive Chairman asked member countries to give guarantees of the Buffer Stock Manager's £250m bank borrowings.

3 The consumer countries, which in the Agreement are principally the EEC and Japan, have agreed that no additional resources should be put into the Agreement without fundamental reforms, particularly in relation to the price level, and possibly not even then. The producer countries are considering an injection of additional funds, but this would not in the long run solve the underlying problems of the Agreement.

CONFIDENTIAL

4 The consequences for the United Kingdom of a breakdown would in the short term be that the Buffer Stock Manager of the ITA would be unable to meet his commitments to some brokers on the London Metal Exchange. The amount of shortfall could be between £150-200m and some brokers might be forced out of business as a result, but the Bank of England believes that the LME as a whole would not be threatened. The Buffer Stock Manager would also be unable to repay his bank borrowings in full but no UK bank is exposed for more than £10m.

5 In the longer term the viability of the Cornish tin industry might be at risk if the tin price fell substantially. The industry employs directly some 1500 in Cornwall.

6 There could also be implications for our relations with the producing countries, chief of which in the ITA are Malaysia, Indonesia, Thailand and Australia. For this reason it is important that the UK should not be seen as in the lead in taking a hard line approach to the Agreement. The Foreign and Commonwealth Office will, I understand, be providing briefing for the Commonwealth Heads of Government Meeting next week. In addition there could be indirect repercussions on the prospects for other commodity agreements.

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7 On the other hand, if the Tin Agreement broke down, and the price of tin fell substantially as would almost certainly be the case, UK consumers would gain from the lower tin price, possibly to the extent of £50m per year, depending on the magnitude of the fall in price.

8 A Working Party of the International Tin Council is currently trying to put together proposals for a package to put the Agreement on a more stable basis, but the prospects for early agreement do not look good.

9 The UK Government's share of any guarantees given by the International Tin Council of the £250m bank borrowings would be some 4-5%. Such guarantees would enable the Buffer Stock Manager to secure further loans to continue his operations. There could also be pressure from the producers for the consumers to match their proposed additional contributions to the Agreement in return for agreeing to a price fall and other reforms. If the consumers injected a further £60m, (the reported figure proposed by the producers) the UK share would be some £5m.

10 The UK, as a comparatively minor consumer in the Agreement, is not in a position to deal with this issue in isolation, and we need to keep in close touch with other consumers particularly the EEC and Japan. I would, however, need to see a convincing case before agreeing to inject more resources into this Agreement.

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There should certainly be no question of doing so without far reaching reforms. These would include a reduction in the price level and provisions for more rapid price adjustment to reflect market conditions; and arrangements for more control of the Buffer Stock Manager's operations, particularly in relation to his dealings on the London Metal Exchange.

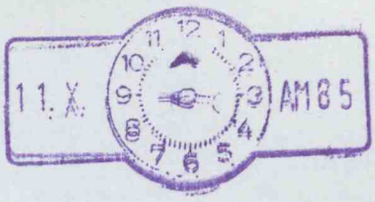
11 I am copying this minute to the Chancellor of the Exchequer, the Foreign and Commonwealth Secretary, the Secretary of State for Agriculture, Fisheries and Food, and to the Governor of the Bank of England.

L. B.

L B

11 October 1985

Department of Trade & Industry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CONFIDENTIAL

THE INTERNATIONAL TIN AGREEMENT

Background

The Sixth International Tin Agreement which came into effect in July 1982 is a commodity agreement with economic provisions. It is due to expire in July 1987, but could be extended by up to two years. The purpose of the Agreement is to maintain the price within a given range, and for this purpose a buffer stock has been established and a Buffer Stock Manager operates a system of intervention buying and selling to keep the price within the given range.

2 Only about 50% of tin consumption is covered by countries in the Agreement, the major absentees being the USSR and the United States, and about 60% of production. The main producer member countries are Malaysia, Indonesia, Thailand and Australia, and the main producer countries which are not members are Bolivia and Brazil. The UK, although a consumer member, produces some 50% of its tin requirements.

3 The Agreement has been bedevilled from the start by the fact that the price range has always been considerably higher than that which would have been set by a free market. Production has been stimulated and consumption has fallen, and consequently there are large stocks of tin on the market despite export controls of 40% on producer member countries. The resources given to the Buffer Stock Manager and the amount of tin which he has been allowed to stockpile, have never been adequate to deal with a situation of chronic over supply. The Buffer Stock Manager has therefore had to resort to unorthodox methods, including entering into arrangements with brokers on the LME to keep tin off the market and entering into forward buying and selling arrangements. In addition he has incurred loan obligations of some £250m to the banks.

4 The difficulties which have always been liable to arise under the Sixth Agreement, have been exacerbated by the recent rise in sterling against the Malaysian ringgit which has made some banks uneasy about the value of the tin warrants given as collateral for their lending. In addition the rise in sterling has meant that the Buffer Stock Manager is now making a loss on his forward sales as sterling prices fall.

5 The United Kingdom put some £8m into the Sixth International Tin Agreement in 1982, and in addition pays some £50,000 per annum towards the administrative costs of the Agreement.

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J Hibbert Esq
Department of Trade and Industry
Services Organisation
1-19 Victoria Street
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Your Ref S5646
Our Ref HE/07

29 May 1985

Dear Hibbert.

ROUNDING OF PUBLISHED STATISTICS: TRADE FIGURES

I write, with apologies for the delay, to thank you for your letter of 15 March.

2. I think this correspondence has been useful in clarifying our respective positions. But I do not think there is much to be gained by further discussion. We note your continuing reservations about publishing the indices to one place of decimals, accompanied by a suitable health warning. And I think you will appreciate that, for Parliamentary and other briefing, quoted percentage changes need to match the published indices. Otherwise the Opposition, and outside commentators, will be needlessly puzzled over differences between their figures and those used by Ministers.

3. I am sending copies of this letter to recipients of yours.

pp K Veron.
M T FOLGER

cc Mr Tumbull (No 10)
Mr Folger o.r.
Mr Mowl
Mr CW Kelly
Mr Walker
Mr Crexford - CSO
Mr Griffin - CSO
HE/07

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S5646

15 March 1985

NBPM

M T Folger Esq
Economic Briefing Division
H M Treasury
Parliament Street
London SW1P 3AG

Dear Folger

ROUNDING OF PUBLISHED STATISTICS

We have considered carefully the points made in your letter of 27 February, but remain of the view that it would be unwise to extend the use of figures to one decimal place in the Press Notice beyond that offered in my letter of 21 February.

2. You make the very reasonable observation that the degree of rounding in the press notice is not consistently related to the accuracy of each series. This raises questions which have been debated on many occasions in the past and to which there are no wholly satisfactory answers. At one extreme we could adopt a policy of rounding each figure to the level of significance appropriate to its estimated reliability; the monthly current balance, for example, might be rounded to the nearest (say) £½ billion. This would give rise to many obvious practical difficulties. At the other extreme we could adopt a policy of publishing all estimates at the level of significance at which the underlying calculations have been made. This approach would have advantages for those who wish to process the figures further but would provide no indication of the relative reliability of the figures. The value estimates published in the monthly press notice are, as you observe, not rounded to reflect their relative reliability (the only exception being the projections of the invisible balance) but shown to the nearest £ million. This convention is followed throughout the balance of payments and national accounts, partly because of the practical inconvenience of presenting accounts which may not balance if the component figures are rounded. Not everyone agrees with this approach but we could hardly follow a different policy in the press notices when the unrounded quarterly and annual figures were to appear in the accounts published by the CSO.

3. Price and volume index numbers may give rise to additional considerations. For external trade the unit value, and aggregated average value, indices used to derive the volume indices are of course subject to errors additional to those in the value estimates. These sources of error are liable to increase significantly with disaggregation. Furthermore, the quality of the data from which the average value indices are derived is likely to have deteriorated, rather than

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to have been maintained or improved, in recent years. We certainly would not wish to do anything which gave the impression that the quality of the series had now improved.

4. You mention series which are currently published to one decimal place even though subject to subsequent revision. In the case of the component series of the PPI these are inherently far more reliable than the disaggregated volume series for external trade, so the publication of figures to one place of decimals would seem to me wholly appropriate. For the production industries the appropriate degree of rounding is perhaps less clearcut, but the monthly series for the seven component series within manufacturing are rounded to the nearest integer reflecting the CSO's judgement that the monthly series at this level of disaggregation are significantly less reliable than the quarterly series. (You should also note that even some annual series in the Blue Book are given differential degrees of rounding - see, for example, Table 1.16.)

5. Although I did not explicitly reject in my reply to your earlier letter the idea of a "health warning", you correctly infer that I am not convinced of its value. It seems to me that the main difficulty with saying that the figures are not necessarily accurate to the last digit shown (or some such formulation) is that it provides no real guidance to the user on relative reliability. It implies, furthermore, that unless such a statement is attached to the figures then they can be regarded as accurate to the last digit shown. In general I am very sympathetic to the idea that greater attention should be paid to the likely margins of error of the estimates published by the GSS, but warnings that the figures may not be as reliable as implied by the number of significant digits shown do not seem to me to help very much.

6. As a general comment on the use of our figures, even though one must accept that Ministers may wish to quote a point estimate, I would hope that wherever possible we could steer people towards statements of a kind which more properly reflect the reliability of the statistics. The suggestion in my note of 29 January that we should refer to an increase of "around 10 per cent" for the growth in the volume of UK exports of manufactures between 1983 and 1984 seems to have fallen on deaf ears, perhaps because of the difference between the figure including erratics (now estimated at 8½%) and that excluding erratics (now estimated at 10½%). In retrospect, a more helpful formulation might have been "an underlying increase of around 10 per cent" which would have reflected the fact that the figure including erratics is distorted by the particularly high exports of silver in 1983. If we could encourage Ministers and officials to view the figures in these terms, and to refer to them similarly when making public pronouncements, that would be significant progress.

7. Finally, you asked that the percentage changes between the latest 3 months and the same 3 months a year earlier should be shown in the press notice for all index numbers. As you may know, we have recently introduced these additional figures for Tables 2, 4, 5, 6 and 7 in the press notice, including the index numbers in those tables. It would be impracticable to extend this to the remaining tables without greatly enlarging the number of pages in the press notice which, we feel, is already large enough. If, however, you consider that the twelve month changes are particularly useful to you for a limited number of OTS categories (for example, exports and imports of manufactures), these figures could be provided to you by S2A at the time the press notice is released. If you wish to pursue this further please get in touch with Bill Boyd or Alan Hewer.

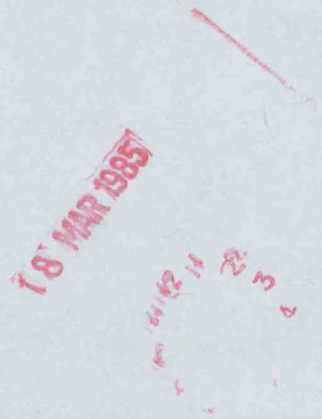
8. I am copying this to those in receipt of the earlier correspondence.

Yours sincerely

Jack Hibbert

J HIBBERT

Trade : movements in volume of trade
1/85.



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Full

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27 February 1985
Our Ref: HE/07

Dear Hibbert

MOVEMENTS IN VOLUME OF TRADE BY COMMODITY

Many thanks for your letter of 21 February. - with AT ?

2. Your proposal to quote calendar year figures to a first place of decimals is welcome. I note your views on the undesirability of doing the same for the monthly figures.

3. On the latter issue I wonder if I might trespass on your time a little further to make some additional points? First, there does not seem to be any overall attempt to relate the rounding of trade statistics to their accuracy. The balance of payments figures, for example, give the current account to the nearest million pounds; yet everyone knows that, despite the present estimate of £79m, the 1984 current account balance, say, almost certainly did not lie in the range £78.6m to £79.4m. Second, there appears to be no objection elsewhere to giving estimates of monthly figures to one place of decimals even though these are likely to be revised subsequently. The DTI Producer Price Index and the CSO production industries index are examples. Third, I am unclear from your letter why you think a health warning to stress margins of error would be unacceptable.

4. Against this background you may perhaps wish to reconsider the possibility of publishing monthly trade index numbers to one place of decimals.

5. For the reasons explained in my letter of 1 February, figures for percentage changes for Ministerial use have to be based on published material. And quite often Ministers will need to refer to volume trends over a period more current than the latest calendar year.

4. Pending any decision on the monthly indices themselves, you might therefore wish to consider including in the Press Notice figures for the percentage changes in all index numbers not just for the latest 3 months on the preceding 3 months but also since the same 3 months a year earlier. These would be derived from your internal volume indices, with their single place of decimals, and as published figures would form the basis for Departments' briefing in the normal way.

5. I am sending copies of this letter to recipients of yours.

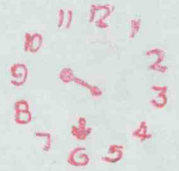
Yours sincerely

M T Folger

M T FOLGER

cc A Turnbull - No.10
C Mowl - Tsy
P Walker - Tsy
A Croxford - CSO
T Griffin - CSO

28 FEB 1985



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Your Ref

with compliments

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Our ref: HE/07

1 February 1985

Dear Hibbert

MOVEMENTS IN VOLUME OF TRADE BY COMMODITY

Following our telephone conversation earlier this week you kindly sent me a copy of your 29 January note to DTI Ministers. I tried unsuccessfully to call you today and instead drop you this note about a point arising.

2. I have taken the opportunity to check various percentage increases, whole year 1984 on whole year 1983, as quoted in your letter against those derivable from the index numbers published with the 25 January press notice. In general they do not tally, for example:

volume increases in manufactures, per cent

	excluding erratics	including erratics
exports		
29 January note	10.7	9.3
press notice	11.7	9.7
imports		
29 January note	11.5	9.9
press notice	11.7	9.2

3. It is the figures deriving from the Press Notice which we (and I think No.10) use in briefing - for the very good reason that outside commentators and critics will be using those same figures. Yet in some instances they seem to differ by up to a full percentage point from your figures.

4. I guess that the numbers you quote are based on internal volume indices which go to one place of decimals (or more?) rather than simply to the nearest whole number as the published indices do. This different practice on rounding may be one source of the recent "confusion" about exact percentage growth rates, to which you refer in your note.

5. May I suggest that, to avoid future confusion, the press notice might quote the indices to one place of decimals (with a suitable health warning as necessary about that decimal not

always being precise?) This would also be helpful, I understand, to those who prepare the Industry Act forecast here.

6. I am copying this letter to Mr Turnbull at No.10 and to Mowl (EA2) and Walker (EF1) here.

Yours sincerely

M T Folger

M T FOLGER

cc A Turnbull Esq - No.10
C Mowl - EA2
P M Walker - EF1

Reference S 5842

cc IF

PS/Economic Affairs, 10 Downing St
Mr Wells (CSO)
Mr Folger (Treasury EB division)

STATISTICS OF UK TRADE IN MANUFACTURES

Some confusion appears to have arisen about the growth in export volume between 1983 and 1984. You may find is useful to see the attached explanatory note which I have circulated within the Department of Trade and Industry. The Treasury brief circulated yesterday is consistent with the figures referred to in my note.

Jack Hibbert

J HIBBERT
S2
V/260
215 5574

29 January 1985

Reference .....

Ministers
Sir Anthony Rawlinson
Sir Brian Hayes
Mr Liesner
Mr Roberts
Mr Rumbelow

cc: Mr Boyd
Mr Goate

GROWTH IN THE VOLUME OF TRADE IN MANUFACTURES BETWEEN 1983 AND 1984

Exports

Some confusion seems to have arisen over the growth in the volume of exports of manufactures between 1983 and 1984. Including the so-called erratic items (ships, aircraft, North Sea installations, precious stones and silver) the increase was 9.3 per cent; excluding these items it was 10.7 per cent. In quoting a figure for the increase our advice is therefore to use the phrase "around 10 per cent".

2. A higher figure was referred to by the Prime Minister in a TV interview on Thursday 24 January. It seems that this was taken from the latest Treasury brief and related to the increase in non-oil export volume between Sept-Nov 1983 and Sept-Nov 1984.

Imports

3. The volume of imports of manufactures in 1984 was 9.9 per cent above the level in 1983; less the erratic items the increase was 11.5 per cent. We would usually refer to the former increase as "about 10 per cent".

Terms of trade

4. The terms of trade in manufactures fell by about ½ per cent.

Balance of Trade

5. The balance of trade in manufactures was in deficit by £3.9 billion in 1984 compared with a deficit in 1983 of £2.4 billion. The rate of increase in the deficit was less between 1983 and 1984 (£1.5 bn) than that between 1982 and 1983 (£4.7 bn).

Share of World Trade

6. The volume increase in manufactures between 1983 and 1984 of about 10 per cent is at the upper end of outside forecasters' projections of the rise in the volume of exports of the main manufacturing countries in this period. It is reasonable to suppose that the UK therefore in volume terms maintained the share of world trade achieved in 1983.

7. In view of the fall in the value of sterling against other currencies - particularly the dollar - however it is unlikely that the share in value terms was maintained.

Jack Hibbert

J HIBBERT
S2
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29 January 1985

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