

SECRET

Subject



Copy No. 7
of 7 copies

13

cc Master

10 DOWNING STREET

11 March 1985

From the Private Secretary

Dear Michael,

The Prime Minister held a meeting today to discuss the modified Colliery Review Procedure. Present were the Chancellor of the Exchequer, the Secretary of State for Energy, the Secretary of State for Trade and Industry, the Attorney General and Mr. Bottomley. Also present were Mr. Gregson and Mr. Redwood.

The Secretary of State for Energy said it was essential for NCB to be seen to be doing its best to implement the NACODS agreement. This required establishment of the independent review body. He strongly opposed the concept of a panel comprising a union man, a management man and an independent Chairman as this was a recipe for compromise decisions. He suggested that disputed closures should be referred to an Inspector drawn from the Panel of Inspectors maintained for planning inquiries by the Department of the Environment. Although disputed closures would be taken up to national level, it was preferable to constitute the Inspectors on a regional basis. They would be able to call upon specialist assessors, e.g. for advice on accounting or geology, but the recommendation would be theirs alone. They would be asked to report in about four weeks. This concept had several advantages. The choice of Inspector to consider any particular case was not subject to political control; and the Inspectors were used to cross-examination and to drawing upon assessors for technical advice.

In discussion it was noted that the four week deadline could not be achieved if the Inspector received new evidence. He should be asked to consider the evidence put forward by the parties during the earlier stages of the review procedure. It was likely, however, that the Inspectors would need guidance on the criteria they should use, though it would be difficult to secure agreement on these with the unions.

The agreement with NACODS revealed the latter's concern that the future of a pit could be determined by investment decisions taken some time in the past and they had sought some way of making representations at an earlier stage. Mr. MacGregor intended to introduce two year plans which

SECRET

157

would be regularly updated. It was these rather than the independent review at the final stage which would provide the unions with the best opportunity for making representations at an early stage.

Summing up the discussion, the Prime Minister said Inspectors assisted by assessors were preferable to a representative Panel with an independent Chairman. The Secretary of State for Energy should seek the agreement of the Secretary of State for the Environment and the Lord Chancellor to the use of Inspectors in this way. He should then develop the proposal further in conjunction with the NCB. Consideration should be given to the criteria which the Inspectors should use.

I am sending Copy No. 2 of this letter to Rachel Lomax (H.M. Treasury), Copy No. 3 to Callum McCarthy (Department of Trade and Industry), Copy No. 4 to David Normington (Department of Employment), Copy No. 5 to Stephen Hyatt (Law Officers' Department) and Copy No. 6 to Mr. Gregson.

Yours sincerely

Andrew Turnbull

Andrew Turnbull

Michael Reidy, Esq.,
Department of Energy.

SECRET



Copy No 1 of 7

12

SECRETARY OF STATE FOR ENERGY
THAMES HOUSE SOUTH
MILLBANK LONDON SW1P 4QJ

01 211 6402

Andrew Turnbull Esq
Private Secretary to
the Prime Minister
10 Downing Street
LONDON
SW1

8 March 1985

Dear Andrew

COLLIERY REVIEW PROCEDURE

I attach a paper for the discussion which the Prime Minister is due to have on Monday afternoon.

Copy number 2 goes to Rachel Lomax, number 3 to Callum McCarthy, number 4 to David Normington and number 5 to Steven Hyett.

Your sincere

M F Reidy

M F REIDY
Private Secretary

SECRET

SECRET

COLLIERY REVIEW PROCEDURE: INDEPENDENT REVIEW BODY

The NACODS Agreement

The agreement last October between the NCB and NACODS provided for the creation of an Independent Review Body within the colliery review procedure. It is to deal with any disputed closure and with conflicts over other issues which might have a bearing on the life of a colliery. The NCB is pledged to give "full weight" to its findings.

Present Situation

NACODS has as yet made no effort to elaborate on the bare bones of the agreement. The terms of the agreement contemplate that it will be worked out jointly between the Board and all 3 mining unions (see Annex). Formally, so long as the NUM is not ready to collaborate, no obligation on the NCB to make detailed proposals has matured. The Board has so far taken no initiative and its thinking is at an early stage. Indeed it is inclined to take the view, consistent with what was said in the abortive TUC document, that the present colliery review procedure must continue to be operated unless and until agreement is reached by all parties on the new independent element. For its part, NACODS may well go on arguing that the review procedure cannot be operated at all until the independent element is available.

Features of the Independent Review Body

Against this background I have been reflecting on what form the Independent Body might take and have had a very preliminary exchange of views with the Board. There are of course major financial and industrial issues at stake for the Government in the character of this Body and its role in closures and I am anxious to make our views on its establishment known to the Board.

In relation to many of the main features of the review body - eg its level of operation, timescale, scope - the Board's preliminary thinking is on acceptable lines. The NACODS agreement provides for the review body to operate at national level, as the final stage of the procedure, but the Board has in mind creating a regional link by proposing a series of panels, each specialising in cases arising in a particular region. There will be a need for the review body to operate to a set time limit; the Board is thinking in terms of four weeks. The right of each party to introduce evidence might be constrained by reference to

SECRET

It has tabled earlier in the procedure (without limiting the review body's own right to request more). It is already established that the role is advisory only. As to the proper scope of the review body's considerations, the Board is exploring the possibility of limiting any economic evaluation to costs and revenues falling to the account of the Board, by reference to the considerations which the Board itself may, under the statutes, properly taken into account.

Composition and Appointment

This leaves the contentious issue of the composition of the review body and its manner of appointment. Some thinking at the Board favours the customary form in Coal Board conciliation machinery of a body of 3, including a nominee from both sides of the industry. I do not regard this as satisfactory: nor does Ian MacGregor. It encourages midpoint compromise. It would imply a need to find half-a-dozen regional chairmen acceptable to both sides.

I am inclined to favour constituting the review body (or each of its regional manifestations) as a single individual. He can be supported by assessors if he wishes. If the Secretary of State for the Environment and the Lord Chancellor agree, he might be appointed from the Panel of Inspectors maintained for planning enquiries by the Department of the Environment. Their normal role is quasi-judicial, whereas this role is only advisory, but that normal role symbolises their independence.

I should be glad to have the support of colleagues in guiding the Board on the above lines.

Secretary of State for Energy

March 1985

EXTRACT FROM NACODS AGREEMENT, 23 OCTOBER 1984

COLLIERY REVIEW PROCEDURE - INDEPENDENT REVIEW BODY

The Association has asked for a revision of the Colliery Review Procedure to ensure that it operates effectively and fairly within the industry. In your document of 26 September you asked specifically for:-

- (i) An early warning procedure where local members believe their colliery is deliberately, by various means, being run down as a prelude to closure investigations.
- (ii) Inside the Colliery Review programme, greater availability to Branch Officials, when preparing a case to oppose closure, of time and facilities to information.
- (iii) Any final notice of closure to be issued would allow National Officers time to consult the membership.
- (iv) Any final closure notice not agreed between the NCB and the Association to be subject to an appeal to an independent body.

As previously stated, the Board are very ready to re-examine the Review Procedure and to adopt any amendments which will improve its effectiveness. The Association will appreciate, of course, that this must be done in a way which will meet with the approval of all the parties concerned, including NUM and BACM.

The Board believe that the procedure as it stands is unique and is something that we should all make work. This will, of course, require the active effort of all the parties, not just that of management.

You clearly are concerned that the arrangements should work so that at local colliery level as well as area level there will be an early and continuing understanding of the prospects of the pit concerned. We believe our plans should be readily understood and updated in the form of two year plans reflecting both market and production opportunities. We believe that if this is

done it should remove the fear you have that actions will be taken covertly which would shorten the life expectancy of a pit without reaching an understanding among all the parties concerned.

Given that this is done we would expect that there should not be conflict over investment or other operational decisions. If, however, such conflict arose, that could be dealt with from that early stage within the Review Procedure so that all parties could be given ample time to brief themselves adequately.

If, at the end of this process, the matter was still in conflict and might lead to a foreshortening of a colliery's life expectancy, this question, as has already happened in the past, can be referred for national consideration and, indeed, would then be subject to the Independent Review Body and full weight given to its findings, just as would be the case in any question of a distinct closure proposal.