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FROM: CHIEF SECRETARY

DATE: *W* April 1985

PRIME MINISTER

BNFL PRE-1971 WASTES

The meeting of E Committee on 30 March 1983, which you chaired, considered the problem of radioactive wastes and plant acquired by British Nuclear Fuels plc on its formation in 1971. It was decided that the Government should accept ultimate liability for the costs of making safe wastes and plant which resulted from earlier programmes for which Departments were responsible.

2 On funding, the Secretaries of State for Defence and Energy were to agree with me to which public expenditure programme, or programmes, any resulting expenditure should be attributed and the extent, if any, to which the programme or programmes concerned might be increased in consequence (E(83)3rd Meeting).

3 The origins of the waste are broadly assessed as 80 per cent defence and 20 per cent civil, (10 per cent UKAEA, 5 per cent Electricity Boards and 5 per cent BNFL itself). The cost of making them safe has been estimated at between £600 million and £1000 million (1982 prices) spread over the next 30-50 years, of which some £300 million would be incurred in the first decade. The three bodies responsible for the civil nuclear wastes have agreed to pay their share of costs from within the programmes settled during the 1984 public expenditure round.

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4 I regret that we have so far been unable to reach agreement on the remaining 80 per cent - the defence wastes. The essential issue in determining attribution to public expenditure programmes is what policy function is being executed.

5 The Defence Secretary's view is that the expenditure is intended to protect BNFL's financial and commercial position and to facilitate the Company's privatisation; and that this was a key element of the case for accepting financial liability put to E Committee in 1983. Accordingly, he considers the expenditure should be classified as industrial support and rest on the Department of Energy's programme.

6 We considered whether the costs could be borne by either the Energy or Environment programmes. Both Secretaries of State believe it would be wrong in principle for their Departments to pay costs resulting from past defence programmes. They argue this would run counter to the established "polluter pays" principle. Primary legislation would be required to give either Minister powers to make continuing payments. This would be controversial, providing a focus for opponents of our civil and defence nuclear policies.

7 Legislation would not be required for the Ministry of Defence to make the payments (since this Department would, in effect, be picking up costs from its earlier contracts). It is common ground that the Ministry of Defence's legal liability in respect of its payment was discharged by a 1964 settlement. This involved the payment of £210 million by the Department of which £0.4 million was provided specifically for treatment of wastes. The Defence Secretary argues that funding from within the Defence Budget would therefore involve paying twice for the same service and would divert resources from the primary objective of maintaining national security.

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8 The Defence Secretary recognises however the presentational difficulties involved in introducing legislation to enable the Department of Energy to fund BNFL as part of the programme of industrial support. He has therefore reluctantly agreed that he would be prepared to take on board responsibility on the Defence Budget for 80 per cent of the costs provided that the necessary funds in the current year and the PES period are made available in subsequent years to meet the costs.

9 The figures are:

				£ million (January 1984 prices)
up to 1984-85	1985-86	1986-87	1987-88	
13-20	4-14	6-23	8-27	

10 The higher end of the band indicates payments by MOD if the Department pays for BNFL's capital plant as investment is incurred. The lower end indicates payments if BNFL funds plant by borrowing, and then charges depreciation and interest to MOD as plant is used later to process wastes. It is not yet clear which would be the cheaper option (in real terms) in the long run. The precise figures would have to be settled in negotiation with BNFL after investment appraisal.

11 Given the current pressure on public expenditure I am unable to give the undertakings the Defence Secretary has sought. The provision for waste management made in the original legal settlement has turned out to be much too low. MOD are not legally liable for the extra costs but now that we have decided collectively to accept them I think they are a fair charge to the Defence Budget.

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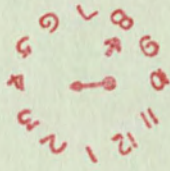
Summary

12 We have settled the attribution of the cost of dealing with the component deriving from the civil nuclear programme. While the issues surrounding the defence component have been clarified, we have not been able to reach agreement on whether that programme should be increased. Accordingly, I regret I must refer the question back to you as Chairman of the original E Committee to decide how it should be finally resolved.

13 A copy of this minute goes to the Secretaries of State for Defence, Energy and Environment (who agree that it sets out the issues before us) and to the Lord President and Sir Robert Armstrong.



PETER REES



- 9 APR 1985

FORWARDED