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PRIME MINISTER

DRUG TRAFFICKING

You will wish to be aware of the Home Secretary's view that the police should have access to Revenue information without the need to obtain a court order (his letter is attached). Mr. Mellor, and the Home Secretary if he is there, may well raise this with you tomorrow night when you are having a short meeting with David Mellor to discuss his recent trip to Pakistan.

The Chancellor disagrees strongly with the Home Secretary's proposal. He thinks a court order is a fair and modest hurdle for the police to have to jump before getting access to Inland Revenue information. He knows you are seeing Mr. Mellor tomorrow night, and will wish to ensure that you know his mind on this beforehand. He will take the opportunity of making it clear at your bilateral tomorrow.

At both meetings I think you will wish to say that you need to consider all the arguments before taking a view. There is clearly something to be said on both sides, and some of the arguments are complicated. You will in particular not wish to let the Home Secretary rush you into making a snap judgement in his favour.

Mark A. ...

MEA

26 November, 1985.

JD3AFP



QUEEN ANNE'S GATE LONDON SW1H 9AT

26 November 1985

Dear Nigel,

DRUG TRAFFICKING: DISCLOSURE OF INLAND REVENUE INFORMATION

Thank you for your letter of 22 November about the proposal which has been discussed by John Moore and David Mellor.

I am grateful for your acceptance that the seriousness of drug trafficking, and the threat which it poses to society, warrant an exception to the usual rules about the confidentiality of Inland Revenue information. I am sure that this is right. But I see considerable difficulties in your suggestion that the police or DPP should be able to gain access to Revenue information only on the order of a High Court judge. You draw a parallel here with our proposals that the police or Customs should be able to gain access to information held by banks or other financial institutions, at an early stage of the investigation of drug trafficking offences, by means of a judicial order or warrant. But it seems to me that there is a great difference between banks and other institutions outside the public sector on the one hand and the Inland Revenue which is an arm of the Government. To make production orders or warrants necessary in relation to the former does not, in my view, make it fitting that the judiciary should be required to arbitrate, as it were, over co-operation for proper purposes between two agencies of the State. Indeed I know of no precedent for such a requirement. It would also have certain resource implications, on which the Lord Chancellor may wish to comment.

As David Mellor pointed out in his discussions and correspondence with John Moore, there is at present a manifest anomaly in the respective positions of the Customs and the police in this regard. I accept that section 127 of the Finance Act 1972, whereby Inland Revenue can pass information to Customs, reflects the identity of interest between two revenue-raising departments. But the scope of the section is not limited to revenue-raising, but extends to the whole range of Customs functions, including the investigation of drug smuggling offences. In the context of drug trafficking, there is a strong identity of interest between Customs and the police, who are both engaged in tracking down and bringing to justice those guilty of drug offences. It is essential that they should both have equal access to information which would be of use to them. I do not think Parliament or the public will understand why they should be treated differently in this respect, particularly when Inland Revenue accept that any information they give to Customs can be passed to the police where the two are engaged in a joint operation. Under your proposals, the police would always have to go to a High Court judge for an order where drugs were manufactured in this country, but not necessarily where they had been imported, because in the latter case Customs would have an interest. That is not a distinction which I would care to try to justify.

/What we are

The Rt Hon Nigel Lawson, MP

What we are proposing would not amount to unfettered access by the police to Inland Revenue information. As David Mellor suggested, we would want some mechanism to ensure that requests for information were properly based and were made only when there were indeed reasonable grounds for suspecting a person of drug trafficking. David's proposal was that the right machinery and appropriate ground rules could be discussed by the Drugs Intelligence Group, but if you would like to suggest a different forum I should be happy to consider it. Whatever arrangements were agreed would be subject to Parliamentary scrutiny, as a safeguard against possible abuse: I imagine that Ministers might be asked from time to time to state how often, and on what principles, access to Inland Revenue information had been given to the police in drug trafficking cases, and would need to be sure in responding that the system was operating in a properly controlled manner.

John Moore raised in his letter of 21 November to David Mellor the possibility of restricting access in the Bill to 'serious' drugs offences. We have decided that the Bill as a whole should not make any distinction in respect of the gravity of an offence; indeed it can be argued that all drug trafficking offences are 'serious'. Certainly we believe that, at the investigative stage, when the ramifications of a particular trafficker's activities may not be at all clear, all drug trafficking activities should be regarded as potentially serious, and I would not therefore wish to include in the Bill a limitation on the lines John suggests.

Finally, let me turn to your request for an assurance that we will not use any agreement on disclosure in drug trafficking cases as a springboard for bids in respect of other offences. We have not yet reached any firm views about which aspects of the drug trafficking legislation should subsequently be extended to other types of profitable crime. I think that there will be some provisions which will remain applicable only to drug trafficking, but I would like a longer time to reflect on which these should be, and also to take account of what may be said in both Houses about the drug trafficking proposals. What I can assure you is that agreement on disclosure in drug trafficking cases will not be regarded as pre-empting discussion on its possible extension to other types of offence: I fully accept your right to argue that other offences should be treated differently in this regard, as I expect to do in other respects. Any discussion will therefore start afresh, and on its merits.

If you think it would help your consideration of the various issues involved in respect of the current Bill, I should be very happy to come and see you to discuss them. As you know, we need to move urgently to avoid delay in the Bill's introduction.

In view of the Prime Minister's interest in the measures we are taking against drug trafficking, I am sending her a copy of our correspondence. I am also copying this letter to Willie Whitelaw, members of H Committee, Michael Havers and Sir George Engle.

Yours,
Douglas

