



Secretary of State for Trade and Industry

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cc BG

18 March 1986

The Rt Hon Kenneth Baker MP
Secretary of State for the Environment
Department of the Environment
2 Marsham Street
London
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NBPM

Dear Kenneth

ENVIRONMENTAL ASSESSMENT DIRECTIVE

I have seen your letter of 10 March to Willie Whitelaw.

I reluctantly accept the arguments in your letter against completely excluding Annex II projects from the scope of the proposed powers to require environmental assessments. Nonetheless, I remain of the view that it should be wholly exceptional for any such project to be required to go through this procedure, as has always been our understanding. I accept that there may be cases where a developer's passage through the planning process may indeed be eased by the preparation of an environmental assessment; but there is a world of difference between developers choosing to go down this route where they perceive it as being in their own interest, and imposing the system upon them.

As envisaged in my letter to you of 11 February, my officials have been discussing with yours, ways in which the drafting of the consultative document might be strengthened, to give the strongest possible reassurance that Government did not in fact expect to make use of the power. I attach a redraft of paragraph B of the consultative document, which has been discussed in its essentials between our officials; I should be content to see the consultative document published subject to amendment on these lines.

Following the consultation process, your Department will no doubt be preparing more detailed proposals for implementation of the Directive. I should wish my Department to be involved in this process.

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Amendment to paragraph 8 of Environmental Assessment Consultation Paper

8 Under the terms of the Directive, the making of an environmental assessment is mandatory only for the types of projects listed in Annex I to the Directive. The extension of the assessment requirements to Annex II projects is left to the discretion of Member States. In particular, under the Directive Member States may specify certain classes of project from the Annex II list as being subject to an assessment, or may establish criteria or thresholds to determine which projects within Annex II classes are to be subject to an assessment. In general, the Government does not foresee that it will be necessary to make the carrying out of formal assessment mandatory in cases falling within Annex II, having regard in particular to the existing requirements of planning legislation. Nevertheless, there may be particular Annex II projects which are so substantial in their environmental impact that a formal environmental assessment ought to be carried out before a decision is taken on whether or not the project should be allowed to proceed. It is therefore proposed that powers should be taken for the appropriate Secretary of State to direct that an assessment should be carried out in any particular case. The Government invites comments as to whether these reserve powers - which the Government would expect to use only on very rare occasions - should be applicable to any type of project falling within Annex II, or whether certain types of project, determined by class, threshold or other criteria, might reasonably be excluded from the scope of such powers.

(Amendments underlined)

DTI

14 March 1986





I am sending copies of this letter to the Prime Minister, Willie Whitelaw, Geoffrey Howe, members of H Committee, Kenneth Clarke, Peter Walker, Michael Jopling, Michael Havers and Sir Robert Armstrong.

Young - Paul

PAUL CHANNON

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