

CCBG



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NSM

My ref:
Your ref:

27 March 1986

J. Paul

Thank you for your letter of 18 March about the EC Environmental Assessment Directive. This reply also takes into account Peter Walker's letter to me of 19 March.

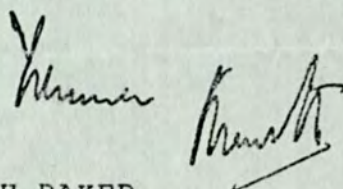
As my officials indicated in the discussion to which you refer, there are difficulties over the approach adopted in your proposed redraft of the consultation document. Article 4 of the Directive envisages the use of criteria and/or thresholds to determine which of the projects of the classes listed in Annex II are to be subject to an assessment. Your proposal, on the other hand, is to use them expressly to limit the power to direct that assessment should be carried out in any particular case. I am advised that your proposal is not in accordance with the requirements of the Directive. My officials will be providing yours with the detailed reasons for this.

I do not think that an express reference to thresholds and/or criteria is either necessary or desirable. I am perfectly willing to consider proposals for their use, but the evidence of the discussions in the EC Working Group suggests that they will not be easy to devise. My aim is the same as yours and Peter Walker's: we should limit the compulsory application of environmental assessment to the few projects of the types set out in Annex II which are of sufficient size and therefore potential impact to justify it. The consultation paper already makes it clear that we have in mind that the power to direct that an assessment should be carried out will be used only for that purpose. The application of criteria or thresholds (which I am advised, if satisfied, will require compulsory environmental assessments for qualifying projects) seems to me very likely to result in more projects being subject to the procedure than the approach which I have in mind. That being so, it seems to me tactically unwise to invite comment on the option - for all those who advise against it there will be those who favour it. Moreover, we need to be careful precisely how we refer to this matter or we shall simply fuel the suspicions which the Commission already have about our attitude to the Directive. We are under a legal obligation to give effect to its requirements, and we have been trying to do this in a way which industry will not find onerous. If the Commission were to challenge our approach in the European Court, we could finish up with something much less satisfactory.

EUR. POL: Budget: Pt 31

For these reasons, I feel that I should publish the consultation document without the amendments which you have suggested. At the same time, I shall be more than happy for my officials to discuss with yours the possibility of devising thresholds and/or criteria which meet our common objective of ensuring that developers are required to carry out assessments only for the limited number of significant projects falling within Annex II of the Directive. I will in any event ensure that your officials continue to be involved in the implementation process. I propose therefore to issue the consultation paper, in the form enclosed in my letter of 10 March, soon after Easter.

I am copying 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.



KENNETH BAKER

