



Mr. Fisher to see.

PRIVY COUNCIL OFFICE

WHITEHALL, LONDON SW1A 2AT

A.F.C. $\frac{13}{3}$

13 March 1984

Dear Roger,

SELECT COMMITTEE ON EUROPEAN LEGISLATION

On two occasions recently, decisions have been taken in the Council of Ministers on European instruments before debates recommended by the Select Committee on European Legislation had taken place. The Committee has expressed considerable concern about this, and has invited the Lord Privy Seal to appear before it to give oral evidence on the operation of the scrutiny procedure. I shall in due course ask the relevant Departments for briefing for that appearance. In the meantime, however, it seems appropriate to remind Departments of the need for care in adhering strictly to the terms of the Government's undertaking on Parliamentary scrutiny of European Community documents.

On 30 October 1980 it was laid down by a Resolution of the House that no Minister should give agreement in the Council of Ministers to any proposal for European legislation which the Select Committee had recommended for consideration by the House before the House had given it that consideration, unless:

- (a) the Select Committee had indicated that agreement need not be withheld, or
- (b) the Minister decides that for special reasons agreement should not be withheld.

In the latter case the Minister should explain the reason for this decision to the House at the earliest opportunity. Extensive guidance on the procedure to follow has been issued by the Cabinet Office (EQO(82) 138).

It is, of course, not always easy for Departments to judge the likely progress of negotiations in Brussels and therefore suggest an optimum time for the debate. Nonetheless it is important to avoid both the appearance of discourtesy to the House, and the complications which can arise if the subject is of a significance which warrants the imposition of a Parliamentary reserve. Departments should therefore take all possible steps to ensure that debates are held before decisions have to be taken in Council; and should err on the side of caution when considering the timing of such debates.

/Where circumstances ...

Where circumstances arise which necessitate Ministers' agreement in Council without placing a Parliamentary reserve on matters which have been recommended for debate, a full statement must be given to the House explaining the reasons and indicating the likely timing of the debate. In certain cases an expression of regret at the impracticability of arranging an earlier debate may also be appropriate. The scrutiny process is an important part of the Parliamentary procedure, and every effort should be made to ensure that the procedures are properly applied, and are seen to be so.

I am copying this letter to the Private Secretaries to the Prime Minister, the Lord President of the Council, Cabinet Ministers in charge of Departments, the Attorney General and Sir Robert Armstrong.

yours,

Charles Marshall

C M J MARSHALL
Private Secretary

R Bone Esq
Assistant Private Secretary to the
Secretary of State for Foreign and
Commonwealth Affairs

10 MAR 1984

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Foreign and Commonwealth Office

London SW1A 2AH

16 March, 1984

John Wood

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Select Committee on European Legislation

Thank you for your letter of 13 March about recent breaches of the Government's undertaking on Parliamentary scrutiny of EC documents.

As you say, it is not always easy for Departments to judge the pace of negotiations in Brussels. Inevitably occasions are going to arise when, for good reasons, Ministers will want to invoke the 'special circumstances' provision in the undertaking. But we (and the Cabinet Office) are conscious of the need to keep such occasions to the minimum. Departments were in fact reminded of their obligations in the matter at a recent EQO Meeting (EQO (84) 8th Meeting). We have suggested to the Cabinet Office that they might like to follow this up with a further reminder.

I am copying this letter to the Private Secretaries to the Prime Minister, the Lord President of the Council, Cabinet Ministers in charge of Departments, the Attorney General and Sir Robert Armstrong.

*Yours
R B Bone*

(R B Bone)
Private Secretary

David Heyhoe Esq
Lord Privy Seal's Office

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16 JAN 1984

