P.01530

PRIME MINISTER

Nationalised Industries (NI) Bill
(E(NI)(85) 3)

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BACKGROUND

The Sub-Committee have considered proposals for a Bill to amend NI statutes on a number of occasions since April 1983. The main changes proposed would provide powers for Ministers to:

i. restructure balance sheets in order to convert reserves into loans or public dividend capital (PDC). This would stop profitable debt-free industries building up unnecessary reserves and force them to make a reasonable return on capital, through the payment of dividend and/or interest to the Treasury;

ii. dismiss Board members more easily;

iii. fix statutory Financial Targets (replacing the existing break-even duties);

iv. direct industries to form subsidiaries and transfer assets to them in order to facilitate privatisation;

v. standardise and improve accounting, auditing and reporting practices;

vi. control NI borrowing and guarantees more effectively.

2. The proposals have met with objections from the Nationalised Industries Chairmen's Group (NICG), and some Ministers have been sceptical of their value. The Sub-Committee decided on 3 October 1984 (E(NI)(84) 6th Meeting) to continue discussing with the NICG, but not to proceed with a Bill in the 1984-85 Session. Cabinet subsequently agreed, on 28 February, to include an NI Bill in the 1985-86 legislative programme.

3. The Treasury issued a consultation note on 20 December, and the Chief Secretary, Treasury has had further discussions with the NICG. E(NI)(85) 3 reports the outcome of these discussions. The views of the industries vary, but it is clear that they are particularly concerned about the proposals on balance sheet restructuring, financial targets, and accounting principles. (They have yet to finalise their position on Board appointments, but the Chief Secretary thinks that agreement can be reached on the basis of fair compensation and spare usage of dismissal powers.)

Proposals

4. The Chief Secretary argues that the prospects for the Bill would be improved if substantial agreement could be reached with the NICG. Treasury and NICG officials have produced a note, (annexed to E(NI)(85) 3), outlining revised proposals for the approval of Ministers and the NICG. The main features are:

i. a restructuring of industries' balance sheets to bring them nearer the position of private companies, with a mix of public equity capital (PEC), loan capital and reserves;

ii. a dividend target compatible with the financial target and a modified break-even duty;

iii. accounting policies based as far as possible on the best private sector practice;

iv. Ministerial powers of direction for use in the last resort, and subject to a Parliamentary procedure.

5. The Chief Secretary seeks:

a. acceptance of the revised proposals as a basis for further negotiations with the NICG;

b. subject to a., policy approval and further drafting by Parliamentary Counsel with the aim of introducing the Bill at the start of the 1985/86 session;

c. agreement to a White Paper setting the Bill in the context of the Government's policies towards NIs and privatisation, to precede or accompany introduction of the Bill.

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6. In his letter of 12 April to the Chief Secretary, the Secretary of State for Energy suggests that a Bill and accompanying White Paper, even on the basis of the revised proposals, would be a political mistake, stirring up a lot of trouble for little practical benefit. A new situation has in any case been created by the Secretary of State for Energy's proposal for a Bill in the next session to privatise the gas industry. If that proposal is approved in principle by E(A) the Cabinet will need to consider how the legislative programme can be modified to accommodate such a major new bill. One way of doing so would be to drop the Nationalised Industries Bill. The Government would however need to have a good presentational line. It would be undesirable to appear to be bowing to pressure from the nationalised industry chairmen. The emphasis would have to be on lack of Parliamentary time in the next session.

Policy Unit argue that NI Bill and Gas Bill will not compete for time in same part of year.

MAIN ISSUES

7. The main issues are:

i. whether the overall balance of advantage is in favour of going ahead with a Nationalised Industries Bill next session, and if so:

ii. whether the revised specific proposals are acceptable;

iii. whether a White Paper should accompany the Bill.

Overall balance of advantage

8. If E(A) decides to go ahead with privatising the gas industry, the nationalised industry sector will be substantially reduced and the case for a Bill to reform the Government's relationship with the industries is to that extent less strong. Room will have to be found in the legislative programme and, although priorities will need to be reassessed comprehensively by QL, it can be argued that deletion of the Nationalised Industries Bill would be an obvious remedy. Even putting aside the pressure on the legislative programme, it is questionable whether the game is worth the candle. While the revised proposals, subject to further discussion, may provoke less opposition in the NICG, individual industries and their Chairmen may still prove hostile. The Sub-Committee will need to be sure that the changes will bring worthwhile benefits to compensate for the effort and likely controversy. In one respect - the proposals for greater Parliamentary involvement - the Government may be weakened rather than strengthened in its relationship with the industries.

9. If the Sub-Committee decide not to go ahead, the remaining issues of detail need not be pursued. If however the Sub-Committee are more favourably disposed, it may be better to withhold endorsement of the proposals until they have been worked out in more detail and it has become clearer, from discussions with the NICG, how far there is likely to be agreement, or at least acquiescence from the industries.

Specific proposals

10. You will wish to establish whether any members of the Sub-Committee object to any of the specific proposals on:

- restructuring balance sheets and setting dividend targets (the effect would be to make the industries' finances more analogous to those of private sector companies; but it will be difficult to apply sensibly and realistically to the chronic loss-makers)

- accounting policies based on best private sector practice

- Ministerial powers of direction, subject to a Parliamentary procedure (this may encourage the industries to resist Governmental persuasion and force the use of powers requiring Parliamentary approval)

White Paper

11. The last substantial statement on the relationship between Government and the nationalised industries was the 1978 White Paper. The present proposals would clearly be a marked departure from the regime set out then and developed since, and Ministers may feel that it would be appropriate to explain them in a White Paper. This would however be a major task, consuming considerable effort by many departments. Would it be worth the effort?

HANDLING

12. You will wish to invite the Chief Secretary, Treasury to introduce his proposals. Thereafter the Secretaries of State for Energy, Scotland, the Environment, Trade and Industry and Transport will all have views as nationalised industry sponsoring Ministers. The Lord President and the Lord Privy Seal will wish to comment on the legislative programme.

CONCLUSIONS

13. You will wish to reach conclusions on:

i. whether (bearing in mind E(A)'s conclusions on gas privatisation) there would be advantage in going ahead with a Nationalised Industries Bill, broadly on the lines now envisaged, in the next session, and if so:

ii. whether the specific proposals on:

- balance sheet restructuring and dividend targets
- accounting principles
- powers of direction

should be endorsed now or brought back to the Sub-Committee when they have been worked out in more detail and discussed further with the NICG;

iii. whether there should be a White Paper.

PLG

P L GREGSON

23 April 1985