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CG/BG

CF(i) Please tell
 Done ~~DoE, DEu, DTI,~~
 DoT, Scotland that
 any comments are
 needed by close on
 30/10.



FROM: CHIEF SECRETARY

DATE: 22 October 1985

DN 875

(ii) cc BG and b/f 30/10.

DBS

24/10.

PRIME MINISTER

NATIONALISED INDUSTRIES' BILL

At the meeting on 25 April a number of members of ENI continued to have reservations about the need for, and desirability of, the proposed Nationalised Industries' Bill (ENI(85) 1st Meeting). A Bill in the 1985-86 session was ruled out. My predecessor was asked to conclude his consultations with the Nationalised Industries Chairmen's Group (NICG) and to set out the rationale for the proposed legislation in a draft White Paper. This draft was to serve as the basis for a decision whether to proceed with legislation in a later session.

2 I have now reviewed the position. For the reasons I give below, I recommend:

- i we should not proceed with general legislation;
- ii where appropriate, and if other legislative opportunities arise, we should follow up our original proposals on a piecemeal basis for particular industries;
- iii I should be authorised to inform the NICG and Parliament of these decisions - a draft Written Answer is at Annex A;
- iv if we are not to have a general Bill, there is no need for a general White Paper on the Nationalised Industries.

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3 I attach at Annex B a summary of our original proposals and their rationale. In discussion in the summer, Peter Rees made some useful further progress in establishing common ground with the Chairmen (his Private Secretary's letter of 5 June reported the NICG's view at that stage). But the NICG had not reached the point of giving a positive commitment to the package and, in seeking relaxations of the controls on them, they continue to overemphasise the analogy between the industries and large private sector companies.

4 It would probably be possible to narrow the differences with the NICG and I believe there is still a good case in principle for the legislative proposals. But, mainly because of the increasing pace of our privatisation programme, I cannot recommend that there is any longer a compelling need for a general Bill. Since work began on the Bill last year we have announced firm decisions to privatise Gas, Airports and Buses; I hope that we will reach decisions shortly on Water; and there are of course possibilities for further major privatisations in the next Parliament. This takes away some of the main industries to which the major proposals of capital restructuring, and of course privatisation of parts, were applicable.

5 In the circumstances, and although we will lose the opportunity for making some useful improvements, I do not think it worth going ahead with a general Bill which inevitably runs some risk of opening up controversy over the whole nationalised industry field. I think the better course is to be ready, when an opportunity comes up of individual nationalised industry legislation, to see whether some of the general measures can usefully be applied to that industry. For example, in discussions in the summer the Post Office said that they would be interested in developing the ideas on capital restructuring.

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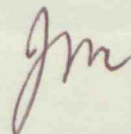
Summary

6 I invite colleagues to agree to the recommendations in paragraph 2. It would also be helpful to know whether Leon Brittan thinks it might be possible to use some of the proposals in legislation for the Post Office (paragraph 5).

7 After sounding out Sir Robert Haslam I propose to inform the House of our decision, through the Written Answer at Annex A, concurrently with formally telling the NICG of the outcome. There has been continuing Parliamentary interest in the consultations; the House was told in May of the decision not to legislate in 1985-86; it is important that they should hear of our decision now from me rather than from the NICG.

8 I should be grateful for views, if possible, by Friday 1 November. This will enable me to tell the NICG in good time before your dinner with them on 22 November.

9 I am sending copies of this minute to members of ENI to John Biffen and Sir Robert Armstrong.



JOHN MacGREGOR

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DRAFT WRITTEN ANSWER

Q To ask the Chancellor of the Exchequer what steps he proposes to take in the light of comments he has received on the Consultation Note on Nationalised Industries Legislation issued on 20 December 1984?

A My predecessor [redacted] announced on 9 May that the Government did not intend to propose general nationalised industry legislation in the 1985-86 Session. In view of the progress that is being made on the privatisation programme, and given other legislative priorities, the Government has now decided not to proceed with general legislation in any later Session. Discussions with the Nationalised Industries' Chairmen's Group have, however, made useful progress on approaches to increasing the industries' effectiveness and commercial vitality. To the extent that, for example, balance sheet restructuring or other measures are necessary in order to achieve this, legislative proposals in respect of particular industries will be brought forward as seems appropriate in due course. The Government intends to continue to strengthen the industries to the point where they can either be transferred to the private sector or, where necessary, remain as successful businesses within the public sector.

NATIONALISED INDUSTRIES BILL: ORIGINAL CONTENT AND RATIONALE**1. Capital Restructuring (2 clauses)**

Original rationale: Would have allowed construction of up-to-date balance sheets; provided route for extracting surpluses from profitable industries in line with previous PAC recommendation; and introduced general cost-of-capital disciplines.

2. Financial Targets (1 clause)

Original rationale: Would have put all financial targets onto a statutory basis thus preventing legal challenge and maintaining overall discipline if consensus with industries broke down. Would have reinforced primacy of targets.

3. Borrowing and Guarantees (7 clauses and 2 schedules)

Original rationale: Would have simplified and consolidated existing legislation and allowed PAC recommendations (eg improving coverage of statutory borrowing limits) to be implemented. Would have permitted introduction of private finance into all industries and streamlined procedures.

4. Accounts, Reports and Audit (2 clauses and 1 schedule)

Original rationale: Would have tidied-up and consolidated existing provisions and strengthened Ministerial control over accounting principles. Would have allowed Ministers to require inclusion of material on Value for Money (VFM) and efficiency studies in Annual Reports and thus possibly defuse future pressures for Parliamentary and NAO access (cf Stevas Bill).

5. Terms of Appointment (1 clause and 1 schedule)

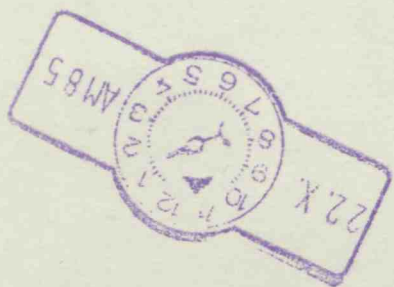
Original rationale: To implement E(NI) decisions on revised terms of appointment for board members including power to dismiss, compensate, and give more commercial "service contracts".

6. Formulation of companies and privatisation (8 clauses and 1 schedule)

Original rationale: Provided completely comprehensive powers to set up companies for nationalised industry activities and to privatise parts of industries. Would allow statutory monopolies to be broken.

7. Consumer Council Legislation (1 clause and 1 schedule)

Original rationale: Would have fulfilled 1982 Government commitments to tidy up existing Nationalised Industries Consumer Council legislation.



10 DOWNING STREET

Prime Minister

1.

All interested Ministers are
content with the recommendations
in the Chief Secretary's paragraph 2.

Agree to proceed as the
Chief Secretary proposes?

DER

31/10.

Yes

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10 DOWNING STREET

From the Private Secretary

1 November 1985

Dear Richard,

Nationalised Industries' Bill

The Prime Minister has seen the Chief Secretary's minute of 22 October and the correspondence which followed. She agrees that it is right now not to proceed with general legislation on the Nationalised Industries and that the Treasury should instead proceed as proposed in paragraph 2 of the Chief Secretary's minute.

I am sending copies of this letter to the Private Secretaries to members of ENI, and to David Morris (Lord Privy Seal's Office) and Michael Stark (Cabinet Office).

Yours ever

David

(David Norgrove)

Richard Broadbent, Esq.,
Chief Secretary's Office.

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B/P 2/4

PRIME MINISTER

NATIONALISED INDUSTRIES BILL

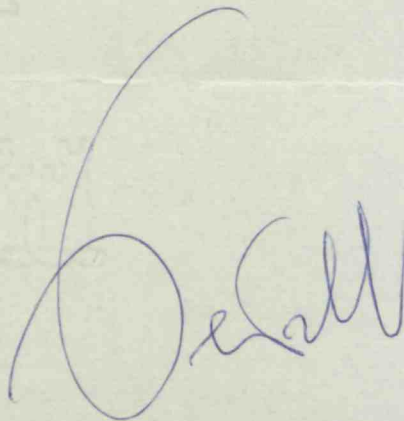
In his minute of 22 October, John MacGregor proposes that we now drop the idea of general legislation and explanatory White Paper.

For the reasons he gives, which are very much in line with the views in my letter of 12 April this year to his predecessor, I strongly endorse his recommendations.

It is obviously sensible to examine the appropriate needs of individual industries according to their differing real situation. On this basis I am also content with his suggestion that we should consider, where appropriate and as opportunity arises, whether any of the original proposals might usefully be carried forward in particular cases.

I agree that he should inform the NICG and Parliament in the terms of his draft Written Answer. I would also propose to inform the Chairmen of the energy nationalised industries at the same time.

I am copying this to members of E(NI), to John Biffen and to Sir Robert Armstrong.



Secretary of State for Energy
25 October 1985

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Minister for Housing and Construction

Department of the Environment
2 Marsham Street London SW1P 3EB
Telephone 01-212 7601

31 October 1985

Handwritten signature of John Patten

Thank you for copying to Kenneth Baker your minute of 22 October to the Prime Minister in which you propose not to proceed with general nationalised industry legislation.

I support your view; as you say, privatisation has greatly weakened the case for such legislation and it makes sense for those industries that remain in the public sector to plug the gaps in their statutes as and when opportunities arise.

I am copying this letter to the recipients of your minute.

Handwritten signature of John Patten

JOHN PATTEN

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The Rt Hon John MacGregor OBE MP

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cc 30



DEPARTMENT OF TRANSPORT
2 MARSHAM STREET LONDON SW1P 3EB

01-212 3434

The Rt Hon John R MacGregor OBE MP
Chief Secretary to the Treasury
HM Treasury
Treasury Chambers
Parliament Street
LONDON SW1P 3AG

30 October 1985

Dear John

NATIONALISED INDUSTRIES BILL

FILE WITH DV

Thank you for sending me a copy of your minute of 22 October to the Prime Minister.

I support the recommendations in paragraph 2 of your minute. There now seems little advantage in omnibus legislation. Legislation industry by industry, if and when appropriate, should enable us to carry forward our policies, with minimum risk of opening controversy across the whole nationalised industry field. The legislation governing the nationalised industries for which I am responsible already incorporates much of what had been proposed for the general bill.

I am sending copies of this letter to the Prime Minister, members of E(NI), John Biffen and Sir Robert Armstrong.

John MacGregor

Nicholas Ridley

NICHOLAS RIDLEY

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POLICY

PT 10





SCOTTISH OFFICE
WHITEHALL, LONDON SW1A 2AU
TELEPHONE: 01-233 3000

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Rt Hon John MacGregor OBE MP
Chief Secretary
HM Treasury
Treasury Chambers
Parliament Street
LONDON
SW1P 3AG

30 October 1985

Dear John,

NATIONALISED INDUSTRIES' BILL

I refer to your minute of 22 October to the Prime Minister, to which I am replying in George Younger's absence abroad.

I agree that we should not proceed with general legislation and am content with the detailed proposals contained in your minute.

I am copying this to the Prime Minister, members of ENI, John Biffen and Sir Robert Armstrong.

*Yours ever,
Allan*

ALLAN STEWART