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E(83) 3rd Meeting COPY NO 67

CABINET

MINISTERIAL COMMITTEE ON ECONOMIC STRATEGY

MINUTES of a Meeting held
at 10 Downing Street on
WEDNESDAY 30 MARCH 1983 at 4.30 pm

PRESENT

The Rt Hon Margaret Thatcher MP
Prime Minister

The Rt Hon William Whitelaw MP
Secretary of State for
the Home Department

The Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer

The Rt Hon Sir Keith Joseph MP
Secretary of State for
Education and Science

The Rt Hon Peter Walker MP
Minister of Agriculture,
Fisheries and Food

The Rt Hon Michael Heseltine MP
Secretary of State for Defence

The Rt Hon Patrick Jenkin MP
Secretary of State for Industry

The Rt Hon David Howell MP
Secretary of State for Transport

The Rt Hon Leon Brittan QC MP
Chief Secretary, Treasury

The Rt Hon Baroness Young
Lord Privy Seal

The Rt Hon Nigel Lawson MP
Secretary of State for Energy

The Rt Hon Cecil Parkinson MP
Chancellor of the Duchy of Lancaster
and Paymaster General

The Rt Hon Lord Cockfield
Secretary of State for Trade

THE FOLLOWING WERE ALSO PRESENT

The Rt Hon George Younger MP
Secretary of State for Scotland

Mr J Sparrow
Central Policy Review Staff

SECRETARIAT

Mr P L Gregson
Mr M S Buckley

SUBJECT

LIABILITIES OF BRITISH NUCLEAR FUELS LIMITED FOR
PRE-1971 WASTES AND PLANT DECOMMISSIONING

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LIABILITIES OF BRITISH NUCLEAR FUELS LIMITED FOR PRE-1971 WASTES AND PLANT DECOMMISSIONING

The Committee considered a Memorandum by the Secretary of State for Energy (E(83) 5) about the liability of British Nuclear Fuels Limited (BNFL) for nuclear wastes created before 1971 and the decommissioning of plant dating from before 1971.

THE SECRETARY OF STATE FOR ENERGY said that BNFL was established in 1971 as a commercial entity outside Government (though owned 100 per cent by Government) to trade in the processing of nuclear fuels. It had in its keeping substantial amounts of nuclear wastes deriving from activities before 1971. The wastes arose mainly from the defence programmes of the 1950s and 1960s, although about 10 per cent was also due to the work of the United Kingdom Atomic Energy Authority (UKAEA) on the civil nuclear power programmes, 5 per cent to the work of the electricity generating boards, and 5 per cent to programmes taken over by BNFL. It was necessary to make the wastes safe and to decommission plant dating from before 1971. The total costs of building and operating the necessary equipment, and of decommissioning pre-1971 plant, were assessed at £600 - 1,000 million, at January 1972 prices, spread over between 30 and 60 years. In his view, it would be wrong to leave this liability with BNFL. To do so would make the company technically insolvent, so that it could continue trading only with a Government guarantee. The company's auditors, who had qualified the previous year's accounts, would almost certainly qualify the current year's accounts in stronger terms. The Board of the company might refuse to undertake the investment in the vitrification plant which was needed to make the wastes safe. Management morale would be seriously affected. It would be impossible to privatise BNFL for many years. Nor would it be right for BNFL to try to meet the liabilities from increased prices to existing customers - in other words, to electricity consumers. This would have no economic justification; and it would be politically inept to appear to be loading electricity consumers with costs arising from past military nuclear programmes. To attempt to impose additional costs in this way on BNFL's overseas customers would have the most serious effects on the company's international competitiveness. Although the Government was under no legal liability to do so, it should accept responsibility for the costs of

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disposing of the wastes which were attributable to programmes for which it had been responsible, some 80 per cent of the total. He would be prepared to accept on behalf of the UKAEA 10 per cent of the liability; and he hoped to persuade the Central Electricity Generating Board to accept a further 5 per cent. BNFL was willing to accept the 5 per cent of the liability attributable to programmes for which it had taken over responsibility. There were a number of ways of financing the expenditure under discussion: these were set out in detail in the report by officials attached to E(83) 5. He favoured an approach under which BNFL would raise the capital costs of constructing the necessary plant by loan finance, and would recover those costs (including interest) in the charges which it made to the originators of the wastes. The charges would also, of course, cover current costs. Contrary to the report by officials, he did not consider that BNFL should be responsible for the costs of decommissioning pre-1971 plant. There was no basis in logic for leaving this responsibility with BNFL; and to do so would prevent the successful privatisation, or commercial operation, of the company. The approach would need to be announced to Parliament, perhaps by means of a Written Answer; but it would not require a Supplementary Estimate; it would defer the bulk of expenditure until after 1985-86; and it would minimise the risk of political controversy.

THE SECRETARY OF STATE FOR DEFENCE said that during the 1950s the Ministry of Defence had found it possible to procure supplies of nuclear material from the United States of America more cheaply than from the UKAEA (which was, in this respect, BNFL's predecessor). The Ministry had in consequence reduced its requirements from the UKAEA, and had concluded an agreement to compensate the UKAEA for the effects on its finances of the reduction in business. Under this agreement, some £210 million had been paid to the UKAEA between 1964 and 1971. It was a full and final discharge of the Ministry's liabilities; and when the Ministry had attempted to reopen it, because of changed circumstances, it had been forbidden to do so. The advice of the Treasury Solicitor, attached to E(83) 5, confirmed that no legal liability rested on the Ministry. If Ministers now decided to assume responsibility for the costs under discussion, they would presumably do so because of policy towards BNFL and the desire to privatise the company. These were not matters of concern to the Ministry of Defence; and the defence budget should not be burdened with any costs resulting from them.

In discussion, the following main points were made -

a. It would be inopportune to bring the problem to public attention at the present time. In particular, those objecting to the construction of the proposed new nuclear power station at Sizewell might argue that the fact that the need to spend substantial sums of money on making nuclear wastes safe had emerged so long after the event cast doubt on the argument that nuclear power was an economical way of generating electricity. Alternatively, it might be argued that the Government was displaying reluctance to discharge its obligations in the matter of nuclear safety. It was also desirable to avoid raising any questions about the safe operation of the nuclear plant at Windscale.

b. It was clear that the bulk of the costs under discussion would fall on the Government, either directly or through their effects on the finances of BNFL. It was less clear that the course proposed in E(83) 5 was the best way of dealing with the costs. It might well be preferable, for example, for the Government to give an undertaking to BNFL that it would defray the costs, but leave the amount to be paid in any particular year by virtue of this undertaking as a matter for negotiation at the time. This should give sufficient assurance for the company's auditors to regard it as unnecessary to qualify the accounts. Moreover, if BNFL raised a substantial part of the required funds by borrowing, this would tend to increase the ultimate cost to the public sector.

c. The situation might need to be reviewed if and when the Government decided to privatise BNFL. It might well be appropriate then for the Government to enter into a contract with BNFL, under which the responsibility for the wastes deriving from past departmental programmes would be transferred to the Government, and the Government employed BNFL, on agreed terms, to dispose of those wastes. But it was unnecessary to resolve such questions now.

d. It should not be taken for granted that BNFL was certain to be privatised. In principle, privatisation was no doubt desirable. But it should not be undertaken if a condition for doing so was to accept an expensive and embarrassing solution of the problem of the pre-1971 wastes.

e. Whatever arrangements were entered into with BNFL now or in future it would be essential to monitor costs: BNFL would have both motive and opportunity to inflate the costs it charged, for example by allocating excessive overheads to the disposal of the pre-1971 wastes.

THE PRIME MINISTER, summing up the discussion, said that the Committee agreed that the Government would have to accept the ultimate liability for the cost of making safe the nuclear wastes deriving from programmes before 1971 for which departments were responsible, and for the cost of decommissioning pre-1971 plant. The Secretary of State for Energy was authorised to inform BNFL and the company's auditors that this was the Government's position. The Committee did not, however, accept the particular proposals in E(83) 5. They thought it preferable, at least at this stage, to leave the programme of disposal of pre-1971 wastes (and the consequential expenditure) for discussion from time to time between BNFL and the Government. Those discussions should take full account of the safety aspects. It should be made clear to BNFL that the Government would accept responsibility only for the costs of making safe wastes which were properly attributable to departmental programmes; and that the amounts of those costs would have to be agreed with the Government. The Secretaries of State for Defence and Energy should agree with the Chief Secretary, Treasury to which public expenditure programme, or programmes, any resulting expenditure should be attributed and the extent, if any, to which the programme or programmes concerned might be increased in consequence.

The Committee -

Took note, with approval, of the Prime Minister's summing up of their discussion.

Cabinet Office

31 March 1983