PRIME MINISTER

TIN

Mr Brittan chaired a meeting this morning, attended by the Foreign Secretary, the Chancellor, the Governor, and the Solicitor General, among others. The paper we discussed is attached.

The Solicitor General explained the legal position. It was quickly concluded that the meeting should work on the basis that the member Governments are jointly and severally liable for the obligations of the Buffer Stock Manager.
The UK would be an obvious target and could be sued for as much as £400 million. We should then have to have recourse to the other Governments. One of the brokers (S & W Berisford) has plans to issue a writ on Monday against HMG, on a several basis.

Agreement was reached without too much difficulty that:

(i) the Government should work to achieve option b or c in the paper attached, though in practice there was probably not much difference between them either in substance or in cost;

(ii) if possible the banks should be brought to take responsibility for an orderly run down of tin stocks, though without a full guarantee of the risks they would be taking, in the view that this would be better than leaving it to the Buffer Stock Manager; the Bank of England should explore this;

(iii) the Bank should seek to dissuade Berisford from issuing their writ;

(iv) officials should work further on options b and c, discussing with the countries involved in the Agreement;

(v) a statement should be issued, also below;

(vi) posts should be informed of the UK government's position.

DTI officials believe the Japanese, Germans and Dutch may go along with a decision to pay off outstanding debts and to run down stocks in an orderly fashion. The likely attitude of producing countries was unknown.

There is clearly a high risk that this strategy will not work. But there seems to be no better alternative.

DRN

(David Norgrove)

1 November 1985

CC TS6

COVERING CONFIDENTIAL

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
TELEPHONE DIRECT LINE 01-215 5422
SWITCHBOARD 01-215 7877

PS/ Secretary of State for Trade and Industry

DRN seen.

1 November 1985

COVERING CONFIDENTIAL

Rachael Lomax
Private Secretary to the
Chancellor of the Exchequer
HM Treasury
Parliament Street
LONDON
SW1

Dear Rachel,

INTERNATIONAL TIN AGREEMENT

I attach a note of the meeting, chaired by my Secretary of State, held here earlier today to discuss the International Tin Agreement. In addition, I attach a copy of the statement issued by my Secretary of State following the meeting.

2 I am copying this letter and attachments to Len Appleyard (FCO), John Bartlett (Bank of England), Richard Gardiner, (Law Officer's Department), Ivor Llewelyn (MAFF) and David Norgrove (No 10).

Yours ever,
Michael

MICHAEL GILBERTSON
Private Secretary

DW3ABB

999-1

MEETING TO DISCUSS INTERNATIONAL TIN AGREEMENT : 1 NOVEMBER 1985

PRESENT

Secretary of State for Trade & Industry
Secretary of State for Foreign & Commonwealth Affairs
Chancellor of the Exchequer
Solicitor General
Mr Channon
Lord Lucas
Governor of the Bank of England
Mr Mountfield, Treasury
Mr Farrow, Bank of England
Mr Mountfield, DTI
Mr Rickford, DTI
Mr Tait, FCO
Mr Mallinson, DTI
Mr Murray, DTI
Mr Saunders, LOD
Mr Gardiner, LOD
Mr Lunn, DTI
Mr Norgrove, No 10

SUMMARY

It was agreed that officials should be given the mandate to explore with other member countries options (b) and (c) set out in the paper circulated before the meeting by DTI officials. It was agreed that the Bank of England should explore the possibility of the banks undertaking to ensure the orderly disposal of stocks as outlined in option (b). It was further agreed that a statement should be issued in the name of the Secretary of State for Trade and Industry.

DISCUSSION

2 The Secretary of State for Trade & Industry said that the purpose of the meeting was threefold : to bring people up-to-date with the present position, to hear the opinion of the Solicitor General on the legal position, and to decide on further action.

3 The Governor explained that despite the call from Inco, nickel trading had not been suspended, and there had been no other significant developments in the market that morning.

4 **The Foreign Secretary** explained that there had been little response from the tin producing countries. Malaysia had expressed alarm at the crisis, but had not offered to contribute its share of the Council's obligations.

5 **The Solicitor General** advised that the better view of the legal position was that the member Governments would be jointly and severally liable for all the debts of the Tin Council which could not be met out of its current resources. There were two opposing arguments to the effect that the liability for the deficit was restricted to the Tin Council as a corporation and not to its members but both stood a less than even chance of success. He advised that colleagues should proceed to consider the options on the basis of joint and several liability of the members. If sued for the deficit the UK would have a right of recourse to other members for their share of the liability but recourse could be lengthy, expensive and not necessarily successful in each case. (NB. the Solicitor General's advice will be recorded in detail in writing shortly).

6 **The Chancellor** said that the joint and several liability of member countries might extend to those liabilities of the BSM which were the result of ultra vires actions. He asked where this left the liabilities the BSM had incurred through intra vires actions. **Mr Murray** explained that it would be very difficult to separate out the two categories of liability.

7 **The Secretary of State for Trade & Industry** introduced the various options set out in the officials paper. He said that he had already ruled out the option of continuing with the Agreement on its present basis. He did not favour option (a) (rescuing the present agreement on the basis of a price of, say, £6,000 per tonne), and indeed member countries had not shown much enthusiasm for such an option. He regarded option (d) as potentially very risky and expensive, and did not favour it. His preferred options were (b) (involving stock management to avoid disruption of the market), and (c) (meeting our debts and doing nothing more). Under option (c), the tin price might fall to a lower level than under (b), and the costs to the UK should be lower. Option (b) might well be more attractive to producer countries, and might result in a slightly less difficult position for the Cornish tin industry in the short term than would be the case under option (c).

8 **The Foreign Secretary** said that the Government had stood by and allowed this crisis to develop, and there was now a need for quick action. He agreed that the choice lay essentially between option (b) and option (c). Option (b) might be cheaper than (c), but he thought that the difference in cost between the two may not be as large as

had been suggested in the paper. He considered that in the end it might come down to whichever of options (b) or (c) we were most likely to get other countries to agree to.

9 The Chancellor said that he understood that Clydes were to issue on 4 November a writ on behalf of Berisfords alleging joint and several liability of member countries and suing the UK Government on a several basis. Mr Murray said that the Chairman of Berisfords had telephoned Sir Brian Hayes to say that the writ was simply designed to encourage action by member countries. It was agreed that attempts should be made to persuade Berisfords to withdraw the writ.

10 The Secretary of State for Trade & Industry suggested that the Foreign Secretary might talk to the Malaysian Ambassador. The Foreign Secretary said that it might be better not to, since it would look as if we were assuming the status of the country which in the end might have to "carry the can". It was therefore agreed that the Malaysian Ambassador should not be visited, but that posts should be informed as soon as possible by telegram of the UK Government's position. (At this point the Foreign Secretary left the meeting).

11 The Governor considered that the difference between option (b) and option (c) was actually not that great. Both would require agreements with the banks. Following the meeting the Bank had held the previous day, he could report that the banks might well be prepared to help to dispose of stocks in an orderly manner, though they would probably require guarantees by the ITC. The Solicitor General had doubts about whether the ITC had the vires to give such a guarantee, since it might lead to them incurring liabilities outside the parameters of the ITA. Mr Farrow said that the banks would probably be looking beyond the ITC to the member countries for such a guarantee. The Chancellor warned that if guarantees were given to cover the whole potential liability, then the banks would lose some of the incentive to carry out the task effectively.

12 The Chancellor agreed that the preferred options should be (b) and (c). He had some reservations about the continuing obligation to dispose of stocks in an orderly manner, envisaged in option (b), but would be prepared to go along with this if it were handled by the banks. He was firmly of the opinion that the operation should not be entrusted to the buffer stock manager.

13 The Chancellor asked if anyone would be interested in purchasing the overhang of stocks on an off market basis. Mr Lunn replied that there was little prospect of this.

DW3AAY

14 **The Chancellor** considered that the future of the Cornish tin industry was in a sense irrelevant in choosing between the various options put forward, since it would be unlikely to survive, whichever option were pursued. The Secretary of State for Trade & Industry replied that there was no precise estimate of the price level below which the Cornish industry would no longer be viable, and that the price levels forcast for the various options put forward were also inprecise. He considered that if option (b) would bring about a slow and more orderly reduction in the price, then the difficulties of the Cornish industry would be less immediate, and the position would be easier to defend politically. Our line would be that we had done our best to protect the industry, to the extent of keeping the Agreement going longer than perhaps we ought to have done, and that we were now doing all we could to soften the inevitable blow to the industry. Mr Channon had met two Cornish MPs the previous day (Mr Harris and Mr Penhaligon) and he emphasized the substantial political difficulties we would face if the Cornish tin industry failed to survive.

15 It was agreed that officials should be given a mandate to explore both options (b) and (c) with other member countries, and that the Bank should be given a mandate to explore with banks the possibility of their undertaking to ensure the orderly disposal of stock.

16 **The Secretary of State for Trade & Industry** raised the question of what would happen if some member countries refused to go along with a passage on the lines suggested. The Chancellor agreed that we would have to plan for that contingency, but for the moment any suggestions made by the UK would have to be presented as a package needing 100 per cent agreement, since otherwise members countries may be inclined not to agree. Mr Lunn considered that a large number of consumer countries would be prepared to support such a package, but was unsure about the position of producer countries. The Secretary of State for Trade & Industry said that all we could do at this stage was to take note of the difficulties that may arise.

17 The draft statement was then discussed. It was agreed that "save for that purpose" should be added to the end of the last sentence, since options (b) and (c) would both involve new commitments. The Governor was anxious that the statement should urge the Tin Council to resume at a particular date, since this would reassure the market. He suggested either the 5th or 6th of November. The Executive Chairman of the Tin Council was later consulted and confirmed that 6 November would be a practical proposition. It was agreed that if asked, we should say that the implication of the statement was that the UK accepted its share of the liabilities and was taking a moral lead in

encouraging other member countries to do the same. It was agreed that the statement should be issued as soon as possible in the name of the Secretary of State for Trade & Industry.

18 <u>**The Secretary of State for Trade & Industry**</u> made it clear that he was firmly of the view that any costs arising should be met by a claim on the contingency reserve.

19 The revised statement, as issued, is attached.

Press Notice

Department of Trade and Industry

1 Victoria Street, SW1H 0ET Press Office: 01-215 5068/9
Out of hours: 01-215 7877

Ref: 671

1 November 1985

TIN: STATEMENT BY SECRETARY OF STATE

In a statement issued today (1 November) Leon Brittan, Secretary of State for Trade and Industry, said:

"Following recent developments in the international tin market, the UK Government, as a member of the International Tin Council, is taking urgent steps to consult with the other members of the Council with a view to the Council's agreeing orderly measures for the settlement of the Council's existing obligations. The UK Government urges all its fellow members to take part in these consultations in a constructive manner and for that purpose to resume on 6 November the Council session adjourned on 30 October 1985. The objective should be to enable all legal commitments outstanding at 24 October 1985 to be met, but that no new commitments are undertaken by the Council save for that purpose."

ENDS

No

CONFIDENTIAL

CeBG

DEPARTMENT OF TRADE AND INDUSTRY
1-19 VICTORIA STREET
LONDON SW1H 0ET
TELEPHONE DIRECT LINE 01-215 5422
SWITCHBOARD 01-215 7877

PS/ Secretary of State for Trade and Industry

31 October 1985

CONFIDENTIAL

Mrs Rachel Lomax
Private Secretary to the
Chancellor of the Exchequer
HM Treasury
Treasury Chambers
Parliament Street
LONDON
SW1

Dear Rachel,

TIN

I enclose a paper provided by officials here, but not yet seen by my Secretary of State, which will serve as a basis for tomorrow's meeting which is scheduled to begin at 11.15 am at this office.

I am copying this letter and its enclosure to Len Appleyard (FCO), John Bartlett (Bank of England) and Richard Gardiner (LOD) and to David Norgrove (No 10)

Yours ever

John Mogg

J F MOGG
Private Secretary

DW3AAW

999-1

CONFIDENTIAL

INTERNATIONAL TIN AGREEMENT

Note by DTI Officials

PRESENT POSITION

On 24 October the International Tin Council told the London metal Exchange that it was no longer able to intervene in the market. Trading in tin on the LME was suspended and remains suspended until at least close of dealing on Friday, 1 November.

2 The International Tin Council met on 29 and 30 October to consider the situation. It agreed:

(a) Confirm the decision by the Executive Chairman on 24 October to suspend all buffer stock operations.

(b) To undertake an independent audit of the buffer stock accounts at the date of suspension of buffer stock operations on 24 October.

(c) To ask the Executive Chairman to maintain close contacts with banker/broker representatives over the interim period.

(d) To suspend its present session and to resume its work on 12 November 1985 in order to consider all possible options. The Council would reconvene earlier if necessary.

DW3AAT

CONFIDENTIAL

3 Today the Chairman of the LME met the Secretary of State for Trade and Industry and subsequently the Governor of the Bank of England. He urged the Government to take the lead in calling for the member countries of the International Tin Council to agree to meet the obligations of the Council and to make an early statement to that effect. In the absence of such a lead by the UK, he believed the LME would quickly collapse.

THE LEGAL POSITION

4 It had previously been believed that although the legal position was uncertain it was likely that member countries would not be liable for any debts which the Tin Council might have incurred which could not be met out of its existing resources.

5 This view rested on the assumption that the acts of the Buffer Stock Manager as agent of the Tin Council had been intra vires the express terms of the Sixth International Tin Agreement. It now appears that this may not be so and the matter has been referred to the Law Officers for their opinion.

6 Should it be the case that the Buffer Stock Manager has in fact acted ultra vires, and the Council members have assented to such actions, member countries could be liable jointly and severally for the amount of money owing over and above the resources of the Council.

CONFIDENTIAL

7 This means that depending on the size of the total debt, which in turn would depend on the level to which the price of tin fell, member countries could face being sued for £300m to £400m. The UK as the host country might well be the most likely to be sued, since the UK is the most appropriate jurisdiction. In the event of an award against the UK, it could seek contributions from the remaining member countries of the Agreement, but this would be a long and costly process and not necessarily successful. All the above is subject to the advice of the Law Officers.

OPTIONS

8 Assuming it is out of the question to continue the Agreement on its present basis, there are four broad options. The costs of each option are summarised in Annex A.

Res~~um~~cue the Present Agreement

(a) Rescue the Agreement on the basis of a lower price of say £6,000 per tonne together with stricter controls over the operations of the Buffer Stock Manager. This would entail the payment of debts due to brokers; interest payments on existing bank loans and sums would be required to ensure the value of the tin held as collateral covered the value of the bank loans. Furthermore, extra funds would need to be injected to continue the operation of the buffer stock. The initial costs to the UK might be £13m.

<u>End Agreement; ITC pay debts; Managed stocks</u>

(b) Member countries would agree to meet the existing debts of the Council and to try to ensure that existing stocks were disposed of in an orderly way in order to avoid undue disruption of the market. The total cost of existing debts would depend on the level to which the price fell, but it is assumed in this option that the price would fall to £6,000 per tonne. The option would entail the repayment of broker debts and the repayment (or guarantee) of bank debts. It might be possible to reduce the costs of this option by making arrangements with the banks to hold the stocks and dispose of these in an orderly manner. The initial costs of this option for the UK are estimated at £21m.

<u>End Agreement. ITC pay debts. No formal stock management</u>

(c) Member countries could decide to meet the debts of the Tin Council and do nothing more. Again in this situation the cost of the exercise would depend on the price level to which tin fell, but with stocks coming in to the market the price would probably be lower than in option (b), at say £5,000 per tonne. The costs would include a sum to bridge the difference between the total bank loans and the value of the tin held as collateral. In order to avoid the banks selling off at an artifically low price, and collecting large sums of compensation. The tin held by the banks should be valued at a price which encouraged them to dispose of the stocks in an orderly manner. The initial costs of this option might be £13m.

Take no action

(d) The member countries would let the Agreement collapse and give no undertaking to pay the outstanding debts. In this case the cost to the UK would depend on the outcome of legal action, and as explained above, it is possible that the UK could find itself sued for the entire shortfall which it would in the event of an award against it have to try to recover from other member countries. The costs of this option could be as much as £400m.

CONSIDERATION

9 The general view among consumer member countries of the Tin Council is that the option of rescuing the Agreement (option (a) above) with a lower price is probably not feasible. If option (d) were followed, the UK would risk being sued for the total amount of the debt outstanding.

CONFIDENTIAL

10 The most satisfactory options in the circumstances would appear to be some variant of either b) or c). Option b) or some form of it would be more expensive than option c), but it could be more attractive to the producers in that the tin price could be higher than in option c). Both options would avoid the collapse of the London Metal Exchange provided action were taken early enough.

11 The possibility of being able to persuade other member countries to agree to some form of option b or c, is difficult to assess. However Japan, the Netherlands and Germany are believed to be ready to consider an option of this nature. It is not clear what the views of the producer countries might be.

TIMING AND NEXT STEPS

12 If the Government is prepared to adopt either option b or c, it is essential, if a collapse of confidence in the London Metal market is to be prevented that an early statement should be made. A draft of a statement which might be made on 1 November is attached at Annex B. It has been drafted to encourage other member countries to agree a solution, but does not commit HMG to take action independently.

The final version is behind this paper

DEPARTMENT OF TRADE AND INDUSTRY

31 OCTOBER 1985

DW3AAT

ANNEX A

COST TO UK OF VARIOUS OPTIONS

	Initial Costs		Ongoing Costs (per annum)	
	TOTAL	UK Share	TOTAL	UK Share
OPTION (a)	£325m	£13m	£54m-100m	£2m-£4m
OPTION (b)	£527m (Note) (1)	£21	£10m-£60m (Note) (2)	£0.5m-£2m
OPTION (c)	£316m	£13m	0	0
OPTION (d)	£0-£400m	£0-£400m	0	0

NOTE 1 This cost might be halved if the banks were prepared to hold and manage the tin stocks.

NOTE 2 Cost varies if bank loans guaranteed or if they are paid in full.

NOTE 3 All cost estimates very approximate at this stage.

31 OCTOBER 1985

DW3AAV