



Secretary of State for Trade and Industry

DEPARTMENT OF TRADE AND INDUSTRY

1-19 VICTORIA STREET

LONDON SW1H 0ET

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21 October 1986

Kenneth Warren Esq MP
House of Commons
LONDON
SW1A 0AA

Dear Kenneth

You wrote to me on 16 July following my appearance before your Committee the previous day.

In your letter you referred to the Committee's concern about the future of the RTZ and Geevor mines in Cornwall. As you know, I announced on 8 August that agreement had been reached with RTZ on a plan to develop their Cornish tin mining operations, under which the Government will provide an interest-free loan of up to £15m and guarantee commercial loans of up to a further £10m. On Geevor, my Department has funded an independent consultancy study, which has just been completed. Geevor mine has meanwhile been kept from flooding.

At the Committee hearing on 15 July I undertook to give further consideration to the possibility of providing ITC documents to the Committee on a confidential basis, and to giving evidence to the Committee in private session about the ITC. A thorough and detailed review has been undertaken to see whether the Government could help the Committee in this way.

As you know, the Government would have been willing earlier to make ITC documents available to the Committee if it could have done so without possible prejudice to legal actions that might be brought, and without breaching the confidentiality of ITC proceedings. As both Lynda Chalker and I explained to the Committee on 15 July, we would be far more comfortable if we were in a position to discuss ITC matters freely. However, with the recent commencement of legal proceedings against ITC member governments as well as the ITC itself, the Government's position on disclosure of ITC documents has become if anything even more difficult than it was on 15 July. Hence I have reluctantly had to conclude that I am not in a position to supply the Committee, even in confidence, with any

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BOARD OF TRADE
BICENTENARY



material originating from the ITC. The reasons for my coming to this conclusion are set out below : most will already be familiar to the Committee.

First, the Committee will know that Ministers, as a matter of general practice, do not supply material or evidence about matters which are the subject of confidential discussion with other Governments and international bodies. This has long been accepted as a "public interest" limitation on evidence given to Select Committees. The fact that the ITC is an intergovernmental organisation established by an international treaty places HMG under additional obligations. Discussions conducted within the framework of the ITC, before and since the tin crisis broke, are conducted on the basis of confidentiality. As a member country of the ITC the UK is moreover under a legal obligation to its fellow members, arising from the Sixth International Tin Agreement, not to disclose any records of ITC proceedings or evidence about them, unless the ITC itself decides to lift the confidentiality of its proceedings or of particular documents.

As you know, we asked the ITC last winter to agree in the disclosure of ITC material to the Select Committee. The ITC rejected our request. It follows that any disclosure, even in confidence, would be a breach of the UK's international obligations as a member of the ITC. Disclosure would, in addition, establish a highly undesirable precedent, if followed by other countries, for the work of other international bodies or which the UK is a member. This could endanger the confidential character of discussions in international bodies, which is recognised to be necessary for the conduct of international relations in the economic and other fields. We would not want other states to disclose the information which we have communicated to such bodies on an agreed confidential basis.

Second, when I attended the Committee on 15 July a writ had just been served on my Department on behalf of one of the tin brokers, Rayner & Co (Mincing Lane). Since then other proceedings have been started in the UK against ITC members and the Rayner proceedings have advanced further. Disclosure of ITC material to the Committee, even on a confidential basis, could be prejudicial to the conduct of these proceedings, and to the maintenance by the Government in those proceedings of the confidential status of that material.

These considerations lead me reluctantly to the conclusion that I am not in a position to help the Committee by providing further documents, even on a private or confidential basis. I regret having to write in this way, which I know will be disappointing to



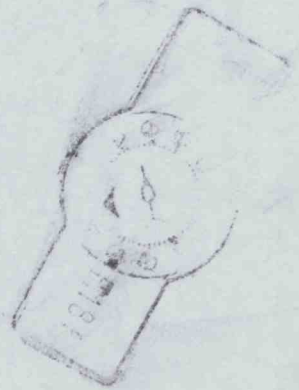
the Committee. I would of course be willing to give evidence to the Committee again to see whether there is any further information that I can give without breaching the constraints which I have already explained to the Committee. No doubt you will let me know if you think that would be helpful.

Yours,

PAUL CHANNON

Paul

Trade: Tin PT3





PS/ Secretary of State for Trade and Industry

DEPARTMENT OF TRADE AND INDUSTRY

1-19 VICTORIA STREET

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Telephone (Direct dialling) 01-215

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21 October 1986

Alison Smith
Lord Privy Seal's Office
Whitehall
London SW1A 2AT

Dear Alison,

NB: 21

SELECT COMMITTEE ON TRADE & INDUSTRY : TIN

I attach a copy of the letter which my Secretary of State has this afternoon sent to Kenneth Warren. You will see that it has been amended in line with the Lord Privy Seal's letter of 20 October.

I am copying this letter and attachment to David Norgrove (No 10), Robert Culshaw (FCO), Henry Steel (Law Office Department), Murdo Maclean (Chief Whips Office), Tony Kuczys (Treasury), John Footman (Bank of England), and Trevor Woolley (Cabinet Office).

Yours ever,

Michael

MICHAEL GILBERTSON
Private Secretary

JG2ABO

CCBG

The Governor

Bank of England

London EC2R 8AH

21 October 1986

The Rt Hon Paul Channon MP
Secretary of State for
Trade & Industry
Department of Trade & Industry
1-19 Victoria Street
London
SW1H 0ET

HBM

Dear Paul,

FILE WITH PRN

Thank you for sending me a copy of your letter to John Biffen.
I am in full agreement with the arrangements you describe.
Kit Farrow will act accordingly when he appears before the
Committee tomorrow and, subject to developments, I shall do the
same if they should ask to see me.

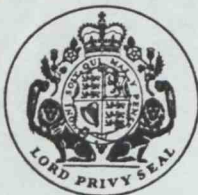
I understand that your lawyers have examined the Bank's papers and
will inform us if there is anything which you would ask us not to
disclose because of the risk of prejudicing HMG's position in
prospective litigation.

*Yours ever,
Robin*

TRATE

TIN PT3





CC 88
PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

21 October 1986

Dear Paul,

N 88 7

TRADE AND INDUSTRY SELECT COMMITTEE: INQUIRY INTO THE TIN CRISIS

Your letter of 16 October sought my agreement to your proposed reply to the Committee's request for further documents and evidence about the International Tin Council. The documents in question appear to fall clearly within categories that it has long been established may be withheld from Select Committees. I am therefore content that you should continue to decline to make those documents available and that you should reply to the request from the Chairman of the Committee along the lines of your draft letter.

In the interests, however, of doing all we can to avoid a confrontation with the Committee I wonder whether it would be worthwhile for you to offer to appear before the Committee again to see whether there is any further information that they could be given without breaching the constraints on disclosure of information. I realise that a further appearance may be unlikely in practice to take matters any further. But at least the offer would be seen as an attempt to respond as helpfully as possible to Kenneth Warren's request. This could perhaps best be achieved by amending your letter in the way shown in the attached redraft.

You also sought my support for the line which the Bank proposes to take if the Select Committee presses it to provide documents which would not be provided by a Government Department. What you are in effect proposing is that the Bank should in these circumstances be available to avail itself of the same conventions about withholding documents as would be available to a Government Department. Given the damage that could be done to the Government's position and to the Bank's standing as adviser to Government if the documents were released, I agree that we should support the Bank in declining to make these documents available.

You may recall that, when a similar issue arose in 1984 concerning "advice to Ministers" documents held by Nationalised Industries, our arguments for these to be treated as if they were held by a Government Department were not accepted by the Liaison Committee. The Committee on this occasion is unlikely therefore to accept this extension of the conventions 'as of right'. The Bank will accordingly need to present its arguments to the Committee as being based on the broad public interest in the hope that the Committee will understand the Bank's unique position as adviser to Government and the difficulties it would face if required to release these documents. I wonder too whether you would want to consider taking the opportunity of speaking to Kenneth Warren about this when you give him your letter in order to ensure that he understands

Rt Hon Paul Channon MP
Secretary of State for Trade and Industry

the full implications of the situation. As a last resort I agree that we should be willing to defend the Bank's position as well as your own on the floor of the House. But I would want to be sure that we had done everything possible to avoid such a clash.

I am copying this letter to recipients of yours.

Yours
John Biffen
JOHN BIFFEN



AMENDED DRAFT
CONFIDENTIAL

DRAFT LETTER TO THE CHAIRMAN OF THE SELECT COMMITTEE ON TRADE AND
INDUSTRY

You wrote to me on 16 July following my appearance before your Committee the previous day.

In your letter you referred to the Committee's concern about the future of the RTZ and Geevor mines in Cornwall. As you know, I announced on 8 August that agreement had been reached with RTZ on a plan to develop their Cornish tin mining operations, under which the Government will provide an interest-free loan of up to £15 million and guarantee commercial loans of up to a further £10 million. On Geevor, my Department has funded an independent consultancy study, which has just been completed. Geevor mine has meanwhile been kept from flooding.

At the Committee hearing on 15 July I undertook to give further consideration to the possibility of providing ITC documents to the Committee on a confidential basis, and to giving evidence to the Committee in private session about the ITC. A thorough and detailed review has been undertaken to see whether the Government could help the Committee in this way.

As you know, the Government would have been willing earlier to make ITC documents available to the Committee if it could have done so without possible prejudice to legal actions that might be brought, and without breaching the confidentiality of ITC proceedings. As both Lynda Chalker and I explained to the Committee on 15 July,



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we would be far more comfortable if we were in a position to discuss ITC matters freely. However, with the recent commencement of legal proceedings against ITC member governments as well as the ITC itself, the Government's position on disclosure of ITC documents has become if anything even more difficult than it was on 15 July. Hence I have reluctantly had to conclude that I am not in a position to supply the Committee, even in confidence, with any material originating from the ITC. The reasons for my coming to this conclusion are set out below: most will already be familiar to the Committee.

First, the Committee will know that Ministers, as a matter of general practice, do not supply material or evidence about matters which are the subject of confidential discussion with other Governments and international bodies. This has long been accepted as a "public interest" limitation on evidence given to Select Committees. The fact that the ITC is an intergovernmental organisation established by an international treaty places HMG under additional obligations. Discussions conducted within the framework of the ITC, before and since the tin crisis broke, are conducted on the basis of confidentiality. As a member country of the ITC the UK is moreover under a legal obligation to its fellow members, arising from the Sixth International Tin Agreement, not to disclose any records of ITC proceedings or evidence about them, unless the ITC itself decides to lift the confidentiality of its proceedings or of particular documents.



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As you know, we asked the ITC last winter to agree in the disclosure of ITC material to the Select Committee. The ITC rejected our request. It follows that any disclosure, even in confidence, would be a breach of the UK's international obligations as a member of the ITC. Disclosure would, in addition, establish a highly undesirable precedent, if followed by other countries, for the work of other international bodies of which the UK is a member. This could endanger the confidential character of discussions in international bodies, which is recognised to be necessary for the conduct of international relations in the economic and other fields. We would not want other states to disclose the information which we have communicated to such bodies on an agreed confidential basis.

Second, when I attended the Committee on 15 July a writ had just been served on my Department on behalf of one of the tin brokers, Rayner & Co (Mincing Lane). Since then other proceedings have been started in the UK against ITC members and the Rayner proceedings have advanced further. Disclosure of ITC material to the Committee, even on a confidential basis, could be prejudicial to the conduct of these proceedings, and to the maintenance by the Government in those proceedings of the confidential status of that material.

These considerations lead me reluctantly to the conclusion that I am not in a position to help the Committee by providing further documents, even on a private or confidential basis. I regret having to write in this way, which I know will be disappointing to the Committee. I would of course be willing to give

evidence to the Committee again to see whether there is any further information that I can give without breaching the constraints which I have already explained to the Committee. No doubt you will let me know if you think that would be helpful.

TRADE

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Treasury Chambers, Parliament Street, SW1P 3AG
01-233 3000

20 October 1986

The Rt Hon Paul Channon MP
Secretary of State for
Trade & Industry
1-19 Victoria Street
London SW1H 0ET

A handwritten signature in cursive script, appearing to read 'Paul Channon'.

Handwritten initials 'NBRM' in a stylized, cursive font.

SELECT COMMITTEE ON TRADE AND INDUSTRY: TIN

Thank you for copying to me your letter of 16 October to John Biffen. I am content with the line which you propose, and that we should, if necessary, defend it on the floor of the House. The Governor will no doubt confirm that he, too, is content.

Events may move quickly. I would be grateful if your officials, and the Governor's, could continue to keep in touch with mine.

I am copying this letter to the Prime Minister, the Foreign Secretary, the Lord Privy Seal, the Solicitor General, the Chief Whip, the Governor of the Bank of England and Sir Robert Armstrong.

A handwritten signature in cursive script, appearing to read 'Nigel Lawson'.

NIGEL LAWSON



CONFIDENTIAL

for the conduct of the affairs of international bodies, and damage the UK's relations with other Governments; and

- (b) disclosure could well prejudice the future conduct of HMG of its defence of legal proceedings arising from the tin crisis.

The Bank has been asked to appear on 22 October and will be represented by a senior official. The Committee have indicated that they will be particularly interested in information which passed between the Bank and the LME and between the Bank and the DTI. The Bank's position is not the same as HMG's. The Governor is not a Minister and its officials are not civil servants, so neither are covered by the conventions under which Departments may decline to answer questions from the Committee.

The Bank considers that the papers which it holds which the Committee might ask for - or about which they might press oral questions - fall in the following categories:

- (a) material covered by ITC confidentiality;
- (b) papers which relate to the Bank's participation, as adviser to Government, in the preparation and provision of advice to Ministers and the inter-Departmental discussions which are lined to such service. Such papers may have originated either in Whitehall or in the Bank;
- (c) information and papers relating to the private affairs of individuals, companies or institutions supplied to the Bank in the course of its surveillance of the LME and which cannot be disclosed without breach of confidence;
- (d) others.

It is the intention of the Bank to ask the Committee to accept that it would be inappropriate for the Bank to provide papers or information on any of the categories (a) to (c) above. The general line of argument in relation to (a) and (b) would be that the Bank acts as agent of Government or as confidential adviser to Government on a number of matters of great sensitivity. In this role the Governor has direct access to Ministers, and indeed to the Prime Minister, and its officials are brought into discussion with Departments as though it were a Government Department. If the Government were not to have confidence that information shared with the Bank is as well protected as it is within a Government



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Department the ability of Government to consult it would be prejudiced and the role of the Bank seriously impaired.

In addition, in respect of material in category (a) above, the Bank would rest its arguments wholly on the fact that it only holds confidential ITC material as a result of its being given it by HMG and that it is therefore bound to adopt the same position as HMG. It would not engage in any discussion of the reason for HMG's own decision to withhold ITC material. On category (b) the Bank's approach will be based wholly on the general grounds described in the previous paragraph. I have no doubt that on these matters we should give the Bank full support - not least because disclosure by the Bank might be prejudicial to HMG's position in litigation.

Papers in category (c) are a somewhat different matter insofar as they do not impinge directly on the Bank's relationship with Government. Its role in undertaking surveillance of the commodity markets is non-statutory; rather it has been undertaken on the Bank's own authority, in the public interest and with the consent of the markets. While this surveillance will come to an end so far as the commodity markets are concerned once the Financial Services Bill is brought into effect, in the wholesale money markets it will continue, on a non-statutory basis at our request. If the Bank's role were laid down in statute, as is the case with the supervision of banks, it is reasonable to expect that the Bank would have a specific statutory responsibility to preserve the confidentiality of the affairs of individuals. It seems extremely unlikely that the Select Committee would press for any such information to be disclosed, but if they should I would regard it as proper for us to support the Bank.

The Bank would be ready to disclose to the Committee papers relevant to the tin crisis which do not fall in categories (a) to (c). This will include some information on communications between the Bank and the LME in which the Committee have expressed specific interest. I see no reason at present to question their judgement on this, but my officials will review with them the documents which they would be willing to provide to the Committee to ensure that the Bank do not indirectly reveal advice to Ministers and as far as possible that they do not release material which might be prejudicial to HMG's position in legal proceedings.

It is to be hoped that the Committee will not seek to challenge the arguments set out above, which go to the heart of the Bank's relationship with Government and its role in the City. If the Committee do not accept the Bank's case and seek to require disclosure, the Bank propose that they should not comply immediately. If, after further consideration, the Bank do not

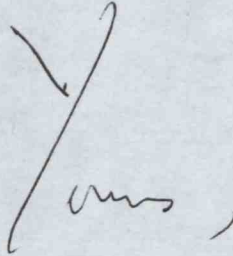
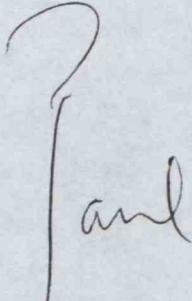


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comply this would no doubt lead to a report by the Committee to the House, in the same way that the Committee may report again to the House on my own refusal to provide additional information. In asking colleagues to agree to the line which I propose to take on my own account, and in asking colleagues to support the approach which the Bank of England proposes, I should therefore make clear that we must be ready to defend our position if the Committee were to bring the matter to the floor of the House.

This matter has come to a head very suddenly because of the short notice given of the Bank's appearance next Wednesday. I am afraid that I must therefore ask for colleagues' agreement to the proposed line by the evening of Monday, 20 October, in order to allow time for the Bank to give the Committee notice of the position it will take, and for me to write to Kenneth Warren.

I am sending copies of this letter to the Prime Minister, the Foreign Secretary, the Chancellor of the Exchequer, the Solicitor General, the Chief Whip, the Governor of the Bank of England and Sir Robert Armstrong.


PAUL CHANNON


JF4AHD



DRAFT (16.10.86)

CONFIDENTIAL

**DRAFT LETTER TO THE CHAIRMAN OF THE SELECT COMMITTEE ON TRADE AND
INDUSTRY**

You wrote to me on 16 July following my appearance before your Committee the previous day.

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First, the Committee will know that Ministers, as a matter of general practice, do not supply material or evidence about matters which are the subject of confidential discussion with other Governments and international bodies. This has long been accepted as a "public interest" limitation on evidence given to Select Committees. The fact that the ITC is an intergovernmental organisation established by an international treaty places HMG under additional obligations. Discussions conducted within the framework of the ITC, before and since the tin crisis broke, are conducted on the basis of confidentiality. As a member country of the ITC the UK is moreover under a legal obligation to its fellow members, arising from the Sixth International Tin Agreement, not to disclose any records of ITC proceedings or evidence about them, unless the ITC itself decides to lift the confidentiality of its proceedings or of particular documents.

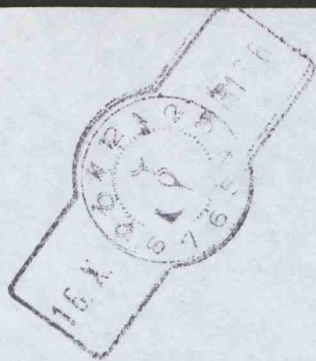


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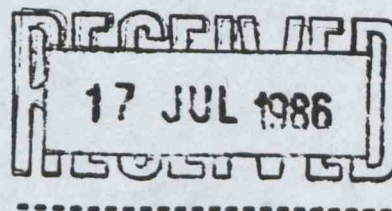


From: The Chairman



COMMITTEE OFFICE
HOUSE OF COMMONS
LONDON SW1A 0AA

01-219 5469 (Direct Line)
01-219 3000 (Switchboard)



TRADE AND INDUSTRY COMMITTEE

16 July 1986

Rt Hon Paul Channon MP
Secretary of State for Trade and Industry
1 Victoria Street
Department of Trade and Industry
London
SW1

My dear Paul.

I am writing on behalf of the Committee to thank you and your officials for coming to give us evidence yesterday.

I know we have different views about the amount of information that can be disclosed, but I should like to thank you for the flexible way you are dealing with us and for offering to consider further the possibility of giving us papers in confidence.

May I reiterate the Committee's concern that a speedy solution be found to help the RTZ mines and to prevent Geevor from flooding.

Yours ever.
KW

Kenneth Warren MP
Chairman

