



PRIME MINISTER
 Had Privy Seal is
 missing for some
 presentational changes
 in Monday's Bingham
 statement. He is not
 trying to change DPP's
 conclusions.

Foreign and Commonwealth Office
 London SW1

7 December 1979

No need for you to intervene.

But, if you agree, I shall ask the
 Attorney's office to accommodate Sir Ian if at all possible

In OD on 3 December, we agreed that you should make your statement about the decision of the Director of Public Prosecutions with regard to the matters in the Bingham Report not later than 10 December. I have seen a copy of the letter to de Winton of 4 December from the Prime Minister's Private Secretary, which confirms that she is content with the proposed statement. I was also grateful to receive yesterday the revised text of your proposed statement.

I am still deeply concerned however at the effect this statement may have at home and overseas (particularly in Zambia). In particular, my concern arises from what may have been a misunderstanding between our two departments and between ourselves and the DPP. We had been given clearly to understand that the DPP would conclude that there was insufficient evidence to justify a prosecution. That was of course the reason why we saw advantage in your making a statement before the announcement of an amnesty for sanctions offences. It now appears, however, that the DPP's conclusion is based, at least in part, on the

/consideration

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consideration that it would take too long and be too expensive to analyse the mass of documents involved, and that the companies would argue in court, quite possibly successfully, that the Government of the time had condoned their actions in the crucial 1968-9 period. In other words, the DPP and we are not in a position to say categorically that there is insufficient evidence to prosecute the companies because the evidence has not been fully examined. It would have been helpful in considering how to instruct our posts overseas, if we had been made aware somewhat earlier of the content of Counsel's Opinion of November 1979.

With the agreement on a ceasefire, however, I recognise that next Monday is as good a time as any to make a statement on Bingham; and we can perhaps hope that interest in Bingham will recede as the Rhodesian situation develops. Despite what you said yesterday at OD(E) I would, however, ask you to agree to some minimum changes in the text of your proposed statement. These are attached on a separate sheet. I think that these would greatly help our posts overseas - some of which may even be at risk - in defending the DPP's decision (and the Government's decision to abide by it).

I am copying this letter to the Prime Minister, the Lord Chancellor, the Home Secretary and to Sir Robert Armstrong.