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DEPARTMENT OF SOCIAL SECURITY  
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The Rt Hon Michael Heseltine MP  
President of the Board of Trade  
Ashdown House  
123 Victoria Street  
LONDON  
SW1E 6RB

from the Secretary of State for Social Security

For Information

- Mr Oldham CA
- LF
- JE
- IT
- Mr Hilton
- Mr Hammond
- Mr Bovey Sols
- Mr Neville - Palfre Ds
- Mr Jones TR
- Mr O'Shea FRM
- Mr Stow ECR
- Mr Bennett AKML
- Spad

- 1. Mr Jones <sup>away</sup>
- 2. Mr Bovey Sols
- 3. File

February 1995

Dear Michael,

**METRICATION: IMPLEMENTATION OF UNITS OF MEASUREMENT DIRECTIVES**

1. In your letter of 30 January you have proposed a statement to Parliament, followed by legislation to prevent the use of metric measurements in contracts. I fully understand why you feel compelled to propose this approach. However, if we adopt it most people will think we have gone barmy. We would risk being accused of excessive zeal in interpreting directives in the harshest possible way. **Presumably Lilley means 'non metric' where he has written 'metric'.**
2. With the greatest respect to the Law Officers, all they can do is try to guess how the ECJ would interpret the directives, if asked. We know these directives are open to other interpretations - indeed they have been interpreted differently in good faith for nearly two decades. We know, too, that the then British government in agreeing the directives did not intend to require that non-metric systems should no longer be used. The ECJ has in the past reached conclusions at variance with the predictions of the Law Officers. This is not a criticism of the Law Officers. The ECJ seems to be more subjective and less constrained by rules of construing legislation and precedent than are our own courts.
3. I do not know why the Law Officers' advice has been sought. But if no case is currently being brought against us I would have thought the sensible thing was to do nothing. Indeed, if infraction proceedings are imminent - why not let them proceed. Then we will establish for sure how the ECJ interpret these directives.
4. It is not at all clear what the Government stand to lose if we eventually find that we were obliged to legislate as you suggest. However, if we are convinced it is necessary to respond to the Law Officers' opinion we could pursue another course. We could go to our partners and openly say 'we face this unpalatable consequence which none of us intended when passing the directive. Please let us amend them to restore the Council of Ministers' original intention.' The change necessary could not possibly affect adversely any of our partners' trade or other interests. So why should they not agree?

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5. This would also make clear the consequence which flows from transferring law making powers from Westminster to Brussels. If Westminster makes a law which is subsequently construed by the courts in an unintended fashion we can revise the law. If we agree to a law made by Brussels believing it to be in our interests and find the courts give it an adverse meaning we can only revise it with their consent. This would be helpful when exposing the Opposition's commitment to transfer to Brussels responsibility for law making on social and employment matters.

6. I am copying this letter to the Prime Minister, members of OPD(E) and EDH, to Sir Robin Butler and to Sir John Kerr.

*Yours ever*



**PETER LILLEY**