

● PO-CH/NL/0523  
PART A

Part A.

**CONFIDENTIAL**

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Begins: 2/2/89.

Ends : 6/3/89.

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PO CH / NL / 0523.  
Pt.A.

Chancellor's (Lawson) papers:  
European Community Fraud: Debate  
on the 1987 Court of Auditors Report.

DD's: 25 Years

*[Signature]*

13/3/96.

PO CH / NL / 0523.  
Pt.A.

FROM: MISS F P BOGAN  
 DATE: 2 FEBRUARY 1989

*FPB*

1. MR MERCER *Hum*  
 2. PAYMASTER GENERAL *a/a*

cc: PS/Chancellor *← 2nd floor*  
 PS/Financial Secretary  
 Mr Lankester  
 Mr R I G Allen  
 Mrs Brown  
 Mr Towers  
 Mr Evans  
 Mr Dyer  
 Mrs Phillips  
 Miss Wright  
 Mr Tyrie

#### DEBATE ON THE 1987 COURT OF AUDITORS REPORT

The Scrutiny Committee has now recommended the 1987 Court of Auditors Report for debate. As Mr Towers advised you in his minute of 31 January, the Scrutiny Committee has also recommended that the Court of Auditors' Special Report on intervention storage should be formally debated (and included in the motion) at the same time as the Court's Annual Report. We would also like to take this opportunity to "tag" to the motion, as relevant to the debate, Community document no 4782/88 on the Implementation of the 1987 Budget. This would discharge our obligation to the House following the Committee's recommendation in June 1988 that the document was a matter of political importance and might be relevant to a future debate on Community finances.

2. The 1987 Annual Report will be considered at ECOFIN on Monday 13 March, and we need to arrange for a debate before then in order to satisfy the normal scrutiny rules. This points to a debate no later than the week beginning Monday 6 March. In practice we would prefer if possible to have the debate before then in order to keep the week leading up to ECOFIN as clear as possible since we are likely to need to devote a considerable amount of time to preparation for this. Monday 6 March would be the latest date we would like to go for. We also agree with your view that it would be preferable to have the Court of Auditors debate after the Agriculture Debate if this can be arranged. Baroness Trumpington, in her letter of 30 January to the Chairman of "L" Committee, notes that Mr McGregor's preferred dates for this are 23 February and 1 March. I understand from Miss Gable that preferable dates

From your own diary point of view are Thursday 23 February, Wednesday 1 and Thursday 2 March. The latter date would be the most certain from the point of view of arranging a debate after the Agriculture debate. We did consider the possibility of a combined (perhaps full day) debate on both the Agricultural and our documents, but on reflection we felt that the subjects were too diverse to make this a practical suggestion.

3. The Court of Auditor's Debate is usually scheduled for 1½ hours after 10.00pm, on the floor of the House. We wonder, though, given that there will be two documents to be formally debated and that the Annual Report attracted quite a lot of interest when it was published, whether a half day's debate might be necessary this time. We would welcome your advice on this.

4. The Court's report is usually debated on an expanded take note motion referring to the Government's efforts to support the work of the Court of Auditors. We recommend a motion along the following lines:

"That this House takes note of document number 9908/88 (Official Journal C316); Annual Report of the European Court of Auditors on the financial year 1987, together with the replies of the Institutions, and document number 8502/88, Special Report number 5/88 on management and control of public storage; and approves the Government's efforts to press for value for money in Community expenditure."

This last sentiment would tie in well with the proposals we will be putting forward during the course of the review of the Financial Regulation (on which we will be minuting you shortly), and the debate may provide a useful opportunity to advertise our efforts in this direction.

#### Conclusion

5. We would be grateful to know if you agree with our recommendations on (i) timing (ie that we should seek to hold a debate some time between 20 February and 6 March - the exact date

depending on your diary commitments, and the timing of the Agriculture debate); (ii) length of the debate, ie that we should seek a ½ day's debate rather than the usual 1½ hours after 10.00pm; and (iii) the terms of the draft motion. If you agree a draft letter for you to send to the Chairman of "L" committee is attached.

*F P Bogan.*

**MISS F P BOGAN**

DRAFT LETTER TO THE CHAIRMAN OF "L" COMMITTEE

DEBATE ON THE 1987 COURT OF AUDITOR'S REPORT

The Scrutiny Committee has now recommended the 1987 Court of Auditors Report for debate. As John Major mentioned in his letter of 1 February to Baroness Trumpington, the Committee has also recommended that the Court of Auditor's Special Report (No 5/88) on management and control of public storage should be debated at the same time as the Annual Report. Following a recommendation made by the Scrutiny Committee in June last year for debate at a suitable time, we also intend to "tag" Community document no 4782/88 on the Implementation of the Community Budget in 1987 as relevant to this debate.

2. The Council's draft recommendation for discharge of the 1987 Community Budget is due to be considered at ECOFIN on Monday 13 March. In line with the normal scrutiny rules a debate should be held before this date. In practice I would welcome a debate sometime between Monday 20 February and Monday 6 March. My diary pressures would be considerably eased if you were able to arrange the debate for either Wednesday 1 or Tuesday 2 March. I think it would be sensible for this debate to follow the Agriculture Debate, which Baroness Trumpington has asked to be held on either Thursday 23 February or Wednesday 1 March. Therefore the choice of

either 1 March or 2 March would depend upon your decision on timing of the Agriculture debate.

3. The Court of Auditors' reports are normally debated on the floor of the House for 1½ hours after 10.00pm. But given that this year there are two documents to be debated and that the Court of auditors Report attracted considerable interest when it was published just before Christmas, I am inclined to think that this time we may need to ~~give over~~<sup>devote</sup> a half<sup>a</sup> day to this debate.

4. We normally debate the Report on an expanded take note motion, referring to the Government's efforts to support the work of the Court. I suggest the following:

- "That this House takes note of document number 9908/88 (Official Journal C316), Annual Report of the European Court of Auditors on the financial year 1987, together with the replies of the Institutions and document number 8502/88, Special Report No 5/88 on management and control of public storage; and approves the Government's efforts to press for value for money in Community expenditure."

5. I am copying this letter to members of L and OD(E) Committees, to the Baroness Trumpington, and to Sir Robin Butler and the Secretaries of L and OD(E).

**PETER BROOKE**



FROM: MALCOLM BUCKLER  
DATE: 6 February 1989

MISS BOGAN

*pwp*

cc PS/Chancellor  
PS/Financial Secretary  
Mr Lankester  
Mr R I G Allen  
Mrs Brown  
Mr Mercer  
Mr Towers  
Mr Evans  
Mr Dyer  
Mrs Phillips  
Miss Wright  
Mr Tyrie

**DEBATE ON THE 1987 COURT OF AUDITORS REPORT**

The Paymaster General was grateful for your submission of 2 February. He is content:

- i. to seek to hold a debate between 20 February and 6 March. February 28th is also a possible date providing the Agriculture debate is on February 23;
- ii. to seek a half-day debate, rather than the usual 1½ hour debate after 10.00pm;
- iii. with the terms of the draft Motion;
- iv. with the terms of the draft letter to the Chairman of "L" Committee. Tuesday, February 28th has been added to the list of preference dates for the debate (as above).

The Paymaster commented that it would have been helpful if we had started to look at a debate before 10.00pm earlier, because of the way his early evening diary quickly becomes crowded. You will see from his letter to Mr Wakeham that his preference, chronologically, of the day for the debate is 28 February, 1 March or 2 March (the first two being contingent on the Agriculture debate on or before 23 February).

**MALCOLM BUCKLER**  
Private Secretary



pmg.vd

cc PS/Chancellor

PS/Financial Secretary

Mr Lankester

Mr R I G Allen

Mrs Brown

Mr Towers

Mr Mercer

Mr Evans

Mr Dyer

Miss Bogan

Mrs Phillips

Miss Wright

Mr Tyrie



Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon John Wakeham MP  
Lord President of the Council  
Privy Council Office  
68 Whitehall  
LONDON SW1A 2AT

7 February 1989

*pmg*

*Dear John,*

#### DEBATE ON THE 1987 COURT OF AUDITORS REPORT

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2. The Council's draft recommendation for discharge of the 1987 Community Budget is due to be considered at ECOFIN on Monday 13 March. In line with the normal scrutiny rules a debate should be held before this date. In practice I would welcome a debate sometime between Monday 20 February and Monday 6 March. My diary pressures would be considerably eased if you were able to arrange the debate for Tuesday 28 February, Wednesday 1 or Thursday 2 March, in order of preference as well as chronology. I think it would be sensible for this debate to follow the Agriculture debate, which Baroness Trumpington has asked to be held on either Thursday 23 February or Wednesday 1 March. Therefore the choice of both my first two dates would be contingent upon 23 February as your choice for the Agriculture debate.

3. The Court of Auditors' Reports are normally debated on the floor of the House for 1½ hours after 10.00pm. But, given that this year there are two documents to be debated and that the Court of Auditors Report attracted considerable interest when it was published just before Christmas, I am inclined to think that this time we may need to devote half a day to this debate.

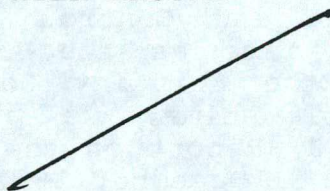
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5. I am copying this letter to members of L and OD(E) Committees, to The Baroness Trumpington, and to Sir Robin Butler and the Secretaries of L and OD(E).

*P. Brooke*  
*Pm*

PETER BROOKE





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*Thanks (Re X) - this needs to be advised: advise per). Worth study (this is for the work on appointments, with a short cover note for you use. -*

Board Room  
H M Customs and Excise  
New King's Beam House  
22 Upper Ground  
London SE1 9PJ  
Telephone: 01-620 1313

FROM : THE CHAIRMAN  
DATE : 9 February 1989

CHANCELLOR OF THE EXCHEQUER

CAP FRAUD

In view of the discussion at Cabinet on 26 January, and the subsequent press attention, I thought I should acquaint you with work we are doing to tackle CAP fraud. We shall, of course, be contributing to the interdepartmental work now being set in hand by the Cabinet Office, but this note will give you some idea of the considerable steps we have taken during the past year to improve the effectiveness of our controls.

C & E RESPONSIBILITY

2. In brief, the Intervention Board for Agricultural Produce (IBAP) is responsible for all payments of FEOGA funds, including export refunds, and for the collection of any amounts due at export. We are responsible for the physical control of imports and exports of CAP goods, and the collection of any sums due at import. Under an agreement with IBAP, we investigate CAP import and export fraud.

cc  
Chief Secretary  
Financial Secretary  
Paymaster General  
Economic Secretary  
Sir P Middleton  
Mr Wicks  
Mr Lankester  
Mr R I G Allen

Mr Culpin  
Mrs Chaplin  
Mr Tyrie  
Mr Call

Mrs Strachan  
Mr Jefferson Smith  
Mr Nash  
Mr Craggs  
Mr Tweddle  
Mr Blomfield  
Mr Vaughan  
Mr Aitchison

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FRAUD INVESTIGATION

3. The Investigation Division (ID) maintain very close operational liaison with their counterparts in other member states. During 1988 they completed 10 cases of CAP fraud totalling over £1 million. The frauds ranged from evasion of countervailing duty on raisins and import levy on rice to fraudulent sheepmeat clawback claims and false claims to export refunds on meat. Among the cases currently under investigation is a particularly difficult (and dangerous) one called operation "Amaizing". This is a joint investigation with Irish Customs into a major cross border grain smuggling carousel involving MCAs during 1986. Last November, with close support from the RUC and the army, we carried out simultaneous raids on premises which resulted in some 5 tons of documents being taken up for examination. We think that some 18,000 individual movements of grain attracting over £11 million are involved, although not all may be found to be fraudulent.

4. CAP frauds are often very difficult to detect and investigate because of the international nature of the transactions, the potentially large sums at stake and the sheer complexity of the EC Regulations. As an illustration of complexity, the European Court of Auditors noted that the export refund nomenclature contains more than 1200 separate classifications, including almost 400 for milk products and 80 for beef. This is an area crying out for simplification which would make it easier to minimise the scope for losses arising both from genuine error and from deliberate exploitation of the complexities.

IRISH BORDER

5. In the past the border with Ireland has been a particular source of difficulty because of smuggling to avoid MCAs. Control is difficult both because of the physical nature of the border

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and the wider security situation. Currently MCAs are low and the incentive to smuggle has largely gone. The phasing out of MCAs as part of the 1992 programme would eliminate CAP control problems on the border. (In considering CAP fraud it is important to bear in mind the periods covered by audit reports which are usually a year or so old by the time they are published. For example, press comment still refers to live pig carousel traffic on the Irish land boundary, whereas currently the MCA rate on live pigs is zero).

### EXPORT REFUNDS

6. Another area of difficulty concerns the control of export refunds where the rate payable varies according to the destination of the goods. Proof of arrival and clearance in the appropriate third country is necessary to secure a higher rate of refund. The current system provides for proof to be by means of a copy import entry from the third country or a form certified by the third country customs. In our view this document does not provide adequate safeguards, is open to manipulation and forgery, and does not afford a secure audit trail. We drew attention to these weaknesses last year and as a result MAFF have reviewed their policy and now support any initiative by the Commission to tighten up the system. Again, this is a problem of the system rather than of our controls.

### CAP TRAINING

7. As I explained to the PAC when questioned on these matters about a year ago, CAP is a small part of our total work and often forms a small proportion of an individual officer's duties. There is a limit to the resources we can sensibly devote to it. But we recognise the need to give it a relatively high priority and we really have put a considerable effort into a training programme to raise the level of CAP awareness. Indeed, I

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christened 1988 "CAP Training Year". As a result, some 4000 officers will have attended 2 or 3 day refresher courses by April. In addition, we now have CAP Liaison Officers (CAPLOs), who are responsible for improving the flow of information between Collections, Headquarters and the TD, in every Collection.

### EXAMINATION FACILITIES

8. We are often hampered by poor physical facilities at the ports. During the first half of 1988 we conducted a review of these facilities and in September re-stated publicly a firm policy of requiring the provision of adequate facilities as a condition of allowing CAP trade to be cleared at a port. In applying this, of course, we have to maintain a balance between imposing our requirements and facilitating trade. We also have to recognise trade reluctance to invest in expensive facilities which may not be required after 1992.

### EXAMINATION RATE

9. In general we support the proposed Council Regulation which would require member states to carry out a minimum level of physical inspections of exports attracting Community refunds. There are details that we, like the European Court of Auditors and other member states, wish to see amended: the proposal is for a flat 5% rate across the board whereas we would prefer discretion to target examinations at areas of higher risk. Our current Departmental overall target is in fact 7%, although this may be reduced in the light of local knowledge of the trade.

### FUTURE PLANS

10. We shall be drawing special attention to CAP fraud in our Management Plan for 1989-90, the draft of which is currently being used by local managers to plan their deployment of

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resources for next year. We are also asking Collectors to identify high risk transactions and to set operational targets to increase the numbers of irregularities and under- or over-payments discovered.

CONCLUSION

11. The Foreign and Commonwealth Secretary has suggested an OD(E) discussion in due course and I will ensure that you are fully briefed for that. But in case the subject comes up again at Cabinet or elsewhere in the meantime, you may find it useful to have the above at hand. I would certainly not claim that our controls are totally effective or that more could not be done. But given the relatively small part that this plays in our overall responsibilities, and that the basic problems stem from the system (on which MAFF must take the lead), I think you can assure colleagues that we have put, and are putting, a great deal of effort into making our controls effective.



J B UNWIN



FROM: J M G TAYLOR  
 DATE: 10 FEBRUARY 1989

*6.17/2* ~~JP~~

MR UNWIN - C&E

cc Chief Secretary  
 Financial Secretary  
 Paymaster General  
 Economic Secretary  
 Sir P Middleton  
 Mr Wicks  
 Mr Lankester  
 Mr R I G Allen  
 Mr Culpin  
 Mrs Chaplin  
 Mr Tyrie  
 Mr Call

Mrs Strachan - C&E  
 Mr Jefferson-Smith - C&E  
 Mr Nash - C&E  
 PS/C&E

**CAP FRAUD**

The Chancellor was grateful for your note of 9 February.

2. He thinks it would be worth sending <sup>this</sup> to the Prime Minister, given her interest in the subject, and copying it to other Ministers as appropriate. He would be grateful for a short draft cover note for his signature.

3. On the substance, he notes in particular the problem of the complex export refund nomenclature. He very much agrees that this is an area crying out for simplification. He would be grateful for advice on how best to address this problem.

*JP*

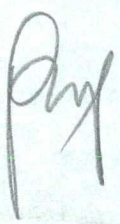
J M G TAYLOR



FROM: M C MERCER  
DATE: 14 FEBRUARY 1989

PS/PAYMASTER GENERAL

cc: PS/Chancellor  
Mr Lankester  
Mr R I G Allen  
Mr Towers  
Mrs Phillips



**EC FRAUD: HOUSE OF LORDS SCRUTINY COMMITTEE**

The House of Lords Scrutiny Committee met this afternoon to consider the final draft of its report on EC fraud (based, amongst other things, on oral and written evidence by the Treasury). I gather that during the meeting Baroness Serota and Lord Benson made clear their feelings that the Treasury (and by inference the Paymaster) had not fully acknowledged the importance of the Court of Auditors in the fight against fraud. These feelings were based on the fact that fraud was not <sup>explicitly</sup> mentioned in the "financial implications" section of the Explanatory Memorandum on the Court's recent annual report (copy attached). The relevant paragraph reads as follows:

"There are no direct financial implications, though improvements in procedures and practices resulting from the Court's work can be expected, over time, to have an impact on the level of the Community budget and on the pattern of member states' receipts".

2. I see no need for any direct reference to fraud in this context; and am surprised that the Committee should have reacted in the way that they are reported to have done. However, fraud is currently an emotive issue, not least in the Lords: coincidentally, Lord Young was given a hard time on the subject by Lord Cockfield during question time this afternoon.

3. The Cabinet Office has suggested that the EM might be amended, or that the Paymaster might write to Baroness Serota. I would not be inclined to recommend either course. We have no need to be defensive. But the Paymaster will wish to be aware of the situation and may feel that a telephone call to the Baroness, underlining the Government's position on fraud and making clear the advantages of un-coloured explanatory memoranda, would be worthwhile.



M C MERCER

MES

# Young baffled by EEC question

By Sheila Gunn  
Political Staff

The Government was gravely embarrassed in the House of Lords yesterday as Lord Young of Graffham was attacked by Lord Cockfield over the alleged £6 billion a year of fraud involving EEC funds.

Lord Young was tackled by the former EEC Commissioner over why the Government vetoed his proposals to combat fraud three years ago.

The Trade and Industry Secretary was unable to answer, and was left floundering until Lord Whitelaw, the former leader of the Lords, came to his rescue.

The exchanges could not have come at a worse time for the Government, because Mrs Thatcher has told colleagues she intends to head a drive to combat EEC fraud at the European Council summit.

She is known to be increasingly concerned about the extent of fraud, particularly farming subsidies reaching the Mafia and the IRA.

Lord Cockfield's remarks revealed the Government's refusal to back earlier attempts to take action.

Figures on the extent of fraud given by Lord Young to

Parliament ..... 11

the Lords yesterday also appeared to contradict the Prime Minister's estimate. Lord Young said the highest figure for fraud was £130 million and warned peers not to get led astray by "wild speculation".

However, Mrs Thatcher believes that as Britain contributes £2 billion to the EEC budget, it could be funding a third of the fraud.

A senior peer later described the exchanges in the Lords as "a battle between two extremely arrogant men." Most peers judged the former Commissioner the victor. They saw it as another issue on which the Prime Minister had taken the lead, throwing her ministers into disarray.

They are also alarmed that in a Treasury explanatory memorandum signed by Mr Peter Brooke, the Paymaster General, on the annual report of the European Court of Auditors, there is no mention of fraud.

Lord Cockfield challenged

Lord Young to explain why the Government blocked his amendment to an EEC directive in 1986 which would have enabled member states to help each other trace illegal use of EEC funds.

Lord Young repeatedly said he could not answer. In an unprecedented move, Lord Whitelaw intervened from the backbenches to defend Lord Young and said, as leader of the Lords in 1986, he did not know the answer either.

The Government will come under further pressure to tighten controls next month when an all-party Lords EEC committee is expected to call for urgent action on fiddles particularly in farm subsidies.

## The Guardian

### Cockfield challenge on vetoed EEC fraud check

**T**HE sacked European commissioner Lord Cockfield clashed with the Government in the Lords yesterday over his vetoed plans to counter fraud in the Common Market.

He asked the Trade and Industry Secretary, Lord Young, to explain why his proposals to enable the commission to investigate fraud were vetoed by Britain in 1986.

Lord Young said he suspected there was "more to it" than suggested, but promised to look into the question.

"The Prime Minister is very concerned about the prospects of fraud in the Community and intends to raise the matter at the next European Council of Ministers meeting in March."

Lord Cledwyn, Labour leader in the Lords, pressed the Trade Secretary for "a proper answer."

"You have been asked an extremely serious and fundamental question and, as a member of the Cabinet, why are you unable to answer a question on behalf of the Chancellor of the Exchequer?"

"Why on that occasion did the Government veto the proposals of Lord Cockfield?"

Lord Young replied that he would answer a question if it was tabled.

"Surely I haven't a knowledge of all the events in the European Council over the years. I cannot be expected to have an instant recall."

Lord Cockfield, a former trade secretary and commission vice president, was sacked by Mrs Thatcher for supporting the European Monetary System.

He told Lord Young: "While I can give an explanation of why

the Government decided to veto these particular proposals... it is not my function but yours to explain the actions of the Government."

Lord Young told him: "It is some considerable time since you sat in my position answering questions and perhaps you have forgotten the formalities in this matter."

The exchanges stemmed from a question from Lord Bruce of Donington, Labour's Treasury spokesman, on what was being done about fraud in the European Community.

He said it had been reported that fraud could be running at between 10 and 12 per cent of the commission's budget.

Lord Young said that the only definite figure available was £130 million from 1980 to 1987, although he acknowledged that was for detected fraud.

*Handwritten notes:*  
JV  
What is the answer?  
M.

*Handwritten signature:* G.F.



FROM: J M G TAYLOR

DATE: 15 February 1989

MR R I G ALLEN

cc PS/Paymaster General  
Mr Wicks  
Mr Lankester  
Mr Mercer

## EC FRAUD

... The Chancellor has seen the stories in today's press (copy attached) that Lord Young was "unable to answer" Lord Cockfield yesterday about why the Government had vetoed Lord Cockfield's proposals to combat fraud three years ago.

2. The Chancellor would be grateful for a note on why the Government did not support Lord Cockfield's proposals.

A handwritten signature in black ink, appearing to be 'J M G Taylor'.

J M G TAYLOR

# Young Baffled By EEC question

By Sheila Gunn  
Political Staff

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*6/11*  
*6/12*



*MB*  
FROM: MALCOLM BUCKLER  
DATE: 15 February 1989

MR MERCER

cc PS/Chancellor  
Mr Lankester  
Mr R I G Allen  
Mr Towers  
Mrs Phillips

**EC FRAUD: HOUSE OF LORDS SCRUTINY COMMITTEE**

The Paymaster General was most grateful for your minute of 14 February. He will speak to Lady Serota and would be grateful for a brief speaking note.

The Paymaster will also write to Lady Serota, with a copy to Lord Benson, confirming their conversation. He would be grateful for a short draft letter.

**MALCOLM BUCKLER**  
Private Secretary



PAYMASTER GENERAL

FROM: M C MERCER  
DATE: 15 FEBRUARY 1989

cc: PS/Chancellor  
Mr Lankester  
Mr R I G Allen  
Mr Towers  
Mr Evans  
Mrs Phillips

**EC FRAUD: BARONESS SEROTA'S COMPLAINT**

You asked for a speaking note for use with Baroness Serota on her reported concern about the Explanatory Memorandum on the Court of Auditor's annual report (my minute to your Private Secretary of 14 February).

2. I suggest something on the following lines:

"I was sorry to learn that you were concerned about the treatment of EC fraud in the Treasury's recent Explanatory Memorandum on the Court of Auditor's annual report. We try hard to ensure that EMs are factual and dispassionate, in order to avoid any risk of biasing the Scrutiny Committees' discussions. In these terms, I think that the references to fraud in the EM on the Court's report are appropriate. For example, the memorandum states that the Chapter in the report dealing with agricultural guarantee arrangements is "sharply critical" of the scope for fraud in member states. And the memorandum goes on to point out that the Court gives examples of the fraudulent practices to which shortcomings in controls can give rise.

I understand that your Committee was particularly concerned about the section in the EM headed "Financial implications". This is something of a term of art. In general, an EC document is described as having direct financial implications only if it contains a proposal in a form which can be put before the Council and which would involve increased, or decreased, expenditure from the Community budget or from member states' national budgets. The Court of Auditor's report does not fall into this category because its recommendations are not directly applicable and cannot

be adopted by the Council as they stand. They must first be translated into proposals, or management decisions, by the Commission. We shall press hard to ensure that this happens at the March ECOFIN, when the Court's report will be discussed. But I do not think that it would have been justified to anticipate the outcome of that or any other discussion in the EM. I believe it was more scrupulous to say, as we did, that the report has no direct financing implications, while pointing out that the Court's work can be expected over time to have an impact on the level of the Community Budget and on the pattern of member states' receipts.

Given what I have said, I hope you would agree that the EM was carefully drafted so as to be as helpful as possible to the Committee; and therefore that Lord Bruce was quite unjustified in alleging during House of Lords questions yesterday that I was complacent about fraud."

3. We shall be giving Lord Young a draft letter to send to Lord Cockfield about the latter's allegation that the UK (and all other member states!) vetoed an anti-fraud proposal which he submitted in 1986 (background on the proposal was attached to my minute of today's date to the Chancellor's Private Secretary, copied to Mr Buckler). We would, of course, be happy to provide a draft letter if you wished to write to Lord Bruce about his separate allegation.

*M. C. Mercer*

M C MERCER

BENDON  
15/2

BF 22/2



Rt Hon Nigel Lawson  
Treasury Chambers  
Whitehall  
London  
SW1

CH/EXCHEQUER	
REC.	16 FEB 1989 ✓
ACTION	PMG
COPIES TO	

15 February 1989

Dear Chancellor

I am presently a member of a Select Sub-Committee which is enquiring into Fraud in the Community, and, as such, the paper I refer to below has just come into my possession. I write in my personal capacity. The Sub-Committee were informed in advance of my intention to write to you, but the views expressed are my own.

The paper in question is "Explanatory Memorandum on European Community Document", submitted to HM Treasury on 24 January 1989, Number 9908/88 (OJ C 316).

Paragraphs 2 to 6 of the paper, on Chapter 1 of the Court of Auditor's report on the 1987 accounts of the Community are truthful in form, but misleading in substance. In my view, they should have stated that the Community accounts are false and misleading. The passage which is even more astonishing is the first 6 words of paragraph 34.

The above passages, taken together, are likely to mislead Parliament and Ministers. I am, therefore, writing to ask whether they fairly reflect Government policy. If they do, I would wish to refer to the matter when the report on Fraud is debated in the Upper House. If the Submission is to be withdrawn and replaced by a fair appraisal of the situation, I would not need to do so.

I should add that before I had seen the Treasury Submission I drew the attention of the House to the shocking disclosures in the Court of Auditor's report. This was in a debate on 23 January 1989,





- 2 -

column 483 of Hansard. The particular passage was as follows:-

"The report of the Court of Auditors on the accounts of the Community for 1987 implies - and I use a moderate word - that the accounts are not true and fair. I think that if any one of your Lordships cared to glance at the first chapter of that report, you would be gravely shocked."

Yours sincerely

*Henry Benson*

The Lord Benson

Restricted



67. 17/2  
Board Room  
H M Customs and Excise  
New King's Beam House  
22 Upper Ground  
London SE1 9PJ  
Telephone: 01-620 1313

FROM : THE CHAIRMAN

DATE : 15 February 1989

CHANCELLOR OF THE EXCHEQUER

**CAP FRAUD**

I am glad that you found my note of 9 February helpful. I enclose a short covering note under which it could be sent to the Prime Minister. I may say that since I sent my note to you I have had some discussion of this area with my French opposite number and find that we are well head of them in CAP training: in fact I sent him away with one of our latest CAP training booklets!

2. The particular problem of the complex export refund nomenclature to which you referred, and which the Economic Secretary has also picked up, is one which MAFF, who lead on policy in this area, are addressing. The general question of simplification of existing regulations will be addressed in the paper which (your) Richard Allen is preparing for OD(E).

J B UNWIN

---

cc

Chief Seretary  
Financial Secretary  
Paymaster General  
Economic Secretary  
Sir P Middleton  
Mr Wicks  
Mr Lankester  
Mr R I G Allen  
Mr Bonney  
Mr Culpin

Mrs Chaplin  
Mr Tyrie  
Mr Call

Mrs Strachan  
Mr Jefferson Smith  
Mr Nash  
Mr Craggs  
Mr Twedde  
Mr Blomfield  
Mr Vaughan  
Mr Savins  
Mr Webb  
Mr Aitchison

Restricted

**PRIME MINISTER**

**EC FRAUD**

As you know, following the discussion in Cabinet on 26 January about Community fraud, the Treasury are preparing a paper on this subject, in consultation with the other Departments concerned, for discussion at OD(E). That paper will address all forms of EC fraud and reflect a wide range of interests.

2. In the meantime, as background before the OD(E) discussion, I thought that you might be interested to see the enclosed note which the Chairman of Customs and Excise has sent me which sets out the steps Customs have taken during the past year to improve the effectiveness of their controls on CAP trade. They are in close touch with the Commission and other member states, and over the past year have mounted a particularly big drive on CAP training, although control of CAP trade often forms only a very small part of an individual officer's duties. As you will see, there has also been very close co-operation with the Irish authorities, leading to a major (and hazardous) operation on both sides of the border to break a large grain smuggling racket last November.

3. I am copying this minute and enclosure to Geoffrey Howe and other members of OD(E), and to Sir Robin Butler.



Ch. Top copy behind. Content to write as amended by RITA? Restricted

67 17/2

17/2 cc Mr. Thomas

Mr J. M. G. Taylor

Board Room  
H M Customs and Excise  
New King's Beam House  
22 Upper Ground  
London SE1 9PJ  
Telephone: 01-620 1313

I would suggest one minor amendment to the attached minute to the PM. This reflects the fact that authorship of the OD(E) paper is not yet clear: it may be Treasury CHANCELLOR OF THE EXCHEQUER in Cabinet Office, or a joint effort.

FROM : THE CHAIRMAN  
DATE : 15 February 1989

RITA . 16/2

**CAP FRAUD**

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J B UNWIN

- |                       |             |                    |
|-----------------------|-------------|--------------------|
| cc                    |             |                    |
| Chief Seretary        | Mrs Chaplin | Mrs Strachan       |
| Financial Secretary   | Mr Tyrie    | Mr Jefferson Smith |
| Paymaster General     | Mr Call     | Mr Nash            |
| Economic Secretary    |             | Mr Craggs          |
| Sir P Middleton       |             | Mr Twedde          |
| Mr Wicks              |             | Mr Blomfield       |
| Mr Lankester          |             | Mr Vaughan         |
| <u>Mr R I G Allen</u> |             | Mr Savins          |
| Mr Bonney             |             | Mr Webb            |
| Mr Culpin             |             | Mr Aitchison       |

372  
1/2

Restricted

*Pre type print*

PRIME MINISTER

EC FRAUD

*in advance of a proposal*

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*[Handwritten signature]*

Treasury Chambers, Parliament Street, SW1P 3AG  
01-270 3000

16 February 1989

Jeremy Godfrey Esq,  
Private Secretary to  
Secretary of State for Trade and Industry  
1 Victoria Street  
LONDON  
SW1

cc: PS/Paymaster General  
Mr Lankester  
Mr Allen  
Mr Mercer  
Mr Towers  
Mrs Phillips

*[Handwritten signature: Ken Jeremy]*

**EC FRAUD: LORD COCKFIELD'S QUESTION ON MUTUAL ASSISTANCE**

... I attach a draft letter for your Secretary of State to send to Lord Cockfield in answer to his question in the House of Lords on 14 February on why, in 1986, the UK had opposed a Commission proposal to amend the Mutual Assistance Regulation.

The letter does not say that the main reason why the UK opposed the Commission's proposal was that it would represent a major extension of Community competence. To state this position explicitly now when officials are, following Cabinet on 26 January, examining ways in which the Community's anti-fraud effort might be intensified, could turn out to be misplaced if Ministers decided to propose new Commission powers against fraud.

... You also asked for a draft reply to Bryan Gould's letter of 15 February. This is also enclosed.

... You may be interested to see the attached brief prepared by Customs for ECOFIN in March 1987 when the Commission's proposal was discussd.

*[Handwritten signature: J M G Taylor]*

J M G TAYLOR  
Private Secretary



Treasury Chambers, Parliament Street, SW1P 3AG  
01-270 3000

16 February 1989

Jeremy Godfrey Esq,  
Private Secretary to  
Secretary of State for Trade and Industry  
1 Victoria Street  
LONDON  
SW1

*Ken Jeremy*

**EC FRAUD: LORD COCKFIELD'S QUESTION ON MUTUAL ASSISTANCE**

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*Yours ever*

*J M G Taylor*

J M G TAYLOR  
Private Secretary

DRAFT LETTER FROM LORD YOUNG TO LORD COCKFIELD

I understand that the proposal to which you referred in your question yesterday was part of the Commission's 1986 draft amendment to Regulation 1468/81 on mutual assistance.

As you will no doubt recall, the United Kingdom did not oppose all aspects of the amendment. We supported those relating to improved information flows from member states to the Commission on frauds and irregularities, increased cooperation with third countries and investigative missions by officials from the Commission and member states to third countries. However, all Member States were opposed on practical and other grounds to the proposal for Commission-led administrative and investigative missions in member states.

I am surprised that you should have chosen to present this matter in the way you did. As you know, the UK Government has always attached great importance to effective action against fraud in relation to the EC Budget.



DRAFT LETTER FOR LORD YOUNG TO SEND TO BRYAN GOULD MP  
ON EC FRAUD

You wrote to me on 15 February about the exchanges on EC fraud in the House of Lords on the previous day.

It is important to put matters in perspective. There was no question of the UK having vetoed a proposal from Lord Cockfield for a full-scale enquiry into EC fraud. The much more narrow proposal which Lord Cockfield in fact put forward - for an amendment to Regulation (EEC) 1468/81 to allow Commission-led administrative and investigative missions in member states - was opposed by every member state on practical and other grounds. The UK Government has, of course, always attached great importance to effective action against fraud in relation to the EC Budget.

AGENDA ITEM (1)

AMENDMENT TO THE PROPOSAL FOR A COUNCIL REGULATION (EEC) AMENDING REGULATION (EEC) NO 1468/81 ON MUTUAL ASSISTANCE BETWEEN THE ADMINISTRATIVE AUTHORITIES OF THE MEMBER STATES AND CO-OPERATION BETWEEN THE LATTER AND THE COMMISSION TO ENSURE THE CORRECT APPLICATION OF THE LAW ON CUSTOMS OR AGRICULTURAL MATTERS (DOCUMENT 4975/87 AS AMENDED AT COREPER ON 4 MARCH 1987).

OBJECTIVES

- i. To secure adoption of proposal, subject to lifting of Parliamentary Scrutiny reserve, provided that investigative missions are confined to third countries.
- ii. Resist any proposal from Commission to undertake investigative missions in member states as well.

LINE TO TAKE

- a. Support acceptance of the present text for the amended Regulation. Will prove useful additional measure to combat fraud and irregularities in trade with third countries.
- b. Maintain the Parliamentary Scrutiny Reserve placed on this proposal (unless the House of Lords Scrutiny Committee - Chairman Lord Goff - has confirmed its agreement to the current proposal). Hope that can be lifted shortly in view of improvements made to proposal in recent discussions.

## EXHIBIT EXTENSIVE BRIEFING

It is believed that although he will ultimately have to accept the position, Lord Cockfield will castigate member states for having unanimously objected to the Commission proposal, made following an Opinion of the European Parliament, to extend the proposed investigative missions to member states, and may press for reasons to be given. Unless individual comment is called for, the UK can keep a low profile lending support to other member states where appropriate.

If pressed, the UK could say

1. Proposal represents a major extension of Community competence. The responsibility for investigating and prosecuting fraud rests with the competent authority of the member states. We consider the most practical way of combating fraud in the EC lies in making full use of national services and their expertise and local knowledge.
2. Currently when information received indicates the need for an investigation, the Commission may require the administration concerned to take action. A Commission investigation service would in our view duplicate these efforts and could add considerably to the EC administration costs.

Lord Cockfield may also object to the amendment to Article 15b(2)(c) made at COREPER on 4 March 1987 following a French initiative to allow Community missions to be made up solely of officials from member states. He feels that this would hinder the development of Community mutual assistance agreements with third countries. The UK can live with the new text, but its deletion would equally present no problem.

1. Council Regulation (EEC) No 1468/81 lays down rules on mutual assistance between the administrative (usually customs) authorities of the member states and co-operation between member states and the Commission to ensure the correct application of the law on customs or agricultural matters. Customs authorities are required to pass to each other certain information of a routine nature of relating to fraud. They are also required to pass information to the Commission about goods which have been the subject of fraud, and methods used to contravene the law. At present there is legal provision for the Commission to carry out investigations in third countries, together with investigators from member states, in the textile sector only.

2. The amendments to Regulation (EEC) No 1468/81 would extend provision for Community investigations in third countries to goods other than textiles. They also provide for the Commission to become more closely involved in mutual assistance in customs matters between the member states. The Commission also included in their proposal, following an opinion of the European Parliament, a provision for Commission-led administrative and investigative missions in member states as well as in third countries in co-operation with the competent authorities of the member states. That amended proposal also made it clear that the measure was intended to increase the powers of the Commission.

3. While the UK support the Commission's aim to carry out investigations in third countries against customs fraud on a co-operative basis with the member states, we are not in favour of the Commission being given the powers to carry out investigative missions in member states. In addition to the reasons given in 'Line to take' the following are relevant

a. The Commission has given no justification whatsoever for this proposal.

b. While this proposal might be superficially attractive - a thorough investigation of fraud throughout the Community should be to the benefit of all - it is likely that the more open

northern states will fare badly while those who do not admit to fraud or who are obstructive will not be investigated.

c. The Commission accepts that these powers would be in addition to those it currently enjoys of audit and inspection of the accounts of the member states' administrations. Our legal advice is that a general power to conduct investigative missions would not give the Commission any of the statutory powers granted specifically to Customs officers of entry and search.

d. On a practical level the involvement of Commission investigators with direct access to traders and members of the public within the member states could be counter-productive, particularly if "fishing expeditions" were involved. The proposal came largely at the instigation of the Budgetary Committee and its Chairman, Mr Aigner, who has grandiose ideas of a "flying squad" descending on traders in member states to seek out fraud.

5. House of Lords Sub-Committee E have taken an interest in the proposal for Commission missions in Member States particularly in relation to the investigative powers likely to be used. The MST has recently confirmed the current position with them advising that that proposal will almost certainly be withdrawn, and that certain other points which concerned the Committee have been resolved to our satisfaction. The Committee's agreement to the revised amendments are awaited. If received in time the UK can withdraw its Parliamentary reserve.

6. At COREPER on 25 February and again on 4 March the French wanted inserted in the text a new provision allowing Community missions to third countries to be made up solely of officials from member states. They see this as providing a more effective way of conducting investigations, particularly where a member state has a bilateral mutual assistance agreement with the third country concerned. No member state opposed this amendment, but the Commission object in principle because they see this as hindering the development of Community mutual assistance agreements with third countries.

ec.jn/Towers

COVER LETTER  
TO  
PS/CD YOUNG

*Pr byue final*

**DRAFT LETTER TO**

Jeremy Godfrey Esq  
Private Secretary  
Secretary of State for Trade and Industry  
1 Victoria Street  
LONDON  
SW1

**EC FRAUD: LORD COCKFIELD'S QUESTION ON MUTUAL ASSISTANCE**

I attach a draft letter for your Secretary of State to send to Lord Cockfield in answer to his question in the House of Lords yesterday on why in 1986 the UK had opposed a Commission proposal to amend the Mutual Assistance Regulation.

The letter does not say that the main reason why the UK opposed the Commission's proposal was that it would represent a major extension of Community competence. To state this position explicitly now when officials are, following Cabinet on 26 January, examining ways in which the Community's anti-fraud effort might be intensified, could turn out to be misplaced if Ministers decided to propose new Commission powers against fraud.

You may be interested to see the attached brief prepared by Customs for ECOFIN in March 1987 when the Commission's proposal was discussed.

*E. Haggart, [unclear]*

*You also asked for a draft reply to Bryan Corbett's letter of 15 February. This is also enclosed.*

Yours sincerely

**JONATHAN TAYLOR**

*JMG T-*  
*P-S-*

**Blind Copies:**

- PS/Paymaster General
- Mr Lankester
- Mr Allen
- Mr Mercer
- Mr Towers
- Mrs Phillips

ec.jn/Towers/LordYoung

LETTER TO  
COCKFIELD

**DRAFT LETTER FROM LORD YOUNG TO LORD COCKFIELD**

I understand that the proposal to which you referred in your question yesterday was part of the Commission's 1986 draft amendment to Regulation 1468/81 on mutual assistance.

As you will no doubt recall, the United Kingdom did not oppose all aspects of the amendment. We supported those relating to improved information flows from member states to the Commission on frauds and irregularities, increased cooperation with third countries and investigative missions by officials from the Commission and member states to third countries. However, all Member States were opposed on practical and other grounds to the proposal for Commission-led administrative and investigative missions in member states.

I am surprised that you should have chosen to present this matter in the way you did. As you know, the UK Government has always attached great importance to effective action against fraud in relation to the EC Budget.

LETTER  
TO GOULD

(Inland)

**DRAFT LETTER FOR LORD YOUNG TO SEND TO BRYAN GOULD MP  
ON EC FRAUD**

You wrote to me on 15 February about the exchanges on EC fraud in the House of Lords on the previous day.

It is important to put matters in perspective. There was no question of the UK having vetoed a proposal from Lord Cockfield for a full-scale enquiry into EC fraud. The much more narrow proposal which Lord Cockfield in fact put forward - for an amendment to Regulation (EEC) 1468/81 to allow Commission-led administrative and investigative missions in member states - was opposed by every member state on practical and other grounds. The UK Government has, of course, always attached great importance to effective action against fraud in relation to the EC Budget.





HOUSE OF COMMONS  
LONDON SW1A 0AA

15 February 1989.

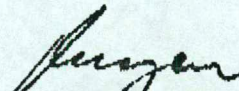
The Rt Hon Lord Young of Graffham,  
Secretary of State,  
Department of Trade & Industry,  
1-19 Victoria Street,  
London SW1H 0ET.

Dear David,

I was very concerned at the exchange in the House of Lords yesterday concerning Lord Cockfield's allegations that his proposal for a full scale enquiry into EEC fraud had been vetoed in 1986 by, among others, the British Government. I was a little surprised that you were unable to comment on this and appeared to have no recollection of the episode.

In view of the very great concern at the level of EEC fraud, I should be grateful for the earliest possible elucidation of this issue. Lord Cockfield is certainly in a position to know, but may I assume that on this occasion he has mis-remembered? Neither Parliament nor the country would easily understand a Government refusal to investigate fraud, particularly when it is alleged to be on such a massive scale.

Yours sincerely,

  
Bryan Gould MP

LORDS' REPORT

A

**Viscount Davidson:** My Lords, I do not think that it is a question for me to answer. All I can say is that the Government have full confidence in the membership of the council to get to grips with the challenges it will face when it takes on its full responsibilities from 1st April.

**Lord Molloy:** My Lords, is the noble Viscount aware that many of the colleges of the University of Wales are concerned about this matter? Will he ask his right honourable friend whether he will be gracious enough to get in touch with the vice-chancellor of the University of Wales to see whether some help and provision can be provided along the lines outlined by my noble friend Lord Cledwyn?

**Viscount Davidson:** My Lords, I shall certainly pass on the question of the noble Lord.

**Baroness White:** My Lords, will the noble Viscount let us know what is the relationship of the two chairmen of the advisory committees for Scotland and for Wales respectively with the funding council? Will they be members thereof or will they have any right of audience or direct access?

**Viscount Davidson:** My Lords, I do not have the answer to that question, but I shall certainly write to the noble Baroness.

**Lord Taylor of Blackburn:** My Lords, regardless of the composition of the council, how independent will it be in giving advice from the Department of Education and Science or any other government department?

**Viscount Davidson:** My Lords, it will be quite independent.

**Lord Peston:** My Lords, the stupid questionnaires to which the noble Lord, Lord Beloff, referred have their origin in the Department of Education and Science. That department totally backs them as its system of staff appraisal. However, I ask the noble Viscount to return to the original Question. It is a serious matter when some quarter of all undergraduates study social studies and business but those subjects are not represented at all on the Universities Funding Council. Will the noble Viscount at least draw to the attention of his right honourable friend the Secretary of State the fact that that scale of omission is rather serious?

**Viscount Davidson:** My Lords, as I have already said, the council was limited to 15 members. It is always likely that some specialties will feel excluded. But its composition followed the recommendation of the committee chaired by the noble Lord, Lord Croham. That is how the legislation was drafted.

**Lord Hatch of Lusby:** My Lords, will the noble Viscount tell the House how many of the six representatives of commercial and industrial interests are members of companies which give subventions to the Conservative Party?

**Viscount Davidson:** My Lords, I think that is another question.

**Baroness Seear:** My Lords, the noble Viscount said that some specialties will be excluded. However, a speciality which covers no less than 25 per cent. of students is surely in a rather special position. For that number to be excluded is not acceptable.

**Viscount Davidson:** My Lords, all the representatives of the academics will be on the sub-committees. They will give advice to the council.

**Lord Annan:** My Lords, is it not a fact that this insistence upon representing every interest has led to the constitutions of universities being overloaded by vast committees which are then incapable of taking executive action?

**Viscount Davidson:** My Lords, the noble Lord has a very good point. I wish I had thought of that.

### EC Budget: Frauds

2.47 p.m.

**Lord Bruce of Donington** asked Her Majesty's Government:

Whether they will report on the discussions at the European Community's Economic and Finance Council on the frauds referred to in the Question asked by Lord Bruce of Donington and answered by Lord Young of Graffham on 20th January 1988 (H.L. Deb., cols. 206-207).

**The Secretary of State for Trade and Industry (Lord Young of Graffham):** My Lords, the Council discussed the 1987 Court of Auditors report in March 1988 and made a recommendation to the European Parliament on the discharge to be given to the Commission regarding the implementation of the 1986 EC budget. The Parliament voted to grant the discharge on 13th April 1988.

The Court's 1987 report was notable for devoting a specific chapter to fraud and irregularities. ECOFIN welcomed this and drew particular attention to the setting up of an anti-fraud unit in the Commission. The Paymaster General and officials have subsequently had detailed discussions with the head of the unit about his priorities.

**Lord Bruce of Donington:** My Lords, will the noble Lord be kind enough to explain why it was, despite the specific instances of fraud set out in the 1966 annual accounts and the report of the Court of Auditors thereon and despite the misgivings that were raised by me in your Lordships' House on 20th January, nevertheless the Council of Ministers recommended the discharge of the 1966 accounts when its only method of obtaining a further investigation into the matter was to refuse the discharge until an investigation had been made?

Is the noble Lord aware that recently the new chief of the Commission's anti fraud team estimated in evidence given before a European Parliamentary

Committee that at the moment frauds are running at somewhere between 10 and 20 per cent. of the Commission's budget? In those circumstances will the noble Lord instruct or cause to be instructed the Council representatives that we have on ECOFIN to decline to discharge the 1987 accounts?

**Lord Young of Graffham:** My Lords, at the European Parliament's budget control committee hearing on fraud which took place on 23rd to 25th January of this year, Herr Waechter, who is the head of the Commission's anti-fraud unit, reported that many people had said that fraud could amount to as much as 10 to 20 per cent. of the Community budget but that he considered that to be an area about which nothing definite could be said. Later in the hearing the chairman of the Parliament's budgetary control committee suggested a figure of 8 per cent. to 10 per cent.

The only figures which we have concerning irregularities, including fraud, in the period from 1980 to 1987 amount to approximately £130 million of which some £4 million relate to the United Kingdom. Those figures relate to detected fraud. We all know that there is probably a substantially larger amount of undetected fraud. That is a matter to which Commission officials are now giving their full attention.

**Lord Jay:** My Lords, since on any interpretation according to the Court of Auditors fraud amounts to at least tens of millions of pounds, a high proportion of which comes indirectly from the British taxpayer and is apparently caused by corruption and fraud in the distribution of export subsidies from the Commission, is it not time that the Government took more effective action to stop what is surely a scandalous misuse of British taxpayers' money?

**Lord Young of Graffham:** My Lords, the Prime Minister is of course very concerned about fraud within the Community and intends to raise the matter at the next European Council meeting. I believe that that is the correct forum in which the matter should be raised.

**Lord Cockfield:** My Lords, while one accepts that the question of fraud is of great importance and that measures ought to be taken to curb it, and also that fraud extends beyond the CAP into other areas, can my noble friend explain why proposals which I put forward in 1986 on behalf of the Commission to amend the mutual assistance directive to enable the Commission in collaboration with member states to conduct investigations into fraud were vetoed by the United Kingdom in conjunction with the Finance Ministers of the other eleven member states?

**Lord Young of Graffham:** My Lords, my noble friend was a Commissioner at the time and knows full well the answer to that question. I suspect that there must be rather more to the matter than that the veto was led by the United Kingdom, which is the impression that he has given to your Lordships' House. I shall certainly look into the matter and consult my colleagues.

**Lord Elwyn-Jones:** My Lords, will the Minister give the House the answer to the allegation of the noble Lord?

**Lord Young of Graffham:** No, my Lords. The noble Lord will know that I am not a Finance Minister and was not present at the meeting in 1986. If my noble friend cares to put down a Question I shall of course provide an answer to your Lordships' House.

**Lord Benson:** My Lords, is the noble Lord aware that the Court of Auditors made a report on the 1987 accounts of the Community and, to use the gentlest words that one can, states that those accounts are misleading—in short, they are subject to grave irregularities? Will he tell the House what the Government intend to do about the accounts of the Community, which are full of irregularities?

**Lord Young of Graffham:** My Lords, I already told the House in an earlier answer that the Prime Minister is very concerned about fraud in the Community, and that includes the way in which the accounts are audited. She intends to raise the matter specifically at the next meeting of the European Council.

**Lord Cledwyn of Penrhos:** My Lords, the noble Lord, Lord Cockfield, asked an extremely serious and fundamental question. Thus far the Minister has failed to answer his noble friend. In the circumstances, and as a member of a Cabinet with collective responsibility, why is he unable to answer on behalf of his right honourable friend the Chancellor of the Exchequer? Will he consider very carefully before he answers this question? Will he now give his noble friend a proper answer as to why on that occasion Her Majesty's Government vetoed his proposal?

**Lord Young of Graffham:** My Lords, the noble Lord the Leader of the Opposition of all Members of your Lordships' House should know the procedures which the House has adopted for the convenience of noble Lords in respect to the answering of questions. If he cares to put down the Question I shall be happy to answer it. Surely not even the noble Lord could expect that I would have the sum of all knowledge of all events which have taken place in the European Council from time immemorial, or at least since 1979.

My noble friend referred to a specific incident a year or two ago at a meeting of Finance Ministers at which I was not present. Surely the noble Lord the Leader of the Opposition cannot expect that I should have instant recall and know the answer.

**Lord Stoddart of Swindon:** My Lords, does the noble Lord realise that his response to his noble friend's question has given the impression that he is complacent about the whole issue of fraud?

**Noble Lords:** No!

**Lord Stoddart of Swindon:** Perhaps he has not given that impression to his noble friends behind him, but he has certainly given it to noble Lords on this

[LORD STODDART OF SWINDON.]

side of the House. He did so earlier this year in his original reply to my noble friend, Lord Bruce of Donington. Is the Minister aware that the public have now been informed that the amount of fraud could involve as much as £6 billion every year and that this country contributes about one-third of that sum? Will he tell the House whether the matter was raised yesterday by our own Minister of Agriculture in the Council of Agriculture Ministers as was promised? If it was raised, as it should have been, what was the outcome?

**Lord Young of Graffham:** My Lords, while I accept full responsibility for all events which concern my department, and indeed all events which transpire in government, I cannot be expected to accept responsibility for impressions which noble Lords opposite might draw from my behaviour. I thought that I was absolutely firm in answering the question about fraud. I think that it is important to put the matter into perspective.

I quoted the words of the member of the Court of Auditors in reporting to the head of the Commission's anti-fraud unit that many people had said that fraud could amount to as much as 10 per cent. to 20 per cent. of the Community budget. At the upper level, that figure would represent £6 billion. However, no one has suggested a figure as high as that. I disclosed that the entire cumulative figures of detected fraud for the period from 1980 to 1987 was a total of £130 million. I said that the Prime Minister intends to raise the matter at the very next meeting of the Council of Ministers. I do not believe that gives any impression of complacency. I merely cited the facts. It is important that we should not be led astray by wild speculation.

**Viscount Whitelaw:** My Lords, as one who shares collective responsibility with my noble friend for the matter at issue today, I do not know the answer any more than he does. Nor would I expect that he should know it. I cannot accept that, because he does not know the answer to a question of a very specialised nature put by my noble friend Lord Cockfield, that means that either he or I is in any way complacent about the matter. I should have thought that it would be far better if he were able to give a considered answer if my noble friend chooses to put down a Question.

**Lord Young of Graffham:** My Lords, I am very grateful to my noble friend.

**Lord Cockfield:** My Lords, as I have now been named by my noble friend Lord Whitelaw, perhaps I may say this.

A noble Lord: Question!

**Lord Cockfield:** I shall put it as a question if the noble Lord will kindly possess himself in patience. Is my noble friend aware that my right honourable friend the Prime Minister raised the matter, very properly indeed? Does he recall that I began by saying that this is an important subject which needs

to be addressed? In those circumstances, does he agree that it would have been not unreasonable for the Minister to have been provided by his officials with adequate background briefing? While I could give an explanation as to why Her Majesty's Government decided to veto that particular proposal, is he aware that it is not my function but his to explain the actions of Her Majesty's Government? Is he further aware—

**Noble Lords:** Order! Too long!

**Lord Cockfield:** Is the Minister further aware that this is a matter of substantial importance?

**Lord Young of Graffham:** My Lords, it is obviously some considerable time since my noble friend stood in my position answering questions on these matters in your Lordships' House and he has perhaps forgotten the formalities of this matter. If my noble friend would look at the Question to see precisely to what it relates, he would realise that, as in the ordinary course of events, we cannot expect to be armed with knowledge of every single occurrence in every possible area. If my noble friend will merely do as I ask and put down a Question on the Order Paper, I am absolutely certain that he will receive an Answer that will satisfy him and your Lordships' House.

**Lord Bruce of Donington:** My Lords, in order to assist him in replying to my noble friend Lord Stoddart, is the Minister aware that his right honourable friend the Minister of Agriculture yesterday elicited a promise from the Spanish President of the Council that the matter would come on to the agenda sometime in March or April? I do not in any way accuse the noble Lord of complacency in this matter, but may I draw his attention to the fact that that does not apply to his right honourable friend the Paymaster General, who published a summary of the Court of Auditors' report on 24th January which nowhere mentions fraud at all?

**Lord Young of Graffham:** My Lords, I am grateful for the assistance that the noble Lord, Lord Bruce of Donington, has given me and for the incidental information that he has given to your Lordships' House about the occurrences at the agriculture Ministers' meeting yesterday. However, I said that my right honourable friend the Prime Minister intended to put this matter to the next Council of Ministers' meeting in March. I believe that to be the proper place for this matter to be raised, and there it will be raised.

### Social Security Payments: Uprating

3.12 p.m.

**Baroness Jeger** asked Her Majesty's Government:

Whether they will revise the social security uprating decisions due to come into effect in April, to take account of the current and projected increase in the inflation rate since the upratings of 5.9 per cent. were agreed.

COUNCIL OF MINISTERS (ECOFIN) MEETING: 12 MARCH 1987

AGENDA ITEM (i)

AMENDMENT TO THE PROPOSAL FOR A COUNCIL REGULATION (EEC) AMENDING REGULATION (EEC) NO 1468/81 ON MUTUAL ASSISTANCE BETWEEN THE ADMINISTRATIVE AUTHORITIES OF THE MEMBER STATES AND CO-OPERATION BETWEEN THE LATTER AND THE COMMISSION TO ENSURE THE CORRECT APPLICATION OF THE LAW ON CUSTOMS OR AGRICULTURAL MATTERS (DOCUMENT 4975/87 AS AMENDED AT COREPER ON 4 MARCH 1987).

OBJECTIVES

- i. To secure adoption of proposal, subject to lifting of Parliamentary Scrutiny reserve, provided that investigative missions are confined to third countries.
- ii. Resist any proposal from Commission to undertake investigative missions in member states as well.

LINE TO TAKE

- a. Support acceptance of the present text for the amended Regulation. Will prove useful additional measure to combat fraud and irregularities in trade with third countries.
- b. Maintain the Parliamentary Scrutiny Reserve placed on this proposal (unless the House of Lords Scrutiny Committee - Chairman Lord Goff - has confirmed its agreement to the current proposal). Hope that can be lifted shortly in views of improvements made to proposal in recent discussions.

**DEFENSIVE BRIEFING**

It is believed that although he will ultimately have to accept the position, Lord Cockfield will castigate member states for having unanimously objected to the Commission proposal, made following an Opinion of the European Parliament, to extend the proposed investigative missions to member states, and may press for reasons to be given. Unless individual comment is called for, the UK can keep a low profile lending support to other member states where appropriate.

If pressed, the UK could say

1. Proposal represents a major extension of Community competence. The responsibility for investigating and prosecuting fraud rests with the competent authority of the member states. We consider the most practical way of combating fraud in the EC lies in making full use of national services and their expertise and local knowledge.

2. Currently when information received indicates the need for an investigation, the Commission may require the administration concerned to take action. A Commission investigation service would in our view duplicate these efforts and could add considerably to the EC administration costs.

Lord Cockfield may also object to the amendment to Article 15b(2)(c) made at COREPER on 4 March 1987 following a French initiative to allow Community missions to be made up solely of officials from member states. He feels that this would hinder the development of Community mutual assistance agreements with third countries. The UK can live with the new text, but its deletion would equally present no problem.

**BACKGROUND**

1. Council Regulation (EEC) No 1468/81 lays down rules on mutual assistance between the administrative (usually customs) authorities of the member states and co-operation between member states and the Commission to ensure the correct application of the law on customs or agricultural matters. Customs authorities are required to pass to each other certain information of a routine nature of relating to fraud. They are also required to pass information to the Commission about goods which have been the subject of fraud, and methods used to contravene the law. At present there is legal provision for the Commission to carry out investigations in third countries, together with investigators from member states, in the textile sector only.

2. The amendments to Regulation (EEC) No 1468/81 would extend provision for Community investigations in third countries to goods other than textiles. They also provide for the Commission to become more closely involved in mutual assistance in customs matters between the member states. The Commission also included in their proposal, following an opinion of the European Parliament, a provision for Commission-led administrative and investigative missions in member states as well as in third countries in co-operation with the competent authorities of the member states. That amended proposal also made it clear that the measure was intended to increase the powers of the Commission.

3. While the UK support the Commission's aim to carry out investigations in third countries against customs fraud on a co-operative basis with the member states, we are not in favour of the Commission being given the powers to carry out investigative missions in member states. In addition to the reasons given in 'Line to take' the following are relevant

a. The Commission has given no justification whatsoever for this proposal.

b. While this proposal might be superficially attractive - a thorough investigation of fraud throughout the Community should be to the benefit of all - it is likely that the more open

northern states will fare badly while those who do not admit to fraud or who are obstructive will not be investigated.

c. The Commission accepts that these powers would be in addition to those it currently enjoys of audit and inspection of the accounts of the member states' administrations. Our legal advice is that a general power to conduct investigative missions would not give the Commission any of the statutory powers granted specifically to Customs officers of entry and search.

d. On a practical level the involvement of Commission investigators with direct access to traders and members of the public within the member states could be counter-productive, particularly if "fishing expeditions" were involved. The proposal came largely at the instigation of the Budgetary Committee and its Chairman, Mr Aigner, who has grandiose ideas of a "flying squad" descending on traders in member states to seek out fraud.

5. House of Lords Sub-Committee E have taken an interest in the proposal for Commission missions in Member States particularly in relation to the investigative powers likely to be used. The MST has recently confirmed the current position with them advising that that proposal will almost certainly be withdrawn, and that certain other points which concerned the Committee have been resolved to our satisfaction. The Committee's agreement to the revised amendments are awaited. If received in time the UK can withdraw its Parliamentary reserve.

6. At COREPER on 25 February and again on 4 March the French wanted inserted in the text a new provision allowing Community missions to third countries to be made up solely of officials from member states. They see this as providing a more effective way of conducting investigations, particularly where a member state has a bilateral mutual assistance agreement with the third country concerned. No member state opposed this amendment, but the Commission object in principle because they see this as hindering the development of Community mutual assistance agreements with third countries.



PAYMASTER GENERAL

FROM: M C MERCER  
DATE: 16 FEBRUARY 1989

cc: PS/Chancellor  
Mr Lankester  
Mr R I G Allen  
Mr Towers  
Mr Evans  
Mrs Phillips

**EXPLANATORY MEMORANDUM ON THE COURT OF AUDITORS REPORT**

I attach a draft letter to Baroness Serota on the lines which we discussed this morning.

*M.C. Mercer*

M C MERCER

**DRAFT LETTER TO BARONESS SEROTA**

**EXPLANATORY MEMORANDUM ON THE COURT OF AUDITORS ANNUAL REPORT**

We spoke yesterday about the Treasury's Explanatory Memorandum of 24 January on the Court of Auditors annual report on the 1987 EC Budget, and in particular the section concerning the financial implications of the report. I thought it would be helpful to record the main points which I made.

The phrase "financial implications" is something of a term of art in the context of Explanatory Memoranda. The normal practice is to describe an EC document as having direct financial implications only if it contains a proposal in a form which (a) can be put before the Council and (b) would involve increased (or decreased) expenditure from the Community Budget or from member states' national budgets. The Court's report does not fall into this category because its main recommendations cannot be acted upon as they stand; they must first be translated into proposals by the Commission. We shall press hard for this to happen at the March ECOFIN, when the Court's report is to be discussed. I am much encouraged by the fact that, since I signed the Explanatory Memorandum, the President of ECOFIN has said that he would do his best to see that concrete decisions are taken on the report. I will, of course, ensure that

the financial implications of any Commission proposals are fully described in a further Explanatory Memorandum in due course.

Meanwhile, I believe that it would have been potentially misleading to anticipate the outcome of future decisions or discussions in the Memorandum on the Court's report.

I hope you would agree that it was more scrupulous to say, as we did, that the report had no direct financial implications, while pointing out that the Court's work can be expected over time to have an impact on the Community Budget and on the pattern of member states' receipts.

cc PS/Chancellor

Mr Lankester  
Mr R I G Allen  
Mr Mercer  
Mr Towers  
Mr Evans  
Mrs Phillips



*PP*

Treasury Chambers, Parliament Street, SW1P 3AG

The Baroness Serota JP  
House of Lords  
LONDON SW1A 0PW

16 February 1989

*Dear Bea,*

**EXPLANATORY MEMORANDUM ON THE COURT OF AUDITORS ANNUAL REPORT**

We spoke yesterday about the Treasury's Explanatory Memorandum of 24 January on the Court of Auditors annual report on the 1987 EC Budget, and in particular the section concerning the financial implications of the report. I thought it would be helpful to record the main points which I made.

The phrase "financial implications" is something of a term of art in the context of Explanatory Memoranda. Departments' normal practice is to describe an EC document as having direct financial implications only if it contains a proposal in a form which (a) can be put before the Council and (b) would involve increased (or decreased) expenditure from the Community Budget or from Member States' national budgets. The Court's report does not fall into this category because its main recommendations cannot be acted upon as they stand; they must first be translated into proposals by the Commission. We shall press hard for this to happen at the March ECOFIN, when the Court's report is to be discussed. I am much encouraged by the fact that, since I signed the Explanatory Memorandum, the Spanish President of ECOFIN has said that he would do his best to see that concrete decisions are taken on the report. I will, of course, ensure that the financial implications of any Commission proposals are fully described in a further Explanatory Memorandum in due course.

Meanwhile, I believe that in the Memorandum on the Court's report I could not have anticipated the outcome of future decisions or discussions more than to say that the Court's work could be expected over time to have an impact on the Community Budget and on the pattern of Member States receipts. While I recognise that it was scrupulous to say, as we did, that the report had no direct financial implications I believe it was the correct approach.

*Yours sincerely*  
*Peter Brooke*  
PETER BROOKE

RESTRICTED



Treasury Chambers, Parliament Street  
01-270 3000

cc Chief Secretary  
Financial Secretary  
Paymaster General  
Economic Secretary  
Sir P Middleton  
Mr Wicks  
Mr Lankester  
Mr R I G Allen  
Mr Culpin  
Mrs Chaplin  
Mr Tyrie  
Mr Call

A handwritten signature in dark ink, appearing to be 'P.M.P.' or similar.

PRIME MINISTER

Mrs Strachan - C&E  
Mr Jefferson-Smith - C&E  
Mr Nash - C&E  
PS/C&E

## EC FRAUD

As you know, following the discussion in Cabinet on 26 January about Community fraud, the Treasury are preparing a paper on this subject, in consultation with the other Departments concerned, in advance of a proposed discussion at OD(E). That paper will address all forms of EC fraud and reflect a wide range of interests.

In the meantime, as background before the OD(E) discussion, I thought you might be interested to see the enclosed note which the Chairman of Customs and Excise has sent me which sets out the steps Customs have taken during the past year to improve the effectiveness of their controls on CAP trade. They are in close touch with the Commission and other member states, and over the past year have mounted a particularly big drive on CAP training, although control of CAP often forms only a very small part of an individual officer's duties. As you will see, there has also been very close co-operation with the Irish authorities, leading to a major (and hazardous) operation on both sides of the border to break a large grain smuggling racket last November.

I am copying this minute and enclosure to Geoffrey Howe and other members of OD(E), and to Sir Robin Butler.

Handwritten initials in dark ink, possibly 'N.L.' or similar.

N.L

17 February 1989

PAYMASTER GENERAL

FROM: M C MERCER  
DATE: 20 FEBRUARY 1989

cc: PS/Chancellor  
Mr Lankester  
Mr R I G Allen  
Mr Evans  
Mr Towers  
Mrs Phillips

*Handwritten notes:*  
+ copy of  
Pm's letter  
to Barons  
Serota

**EXPLANATORY MEMORANDUM ON THE COURT OF AUDITORS ANNUAL REPORT**

In his letter to the Chancellor of 15 February Lord Benson alleges that the Treasury's Explanatory Memorandum on the Court of Auditor's annual report could "mislead" Parliament and Ministers because:

- (a) it should have stated that the Community's (1987 accounts were "false and misleading"; and
- (b) its description of the financial implications of the report is "astonishing".

2. You have already written to Baroness Serota, with a copy to Lord Benson, about (b) above. As regards (a), the fact is that the Court itself did not describe the accounts as false and misleading (as Lord Benson himself seems to acknowledge in the extract from his intervention during a recent House of Lords debate which he includes in his letter). It would therefore have been quite wrong to use these words in the Memorandum.

*Handwritten note:* behind

3. The relevant chapter of the Court's report made three main criticisms of the 1987 accounts:

- i) that more than 18% of the final budget for 1987 was not charged to that year;
- ii) that the 1987 budget was balanced only by adjusting the duration of the agricultural financial year;
- iii) that the accounts disguised the true growth of agricultural expenditure.

4. The EM refers to all of these criticisms in what I believe to be appropriately un-coloured terms (extract attached). With the benefit of hindsight we might also have quoted the Court's most forthright (if pompous) observation on the implementation of the budget, viz:

"the Court is obliged to conclude that the changes [to accountancy procedures] were made with the intention of artificially restricting the rate of increase of agricultural guarantee spending so as to keep it within the limits of available own resources, in accordance with the budgetary discipline guidelines laid down by the European Council at its Fontainebleau meeting, and thus to give the appearance that the facts were in agreement with the legislation".

5. However, I do not think that we need be overly defensive about the omission of such remarks. If you agree, you may wish to reply to Lord Benson on the lines of the attached draft.

*M. C. Mercer*

M C MERCER

**DRAFT LETTER TO LORD BENSON**

The Chancellor of the Exchequer has asked me to reply to your letter of 15 February about the Treasury's Explanatory Memorandum on the Court of Auditors annual report on the 1987 EC Budget.

Your first point is that the section of the Memorandum dealing with Chapter 1 of the report should state that the Community's accounts are "false and misleading". I do not consider that this would have been appropriate. The words in question do not appear in the Court's report, and I note that your own intervention in the House of Lords debate on 25 January was couched in rather more moderate terms. The Court made three particularly telling criticisms of the 1987 accounts:

- i) that more than 18% of the final budget for 1987 was not charged to that year (paragraph 1.2 of the report);
- ii) that the accounts disguised the true growth of agricultural expenditure (paragraph 1.4); and
- iii) that the 1987 Budget was balanced only by adjusting the duration of the agricultural financial year (paragraph 1.9).



All of these criticisms are mentioned in the Explanatory Memorandum. It is arguable that a little more space might have been devoted to them, but the Memorandum is already over seven pages long (far longer than any of its recent predecessors on the annual report). ~~And~~ In any event, I think that it would have been quite wrong to include a sweeping value judgement in a document whose purpose is to give a dispassionate and objective summary of the report.

As regards your second point, on the terms of the section of the Memorandum dealing with financial implications, you will have seen a copy of my letter of 17 February to Baroness Serota.

PMG 27 FEB 1989 4



PAYMASTER GENERAL	
REC.	17 FEB 1989
ACTION	Mr Mercer 16/9
	PS/Chancellor
	Mr Lankester
	Mr RIG Allen
	Mr TOWERS

Rt Hon Nigel Lawson  
Treasury Chambers  
Whitehall  
London  
SW1

RECEIVED  
16 FEB 1989  
PMG

Mr EVANS  
Mrs Phillips

15 February 1989

Dear Chancellor

I am presently a member of a Select Sub-Committee which is enquiring into Fraud in the Community, and, as such, the paper I refer to below has just come into my possession. I write in my personal capacity. The Sub-Committee were informed in advance of my intention to write to you, but the views expressed are my own.

The paper in question is "Explanatory Memorandum on European Community Document", submitted to HM Treasury on 24 January 1989, Number 9908/88 (OJ C 316).

Paragraphs 2 to 6 of the paper, on Chapter 1 of the Court of Auditor's report on the 1987 accounts of the Community are truthful in form, but misleading in substance. In my view, they should have stated that the Community accounts are false and misleading. The passage which is even more astonishing is the first 6 words of paragraph 34.

The above passages, taken together, are likely to mislead Parliament and Ministers. I am, therefore, writing to ask whether they fairly reflect Government policy. If they do, I would wish to refer to the matter when the report on Fraud is debated in the Upper House. If the Submission is to be withdrawn and replaced by a fair appraisal of the situation, I would not need to do so.

I should add that before I had seen the Treasury Submission I drew the attention of the House to the shocking disclosures in the Court of Auditor's report. This was in a debate on 23 January 1989,

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- 2 -

column 483 of Hansard. The particular passage was as follows:-

"The report of the Court of Auditors on the accounts of the Community for 1987 implies - and I use a moderate word - that the accounts are not true and fair. I think that if any one of your Lordships cared to glance at the first chapter of that report, you would be gravely shocked."

Yours sincerely

*Henry Benson*

The Lord Benson

**EXPLANATORY MEMORANDUM ON EUROPEAN COMMUNITY DOCUMENT**

Annual Report of the European Court of Auditors concerning the financial year 1987 accompanied by the replies of the Institutions (Official Journal of the European Communities Number C316 of 12 December 1988).

Submitted by HM Treasury

January 1989

**SUBJECT MATTER**

The Court of Auditors report for 1987 is in two parts and has three annexes. Part I deals with the general budget of the Communities and Part II with the European Development Funds. The annexes include summaries and analyses of financial information relating to the general budget. The report also contains the replies of the Institutions to the Court's comments.

**Chapter 1 General Questions**

2. Chapter I summarises the Court's comments on the accounts for 1987.

3. The Court notes that although revenue exceeded payments by 521 mecu (£367 million)\*, payments amounting to more than 18 per cent of the final budget were not charged to the 1987 accounts, even though they corresponded to expenditure effectively incurred during the year. Had these sums been included, there would have been a deficit of 6254 mecu (£4405 million).

4. The Court is particularly concerned that published figures for the growth of agricultural expenditure in recent years understate the actual rate of increase. It argues that if expenditure

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\*Ecus converted at the 1987 annual average rate of £1=1.4198 ecu

were attributed to the years in which it would normally have been entered in the accounts, the increases would be 7 per cent in 1985, 17.3 per cent in 1986, and 25.2 per cent in 1987. The Court compares these figures with the growth of the own resources base agreed at Fontainebleau for these years: 5.9 per cent, 4.3 per cent and 5.6 per cent respectively. It suggests that the budget has been balanced only by successively adjusting the duration of the agricultural financial year so as to fit the appropriations available.

5. The Court repeats earlier criticism of the Commission for failing to provide (a) an analysis of the reasons why appropriations are consistently under-used (the utilisation rate for non-obligatory appropriations was 86.4% in 1987); and (b) a schedule of expenditure associated with outstanding commitments.

6. Finally the Court refers to the problems which can arise from shared management and control of expenditure (between the Commission and member states, and to the problems it has encountered in auditing EIB operations involving Community resources.

## Chapter 2: Implementation of the budget and accounting matters

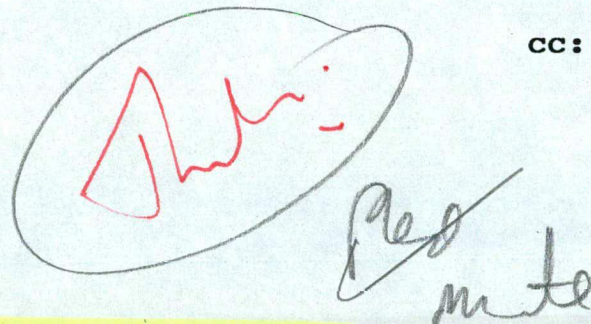
7. In this Chapter the Court deals with detailed matters of budget implementation and accounting. The relationship between commitments and payments, and the way in which available appropriations were used in 1987 are analysed in a series of tables. The Court identifies five main reasons why underspending has occurred in sectors of the budget other than agricultural support:

- the unrealistic nature of certain programmes;
- unwieldy funding procedures;
- difficulties in respect of the legal base for expenditure;

CHANCELLOR

FROM: N M TOWERS  
DATE: 22 FEBRUARY 1989

cc: PS/Chief Secretary  
PS/Financial Secretary  
PS/Paymaster General  
Mr Wicks  
Mr Lankester  
Mr R I G Allen  
Mr Mercer  
Mrs Phillips  
Miss Bogan



**FIRST ORDER PQS: EC FRAUD**

There do not seem to be any obvious openings for questions about EC fraud in First Order questions tomorrow.

2. However, just in case a question on this subject arises, you may wish to see again the line we suggested for No 10 ("A" attached) in the aftermath of Lord Cockfield's question to Lord Young on 14 February about the UK's "veto" of his 1986 proposal for amending the Regulation on Mutual Assistance.

3. You will also wish to see Mr Mercer's speaking note on EC fraud ("B" attached) for the Economic Secretary's winding up speech in tomorrow's EC White Paper debate.

*N M Towers*

N TOWERS

A

(A)

**EC FRAUD: LINE TO TAKE ON LORD COCKFIELD'S ALLEGATION THAT THE  
UK VETOED HIS 1986 PROPOSAL**

There was no question of the UK vetoing a proposal by Lord Cockfield. The particular form of proposal which he put forward in 1986 - for Commission-led administrative and investigative missions in member states - attracted the opposition of every member state. The Government has always attached great importance to practical and effective action against fraud in relation to the EC Budget.

## BACKGROUND

1. Council Regulation (EEC) No 1468/81 lays down rules on mutual assistance between the administrative (usually customs) authorities of the member states and cooperation between member states and the Commission to ensure the correct application of the law on customs or agricultural matters. Customs authorities are required to pass to each other certain information of a routine nature relating to fraud; and to pass information to the Commission about goods which have been the subject of fraud, and methods used to contravene the law.

2. In 1986 there was legal provision for the Commission to carry out investigations in third countries, together with investigators from member states, in the textile sector only. The Commission's (ie Lord Cockfield's) proposed amendments to the regulation extended provision for Community investigations in third countries to goods other than textiles; and provided for the Commission to become more closely involved in mutual assistance in customs matters between the member states.

3. The Commission also included in their proposal, following an opinion of the European Parliament, a provision for Commission-led administrative and investigative missions in member states as well as in third countries in cooperation with the competent authorities of the member states. That amended proposal also made it clear that the measure was intended to increase the powers of the Commission.

4. The United Kingdom did not oppose all of the proposed amendments. We supported those relating to improved information flows, increased cooperation with third countries and investigative missions by officials from the Commission and member states to third countries. These proposals were subsequently adopted.

5. However the UK opposed the Commission being given powers to carry out investigative missions in member states. Our main arguments were :



- i) the proposal represented a major extension of Community competence. The responsibility for investigating and prosecuting fraud rested with the competent authority of the member states. The most practical way of combating fraud in the EC lay in making full use of national services and their expertise and local knowledge.
- ii) A Commission investigation service could duplicate national efforts and add considerably to the EC administration costs.
- iii) on a practical level the involvement of Commission investigators with direct access to traders and members of the public within the member states could be counter-productive, particularly if "fishing expeditions" were involved.

6. The line to take does not refer to the key reason for the UK's opposition to the Commission's proposal, namely the point about Community competence, since to do so might foreclose options which Ministers may wish to keep open when they consider further measures against fraud.

ec2.ss/mcm/fraudspk

B

B

ECONOMIC SECRETARY

FROM: M C MERCER  
DATE: 21 FEBRUARY 1989

cc: Mr Wicks  
Mr Lankester  
Mr R I G Allen  
Mrs Brown  
Mr Evans  
Mr Towers  
Mrs Phillips  
Miss Bogan

EC WHITE PAPER DEBATE, 23 FEBRUARY

As foreshadowed in Mrs Brown's minute of 20 February, I attach speaking notes on EC fraud and value for money.

*M. C. Mercer*

M C MERCER

**EC FRAUD: SPEAKING NOTE**

Fraud is a crime against Community taxpayers which tarnishes the Community's institutions and policies. There is no excuse for member states treating it any less seriously than fraud involving national finances. The UK has been in the forefront of efforts to ring the alarm bells about fraud. We have made clear that we are ready to support any practical and cost-effective measures to combat it.

2. By its very nature the scale of fraud is impossible to quantify. But it is bound to exceed the level suggested by the rather small number of cases which member states actually report to the Commission. Some especially glaring abuses in relation to agricultural export refunds were highlighted in the Court of Auditors recent annual report. My rt hon friend the Minister of Agriculture emphasised the importance of firm follow up action at the Agriculture Council earlier this month. The UK will underline this point at next month's meeting of ECOFIN. I am greatly encouraged by the stated intention of the Spanish Presidency to ensure that Finance Ministers arrive at concrete decisions.

3. Agricultural fraud gets the headlines: but the problem goes wider. The greatly expanded structural funds pose particular problems of financial control and management. The new regulations governing the operation

of the funds are commendably robust and straightforward. They show what can be done if the need to prevent fraud is explicitly considered when legislation is being drafted. Much existing Community legislation is too complicated and open to fraud. Ways must be found of simplifying it wherever possible.

4. Simplification of regulation is one of the areas where I hope the Commission's recently established anti-fraud unit will get involved. My right hon friend the Paymaster General and his officials have had detailed discussions with the head of the unit about his objectives and priorities. He has been encouraged to focus on practical measures and to try to implant an anti-fraud culture at all levels in the Commission.

5. I emphasise the word practical, Mr Speaker. Amidst the welter of recent publicity about fraud it is all too easy to be misled by righteous indignation into believing that there is some quick fix solution. There isn't. Nor can there be in a Community of 12 member states with a great variety of legal and administrative systems. ~~I do not detect much support in this House for harmonisation of those systems, or for some sort of supra-national authority.~~

6. But at the same time the fact of national diversity cannot be allowed to become an excuse for inertia.

Concerted action across a broad front is essential. In my view there are five particular requirements:

first, we need more and better information on the nature and incidence of fraud in member states. Existing reporting arrangements are failing to provide the Commission with the facts which it needs to analyse the position and to design effective counter-measures;

secondly, we need to strike a judicious balance between carrot and stick to ensure that member states maintain proper control systems and comply fully with Community regulations;

thirdly, we need to be satisfied that enforcement standards in all member states reflect the seriousness of the problem;

fourthly, we need to improve member states cooperation with each other and with the Commission; and

finally, we need to root out regulations and regimes which are fraudster-friendly.

The Government are determined to cut through the rhetoric about fraud and to ensure workable and effective measures to tackle it.

## VALUE FOR MONEY: SPEAKING NOTES

The negotiations on future financing which were concluded last year concentrated mainly on the control and management of the Community budget. This was vital after many years in which the Community had lived beyond its means. Major advances were made, including a legally binding limit on agricultural guarantee spending; a new procedural and financial framework to give effect to the expenditure decisions of the Brussels European Council; and measures to reinforce budgetary discipline.

With these arrangements firmly in place, the Government is attempting to take the debate one step further: to focus on the quality of Community expenditure, not just the quantity. To this end we have recently proposed a series of amendments to the Financial Regulation, which governs the implementation of the budget. Our main aim is to introduce concepts of value for money, output targets and performance measurement, which have become an established part of the landscape in our own public sector.

PMG  
23/2



PAYMASTER GENERAL	
REC.	23 FEB 1989
MR	MR MERCER
	PS/CX
	MR LANKESTER
	MR RIG ALLEN
	MR EVANS
	MR TOWERS
	MRS PHILLIPS

Treasury Chambers, Parliament Street, SW1P 3AG

Lord Benson GBE  
House of Lords  
LONDON SW1A 0PW

23 February 1989

*Dear Lord Benson,*

The Chancellor of the Exchequer has asked me to reply to your letter of 15 February about the Treasury's Explanatory Memorandum on the Court of Auditors annual report on the 1987 EC Budget.

Your first point is that the section of the Memorandum dealing with Chapter 1 of the report should state that the Community's accounts are "false and misleading". I do not think this would have been appropriate. The words in question do not appear in the Court's report, and I see your own intervention in the House of Lords debate on 23 January was couched in rather more moderate terms. The Court made three particularly telling criticisms of the 1987 accounts:

- i. that more than 18 per cent of the final Budget for 1987 was not charged to that year (paragraph 1.2 of the report);
- ii. that the accounts disguised the true growth of agricultural expenditure (paragraph 1.4); and
- iii. that the 1987 Budget was balanced only by adjusting the duration of the agricultural financial year (paragraph 1.9).

All of these criticisms are mentioned in the Explanatory Memorandum. It is arguable that a little more space might have been devoted to them, but the Memorandum is already over seven pages long (far longer than any of its recent predecessors on the annual report). In any event, I think that it would have been wrong to include a sweeping value judgement in a document whose purpose is to give a dispassionate and objective summary of the report.

Your second point concerned the terms of the section of the Memorandum dealing with financial implications. As I pointed out in my letter of 17 February to Baroness Serota which she may have circulated, the phrase "financial implications" is something of a term of art in the context of Explanatory Memoranda. Departments' normal practice is to describe an EC document as having direct financial implications only if it contains a proposal in a form

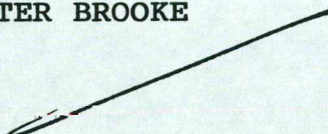
which (a) can be put before the Council and (b) would involve increased (or decreased) expenditure from the Community Budget or from Member States' national budgets. The Court's report does not fall into this category because its main recommendations cannot be acted upon as they stand; they must first be translated into proposals by the Commission. We shall press hard for this to happen at the March ECOFIN, when the Court's report is to be discussed. I am much encouraged by the fact that, since I signed the Explanatory Memorandum, the Spanish President of ECOFIN has said that he would do his best to see that concrete decisions are taken on the report. I will, of course, ensure that the financial implications of any Commission proposals are fully described in a further Explanatory Memorandum in due course.

Meanwhile, I believe that in the Memorandum on the Court's report I could not have anticipated the outcome of future decisions or discussions more than to say that the Court's work could be expected over time to have an impact on the Community Budget and on the pattern of Member States receipts. While I recognise that it was scrupulous to say, as we did, that the report had no direct financial implications I believe it was the correct approach.

*Thank you so much for writing.*

*Yours sincerely*  
*Peter Brooke*

PETER BROOKE





*This does not  
stand for  
the Commission  
with present committee  
policy (proposed AS table  
careful), it has been  
hard to have a  
response to deal  
with our  
own job.*

FROM: R I G ALLEN  
DATE: 24 FEBRUARY 1989

PAYMASTER GENERAL

cc  
Chancellor  
Chief Secretary  
Financial Secretary  
Economic Secretary  
Mr Wicks  
Mr Lankester  
Mr Mercer  
Dr Slater  
Mr Towers  
Mr Tyrie

**ECOFIN, 13 MARCH: EC FRAUD**

As you know, EC fraud will be a major item on the agenda when ECOFIN discuss the Court of Auditors' Report on 13 March. In the run up to the Council, UKREP would like at COREPER next week to set out what ideas we have on the handling of the ECOFIN discussions having meanwhile prepared the ground with the Commission, Presidency and Council Secretariat. With this in view, they would like to have a document which could be left with the Commission and other parties. It would also be used in lobbying other Member States, both through the Treasury and FCO nets.

2. A draft note is attached, which was discussed and agreed at the Hannay/Lavelle meeting this morning. I would be grateful for your agreement for it to be used as a speaking note, on the basis described above.

3. The note does not cut across any of the ground we shall be covering in our report to OD(E), which is still at an early stage of preparation. It focuses largely on procedural steps which might be taken to ensure that the ball is kept rolling on the fraud front; and leaves our options open for introducing further specific ideas at a later stage, eg at the April ECOFIN (when fraud is again likely to be on the agenda) and at the European

Council in Madrid. You may want to float some of the ideas in the note during next week's Debate in the House of Commons on the ECA Report.

4. UKREP have proposed that the note should be shown to the Brussels press corps, on a selective basis. This would be helpful, provided that the timing of release to the press does not steal any thunder from your speech in the House.

*RNA*

R I G ALLEN

REVISED DRAFT

SOME UK SUGGESTIONS FOR COUNTERING FRAUD AND IRREGULARITIES IN THE  
COMMUNITY BUDGET

1. The United Kingdom welcomes the plan of the Presidency of the Council to discuss fraud against the Community budget at ECOFIN on 13 March, in the context of ECOFIN's discussion of the discharge of the 1987 Budget and to agree a Council declaration stepping up the action against fraud and irregularities in the budget. The Presidency's note on fraud is a good basis for such a discussion.

2. The United Kingdom believes that it will be helpful for the Council and Commission, in the course of that discussion, to specify as precisely as possible action which they intend to take in the immediate future in order to carry forward the fight against fraud as swiftly and effectively as possible.

3. The Presidency's note refers to proposals already on the Council's table relating to:

- the better control of export refunds through improved monitoring;
- the clarification of legislative texts and more effective administrative controls, in the context of the current price fixing proposals.

To this should be added the work already begun to improve the regulations and controls governing intervention storage. An ad hoc group in which Member States participate is currently discussing the options for a Commission proposal, which the Council will have to consider as soon as possible.

4. It would however be a mistake to concentrate exclusively on countering fraud in agricultural spending. There are other areas of the budget where preventive action needs to be taken. Work in these fields must be got underway as quickly as possible. It would for example be useful to have, at an early date, a Commission progress report on the implementation of those provisions in the Structural Funds implementing regulations (providing for the introduction of proper financial controls).

5. The UK suggests that the ECOFIN Council be called upon to agree that:

- the Commission should be asked (a) to revise its 1987 proposal on the control and monitoring of export refunds in the light of the recommendations in paragraph 4.56 of the Court of Auditors report; (b) to bring forward proposals for improving the regulations governing intervention storage; and (c) to indicate the proposals it intends to make relating to the clarification of legislative texts and administrative controls in respect of agriculture, as mentioned in the 1989/90 price-fixing proposals. The Council should set provisional deadlines for the submission of these proposals and for the adoption of measures based on them.

- A Conference be called under Commission Chairmanship with member state participation to examine what practical and cost-effective measures are needed in each field to minimise fraud - actual or potential - against the Community budget. This would enable a report to be prepared before the Heads of State and Government meeting in Madrid in June. The Conference might be asked to consider inter alia:

i) what new incentives and/or sanctions are needed in order to ensure that member states take all necessary measures to prevent, detect and punish fraud against the Community budget;

ii) how best to ensure that the Commission has the information which it needs on the nature and incidence of fraud to enable it to design effective counter-measures;

iii) how best to "fraud proof" EC legislation;

iv) the extent and effectiveness of the Commission's role in the detection and/or investigation of fraud if it is to assist in reducing the incidence of fraud.

- The Commission be invited to present an annual report to the Council and Parliament on the action taken during the preceding year to combat fraud. The report should be examined each year by both arms of the budgetary authority, and conclusions could be

drawn as to where future action should be concentrated. It would cover new information on the extent of fraud against the Budget and initiatives taken by the Council and Commission during the year to prevent fraud. It would be desirable for the Court of Auditors to be associated with the Budget Authority's examination of the report.

6. The Council should also consider how best to establish a procedure to ensure that Special Reports of the Court of Auditors are properly followed up.

7. The Commission clearly has the primary responsibility to make the necessary proposals and to carry out the necessary monitoring to ensure an effective fight against fraud. But the Council, as legislative authority, and member states - who are responsible for controls and enforcement - must also act. The European Parliament also has an important role to play in the fight against fraud.

bf 2/3

The Rt. Hon. Lord Young of Graffham  
Secretary of State for Trade and Industry

Jonathan Taylor Esq  
Private Secretary to the  
Chancellor of the Exchequer  
HM Treasury  
Parliament Street  
LONDON SW1

Department of  
Trade and Industry

1-19 Victoria Street  
London SW1H 0ET

Switchboard  
01-215 7877

Telex 8811074/5 DTHQ G  
Fax 01-222 2629

CH/EXCHEQUER	
C.	24 FEB 1989
Mr R.I.G. ALLEN	
PS / PM G,	
Mr LANKESTER,	
Mr MERCER,	
Mr TOWERS,	
Mrs PHILLIPS	

✓  
26/2

Direct line 215 5422  
Our ref MM3ACS  
Your ref  
Date 24 February 1989

*See Jonathan*

Thank you for your fax of 16 February enclosing draft replies to Lord Cockfield and Bryan Gould MP on the subject of EC fraud. I enclose the letters which the Secretary of State sent: you will see that he shortened the letter to Lord Cockfield and simply invited him to table a question on the subject.

I also enclose Lord Cockfield's response, which the Secretary of State will see on his return from India. I should be grateful for advice on how to reply to this, and in particular on the suggestion that time be found for a debate in the House of Lords on the issue. It would be very helpful to have this by Friday 3 March if at all possible.

*Yours ever*

*Ben Slocock*

BEN SLOCOCK  
Private Secretary

# dti

the department for Enterprise

The Rt. Hon. Lord Young of Graffham  
Secretary of State for Trade and Industry

The Rt Hon Lord Cockfield  
House of Lords  
LONDON  
SW1A 0PW

Department of  
Trade and Industry

1-19 Victoria Street  
London SW1H 0ET

Switchboard  
01-215 7877

Telex 8811074/5 DTHQ G  
Fax 01-222 2629

Direct line 215 5422  
Our ref PS4BVS  
Your ref  
Date 17 February 1989

*Dear Lord Cockfield*

I said in the House on Tuesday that I would be more than happy to answer any question on the events in 1986 which you had referred to. However I will be out of the country until the end of the month, so perhaps you would contact my office before putting down the question so that we can find a suitable date.

*Yours sincerely*

*Len Slewick.*

(Approved by the Secretary of State  
and signed in his absence)

*the*  
**Enterprise**  
Initiative

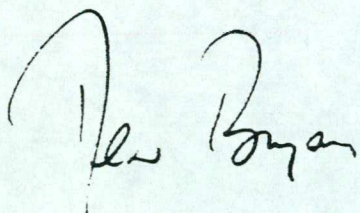


The Rt. Hon. Lord Young of Graffham  
Secretary of State for Trade and Industry

Bryan Gould Esq MP  
House of Commons  
LONDON  
SW1A 0AA

PS/CDC  
PS/FM  
AS/AC  
AS/SBH  
Mr Roberts  
Miss Neville - Colffe  
Mr Stawler

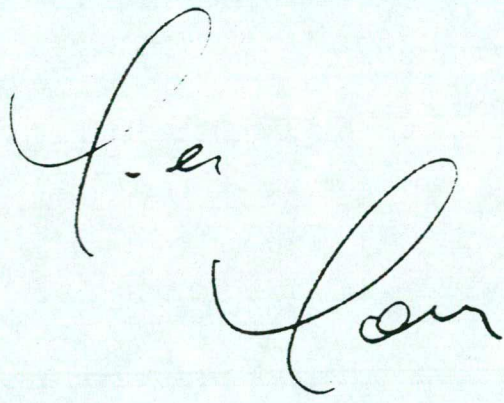
Direct line 215 5422  
Our ref PS4BVU  
Your ref  
Date 16 February 1989



You wrote to me on 15 February about the exchanges on EC fraud in the House of Lords on the previous day.

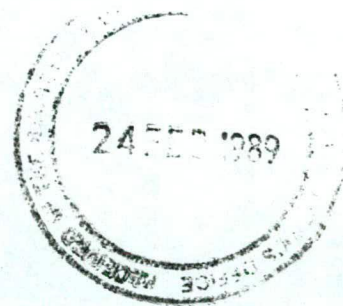
It is quite wrong to suggest that the UK vetoed a proposal from Lord Cockfield for a full-scale enquiry into EC fraud. Lord Cockfield in fact put forward a much more narrow proposal - for an amendment to Regulation (EEC) 1468/81 to allow Commission-led administrative and investigative missions in Member States. This was opposed by every Member State on practical and other grounds.

Nor do I accept your accusation of complacency. The UK Government has always attached great importance to effective action against fraud in relation to the EC Budget.





House of Lords



23rd February, 1989.

The Rt. Hon. Lord Young of Graffham,  
Secretary of State for Trade and Industry,  
Department of Trade and Industry,  
1-19 Victoria Street,  
London, SW1H 0ET.

Dear David,

Thank you for your letter of 17th February.

I am sure you will know that there was detailed briefing of the Press on this subject by the Press Office at No. 10 on Monday, 6th February. This resulted in extensive Press coverage including a major piece on the front page of The Times newspaper on the following day. This was headed:

"Thatcher to attack £6bn EEC fraud"

and it went on to say:

"The Prime Minister is spearheading a drive against fraud in the EEC which Ministers have been told may amount to £6bn a year".

The article continued:

"She raised the subject at last week's Cabinet meeting".

The article went on to say:

"Ministers believe the key lies in having efficient Customs & Excise operations ..."

I imagine that Mr. Ingham keeps Ministers informed of the content of his Press briefings and that if the matter had been raised by the Prime Minister at Cabinet a full account had been given. The reference to "efficient Customs and Excise operations" would indicate that the particular area of my concern had not been overlooked. This being so it seemed to me to be not unreasonable to ask you to elucidate the matter which is what my supplementary question was designed to do.

continued



House of Lords

2.

I am grateful to you for your offer to answer a question if I choose to table one. I have some doubt about the value of my so doing. As you yourself indicated I do in fact know the answer to the point I raised: and the only purpose of a further question now would be to demonstrate that the Department, somewhat belatedly, had briefed you on the matter.

There is another aspect of this matter. It is perfectly clear as a consequence of Willie's intervention that this matter cannot satisfactorily be dealt with by way of question and answer but requires the greater latitude permitted by debate. I am sure the opportunity will arise for this to be done.

I am sending a copy of this letter to Willie in view of the interest he showed in the matter.

*Yours,  
Arthur*

Lord Cockfield



FROM: A A DIGHT

DATE: 27 February 1989

*PWP*

MR N M TOWERS

FIRST ORDER PQ's: EC FRAUD

The Chancellor has seen and was grateful for your minute of 22 February.

A handwritten signature in black ink, appearing to read "A A Dight".

A A DIGHT



FROM: J M G TAYLOR

DATE: 27 February 1989

PS/PAYMASTER GENERAL

*PMG*

cc PS/Chief Secretary  
PS/Financial Secretary  
PS/Economic Secretary  
Mr Wicks  
Mr Lankester  
Mr Mercer  
Dr Slater  
Mr Towers  
Mr Tyrie

ECOFIN, 13 MARCH: EC FRAUD

The Chancellor has seen Mr R I G Allen's note of 24 February.

2. He suggests that the note should cover the point raised in the recent exchanges between Lord Cockfield and Lord Young. The Commission will presumably counter our comments by putting forward the earlier proposal (as recalled by Lord Cockfield), and we will need to have a convincing response to that if we are to avoid an own goal.

A handwritten signature, likely of J M G Taylor, consisting of stylized initials.

J M G TAYLOR

RESTRICTED



FROM: MALCOLM BUCKLER  
DATE: 27 February 1989

PS/CHANCELLOR

- cc PS/Chief Secretary
- PS/Financial Secretary
- PS/Economic Secretary
- Mr Wicks
- Mr Lankester
- Mr R I G Allen
- Mr Mercer
- Dr Slater
- Mr Towers
- Mr Tyrie

*Ch. PMG has a fair point.  
Agree?*

*Dr 27/2  
Agree*

ECOFIN, 13 MARCH: EC FRAUD

The Paymaster General has seen your minute of today's date.

He fully takes the Chancellor's point that we shall need to have a convincing response should the Commission resurrect the proposal which was voted down at the March 1987 ECOFIN, namely to extend the Commission's competence and give it widespread investigative powers. But the Paymaster wonders whether this defensive point is best covered in the note attached to Mr Allen's minute of 24 February. This note is intended for widespread circulation in Brussels and to other Member States: it is likely to be quoted in the press: it includes some modest proposals for carrying forward the Community's anti-fraud work.

In the Paymaster's view, there are dangers in committing ourselves, one way or the other, to a firm Government position on the question of a major extension of Commission competence before OD(E) has had the opportunity to discuss this and other available options. In advance of that, the Paymaster considers that it might be safer to adopt a relatively cautious posture and focus both on procedural steps and on nailing down specific proposals which are already on the table or have been put forward by the Court of Auditors. It would be relatively straightforward to build on this platform once OD(E) has reached a view on the best way to proceed.

MALCOLM BUCKLER  
Private Secretary



FROM: J M G TAYLOR

DATE: 28 February 1989

A handwritten signature in dark ink, appearing to be 'JMG'.

PS/PAYMASTER GENERAL

cc PS/Chief Secretary  
PS/Financial Secretary  
PS/Economic Secretary  
Mr Wicks  
Mr Lankester  
Mr R I G Allen  
Mr Mercer  
Dr Slater  
Mr Towers  
Mr Buckler  
Mr Tyrie

ECOFIN, 13 MARCH: EC FRAUD

The Chancellor has seen your note of 27 February. He agrees with the approach proposed by the Paymaster General.

A handwritten signature in dark ink, appearing to be 'JMG'.

J M G TAYLOR

PS/CHANCELLOR

*Chy content?  
WR OK -  
28/2*

FROM: M C MERCER  
DATE: 28 FEBRUARY 1989  
cc: PS/Paymaster General  
Mr Lankester  
Mr R I G Allen  
Mr Towers  
Mr Phillips

**EC FRAUD: LORD COCKFIELD'S LETTER**

Lord Young's Private Secretary has asked for a draft reply to Lord Cockfield's letter of 23 February, in which he (implicitly) calls for a debate in the House of Lords on the issue of HMG's attitude towards the Commission's 1987 proposal on the Mutual Assistance Directive.

2. A report on EC fraud by a sub-committee of the House of Lords European Communities Committee is due to be published on 10 March and is bound to be the subject of a full-scale debate some time thereafter. That should be sufficient even for Lord Cockfield.

3. I attach a draft reply and a covering letter for you to send to Lord Young's Private Secretary.

*M. C. Mercer*

M C MERCER





Ch. EC Fraud: Ld Cockfield + Ld Yummy

Several pieces behind:

- draft brief for PM's questions;
- draft letter for Ld Y to send to Ld. Cockfield;
- draft letter for Ld Y to send to Bryan Gould.

2. The full story is set out in the first document. Ld C. seems to have behaved questionably yesterday, to say the least

3. Content with drafts?

df

15/2

OK  
This;



cc: PS/Paymaster General  
Mr Lankester  
Mr R I G Allen  
Mr Mercer  
Mr Towers  
Mrs Phillips

Treasury Chambers, Parliament Street, SW1P 3AG  
01-270 3000

1 March 1989

Ben Slocock Esq  
PS/Secretary of State for Trade  
and Industry  
Department of Trade and Industry  
1-19 Victoria Street  
LONDON  
SW1H 0ET

A handwritten signature in black ink, appearing to be 'Puf'.

*Dear Ben*

Thank you for your letter of 24 February.

... I attach a draft reply to Lord Cockfield's letter of 23 February to your Secretary of State. The report to which the reply refers is due to be published on 10 March (though this has not yet been officially announced) and the sub-committee will recommend it for debate.

*Yours ever*

A handwritten signature in black ink, appearing to be 'J M G Taylor'.

J M G TAYLOR  
Private Secretary

DRAFT REPLY TO LORD COCKFIELD

Thank you for your letter of 23 February.

I understand that a report on EC fraud by a sub-committee of the European Communities Committee is shortly to be published. It will no doubt be the subject of a full scale debate in the House of Lords in due course, and that would provide an opportunity for you to pursue the issues to which you refer.

I am copying this letter, as you did yours, to Willie Whitelaw.

*Plse type final.*

*Ben Slocock, Esq.  
PS/Secret etc.*

**DRAFT LETTER TO LORD YOUNG'S PRIVATE SECRETARY**

Thank you for your letter of 24 February.

I attach a draft reply to Lord Cockfield's letter of 23 February to your Secretary of State. The report to which the reply refers is due to be published on 10 March (though this has not yet been officially announced) and the sub-committee will recommend it for debate.

*JMG T-*

*P-S-*

BENSON  
2/3

PM9-3 MAR 1989 2



P Brooke MP  
Treasury Chambers  
Parliament Street  
London.  
SW1

PAYMASTER GENERAL	
REC.	- 3 MAR 1989
ACTION	MR MERCER
	PS/CX MR LANKESTER MR R. G. ALLEN MR EVANS
	MR TOWERS
	MRS PHILLIPS.

2 March 1989

Dear Mr Brooke

FRAUD IN THE COMMUNITY - THE EXPLANATORY MEMORANDUM

- 1 Thank you for your letter of 23 February 1989 and for the comments you have made.
- 2 Unfortunately your letter does not deal with the main point of my letter to the Chancellor, dated 15 February 1989, which is that the explanatory memorandum, dated 24 January 1989, issued to Parliament and Ministers under your signature, is misleading. This is the principle at stake and it is too serious a matter to overlook.
- 3 As you know, the Select Committee are also perturbed by the terms of the explanatory memorandum, and this was set out in a letter to you from Baroness Serota, dated 22 February 1989.
- 4 It might help if I explain the obvious implications of the Court of Auditors' report. They are five in number:-
  - (a) The Court of Auditors' report draws attention to items in the Community accounts for 1987 which renders those accounts false and misleading, or, if you prefer alternative wording renders the accounts not true and not fair;
  - (b) The UK Government (and indeed all member States) has a duty to protest against, and, so far as it has power to do so, to reject Community accounts of that character.



- 2 -

- (c) Every effort should be made to ensure that the European Parliament refuses to discharge the budget until the accounts have been corrected;
- (d) Steps should be set in hand which will prevent a similar situation ever arising again;
- (e) One factor which would help to achieve the situation in (d) above would be (subject to any further enquiries which may be appropriate) to identify the person or persons responsible for preparing and presenting accounts in that form, and then ensuring that they were disciplined and/or dismissed from office.

5 I now deal with the observations in your letter:-

(a) Paragraph 2

You appear to be perturbed by the description "false and misleading". I used the phrase deliberately in my letter to the Chancellor to alert him beyond peradventure to the seriousness of the Court of Auditors' report. If you would prefer alternative wording, I suggest "not true and not fair" (based on the UK Companies Act), but you will, I am sure, recognise that what is not true is false, and what is not fair misleads.

(b) Paragraph 3

You suggest that the treatment adopted in the memorandum was in part justified, because it would otherwise have made the memorandum longer. I am sure you do not expect me to take this point seriously.

- (c) You say that it would have been wrong to make a "sweeping value judgement". I suggest that in informing Parliament and advising Ministers in the explanatory memorandum, the job of the Treasury is to explain the issues fairly to the reader. Indeed, you purport to do so under the heading "Legal and Procedural Issues". By refraining from explaining the issues fairly, the memorandum issued to Parliament and Ministers concealed the true position and was misleading.



- 3 -

(d) There is no need to engage in an exercise of "sweeping". The simple truth is all that is needed by Parliament and Ministers.

(e) Paragraph 4

You say that the tradition in the Department is to record under "Financial Implications" certain things only. As with point 5(b) above, I do not think you expect me to take this point seriously. If some formula (unknown to the public) prevents you from disclosing the true position fairly to Parliament and Ministers under that heading, the proper course is to put in another paragraph under some other heading of your own choice. An outline of the appropriate paragraph is paragraph 4 above.

(f) You suggest that you could not have anticipated the outcome of future decisions or discussions. I suggest that it is not the purpose of the explanatory memorandum to anticipate the future. The object of the explanatory memorandum is to put the issues fairly before Parliament and Ministers, so that the necessary decisions can be made.

(g) The remainder of your paragraph 4 is irrelevant to the issue that the explanatory memorandum is misleading.

(h) Paragraph 5

I think you will agree, on reflection, that your own assessment of your behaviour as "scrupulous" and "correct" is an unfortunate choice of wording, and may give rise to ridicule.

6 You will observe from the Select Committee report, which is to be issued next week, that one of the reasons why fraud and irregularity has persisted on a large scale for many years in the Community is because persons in authority, who have power to take action, have either ignored, or failed to grip, a serious situation when it is disclosed in the Court of Auditors' reports. The explanatory memorandum in its present form is a typical example of such a situation.



- 4 -

7 I have no wish to raise this matter in the debate which will take place on the Select Committee's report, but shall have no alternative but to do so for the reasons explained above, particularly paragraph 2. Your correspondence with Baroness Serota is being made public with the Select Committee's report. By reason of the debate in the Upper House, the correspondence between the Chancellor, myself and yourself may also become public property. May I urge you, therefore, with all the conviction and sincerity I can muster, that you should reconsider your decision, and should either rewrite the memorandum or issue an appropriate addendum to it. If you are unwilling to do so, I assume, by reason of the implications which flow from the memorandum in its present form, that you will inform the Prime Minister of the possible repercussions.

Yours sincerely

*Henry Benson*

The Lord Benson

Copy to Select Committee





Rt Hon Nigel Lawson MP  
Chancellor of the Exchequer  
Treasury Chambers  
Westminster  
London  
SW1

*Ch. This is an extraordinary letter. Lord Benson's first sentence is very odd, since the PMG replied on your behalf and made plain that he was being so. Ld. Benson clearly got that letter, since he has replied to it (Benson 2/3, behind). Ld Benson's second sentence is even odder, since he seems seriously to suppose that you might have wished in some way to disavow the PMG's earlier EM. How do you wish to respond to this? (PMG is minded to offer Ld. B. a meeting)*

2 March 1989

*3/3*

*P.S. I am sorry not to have shown you earlier pp. before, but they simply got squeezed out by more important stuff. And I had assumed that the PMG was a sufficiently senior figure to satisfy L.B.!*

Dear Chancellor

FRAUD IN THE COMMUNITY - THE EXPLANATORY MEMORANDUM

I am sorry that I did not receive the courtesy of a reply to my letter to you of 15 February 1989. I wrote to you personally because I thought that the Minister who signed the explanatory memorandum might be unwilling to acknowledge that the document was misleading, and that a lead from you would be necessary to avoid possible embarrassments.

You will observe from the correspondence which has since ensued that my doubts were well founded.

Yours sincerely

*Henry Benson*

The Lord Benson

*I am most grateful for the PMG's meeting with L.B. on this. M.*

Copy to Select Committee



FROM: J M G TAYLOR  
DATE: 6 March 1989

A large, stylized handwritten signature in blue ink, possibly reading 'JMG'.

PS/PAYMASTER GENERAL

cc Mr Lankester  
Mr R I G Allen  
Mr H P Evans  
Mr Mercer  
Mr N Towers  
Mrs Phillips

**FRAUD IN THE COMMUNITY - LETTER FROM LORD BENSON**

... We spoke about the enclosed letter from Lord Benson.

2. The Chancellor is most grateful for the Paymaster General's offer to meet Lord Benson about all this.

A handwritten signature in blue ink, appearing to be 'JMG'.

J M G TAYLOR



Rt Hon Nigel Lawson MP  
Chancellor of the Exchequer  
Treasury Chambers  
Westminster  
London  
SW1

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