3pps

Ref. A02151

MR. ALEXANDER

I understand that the Prime Minister would like a note on the legal possibilities for other member states to circumvent our veto on CAP price increases. I attach a note which has been prepared here in consultation with MAFF, FCO and Treasury.

D.J. Wright

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12th May, 1980

Weekend Box

Prime Minister

Could the Eight circumvent our Veto on CAP Price Increases?

Since the European Council, the French President and the French Minister of Agriculture have made various statements to the effect that, despite our insistence that there will be no settlement on CAP prices until our budget problem is also settled, they will ensure that French farmers do not suffer through any delay. A statement issued by the Elysee on 7th May following this week's Agriculture Council stated that "the President of the Republic has invited the Prime Minister to study and prepare to implement measures to compensate agricultural incomes for the results of this delay, while respecting the Community principles and keeping strictly to the terms agreed by the Eight Member States". This note considers how the Eight might try to circumvent our veto or protect their farmers from its effects.

2. The three main areas in which there are possibilities of doing this are:

(a) Implementation of CAP price increases against our wishes.

(b) Green rate changes.

(c) National aids.

IMPLEMENTATION OF PRICE INCREASES

3. Commission proposals to raise agricultural prices are made under provisions in the Treaty of Rome which allow qualified majority voting. However, the practice of requiring common consent to the price-fixing is firmly established and so far in the Council there has been no pressure for price decisions to be forced through by a majority vote. The French have canvassed support for this and have failed to get it from other Member States. But if discussions in the Council were to reach a point at which it was impossible to avoid the price proposals being put to a vote, we would invoke the Luxembourg compromise on the grounds that very important interests were at stake and that therefore discussion should continue until unanimity is achieved. In theory others might seek to get the compromise suspended to allow a vote to be taken. But even if the French were ready to propose such an unprecedented break with the Gaullist convention, other Member States like the Dutch, who dislike the Luxembourg compromise, have told us that they would then insist on its permanent abandonment rather than agreeing to a temporary suspension.

4. As alternatives to a common price increase for the Nine, the Eight might conceivably go for a price increase within the framework of the CAP, with Britain left "in parenthesis", or for a Gentleman's Agreement among themselves to raise national prices. But in the former case we could still invoke the Luxembourg compromise and in the latter it is difficult to see what legal basis could be found for setting new prices or drawing Community funds to support them.

GREEN RATE DEVALUATIONS

5. A Member State with a negative MCA may request a devaluation of its green rate so as to raise its farm prices in national currency terms. But, following the green franc and green lira devaluations agreed at the 6th-7th May Agriculture Council, no Member State has an appreciable negative MCA. There remain two other theoretical possibilities to which they might have recourse:-

(i) Devaluation of green currencies to above parity, which would have the effect of introducing positive MCAs;

(ii) Adjust the value of the European Currency Unit (ECU) to reflect the increased value of sterling since the last EMS realignment. This would allow up to 1 per cent price increases for Member States with green rates above the central rate, i.e. France, Italy and the Irish Republic (but not Germany, Denmark or the Benelux).

(iii) To alter the composition of the ECU.

The first of these possibilities would be contrary to the principles of price unity; the legal basis for such a change is highly questionable; and the Commission have themselves said that it would be contrary to the very principles of the CAP. The second would be legitimate and could be implemented under qualified majority voting without our agreement. It would be difficult for us to justify blocking this. The third would have fundamental and far-reaching implications for the EMS. It would require a unanimous decision.

NATIONAL AIDS

6. In the absence of a common price increase or green rate change, the Eight might seek to maintain the standard of living of their farmers by introducing national aids, either by topping up price revenue with national premia or by concessions on tax, social security, etc. Premia would normally have to be notified to the Commission and could not in theory be introduced until either the Commission had indicated that it had no objections to them or a two-month interval had elapsed. However, there are provisions in the Treaty under which the French could bypass the Commission and go directly to the Council. If the other Member States and the Commission were prepared to co-operate, the French could continue with national aids for three months before the Commission were required to give a decision. A tax or social security concession conferring a specific advantage would also be regarded as a state aid (although it might be harder in this case to prove infringement of the Community's competition rules). Other Member States as well as ourselves might press the Commission to take action if an aid was introduced which would distort competition. Nevertheless individual member states might reckon on getting a price settlement before European Court action compelled them to abolish illegal aids.

FUTURE TIMETABLE

7. The French have said that agricultural prices must be settled by 31st May and, in summing up the Foreign Affairs Council's discussion on 6th May, Signor Colombo gave credence to this date as a deadline for fixing agricultural prices. There will probably be concurrent Agriculture and Foreign Affairs Councils on 28th-29th May. It is hard to see how other Member States could force a decision at that time if we were to continue to block on the grounds that there was no Budget settlement and they were unwilling to suspend the Luxembourg compromise. The marketing years for milk and beef, which have already been extended, are due to expire at the end of May. Our partners could refuse to extend them again. The resulting legal vacuum would have some unpleasant consequences, including the loss of our 12p per lb butter subsidy.

In this event, the Commission would presumably claim that they had to fill the legal vacuum. The normal thing for them to do would be to preserve the status quo, but the precise action they would take in these circumstances would no doubt depend in part upon the attitude adopted at the time by other Member States.

Cabinet Office

12th May 1980

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