

S E C R E T



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Prime Minister

MH

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29 May 1980

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London
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Der Michel,

EEC BUDGET: WITHHOLDING

... I attach the note on withholding for which the Prime Minister asked.

I am copying this to Paul Lever and David Wright.

Yours ever,

MH

M A HALL
Private Secretary

EEC BUDGET: WITHHOLDING

The UK's contributions to the Community's "own resources" including the VAT payments, are paid into the Commission's No.1 Account with the Paymaster General. The VAT payments (approximately £67m per month) are paid into the Account on the first day of each month.

2. From time to time the Commission send instructions to the Head of the Accounts Division, HM Treasury (acting on behalf of the Paymaster General) to make a payment out of the EEC No.1 Account either to a recipient in the UK or across the exchanges to a beneficiary in another member state. Instructions to make a payment across the exchanges are typically (but not invariably) received once a month, not on any set day, though usually in the first week of the month. This year they have been for amounts varying between £60m and £145m. In accordance with Council Regulation 2891/77 (which is UK law by virtue of section 2 of the European Communities Act 1972) the Treasury are required to carry out such instructions "as soon as possible". It is normal practice to do so within 24 hours.

3. If Ministers decided to withhold, it has been recommended that the Government should not interfere with the payment of "own resources" into the EEC No.1 Account. It has been suggested that, if so instructed by the Chancellor, the Head of the Accounts Division, HM Treasury, could ignore any instruction from the Commission to make a payment out of the EEC No.1 Account across the exchanges to a recipient in another member state. Instructions to make payments to British beneficiaries would still be carried out. (See OD(80)18, Annex A, paragraphs 16-18).

4. The next VAT payment will thus be made into the No.1 Account on Monday 2 June. The next opportunity to withhold will occur when we receive the next instruction to make a payment out of the Account across the exchanges. This is likely to be sometime in June - probably next week - but we do not know precisely when. The amount

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withheld could be made to be the same as the amount of VAT credited.

5. In 1980 the Commission estimate that our VAT payments will be £810 million. So far this year £480 million has been paid across the exchanges, leaving only some £600 million to be paid across for the remainder of the year. If Ministers decided on general withholding now it could reasonably be claimed that over the year as a whole the UK was not withholding more than its VAT payment, although on a month by month basis more would be withheld than the amount of VAT credited to the No 1 Account.

6. In 1981, the UK's VAT payments are estimated to be between £1,050 million and £1,150 million, which is smaller than the forecast net contribution to the allocated budget of between £1,350 million and £1,400 million. If the amount withheld was to be no greater than the VAT payments, transfers from the No 1 Account across the exchanges would have to be made at some point during the year.

Legislation

7. Annex A to OD(80)18 (paragraph 11) described the scope of possible legislation to support withholding. It was recommended that if Ministers decided to eliminate all risk of a successful action against the Government in a UK Court arising out of withholding, the necessary legislation should preferably be enacted before and certainly as soon as possible after the first amounts were actually withheld. Without such legislative cover, the legality of any Ministerial instruction to withhold risks being challenged before a UK Court.