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Ref. A0484

PRIME MINISTER

Community Budget

(OD(79) 33, 35 and 36)

The last discussion approved a line to be taken with the Commission on possible mechanisms which would produce "broad balance" between our contributions and receipts. This has been followed up. Mr. Roy Jenkins told you that the Commission would probably propose several possible solutions including our own. My minute A0463 of 19th October set out the likely sequence of events from now until the Dublin meeting. The main purpose of this OD discussion is to review the means at our disposal to put pressure on our partners short of the threat of withdrawal from the Community. There has already been a good deal of Press speculation as to what the Government should or might do if you do not get your way in Dublin: and, while too many overt threats at this stage may not be helpful particularly before your meeting with Schmidt, I do not think that this speculation has done any harm. But there is a difference between speculation and leaks, and you will want to stress to your colleagues that this is, for the moment, highly confidential contingency planning.

2. The Committee deliberately did not consider fall-back positions last time. The Chancellor says if we are offered reduction by a half of our net contribution for a limited period we should not accept. The Foreign and Commonwealth Secretary does not express an opinion but recommends that you should discuss what might be an acceptable outcome with those most directly concerned. You may want to pick up this suggestion at the beginning of the meeting and say that you propose to have such a discussion early in November i. e. after the Schmidt-visit and before you see Giscard. The Group might consist of yourself, the Chancellor, the Foreign and Commonwealth Secretary, the Lord President, the Lord Privy Seal, Sir Robert Armstrong, Sir Kenneth Couzens, Sir Michael Palliser and Mr. Franklin.

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3. You may then want to take the three papers in the following order:-

- (a) OD(79) 36: this is a carry-over from the last discussion about what should happen if the United Kingdom became an above-average GDP country.
- (b) The Chancellor's paper OD(79) 35 on the possibilities of withholding our contribution.
- (c) The Foreign and Commonwealth Secretary's paper OD(79) 33 on other possible instruments of pressure.

(a) The robustness of the GDP criterion (OD(79) 36)

4. At their last meeting (OD(79) 9th Meeting) the Committee were concerned lest we should cease to get any benefit for any reason our GDP per head rose above the Community average. The Chancellor of the Exchequer has circulated a detailed note by officials. His conclusion now is that the possibility of this happening over the next five years is too small to justify expending much negotiating capital and that we should therefore go for:

- (i) Raising the present 85 per cent trigger in the Financial Mechanism to 100 per cent of the Community average.
- (ii) Retention of the three-year averaging provision.
- (iii) A review clause.
- (iv) An automatic three-year phasing-out arrangement should we nevertheless go above 100 per cent.

5. You will not want to repeat the discussion of last time and should be able to establish fairly quickly whether everyone is now content that we should negotiate along the lines suggested by the Chancellor. If so, you will be able to conclude that the Committee endorses the line in OD(79) 36.

(b) EEC budget: contingency planning (OD(79) 35)

6. The Chancellor of the Exchequer has consulted the Attorney General about the scope for withholding our contribution and to what extent this would put us on the wrong side of the law. He argues that until after the Dublin European Council we should keep all options open; and that meanwhile further work should be commissioned on the implications of stopping the United Kingdom cheque.

7. The Attorney General's provisional advice is set out in Annex A to the Chancellor's paper and summarised in paragraph 6 of the main paper. He considers that -

- (i) It will be impossible for us to argue successfully before the Court that we are entitled to withhold our contributions (paragraph 14 of Annex A).
- (ii) If the Commission took us to the European Court, under Article 169, the Court could make almost immediately an Order for interim measures which might allow the Commission to withhold payments due to us or require us to make the payments we were seeking to withhold (paragraph 22 of Annex A).
- (iii) The possibility of a successful action being brought in the United Kingdom courts as a result of the withholding of our contribution is not negligible; and that it would be unacceptable for the Government to contemplate refusing to implement a judgment given by a United Kingdom court (paragraph 21 of Annex A).
- (iv) We would stand a better chance of success in any proceedings before the European Court if we took the initiative by seeking under Article 175 to enforce a duty on the Community to modify the budgetary provisions in our favour to bring them into line with the basic objectives of the Treaty. Whether such an action would be successful is in the Attorney's view doubtful (paragraph 11 of Annex A). The Treasury has since provided (Annex B) a note on the arguments we could deploy.

HANDLING

8. The Chancellor of the Exchequer might be invited to introduce his memorandum, and the Attorney General to give his views. There are really two distinct issues:-

- (i) Should we be willing to contemplate withholding all or part of our contribution and face the seemingly inevitable legal consequences? The Chancellor does not want to rule out anything at this stage, but the Attorney General, the Foreign and Commonwealth Secretary and the Lord President of the Council will doubtless argue against this course.

- (ii) The merits of ourselves appealing to the European Court through the Article 175 procedure whilst presumably continuing to pay. How does the Attorney General rate our chances having seen Annex B? Unless they are reasonably good, we may find that we end up in a worse position than by continuing to negotiate. If the Court were to decide against us we could no longer maintain that withholding was lawful. The Foreign and Commonwealth Secretary will have views on the political impact of such a course and the dangers in other contexts e.g. fish of our seeking to establish through the Court that the Council has a duty to act.

CONCLUSIONS

9. Depending on the discussion you may be able to conclude that:-
Unilaterally withholding our contribution presents very great difficulties but a final decision should be reserved until after the November European Council. In the meantime, the Chancellor of the Exchequer might continue to explore with the Attorney General the possibility of mounting a case under Article 175, with a view to putting a further paper to the Committee before Dublin.

(c) Community budget: possible instruments of pressure (OD(79) 33)

10. The note by FCO officials attached to the Foreign and Commonwealth Secretary's memorandum discusses a range of legal means of pressure. It rules out the empty chair as ineffective; points out that our blocking power is more dependable if exercised in conjunction with one other large member state; asserts that there would be risks to our interests if we were seen to abandon our positive commitment to the Community, or if our pressures rebounded on us through our bilateral relations with third countries; but shows that on certain conditions we could block or delay the 1980 and 1981 budgets and the 1981 CAP price fixing, as well as numerous other measures of greater or lesser importance to individual member states. It concludes that we need to avoid making it politically impossible for other Governments to get their own public opinion to accept concessions to us on the budget; and that, with our longer-term Community interests in mind, we should therefore do enough to signal our absolute determination, while holding out the alternative of full co-operation.

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11. The Foreign and Commonwealth Secretary's covering memorandum endorses these conclusions and recommends a series of tactical moves in line with them:-

- (i) We should make no threats up to the end of the first day in Dublin. But if by then an acceptable outcome is not in sight we should demand that the European Council reconvene within a month and that meanwhile the Finance/Foreign Affairs Councils concentrate all their efforts on finding a solution i. e. no other business is concluded.
- (ii) If sufficient progress is not made during that period or if no second European Council is agreed, we should let it be known early in December that we were considering either selective or general obstruction. This threat should be kept open until the early stages of the resumed European Council.
- (iii) If we still did not get our way at the December meeting of the European Council, we should carry out our threat flexibly in a way that would maximise the uncertainty in the minds of our partners whilst minimising the risks to our own interests. We should throughout stress our desire to return to full co-operation as soon as our budget problem is solved.

HANDLING

12. You may wish to invite the Foreign and Commonwealth Secretary to introduce his memorandum. Thereafter the discussion might be addressed to the following questions:-

- (i) If an acceptable deal does not emerge in Dublin, the Community will inevitably be in crisis. Is the idea of reconvening the European Council before Christmas the best way to escalate the pressure particularly on the French? Should we concert with the Italians?
- (ii) How will the threat of obstruction affect our friends (if any) and will it convince the others of the need to give way?
- (iii) If we have to carry out our threat, should we be selective as the Foreign and Commonwealth Secretary suggests or would it be better just to block all Community measures which would increase our net contribution? The

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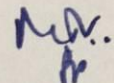
latter would be directed to the problem, still encompass most major Community activities including the 1980 and 1981 budgets and the CAP price fixing, and be more compatible with the Government's commitment to the Community.

13. The Lord President, the Lord Privy Seal and Sir Donald Maitland may all have advice to offer on the best tactics.

14. Apart from threats, there is also the question of inducements. We have rejected any notion of linkages but it may be helpful to our budget problem if the atmosphere can be lightened by parallel progress on other items at or before the European Council. The discussion earlier on the agenda of OD(79) 34 will have shown whether there are prospects for progress on fish. You have separately decided that we should make no move on EMS for the time being. OD(E) discussed energy on 18th October and agreed that, if you so wished and thought it helpful you could, without risk to our own oil supplies, let it be known in Dublin that the Government would be ready to take a less restrictive view than its predecessors of the scope for long-term oil supply contracts. The French are likely to be in considerable difficulty and need our help on sheepmeat. Outside the Treaty there may be helpful things which can be said to Schmidt and Giscard about detente and defence matters; these are being looked at in the briefing for those meetings. You may want to ask for suggestions from the Foreign and Commonwealth Secretary and the Lord President; but within the Treaties we do not appear to have any cards of magnitude except the promise of co-operation if this is settled and the certain prospect of continued obstruction if it is not.

CONCLUSIONS

15. Subject to the discussion you may be able to conclude that the Committee accepts the recommendations in paragraph 2 of OD(79) 33, and agrees that any available inducements should be deployed as necessary in the Anglo-German and Anglo-French bilaterals or the European Council itself. The actual implementation of any campaign of obstruction should be the subject of a separate decision by the Committee in the light of the results of the November European Council.


JOHN HUNT

23rd October, 1979

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Letter would be directed to the Commission, which has been asked to
Community. It has included the Commission's views on the
price fixing, and he asks you to discuss with the Commission
to the Commission.

12. The Commission, the Joint Fact-Finding and Dispute Resolution Panel
have advice to offer on the best route.

13. As far from the Commission, there is also the question of
rejected any notion of the Commission, but it may be helpful to
anyone else as it is based on parallel arguments on other issues or
European Council. The discussion arising on the agenda of 10(12) 34 will
show a number of the Commission's proposals on this. You have a
control panel which is not in the Commission's hands.

14. I would be glad to discuss this with you if you wish. It would be
helpful you could, without this to our own all supplies, let it be
that the Commission would be ready to take a more restrictive view than the

production of the people for long-term supply contracts. The Commission
likely to be in contact with the Commission and need our help in
the Commission may be helpful. It can be said to be in contact with
that details and details of the Commission's proposals. It is the
Commission. You may want to see the Commission's proposals and
Commission's proposals on the Commission's proposals, but it is the
do not appear to have any other of the Commission's proposals at
it is a matter of the Commission's proposals of the Commission's proposals.

15. I am sure that the Commission will be able to provide the Commission
except the Commission's proposals of 10(12) 34, and I am sure that
available information should be developed as necessary in the Commission and
Anti-Trust Division of the European Council. The Commission's
that it may be able to assist in the Commission or the Commission's
by the Commission in the Commission's proposals of the Commission's proposals.

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