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OD(80) 18

COPY NO

32

4 March 1980

CABINET

DEFENCE AND OVERSEA POLICY COMMITTEE

COMMUNITY BUDGET CONTINGENCY PLANNING:
WITHHOLDING AND OBSTRUCTION

Note by the Secretaries

1. At its meeting on 25 January the Committee decided that the Government needed to have precise plans ready in case the next European Council did not produce a satisfactory settlement of the problem; and that officials should work up detailed contingency plans for both possible courses for the Committee to consider at a later meeting. (OD(80) 2nd meeting Minute 1.)

2. The Notes by Officials at Annexes A and B on withholding and obstruction respectively have been prepared in response to this remit. They do not seek to repeat the arguments for and against each course of action that were set out in OD(80) 5 and discussed by the Committee at its last meeting, but rather to illustrate how each might be pursued in a way which would optimise its effectiveness. To this end the analysis in the two papers follows a common pattern which is designed to elicit answers to the following questions -

- i. What should be said at home and in the Community before, at or just after the next European Council if no satisfactory solution is reached?
- ii. What and when would be the first "crunch" point calling for action on our part?
- iii. What would be the likely reaction of the Commission and other member states and how should we respond to it?
- iv. What domestic action or legislation would be necessary to give effect to withholding or obstruction and at what stage?

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v. At what point could one course of action be used to reinforce or replace the other?

In each case the papers take as their starting point the run-up to the 31 March/1 April European Council and look forward as necessary to the end of 1980.

Signed ROBERT ARMSTRONG
M D M FRANKLIN
D M ELLIOTT

Cabinet Office
4 March 1980

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CONTINGENCY PLANNING FOR WITHHOLDING

Note by Officials

Action Before the European Council

There is a question of whether it would be helpful to publish in advance of the European Council at the end of March the United Kingdom's case for redress under the Treaty of Rome (to which the Attorney General is now giving further consideration). On the other hand, Ministers might prefer to publish such material at the time of an announcement of withholding (see below), in order to achieve maximum impact.

Statements to the European Council and United Kingdom Parliament

2. What should be said at the end of the March European Council about forms of United Kingdom pressure must depend on how the Council develops. It may be clear at the end of the Council that there is a good chance that one more heave will produce a solution of our budget problem which is acceptable, even if this cannot be achieved until the June Council. There might be considerable progress on the amount and the form of a solution. There might be a further remit to the Commission. It might be clear that the majority of our partners would agree to a solution acceptable to us, but one or two members were resisting it. In a relatively promising situation, it would certainly not be essential and might not be wise, to mention, however obliquely, either obstruction or withholding; but in other circumstances it might well be desirable to say that the United Kingdom Government would come under great pressure to adopt these courses.

3. On the other hand, the outcome of the March Council might be an impasse. We might have a situation where few if any of our partners were ready to contemplate a level of settlement acceptable to us and eg the French and Germans together had set their faces against it.

4. It is in this second situation that the Prime Minister might need to say explicitly that she would have to consider the position carefully with her colleagues but that she must warn her partners that there was a very serious risk that she would be obliged to withhold or obstruct. There might be advantage at that stage in being no more specific than this.

The Commons Statement

5. On return the Prime Minister would need to make a statement to the House of Commons. There would be a choice between including in that statement an announcement of the intention to withhold; and promising shortly a second statement which would specify the action the Government intended to take. The choice would be tactical and political. On the one hand the immediate announcement of action such as withholding would turn criticism about lack of success in the negotiation. On the other hand, a brief delay could give opinion opportunity to declare itself.

6. Whichever course were chosen, the announcement of the intention to withhold would contain four elements -

i. we considered that our case on our net contribution was not only clear in equity but was fully supported by the Treaty. The institutions of the Community had failed to discharge their obligations under the Treaty (as developed in separate papers); and had failed to honour the undertaking to the United Kingdom of 1970 that "should unacceptable situations arise... the very survival of the Community would demand the Institutions find equitable solutions".

ii. our national financial and economic situation was too serious for us simply to accept the situation. (of the nature of the United Kingdom budget presented on 26 March, including measures on public expenditure);

iii. as a temporary measure, we therefore felt obliged to withhold for the present transfers in support of Community expenditure outside the United Kingdom. But we might say that our withholding would be limited to an amount not exceeding our VAT tranche in a full year.

iv. nobody should construe this situation as meaning either that we were contemplating leaving the Community, or that we could be driven out of it. We were determined to achieve a solution within the Community. We were grateful for the partial recognition of our problem so far forthcoming from our partners. And we were confident that a full recognition of it was in the interests of the Community as well as ourselves.

There would also be a choice between announcing an immediate intention to withhold, or announcing that withholding would start after the June European Council unless a satisfactory settlement were reached then (see paragraph 29 below).

7. It would probably be desirable to accompany the announcement with a White Paper setting out the Government's position. This should include the substance of our case for redress under the Treaty itself, whether or not Ministers decided that the United Kingdom should initiate formal proceedings under Article 175 (see below).

8. On the assumption that at least initially the Commission would not cut off payments to United Kingdom recipients (which would be a breach of its obligations under Community law), it is suggested that the Government might say that withholding might be limited to the VAT tranche. This would greatly reduce but not eliminate the United Kingdom net contribution. This course is suggested because it is thought that in Brussels this might be regarded as less of an attack on the central core of the Community than withholding duties and levies. There would be a technical difficulty about limiting the withholdings to the VAT tranche month by month, because the Commission may ask the United Kingdom to make a payment greater than the VAT tranche in any individual month. If we withhold payments to the Community in the manner suggested in paragraph 15 below, the total withheld starting in April would probably not exceed the VAT tranche over the year 1980 as a whole.

9. Otherwise, we should be as non-committal as possible at this stage about the extent and duration of withholding. The line should be that we hoped and expected this to be a temporary measure; and that we looked for an early settlement which would open the way to resuming payments at a reasonable level. We might point out that in relation to the Community financial (= calendar) year 1980 we have already made considerable payments across the exchanges to support Community expenditure outside the United Kingdom, so that in relation to that year we have already made a net contribution beyond what we consider reasonable.

10. This line should help to keep our partners guessing, and keep the Government's options open. The issues of the 1980 EEC budget and the CAP price determination may well not be resolved at the March European Council and may need to be considered again at the June Council. It would not be unprecedented for the price fixing to go beyond June, and we can ourselves influence the timetable. But the draft EEC budget for 1981 is due to be presented in June 1980 and the lack of an agreed 1980 budget will become increasingly awkward for the Community. It would be against this background of developing crisis in the Community that we should be trying to secure resolution of our net contribution problem by a combination of withholding and a firm but reasoned line on CAP prices and the 1980 budget. The aim would be by this action to shock the Community into a new effort to reach agreement; but it must be recognised that the effect might be to cause them to refuse to make such a further effort under what they could claim to be the duress of withholding.

Legislation

11. If Ministers decided that it was desirable to eliminate all risk, however small, of a successful action against the Government in a United Kingdom 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. It is envisaged that the legislation would provide that no payment should be made out of the Paymaster General's EEC1 account without consent. Legislation could also provide that if the Community should take action to prevent payments being made out of its funds (including the EEC1 Account) to beneficiaries in the United Kingdom (see paragraphs 26 and 27) substituted payments might be made out of the Consolidated Fund, and there would be power for secondary legislation to make the detailed provision necessary in that event. The legislation would bar legal proceedings in United Kingdom Courts challenging the Government's action under either of these provisions. Both topics could be dealt with in one Bill, but it would be possible to leave substituted payment to be dealt with in a Bill to be introduced if the need arose.

12. Legislation on these lines would not affect the present practice by which "own resources" collected in the United Kingdom are noted in the EEC1 account. The effect would be that there could be no drawings on that account without

Treasury consent, which would not be withheld for drawings in favour of United Kingdom beneficiaries. Outgoings from the account would only be such as were authorised under Community Law and there should be no possibility of a claim that the United Kingdom was misusing Community Funds.

13. If, on the other hand, Ministers decided the risks of an action in the United Kingdom Courts could be accepted, either permanently or at least until any question arose of United Kingdom citizens suffering financially as an indirect consequence of withholding (see below) then the Government might say (in response to inevitable questions about its legislative intentions) that they saw no immediate need for legislation in this essentially temporary situation, but would keep the matter under review.

14. There is a risk that the introduction of domestic legislation whose effect would be to override section 2 of the European Communities Act (and the subsequent Parliamentary debate which might draw attention to this aspect) might alienate any sympathy we might otherwise have had from eg the Benelux countries within the Community. It might be alleged that we were preventing the direct application of Community law in the United Kingdom and thus creating a major constitutional issue. The introduction of domestic legislation might therefore provoke all other Member States (not only France) into withdrawing any offers to alleviate our budget contribution that were already on the table, or, at least, to refuse to improve on the offer until we had stopped withholding.

Article 175

15. It is a question whether we could assist our position overall by taking formal action (including an action before the European Court) against the Community institutions under Article 175 of the Treaty, on the grounds that they had failed in their duty under the Treaty by allowing the budgetary arrangements to develop in the way they have. The Law Officers are currently considering this possibility further.

Mechanics

16. The Government would stop transfers from the EEC1 Account with the Postmaster General to the Commission's Account at the Bank of England. If Ministers wished to accept responsibility rather than to instruct officials, Treasury Ministers and the Postmaster General could require all communications about transfers to the Bank of England Account or to any overseas account from the EEC Account to be referred to them. They would then simply ignore them.

17. The Commission send instructions to make transfers to their account at the Bank of England at irregular intervals, typically about once a month. Withholding could begin on receipt of the first such instruction after the announcement of the intention to withhold. If the announcement were made at the beginning of April, we would expect the first amount to be withheld before the end of that month.

18. Our payments into the EEC1 account would continue. The balance in the Account is treated as a departmental balance and goes to reduce the PSBR.

Reactions

19. It may be that the Commission would begin by trying to dissuade the United Kingdom from the withholding course, but it is wise to assume that they would decide it was their duty to take the United Kingdom to the European Court for withholding - though the French position on the Court ruling on sheepmeat might add a certain piquancy to any pressure from them on the Commission to take legal action against us.

20. The precise line the United Kingdom would take before the Court would be a matter for detailed consideration by legal experts. In general terms we would expect to defend ourselves by reference to the provisions in the Treaty which lay down fundamental obligations and explain why we consider that the current arrangements are in our view in conflict with them (the argument that they are in conflict would be the basis of any action initiated by the United Kingdom under Article 175). In addition, we might point to the Community's past undertakings to us and make clear that we had reluctantly been driven to withhold after a long history of failure by the Community to afford us equitable treatment.

Response to Adverse Court Judgment

21. It is assumed that, on the issue of withholding, the European Court would find against the United Kingdom, although it could take several months - and possibly a year or more - to reach a judgment. (Similarly, any Court action initiated by the United Kingdom under Article 175 could take up to a year or more). However, the Court could prescribe "interim measures" against the United Kingdom under Article 186, if it considered that the interests of the parties required such measures. The Commission might not be able, at least for several months, to demonstrate that they were under such financial pressure because of our withholding that interim measures were necessary. On the other hand the Court could come under strong political pressure to grant interim measures. In October 1979 the Attorney General took the view that

"there is a real risk of the Court making, almost immediately, an Order for interim measures which either would be very damaging (in that it allowed the Commission to withhold payments due to us) or would cut the legal ground from under our feet (in that it required us to make, on a provisional basis, the very payments which we were claiming to withhold)".

22. The Government's precise response to such an order would need to be considered in the light of its terms and the overall situation at the time. In essence it would be necessary to ignore the order. In practice the position need not become as stark as this for some while. Ministers could initially say the Court's ruling was under consideration; then might move to a position of saying that they intended to abide by the Court's ruling when the budget contribution issue itself was satisfactorily settled (this would be similar to the position adopted by the French on sheepmeat).

23. It is uncertain whether, if withholding began in April, the United Kingdom would already be in a position of defying a Court order prescribing interim measures by the time of the June Council. On balance this seems unlikely, but it cannot be ruled out.

Further Retaliation

24. Neither the Commission nor our partners are likely to take other retaliatory measures against the United Kingdom until the European Court has reached a decision. If negotiations are continuing, it seems in any case unlikely that other retaliatory measures would be taken against the United Kingdom before the June European Council (the less abrasive our presentation of withholding, the less likely such retaliation before the June Council would seem to be).

25. Whether and when such retaliation might come after the June Council may depend on the mood and outcome of that Council.

26. One form of retaliation the Commission might eventually take would be to stop payments to United Kingdom beneficiaries from the Community budget. Before taking such a step, they might try to obtain cover from the European Court. If they could not do this, we might threaten legal action against them if they cut off payments to United Kingdom beneficiaries. In any case, we could make clear that such action would escalate the dispute.

27. If, notwithstanding all this, the Commission proceeded to cut off payments to United Kingdom beneficiaries, the Government would almost certainly need to assume responsibility for these payments.

Further Legislation

28. As stated above (paragraph 11) it is envisaged that legislative cover to make good these payments might be included in legislation to eliminate any risk of an action being brought against the Government in a United Kingdom Court. If this were not done (see paragraph 13 above), it would be necessary to introduce legislation to cover "making good" as soon as the Commission cut off payments of receipts to the United Kingdom.

Postponement of Withholding Until After June Council

29. This paper has considered the implications of withholding starting after the March European Council. It would also be possible for Ministers, after the March Council, to announce that the Government would start to withhold.

after the June Council unless a satisfactory settlement were achieved there. This would not of course give rise to any reduction in our net contribution until after June. But it would not involve any breach of our Treaty obligations before the June Council (although it would be a clear announcement of intention to break them), and no question of a European Court action would arise before June. Such a course might achieve the necessary degree of "controlled crisis" to make our partners negotiate with us in a more satisfactory way. On the other hand, it might lead them to refuse to negotiate under what could be claimed as duress. Ministers would also wish to consider the domestic political implications of an apparent further delay in achieving our objective.

30. If Ministers wished to pursue such a course, it might be desirable to try to ensure that the CAP price fixing and the 1980 budget issue also came to a head at the June Council.

1. The main objective of the proposed course is to give us more leverage. It is less easy to make detailed contingency plans for this possibility. It is still too early to say whether such a course would be the best. But, in considering such individual areas of negotiation, the tables in Appendix 1 indicate the possibilities and which Member States would be most affected.

2. Appendix 2 tabulates Community decisions which are likely to come up for decision after 1 April and which we would block. The financial implications of doing so and when the point of decision will arise. It also indicates which Member States would be most affected by blocking and what reactions would be likely to arise in tight periods.

What would we block?

1. Financial Restrictions

1. The months following the June European Council will offer opportunities of decisions which we could obstruct if we were applying a policy of "controlled crisis".

1. The 1980 Community Budget
2. The 1980/81 Agricultural price proposals

CONTINGENCY PLANNING FOR OBSTRUCTION

Note by Officials

INTRODUCTION

1. This paper contains detailed contingency plans for two alternative courses of action, either of which the United Kingdom might take to obstruct Community business if what we are able to achieve at the next European Council is so inadequate as to demand a shift in our negotiating tactics:

1. A policy of financial obstruction involving the blocking of all measures of significant financial expenditure and in particular of the decisions on 1980-81 agricultural prices and the revised 1980 budget.
2. A policy of generalised obstruction.

A third possibility would be a policy of selective obstruction directed at individual Member States or individual issues judged at the time to give us some leverage. It is less easy to make detailed contingency plans for this possibility at this stage because we do not know which Member State(s) or which issues would be the target. But, in considering such individual acts of obstruction the tables in Appendix A indicates the possibilities and which Member States would be most affected.

2. Appendix A tabulates Community measures which are likely to come up for decision after 1 April and which we could block; the financial implications of doing so; and when the point of decision will arise. It also indicates which Member State would be most affected by blocking and what reaction/retaliatory action we might provoke.

What would we block?A. Financial Obstruction

3. The months following the March European Council will offer four main groups of decisions which we could obstruct if we were applying a policy of financial obstruction:

- i. The 1980 Community Budget;
- ii. The 1980/81 Agricultural price proposals;

- iii. The 1981 Community Budget;
- iv. A limited number of separate policies involving significant financial expenditure, the proposed sheepmeat regime and other agricultural proposals, the Super Sara nuclear research project (if it is not settled before the end of March), fisheries interim structural aid, energy projects.

4. The first important decision point could be the Budget Council to adopt the revised draft of the 1980 budget. The timing of this Council is however uncertain but it may not be possible to hold it before, say, June if it is decided that there is no prospect of reaching agreement on the 1980 budget until decisions have been taken on agricultural prices. Our ability to block the 1980 budget would depend on acceptance by others of our right not to invoke the Luxembourg Compromise (except in the unlikely eventuality of our being supported by another large Member State). The adoption of the component parts of the budget and the budget itself have traditionally been the object of majority voting. But application of the Luxembourg Compromise is not circumscribed in any formal way. There is some ambiguity as to whether it would be possible to block the establishment of the budget as a whole rather than some of its component parts. There has not in the past been a formal vote on establishment though the form of words in the Treaty appears to imply the possibility of such a vote. However given that we shall be holding up the decision on agricultural prices, the point will probably not arise.

(Appendix B contains a fuller note on the Luxembourg Compromise and its applicability to the situation under discussion). Either case would, if successful, lead to a continuation of the "provisional twelfths" regime whose effect would be increasingly felt as time went by.

5. Lengthy sessions of the Agricultural Council are planned for March, April, May and June. Assuming the decisions are not reached on 1980/81 agricultural prices and on the Commission's economy proposals in March, they will come for decision at the later sessions. For us to block those decisions it will not be necessary or desirable to say that we are deliberately obstructing but merely to maintain our opposition to aspects of the price proposals including the increases for products in surplus. But it would soon become apparent that we were not prepared to work for a compromise and the

link with the budget issue could not be denied. Our ability to block would depend then on the use of the Luxembourg Compromise. Although the Treaty provides for majority voting, the tradition on agricultural prices unlike the budget is one of decision by consensus. It would therefore be particularly far reaching for other Member States (and France in particular) to seek to bypass or override the use of the Luxembourg Compromise in this context. But the pressures for settling agricultural prices would build up by June and the Commission and other Member States could then seek ways of circumventing our continuing veto.

6. Also in May and June there will be a few expenditure programmes under discussion which might lend themselves to blocking, fisheries structural aid under discussion in Fisheries Councils, aid for hydrocarbon technology in the Energy Council, Energy conservation projects in the Energy Council (majority voting provided for) and the Joint Research Programme including Super Sara in the Research Council in May (unless this agreed in March). In deciding whether to block these particular measures we would need to take account of the impact on individual Member States including ourselves. For example, Italy's interest would be hurt by blocking action on Super Sara (and we have already given our approval, formal decisions being currently blocked by the French), and on some agricultural structures expenditure; if the role of the Italian Presidency had been reasonably constructive, and bearing in mind our need to retain their good will on the budget in those months, we might decide to allow some expenditure of benefit to them to go ahead. It would make no sense to block the scheme for hydrocarbon technology if, as has hitherto been the case, it contains a higher than average proportion of United Kingdom projects.

7. The 1981 budget would normally come for decision in July but, if (paragraph 4 above) the 1980 budget is delayed, this could well have the effect of putting back the programme of the 1981 budget until later in the year.

B Generalised Obstruction

8. All Decisions referred to in the previous section would be covered by a policy of general obstruction. Additional possibilities for action are the Report of the Three Wise Men which would be decided at the European Council in June. We could also block decisions, or indeed all progress, in a multiplicity

of slow moving areas of Community policy, harmonisation, external policy, energy, social policy, environment ect. In most cases decisions have to be taken by unanimity and so use of the Luxembourg Compromise would not be required. But a policy of generalised obstruction, which we would hardly avoid proclaiming as such since there would be no intrinsic justification for blocking many of the minor decisions, would run the risk of falling foul of Article 5 of the Treaty which requires the Member States "to facilitate the achievement of the Community's tasks" and to "abstain from any measure which could prejudice the attainment of the objectives of the Treaty". There is accordingly a risk that an announced policy of generalised obstruction would lay us open to legal action or to procedures to circumvent our blocking action. Moreover generalised action would not significantly increase our leverage on the other Member States, which would mainly derive from blocking financial decisions and in particular those on agricultural prices.

The likely reaction of the Commission and other Member States

A Financial Obstruction

9. If we blocked individual Budget items or the budget as a whole our partners might decline to recognise our use of the Luxembourg Compromise. If so (as well as damaging our ability to resort to the compromise on subsequent occasions) we should have no effective response except to extend obstruction to other areas of business or eventually to proceed to a policy of withholding. On the assumption that they did not challenge our use of the Compromise their reaction would be likely to be moderate until the June European Council. It would be unlikely to extend beyond a firming up of the links they have already sought to establish between the solution to the United Kingdom budget problem and energy, fish and sheepmeat.

10. Our partners' response to our blocking of the 1980/81 agricultural price proposals (paragraph 5 above) would be similar. They are less likely to decline to recognise our use of the Luxembourg Compromise than over the budget. But obstruction beyond the European Council in June, unless there was a further special pre-holiday European Council to solve the crisis, would bite increasingly seriously. There would be strong public pressure on Governments from farming interests to achieve a settlement providing for higher prices. Our partners would certainly block any progress over post-1980 access for

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New Zealand butter so long as we were blocking price decisions and we would not be able to get green pound changes if there were scope for them and we wanted a devaluation. On the other hand the 100 per cent consumer butter subsidy we currently enjoy is less vulnerable since its continuation is linked with the milk marketing year which ends on 1 April. There is specific provision for the milk marketing year to be extended in March if decisions on agricultural prices are not taken. It would be necessary to reach decisions on the extension of both the milk and beef marketing years at the end of March Agriculture Council. It would not be in our interest at that stage to oppose extension. Nor should we have justification for doing so. However, if we continued obstructing a settlement up to the end of June the other Member States might attempt to end the butter subsidy by not agreeing on a further extension. They might argue that the new milk marketing year should begin automatically with no butter subsidy provision. Alternatively, the Commission might be urged to act as if it had. In this case, there would be a good deal of legal argument and we might argue, for example, that there was no legal basis for the collection of the levy on New Zealand butter.

B Generalised Obstruction

12. Our partners reaction to a United Kingdom policy of generalised obstruction would probably be quicker and sharper. There would be less willingness to accept that our policy was limited to the same area as our problem and less willingness to await the June European Council. There might be quite early moves to find ways of getting round our obstruction, in which case we would have little effective retort short of withholding.

13. The preceding paragraphs have considered our partners' direct reaction to a policy of obstruction, either financial or generalised. As time went on they might also begin to react in unrelated areas. It is difficult to predict what areas would be chosen but they could include the following:

- (i) The Commission and other Member States could initiate further legal action against our national fishery conservation measures.
- (ii) They could initiate legal action against us on our North Sea oil arrangements.
- (iii) Bilateral relations could suffer particularly if it was clear that United Kingdom obstruction was directed specifically against one or other Member State.

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14. The only effective United Kingdom counter-measure in the Community field to whatever action our partners took against us would be to proceed to withholding.

15. We should also have to face the probability of some adverse Commission reactions. Our aim would be to try to enlist their acquiescence and to get them to focus their efforts on continuing to work for a solution. But eventually a major programme of obstruction would be likely to lead to a reaction by the Commission which could include the following -

- (i) The Commission could go slow on processing United Kingdom applications for assistance under EC schemes, notably the Social Fund and the RDF non-quota section.
- (ii) They could obstruct or simply take an inflexible line on decisions on United Kingdom requests for approval of state aids, regional development schemes etc.
- (iii) They could obstruct the effective implementation of measures of protection against low cost or disruptive imports from third countries.
- (iv) They could make life difficult for us in the agricultural management committees where our interests could be seriously damaged.

16. We would have no effective legal counter-action against such actions by the Commission.

United Kingdom Domestic action if legislation needed

17. We have not been able to identify any domestic action or legislation which would be required to give effect to a policy of obstruction. This is on the assumption that none of the forms of obstruction discussed would be illegal (except possibly an announced policy of generalised obstruction - see paragraph 8 above).

What should be said before, at , or just after, the next European Council about obstruction?

18. The Prime Minister has already referred in Parliament to the possibility of obstruction (and withholding). Our partners will therefore know that such action is a possibility. It would be best not to make the threat more specific

before the European Council. It will be sufficient to indicate generally that a further failure to settle our problem would lead to serious consequences.

19. If a policy of generalised obstruction is chosen the Prime Minister could make it clear either at the Council or just after, that until we got satisfaction on the budget, the United Kingdom would find it difficult to agree to the taking of any major decisions in the Community, although we would continue to participate actively in all Community work. But, as is noted in paragraph 8 above such a statement could jeopardise the success of the policy itself by making obstruction legally vulnerable.

20. If a policy of financial obstruction is chosen, the Prime Minister could make it clear at the Council, or immediately after, that in view of the failure to reach agreement it would not be reasonable to expect Britain to agree to Community decisions with significant financial implications. At the same time she could state that nonetheless we wanted to maintain our co-operative approach to the Community as far as possible; we would not therefore, obstruct non-financial Community business. But there are compelling arguments against proclaiming a policy of obstruction as such and instead simply linking our agreement to the crucial financial decisions, like those on the 1980/1981 agricultural prices and the 1980 budget where it reflects agricultural prices to the solution of our budget problem.

21. If selective obstruction directed at individual Member States was decided, it would be best not to state in terms that such was our intention.

CONCLUSIONS

22. We conclude that there are two main contingency plans to be considered as a means of obstructing Community business,

- financial obstruction or
- generalised obstruction: selective obstruction to hurt individual Member States is a minor variant unlikely to prove attractive or effective.

23. Of the two, generalised obstruction adds little to the leverage we would gain, which comes mainly from the measures covered by financial obstruction, but would be presentationally more offensive to our partners.

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24. The key financial decisions are those on the 1980 budget and on 1980/81 agricultural prices. We should need to block both and should be able to do so. Blocking agricultural prices will provide leverage before the June Council and thereafter would become increasingly intolerable.

25. The reaction of our partners/Commission to financial obstruction would build up as time went on. It would probably not reach fever pitch by the time of the June European Council. Thereafter it would get much stronger and attempts to circumvent our obstruction or to refuse to accept use of the Luxembourg Compromise might be made.

26. Some indication of our intentions could be given at or shortly after the next European Council. But care would be needed about how it was expressed; and there are strong arguments against proclaiming a policy of obstruction as such.

27. No domestic action or legislation would be needed on our part.

28. The pursuit of a policy of obstruction in no way inhibits a later decision to move to a policy of withholding.

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(COMMUNITY MEASURES LIKELY TO COME FOR DECISION APRIL - DECEMBER 1980)

MEASURE	COMMUNITY BUDGET PROVISION	UK NET CONTRIBUTION/ RECEIPTS (ESTIMATE)	CRUNCH POINT	EFFECT ON MEMBER STATES	RETALIATION
(A) 1980 Budget Blocking establishment of 1980 budget	total 1980 budget 16,000 MUA approx	UK receipts about 10% of total budget; payments about 21%	At very earliest (subject to agricultural price fixing) Mid April Budget Council but more likely not before June or July	Comparison is between present 12ths system and situation under new budget. Best guess is that major recipients in lump and per caput terms will probably be first/worst hit ie France, Germany, Denmark, Ireland, Netherlands (effects beginning to be felt by August). A likely disadvantage for UK will be resultant building up of agricultural intervention stocks which would necessitate extra expenditure on export restitutions in 1981 leaving less room for UK solution under 1% ceiling	The Council might refuse to recognise UK use of Luxembourg Compromise to block whole budget. The Commission could slow up payments in UK (scope under eg RDF/Social Fund)

APPENDIX A

(COMMUNITY MEASURES LIKELY TO COME FOR DECISION APRIL - DECEMBER 1980)

MEASURE	COMMUNITY BUDGET PROVISION	UK NET CONTRIBUTION/ RECEIPTS (ESTIMATE)	CRUNCH POINT	EFFECT ON MEMBER STATES	RETALIATION
<u>1981 Budget</u> As in case of 1980 Budget block establishment	(total approx 16,850 mEUA)		24 July Budget Council would be normal date but depends on progress on 1980 Budget	As for 1980. But additional complication of whether 12ths system could operate if no budget had been adopted for more than one year. This could arise on 1 January 1981	As in case of 1980 Budget
<u>AGRICULTURAL PRICES</u> 1980/81 Price proposals: block the prices economy package	Cost of proposed price increases 330 mEUA in full year allowing for production effects. Other Member States likely to want bigger increases	UK gross contribution 60 mEUA	Agriculture Council in April, May or June	Most countries suffer. If UK blockage maintained beyond June we could lose 100% EC financing of butter subsidy. If terminated, would increase net contribution by £90m	Refusal in Council to recognise Member State's right to use Luxembourg Compromise. Block on post 1980 access for New Zealand butter.

(COMMUNITY MEASURES LIKELY TO COME FOR DECISION APRIL - DECEMBER 1980)

MEASURE	COMMUNITY BUDGET PROVISION	UK NET CONTRIBUTION/ RECEIPTS (ESTIMATE)	CRUNCH POINT	EFFECT ON MEMBER STATES	RETALIATION
<u>OTHER CAP MEASURES</u>					
Structure proposals	500 mEUA over five years	80 mEUA	Not yet clear - possibly May, June	Italy, Ireland main sufferers. UK could lose 12 mEUA from programme for Scotland (but not yet agreement Government policy)	Several countries have reservations about proposals, but cannot be excluded
Sheepmeat	120-160 mEUA (very provisional)	Aim to be net beneficiary	Possibly May or June Agricultural Councils, but uncertain	France main sufferer if she abandons import controls. Otherwise UK is main sufferer	Other Member States quite content
Garantie de Bonne Fin	50-300 mEUA per annum for 3 years from 1981	UK net contribution 27-60 mEUA per annum for 3 years	Likely to be part of the agricultural price package	France and Italy main sufferers	Link progress with other measures

(COMMUNITY MEASURES LIKELY TO COME FOR DECISION APRIL - DECEMBER 1980)

MEASURE	COMMUNITY BUDGET PROVISION	UK NET CONTRIBUTION/ RECEIPTS (ESTIMATE)	CRUNCH POINT	EFFECT ON MEMBER STATES	RETALIATION
<u>STAFF PAY</u>					
Mid year interim pay settlement	£7.5m (for 1980) (1979 budget figure)	£1.6m (UK contribution)	July	General annoyance. Strike could hold up all Community business. Would lose UK goodwill in Commission and thereby complicate settlement of UK budget problem.) 1. Recruitment and promotion of UK nationals in Community institutions could be affected.) 2. Go-slow on translation/ production in English and interpretation.
End of year pay settlement	hard to predict	-	December		
<u>FISH</u>					
Revised Common Fisheries Policy including:				Blocking action on CFP could damage UK interests because it would hold up the stated Government objective of achieving a satisfactory revised CFP. Other Member States also adversely affected if over-fishing results from disagreement on CFP.	Commission and other Member States would not make concession to UK on modified CFP regime as a whole while we were being obstructive.
Technical Conservation regime	-	-) First Fish Council after decision to obstruct (probably April)		
1980 Quota locations	-	-			
External locations - miscellaneous	-	-			

/continued

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(COMMUNITY MEASURES LIKELY TO COME UP FOR DECISION APRIL - DECEMBER 1980)

MEASURE	COMMUNITY BUDGET PROVISION	UK NET CONTRIBUTION/ RECEIPTS (ESTIMATE)	CRUNCH POINT	EFFECT ON MEMBER STATES	RETALIATION
<u>FISH</u> (Cont'd)					
Interim structural aid	In last year's budget 15 mEUA probably slightly more in 1980 budget	Small UK net receipt in 1979 small UK net contribution in 1978. We would be likely in rough balance in 1980	First Fish Council after decision to obstruct	Italy and Ireland sufferers. All others net contributors.	Sufferers likely to be unhelpful to UK on CFP negotiations
<u>TRANSPORT</u>					
Summer time	-	-	Transport Council, 6 May	Commission and UK main sufferers. Cost to UK airlines if we do not harmonise	
Driving Licence	-	-	May Transport Council when agreement may be reached on a compromise which would overcome our present reservations		-
Regulation on transport infrastructure	50 mEUA annually	Probably a small net beneficiary	Unlikely to reach a Council until December	Perhaps UK, Italians and Germans main sufferers. (details not known)	-
Services Memorandum	-	-	On going in WP; not before December Council	All suffer, but UK in particular	-

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(COMMUNITY MEASURES LIKELY TO COME FOR DECISION APRIL - DECEMBER 1980)

MEASURE	COMMUNITY BUDGET PROVISION	UK NET CONTRIBUTION/ RECEIPTS (ESTIMATE)	CRUNCH POINT	EFFECT ON MEMBER STATES	RETALIATION
(H) <u>ENERGY</u> Council Resolution in 1990 Energy Objectives	N/A (Resolution aims to co-ordinate Member States' views on what they should be aiming at for 1990 rather than to introduce new practical measures)	N/A	April or June Council, possibly when Commission may table redraft of their proposals	No serious injury to other Member States. Image of Community as a whole could suffer.	No direct harm, but could adversely off set climate for Summit, and cause possible embarrassment vis-à-vis IEA and OPEC
Council Resolution on New lines of action in Energy Saving	N/A (Resolution aims to introduct advisory guidelines on energy saving. No budgetary implications)	N/A	April/May Council when Resolution could be adopted as an 'A' point	Irritation. No real damage	Unlikely: no direct retaliation possible but could sour atmosphere
Community Coal Policy	Shape of final Coal Policy still uncertain. Total budgetary allocation might be up to 410 mEUA	In the best case 145 mEUA UK net receipts But an outcome as favourable as this will be difficult to negotiate	No 'crunchpoint' can yet be identified. We could block further progress at any stage. The one element of a coal policy already in place - coking coal sales aid - will run without need for renewal until the end of 1981.	Since Commission and Presidency are said to be rethinking the approach to coal, damage to others could be some way off. Main interests are Italians in power station aid, and Germans along with us in coal production support	Others would block progress on our ideas for coal production investment support

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(COMMUNITY MEASURES LIKELY TO COME UP FOR DECISION APRIL - DECEMBER 1980)

MEASURE	COMMUNITY BUDGET PROVISION	UK NET CONTRIBUTION/ RECEIPTS (ESTIMATE)	CRUNCH POINT	EFFECT ON MEMBER STATES	RETALIATION
Approvals under Energy Conservation Demonstration Projects Scheme	55 mEUA 1979-83	UK until now has come out about evens on disbursement for these funds	As projects appear Council decides by qualified majority or Commission proposal stands	No one Member State stands out	Could block UK projects
Approvals under alternative Energy Demonstration Projects	95 mEUA 1979-84	"	"	as above	as above
Proposal to increase alternative Energy Demonstration Projects	Additional 50 mEUA 1979-84	Likely to be small	Possibly Energy Council June 1980 or later UK will seek delay as net budgetary benefit unlikely	Minor annoyance to Germans and Belgians	Could prejudice chances of UK projects under existing coal demonstration scheme
Oil Product Import Register	N/A	N/A	Likely to be adopted at a March Council for 1 April implementation	No direct sufferers, but France, Denmark and Italy in particular attach importance to the Register	No specific direct retaliation. Blocking could embarrass UK and EC with IEA partners

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(COMMUNITY MEASURES LIKELY TO COME UP FOR DECISION APRIL - DECEMBER 1980)

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MEASURE	COMMUNITY BUDGET PROVISION	UK NET CONTRIBUTION/ RECEIPTS (ESTIMATE)	CRUNCH POINT	EFFECT ON MEMBER STATES	RETALIATION
Aid for Hydro-Carbon exploration	13 mEUA total proposed, probably over some years	UK no receipts so proportional net contribution	No identifiable crunch point. Still no agreement on the desirability of a scheme. It is being blocked by the Germans and ourselves	Italy, Belgium, Netherlands and Ireland have put forward projects for support. All are annoyed by our and the Germans' obstruction. No possibility of being more negative than at present	Continued obstruction could sour atmosphere if proposal was pushed to the fore again - no sign at present
Community projects in the Hydro-Carbon sector	Approx 20 mEUA per year	Precise figures not available. But UK gets more back from the scheme than she pays. In the most recent allocation of funds the UK received 23.4%	Next allocation of funds will come up for decision by the Council in April or May	France attached important to the scheme and indeed wishes it to be expanded. Annoyance and small loss to Dutch and Italians	Direct retaliatory measures difficult to identify. Our blocking the scheme would in any case harm us.

(COMMUNITY MEASURES LIKELY TO COME UP FOR DECISION APRIL - DECEMBER 1980)

MEASURE	COMMUNITY BUDGET PROVISION	UK NET CONTRIBUTION / RECEIPTS (ESTIMATE)	CRUNCH POINT	EFFECT ON MEMBER STATES	RETALIATION
1. Joint Research Centre Programme, including Super Sara project - go back on our agreement to funding	525 mEUA at maximum with 80 mEUA for Super Sara over 5 year programme	Nil; money for Super Sara loop contract at Culham has mainly been paid. Culham could not object to cancellation of contract	Probably settled before end of March	Italy, Germany, Belgium and Netherlands main sufferers	The Italians would block the fusion programme (see 2 below) and cancel Super Sara loop contract with UKAEA Culham. This would hurt us and outweigh any benefit from UK action against the JRC programme
			Research Council in May or the Autumn where we could refuse to agree to second phase of Super Sara	Italy main sufferer	None against UK but Community would have to pay 10 mEUA for work completed, with 5 mEUA at least to Italy

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(COMMUNITY MEASURES LIKELY TO COME UP FOR DECISION APRIL - DECEMBER 1980)

MEASURE	COMMUNITY BUDGET PROVISION	UK NET CONTRIBUTION/ RECEIPTS (ESTIMATE)	CRUNCH POINT	EFFECT ON MEMBER STATES	RETALIATION
<p>2.</p> <p>Fusion programme including joint European Torus (JET) at Culham - go back on our agreement to funding</p>	<p>200 mEUA with 145 mEUA for JET over 5 years</p>	<p><u>Non-JET</u> Nil <u>JET</u> 55 mEUA</p>	<p>COREPER or AQG** in February or March when French and Italians are expected to agree to fusion programme</p>	<p>Germany (which receives half of non JET fusion funds) UK (JET and 6.5 mEUA for UKAEA Culham) are main sufferers</p>	<p>Any UK action in this field would be against important interests of our own, and retaliation by our partners would consequently be unnecessary</p>
<p>3.</p> <p>Community Research and Development cause delays and be obstructive in CREST, Ad Hoc Research Group, Atomic Questions Group, COREPER and Research Councils</p>	<p>130 mEUA</p>	<p>Not known; will depend on the awarding of contracts</p>	<p>At any EC meeting where R&D is discussed - delay and obstruct any programme that does not benefit the UK</p> <p>** May be agreed in February</p>	<p>All suffer (but Germany probably the most)</p>	<p>Remainder of EC could block programmes that will benefit UK</p>

(COMMUNITY MEASURES LIKELY TO COME UP FOR DECISION APRIL - DECEMBER 1980)

MEASURE	COMMUNITY BUDGET PROVISION	UK NET CONTRIBUTION / RECEIPTS (ESTIMATE)	CRUNCH POINT	EFFECT ON MEMBER STATE	RETALIATION
Block revision of Chapter VI of the Euratom Treaty	-	-	Uncertain. Commission may not put proposals for revision of arrangements for uranium supplies to the Council for some months; or may propose confirmation of Chapter VI	Blocking revision would be against UK interests. UK and France are principal advocates of revision designed to clarify legal framework for uranium supplies. Most other states would accept confirmation of Chapter VI subject to interpretation by regulation	Likely that French would press for revision; other states would press for confirmation. Stalemate would not be in UK interests
Block negotiation of nuclear operation agreements with US, Canada and Australia	-	-	Existing mandate for negotiation of the Australian mandate will need revision before May. Substantive discussion of renegotiations with Canada US will be held during Italian Presidency and perhaps soon.	UK, France - also FRG and Italy are main sufferers	Other Member States might question legal validity of new Uranium supply contracts by getting Supply Agreement to withhold counter signature. Even a successful Court action by UK might still not get uranium released. Blocking mandate would not be in UK's wider interest

APPENDIX A(COMMUNITY MEASURES LIKELY TO COME UP FOR DECISION APRIL - DECEMBER 1980)

MEASURE	COMMUNITY BUDGET PROVISION	UK NET CONTRIBUTION/ RECEIPTS (ESTIMATE)	CRUNCH POINT	EFFECT ON MEMBER STATES	RETALIATION
<u>(I) REGIONAL AND INDUSTRIAL POLICY</u>					
Revision of ERDF regulation	to be determined annually probably - 1015 mEUA	10% of total fund	Due for agreement before end 1980. Otherwise continues in present form	Greece would suffer, existing shares for others would be safe - guarded	Could lower total appropriation for ERDF this would harm particularly Italy, Ireland and Greece
Non, Quota Section: ERDF	Currently 220 mEUA annually	Approx 22 mEUA	First Council after decision on obstruction (not decided in March)	UK, Italians, French and Irish suffer most	None
Shipbuilding: scrap and Build	Nationally funded	-	Uncertain revised Commission proposals awaited	General relief - Germans, Danes and UK delighted	-
Revision of shipbuilding Directive Aid to shipbuilding	Nationally funded	-	Draft Directive awaited unlikely to reach Council before mid-1980. Present Directive expires 31.12.1980	UK needs it as do Italians, French and Dutch	-

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(COMMUNITY MEASURES LIKELY TO COME UP FOR DECISION APRIL - DECEMBER 1980)

MEASURE	COMMUNITY BUDGET PROVISION	UK NET CONTRIBUTION/ RECEIPTS (ESTIMATE)	CRUNCH POINT	EFFECT ON MEMBER STATES	RETALIATION
Industries in Crisis Regulation	Unknown but about 25 nEUA annually	Small net benefit	Unknown but late 1980 probably	Probably UK, Irish; Germans would be delighted.	-
Third Country Access: Article 100. Directives	-	-	Before 30 June	Outside Community but all partners except French irritated. Some damage to UK vehicle exports.	-
Construction Products Framework Directive	-	-	Discussion continues in WGs, not likely to reach Council before late 1980	Marginal to all Member States	-

(COMMUNITY MEASURES LIKELY TO COME UP FOR DECISION APRIL - DECEMBER 1980)

MEASURE	COMMUNITY BUDGET PROVISION	UK NET CONTRIBUTION/ RECEIPTS (ESTIMATE)	CRUNCH POINT	EFFECT ON MEMBER STATES	RETALIATION
<u>(J) SOCIAL AFFAIRS</u>					
Social Fund	total fund is c 900.mEUA in 1980	UK share likely to be 20% or slightly lower (c 180 mEUA)	Spring Finance Council	Italy and Ireland are other beneficiaries from the Fund	Because there are no national quotas Commission could retaliate to reduce or delay our take from the Social Fund
Draft Directive on illegal immigration	-	-	Spring	Commission, Italians main sufferers)))) specific retaliation unlikely
Proposed joint employment/finance Ministers meeting	-	-	May/June	Commission; Italy Belgium, suffer. Germany would welcome delay))))
Family benefits	-	-	Spring	Germans suffer	Germans could retaliate. Other Member States might block UK inspired proposal to extend social security regulations to self- and non-employed
Labour market or other employment policy proposals	-	-	Spring	Italians and Commission suffer	

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(COMMUNITY MEASURES LIKELY TO COME UP FOR DECISION APRIL - DECEMBER 1980)

MEASURES	COMMUNITY BUDGET PROVISIONS	UK NET CONTRIBUTION/ RECEIPTS (ESTIMATE)	CRUNCH POINT	EFFECT ON MEMBER STATES	RETALIATION
<u>(J) SOCIAL AFFAIRS (con'd)</u>					
Possible work-sharing proposals	-	-	Spring	Commission, Italy Belgium, suffer. Germans and UK would welcome delay	Commission could retaliate through management of Social Fund
<u>(K) ENVIRONMENT</u>					
Whale products	-	-	? April	UK would suffer (initiator))
Water pollution	-	-	next Environment Council(? June)	Other Member States would suffer)
Lead in air	-	-	Summer/Autumn	Germany would suffer) specific
Major industrial hazards	-	-	late 1980	Italy would suffer) retaliation
Washington Convention on Endangered species	-	-	late 1980	?) unlikely
Environment impact analysis	-	-	late 1980	other Member States would suffer. UK welcome delay)

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(COMMUNITY MEASURES LIKELY TO COME UP FOR DECISION APRIL - DECEMBER 1980)

MEASURE (L) FREEDOM TO PROVIDE SERVICES	COMMUNITY BUDGET PROVISION	UK NET CONTRIBUTION/ RECEIPTS (ESTIMATE)	CRUNCH POINT	EFFECT ON MEMBER STATES	RETALIATION
Hairdressers	-	-	Late 1980?	Italians main sufferers. Minimal.))) Specific retaliation unlikely
Architects	-	-	? Spring	Commission main sufferers: general annoyance.))))
(M) COMPANY LAW Group accounts	-	-	During 1980	UK supports but could live with delay))))) None likely
Scissions	-	-	?	French would object. UK are already obstructing.)))))
European Company Statute	-	-	?	Commission would object.))
(N) INSTITUTIONAL QUESTIONS COURT OF JUSTICE Appointment of additional Advocate General	£200,000	£42,000	Anytime	Court main sufferers. Beneficial (at present French & UK are blocking in any case)	None

(COMMUNITY MEASURES LIKELY TO COME UP FOR DECISION APRIL - DECEMBER 1980)

MEASURE	COMMUNITY BUDGET PROVISION	UK NET CONTRIBUTION/ RECEIPTS (ESTIMATE)	CRUNCH POINT	EFFECT ON MEMBER STATES	RETALIATION
<u>NEW COMMISS- ION</u> President	-	-	June European Council	Probably Denmark or Netherlands or Luxembourg main sufferers.	None
Commission- ers	-	-	End of year	General annoyance	None
<u>THREE WISE MEN</u>	-	-	June European Council	Little effect	None

COMMUNITY EXTERNAL BUSINESS

1. In most cases blocking by the UK would not so much upset other Member States as the third country in question and our bilateral interests in such countries could begin to suffer quickly and extensively.
2. Business on the External side which we could obstruct includes:
 - (a) Enlargement negotiations with Spain and Portugal;
 - (b) Final stages of negotiations with Romania;
 - (c) Discussions with Turkey about reviving the EEC(Turkey Agreement.
3. It should be possible in theory to put all this business more or less on ice when we chose to do so. We could refuse, for example, to agree to further papers about the Community position being put to the Portugese and the Spaniards, though it would be difficult for us to block discussion between them and the Commission of documents already tabled.
4. Issues on the External side where financial contributions by the UK are involved are as follows:
 - (a) Pre-accession aid to Portugal;
 - (b) The Mediterranean financial protocols (post October 1981);
 - (c) Any additional aid element in relaunching the EEC/Turkey Association Agreement;
 - (d) Community aid generally (eg food aid and emergency aid) though this is really a part of the wider question of the 1980 Budget.
5. The amounts of money which might be involved in all these cases is relatively small. Thus the Commission proposal for pre-accession aid to Portugal is for a 47 MUA (over 3 years) scheme for aid to small and medium sized industry. The total aid under the present family of Mediterranean protocols is 707 MUA (over 3 years). Aid to Turkey of 295 MUA (over 2 1/2 years) has already been agreed in principle, but there could be pressure to increase this amount. The Community's total commitment in 1979 on food aid, aid to non-associates and emergency aid was 246 MUA, 100 MUA and 39 MUA respectively.

THE LUXEMBOURG COMPROMISE

ORIGINS

1. The Council of Ministers of the Six met in Luxembourg on 29 January 1966 to try to resolve a deadlock that had paralysed Community business since the previous June. The French Government had found grave difficulty with Commission proposals on the financing of the CAP, and in subsequent statements had called the whole voting procedure of the Council and its relations with the Commission into question. At Luxembourg, Ministers managed to agree on the texts of statements setting out ground rules for relations with the Commission, outlining an action programme for immediate Community business, and providing that the Council would try to reach consensus without a vote on matters where one or more States had "very important interests" at stake. It was this last document which became known as the "Luxembourg Compromise". The text is attached.

NON LEGAL STATUS OF THE COMPROMISE

2. Thus the "Compromise" is not a binding legal document in the sense of a Treaty or Community legislation. It is a practical and political understanding which, without expressly modifying the existing Treaty provisions on voting, allows them to be suspended in the interests of reaching a unanimous decision when politically necessary. It does not necessarily stop discussion; indeed the implication is that discussion should continue.

USE OF THE COMPROMISE: CURRENT PRACTICE

3. The Treaty of course, already provides for unanimity on many points which there is therefore no difficulty in blocking. On others, such as the Budget and the CAP, it prescribes a qualified majority. In still others it leaves decisions to be taken by simple majority. Although qualified majority voting is regularly used in some special areas, mostly the Community Budget, the normal practice of the Council has been to continue discussion until a consensus acceptable to all has emerged, thus avoiding the necessity for voting altogether. This being so, formal recourse to the "Luxembourg Compromise" is rare. United Kingdom policy has been to support this way of proceeding and to resist any major increase in the use of voting, while stressing the importance of the "Compromise" in protecting us from being voted down in the last analysis on a matter of vital national interest.

UNITED KINGDOM USE OF THE COMPROMISE TO BLOCK COMMUNITY BUSINESS

4. We consider use of the compromise in two scenarios:
 - i. generalised obstruction;
 - ii. financial obstruction:
 - a. obstruction of the Community budget;
 - b. obstruction of agricultural price fixing.

5. The Luxembourg Compromise was not intended to be used as an instrument of pressure where the "vital interests" did not relate to the precise issue under consideration. But it seems likely that where we can show persuasively that very important United Kingdom interests were indeed at stake on the point at issue, we should be able successfully to invoke the Compromise. Agricultural prices would be such a case. Resort to the Compromise over the 1980 or 1981 budgets would be less certain because voting by qualified majority is well established in this field. Our best chance would lie in invoking it once, to block the budget as a whole. It would be difficult to show that very important interests were at stake if we used it on a whole series of budgetary decisions.

6. If, on the other hand, we were to seek to use the Compromise in a policy of generalised obstruction which would involve blocking Community decisions on questions where our interests were not always self-evidently very important, we would be likely to find that other Member States and the Commission would aim to look for a way round the obstacle.

7. The French attitude would be vital. They would not lightly prejudice their own ability to invoke the principle by contesting our right to use it. But if our national interest was not self-evident, they might support other Members in pressing for a vote to be taken over our objections. Before taking such action, they would want to be able to demonstrate that we were using the Compromise in a case for which it was not appropriate as "very important interests" were not at stake. This is because they would need to be able to argue later, if they themselves wished to invoke the Compromise, that their right to do so was unaffected by the Community's refusal to recognise ours, as the cases were

different. In view of the genesis of the Compromise and its status for the French as a major achievement of de Gaulle's foreign policy, we regard it as highly improbable that the French Government would in the end permit any development which would effectively weaken it.

SECRET

LUXEMBOURG COMPROMISE

The text of the Communiqué issued at Luxembourg on 29 January 1966 is as follows -

I. Where, in the case of decisions which may be taken by majority vote on a proposal of the Commission, very important interests of one or more partners are at stake, the Members of the Council will endeavour, within a reasonable time, to reach solutions which can be adopted by all the Members of the Council while respecting their mutual interests and those of the Community, in accordance with Article 2 of the Treaty.

II. With regard to the foregoing paragraph, the French delegation considers that where very important interests are at stake the discussion must be continued until unanimous agreement is reached.

III. The six delegations note that there is a divergence of views on what should be done in the event of failure to reach complete agreement.

IV. The six delegations nevertheless consider that this divergence does not prevent the Community's work being resumed in accordance with the normal procedure."

SECRET