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CC(81) 40th
Conclusions

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CABINET

CONCLUSIONS of a Meeting of the Cabinet
held at 10 Downing Street on
THURSDAY 10 DECEMBER 1981
at 9.30 am

PRESENT

The Rt Hon Margaret Thatcher MP
Prime Minister

The Rt Hon William Whitelaw MP
Secretary of State for the Home Department

The Rt Hon Lord Hailsham
Lord Chancellor

The Rt Hon Sir Geoffrey Howe QC MP
Chancellor of the Exchequer

The Rt Hon Sir Keith Joseph MP
Secretary of State for Education and
Science

The Rt Hon Francis Pym MP
Lord President of the Council

The Rt Hon James Prior MP
Secretary of State for Northern Ireland

The Rt Hon John Nott MP
Secretary of State for Defence

The Rt Hon Peter Walker MP
Minister of Agriculture, Fisheries and
Food

The Rt Hon Michael Heseltine MP
Secretary of State for the Environment

The Rt Hon George Younger MP
Secretary of State for Scotland

The Rt Hon Nicholas Edwards MP
Secretary of State for Wales

The Rt Hon Humphrey Atkins MP
Lord Privy Seal

The Rt Hon Patrick Jenkin MP
Secretary of State for Industry

The Rt Hon John Biffen MP
Secretary of State for Trade

The Rt Hon David Howell MP
Secretary of State for Transport

The Rt Hon Norman Fowler MP
Secretary of State for Social Services

The Rt Hon Leon Brittan QC MP
Chief Secretary, Treasury

The Rt Hon Baroness Young
Chancellor of the Duchy of Lancaster

SECRET

The Rt Hon Nigel Lawson MP
Secretary of State for Energy

The Rt Hon Norman Tebbit MP
Secretary of State for Employment

The Rt Hon Cecil Parkinson MP
Paymaster General

THE FOLLOWING WERE ALSO PRESENT

The Rt Hon Sir Michael Havers QC MP
Attorney General (Items 4 and 5)

The Rt Hon Lord Mackay of Clashfern QC
Lord Advocate (Items 4 and 5)

The Rt Hon Michael Jopling MP
Parliamentary Secretary, Treasury

SECRETARIAT

Sir Robert Armstrong
Mr M D M Franklin (Items 2 and 3)
Mr R L Wade-Gery (Items 2 and 3)
Mr P L Gregson (Items 4 and 5)
Mr D J L Moore (Items 4 and 5)
Mr D H J Hilary (Item 1)
Mr L J Harris (Item 1)

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PARLIAMENTARY
AFFAIRS

1. The Cabinet were informed of the business to be taken in the House of Commons during the following week.

Canadian
Constitution

Previous
Reference:
C(81) 39th
Conclusions,
Minute 1

THE LORD PRESIDENT OF THE COUNCIL said that the request of the Canadian Parliament for the passage of United Kingdom legislation to patriate the Canadian Constitution had now been brought to London, and had been submitted to The Queen. The present intention was for the Canada Bill to be introduced in the House of Commons in the week beginning 21 December, and for Second Reading to take place in the week beginning 18 January. He was confident that in its present form the Bill could be carried, but he thought it essential that there should be adequate time for discussion in both Houses, and that no deadline should be set for Royal Assent. He had seen the Canadian Minister of Justice (Mr Chretien) the previous day. He had impressed on him the importance of not appearing to put pressure on either House to pass the Bill by, for example, the date of the Royal Visit to Canada which had been tentatively proposed for mid-February, and had said that it would be unwise to plan on the assumption that Royal Assent could be obtained before March or April. Mr Chretien had appeared to accept this. He would be in a better position to assess the likely timetable for the passage of the Bill after Second Reading in the Commons.

THE PRIME MINISTER, surmising up a brief discussion, said that the Cabinet agreed that no timetable should be set for the passage of the Canada Bill. They noted that the Canadians hoped that The Queen would be able to bring the Constitution Act into force in Canada by a personal Proclamation during a Royal Visit.

The Cabinet -

1. Took note.

Local Government
Finance Bill

Previous
Reference:
C(81) 36th
Conclusions,
Minute 1

THE SECRETARY OF STATE FOR THE ENVIRONMENT said that as agreed by the Ministerial Committee on Economic Strategy he and the Chief Whip had consulted the Government's supporters in the House of Commons about the possibility of substituting a prohibition on the levying of supplementary rates for the referendum procedure proposed in the current Local Government Finance Bill. Although some Conservative Members had reservations about the new proposal, and might well abstain if legislation on these lines were introduced, it now seemed that a revised Bill could be carried without serious difficulty. Subject to the views of the business managers, and to anything which emerged from the meeting of the relevant Conservative Backbench Committee that evening, he recommended that the present Local Government Finance Bill should be withdrawn, and a No 2 Bill

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introduced the following week, with Second Reading being taken immediately after the Christmas adjournment. The introduction of the revised Bill might be timed so as to coincide with the publication of the Green Paper on the rating system.

THE SECRETARY OF STATE FOR TRANSPORT said that it now seemed possible that the judgment of the House of Lords in the London Transport fares case would not be delivered before Christmas. This would make it impossible for any necessary legislation to restrain the payment of subsidies by local authorities to passenger transport undertakings to be included in the Local Government Finance (No 2) Bill, even if that had been thought desirable. If the judgment became available before the end of the Christmas adjournment, it might just be possible for any necessary legislation to be passed in time for it to take effect in the financial year 1982-83, but he considered it extremely important that the Government should not become involved in any discussions about possible legislation until the judgment had been delivered.

THE PRIME MINISTER, summing up the discussion, said that the Cabinet agreed that the Lord President of the Council, at his meeting with the Lobby that afternoon, should take the line that the process of consultation on the question of what interim measures should be taken on local government finance was expected to be concluded early in the following week, and the Government would then decide what action to take. A final decision on the handling of the proposed Local Government Finance (No 2) Bill would be reached either in correspondence or at a meeting of the Ministers directly concerned. The Secretary of State for the Environment should in the meantime seek as a matter of urgency to resolve with the Chief Secretary, Treasury, the outstanding points on the provisions of the draft Bill dealing with temporary borrowing powers.

The Cabinet -

2. Took note that a final decision on whether the proposed Local Government Finance (No 2) Bill should be substituted for the existing Local Government Finance Bill would be taken in correspondence or at a meeting between the Secretary of State for the Environment and other Ministers concerned.

3. Invited the Secretary of State for the Environment to seek to resolve urgently with the Chief Secretary, Treasury, the outstanding points of the proposed provisions on temporary borrowing powers.

4. Agreed to resume their discussion of subsidies to passenger transport undertakings at a future meeting.

FOREIGN
AFFAIRS

North Atlantic
Treaty
Organisation

Previous
reference:
C(81) 39th
conclusions,
minute 2

2. THE LORD PRIVY SEAL said that the Foreign and Commonwealth Secretary was that day attending the Ministerial meeting of the North Atlantic Council. It was hoped that this meeting would include formal signature of the protocol on Spanish accession to the North Atlantic Treaty Organisation (NATO), although there was some danger of this being obstructed by the Greeks, who had been pressing unsuccessfully for what amounted to an undertaking that NATO would defend Greece against a fellow member, Turkey.

THE SECRETARY OF STATE FOR DEFENCE said that NATO's underlying health was deteriorating. For the moment, the cohesion of European members of the Alliance was helped by their unity of outlook on the current arms limitation talks in Geneva; but this was unlikely to last. Before the end of 1982 it might well be necessary to devise new ways of breathing life into the Alliance, eg at a Summit meeting. Meanwhile serious dislocation was being caused to the vital NATO Infrastructure Programme by the German Government's refusal to agree to the latest expenditure tranche. The programme was not large, and only some £60 million was involved in the present dispute; but American ability to reinforce Europe militarily in a crisis would be endangered if agreement could not be reached. Essentially the dispute lay between the Germans and the Americans. Britain had so far been only marginally involved, but British influence might now need to be brought to bear.

Soviet Union

Previous
reference:
C(81) 11th
conclusions,
minute 2

THE LORD PRIVY SEAL said that the Soviet authorities had now intimated to Miss Alexeyeva, the wife of Dr Andrei Sakharov's stepson, that she would be granted an exit visa to enable her to join her husband in the United States. Because of this, Dr Sakharov had abandoned his hunger strike. Western comment on the situation needed to be restrained, since the visa had not yet actually been issued, and there were many other would-be emigres from the Soviet Union who were still being denied exit visas.

Arab/Israel

Previous
reference:
C(81) 39th
conclusions,
minute 2

THE LORD PRIVY SEAL said that Britain and the three other European Community (EC) members who were prospective participants in the Sinai multinational force and observers had received a letter from the Israeli Government asking them to confirm their acceptance of the basis on which the force was to be established as set out in the joint statement issued by the Americans and Israelis on 3 December. The United States Government had tried unsuccessfully to avert this approach. It should be possible, however, to devise a form of words in reply which would not leave the Israelis in a position to claim that members of the EC had now abandoned the principles set out in their Venice Declaration of June 1980 and had instead aligned themselves

fully with the process set in train by the Camp David Agreement. Meanwhile the Americans had indicated their hope that the British contribution to the force would comprise a Headquarters Company and some Military Policemen, making about 50 men in all. The diplomatic situation had been further complicated by the French Foreign Minister, Monsieur Cheysson, who had apparently spoken disparagingly about the Venice Declaration during a recent visit to Israel but was now claiming that his remarks represented no new departure. Monsieur Cheysson had undertaken to clarify the position in a press conference that evening, following a talk with the Foreign and Commonwealth Secretary the previous day.

In the course of a brief discussion it was suggested that this French gaffe might be exploited to Britain's advantage both diplomatically and commercially. France's policy seemed to be highly changeable both on the Sinai force, in which she had insisted in participating after initially refusing to do so, and on the Venice Declaration. President Giscard had been one of the Declaration's main sponsors; President Mitterrand had then criticised it at the first European Council he attended after his election; but his Government had subsequently insisted that it be favourably referred to in the agreed statement by European Governments on participation in the Sinai force.

The Cabinet -

Took note.

COMMUNITY
AFFAIRS

8 December
Foreign Affairs
Council

Previous
reference:
C(81) 37th
Conclusions,
Minute 3

3. THE LORD PRIVY SEAL said the Council of Ministers (Foreign Affairs) had held two parallel sessions on 7 and 8 December. He had chaired a meeting which had given the Commission further guidance for the conduct of negotiations in Geneva on the renewal of the Multi-fibre Arrangement (MFA) and for negotiations with the Community's preferential suppliers whose current agreements expired at the end of the year. Any agreement in Geneva would be provisional so far as the Community was concerned, because the Council would have to consider whether the resulting overall ceilings on textile imports were satisfactory. At the meeting chaired by the Foreign and Commonwealth Secretary a number of issues had been dealt with, but it had not been possible to reach agreement on several of them. The financing of social measures in the steel sector had been referred to the informal meeting of Ministers of Industry due to take place that day. No agreement had been reached on recommendations for the telecommunications industry nor over negotiations with the African, Caribbean and Pacific countries on sugar. The present trade arrangements with Cyprus had been extended for six months in the absence of agreement on any improvement. The Council had agreed on a list of trade requests to be put to the Japanese Government which included all the items of concern to the United Kingdom.

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THE SECRETARY OF STATE FOR TRADE said that the Commission's negotiations with the Community's preferential textile suppliers was important, since they accounted for 20 per cent of imports of textiles into the United Kingdom. The Community would find itself in a difficult position in the MFA negotiations. The United States had a more liberal stance, closer to that of the supplying countries. The Community could also be criticised for its inability to negotiate until a very late stage. Nevertheless the United Kingdom, together with France and Italy, had to insist on a tough position.

In a brief discussion it was noted that the British textile industry was likely to criticise the Government's approach, however tough a line was taken, because they could not unite on any other basis. Nevertheless it was politically important that the Government was seen to be defending their interests vigorously. Portugal hoped that as a result of her accession to the Community she would be able to increase her textile exports, but Britain already took half the Portuguese exports to the Community and could not enter into commitments to take more.

steel
Previous
reference:
CC(81) 39th
Conclusions,
Minute 3

THE SECRETARY OF STATE FOR INDUSTRY said that, in view of the weather conditions, the informal meeting of Industry Ministers due to take place that day might have to be rescheduled. This was unfortunate, since it was necessary to settle the arrangements for financing the measures of social assistance in the steel industry, and to ensure that the Commission would rigorously enforce the agreement on the use of state aids for steel. The prospects for Community steel exports to the United States market would be an important item on the agenda for the meeting between senior American Ministers and the Commission on 11 December. It was clear that the United States Government was anxious to avoid a trade war with the Community, and Commissioner Davignon, with whom he had discussed the matter, believed that it would be possible to give assurances about the voluntary restraint on Community steel exports which would persuade the American steel companies not to press their case for anti-dumping and countervailing duties. If such duties were imposed there would be serious consequences for Community steel producers including the British Steel Corporation.

Community
Budget
Previous
reference:
CC(81) 39th
Conclusions,
Minute 3

THE CHANCELLOR OF THE EXCHEQUER said that he had informed the Prime Minister of the continuing difficulties over the payment of refunds to the United Kingdom in respect of net contributions to the Community budget for 1980 and 1981. The French and Germans were continuing to argue that the United Kingdom had been overpaid under the agreement reached on 30 May 1980, and there were several procedural stages at which they could make difficulties. Unless they could secure a blocking majority, the Commission would shortly be free to proceed

on its own responsibility except in the case of authorising advance payments within the 1981 budget. He intended to raise this question with the Ministers who would be attending the Council of Ministers (ECOFIN) on 14 December. Since this meeting was on the same day as the Foreign Ministers' meeting to follow up the outstanding issues from the European Council, he would do so informally. He believed that our interpretation of the 30 May Agreement was legally correct but continuing difficulties had to be foreseen.

December
meeting of
Community
Ministers
responsible for
Public Security

THE HOME SECRETARY reported that, in spite of some practical contretemps, a successful meeting of Ministers responsible for public security had been held on 8 December.

The Cabinet -

Took note.

INDEX-LINKED
EXTENSIONS:
FOLLOW-UP TO
THE SCOTT
REPORT

4. The Cabinet considered a memorandum by the Chancellor of the Exchequer (C(81) 58) and a minute dated 8 December 1981 from the Chancellor of the Duchy of Lancaster to the Prime Minister on possible changes in public sector pension schemes

The Cabinet's discussion and conclusions are recorded separately.

EUROPEAN
COURT OF
HUMAN RIGHTS:
COMPENSATION
FOR CLOSED
SHOP VICTIMS

5. The Cabinet considered a memorandum by the Secretary of State for Employment (C(81) 59) on compensation for closed shop victims.

THE SECRETARY OF STATE FOR EMPLOYMENT said that the European Court of Human Rights at Strasbourg had found that the dismissal of three railmen in 1976 without compensation in a closed shop under the previous Government's legislation, since repealed by the Employment Act 1980, was in breach of the European Convention on Human Rights. The Government was endeavouring to reach a friendly settlement on compensation for the three railmen and also for six former employees of Hull City Corporation dismissed in similar circumstances, whose case was before the European Commission of Human Rights. There remained the question of whether the Government should compensate other closed shop victims in the 1974-80 period and, if so, how to avoid setting undesirable precedents for compensation in other human rights cases. The risk of setting a precedent could be lessened by making it clear that the Government had been considering compensation in such cases on their merits but had not been able to take action until the proceedings before the European Court had been completed. He therefore proposed that powers should be taken in his forthcoming Bill on industrial relations to set up a compensation scheme on the lines indicated in Annex A of C(81) 59. The cost could be accommodated within the existing financial provisions for his Department for 1982-83 and 1983-84.

In discussion it was generally agreed that there was a strong case for compensating those who were victims of the closed shop by virtue of legislation passed between 1974 and 1979. There was concern about the implications of this for a large number of other cases which had been brought before the Commission and Court in Strasbourg, for example those concerned with homosexuality in Northern Ireland, airport noise, leasehold reform, and the immigration rules. In many of these cases it could be shown that the circumstances were not comparable with those in the closed shop cases. Nevertheless the Government should avoid appearing to support the general proposition that, whenever the European Court ruled in favour of a complaint, the Government should be under an obligation to legislate to provide financial compensation to all those in similar circumstances. It was also undesirable to place too much weight on the argument that the closed shop victims had suffered under earlier legislation, simply on the grounds that this was legislation which the present Government had opposed and repealed.

THE PRIME MINISTER, summing up the discussion, said that legislation should be introduced to provide compensation for those who were victims of the closed shop by virtue of legislation passed between 1974 and 1979. Care should however be taken to draft the legislation so as to avoid any reference to the recent judgment of the European Court. Similarly, in justifying the scheme, it was necessary to avoid any

implication that the Government was generally in favour of financial compensation by the Government for people either because they had grievances comparable with those found to constitute a breach of the European Convention on Human Rights, or because they had suffered under legislation which the Government had repealed. The justification should rest on the moral case for compensating the closed shop victims concerned, although it could be explained that the Government had not been able to proceed with a compensation scheme until the proceedings before the European Court had been concluded.

The Cabinet -

1. Agreed that legislation to provide compensation for closed shop victims in 1974-80, as proposed by the Secretary of State for Employment in C(81) 59, should be included in the forthcoming Bill on industrial relations.
2. Invited the Secretary of State for Employment, in consultation with the Attorney General and the Lord Advocate, to be guided both in the preparation of the legislation and in its presentation by the Prime Minister's summing up.

Cabinet Office

10 December 1981

CABINET

LIMITED CIRCULATION ANNEX

CC(81) 40th Conclusions, Minute 4

Thursday, 10 December 1981 at 9.30 am

INDEX-LINKED
PENSIONS:
FOLLOW-UP TO
THE SCOTT
REPORT

The Cabinet considered a memorandum by the Chancellor of the Exchequer (C(81) 58) and a minute of 8 December from the Chancellor of the Duchy of Lancaster to the Prime Minister on possible changes in public sector pension schemes.

THE CHANCELLOR OF THE EXCHEQUER said that, following discussion by the Ministerial Committee on Economic Strategy, an interdepartmental group of officials had examined the options for changes in the arrangements for contributions and benefits in public sector index-linked pension schemes, with a view to meeting the criticisms of inflation proofing for pensions in the public sector; their report was annexed to his memorandum. In his view, the system of contributions should be amended so that it could be publicly defended as being demonstrably linked to the cost of pensions increases and so that it was applicable on broadly similar lines to all the public services. He recommended that this could best be achieved by leaving the existing levels of contribution for basic benefits unchanged and levying a special charge of about 2½ per cent, which would be based on the extent to which the cost of public service pensions increases was in excess of the private sector average (option B in the report by officials). On current estimates this would mean that most public servants would pay a total pension contribution of 8½ per cent. The uniformed services - the Armed Forces, the police, the fire services and prison officers - enjoyed better basic pension benefits, and their position would need to be considered further. A change in the system of contributions on these lines could produce public expenditure savings in the range of £300 million to £600 million a year, depending on what was assumed about the effect of the change on pay negotiations; in his view the Government's stance should be that there should be no offset to the new charge through higher pay. Because of the widespread public misunderstanding of the pensions of civil servants, there was a case for making the Civil Service scheme formally contributory; but further consideration would need to be given to the implications of the higher pensions which would result from higher gross salaries. He did not recommend attempting to legislate to impose new arrangements for contributions by nationalised industry employees; the

Government could, however, invite the nationalised industries to take account of any changes in the arrangements for contributions in public service schemes. While changes in the arrangements for contributions would be welcomed, they would not be seen as dealing with the deep-seated resentment at the disparity between the guarantee of index-linking in public sector pension schemes and its virtual absence in private sector schemes. He therefore invited the Cabinet to consider the case for allowing for full inflation proofing of benefits up to 7 per cent with a discretionary power to make any further increases. For such a provision to have any significant effect on public expenditure, it would have to be applied to benefits for past as well as for future service. He recognised that in statements made before the 1979 Election, members of the Government had indicated the possibility of changes in contributions, but not in benefits, and also that the report in February 1981 of the inquiry, chaired by Sir Bernard Scott, into the value of pensions did not point to changes in benefits. There was, nevertheless, a political case for looking at this question afresh. If action were to be taken on benefits in the pension schemes of the public services, it would be for consideration whether to restrict tax relief by withdrawing Inland Revenue approval from nationalised industry and private sector schemes which permitted pension increases to exceed what was provided by public service schemes. He proposed that, in the light of the Cabinet's decisions on contributions and benefits, a consultative document should be published early in 1982 with a view to legislation as soon as practicable.

THE CHANCELLOR OF THE DUCHY OF LANCASTER said that she agreed that the system of contributions should be revised to ensure that public servants paid in contributions for the benefit of index-linked pensions. It was, however, essential to make the necessary changes to all the public service groups in a consistent way and not to discriminate against civil servants. Male civil servants already paid effectively about $8\frac{1}{2}$ per cent as contribution to their pension; the new arrangements for contributions and for pay should recognise that. Further work was necessary on the details of the new scheme and on how it should apply to the various groups. She was opposed to the proposed changes in benefits which, if implemented, would be deeply resented by about 10 million present and future beneficiaries of public sector pension schemes. There would be great objections to limiting benefits for past service, and it would be very difficult to secure approval of the necessary legislative changes at this stage in the life of the present Parliament.

THE ATTORNEY GENERAL said that there was no legal right recognised in the United Kingdom courts which need restrain the Government from proposing legislation to limit index-linking of benefits for civil servants. Special consideration should, however, be given to the moral claim of those civil servants who had purchased added years at a price which included an element for index-linking of benefits and those who had transferred previous pension entitlements

into the scheme on a basis which reflected index-linking. If benefits were to be limited, he judged that the Government could probably successfully rebut any case brought against it under the European Convention on Human Rights; but he could not guarantee success, particularly in the case of those people who had purchased added years or transferred previous entitlements. He had not considered the position of public sector employees other than civil servants, but he was aware that some of the nationalised industry pension schemes conferred a legal right to benefit which could not be taken away without adequate compensation.

In discussion the following were the main points made:

- a. It was generally agreed that, for the reasons put forward by the Chancellor of the Duchy of Lancaster and by the Attorney General, there should be no action to limit benefits in public sector pension schemes. Any such change would no doubt be welcomed by the private sector when it was announced, but would provoke bitter and lasting resentment among the existing and potential beneficiaries of public sector schemes. As inflation came down, objections to index-linking in public sector schemes would diminish. If, contrary to the Government's objectives, inflation were to rise substantially it might be necessary to look at the question again.
- b. There was general support in principle for action on contributions on the lines of Option B. No consultative document could be issued, however, until the implications for each of the services, and for each of the uniformed services in particular, had been fully considered. Any attempt to propose changes in general terms would run into serious difficulties if there was uncertainty over what was intended for particular groups. It should be recognised that, if contributions were to be amended to take account of indexed benefits, there could then be legal objections to any attempt in the future to limit benefits without adequate compensation.
- c. Further thought should be given to the timing of any consultation on contributions in relation to negotiations on public sector pay claims in 1982. It was questionable whether the proposed changes would really bring savings of the order of £300 million to £600 million. In practice it could be difficult to secure an outcome whereby the contributions were not offset by pay increases. For example, in addition to the Civil Service, some National Health Service groups would claim that their pay already took account of contributions related to index-linked pensions.

d. There was pressure in Parliament for a debate on the Scott report on public sector pensions; this might most suitably take place in late February or early March 1982. It would give an opportunity to explain the complexity of the subject and to bring home the fact that, contrary to popular opinion, civil servants already made a substantial contribution to their pensions.

THE PRIME MINISTER, summing up the discussion, said that the Cabinet agreed that no steps should be taken to limit benefits in public sector pension schemes; the objections to such benefits would diminish as the rate of inflation was reduced. The Chancellor of the Exchequer should arrange for further work by officials on the implications of increases in contributions to reflect index-linked benefits. This further work should look at each of the public service groups and in particular at those, such as the uniformed services, where it was not yet clear how the proposed arrangements might apply. In the light of this further report, the Cabinet would decide on the line to be taken in the proposed Parliamentary Debate on the Scott report, and on whether and when there should be a consultative document on the possibility of changes in the arrangements for contributions in public service pension schemes. There was no prospect of legislation to implement such changes in the present Session and it could well be impracticable to implement them in the life of the present Parliament.

The Cabinet -

1. Agreed that there should be no change in the benefits conferred by public sector pension schemes.
2. Invited the Chancellor of the Exchequer:-
 - i. to arrange for a further report by officials of the Departments concerned dealing fully with the implications for each public service group of changes in the present system of contributions;
and
 - ii. to report progress in February 1982.
3. Agreed to resume their discussion, as indicated by the Prime Minister in her summing up, in the light of the Chancellor of the Exchequer's further report to them.

Cabinet Office

11 December 1981