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MR POWELL

EUROPEAN COMMUNITY BUDGET FOR 1986

We have now received the text of the order of the European Court of Justice, which upheld the United Kingdom's application against the European Parliament on the European Community's 1986 budget. This was an application for interim measures because the European Parliament had increased the budget on non-obligatory expenditure (Regional Fund, Social Fund etc) beyond the maximum rate without the agreement of the Council and had then declared this budget to be adopted. The United Kingdom was the only member state to take the European Parliament to court for interim measures, although the Council as a whole and a number of member states (including the United Kingdom) have taken the European Parliament to the European Court on the substantive case, which should be decided in June or July.

The interim decision of the European Court is:

"The Commission shall implement, until 10 July 1986 or until the date on which the Court delivers its judgment in Case 34/86, Council v European Parliament, whichever date shall be the earlier, the budget for the financial year 1986, as regards both payment appropriations and credit appropriations, on the basis of the draft budget established by the Council at its second reading on 27 November 1985, subject to those amendments decided by the Parliament on 12 December 1985 which do not have the effect of increasing non-compulsory expenditure . . . . .

In the first call which it makes, following this order, on the United Kingdom for funds relating to the 1986 budget, the Commission shall reduce the amount claimed, on the basis of the budget established by the Council at its second reading, by the amount of any overpayments made by the United Kingdom prior to this order on the basis of the budget declared by the President of the European Parliament on 18 December 1985."

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This is exactly what we asked for. For the United Kingdom the amount at issue is 115.9 million ecu (about £76 million). It is also very satisfactory that elsewhere in the Court's order there are statements which support the United Kingdom's position in the substantive case. In particular, the Court states that:

"From a reading of those two paragraphs, taken together, of Article 203 of the EEC Treaty, it appears that the European Parliament's right to the last word in regard to non-compulsory expenditure may be exercised only within the limits of the maximum rate of increase laid down in paragraph (9) of that article. If it is desired to increase non-compulsory expenditure beyond that rate, it seems that a new rate of increase must be fixed by agreement between the two budgetary authorities. It would therefore appear, at first sight, that Article 203 (6) of the EEC Treaty did not confer on the European Parliament the power to increase unilaterally non-compulsory expenditure beyond the maximum rate of increase stated in the draft budget established by the Council at the second reading."

I am sending copies to Colin Budd (FCO), Rachel Lomax (Treasury) and to Sir Robert Armstrong.

D F WILLIAMSON

18 March 1986