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MR. POWELL



Prime Minister

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EUROPEAN COMMUNITY BUDGET: COUNCIL v EUROPEAN PARLIAMENT IN
THE EUROPEAN COURT OF JUSTICE

Following the United Kingdom's success in obtaining interim measures reducing our payments to the Community's 1986 budget, the Council's challenge to the 1986 budget adopted by the European Parliament is also moving ahead. The Advocate General of the European Court of Justice has today given his Opinion in the case of the Council versus the European Parliament. The judgement of the European Court in this case will come at the end of June or beginning of July.

The Advocate General's Opinion, which is not binding on the Court, is satisfactory. He takes the view that the adoption of the 1986 budget by the European Parliament is not legal, being "contrary both to the letter and to the spirit of Article 203", thus supporting our basic contention that the European Parliament does not have the right unilaterally to increase the provision for non-obligatory expenditure even within the 1.4 per cent VAT ceiling. If the European Court of Justice follows the Advocate General's Opinion, a very important point of principle of long term importance for budgetary discipline will have been won.

The Advocate General also vigorously criticises the Council ("the strategy employed went against the rules of the game") implying that they should have made bigger provision for "the cost of the past". He goes on to conclude that the President of the European Parliament's declaration adopting the 1986 budget is void; that the payments already made should not be overturned; and that the budgetary procedure should be taken up again.

If the European Court of Justice follows the Advocate General's view, the United Kingdom Presidency will have to decide at the beginning of July how to put things right: we have contingency plans for a speedy decision on a new budget (incorporating the proposed supplementary budget now on the table) or, if this cannot be achieved in July, a stopgap budget with final decisions in the early autumn.

Since the Advocate General's Opinion is a step towards but is not the judgement of the Court, the Prime Minister is not



advised to comment on it. If the Prime Minister is asked about it, for example during Parliamentary questions, she might say:

"We are awaiting the judgement of the Court of Justice in the case which the Council has brought against the European Parliament over the Community's 1986 budget. Following the issue of the Advocate General's Opinion, I look forward to that judgement being delivered shortly."

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

D F Williamson

D F WILLIAMSON

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