



FCS/84/28

CHANCELLOR OF THE EXCHEQUER

Prime Minister.
To be aware of the
correspondence.

A.J.C. $\frac{20}{1}$

I think that in
weekly deliberations & letters
week

MS

Public Expenditure White Paper: Net Contributions to
Community Institutions

1. Thank you for your minute of 24 January.
2. I continue to believe that it would be unwise to assume, in the White Paper figures, that the disputed £42 million balance of our 1982 Risk Sharing refunds will be paid by 31 March. It is of course our view that the Community was under a legal obligation to pay us the £42 million by the end of 1983. But the dispute is very different from that over our 1983 refunds. In the case of the £42 million, our dispute is with the Council and the Commission. Now that the end-of-the-year deadline has passed, we cannot plausibly claim that there is a new deadline which must or will be met. In practice, we know very well that, if we are to get the money, it will be as part of an overall political settlement, or as a result of legal action, or by withholding.
3. The 1983 refund is quite different. While the Community does not have a legal obligation to pay us the bulk of our refunds by the end of March, we have very good grounds, based on the whole history and practice of the refund arrangements, for claiming that the Community has an obligation to pay us the bulk of the refunds by the end of our financial year. Unlike the case of the £42 million, neither the Council nor the Commission has disputed that obligation. We therefore have every reason for including the 1983 sum in the PESC figures, in terms both of what we have a right to expect, as well as what we think will actually happen.



4. I agree that the Prime Minister did link the two refunds in her ITN interview, but she did so in the sense that both represented sums owing to us. She did not say that 31 March was a deadline for the payment of both.

5. There is a further reason why I do not think the £42 million should be included in the PESC figures, namely the issue of withholding. The more we give rise to expectations that we expect the £42 million to be paid by the end of March, the more difficult it will be not to announce that we are withholding that sum at the same time as we withhold over our 1983 refund, if that is the decision we are obliged to take. That would mean that we would be withholding, not just against the Parliament as we would wish, but against the Council and Commission as well. However small the sum we should put ourselves in an unnecessarily difficult situation both in terms of our legal case and the timing of withholding legislation and the impact of our actions on the negotiations. The damaging implications of this course are obvious. But it equally has no practical advantages. If we were withholding to cover our 1983 refunds - or that portion of them which the Parliament had made non-obligatory - it would take several months for us to build up the sums due in a suspense account. We thus have no need to take a decision on the £42 million as early as March. We can afford to wait until later in the year, e.g. after the June European Council when it should be clear beyond doubt whether we were going to get our money or not.

Why



6. For all these reasons, I hope you will agree not simply to write the £42 million into the overall White Paper figures. I continue to think that, as I suggested in my minute of 3 January, it would be better to score only the figure for that part of the Risk Sharing refund which has already been paid (£178 million) and to have a footnote to say that the remaining £42 million is in dispute.

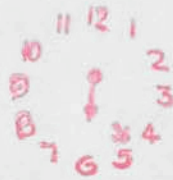
7. I am copying this minute to the Prime Minister and to Sir Robert Armstrong.

A handwritten signature in dark ink, appearing to be 'G. Howe', written in a cursive style.

(GEOFFREY HOWE)

Foreign and Commonwealth Office
30 January 1984

30 JAN 1984



EVLS PO

Budget

Pt 22