



10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

2 October 1987

ZERO RATES INFRACTION CASE

Thank you for your letter of 2 October.

I have shown the Paymaster General's draft letter to the Prime Minister who feels very strongly that the second sentence of the first indentation should be omitted (the sentence beginning "We have done this....."). The Prime Minister also felt that the introduction to the letter was rather undignified and has asked that it should be redrafted.

I am copying this letter to Bernard Ingham.

(DAVID NORGROVE)

Simon Judge, Esq.,
Paymaster General's Office.

PM's office
Agreed with DRN can't
need to see draft.



ce/B

Treasury Chambers, Parliament Street, SW1P 3AG

David Norgrove Esq
Private Secretary to the
Prime Minister
10 Downing Street
LONDON SW1A 2AA

2 October 1987

Dear David

ZERO RATES INFRACTION CASE

Lord Bruce of Donington has written again to the Times on this (copies attached).

The Paymaster General would like to reply to this letter, and I attach a draft which has been agreed by him and the Chancellor. I would be grateful for clearance as soon as possible.

I am copying this letter to Bernard Ingham.

Yours ever

Simon.

S P JUDGE
Private Secretary



Treasury Chambers, Parliament Street, SW1P 3AG

The Editor
The Times
1 Pennington Street
LONDON E1 9XN

October 1987

Lord Bruce's gasps of astonishment (30 September) have a synthetic quality. In case, however, his lack of understanding is genuine, let me expand on my earlier letter:

- i. the UK has a Treaty obligation to respect rulings from the European Court. We have done this in the past - eg following the Court's ruling in 1983 on relative excise duties on beer and wine - and will do so in future;
- ii. the Government cannot decide now how it would react to an adverse ruling. We would have to study closely the detailed judgement, and consider our options;
- iii. whatever the ruling were to be, it could not include the Court determining a particular positive rate, since Community law does not prescribe one.

HON PETER BROOKE MP
Paymaster General
HM Treasury

24 Wednesday, September 30, 1987

THE TIMES

VAT on construction

From Lord Bruce of Donington

Sir, The Paymaster General (September 24) is quite correct in pointing out that the case before the European Court is quite separate from the Commission's proposals on VAT harmonization which Lord Cockfield made public in July. Indeed, my letter (September 16) dealt solely with the issues raised by the case itself (No 416/85).

It is a pity, therefore, that he expended so much time in clarifying matters I did not raise instead of dealing frankly with those which I did.

If I understand him correctly, when he says "we are bound by our treaty obligations to accept the decision of the court", it is within the competence of the court, in the event of it deciding in favour of

The last sentence of Professor Wedell's letter yesterday should have read: "The commission is working closely with the European Community and the Council of Europe and will report in June, 1988".

the Commission, to require HM Government to levy VAT on, among things at present zero-rated, all new building construction at a rate of 15 per cent.

This being the case, perhaps the Paymaster General will now give unequivocal answers to the questions put in the last paragraph of my letter, which I now repeat:

If decisions by the European Court are automatically enforceable in the member states concerned, then what becomes of the sole sovereign right of the British House of Commons to levy taxation? If they are not, will the Prime Minister assure the country that, notwithstanding any ruling of the European Court, she will not introduce legislation to put its judgment into effect or, if she does, that she will afford all MPs a free vote on the Finance Bill and will refrain from applying the Whips to ensure that the European Court's judgment is given effect to?

In the meantime, one can only gasp with astonishment at a situation in which the British public and British members of Parliament are denied by "a well-

established convention" any information either as to the Commission's case for the imposition of a 15 per cent levy on new building construction or HM Government's pleadings in response.

Yours sincerely,
DONALD BRUCE,
House of Lords.
September 25.

24 SEP 1987

KING'S BEAM HOUSE
MARK LANE
LONDON, EC3R 7HE

THE TIMES

24 SEP 1987

3.

Clarifying the issues on VAT

From the Paymaster General

Sir, Lord Bruce of Donington's letter (September 16) raises some issues about VAT which need to be set straight.

Lord Bruce knows, from exchanges in the House of Lords and from correspondence with Government ministers, that although there are no rules of the European Court which preclude publication by one party of its own pleadings there is a well-established convention that one party to pleadings before the court does not disclose the pleadings of the other party without the latter's consent. The UK cannot disregard this.

There is, therefore, a good reason why the UK Government's pleadings in the case before the European Court could not be published, namely that their publication would disclose the pleadings of the European Commission. We have pressed the Commission to agree to disclosure, but have received a firm refusal; our hands are therefore tied.

That is, however, no reason for Lord Bruce to claim that our case is not being vigorously pursued. The oral hearing of the case took place on September 15 and was widely reported. Counsel for the United Kingdom Government, in a strong speech, made it clear that the Commission's challenge is an abuse of the legal procedures of the Community; that in general it is ill-founded in law; and that it is wrong in the particular cases under challenge.

I should clear up one other possible misunderstanding. This case before the European Court is separate from the Commission's proposals on VAT harmonisation which Lord Cockfield made public in July.

Whereas we are bound by our treaty obligations to accept the decision of the court, the new proposals — which may change in substance when they come to be discussed — could be adopted only by a unanimous decision in the Council of Ministers; that means that they could not be imposed against the United Kingdom Government's will.

Yours faithfully,
PETER BROOKE,
Paymaster General,
HM Treasury,
Treasury Chambers,
Parliament Street, SW1.
September 22.

From the Chairman of the Association of Conservation Officers

Sir, Lord Bruce refers to the action by the EEC to secure a uniform application of VAT and, in particular, that the UK should tax new construction. He mentions the Government's reluctance to publish the proceedings and we are, therefore, grateful to you for your reports (September 16).

There are anomalous effects in the present application of VAT at either the standard rate of 15 per cent or the zero rate. We have, in the past, had other rates. One unfortunate effect of the present system has been to tax the repair and maintenance of historic "protected" buildings but, by application of a zero rate, to give financial encouragement to their alteration, reconstruction, or demolition. It is the reverse of what we understand Government policy to be — that historic buildings should be protected — and the Environment Committee of the House of Commons recommended that it should be changed. Lord Elton said then, last January, that EEC rules prevented the introduction of new zero rates.

It is now being said that the EEC requires a standard rate, of 15 per cent presumably, to be levied on new construction. Lord Bruce suggests that would produce extra income to the Treasury of something over £1 billion. I understand that only some 8 per cent of VAT revenue goes to the EEC and that it is the private sector which provides it, as the public sector generally can recover the input tax.

If there were to be a uniform VAT rate of construction, why could it not be at a rate which would produce the same revenue as at present? Repairs, maintenance, and new construction would all be set at some 5 per cent, which would also have the advantage of encouraging repair work by reducing the rate from 15 per cent without adding unduly to the cost of new building.

There would, at the same time, be an end to the financial penalty incurred by those who seek to conserve historic buildings rather than destroy them.

Yours faithfully,
MICHAEL PEARCE (Chairman,
Association of Conservation
Officers),
130 Bouverie Avenue South,
Salisbury, Wiltshire.

£5m raid in war on cocaine gangsters

COCAINE worth £5 million was found hidden in paint tins on a ship yesterday.

The consignment was seized as Customs men clamped down on supplies of the drug flooding into Britain.

More than 46 lb of cocaine were found on board the Spanish-registered freighter Zulia which docked in Liverpool at the beginning of the week.

Two Venezuelans were arrested and were last night being questioned about a possible link with Colombian drug gangsters.

The Zulia had sailed from the Spanish port of Bilbao and was heading for Rotterdam via Liverpool with a cargo of tissue and paint.

Customs men fear the Colombians are trying establish a new foothold in the booming British market after Scotland Yard's drugs squad smashed a plot earlier this year.

Customs officers are now on target to seize cocaine worth a record £25 million this year. Leading the crackdown is a team known as the coke squad.

Seizures of cocaine have trebled since 1983, yet Customs officials fear the finds are only the tip of an iceberg.

The flooding of the American market by Colombian gangs has led to an "overspill" of the drug into Europe.

Underworld

Investigators have already detected a build-up of Colombian criminal interests in Europe, particularly Britain.

Last month two East End criminals were jailed in France after attempting to smuggle cocaine into Britain from Colombia.

They had established links with a Colombian gang and arranged a deal to market the drug throughout Britain.

The drug warlords are forging partnerships with traditional British underworld figures who are being urged to give up crimes such as robbery and turn their interests into marketing cocaine.

It is a trend that is worrying police throughout Europe. In America the Colombians have all but wiped out the Mafia after setting up a similar operation.

In Britain police drug squads are tackling the task of breaking up the labyrinth of small-time dealers who sell the drug at £100 a gram in discos and nightclubs.

Meanwhile the Customs coke squad, with 300 investigators, is fighting to stop the drug getting into the country.

TODAY
24 SEP 1987

H.M. CUSTOMS & EXCISE
PRESS INFORMATION
OFFICE

24 SEP 1987

KING'S BEAM HOUSE
MARK LANE
LONDON, EC3R 7HE

4.

GUARDIAN
24 SEP 1987

Hormonal upset to US-EEC trade

By John Palmer

After the pasta war, the chickenfeed war and the special steels war, the use of hormones in meat and sanitary standards in slaughterhouses are the latest issues threatening to bring the European Community and the United States to blows in a new trade war.

The US Administration has told the EEC that a proposed ban on the use of hormones, due to come into force next January, could trigger immediate reprisals which could easily escalate into an all out agricultural trade war of the kind which was only narrowly averted earlier this year.

The EEC Commission and all the member states except Britain insist that the ban is justified on health grounds, because of the health hazard posed by the use of hormones and that it is not discriminatory against American or other foreign meat imports.

However London has made a last-ditch appeal to the European Court in Luxembourg to rule that the ban can only be imposed with the agreement of all 12 EEC countries.

The immediate impact of the ban would be to hit US exports of offal worth about £100 million a year, and senior US diplomats in Europe were this week making no attempt to play down the consequences of a failure to agree a hormone

regime which exempts US exports from any risk of being banned. But while talks continue between Brussels and Washington there is no compromise in sight.

Meanwhile the Commission yesterday unveiled detailed proposals which aim at tightening budget discipline in farm spending. They include a range of penalties which farmers will incur if they exceed fixed output ceilings each year.

However the force of the new so-called "budget stabilisers" is considerably weakened by the Commission's decision not to impose an overall statutory spending ceiling either on the CAP or on the individual product groups, and also to include the costs to the CAP of any future decline in world prices compared with EEC prices due to movements in the US dollar.

But a parallel directive setting new hygiene levels for slaughter houses, which also comes into force in January, seems certain to hit a much greater volume of meat exports since the EEC insists that US hygiene standards are already below the EEC average.

The EEC and the US have come perilously close to outright trade war in recent years on grain exports to Portugal, Spain and the Middle East, EEC exports of pasta to the US, and US exports of citrus fruits to the EEC.

THE TIMES

WEDNESDAY 16 SEPTEMBER
1987

LETTERS TO THE
EDITOR

Vital issue of building VAT

From Lord Bruce of Donington
Sir, The House Builders Federation have, as reported in your today's issue (September 14), every reason to draw attention to the disastrous consequences for the construction industry of a ruling by the European Court that Britain impose a 15 per cent VAT on new building construction.

This anxiety is well justified, first because it is not at all clear, despite Government protestation to the contrary, that the action before the court (no. 416/85) is being contested with that degree of vigour consistent with a generous Treasury willingness to forgo the receipt of an amount substantially in excess of £1,000 million per annum which would eventuate if the EEC's action against the British Government succeeded.

In October, 1986, the Government told me that infraction proceedings were a legal issue and that the pleadings were strictly confidential to the parties in dispute (H of L report, October 6-16, 1986). Correspondence with the Registrar of the European Court finally elicited the information that

the British Government can publish pleadings. It is our policy only to give particulars to the parties. But the parties are at complete liberty to make pleadings public. There is no *sub-judice* rule.

The Government thereupon beat a retreat, but pleaded that there is a convention, recognised equally by the Commission of Member States, that the confidentiality of the other parties' pleadings is to be respected as being in the best interests of the conduct of cases (H of L report, July 1, 1987, col 248).

There is, of course, no valid reason why the British people should not be informed of the detailed pleadings submitted on their behalf and a refusal to do this must cast some doubt as to the resoluteness with which Britain's case is being pursued.

Secondly, in the event of the European Court's judgment going against the United Kingdom, how can this be vetoed, even by the Prime Minister? If decisions by the European Court are automatically enforceable in the member states concerned, then what becomes of the sole sovereign right of the British House of Commons to levy taxation? If they are not, will the Prime Minister assure the country that, notwithstanding any ruling of the European Court, she will *not* introduce legislation to put its judgment into effect or, if she does, that she will afford all MPs a free vote on the Finance Bill and will refrain from applying the Whips to ensure that the European Court's judgment is given effect to?

These questions require an unequivocal answer.

Yours,
DONALD BRUCE,
House of Lords.
September 14.