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Ref. A01222

PRIME MINISTER

OD: Community Budget: Follow Up to the Dublin European Council

The OD meeting on Friday morning was foreshadowed in the informal meeting you chaired on 21st December, at which it was agreed that Ministers should consider in January a report on the Lord Privy Seal's bilateral consultations as well as the result of further work by officials on withholding and obstruction. The same meeting agreed that OD(E) should consider the tactical handling of energy, fisheries and sheepmeat in relation to the budget issue; and OD(E) is meeting on 24th January for this purpose. Meanwhile the Commission's proposals for supplementary measures to increase our receipts are still awaited; their paper, which on present form is likely to come down in favour of a special fund for expenditure in the United Kingdom alone, is expected in the first week in February, i. e. after Signor Cossiga's visit on 29-30 January.

2. Friday's OD meeting will thus have two main purposes: to arrive at an agreed assessment of the relative merits of withholding v obstruction, so that any necessary further contingency planning can proceed; and to decide, in the light of the Lord Privy Seal's tour, what our next steps should be, starting with Signor Cossiga's visit.

3. OD has before it -

- (a) a note by the Secretaries (OD(80) 5) covering a note by officials which is intended to guide Ministers through four annexed papers on obstruction, withholding, and their legal political consequences;
- (b) the Lord Privy Seal's two minutes of 24th January reporting on his tour of Community capitals and suggesting the line to be taken with Signor Cossiga and thereafter.

EEC Budget: forms of pressure

4. The note by officials on forms of pressure suggests that it is not necessary for Ministers to take final decisions at this stage (paragraph 4); discusses three possible forms of obstruction and three means of withholding (paragraphs 5 and 6); summarises the advice of the Law Officers on the

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implications of withholding in Community law and in domestic law, and draws attention to its political significance (paragraphs 7 and 8); reviews the scope for initiating action ourselves under Article 175 (paragraph 9); notes the counter-measures which could be directed against the United Kingdom and the FCO preference for "financial obstruction" (paragraph 10); records officials' inability to arrive at an agreed assessment about the risks, effectiveness or desirable sequence of the two courses of action (paragraphs 11, 12 and 16); summarises the most important of the agreed elements emerging from the annexes (paragraph 15); and identifies three key questions for Ministers (paragraph 17).

5. The absence of agreed official recommendations reflects a strong Treasury preference for withholding and an equally strong FCO view that obstruction can do the job equally well without attracting the adverse political repercussions they attribute to our acting outside the law. Tested against the three criteria of feasibility, effectiveness and wider implications, an objective assessment might run as follows.

- (i) Withholding is feasible, because it is wholly within our control. It would be effective in the short term in enabling us to reduce our net contribution, but it would not bite on the rest of the Community for many months and cannot thus be expected of itself to drive our partners back to the negotiating table. Because it would be illegal and unprecedented neither its immediate effect on the negotiations nor its longer term political consequences would be predictable, and if prior domestic legislation were necessary to prevent a successful action in the United Kingdom courts, it would provoke still greater controversy at home and abroad.
- (ii) Partial obstruction, limited to blocking new Community expenditure which did not improve our budget position, should be feasible if applied to the CAP price fixing (where the Luxembourg compromise originated) but would probably not work in the Budget context where majority voting is well established. If it can be made to work on the CAP price fixing it would soon hit our partners where it hurts (albeit at some cost to ourselves as well), and would thus constitute a genuine means of pressure.

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As an accepted Community technique, operating within the law, it might be less offensive to Community purists than withholding and would not involve controversial domestic legislation. It could nevertheless sour the negotiating atmosphere and, like withholding, provoke counter-measures which could have the effect of isolating the United Kingdom.

The issue thus turns on the weight to be attached to the Law Officers' advice on the need for prior domestic legislation for withholding, and on the assessment of the political consequences which would flow from the two courses.

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6. You might think it most useful to focus discussion straightaway on the questions raised in paragraph 17 of OD(80) 5, taking them one by one and inviting the views in particular of the Chancellor of the Exchequer, the Foreign and Commonwealth Secretary, the Lord Privy Seal, the Attorney General and the Lord Advocate.

7. You will want to elicit a clear answer in particular to the question whether prior legislation would be essential if it were desired to withhold; and if so whether the likely political and legal consequences are tolerable. If they are not, you may want to probe the feasibility and effectiveness of the obstruction option.

8. You may also think it helpful to establish whether the idea of initiating a case ourselves in the European Court under Article 175 (paragraph 9 of the note) is still a runner or whether it should be dropped. What do the Attorney General and the Lord Advocate think of the chances? We should in any case deploy at the political level the legal arguments developed by the Treasury to justify either obstruction or withholding, even if it was decided that the negotiating and tactical risks of an action under Article 175 were too great.

CONCLUSION

9. Subject to the discussion, you will wish to sum up a conclusion on the choice between withholding and obstruction. Whatever the choice is, officials should be instructed to work up a detailed plan for this purpose, covering the period from the next European Council to the end of the year. You will probably be able to conclude that the idea of initiating an Article 175 case ourselves should not be pursued, but that the arguments on which the case is based should be vigorously deployed.

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Report by the Lord Privy Seal on his bilateral consultations

10. The main points emerging from the Lord Privy Seal's first minute of 24th January are -

- (i) We now need to spell out in more detail what we mean by our readiness to negotiate in a genuine spirit of compromise within a limited scope for manoeuvre.
- (ii) A continuing reluctance among our partners to contemplate arrangements for the United Kingdom lasting as long as our problem lasts and a marked preference for a limited period of 2-4 years with a review at the end of it.
- (iii) The likelihood that a receipts mechanism will prove unacceptable.
- (iv) A willingness to focus on special programmes to boost expenditure in the United Kingdom, as well as considerable support for medium term restructuring of the budget.
- (v) The strong disposition of most other member states to look for a wider political settlement encompassing energy in particular and - for the French - sheepmeat.
- (vi) We shall need to follow up the Lord Privy Seal's tour and the Cossiga meeting with intensive bilateral contacts. He does not favour the suggestion made by Sir Michael Butler of an informal meeting of Heads of Government in advance of the European Council.

Line to be taken with Signor Cossiga

11. The Lord Privy Seal's second minute of 24th January takes up paragraph 10(i) above, in the context of your earlier agreement that we should give Signor Cossiga on 29th-30th January an indication that we would settle for less than we were asking for in Dublin (Mr. Alexander's letter of 18th January to Mr. Richardson). Paragraph 6 of his minute considers three possible ways in which our revised demand could be expressed and Annex B combines two of them in a proposed note for use with Signor Cossiga. It expresses our requirement in terms of the net contribution we are prepared to pay and says that we should be below the French by the difference in relative GNP per head.

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This produces a figure of about 300 MEUA (£200 million), for our net contribution in 1980, which is the figure the Lord Privy Seal suggests you give to Signor Cossiga.

12. The figuring in Annex A of the Lord Privy Seal's minute is, of course, based on the figures the Commission produced for Dublin. The Treasury expect the outturn to produce a higher United Kingdom net contribution (see Mr. Wiggins's letter to Mr. Alexander of ^{23rd} 18th January) but all estimates are necessarily speculative at this stage (there is no 1980 Budget because of the dispute with the European Parliament). There is no sign as yet that the Commission will produce revised figures and if we were to do so it would only lead to confusion. By stating how much we are prepared to pay rather than how much we want back, we avoid having to argue about the figures, and protect ourselves against the risk of higher figures. So we should stick with the Commission's figures at least for the time being. If necessary, the Chancellor could be asked to speak to this point.

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13. I suggest you take both minutes together. In introducing them, you might invite the Lord Privy Seal to concentrate on the main points requiring decision. These are:

- (i) the line to take with Cossiga
- (ii) action thereafter.

But before discussing them, you might invite the Foreign and Commonwealth Secretary to report on the conclusions of the OD(E) meeting on 24th January about the related issues of energy, fisheries and sheepmeat.

14. On the proposed line for Signor Cossiga's visit you will particularly want the Chancellor of the Exchequer's views on Annex B of the Lord Privy Seal's minute. Is it agreed that we should tell Signor Cossiga that we would be willing to settle for a net contribution in 1980 of up to 300 MEUA (exactly how this should be conveyed could be discussed at the briefing meeting later)?

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15. On next steps, are the Lord Privy Seal's suggestions acceptable? You may wish to give Sir Michael Butler the opportunity to give his views. You will want the Foreign Secretary's assessment. You will want to hear what Signor Cossiga has to say. In spite of his political difficulties, he will want to be helpful. We should encourage him to sell our proposition to the others, but not to put forward a compromise of his own without checking back with you. In any case we shall need to supplement these steps through private bilateral contacts of our own at high official level especially with the French and Germans, but also with the Dutch, the Commission, and of course the Italians.

CONCLUSIONS

16. You may be able to conclude that

- (i) We should play the related issues in the way proposed by OD(E).
- (ii) You would indicate to Signor Cossiga that we would be ready to settle for a contribution in 1980 of 300 MEUA; but that this represented a major step on our part in the hope that it would permit an early settlement on the basis that the question of duration could be satisfactorily resolved.
- (iii) We should encourage Signor Cossiga to take soundings and report the result before deciding on the date of the next European Council. We should not propose a prior ad hoc informal meeting of Heads of Government or Foreign Ministers addressed solely to the budget question. But the Foreign Secretary and the Lord Privy Seal, in consultation with the Chancellor, should arrange further bilateral contacts at the most appropriate level with the main protagonists.
- (iv) OD should meet in the middle of February to consider the Commission's proposals, on the basis of a paper by officials; and when the results of Signor Cossiga's soundings are known.

REA

(Robert Armstrong)

24th January, 1980

