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21/2

21.2.80

NOTE OF A MEETING IN THE CHANCELLOR'S ROOM ON 14TH FEBRUARY 1980 AT 3 P.M.

Present:-

Chancellor of the Exchequer	
Chief Secretary	
Financial Secretary	
Sir Kenneth Couzens	(Treasury)
Mr. F R Barratt	"
Mr. R. G. Lavelle	"
Mr. J. M. Bridgeman	"
Mr. C. H. W. Hodges	"
Mr. G. M. Gill	"
Mr. A. J. Wiggins	"
Mr. J. P. McIntyre	"
Mr. G. C. Sims	"
Sir J. Hollom	(Bank of England)
Mr. D. A. Dawkins	"
Mr. D. Holland	"
Mr. E. George	"

FUTURE OF THE EXCHANGE CONTROL ACT 1947

The meeting had before it:

a. the Financial Secretary's note of 1st February 1980 to the Chancellor;

b. a paper by officials entitled "Exchange Control Contingency Planning and Statutory Powers", circulated with the Financial Secretary's note;

c. a note (with annex) by Mr. Lavelle on Inflow Controls, dated 12th February 1980;

d. a note to the Financial Secretary from Mr. Hodges on Enforcement Powers, dated 13th February 1980;

e. a note to the Chancellor from Mr. Hodges summarising the issues for decision, dated 13th February 1980.

2. It was agreed that discussion should be based on the summary of issues listed at 1e. above.

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STATUTORY POWERS TO COMPLY WITH EEC DIRECTIVE 72/156 (Q1)

3. It was agreed that there should be powers on the statute book enabling the Government to comply with the Directive.

POWERS TO DEAL WITH CONTINGENCIES (Q2)

4. The Financial Secretary considered that, while it would be relatively easy to justify new legislation which merely fulfilled EEC requirements, there would be presentational problems in seeking to legislate more widely to cover contingencies of the type illustrated in paragraphs 4 and 6 of the official paper (1b above). It was open to question whether additional powers were really necessary. The Chief Secretary favoured a minimalist approach; the subject was not of great interest to the political constituency or the public in general, and it would be difficult to make a case for legislative time. The Chancellor agreed; legislation seeking additional or alternative exchange control powers would not be easy to handle and could be time-consuming. His instinct was to keep a low profile on this issue.

5. While he appreciated that the matter was not urgent the Financial Secretary pointed out that sooner or later the Government would have to make its intentions clear regarding the future of the Exchange Control Act 1947. It would be unwise to leave the Act on the shelf unaltered, as in some respects it was deficient (notably in its provisions for control of inflows) while in other respects its powers were too sweeping. The Chancellor accepted that there was a reasonable case for retaining some of the existing exchange control powers in reserve, and for supplementing them to deal with inflows. The case for dealing with the matter urgently or by means of separate primary legislation was not so strong. As a first step, his inclination was to make a holding statement along the lines indicated in the annex to the Financial Secretary's note (1a. above).

PLANS TO AMEND THE EXCHANGE CONTROL ACT (Q4, Q5)

6. The Financial Secretary suggested that a Finance Bill could be used to introduce changes, thus avoiding the need for separate primary legislation. Mr. Hodges said that with a Procedure Resolution, a limited number of changes could be made in this way, though if too much was attempted there could be Parliamentary difficulties and objections. However, he thought it should be possible, for instance, to introduce a power to prevent inflows into commercial paper via the Finance Bill. The Chief Secretary supported the idea of making precautionary preparations for changes but suggested that no action should be taken until the need arose. Once there was a clearly established need, it would be easier to obtain Parliamentary time and easier to defend the proposed changes.

7. It was agreed that officials should begin work on possible measures to amend the Exchange Control Act. These measures would include effective inflow controls and perhaps some of the other changes indicated in paragraph 12 of the Financial Secretary's note. Tax changes, of the kind mentioned in paragraphs 25-33 of the note attached to Mr. Lavelle's minute of 12th February, could also be made in the 1981 or later Finance Bills and could provide a useful lead-in for any exchange control measures. The earliest date for action, assuming no emergency arose in the meantime, would be the Finance Bill 1981.

WORK PROGRAMME ON CONTINGENCY PLANNING (Q7)

8. Sir J Hollom suggested that officials should not be too restrictive in their review of the exchange control provisions. It was important to cover the whole field and to consider what would be desirable in a wide variety of possible circumstances; this would make it easier to draw up a list of priorities for action and to determine what could be fitted into a Finance Bill programme. Sir K Couzens agreed that this was a useful approach; if we could decide what legislation would be desirable in the

long term, it would be easier to identify gaps or superfluities in the existing Act and to work out a strategy for gradual implementation of the necessary changes. The ultimate aim of improved legislation could help to justify retaining the present Act in the meantime. The Chancellor was attracted by this gradualist approach; successive stages of amending legislation followed eventually by an act of consolidation would avoid many of the problems inherent in introducing new self-contained primary legislation on this sensitive subject. The immediate aim should not be a complete overhaul of exchange control powers.

9. The Financial Secretary suggested that in drafting their requirements for the proposed "model" Act officials should be guided by the characteristics outlined in paragraph 9 of his note, and in particular by the principle that the legislation should be symmetrical (providing both for adequate inflow and outflow controls) and libertarian (permitting all transactions unless otherwise specified - the "reverse" principle). In addition provision could be made for any use of the powers to expire after a relatively short period; this would show a commendable respect for Parliament and would also emphasise that the proposed powers were intended only to deal with short-term crises. The Chancellor agreed that any changes which provided for closer Parliamentary supervision would be useful. In considering other changes to the Act officials should assess how far it would be practicable to adopt the "reverse" principle. Their review should also examine the case for maintaining the somewhat draconian powers of the present Act. In this connection the Financial Secretary referred to Mr. Hodges' note (1d. above) on the continued need for the enforcement powers in the present Act and the Chancellor agreed that such powers would remain necessary.

10. It was agreed that officials would work along the lines suggested, taking their preparations at least as far as the drafting of Instructions to Parliamentary Counsel. While not ignoring the need to retain outflow control powers, they would give priority to the drafting of suitable inflow controls. Mr. Hodges undertook, as part of the review, to examine the extent to which the Finance Bill could be used to achieve the desired changes. He warned that if a permissive flavour was to be given to the legislation it might be necessary to define the Treasury powers of direction much more carefully than had hitherto been the case.

NATURE AND TIMING OF AN ANNOUNCEMENT (Q6)

11. The Chancellor favoured a written Parliamentary Question as the most suitable way of announcing the Government's intentions. The format could be broadly as indicated in the annex to the Financial Secretary's note. The statement should indicate that ultimately changes in the law would be necessary and that these changes would involve, inter alia, some strengthening of the powers to control inflows. Before the statement was made the Prime Minister should be minuted on what was proposed and the interested Departments (DOT, DOI, FCO, IR) and the Leader of the House should be informed.

12. The Chancellor saw no great urgency for the making of a statement and left the timing to be further considered by officials.

SUMMARY OF CONCLUSIONS

13. It was agreed that the Government should retain powers to deal with exchange control. These powers should be adequate to comply with EEC obligations and with any short-term contingencies requiring controls over outflows or inflows that might arise.

14. The Exchange Control Act 19[illegible] would be retained for

the present but with the ultimate intention of converting it by amendment into a more symmetrical and libertarian piece of legislation.

15. Changes to the Act would be introduced gradually and by means of Finance Bill provisions wherever possible, starting in 1981 at the earliest. Officials would commence work immediately on the preparation of possible amendments to the Act, giving priority to the drafting of appropriate provisions regarding inflow controls. Options for relevant tax changes would also be separately considered.

16. An announcement of the Government's intentions would be made in due course by means of a written Parliamentary Question. The Prime Minister and interested Departments would be consulted beforehand.

21st February 1980

DISTRIBUTION: Those present

Mr. Ridley

Mr. Cropper