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PRIME MINISTER

The Luxembourg Compromise and Next Steps on the Budget
(OD(82)39)

1. The purpose of tomorrow's OD meeting is to review the situation created in the Community by the majority vote taken in the 18 May Agriculture Council and to settle British objectives and tactics on the Luxembourg compromise and the budget for the 24/25 May Foreign Affairs Council and associated meetings and in next week's debate.
2. There is only one substantive paper before the Committee: the Note by the Foreign and Commonwealth Secretary (OD(82)39), to which is attached a note by officials on the Budget issue. The Secretary of State for Energy - who has been invited but is unable to be present - intends to circulate his comments. A separate minute from the Foreign and Commonwealth Secretary to OD and other colleagues seeking clearance for the detailed line he proposes to take on the draft European Act is in part relevant to the discussion of the future of the Luxembourg compromise in the main paper, but is unlikely to be available before OD meets.
3. In his paper the Foreign and Commonwealth Secretary advocates:-
 - (i) a cool and measured United Kingdom reaction to the crisis caused by the loss of our veto on the CAP price package, at least until the results of next week's meetings in Brussels are known;
 - (ii) OD should confine initial decisions to the requirements of the next few days and leave more fundamental choices to be considered later in the light of what happens next week on the compromise and the budget

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and suggests that

- (iii) on the Luxembourg compromise, he should make it clear to the Council that there must now be a fundamental reappraisal of the ground-rules of Community decision taking, the aim being to retrieve as much of the national veto as is practicable.
- (iv) on the budget, the United Kingdom should make a major effort at next week's Council to reach a settlement on a third year of refunds.

Luxembourg compromise

4. The Foreign and Commonwealth Secretary counsels against United Kingdom acquiescence in the demise of the Luxembourg compromise, partly on the grounds that it is regarded in this country as an essential safeguard of our national interest. Since it was never agreed by all member states, and is at variance with the Treaties, the Committee may feel that it is unrealistic to expect our partners to reinstate it soon in its present form. In particular, although it may be possible for the agricultural Ministers to agree on new rules for settling the annual price package by consensus, it is clear that things in the Agriculture Council will never be quite the same again. The effect of the compromise should ~~anyway~~ not be exaggerated. Our national veto is fully protected in the substantial areas of Community business for which the Treaty requires that decisions be taken by unanimity; and in many fields where majority voting is prescribed we shall probably continue to find sufficient allies to enable us jointly to block unacceptable decisions. (The note in the Annex explains this point in more detail.)

5. It is nevertheless clearly impossible in present circumstances for the UK either to leave matters where they stand, or to accept the increased use of majority voting proposed in the Genscher/Colombo proposals. The Foreign Secretary's opening statement and his reaction to the

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relevant passages of the Genscher/Colombo proposals will no doubt make this clear. In the light of the reactions of the other member states, Ministers may want thereafter to consider a paper analysing the scope and significance to British interests of a move to more majority voting, the options open to us in defence of our interests and the ways in which the Luxembourg compromise might be redefined so as to end the uncertainty created by what happened on 18 May.

The Budget

6. The present negotiating position on the budget is set out in the Note by Officials annexed to OD(82)39. Paragraph 5 of the Note sets out the two main options: either

- (i) going for agreement on the application of the 30 May solution to 1982, or
- (ii) breaking off the present negotiations and seeking a 4 or 5 year settlement, possibly associated with a threat to withhold our contribution to the
Community budget.

The first option is favoured by the Foreign Secretary, the Chancellor of the Exchequer and the Minister of Agriculture (see the Chancellor's minute of 19 May).

7. If the first option were chosen by the Committee, officials recommend that some negotiating flexibility on risk sharing and on figures would be required to bring a settlement within reach. The recommendations of officials on the budget, which the Foreign and Commonwealth Secretary endorses in his paper, are summarised in paragraph 12 of the Note by Officials. Since they were written, Sir Michael Butler has advised that the gesture on the over-payment of 145 million ecus (paragraph 11) is too likely to provoke an argument about how much should be paid back and that we might have to accept a basic refund figure of 850 million ecus instead of the 900 million ecus mentioned in paragraph 10.

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HANDLING

8. After the Foreign and Commonwealth Secretary has introduced his paper, you might wish to seek agreement first to the two stage approach he recommends and then focus discussion on the Lu Luxembourg compromise and the budget in turn.

9. On the Luxembourg compromise, you might invite the Minister of Agriculture to comment at the outset, bringing in other members and Sir M Butler as appropriate. The Committee may want to be as clear as possible about the likely content of the Foreign Secretary's opening statement (paragraph 5 of his paper) and his intentions with regard to the separate discussion of majority voting and the compromise in the context of the Genscher/Colombo proposals (paragraph 7 of his paper). In particular, is it confirmed that he will withhold UK agreement to the draft European Act as a whole unless we can get satisfaction on the reinstatement of the Luxembourg compromise?

10. You might note at this point the possible need for a fuller paper for later consideration by the Committee on the implications for the UK of extended majority voting and a weaker Luxembourg compromise.

11. On the budget, you might direct the attention of the Committee to the recommendations summarised in paragraph 12 of the Note by Officials annexed to OD(82)39, taking them through each of the sub-paragraphs one by one. It might be helpful at this stage if you invited Sir M Butler to bring the Committee up to date on the present state of his informal discussions with the Commission and other member states. This will give him the opportunity to explain why he thinks it might be necessary to accept a figure of 850 million ecus instead of the 900 million ecus proposed in paragraph 10. You could then invite the Chancellor of the Exchequer and/or the Foreign and Commonwealth Secretary to give their views.

/CONCLUSIONS

CONCLUSIONS

12. Depending on the discussion you may be able to conclude that:-

- (i) So far as next week's meetings in Brussels are concerned, the Foreign and Commonwealth Secretary's recommendations are agreed, including the negotiating proposals on the budget set out in paragraph 12 of the Note by Officials, amended so as to enable us to accept a basic refund of 850 million ecus if necessary.
- (ii) When the outcome of the forthcoming discussions on the Luxembourg compromise is known, the Foreign and Commonwealth Secretary should arrange for a further paper to be circulated setting out the implications and exploring the options for the future.
- (iii) A further meeting of the Committee will be convened as necessary in the light of the results of next week's meetings.
- (iv) Meanwhile the Government should not over-react to the crisis in the Community. Briefing for next week's ~~Parliamentary~~ Parliamentary debate should be drafted accordingly.

D.H.

D J S HANCOCK

20 May 1982

THE LUXEMBOURG COMPROMISE

Under the Luxembourg compromise a member state which feels that its very important interests are at stake may object to a vote being taken and ask for discussion to continue until agreement is reached. It is only relevant to those decisions where the Treaty provides for voting either by a qualified majority or by a simple majority. The most important areas are CAP prices, the Common Fisheries Policy, the Common External Tariff, state aids and the annual Community Budget. The Luxembourg compromise is irrelevant to major new advances in the Community such as the creation of the Regional Fund which are made under Article 235 and require unanimity.

A complete list of the Treaty decision-making rules is set out below:-

- (i) Unanimity is required for eg the adoption of social security measures for migrant workers (Art. 51), the adoption of common rules for sea and air transport (Art. 84), approving state aids in exceptional circumstances (Art. 93(2)), fiscal harmonization (Art. 99), the approximation of laws (Art. 100), giving new tasks to the Social Fund (Art. 126), laying down provisions for direct elections (Art. 138), amending a proposal from the Commission (Art. 149), fixing the size of the Commission (Art. 157) and the European Court (Arts. 165 and 166), appointments to the Economic and Social Committee (Art. 194) and the Court of Auditors (Art. 206), making Financial Regulations (Art. 209), action under Art. 235 to create powers for which the Treaty makes no other provision, the admission of new member states (Art. 237), and the conclusion of association agreements (Art. 238).

- (ii) Qualified majority voting is prescribed for eg altering or suspending the common customs tariff (Art. 28), fixing CAP common prices and market regimes including those for fisheries (Art. 43), issuing directives on freedom of establishment (Arts. 54, 55 and 57), freedom of services (Art. 63) and freedom of movement of capital (Art. 69), adopting common rules on road, rail and

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inland waterways transport (Art. 75), applying the competition rules of the treaty (Art. 87), applying the state aids rules of the treaty (Art. 94), determining the conditions of mutual assistance in balance of payments difficulties (Art. 108), common commercial policy measures (Arts. 113 and 114), implementing the Social Fund (Art. 127), establishing the draft budget, modifying amendments adopted by the Parliament, and accepting or rejecting modifications proposed by the Parliament (Art. 203), and laying down the Staff Regulations (Art. 24 of the Merger Treaty).

- (iii) Simple majority voting is prescribed where the Treaty makes no express provision one way or the other (Art. 148) eg the conclusion of agreements with third countries (Art. 228).