



Treasury Chambers, Parliament Street, SW1P 3BQ

The Rt Hon John Biffen MP  
 Lord Privy Seal  
 Cabinet Office  
 68 Whitehall  
 LONDON SW1A 2AS

PC (1)  
 Prime Minister  
 This has become very complicated.

Agree to switch to  
 the route of a Special  
 Consolidated Fund Bill  
 January 1985  
 and Supplementary  
 Estimate?

Dear Lord Privy Seal,

SUPPLEMENTARY FINANCE FOR 1984 COMMUNITY BUDGET: INTER-  
 GOVERNMENTAL AGREEMENT (IGA)

We need to decide as soon as possible when and how Parliamentary approval should be sought for the implementation of the Government's commitment to contribute to supplementary finance for the 1984 Community Budget under the IGA signed on 2-3 October.

State of Community Finances

As to cash flow, in the event the Community scraped through to the end of 1984 despite the fact that a minority of Member States (Italy, Belgium and Luxembourg as well as ourselves) have not yet paid up their contributions under the IGA. This does not, however, mean that the Supplementary Budget or the full amount of the IGA were unnecessary. The Community will still be seriously short of cash in the early months of this year and the unpaid contributions under the IGA will still be needed. That the Commission has been able to manage a budget without the full contributions due under the IGA to the end of 1984 is largely attributable to a substantial shortfall (500-600 mecu) in spending from the Structural Funds and other non-obligatory parts of the Budget. These unspent credits will, however, under normal Community rules now be carried forward and spent in 1985, though still charged to the 1984 Budget. The full amounts due under the IGA will still therefore be required. Our latest information is that the Commission may ask us for an overdraft which would in effect be an advance on the IGA if we have not paid by 21 January and may be ready to take us to Court if we do not pay. We should therefore aim to get Parliamentary authority to pay as soon as possible. It is clearly in our interests both in Parliament and in Brussels to get the payment out of the way as quickly as possible.

The Legal Problem

The Court of Appeal gave judgement on Mr Smedley's application to quash the Section 1(3) Order on 19 December. All three



judges decisively rejected Mr Smedley's contention that the IGA could not be regarded as ancillary to the Community Treaties and his application was accordingly refused. During the course of the hearing Lord Justice Donaldson made it clear, as had Mr Justice Woolf at first instance, that there was no reason why Parliament should not debate the draft Order while it was before the Courts. The Court of Appeal also turned down Mr Smedley's application for leave to take the case to the House of Lords. He is now, however, as he is entitled to do, seeking leave for this purpose from the Appellate Committee of the House of Lords. The Appellate Committee is expected to look at his application in the week beginning 14 January.

Unfortunately, although there is no reason to believe that Mr Smedley can succeed with his present case and the odds are against him being allowed to appeal to the House of Lords, the Treasury and FCO Legal Advisers have identified a further problem arising from the fact that the draft Order in Council was not approved by Parliament before the end of calendar 1984.

The use of the Section 1(3) Order rests on the fact that the IGA is an international treaty which creates an obligation for the UK to contribute to the financing of the 1984 Supplementary Budget. The first paragraph of the IGA, however, refers to the Member States' supplementary contributions being "paid in 1984". The question therefore arises whether the legal obligation (as opposed to the political commitment) to pay still continues after 31 December 1984. Moreover, the declared purpose of the IGA is to finance the 1984 Supplementary Budget and some question also arises whether revenues paid after the end of 1984 can technically, under Community law, be attributed to the 1984 Budget. If there is doubt on these two points, then there must also be a doubt as to whether the implementation of the IGA through the Section 1(3) procedure would be proof against a further legal challenge on the grounds that the obligation contained in the IGA had expired.

In view of these doubts the Law Officers' views have been sought again. I am also enclosing a copy of Patrick Mayhew's Opinion. You will see that in his view, although the balance of probabilities is that the Government would win any fresh case brought by Mr Smedley or AN Other in the Courts, there is a significantly greater chance that the Government would lose than in the present case brought on different grounds before Christmas. In short, although reasonably strong arguments can be advanced to justify the proposition that the Section 1(3) procedure is still justified, the Government's case for this procedure is less strong in 1985 than it was in 1984.

### Options

We accordingly need to decide afresh between the two options for getting Parliament's approval to the payments under the IGA:-

- (a) to proceed with the Section 1(3) Order and make arrangements for it to be debated in both Houses



in the week beginning 14 January. A special Privy Council would be needed for the final approval of the Order. A more detailed time-table is at Annex A;

- (b) to withdraw the Section 1(3) Order and substitute a Supplementary Estimate and Special Consolidated Fund Bill. The Estimate should be laid as soon as possible after Parliament returns on 9 January. It could be debated and passed in the House of Commons on 17 and 21 January and passed formally by the Lords on 21 January also, though it is just possible that the Bill would not be taken in the Lords until the following week. A more detailed time-table is at Annex B.

The advantages and disadvantages of these options are as follows:-

- (a) Section 1(3) Order. The advantage of proceeding with the Order is that, if carried through successfully, there is no change of course or loss of face for the Government and it is the most rapid method of effecting payment. Given Patrick Mayhew's advice, however, there is a significant risk that a new legal challenge could be mounted against the Order on the grounds that it is now out of time. If that happened, the Government would then have suffered a public defeat. If the payment under the IGA had not already been made, then a Special Consolidated Fund Bill or full primary legislation would be needed to authorise the payment. The delay could run into February or March, in which case there is a risk that the payment could be linked in Parliament with any difficulties over the CAP price fixing or the financing of the 1985 Budget. If the Order in Council had been passed and payment made, retrospective primary legislation would be needed to legitimise the payment;
- (b) Special Consolidated Fund Bill and Supplementary Estimate. The advantage of this route is that it is much more secure from legal challenge. The Government would be seeking Parliament's authority for a voluntary contribution to meet the political undertaking contained in the IGA. It cannot absolutely be excluded that Mr Smedley or A N Other might bring a new case, alleging that the IGA is illegal in Community law, because incompatible with the Own Resources Decision. Such a challenge would, however, be akin to that which has been brought against the Section 1(3) Order and the prospects of defeating it would seem good. But the case would be likely to be referred to the European Court and further delay would ensue. There are considerable disadvantages in this option, which involves abandoning our preferred and chosen route (which we could have



used before Christmas) despite the Courts having uncompromisingly endorsed it, apparently giving Mr Smedley in Parliament the victory he had failed to achieve in the Courts, and adding substance to the argument of those who contend that almost anything unusual relating to EC finances should be the subject of primary legislation.

Conclusions

We have to choose on the one hand between the immediate embarrassment of seeming to concede to those who have lost the argument, if we opt straightaway for the Supplementary Estimate procedure, and on the other the risk that, if we continue with the Section 1(3) Order, we might well be challenged on new and more difficult grounds in the Courts. The first course would be awkward presentationally. But if we are to be certain of being in a position to pay our IGA contribution quickly and so forestall further legal disputes either here or in Europe the Supplementary Estimate route seems the least unattractive one. Therefore I reluctantly conclude that we should adopt it.

If you and colleagues agree we would table the Supplementary Estimate this week. If we table it on Wednesday we could, if all went well, complete all the necessary steps to pay by Tuesday the 22nd. If we do not move until Thursday we should be unable to pay before Wednesday 23 January. There is a risk that the Commission will, in effect, ask for an advance on the IGA and it would be desirable to pay as early as possible. I should therefore be most grateful for your agreement by close of play on Tuesday 8 January.

The presentation will need careful handling. I shall circulate a Written Answer as soon as possible. Subject to the comments of yourself and colleagues that will provide briefing for you should this issue come up in the Business Statement.

I am copying this letter to the Prime Minister, Members of L and OD(E) Committees, and to Sir Robert Armstrong.

Yours sincerely,  
Adrian Ellis  
(Private Secretary)  
for IAN STEWART



01-405 7641 Ext.

3229  
Communications on this subject should  
be addressed to  
THE LEGAL SECRETARY  
ATTORNEY GENERAL'S CHAMBERS

ATTORNEY GENERAL'S CHAMBERS,  
LAW OFFICERS' DEPARTMENT,  
ROYAL COURTS OF JUSTICE,  
LONDON, W.C.2.

Miss J L Wheldon  
The Treasury Solicitor  
Queen Anne's Chambers  
28 Broadway  
London SW1H 9JS

21 December 1984

*See for list.*

*cc  
Mr. [unclear]  
Mr. [unclear]  
Mr. [unclear]  
Mr. [unclear]  
Mr. [unclear]*

IGA: PAYMENT IN 1985

The Solicitor General has seen your letter to me of 19 December and has advised as follows: -

"Smedley would have a stronger case than he ever had last time round the buoy. The balance of probabilities is in our favour, but there is now a significant risk of a successful challenge".

I am copying this letter to Geoffrey Fitchew and Martine Eaton

*Yours ever*

*M L Saunders*

M L SAUNDERS

434/12



## SECTION 1(3) ORDER

Order already laid before Parliament  
Recommended for debate by Joint Committee on Statutory Instruments

10 January      Timing of Commons debate on positive resolution  
announced in Business Statement

                  Timing of Lords debate on positive resolution  
announced through Whips Network

14 January      Debate in Commons after 10pm

                  Debate in Lords

17 January      Special Privy Council meeting to approve Order

17 January      Payment to EEC No.1 Account from Consolidated Fund.

The next Privy Council meeting is scheduled for 13 February.

13 February      Privy Council approves Order

13 February      Payment to EC No.1 Account from Consolidated Fund.



## Supplementary Estimate and Consolidated Fund Bill

- 9 January      Supplementary Estimate laid before Parliament
- TCSC look at Estimate. TCSC probably take evidence from Treasury officials or Ministers and may issue a report. Recommendation made to Liason Committee for Estimate Day debate. Liason Committee decide on this.
- 17 January     Estimate Debate (if requested).
- Estimate Resolution
- First reading of Consolidated Fund Bill in Commons
- 21 January     Second and Third reading of Consolidated Fund Bill in Commons
- 21 January     All stages of Bill in Lords, following expedited procedure.
- 22 January     Royal Assent
- Payment to EEC No.1 Account from Consolidated Fund.





10 DOWNING STREET

HMT  
DTI  
MAFF

8 January 1985

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FCO  
Cap. H of Arms  
FS, HMT  
LCO  
LPO

*Handwritten initials*

*RB* MOS, HTO  
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From the Private Secretary

SUPPLEMENTARY FINANCE FOR 1984 COMMUNITY BUDGET: INTER-  
GOVERNMENTAL AGREEMENT

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The Prime Minister has considered the Economic Secretary's letter of 7 January on this subject.

Subject to the views of colleagues, she agrees with the Economic Secretary's conclusion that a Special Consolidated Fund Bill and Supplementary Estimate is the better course.

I am copying this letter to the Private Secretaries of members of L and OD(E) Committees and to Richard Hatfield (Cabinet Office).

CHARLES POWELL

Adrian Ellis, Esq.,  
Economic Secretary's Office,  
H.M. Treasury.



CONFIDENTIAL

CCP



Foreign and Commonwealth Office

London SW1A 2AH

9 January 1985

From The Minister of State

Ian Stewart Esq MP  
Economic Secretary  
HM Treasury  
Parliament Street  
LONDON SW1P 3AG

NBPM  
aj 10/1

*Dear Ian,*

SUPPLEMENTARY FINANCE FOR 1984 COMMUNITY BUDGET:  
INTER-GOVERNMENTAL AGREEMENT (IGA)

In Geoffrey Howe's absence, I am replying to your letter to John Biffen of 7 January.

Like you, we were confident of our ability to proceed on the basis of a Section 1(3) Order, so long as this could have been put through Parliament during 1984. In the light of the Solicitor-General's advice about the risk of a successful legal challenge now that payment was slipped into 1985, however, I agree that we should now opt instead for a special Consolidated Fund Bill and Supplementary Estimate.

For the reasons set out in your letter we should aim to complete the procedures as soon as possible. The conditions we set for payment of our contribution to the IGA were met over a month ago and the majority of Member States (including France and Germany) have now paid their contributions. We shall be requiring the other Member States to meet their commitments to us under the Fontainebleau agreement. It is important that we should be seen to be honouring our own undertakings.

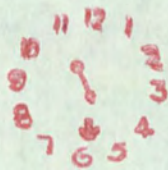
I am copying this letter to the Prime Minister, to members of L and OD(E) Committees and to Sir Robert Armstrong.

Malcolm Rifkind

CONFIDENTIAL



MO JAN 1985





CONFIDENTIAL

CCP



PRIVY COUNCIL OFFICE  
WHITEHALL, LONDON SW1A 2AT

9 January 1985

Dear Ian,

NBM  
CD 99;

SUPPLEMENTARY FINANCE FOR 1984 COMMUNITY BUDGET:  
INTER-GOVERNMENTAL AGREEMENT (IGA)

Thank you for your letter of 7 January 1985 in which you present your new proposals for securing Parliamentary approval for the implementation of the Government's commitment to contribute to supplementary finance for the 1984 Community Budget. We subsequently spoke about this.

I note what you have to say about the financial position of the Community and the effect on the timescale of our actions. I also note the fresh legal difficulty which has emerged in relation to the IGA Order.

In the light of the new circumstances, I must agree with your conclusion that a Supplementary Estimate and special Consolidated Fund Bill is the correct way to proceed. I am sure that this can be presented as a recognition of the legitimate need of the House of Commons to exercise a greater control over expenditure, and that the legal problem arising from the fact that we have missed the end 1984 deadline can be used to advantage.

As far as the timetable is concerned, I am afraid that, as I explained, it would be difficult to arrange a debate on the Supplementary Estimates next week; indeed this could be counter-productive. However, I could make time available on 21 January. All stages of the Bill in the Commons and the Lords could then be taken on 22 January with Royal Assent also being given then. We shall therefore meet your target date of Royal Assent on 22 January.

I must emphasise, however, that if this timetable is to operate to our best advantage, considerable care will have to be taken to ensure that the Treasury and Civil Service Select Committee and the Liaison Committee are kept fully informed of our plans. As you know, a debate on the Estimate is recommended to the Liaison Committee by the Treasury and Civil Service Select Committee; and by the Liaison Committee to the House, which then agrees. I am sure that this is what will happen, but to go through this process in the very short space of time allowed, will itself cause comment and we must be careful not to give any further cause for concern. You agreed to talk to Terence Higgins about this as soon as possible.

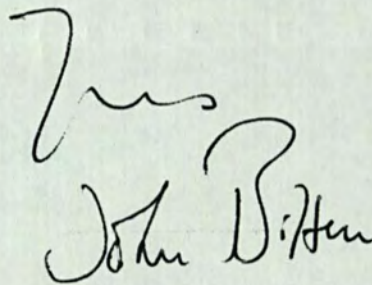
Ian Stewart Esq MP  
Economic Secretary  
HM Treasury



CONFIDENTIAL

We also agreed that it would be best for you to announce the change in approach by Written Answer on 10 January and to write to the Chairman of the Joint Committee on Statutory Instruments, explaining the fate of the IGA Order. In the very unlikely event of there being no recommendation for debate on the Estimate, We must consider further how to proceed.

I am copying this letter to the Prime Minister, Members of L and OD(E) Committees and to Sir Robert Armstrong.

A handwritten signature in dark ink, appearing to read 'John Biffen'. The signature is written in a cursive style with a large, sweeping initial 'J'.

JOHN BIFFEN





Prime Minister ②  
Reassuring advice.  
CDP  
4/11

CHANCELLOR OF THE EXCHEQUER

APPLICATION BY MR W.O.SMEDLEY FOR JUDICIAL REVIEW

At last Thursday's Cabinet reference was made to an application by Mr Smedley for judicial review in relation to the European Communities (Definition of Treaties)(Undertaking on Supplementary Finance for the Community) Order 1984. We had been informed that Mr Justice Hodgson had granted leave for the application to be made. It was agreed in Cabinet that we should take steps to expedite the hearing of the case, so that the proposed time-table for debating the Order would not be jeopardised.

I can now report that the application will be heard on Thursday of this week, probably before Mr Justice Woolf. I have had the opportunity to consider the papers served by the Applicant on the Treasury Solicitor and, together with Treasury Counsel (who will appear for the Crown), to develop the broad outline of our defence.

Mr Smedley is seeking to quash your "determination or intended determination" that the Undertaking can properly be regarded and specified as a Community Treaty under Section 1(2) of the European Communities Act 1972. In the alternative, he is seeking a declaration that the "determination or intended determination" was made ultra vires. His Affidavit in support, besides expressing his "shock" that the Undertaking was not to be given by "customary scrutiny of each House of Parliament" contends that in permitting the Draft Order to be promoted on the basis of regarding the Undertaking as a Community Treaty, you were wrong in law because such Undertaking cannot be correctly determined as either a Community Treaty as defined in the 1972 Act, or as a Treaty ancillary to a Community Treaty.

Our defence to this action will be based on three different arguments. First, we will argue that a Draft Order, whilst it is under the consideration of Parliament, cannot be challenged in the Courts. We have reservations as to whether this Order could even be challenged once Parliament had approved it;





- page two -

but to allow challenge to it whilst still before Parliament would be an assault on Parliamentary sovereignty and would conflict with the fundamental right of each House to be the sole judge of the lawfulness of its own proceedings. You will appreciate that the principle at stake on this head of our defence is much wider than the instant case.

Secondly, we will maintain, in line with the advice given by the Attorney General, that the Undertaking is ancillary to the EEC Treaty, the ECSC and Euratom Treaties and the Own Resources Decision. The Applicant's<sup>best</sup> case in this respect would be to argue that it would be unlawful under the terms of the Own Resources Decision for the Community to receive money by way of contributions from Member States - rather than by way of own resources - and that anything unlawful cannot possibly be said to be "ancillary". Article 4 of that Decision provides that "From 1 January 1975 the budget of the Communities shall, irrespective of other revenue, be financed entirely from the Communities' own resources". I am confident that we can answer this line of attack, if it materialises, successfully.

Finally, we will maintain that the Applicant does not have sufficient interest to bring the proceedings. Mr Smedley's only claim to bring the proceedings is that he is a "citizen, taxpayer and elector". We may derive some assistance from the Judgment of the House of Lords in *R -v- Inland Revenue Commissioners ex parte National Federation of Self-Employed and Small Businesses Ltd.*, in which it was held that the Federation merely as a body of taxpayers had shown no sufficient interest in the matter raised (arrangements for taxation of casual Fleet Street workers) to justify its application for relief.

I believe that our defence to these proceedings is sound and I would expect Judgment in our favour on Thursday. Assuming that it is in our favour, I do not myself at present see any reason to delay the debate, even if an appeal is lodged by the Applicant. I will, however, consider this matter urgently on receipt of the Judgment.





- page three -

I am copying this minute to the Prime Minister, the Lord President,  
the Foreign and Commonwealth Secretary, the Lord Privy Seal, the Economic  
Secretary to the Treasury and Sir Robert Armstrong.

*Richard Payne*

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4 December 1984.



- 4 DEC 1984

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7.22

→ Charles - This letter neatly confirms the material we were given for questions yesterday.

AT 30/11



Treasury Chambers, Parliament Street, SW1P 3AG  
01-233 3000

29 November 1984

Andrew Turnbull Esq  
10 Downing Street  
LONDON SW1

~~B~~ // ~~CDP 1/12~~  
~~[Pl. being forward on 6/12]~~

Dear Andrew,

**COMMUNITY BUDGET: PRIVATE NOTICE QUESTIONS FROM MR ROBIN COOK AND MR TEDDY TAYLOR ON THE INTER-GOVERNMENTAL AGREEMENT**

Although the PNQs have been disallowed by the Speaker, the issue may be raised in Questions to the Prime Minister.

.... I am accordingly attaching to this letter a suggested answer plus notes for supplementaries.

There are two points on the draft answer to which the Prime Minister's attention should be drawn. First, the suggested answer states that the Government has now been served with the papers relating to Mr Smedley's application. At the time of writing this is not yet the case, though we understand that the papers are still likely to be served this morning. We will let you know before Questions what the latest position is.

Second, the draft Answer does not state that the issue is "sub judice". The advice from our lawyers is that to say this could prejudice the Government's position if, after study of Mr Smedley's case, Ministers still decided that they wish to proceed with the draft Order in Council.

Copies of this letter go to the Private Secretaries to the Foreign Secretary, the Lord Privy Seal and the Chief Whip.

Yours sincerely,

Philip Wynne Owen.

D L C PERETZ  
Principal Private Secretary

PP



PRIVATE NOTICE QUESTIONS FROM  
MR ROBIN COOK AND MR TEDDY TAYLOR

Mr Robin Cook (Livingston): If Mr Chancellor of the Exchequer will make a statement on Her Majesty's Government's intention, with regard to the order granting supplementary finance to the EC in the light of the decision of the court of the Queen's bench in the case of *ex parte* Smedley?

Mr Teddy Taylor (Southend East): To ask Mr Chancellor of the Exchequer, what steps he intends to take on supplementary payments to the EEC in the light of the decision taken in court yesterday by Mr Justice Hodgeson on the application by Mr William Smedley.

SUGGESTED ANSWER

The Government is still studying the papers relating to Mr Smedley's *ex parte* application, which were only received this morning and has no statement to make at this stage. There is no question of rushing the Section 1(3) Order through the House. The Government has made it clear throughout that it will not ask the House to approve the Inter-Governmental Agreement until the European Community Council of Ministers has finally adopted the text on budgetary discipline. That has not yet been done; the question of budgetary discipline will be on the agenda of the European Council next week. The House will have a full opportunity to debate the Inter-Governmental Agreement and to vote before any money is paid to the Community.



NOTES FOR SUPPLEMENTARIES

1. Surely Government should now withdraw the Order or freeze the proceedings on it

As have already said, the papers relating to Mr Smedley's procedure have only just been received and are under study. But I see no reason to do so.

2. Will Joint Committee on Statutory Instruments continue to examine the draft Section 1(3) Order?

That is for the Joint Committee to decide.

3. Why has Council of Ministers not adopted the budget discipline text? Government's negotiating triumph has vanished into thin air?

Not so. No disagreement on the substance of the budgetary discipline measures or on the agricultural expenditure guideline which will apply to next year's price-fixing. The only outstanding question is how the European Parliament should be associated with budgetary discipline procedures. Confident that this outstanding question will be rapidly resolved.



## BACKGROUND

The Government agreed with other EC Member States on 2 October to an inter-governmental agreement to provide supplementary finance totalling 1003 mecu to finance additional Community spending in 1984 in excess of the 1% ceiling by means of "reimbursable advances".

2. The text of the IGA (annexed) noted that HMG would not be in a position to complete its natural procedures implementing the agreement until our 1983 rebate had been paid (90% has been) and until agreement was reached on measures to implement budgetary discipline (not yet achieved).

3. In order to obtain Parliament's approval of the IGA the Government has laid a draft Order in Council in both Houses under Section 1(3) of the European Communities Act. The purpose of the draft Order is to specify the IGA as a Community Treaty. Once the Agreement has been so specified, the payments can be made from the Consolidated Fund without further approval by Parliament. The test as to whether the Section 1(3) procedure is appropriate is whether the IGA can be regarded as "ancillary" to any of the EC Treaties. The Law Officers were consulted on this point and ruled that the IGA was capable of being treated as ancillary and that Section 1(3) could properly be used. It is presumably this point which Mr Smedley is now challenging.

4. The procedure for approval of the Section 1(3) Order is that it is subject to examination both by the Joint Committee on Statutory Instruments (which reports on it if necessary) and the Scrutiny Committees of both Houses. It then has to be the subject of debate and affirmative resolution in both Houses. Final approval then has to be given by the Privy Council. The Joint Committee on Statutory Instruments is still examining the draft Order



and is to take oral evidence on Tuesday. We understand that it too may be concerned as to whether the Section 1(3) Order is proper.

5. The Government has consistently made it clear that it will not ask the House to approve the IGA until measures on budgetary discipline have been finally agreed. The Foreign Affairs Council failed to achieve this again yesterday and the subject will now go to the European Council. The only outstanding issue is whether and, if so, how to associate the European Parliament with the budgetary discipline procedures, albeit in a purely consultative role.



30 NOV 1984

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10 DOWNING STREET

From the Private Secretary

18 November 1984

Dear Adrian,

INTER-GOVERNMENTAL AGREEMENT

Thank you for your letter of 16 November recording the Economic Secretary's intention to publish a draft Order under Section 1(3) of the European Communities Act in order to secure Parliament's approval for implementation of the Inter-Governmental Agreement on Supplementary Finance for 1984.

The Prime Minister has noted this, including of course the rider that we shall not be committed to make payment under the IGA if for any reason the Budget discipline text is not finally adopted in a satisfactory form.

I am sending copies of this letter to the Private Secretaries to members of OD(E) and to Richard Hatfield (Cabinet Office).

yes directly  
Charles Powell

Charles Powell

Adrian Ellis, Esq.,  
Office of the Economic Secretary,  
H.M. Treasury.

D86  
bcpC

JP



RESTRICTED

②

Prime Minister

CDP

16 ki



Treasury Chambers, Parliament Street, SW1P 3AG

Charles Powell Esq  
No 10 Downing Street  
Whitehall

16 November 1984

Dear Charles

INTER-GOVERNMENTAL AGREEMENT

As the penultimate paragraph of my letter to you of 13 November indicated, the Economic Secretary considers that, when the text on budgetary discipline agreed at ECOFIN on 12 November has been formally adopted, following a satisfactory discussion with the European Parliament next Wednesday (21 November), the Government should seek Parliament's approval to implementation of the Inter-Governmental Agreement on supplementary finance for 1984.

In the meantime, in order to set the formal procedures in motion as soon as possible, the Economic Secretary believes that we should now publish a Draft Order under Section 1(3) of the European Communities Act and the Command Paper on the Inter-Governmental Agreement. We will of course, make it clear that these actions do not commit us to payment under the IGA if, for any reason, the Budget Discipline text is not finally adopted in a satisfactory form.

Subject to the views of the business managers the above procedure should make it possible to have a Resolution on the Section 1(3) Order in the week beginning 26 November, which would be debated on the same date as certain other Community documents from the Scrutiny Committee. The Economic Secretary therefore proposes (with the Chancellor's agreement) to proceed on this basis.

I am copying this letter to the private secretaries of members of OD(E) and to Sir R Armstrong.

*Handwritten signature: A M Ellis*  
A M ELLIS



CONFIDENTIAL



Treasury Chambers, Parliament Street, SW1P 3AG

The Deputy Chief Whip  
12 Downing Street  
LONDON SW1

16 November 1984

*Dear Mr Gope*  
EUROPEAN COMMUNITIES

You will have read my letter of 9 November about the handling of forthcoming European Community business. With this week's adoption by ECOFIN of a common position on Budget Discipline I believe that we are now in a position to start the formal procedures which will enable us to pay our contribution under the Inter-Governmental Agreement.

The Chancellor and I consider that the best route is to use Section 1(3) of the European Communities Act. To do that we must lay a Draft Order, which needs to be considered by the Joint Committee on Statutory Instruments and the two Scrutiny Committees. I should like to lay the Draft Order on Monday 19 November. Then, if the Council of Ministers adopts the final Budget Discipline text on 21 or 22 November we could take the Resolution in the Commons on the Section 1(3) Order in the week beginning 26 November. Consideration by the Lords could follow a day or two later.

Following my discussion with you I would suggest that the Resolution should be taken on the same day as, but after, a debate on the documents recommended by the Scrutiny Committee.

Copies of this letter go to members of L, and of OD(E), and to Sir Robert Armstrong.

*Yours sincerely,*  
*Alan Ellis*  
PP. IAN STEWART