



Prime Minister Foreign and Commonwealth Office

A prime example of London SW1A 2AH

how one can always think 29 November 1985

a hundred reasons why to give something away in negotiations, but hardly any why to defend it!

The fact is that an amendment to Article 99 would be a political signal of willingness to move towards tax harmonization CDP!

[indirect taxation]

Dear Rachel,

IGC: Internal Market - Possible Amendment to Article 99 EEC

Thank you for your letter of 28 November.

29/xi

The Foreign and Commonwealth Secretary has made clear in discussion in the Conference that we regard changes to Article 99 as unnecessary. This view has attracted support from the Irish and the Danes. Many other Member States are unhappy with the text, but for the opposite reason: they regard it as an effective block on all moves towards tax harmonisation.

A number of significant Treaty changes are being proposed on which we must hold out until we get the improvements we need. But the Foreign Secretary doubts whether the proposed amendment to Article 99 amounts to a significant change in the present position:

- (a) The Commission already has the power under the existing Article 99 to make proposals on tax harmonisation, and indeed has done so in a number of areas.
- (b) In one important respect the new text is more restrictive on substance than the old. It limits the Commission's freedom to make proposals to those "necessary to ensure the establishment and the operation of the internal market". The existing text refers only to "the interest of the common market" giving the Commission much freer reign.
- (c) The insertion of the reference to consultation of the European Parliament merely codifies existing practice and does not give the Parliament any new role in decision making. Article 99 proposals would not be covered by the new procedures being considered for consultation with the Parliament.



(d) The provision for decision taking by the Council on the basis of unanimity is clearly maintained. Only a unanimous decision of the Council could lead to a majority voting. Whatever pressure we come under there is no reason why we should succumb to it any more than we have in the past.

(e) Finally, there is agreement in the Council that the time limit referred to is not intended to be legally binding. We will be working for the strongest possible provision to that effect.

In the light of the above, the Foreign Secretary does not think we should refuse to agree to the amendment if, as is likely, all others can accept it. He thinks that, if this became the issue on which the Conference failed, we would be hard pressed to explain what significant British interest we had been defending - at the cost of the much more important interest which are at stake.

I am copying this letter to Charles Powell (No 10), John Mogg (DTI), Ivor Llewellyn (MAFF), Henry Steel (Attorney General's Office) and David Williamson (Cabinet Office).

Yours ever,

L. V. Appleyard

(L V Appleyard)  
Private Secretary

Mrs Rachel Lomax  
HM Treasury

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CCPC



Rime Minister  
An important point  
C.P. 29/xi

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

28 November 1985

Len Appleyard Esq  
Private Secretary to the  
Secretary of State for Foreign and Commonwealth Affairs

Dear Len,

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IGC:  
INTERNAL MARKET - POSSIBLE AMENDMENT TO ARTICLE 99 EEC

The Chancellor has seen the proposal being put forward in the IGC during discussions on the internal market to amend article 99 of the EEC Treaty. He has asked me to say that he is very much opposed to that idea, and that the United Kingdom should refuse to agree to it.

[indirect taxation]

The Chancellor has noted that the amendment would appear to entail three changes from the existing Article 99 which are particularly unwelcome.

No - pledged  
not to  
in election  
campaign

No

(a) It would give the European Parliament for the first time in the Treaty a role in decisions on indirect tax matters. This would be unwelcome to the House of Commons, who would regard it as an infringement of one of their most cherished privileges.

(b) It implies a commitment to the principle of harmonisation. Although this commitment is qualified in various ways, there still remains a presumption that by the end of 1992 various tax harmonisation measures will have been agreed. It effectively prejudices the questions still being considered by ECOFIN of whether any tax harmonisation is necessary for the completion of the internal market. It would almost certainly be unwelcome and difficult to defend before our own Parliament. It could also possibly lay the Council open to an action before the ECJ if it failed to agree by the implied deadline on measures which the Commission or some member states did consider necessary for that purpose.

(c) Once the possibility of moving to qualified majority voting on certain matters is written into the Treaty, some member states would be bound to wish this provision to become effective. Although formally the United Kingdom would retain a veto over any such move,



the practical effect could well be that pressure would be applied to persuade us to agree to a move to qualified majority voting in some areas. The problem is that it is very difficult to identify any areas of indirect tax, even machinery matters, which do not potentially have large revenue, compliance or manpower costs.

The Chancellor does not see how the United Kingdom could agree to this proposal. He does not, however, think that ensuring that it does not form part of the final package will necessarily absorb a great deal of negotiating capital. Since the Irish and the Danes have already said that they are not able to accept the proposal, the Chancellor does not think there is any need for the United Kingdom to take the lead on this matter, and that it would probably be unwise for us to do so. He is, however, quite clear that we should continue to refuse to agree to the amendment.

I am coying this letter to Charles Powell (No.10), John Mogg (PS/Secretary of State for Trade and Industry), Ivor Llewelyn (PS/Minister of Agriculture, Fisheries and Food), Henry Steel (PS/Attorney General), Anthony Cary (PS/Minister of State, Foreign and Commonwealth Office) and to David Williamson (Cabinet Office).

*Johnson*  
*Receval*

MRS R LOMAX  
Principal Private Secretary

