

PREM 19/2976

CONFIDENTIAL FILING

The Community Budget

EUROPEAN POLICY

Developments in the European Community

PT1: May 1979

PT6: May 1990

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<p>PART</p>							
<p>ENDS</p>							

PART 46 ends:-

PM to Lord Rothermere 29/6

PART 47 begins:-

FO to CBF 2/7



FILE  
TW  
cc DTI

10 DOWNING STREET  
LONDON SW1A 2AA

THE PRIME MINISTER

29 June 1990

*Dear Lord Rothermere,*

At a recent meeting with Sir David English, he explained that you are concerned about the proposals in the draft EC Company Law Directive that, with certain exceptions, voting rights in companies should be proportionate to subscribed capital.

The original form of the proposal was not acceptable to us. The Commission have recently said that, as a step towards removing barriers to takeover, they will make amendments to their proposal of proportionate voting rights. In general we support these amendments as a narrowing of their original proposals.

I must make it clear, however, this does not mean that we are satisfied with what the Commission now propose. We will need to consider the extent to which derogations might be required on public interest grounds; we will have to be persuaded that existing regulatory restrictions on voting rights can be maintained; and we will have to be satisfied that the overall proposal can be implemented fairly. Indeed an equitable method of implementation is particularly important if any change were to be made retrospectively; and it is not yet clear how the Commission proposes to deal with it.

We will be pressing the Commission for an explanation on the above points before discussions on the Directive resume in the coming months. We shall need to balance these concerns with our overall aim of supporting the removal of barriers to takeovers as an important dimension of achieving the Single Market.

*[Handwritten signature]*

In its present form, the Fifth Directive has a wider ambit than the issue of voting rights: it contains proposals for employee participation and company structure which are opposed by several EC member states, including the United Kingdom. Given the many and varied problems over the Fifth Directive, agreement is in any case not likely to be achieved soon.

I would be very happy to discuss your concerns in more detail and I am sure it would be helpful if Nick Ridley were to join us for that discussion. I have asked my Private Office to find a suitable time for a meeting.

Kind regards.

Yours sincerely

Margaret Thatcher

The Viscount Rothermere



10 DOWNING STREET

LONDON SW1A 2AA

THE PRIME MINISTER

Dear Lord Rothermere,

At a recent meeting with Sir David English, he explained that you are concerned about the proposals in the draft EC Company Law Directive that, with certain exceptions, voting rights in companies should be proportionate to subscribed capital.

As you will know, these provisions form part of the Commission's proposal for the Fifth Directive. We have been pressing the Commission for action to reduce barriers to takeovers in the Community. In principle, these proposals could represent a useful move towards a Single Market; and in particular they would provide the opportunities for acquisitions in other countries which already exist in Britain. And, according to studies undertaken both for the Government and for the Commission, the existence of unequal voting rights is an important potential barrier to takeovers in some countries.

That said, the original form of the proposal was not acceptable to us. The Commission have recently said that, as a step towards removing ~~such~~ barriers, <sup>to take over</sup> they will make amendments to their proposal of proportionate voting rights. In general we support these amendments as a narrowing of their original proposals.

I must make it clear, however, this does not mean that we are satisfied with what the Commission now propose. We will need to consider the extent to which derogations might be required on public interest grounds; we will have to be persuaded that

existing regulatory restrictions on voting rights can be maintained; and we will have to be satisfied that the overall proposal can be implemented fairly. Indeed an equitable method of implementation is particularly important if any change were to be made retrospectively; and it is not yet clear how the Commission proposes to deal with it.

We will be pressing the Commission for an explanation on the above points before discussions on the Directive resume in the coming months. We shall need to balance these concerns with our overall aim of supporting the removal of barriers to takeovers as an important dimension of achieving the Single Market.

I must reiterate that further changes will need to be made to this EC proposal before it would be acceptable to us and, we suspect, to other member states. Moreover, in its present form, the Fifth Directive has a wider ambit than the issue of voting rights: it contains proposals for employee participation and company structure which are opposed by several EC member states, including the United Kingdom. Given the many and varied problems over the Fifth Directive, agreement is in any case not likely to be achieved soon.

I would be very happy to discuss your concerns in more detail and I am sure it would be helpful if Nick Ridley were to join us for that discussion. I have asked my Private Office to find a suitable time for a meeting.

The Viscount Rothermere

①  
PRIME MINISTER

LORD ROTHERMERE AND THE EC FIFTH DIRECTIVE

My note last weekend indicated that Lord Rothermere wishes to discuss the EC Fifth Directive with you at a convenient opportunity.

You said that you were content to meet Lord Rothermere and that Nick Ridley should attend any such meeting.

I attach a letter for you to send to Lord Rothermere - based on a draft which DTI supplied earlier.

BHP

mf

BARRY H. POTTER

28 June 1990

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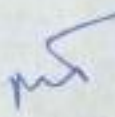
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MY TELNO 252 (NOT TO ALL): OUTLOOK FOR THE ITALIAN PRESIDENCY

## SUMMARY

1. ITALIAN OBJECTIVES FOR THEIR PRESIDENCY ARE EXTENSIVE, AMBITIOUS, AND IN SEVERAL CASES UNWELCOME. IN PARTICULAR, THEIR EMPHASIS ON THE SOCIAL ACTION PROGRAMME MAY CAUSE US PROBLEMS, AND THEY DO NOT ENTIRELY SHARE OUR ENTHUSIASM FOR THE SINGLE MARKET PROGRAMME. THEIR ORGANISATION AND CHAIRMANSHIP OF COMMUNITY BUSINESS IS LIKELY TO BE ERRATIC. BUT AS THEY SHOWED IN 1985, THEY HAVE A KNACK OF PRODUCING RESULTS WHEN IT COUNTS, AND THEY WILL BE VERY KEEN TO END UP WITH A EUROPEAN COUNCIL WITH MORE TO SHOW THAN JUST THE START OF THE TWO IGCS. MY TWO IFTS (NOT TO ALL) COVER THE DOMESTIC BACKGROUND, AND FURTHER THOUGHTS ON THE KEY PERSONALITIES.

## DETAIL

2. THE ITALIANS LAST HELD THE EC PRESIDENCY FROM JANUARY TO JUNE 1985. THEIR PERFORMANCE THEN WAS CHARACTERISED BY SOME OVER-AMBITIOUS OR ILL-CONCEIVED IDEAS AND INITIATIVES: BY A PROLIFERATION OF INFORMAL COUNCILS IN FAR FLUNG CORNERS OF THE COUNTRY; AND BY ERRATIC AND VARIABLE CHAIRMANSHIP OF THE VARIOUS COUNCILS, RANGING FROM, IN SIR MICHAEL BUTLER'S WORDS, A 'SUPERB' PERFORMANCE BY ANDREOTTI IN THE FAC, TO A FRENETIC BUT UNSUCCESSFUL EFFORT BY DE MICHELIS, THEN LABOUR MINISTER, IN THE SOCIAL AFFAIRS COUNCIL. ORGANISATION WAS OFTEN HAPHAZARD OR HASTILY IMPROVISED. BUT OVERALL WE JUDGED THEIR PRESIDENCY, GRUDGINGLY, TO HAVE BEEN CONSIDERABLE SUCCESS, WITH A SERIES OF MAJOR ACHIEVEMENTS: THE ENLARGEMENT NEGOTIATIONS, THE OWN RESOURCES DECISION, A FARM PRICES PACKAGE, AND AGREEMENT ON AN IGC ON INSTITUTIONAL MATTERS (THE LATTER AT OUR EXPENSE, PUSHED THROUGH BY PRIME MINISTER CRAXI AFTER AN UNPRECEDENTED VOTE AT THE EUROPEAN COUNCIL). TO QUOTE MR RENWICK'S ACCOUNT OF THE PRESIDENCY AND ITS AFTERMATH TO LORD BRIDGES, 'THE PRESIDENCY WAS NOT WORKING FOR AN AGREED OUTCOME'. PLUS CA CHANGE.

3. IN THE NEXT SIX MONTHS, WE CAN SURELY EXPECT MORE OF THE SAME, NOT LEAST BECAUSE MANY OF THE PLAYERS FROM 1985 - ANDREOTTI, DE MICHELIS, RUGGIERO - REMAIN ON THE SCENE. BUT THESE ARE HEADY TIMES FOR THE ITALIANS, AND THEIR AMBITIONS HAVE GROWN. THEY SEE THEIR PRESIDENCY AS COMING AT A PIVOTAL MOMENT FOR EUROPE, AND THE COINCIDENCE OF ITS START WITH THE SEMI-FINALS OF THE WORLD SOCCER CUP PUTS ITALY, THEY BELIEVE, IN AN UNFAMILIAR CENTRAL POSITION ON THE INTERNATIONAL STAGE. IN THEIR CURRENT SELF-CONFIDENT MOOD, BUOYED BY CONTINUING PRIVATE SECTOR ECONOMIC SUCCESS, THEY INTEND TO MAKE THE MOST OF THEIR SIX MONTHS (MINUS THE SUMMER HOLIDAYS, WHICH THEY FULLY INTEND TO TAKE).

4. THE RESULT WILL BE A PRESIDENCY LOADED WITH INSUBSTANTIAL BUT HIGH-PROFILE INITIATIVES, SOME UNNECESSARY MEETINGS, AND MUCH TRAVELLING BY DE MICHELIS: THE USUAL EMPHASIS ON FORM AND MOTION. BUT UNDERLYING THIS WILL BE SOME CLEAR ITALIAN PRIORITIES WHICH THEY WILL PURSUE RUTHLESSLY, AND WHICH I ATTEMPT TO DEFINE BELOW, IN THEIR (ITALIAN) ORDER OF PRECEDENCE.

THE IGCS ON POLITICAL UNION AND EMU (UNDERLINED)

5. THE KEY ITALIAN OBJECTIVE WAS SECURED AT DUBLIN WITH AGREEMENT TO THE START OF A SECOND IGC ON POLITICAL UNION. WITH TWO IGCS BEGINNING DURING THEIR PRESIDENCY, THE ITALIANS BELIEVE THAT ITS SUCCESS AND ITALY'S PLACE IN CONTEMPORARY EUROPEAN HISTORY ARE ASSURED. THEY ARE LESS CONCERNED ABOUT SUBSTANCE, ESPECIALLY IN RELATION TO POLITICAL UNION. THE OFFICIAL MFA LINE REMAINS THAT THIS IGC SHOULD AGREE ON MAJORITY VOTING ON SOCIAL, HEALTH AND ENVIRONMENT ISSUES: ON GREATER POWERS FOR THE EUROPEAN PARLIAMENT: AND ON IMPROVED POLITICAL COOPERATION, TO INCLUDE SECURITY ISSUES. BUT THEY HAVE MADE LITTLE CONTRIBUTION TO THE PARKNASILLA DEBATE, AND SEEM CONTENT TO GO WITH THE EMERGING CONSENSUS. DE MICHELIS TOLD US (MY TELNO 470) THAT THERE WAS NO TIME FOR PHILOSOPHISING ON THE CONTENT OF POLITICAL UNION, BUT THAT PARTNERS SHOULD AIM FOR A REALISTIC SHORT-TERM TARGET: A SINGLE EUROPEAN ACT (BIS), TO BE AGREED WITHOUT LINKAGE TO THE CONCLUSIONS OF THE IGC ON EMU.

6. ON EMU, HOWEVER, THE ITALIAN POSITION WILL BE LESS NEUTRAL. AS THE PAYMASTER GENERAL DISCOVERED DURING HIS VISIT TO ROME THIS WEEK, MANY ITALIANS, NOTABLY IN THE BANKING SECTOR, SEE MUCH TECHNICAL MERIT IN OUR IDEAS FOR THE STAGE BEYOND STAGE ONE. THEIR OBJECTIONS ARE POLITICAL. FOR DOMESTIC REASONS - MAINLY TO CONTROL THEIR

ENORMOUS GOVERNMENTAL DEFICIT - THEY WANT THE EXTERNAL DISCIPLINE OF A EUROPEAN CENTRAL BANK AS SOON AS POSSIBLE, AND THEY THEREFORE DISLIKE THE DELAY AND DOUBT INHERENT IN OUR GRADUALIST, FREE MARKET APPROACH. SO ALTHOUGH CARLI PROMISED THE PAYMASTER GENERAL THAT OUR IDEAS WOULD BE ON THE TABLE, ALONGSIDE THE DELORS PLAN PERHAPS IN THE PAPER PROMISED BY THE ITALIANS FOR THE START OF THE EMU IGC IN TERMS OF 'A CHOICE BETWEEN A SINGLE AND A COMMON CURRENCY', I WOULD EXPECT HIM TO TRY TO GET THEM SPIKED AS SOON AS POSSIBLE, AND TO TAKE EVERY OPPORTUNITY AS CHAIRMAN TO PUSH THE DELORS ALTERNATIVE.

SOCIAL ISSUES (UNDERLINED)

7. THE ITALIANS WILL BE TROUBLESOME ON SOCIAL ISSUES. THEY ASSERT THAT THE SINGLE MARKET MUST BE MATCHED BY THE SOCIAL ACTION PROGRAMME ('A EUROPE FOR CITIZENS'), AND THAT THIS ENTAILS RAPID PROGRESS, IF POSSIBLE DURING THEIR PRESIDENCY, ON SOME OF THE MOST CONTENTIOUS DRAFT DIRECTIVES. THE ITALIANS WILL THEREFORE TEND TO SUPPORT MADAME PAPANDREOU'S ATTEMPT TO FIND TREATY BASES THAT MIGHT CONCEIVABLY ALLOW QUALIFIED MAJORITY VOTING. MOREOVER, DONAT CATTIN, THE LABOUR MINISTER, WILL BE AN UNPREDICTABLE AND POSSIBLY CANTANKEROUS CHAIRMAN OF THE SOCIAL AFFAIRS COUNCIL, THOUGH HE HAS RECENTLY SHOWN AN AMIABLE FACE TO THE SECRETARY OF STATE FOR EMPLOYMENT, AND TO MRS GILLIAN SHEPHARD MP. SO WE FACE A DIFFICULT, AND ARGUMENTATIVE, SIX MONTHS IN THIS FIELD. WE MUST REMEMBER THAT DE MICHELIS AS A FORMER MINISTER OF LABOUR HAS SOME RESIDUAL KNOWLEDGE OF THE SOCIAL DOSSIERS, AND KNOWS THAT THEY ARE USEFUL DOMESTIC STICKS WITH WHICH TO BEAT HIS CHRISTIAN DEMOCRAT COLLEAGUES AND CONFINDUSTRIA (THE ITALIAN CBI)

THE SINGLE MARKET (UNDERLINED)

8. WITHIN THE FRAMEWORK ESTABLISHED FOR THEM BY THE VERY CLEAR AND USEFUL DUBLIN CONCLUSIONS (DUBLIN TELNO 560, PART ONE), THE ITALIAN PRIORITIES ARE LIKELY TO BE FISCAL ISSUES - WHERE THEY HOPE TO ACHIEVE AGREEMENT ON A COMMON STRUCTURE FOR VAT AND EXCISE DUTIES AND MEASURES TO AVOID FRAUD - AND TRANSPORT. ON THE LATTER, THEY WILL BE KEENER ON GRANDIOSE PROJECTS LIKE THE EUROPEAN TRANSPORT NETWORK THAN ON ISSUES LIKE CABOTAGE.

EXTERNAL ISSUES (UNDERLINED)

9. THE ITALIANS HOPE THAT AN EC/EFTA AGREEMENT WILL BE ANOTHER JEWEL IN THE CROWN OF THEIR PRESIDENCY AND THEY WILL PUSH HARD FOR RAPID PROGRESS IN THESE NEGOTIATIONS. THE SAME WILL GO FOR THE NEW ASSOCIATION AGREEMENTS WITH EASTERN EUROPEAN STATES. THE MFA TALK

ALSO OF FORMALISING THE COMMUNITY'S LINKS WITH THE US AND CANADA, AND OF CLOSER COLLABORATION WITH THE SOVIET UNION.

10. ON THE GATT URUGUAY ROUND THE KEY, AS SIR DAVID HANNAY RECENTLY TOLD ANDRIESEN, WILL BE TO MAKE RUGGIERO FEEL THAT HE IS FULLY INVOLVED AND PLAYING A LEADING ROLE. HE BADLY WANTS TO BE SEEN TO BE IN CHARGE. DESPITE HIS OUTBURSTS ON ISSUES LIKE JAPANESE CARS, RUGGIERO'S INSTINCTS ARE BASICALLY LIBERAL AND HE IS PREPARED TO TAKE SOME DOMESTIC RISKS: HIS RECENT PUBLIC STATEMENT THAT THE EC SHOULD MOVE ON AGRICULTURE AROUSED STRONG CRITICISM FROM THE AGRICULTURAL LOBBY HERE AND FROM HIS CABINET COLLEAGUE, MANNINO, THE AGRICULTURE MINISTER. FURTHERMORE, RUGGIERO HAS GOOD PERSONAL LINKS WITH MR RIDLEY, WHICH THE LATTER HAS CAREFULLY NURTURED.

11. FINALLY, WE CAN EXPECT ITALIAN INITIATIVES IN RELATION TO THE MEDITERRANEAN AND LATIN AMERICA. WITH THE FORMER, APART FROM THEIR IDEAS FOR A MEDITERRANEAN HELSINKI-TYPE CONFERENCE, THEY WILL TRY AND TAKE FORWARD AGREEMENTS ON THE EC-GCC MODEL BETWEEN THE EC AND THE ARAB MAGHREB UNION, AND PERHAPS ALSO THE EC AND THE ARAB COOPERATION COUNCIL. GIVEN THE PRESENCE OF LIBYA IN ONE AND SYRIA IN THE OTHER, NEITHER WILL BE STRAIGHTFORWARD FOR US. WITH LATIN AMERICA, THEY PROPOSE A SIMILAR ARRANGEMENT, AND SEE ALADI AS THE EC'S APPROPRIATE PARTNER. BOTH ANDREOTTI AND DE MICHELIS HAVE BEEN SIGNALLING RECENTLY THAT ITALY HAS NOT (NOT) FORGOTTEN CENTRAL AND SOUTH AMERICA.

PROBLEMS (UNDERLINED)

12. THERE ARE AT PRESENT AT LEAST TWO CLOUDS ON THE ITALIAN HORIZON. THE FIRST IS THE RISK OF A GOVERNMENT CRISIS DURING THEIR PRESIDENCY, WHICH I EXPLORE IN MY FIRST IFT B. THE SECOND IS THE INCREASING ATTENTION THAT IS BEING PAID, RIGHTLY, TO ITALY'S APPALLING RECORD ON IMPLEMENTATION AND ENFORCEMENT OF EC DIRECTIVES. THE RECENT ECONOMIST ARTICLE HIGHLIGHTING THE LEAGUE TABLE, WITH ITALY EQUAL BOTTOM WITH PORTUGAL, RECEIVED INDIGNANT FRONT PAGE COVERAGE IN THE LOCAL PRESS. THE GOVERNMENT IS EMBARRASSED BUT SIMPLY LACKS THE POWER TO FORCE PARLIAMENT TO DO BETTER. THE LATEST PREDICTION FOR PASSAGE THROUGH BOTH HOUSES OF THE ROMITA OMNIBUS BILL COVERING SOME EIGHTY EC DIRECTIVES IS OCTOBER, BUT I MAY BE TOO PESSIMISTIC.

13. THE MORE EXPOSURE THE ITALIAN RECORD GETS, THE BETTER, AND THEIR PRESIDENCY IS A GOOD OPPORTUNITY TO STEP UP THE PRESSURE. BUT DIRECT CRITICISM BY UK MINISTERS IS LESS EFFECTIVE THAN GETTING THE

COMMISSION, OR THE PRESS, OR INDUSTRIAL OR FINANCIAL PRESSURE GROUPS, TO FOCUS ON ITALIAN FAILINGS AS PART OF COMMUNITY-WIDE EXERCISES. THE EMBASSY IS FOCUSING INCREASINGLY ON THIS INFORMATIONAL ASPECT.

14. MY 2 IFTS (NOT TO ALL) CONTAIN AN ASSESSMENT OF THE PRESENT GOVERNMENT'S VIABILITY, AND OF THE MANAGEMENT OF THE PRESIDENCY UNDER ANDREOTTI AND DE MICHELIS.

EGERTON

YYYY

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Ref.AO90/1487  
PRIME MINISTER

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Cabinet: Community Affairs

1. You may wish to give Cabinet your impressions of the Dublin European Council.
  
2. Mr Gummer may mention the 25-26 June Agriculture Council:
  - An important package of six veterinary measures relevant to the Single Market was agreed, including provisions for veterinary checks on live animals (consistent with the UK's "bottom line") and the elimination of vaccination for foot and mouth disease (needed because vaccination masks presence of disease).
  
  - Agreement on proposal to encourage production of cereals for industrial use on set-aside land. The final compromise preserved the key UK concern that such cereals should remain within the stabiliser mechanism.
  
  - Political agreement on the broad shape of a package of production and labelling rules for organic agriculture.
  
  - Commission proposals for amending agricultural regulations to take account of German unification will be tabled by September.
  
  - A separate Fisheries Council is currently in progress.
  
3. Mr Ridley may report on the Commission decision on 27 June to require British Aerospace to repay £44.4 million to the Government in respect of the sale of the Rover Group.



4. Forthcoming meetings are:

- Telecommunications Council, 28 June;
- Research Council, 29 June;
- G24 Ministerial Meeting, 3 July.

R.B.

ROBIN BUTLER

27 June 1990

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the department for Enterprise

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The Rt. Hon. Nicholas Ridley MP  
Secretary of State for Trade and Industry

Barry Potter Esq  
Private Secretary to  
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Date 27 June 1990

*See Barry*

EC FIFTH DIRECTIVE

*jeap*

Following your conversation with Martin Stanley and your letter of yesterday, we have produced the attached note on the part of the Fifth Directive dealing with share voting rights, and a draft letter to Lord Rothermere on the subject.

The key point is the one in the third paragraph of the draft letter, namely that the Government have been pressing the Commission to take action to reduce barriers to takeovers in the Community, as a move towards a single EC market and particularly to provide in other countries the opportunities for acquisitions which already exist in Britain. The existence of unequal voting rights is, according to studies done both for the Government and for the Commission, an important potential barrier in some countries. Overall the principle of limiting non-voting shares is therefore one which we support.

Three further points emerge from our note on the Fifth Directive. First, it has a dismal track record of failure to agree; it is blocked on the mandatory employee participation provisions (see paragraph 3 of the note) but there is much else in it on which agreement has been elusive over a long period. There has been discussion of breaking it up in order to make progress, but the Commission have recently shown more inclination to pin their hopes on the European Company Statute as an alternative way of creating a body of general EC company law. Agreement on the Fifth seems still to be a long way off.



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Second, our ambitions to reduce barriers to takeovers are all too obviously constrained by this problem. However, we have always regarded the Commission's legislative proposals on barriers as a vehicle for raising awareness of barriers and the damage they can do to the single market. Because the worst barriers are cultural and institutional rather than legal, this awareness may be more important than the proposals themselves.

Third, in the case of unequal voting rights we are in any case not satisfied with what the Commission are proposing. We are still in the process of consulting other Departments on the balance to be struck between a narrow rule which might bite on barriers, and a rule with a range of exceptions which would meet particular UK concerns. A wider question is how equality can be achieved without unfairly disadvantaging those who lose their voting rights; compensation would be necessary and the basis for that may prove difficult to identify. Ultimately, it would be open to us to revert to our pre-1988 position that restrictions on voting rights were an undesirable restriction on freedom of contract, but this would undermine our widely-publicised concern over barriers to takeover.

We do not, however, yet know what exactly Lord Rothermere is concerned about, although we aim to find out if we can before any meeting with the Prime Minister. There are three obvious possibilities. One is that Lord Rothermere wants to retain family control over the Daily Mail (whose "A" shares are publicly quoted). The second is that mentioned above: the difficulty of developing an equitable system of compensation of the losers by the winners. In that case our line is to agree and that we are pursuing it. The third is that Lord Rothermere thinks that the press are entitled to protection from takeovers by this means. While there are limits proposed on the ownership of broadcasting companies in the Broadcasting Bill now before Parliament, no such protection exists for the press although large newspaper transfers require the Secretary of State's consent (normally with MMC advice) under the Fair Trading Act. It would be possible to consider a public interest case for seeking a derogation for regulatory measures which would cover newspapers (and perhaps Reuters) if they can make out such a case. Up to now such a case has not been put forward (except by Reuters, which is however in a special situation, and for which a special arrangement may be needed).

Finally, I attach a recent exchange of letters with the Daily Mail, which mainly concerns their criticism of our consultation arrangements, although it is clear that they had the voting rights issue in mind at the time. As you will see, we did not accept their criticism. Although we believe that relatively few UK companies (compared with continental companies) have unequal



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voting rights that would be affected by the Commission's proposals, we could not in fact produce a complete list of such companies, a large proportion of which would be private companies, and few of which are listed companies. Consulting them individually would therefore have been out of the question, although we are always ready to receive representations; we have recently had letters from Reuters, the Savoy company and Schrodgers, as well as the Daily Mail.

No doubt you will let me know if a meeting is to be arranged.

I am copying this letter to John Gieve (Treasury), Richard Gozney (FCO) and Sonia Phippard (Cabinet Office).

*Yours ever*

*Ben*

BEN SLOCOCK  
Private Secretary

CONSERVATION



## PROPOSED EC FIFTH DIRECTIVE: UNEQUAL VOTING RIGHTS

### A. The Fifth Directive as a whole

1. The Fifth is the main outstanding EC company law harmonisation proposal. It would apply to all public limited companies incorporated in the EC, and covers the structure and duties of the board; the responsibilities and liabilities of individual directors; the rights of minority shareholders; the conduct of general meetings; the adoption and audit of annual accounts, the independence of auditors and the involvement of employees in the affairs of plcs with more than 1000 employees. All but the last of these are covered in the UK by the Companies Acts.

2. The first draft was put forward by the Commission in 1972 and revised texts were issued in 1983 and 1988. The directive has now completed its second reading and the Italian Presidency have indicated their intention to start the third reading - which however will not necessarily be the last - in 1990. Because a number of its proposals are controversial, particularly those relating to employee participation, because of its very wide scope, and because company law harmonisation is not considered important in practice, the Fifth has not been given high priority by recent Presidencies, despite the Commission's support for it as a single market measure.

3. Agreement has been prevented by the insistence of the Commission that the employee participation options are an essential part of the directive and that they are equivalent and therefore a valid harmonisation measure; the insistence of the UK that there must be a voluntary option which is equivalent to the mandatory options; the refusal of the Commission and the Germans to consider a voluntary option; and the refusal of the Germans to accept that anything else is equivalent to board-level participation.

4. Because of this deadlock, the Commission have suggested that the third reading should leave employee participation aside until later, so that progress can be made on the other provisions. The Italians intend to follow this course in their Presidency.

5. There are however a number of other serious problems in the directive, and DTI issued a consultation document on these in January 1990 in preparation for the third reading. Among respondents (43 from a circulation of 800, including the main representative bodies and others who have expressed interest in company law in the past) the great majority agreed with the existing Government position set out in the document. The general tone was of opposition to the whole directive, even without employee participation.

## B. Barriers to takeovers: equal voting rights

6. The UK's attack on barriers to takeovers has been based generally on the perception that takeovers of UK companies by continental companies are much easier than vice versa. The campaign to use EC legislation for this purpose has been based particularly on the work of Coopers and Lybrand, whose report to DTI in 1989 argued that some barriers, though not the most important ones, could be approached through legal changes. Among these, restrictions or disproportions in share voting rights were identified as a significant barrier in Belgium, Denmark, France, Germany and the Netherlands. They work in various ways: in Germany, there may be maximum limits on voting rights of individual shareholders, while in France there may be additional voting rights for long-term investors.

7. A DTI consultation exercise (separate from that on the Fifth Directive) established that views were mixed on the question of unequal voting rights. Out of 31 respondents who mentioned this, 16 thought that there should be a general prohibition; 11 thought that they should not be banned (for a variety of reasons) and the rest were broadly neutral.

8. The Commission had already incorporated in the proposed Fifth Directive a provision (Article 33) designed to base share voting rights on the proportion of "subscribed capital" which the shares represent. A similar provision is included in the proposal for a European Company Statute. Up to 1988, the UK's line was that it represented an undesirable restriction on freedom of contract. More recently, the UK has moved away from that position and our expressed concern over unequal voting rights as a barrier, together with their own study which confirmed the UK view, led Vice-President Bangemann to include in his package of proposals to deal with barriers to takeovers, announced on 14 May 1990, a proposal to tighten up Article 33.

9. The proposal (for which a draft text has not yet been produced) would reduce the scope of the derogations from the general principle of proportionality. The existing text of Article 33 is attached. The changes would be:

a) to limit the issue of non-voting preference shares, permitted under Article 33 2(a), to 50 per cent of the total share capital. If the company did not actually grant the special advantages carried by such shares within a stated time, the shares would automatically become voting shares.

b) to abolish the possibility of restricting the voting rights which may be exercised by any one shareholder. This would prevent the French practice of giving increased voting rights to shareholders who hold shares for more than a specified minimum period, which is permitted under Article 33 2(b) - though there is some doubt about the effect of the existing provision.

10. These changes have been welcomed by the UK as a step towards the removal of a significant barrier. The UK, and almost certainly other member states, would however require other derogations to be introduced into Article 33 before it could be accepted. This question was reviewed early in June by EQO, which noted that the Government's own special shares would need to be provided for to the extent that they would still be needed after 1994 (the earliest the Fifth could come into force in the unlikely event of it being agreed rapidly); and concluded that, on a preliminary view, derogations should not be sought for special voting rights other than Government special shares, except where these were required under regulatory legislation.

11. Policy on this issue is however still being developed. EQO agreed that the scope and drafting of a suitable derogation would be pursued in further discussion between DTI and other interested Departments. Representations from companies likely to be affected are also still coming in. The situation of Reuters (which has the only known private sector golden share) is under discussion with the company. If these, together with the compensation problem noted below, were to lead to the view that Article 33 in anything like its present form could serve no useful purpose, it might be necessary to argue for limiting its scope - for example to listed companies only, where the main opportunities for contested takeover bids exist - or even to revert to our earlier general opposition to the Article.

#### C. The Compensation Issue

12. A potential problem affecting the whole of Article 33, which has not yet been fully explored, is the position of companies with existing unequal voting rights and the related question of the meaning of "subscribed capital" which is the Commission's intended basis for proportionality of voting rights.

13. The value of shareholdings relates primarily to their potential for earning dividends, a variable quantity, rather than to historic measures such as the nominal price of the shares or the amount originally subscribed for them. If voting rights were to be redistributed between classes of shares with different market prices, as Article 33 would require if it were to be applied retrospectively, it would be necessary either to expropriate voting rights under EC law or, more realistically, to find a formula for the gainers to compensate the losers. The proportions would have to be based on historic measures such as nominal price (which need bear no relationship to the current value or the price paid for the shares) or on market price (which is not fixed). A completely equitable structure may be impossible; we intend to establish the Commission's views on this problem.

14. The alternative of applying Article 33 only to new issues of shares might avoid this problem, but would obviously negate (except in the very long term) the objective of removing an existing barrier to takeovers.

D. The position of newspapers

14. Section 59(3) of the Fair Trading Act 1973 requires the MMC to investigate and report to the Secretary of State on whether a transfer of a controlling interest in a newspaper to an existing newspaper proprietor may be expected to operate against the public interest, taking into account all matters which appear relevant and, in particular, the need for accurate presentation of news and free expression of opinion. A "controlling interest" is defined as one quarter of the voting rights in circumstances which do not bring into play special voting rights or restrictions on voting rights. (The qualification is no doubt intended to cover the position of preference shares, but could perhaps be significant if the special rights were designed with takeover bids in mind).

15. DTI intend in any case to seek a derogation in Article 33 of the Fifth Directive to ensure that restrictions on voting rights arising from regulatory arrangements are preserved. It would be possible to include wording designed to cover special voting rights in newspaper companies, even though they are not covered by Section 59(3) of the FTA, if there were a public interest case for doing so. Moreover, as noted above there are further fallback positions on Article 33 if it were to become clear that it cannot remove barriers to takeovers without causing unacceptable harm to UK interests.

C1/DTI  
26 June 1990  
news.101

Article 33

1. The shareholder's right to vote shall be in proportion to the fraction of the subscribed capital which his shares represent.
2. Notwithstanding paragraph 1, the laws of the Member States may authorize the memorandum or articles of association to allow:
  - (a) restriction or exclusion of the right to vote in respect of shares which carry special advantages;
  - (b) restriction of votes in respect of shares allotted to the same shareholder, provided the restriction applies at least to all shareholders of the same class.
3. The right to vote may not be exercised:
  - (a) where the payment of calls made by the company has not been effected;
  - (b) by virtue of the company's own shares, in accordance with Article 22(1)(a) of Directive 77/91/EEC.
4. This provision shall not affect the laws of the Member States where they provide for suspension of the right to vote in the event of inheritance, shares provided as security, or lack of information on major holdings.

DRAFT

LETTER FROM THE PRIME MINISTER TO LORD ROTHERMERE

*At a recent meeting with Sir David English, as explained at a recent meeting that you are concerned about the proposals in the draft EC Fifth Company Law Directive that, with certain exceptions, voting rights in companies should be proportionate to subscribed capital.*

*As you will know, these*  
The provisions <sup>are</sup> part of the Commission's proposal for <sup>of course</sup> a Fifth Directive, <sup>at Directive level a wide ambit which voting rights</sup> which in its present form, contains proposals for <sup>and case purpose</sup> employee participation and company structure, which are opposed by several EC member states, including the United Kingdom.

*As you may know, the Government have been pressing the Commission to take action to reduce barriers to takeovers in the Community, as a move towards a single EC market and particularly to provide in other countries the opportunities for acquisitions which already exist in Britain. The existence of unequal voting rights is, according to studies done both for the Government and for the Commission, an important potential barrier in some countries.*

*The Commission have recently said that, as a step towards removing such barriers, they will propose a narrowing of the exception to their proposal of proportionate voting rights. In general, we support this; That does not mean however that we are satisfied with what the Commission now propose. For example, we will need to consider the extent to which*



derogations may be required on public interest grounds; and we will have to be persuaded that existing regulatory restrictions on voting rights can be maintained, and that the overall proposal can be implemented equitably. An equitable method of implementation is particularly important if any change is to be made retrospectively; and it is not yet clear how the Commission propose to deal with it. We will be pressing them for an explanation on this point before discussions on the Directive resume in the coming months. More generally, we shall need to balance these concerns with our aim of supporting the removal of barriers to takeovers.

*I must stop make it clear*  
~~It is clear~~ that significant further changes will need to be made to this EC proposal before it <sup>would be</sup> acceptable to us and, probably, to other member states. <sup>Moreover</sup> Given the many other problems affecting the Fifth Directive, agreement is in any case not likely to be achieved soon. ~~If, however, you would like to discuss your concerns, in more detail, you would be welcome to come in and do so. I look forward to hearing from you.~~ *I need to say happy* *I* *very pleased* - *I would like to talk this*



the department for Enterprise

John Redwood MP  
Parliamentary Under Secretary of State for  
Corporate Affairs

C J F Sinclair Esq  
Chief Executive  
Daily Mail and General Trust plc  
Northcliffe House  
2 Derry Street  
LONDON W8 5TT

Department of  
Trade and Industry

1-19 Victoria Street  
London SW1H 0ET

Enquiries  
071-215 5000

Telex 8811074/5 DTHQ G  
Fax 071-222 2629

Direct line 071 215 4417

Our ref

Your ref

Date 25 May 1990

Copies to:

Mr Mountfield  
Mr McBride  
Mr Trent

*Dear Mr Sinclair,*

Thank you for your letter of 18 May, in which you expressed concern that the publication of my Department's consultation document on barriers to takeovers had not been brought to the attention of your company before you heard about it earlier this month.

The document was printed in January and distributed in early February to all those on the standard circulation list for company law consultation documents. This is made up of those individuals, companies, and professional and trade associations which have asked to be kept in touch with company law proposals. They include many large plcs and the major law and accountancy partnerships, as well as organisations such as the CBI and the Institute of Directors. To publicise the proposals further, press releases were issued both at the time of the document's publication and when the consultation exercise had been completed and the results analysed.

I believe that these arrangements were adequate to ensure that we received a representative cross-section of opinions.

My officials will be pleased to ensure that your company is added to this list if you would contact Miss Jones in Companies Division (071 215 3204) and let her know to whom papers should be sent.

For this particular exercise the deadline for consultation was, as you noted, very short. This was unavoidable because the Council of Ministers did not agree until 22 December that they would examine proposals on the reduction of barriers to takeovers that the Commission committed itself to bringing forward at the end of March. We had to work to that timetable in order to make an effective input to the formulation of the Commission's proposals.



Recycled Paper

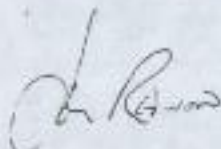
# dti

the department for Enterprise

Although the closing date for submissions has of course passed, detailed discussions on the amended proposal on voting rights have not yet started in the relevant Council Working Group. If the proposal for equality of voting rights would give rise to any difficulties that would be specific to your company or to the newspaper industry, the Department would like to learn about them as soon as possible. The appropriate contact is Mr N Trent, Room 514, 10-18 Victoria Street, SW1.

*I always try to ensure the fullest possible consultation on EC matters before Directors are decided - the Council of Ministers*

*Yours sincerely*



JOHN REDWOOD



Recycled Paper

Chief Executive's Office

## Daily Mail and General Trust plc

Northcliffe House, 2 Derry Street, London W8 5TT  
Telephone 071-938 6614 Fax 071-938 3909

CJFS/rb

18th May 1990

Mr John Redwood, M.P.  
Parliamentary Under Secretary of State  
for Corporate Affairs  
Department of Trade and Industry  
1 Victoria Street  
London SW1H 0ET



Dear Mr Redwood

We were disturbed to discover that the Department of Trade and Industry had issued a consultative document entitled "Barriers to Takeovers in the European Community" dated January 1990. This apparently reached the only recipient known to us at the beginning of March, and invited comment by 9th March. To our knowledge none of the significant companies whose share capital might be affected by any proposals emanating from Article 33 of the Fifth Directive either received or had heard of this document before the beginning of this week.

It seems to us fundamental that a consultative document should be positively directed towards those most likely to give relevant comment. This was clearly not done.

With others we will apply ourselves to providing such commentary. The purpose of this letter is to register our concern that your Department does not proceed to develop positions for discussion at the European Commission which are not soundly based on satisfactorily gathered comment.

Yours sincerely

*Charles Sinclair*

C.J.F. Sinclair  
Chief Executive

TO Beutels  
FOR ADVICE AND  
DRAFT REPLY IF  
APPROPRIATE  
PLEASE BY:

30.5

Copies to

Mr Hamfield  
Mrs Brown  
Mr McBride

2/1/90

GENCO POR: Budget

pr46



Prime Minister

EUROPEAN COMMISSION PROPOSAL FOR A COUNCIL RESOLUTION ON  
IMPROVING THE PREVENTION AND TREATMENT OF  
ACUTE HUMAN POISONING

The Council of European Communities is being asked to consider a Commission proposal for a Council Resolution titled "Improving the Prevention and treatment of acute human poisoning".


This proposed Resolution introduces a scheme for the collection of comparable information on cases of poisoning and the availability of antidotes within the Community. Poisoning of consequence is not a very common occurrence, and reliable information on the effects of many poisons is needed. Exchange of information between Member States will greatly aid the provision of health care and will significantly benefit the United Kingdom.

The Resolution as drafted was impractical in some areas, for example the forms for collection of data were too comprehensive to be completed in normal circumstances, and there was no mechanism for regular review of the details of the proposal by experts. However, my officials have argued successfully for changes that now make the Resolution eminently reasonable and workable. I am convinced that the United Kingdom should support it in principle.

To accept the proposal as it stands would mean the United Kingdom conceding some competence on a health issue, something which we have resisted in the past. All other Member States support the Resolution and would be prepared to see it accepted as a Council Decision. However, recognising our concerns, they would almost certainly accept a Mixed Decision. Such a binding instrument would allow for the establishment of an advisory committee of national experts to assist the Commission in reviewing data collection and information on antidotes, in the light of current international scientific findings. The United Kingdom would be expected to play an influential role on the committee and this I would welcome.

If we wished to oppose the Resolution as it stands or a Council Decision, we would need to exercise our veto at the Council of Ministers. This would seriously upset our medical scientific standing and influence with other Member States and it would harm our policy objectives within the UK.

On balance, I am sure we should take advantage of the position my officials have achieved in the discussions and press for a Mixed Decision. I would welcome your agreement to this and that of colleagues on OD(E) to whom this letter is copied, namely Sir Geoffrey Howe, Douglas Hurd, John Major, Nicholas Ridley, John Gummer, Michael Howard, Francis Maude and Sir Patrick Mayhew.



26 June 1990  
Department of Health

KC



*File in*

10 DOWNING STREET

LONDON SW1A 2AA

*From the Private Secretary*

25 June 1990

*Dear Martin,*

EC 5TH DIRECTIVE

We spoke on the telephone this morning. I explained that when Sir David English (Editor of the Daily Mail) saw the Prime Minister recently, he indicated that Lord Rothermere (owner of the Daily Mail) was concerned about the provisions in the draft EC 5th Directive. According to Sir David English, these provisions would require all non-voting shares to be transformed into voting shares. This could have implications for the ownership of a number of UK companies.

The Prime Minister has indicated that she would like to write to Lord Rothermere offering to meet him in order to discuss the EC 5th Directive. She would like your Secretary of State to attend any such meeting.

*BN* I will make arrangements for a provisional slot in the Prime Minister's diary. In the meantime, I would be most grateful for an urgent draft letter which the Prime Minister could send to Lord Rothermere. This would explain the proposed provisions in the EC Directive; set out the UK's stance, including any reservations or derogations which might be planned; and indicate the likely further progress of the EC 5th Directive. The draft should also indicate that Lord Rothermere would be welcome to come into No.10 for a further discussion, if he wishes to pursue the matter.

I am copying this letter to John Gieve (H.M. Treasury).

*Yours ever,*

*Barry*

BARRY H. POTTER

Martin Stanley, Esq.,  
Department of Trade and Industry.

*fr*





file MAM

10 DOWNING STREET  
LONDON SW1A 2AA

From the Private Secretary

24 June 1990

See Party.

EC DIRECTIVES ON PART-TIME AND TEMPORARY WORK

The Prime Minister has seen a copy of your Secretary of State's letter of 21 June to the Foreign Secretary about the action being taken to combat directives flowing from the Social Charter. She very much endorses the robust line which your Secretary of State proposes to take in presenting the Government's case. She suggests that the case would be further assisted if we illustrated what the effects of these directives would be on specific individuals. As examples, she suggests that the Department of Social Security should provide information on:

- (a) the overall cost to the 1.75 million employees earning less than £46 per week of making them liable to NICs;
- (b) illustrations of the cost/savings per week to specific individuals eg the cleaner earning less than £46 per week but working more than eight hours; or the part-time director earning more than £46 per week but working less than eight hours; or married women computer operators or physiotherapists working less than eight hours but earning more than £46 per week.

I am copying this letter to Helen Dudley (Department of Social Security), John Gieve (HM Treasury), Richard Gozney (Foreign and Commonwealth Office) and Sonia Phippard (Cabinet Office).

Yours sincerely,

CHARLES POWELL

Martyn Waring, Esq.,  
Department of Employment

KW



Foreign and Commonwealth Office

London SW1A 2AH

22 June 1990

Stephen Flanagan Esq  
Private Secretary to the  
Financial Secretary  
HM Treasury  
Parliament Street  
London SW1

CH

Dear Stephen,

**MINISTERS' EUROPE GROUP, 14 JUNE**

The following points arose from the meeting on 14 June.

Presentation of Policy

Mr Maude undertook to circulate copies of the action plans for the deployment of our policy on political union; these are enclosed. The first element was an article signed by the Foreign Secretary we hoped would be published in EC countries before the European Council; arrangements would be made for the article to be sent in advance to EC Foreign Ministers and other prominent figures in each country. Publicity for this initiative in the UK would be considered in the light of its external impact. (All this is now in hand.) Ministers also discussed briefly presentation of the decision on the Channel high-speed rail link.

Mr Maude invited any further ideas on political union. Mr Redwood raised the possibility of consultation of the Council by the Commission before proposals were put forward, with a written procedure for Council to table amendments. This would enable early consultation with those who would be affected by the draft legislation, and ample time for consideration by governments; and might be particularly appropriate after the completion of the Single Market. He accepted that this raised the question whether the Council was primarily a legislative or inter-governmental body. If the former, there might be more pressure for it to meet in public. Mr Jackson said that positive consideration should be given to this, while noting the wider implications. Mr Maude believed that, since the Council was a negotiating forum, operating in public would be difficult. The importance of fewer and better directives was noted. Mr Jackson suggested that legislation needed to be made binding (some member states tended at present to see it as declaratory).



Mr Heathcote-Amory saw a possible presentational opportunity over beach/bathing water standards. The UK appeared to fare badly; but this might stem from our having more rigorous sampling techniques than other countries. Was the UK's performance really worse than others? Ministers agreed that officials should consider the possibility of obtaining information about practice in other EC countries. (ECD(I) officials here look forward to hearing from DoE colleagues.)

Ministers agreed that it was important for the UK to keep up the pressure on implementation/enforcement. Compliance would be a central issue in the future development of the Community.

Mr Eggar drew attention to our successful efforts to get across the UK point of view on the proposed directives on atypical work, and thanked UKRep for their help.

#### Forthcoming Visits

Ministers agreed that it was important for Whitehall officials to keep in close touch with the EC Planning Unit in the PCO on forthcoming travel plans.

#### Meeting of Whitehall Press Officers

The Whitehall Press Officers' first meeting had identified some worthwhile ideas which should be followed up in the context of the specific action plans currently being drawn up. The Group would also be available to follow up specific ideas arising from Ministers Europe meetings.

Ministers discussed briefly the desirability of effective briefing of the European press in London, and of the (UK and Foreign) Brussels press corps, bearing in mind that the Commission and other Governments would also be briefing actively. Some departments' press officers now routinely accompanied Ministers to Councils in order to exploit briefing opportunities. It was agreed that the Planning Unit would, with UKRep, coordinate a programme of regular Brussels briefings by Ministers (eg over breakfast before Councils began).

#### UK nominees to the Economic and Social Committee

Mr Curry believed that a number of poor quality individuals, eg defeated MEPs, had been nominated to the ESC. Was the ESC necessary at all? The meeting noted that the UK proposal to abolish it had got nowhere at the last IGC and it was not worth trying again.

The next Ministers Europe meeting will be on 18 July (we will be in touch nearer the time to confirm the arrangements). Mr Maude will circulate an informal agenda.



I am copying this letter to Charles Powell, and to the Private Secretaries to the Deputy Chief Whip, the Paymaster General, David Curry, Tim Eggar, David Heathcote-Amory, Gloria Hooper, Robert Jackson, John Redwood, Peter Lloyd, Douglas Hogg, Gillian Shepherd and Roger Freeman.

*Yours Sincerely*

*Nicola Brewer*

Nicola Brewer  
Private Secretary to  
Mr Francis Maude

DEPLOYMENT OF EC POLICY: INSTITUTIONAL REFORM

IRELAND

(a) General - Irish will be sympathetic to many of our views but not robust in defence of them. Should present our position as strengthening Europe. Taoiseach most important target.

(b) Specific (1) Special visit (? by Secretary of State) to Dublin to present our ideas to Taoiseach.

Action: Not recommended at this stage: PM/Haughey meeting on 13 June, then Dublin visit by Hadley/Kerr.

(2) Irish Times interview with Prime Minister.

Action: RID to pursue. No 10 considering.

(3) 24-hour visit by Mr Maude in autumn.

Action: ECD(I) to pursue. Should be possible by end of year.

(4) Autumn visit by Chief Whip and/or Lord President.

Action: Planning Unit to pursue.

DEPLOYMENT OF EC POLICY: INSTITUTIONAL REFORM

SPAIN

(a) General - UK must appear positive. Should not over-do "no-go areas" argument. Rivalry between regional and central government a factor in Spanish thinking.

(b) Specific (1) Placement of good quality articles in Spanish press: short, reflective articles by Ministers or sympathetic academics best.

Action: Article by Secretary of State in hand.

(2) Ambassador can easily place articles or give speeches, on basis of material from London.

Action: Embassy to specify opportunities and target audience, and consult Planning Unit on next steps.

(3) Visit by Chief Whip.

Action: Identified as high priority for Chief Whip's round of visits.

(4) Visit by Mr Maude in October.

Action: Agreed in principle. ECD(I)/SED to pursue.

(5) Academic speakers for summer courses at Madrid and Santander.

Action: Planning unit to identify possibilities and sources of funding.

- (6) Solbes to have early bilateral talks with Mr Maude.

Action: Agreed: 18 July in London.  
Arrangements in hand: ECD(I) lead.

- (7) Cultivation of London and Brussels-based Spanish journalists.

Action: Embassy/UKRep to identify individual targets and plans.  
News Dept then to pursue.

- (8) Contact with recently-revised Spanish parliamentary Mixed Commission on EC Affairs.

Action: Embassy to make proposals for contacts in Madrid and London.

DEPLOYMENT OF EC POLICY: INSTITUTIONAL REFORM

NETHERLANDS

- (a) General - We should emphasise the practical effectiveness and efficiency of our ideas. Dutch well-informed on UK opinion: wide exposure to BBC, good English speakers.
- (b) Specific (1) Advance warning of Ministerial speeches and major interviews, to enable Embassy to stimulate commentary.

Action: News Department.

- (2) Visits by Secretary of State (14 June) and Anglo-Dutch Parliamentary Group (13-15 June).

Action: WED arrangements in hand.

- (3) Possible Dutch invitation for Chancellor to visit.

Action: Embassy and WED/ECD(I) to pursue in light of Secretary of State's visit.

- (4) Visit to UK by European Affairs Committee of Dutch Parliament.

Action: Very good idea. ECD(I)/WED/PRU to explore possibilities.

- (5) Advance some planned sponsored visits.

Action: Embassy to make specific recommendations.



(6) Good contacts with Dutch correspondents in London.

Action: News Dept to pursue on basis of specific Embassy recommendations.

DEPLOYMENT OF EC POLICY: INSTITUTIONAL REFORM

ITALY

(a) General - Italian attitudes passively pro-European.  
No large body of intellectuals ready to  
launch debate.

(b) Specific (1) Most effective channel is via Italian  
correspondents in London.

Action: Embassy to identify key contacts;  
News Dept to pursue in consultation with  
other Whitehall departments.

(2) Summaries better than full-length pieces.

Action: Noted. In hand.

(3) Category I sponsored visit by Martelli,  
Deputy Prime Minister.

Action: WED to seek slot. A good idea.

(4) Category I sponsored visit by European  
editorial writers on biggest Italian  
newspapers, "La Repubblica" and "Corriere  
della sera".

Action: WED to seek slots. Good idea.  
Mr Maude happy in principle to see.

DEPLOYMENT OF EC POLICY: INSTITUTIONAL REFORM

FRANCE

(a) General - French ideas a mixture of loosely-defined principle and self-interest. Some apparent breaking-down of cross-party consensus on European construction could lead to more pragmatic French approach. Should build on common ground - rôle of Council, subsidiarity, national parliaments.

(b) Specific (1) High level visits invaluable. The more French-speaking Ministers, the better.

Action: WED to draw up list of Francophone Ministers, by 25 June. WED to review Ministerial visits programme: Sir G Howe will visit on 15-17 June. Embassy to identify French Ministers/sectors on which to concentrate.

(2) Visiting Ministers to range outside strict departmental responsibilities.

Action: Good point. Planning Unit/WED to note and pursue.

(3) Visit by Chief Whip.

Action: Planning Unit: we see Paris as top priority for the Chief Whip.

(4) Proposals for contacts outside French Government.

Action: Embassy to identify opportunities  
among politicians, academics etc.

DEPLOYMENT OF EC POLICY: INSTITUTIONAL REFORM

LUXEMBOURG

(a) General - No serious public debate. Opinion largely formed by personal contact.

(b) Specific (1) Placement of occasional signed article.

Action: Article by Secretary of State pre-Dublin II in hand.

(2) Articles in "Le Monde" and "Frankfurter Allgemeine" have impact in Luxembourg.

Action: News Dept to note.

(3) Visit by Political Director Kasel to Mr Weston 20 June.

Action: Visit postponed. WED to pursue.

(4) Visit by Chief Whip or an official.

Action: Under consideration for visit, but not top priority. Plenty of official-level visits, pre-Presidency, likely in autumn.

DEPLOYMENT OF EC POLICY: INSTITUTIONAL REFORM

FRG

(a) General - Our approach should emphasise relevance, practicality and positive nature of our ideas, playing up their importance in strengthening the Community. Should emphasise extent of common ground.

(b) Specific (1) Fuller use of articles/Ministerial speeches.

Action: Planning Unit/News Dept to provide. Article pre-Dublin II in hand.

(2) Reinstatement for Secretary of State of Sir G Howe's arrangement with Die Welt (large circulation, centre-right) to place signed articles at short notice.

Action: News Dept to pursue.

(3) More interviews with Ministers by German correspondents in London and FRG (FRG media can provide advance notice of questions).

Action: Embassy to make specific proposals, on which correspondents, and which Ministers. News Dept to follow up, and pursue as necessary in Mower Group.

(4) 24-hour Ministerial visits to Bonn valuable, eg visit by Chancellor planned for 20 June, now postponed. Visit by Sir G Howe planned for September. Proposal for visits by Chief Whip and Financial Secretary.

Action: Planning Unit/ECD(I) to add Bonn to priority list of capitals for Chief Whip's consideration. ECD(I) to pursue with Treasury alternative dates for Chancellor to visit.

Financial Secretary has now accepted FCO advice to visit FRG.

WED to pursue Sir G Howe visit.

- (5) Editorial policy shaped by Brussels-based correspondents. Use of COI-sponsored visits by Brussels-based German correspondents.

Action: Embassy/UKRep to consider numbers, to propose candidates, identify themes of visits.

- (6) Proposal for call on Mr Maude by Frau Adam-Schwaetzer on 6 July.

Action: Mr Maude may not be in London. Planning Unit to advise Embassy as soon as possible.

DEPLOYMENT OF EC POLICY: INSTITUTIONAL REFORM

BELGIUM

- (a) General - Articles should stress UK and Belgian common ground.
- (b) Specific (1) Placement of exclusive French/Dutch language articles by Secretary of State or Mr Maude.

Action: Planning Unit/News Dept to consider.

- (2) Interviews/briefings for Belgian press in London.

Action: News Dept to pursue.

- (3) Call by Secretary of State on Eyskens during a visit to Brussels.

Action: WED considering possibilities. Possibly in autumn.

- (4) Speech by Secretary of State/Mr Maude in Brussels.

Action: Planning Unit/Planning Staff to consider. Not a high priority: Secretary of State made speech there in April.

- (5) Calls on Belgians by UK Ministers in Brussels on EC business always valuable, especially Financial Secretary.



Embassy to make specific proposals on Ministers/areas of responsibility to target.

(6) Visit by Chief Whip.

Action: Planning Unit to pursue: Brussels already under consideration for the visit.

(7) Calls on Mr Maude by Presidents of CVP and PVV during planned Category I sponsored visits.

Action: Embassy to arrange visit dates. Mr Maude willing in principle to see them.

DEPLOYMENT OF EC POLICY: INSTITUTIONAL REFORM

UKREP BRUSSELS

- (a) General - Lobbying of EP a continuous process.
- (b) Specific (1) Mr Maude to brief EDG (or selected members).

Action: Mr Fraser pursuing. Secretary of State seeing them in July.

- (2) Treasury Ministers to brief Mr Peter Price on UK ideas on financial accountability.

Action: in hand.

- (3) Visit by Chief Whip to Strasbourg.

Action: Not a high priority, particularly if Secretary of State visits in autumn (Mr Renton was there on EDG business in May).

- (4) Visit by Mr Maude to Strasbourg in autumn.

Action: Agreed in principle, if Secretary of State cannot go.

DEPLOYMENT OF EC POLICY: INSTITUTIONAL REFORM

GREECE

(a) General - Greeks will want to swim in mainstream. No problem of principle over extension of EP/Commission power.

(b) Specific (1) Full speeches/articles difficult to place. Summaries needed, in good time.

Action: News Dept/Info Dept to summarise all speeches/articles. In hand.

(2) Targetted interviews useful.

Action: Embassy to make specific proposals on interviewers, interviewees and subjects.

(3) Use links between Financial Times and "Kathimerini" newspaper: possible syndicated interview.

Action: News Dept/Embassy to pursue.

(4) Targetted statement by Prime Minister.

Action: Embassy to make specific proposal on subject and target.

(5) Visit by Secretary of State.

Action: SED to pursue possible dates. Samaras in London in July.

(6) Ministerial informal contact in Brussels/  
Strasbourg with Greek MEPs, officials and  
journalists.

Action: If time permits, but not high  
priority. Prominent Greek MEPs to be  
included in Strasbourg functions (as at  
present).

UKRep/Embassy to identify suitable  
individuals and their interests.

DEPLOYMENT OF EC POLICY: INSTITUTIONAL REFORM

PORTUGAL

- (a) General - Portuguese attitudes on progress toward political union conditioned by whether it means more money for Portugal. "Cohesion" important to them.
- (b) Specific (1) Radio important especially BBC Portuguese Service (which is re-broadcast by popular local radio station).

Action: News Dept/Information Dept to consider modalities and discuss specific material with Planning Unit.

- (2) British media (especially FT and Economist) carry weight.

Action: News Dept to note.

- (3) Ministerial interviews/signed articles valuable.

Action: Article by Secretary of State in hand.

- (4) Key visits:

Secretary of State

Action: SED lead. October dates suggested to Portuguese.

Mr Maude

Action: Agreed: 22-24 July. ECD(I) lead.

Prime Minister

Action: SED considering.

Mr Kerr/successor

Action: Agreed in principle. Mr Kerr considering dates.

- Finance Minister to visit London.

Action: SED/ECD(I) to consult Treasury.

- (5) Call on Mr Maude by Professor Fausto de Quadros, leading EC lawyer and EC Secretary of CDs party.

Action: Meeting offered with ECD(I).  
Mr Maude away.

- (6) Other contacts with those outside government.

Action: Embassy to make specific proposals.

7

EMPLOYMENT OF EC POLICY: INSTITUTIONAL REFORM

DENMARK

- (a) General - Should focus Danish attention on positive, practical nature of our proposals.

Action: Embassy to specify decision-makers in government and parliament, opposition, academics etc.

- (b) Specific - Action: Embassy to send specific proposals to Planning Unit by end of June.

①

PRIME MINISTER

MEETING WITH SIR DAVID ENGLISH: EC FIFTH DIRECTIVE

I understand from Bernard Ingham that Sir David English (Editor, Daily Mail) raised with you recently a concern which Lord Rothermere (owner of the Mail) has about the draft EC Fifth Directive. Apparently Lord Rothermere is anxious that the Fifth Directive could remove the protected ownership position of certain UK businesses by requiring non-voting shares to be transformed into voting shares.

I attach a brief prepared by the Treasury on the position. The two main points are as follows:

- the UK has supported the proposals (with reservations) of this part of the EC Fifth Directive because they would enable UK firms to compete more aggressively on takeovers within Europe (where non-voting shares are used extensively to protect ownership).

- however there is relatively little prospect of the Fifth Directive proceeding much further at this stage.

I understand from Bernard that Lord Rothermere wishes to discuss the Directive further with you. Possible ways forward are:

(i) Content to write to Lord Rothermere at this stage setting out the position (I will need to get much fuller briefing than provided so far by Treasury)?

(ii) Content to write to Lord Rothermere and suggest he speaks to Nick Ridley as the Minister responsible?

(iii) Content to write to Lord Rothermere offering to discuss the Directive with him?

BHP

Yes - with Nick Ridley who  
not

BARRY H. POTTER

22 June 1990

c:\wpdocs\economic\dmail\kw



● BARRIERS TO TAKEOVERS AND EQUAL VOTING RIGHTS

Line to Take

- UK has supported Commission proposal in principle because it will eliminate common barrier to takeovers by UK firms in rest of EC (particularly Germany, Netherlands).
- Barriers need to be reduced if UK firms to compete on level playing field for takeovers.
- DTI consultation revealed good measure of support for equal voting rights from eg Guinness, IoD, CBI, Assoc of British Insurers, National Association of Pension Funds.
- Detailed negotiations yet to be held: this is a complex issue and UK will want to look at detail carefully to ensure proposals are practical.
- Proposal will not be adopted quickly: it is only one part of draft company law directive on which progress is slow.

## BARRIERS TO TAKEOVERS AND EQUAL VOTING RIGHTS

### Background Note

1. Part of the UK-inspired Commission proposals to reduce unequal barriers to takeovers across the EC is for shareholders' voting rights to be in proportion to their share of the company's subscribed capital. While the UK is relatively open to foreign investment through acquisitions by overseas companies, UK firms making takeovers in the EC face a range of barriers; UK industry has complained of an unlevel playing field. A Coopers and Lybrand study of EC barriers to takeovers identified, among others, the existence of unequal voting rights as one of the legal barriers more amenable to action. Unequal voting rights prevent the holders of the majority of subscribed capital from accepting a bid and allow minority holders to block it.

2. In consultation on what action the Government should take, equal voting rights was one of the proposals for which there was support in principle from a clear majority of those commenting, including Guinness, the Institute of Directors, the CBI, the Association of British Insurers, the National Association of Pension Funds, and British Steel. There was a general recognition that some exceptions from the principle would be required, but that these should be on national interest grounds only.

### Commission Proposals

3. As a result of UK pressure, the Commission came forward with their own proposals to reduce barriers in May. They included a proposal to strengthen the existing provision enshrining equal voting rights in the draft 5th Directive. The UK welcomed the Commission proposals in principle. The equal voting rights provision in the 5th Directive, as amended by the Commission's recent proposal, would establish the principle that shareholders' voting rights should be proportionate to their share of a firm's subscribed capital. Preference shares could still be issued but limits on the votes to be exercised by one individual (common in other member states) would be prohibited. The provision would apply to new and existing share issues. While supporting the proposal in principle, the UK has detailed points of concern and the Commission has yet to address how the principle will be put into practice.

### Prospects for the 5th Directive

4. The requirement for equal voting rights, however, is only one provision of the 5th Directive which contains others unacceptable to the UK, in particular mandatory worker participation requirements. Other member states also have significant difficulties and the Directive, although part of the Single Market programme, is currently stalled. The Italian Presidency propose to re-open discussions on the non-worker participation elements of the Directive in July, but progress will be slow and prospects for the Directive's ultimate adoption are uncertain at best.

will be  
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uk

~~MR POWELL~~

C.D.  
25/6.

**EC INSTITUTIONAL REFORM: POSSIBLE UNITED KINGDOM PROPOSALS**

1. Officials have been pursuing the further work on institutional reform which OD commissioned on 10 May. Although some points remain to be clarified, Departments have agreed that it would be helpful if the Cabinet Office circulated a progress report as background to the Dublin European Council next week.
2. You will be receiving separately a brief for the discussion at Dublin itself, which should be largely procedural. Ministers will need to return to the substantive issues set out in the attached note in the light of the Dublin conclusions, once the remaining work by officials has been completed.
3. I am sending copies of this minute and its attachment to the Private Secretaries to all Members of Cabinet, the Attorney General and Sir Robin Butler.



D A HADLEY

22 June 1990

Encl.

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EC INSTITUTIONAL REFORM : POSSIBLE UK PROPOSALS

I. Subsidiarity

Definition.

1. We would want the principle of subsidiarity to act as a check on undesirable action within Community competence. It should contain two elements

a. that action should not be taken at Community level unless the objective can be achieved only by action at that level;

b. that action at Community level should go no further than necessary to achieve that objective.

In an area where the Community has exclusive competence, only b. would apply.

Aim.

2. The UK aim would be to introduce provisions and procedures which would in practice curb unnecessary Community activity. The main risk is that these provisions might in practice operate to justify such activity.

Scope.

3. Subsidiarity provisions could be aimed at influencing

- the Commission's legislative proposals
- Council decisions
- interventions by the European Parliament
- the Commission's exercise of implementing powers.

Methods.

4. Options, not mutually exclusive, are:

a. A provision in the preamble to the Treaty or in a separate declaration by the Council and Commission (and if possible the Parliament). This would constitute a principle to which a member state could appeal during consideration of measures. But it would not be a legal obligation, and would thus not permit a breach of the principle to be brought before the European Court.

b. A general provision in the body of the Treaty: this would make non-observance of the principle justiciable before the Court; it would also be possible to attach alternative procedures to such a provision.

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- c. Specific provisions, inspired by the subsidiarity principle, in particular areas of the Treaty, defining limits on how Community competence could be exercised.

Consideration of these options.

5. In principle Community requirements should be expressed in legal form and thus capable of being brought before the Court. The argument against following that principle in this particular case is the legal advice that, if an adopted measure were brought before the Court on grounds that subsidiarity had been ignored, the Court would find great difficulty in making the essentially subjective and political judgement involved. In such circumstances the Court might well look for evidence of the views of member states. These would be demonstrated by the very fact that the measure had been adopted. Moreover most member states are much readier than the UK to accept substantial Community activity in areas such as social policy. If several challenges brought before the Court were to be rejected, the subsidiarity principle itself would rapidly be undermined.

6. A non-justiciable provision. A non-justiciable provision would avoid these problems, and might exercise some restraining effect on the Community institutions in political terms; but even this would depend on whether there was an effective procedure for invoking it.

7. A general provision in the Treaty. This is vulnerable to the arguments set out in para 5 above. Officials consider the difficulty might be mitigated in the following ways:

- a. the challenge on subsidiarity grounds should be made at the Commission proposal stage, before negotiations have got under way and therefore before the possible willingness of other member states to adopt a far-reaching measure has become clear.
- b. rather than providing for recourse to the Court, a challenge could be brought before a new body (e.g. a "Constitutional Council") tasked specifically to vet proposals on subsidiarity grounds. It seems unlikely that such a body would systematically reject all challenges: it would have a vested interest in demonstrating that it was more than a rubber stamp. The constitution of the body, and whether its conclusions should be legally binding or merely oblige the Commission generally to reconsider its proposal, require further consideration.

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- c. alternatively, a procedure could be envisaged under which the Council itself would consider such a challenge and decide (by a specified majority) whether the proposal was acceptable in subsidiarity terms before considering other aspects: if not, the Commission would have to reconsider. However, there are obvious problems: whether the Council would in practice discuss only the subsidiarity aspect; whether the discussion could be pushed to a vote rather than remain inconclusive; whether, in any case, the necessary majority could be secured; and whether, if the Commission did not adequately amend the proposal, perhaps intending to save up concessions until later, the Council would refuse to proceed with discussions in the normal way.

In any event, the possibility of member states, in the last resort, challenging adopted measures before the Court on subsidiarity grounds should be retained.

8. Specific provisions: Specific limits to Community activity in particular areas would amount to competence tests and the Court should have no problem in applying them. But it would be very difficult to devise, and then negotiate, limits excluding all the areas we might in future wish to exclude: and the risk would be that anything not excluded was taken to be permissible. For this reason specific provisions, if pursued at all, should be additional to, and therefore by implication without prejudice to, a general subsidiarity provision. On balance it seems unlikely to prove possible to negotiate the introduction of limits into existing areas of competence: but they should be considered for any new areas such as EMU.

9. As additions to the above possibilities, consideration should also be given to the following:

- a. A Treaty provision imposing subsidiarity on the Commission's exercise of its implementing powers (the Court might be more ready to set aside Commission acts on subsidiarity grounds than Council acts).
- b. Formal declarations attached to the eventual package of Treaty amendments (some of those attached to the Single European Act have proved valuable).
- c. A political declaration by the Council expanding on the objectives of the Treaty provisions. While such a declaration would be unlikely to exert much influence

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on the Court of Justice, it should impose some restraint on the Commission's legislative priorities.

10. Further work is being done on these options. In this connection the views of other member states on the policy implications of the subsidiarity principle are being examined, since these will be influenced by the varying ways in which the concept is employed in their own constitutions and traditions. When the work has progressed to the point where more precise questions can be formulated, the opinion of the Law Officers will be needed.

11. In assessing the acceptability of any proposed provision, we will need so far as possible to avoid any formula which

- might be held to require action, either by member states or the Community, in particular areas;
- might allow or promote a "Westminster bypass", i.e. encourage action at local authority level;
- would blur the distinction between subsidiarity and competence tests, reducing our ability to invoke the latter;
- to the extent that specific provisions are feasible, creates a presumption that the list of exclusions is complete; or that where such an approach is not adopted, subsidiarity is not relevant.
- if it involves challenge at the Commission proposal stage, effectively rules out further argument about subsidiarity during later stages of negotiation of the measure, in the event of the challenge being unsuccessful.

## II Decision Making and Related Issues

### A. Majority Voting.

12. There will be strong pressure to extend qualified majority voting (QMV) to further areas, particularly the social area (which we would strongly resist) and the environment. Officials have not identified any area other than the environment where we might ourselves contemplate abandoning unanimity. The case for making a move is that it will be difficult to resist the pressure completely. The risk is that the UK could be outvoted on proposals with substantial financial implications and that indicating readiness to move on the environment could add to pressure on

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us in other areas, notably on social issues. A possible half-way house might be to concede QM for certain areas of environment policy, while retaining unanimity for the rest: work will be needed to identify such areas.

13. Conceivably, the issue could arise in advance of the IGC. The Treaty article prescribing unanimity for decisions on the environment itself permits the Council, by unanimity, to define areas for decision by QMV. But probably we could successfully argue that it is a matter which should be left open for the IGC to consider.

14. Decisions with important policy and financial consequences on vocational training (Art. 128) can be taken by simple majority (seven or more member states in favour). The aim should be conversion to QMV: perhaps also for decisions on collection of information etc (Art. 213), though this is less important. Tactically, it would be best to persuade other member states to take the lead. Success is unlikely except as part of a package involving changes from unanimity to QMV. It would be important to ensure that the price of altering Art. 128 to QMV was not increased Community competence on educational matters.

B. Repeal of measures.

15. Further study is needed of the possible utility of proposing that measures adopted by unanimity should be capable of being repealed by QMV. It is questionable whether there would be sufficient scope for useful repeals to make this change worthwhile. Moreover we would need to guard against the suggestion being extended to enable amendments to such measures being adopted by QMV.

c. Decisions on State Aids.

16. Generally the Treaty gives the Commission power to authorise or ban state aids. But Art. 93(2) allows the Council, at the request of a member state, unanimously to authorise an aid which would otherwise be contrary to the Treaty. There will in any case be pressure for increased powers for the Commission. This is an area (probably one of few) where increased powers could be in the UK interest. It might therefore become appropriate, if only for tactical reasons, to propose the removal of this provision. If retained, the decision procedure should not be altered from unanimity to QMV.

D. Co-operation procedure.

17. There will be pressure to give the European Parliament significant additional influence in the decision-making process, which we shall not want to concede. But there would be no harm in extending the co-operation procedure, introduced by the Single European Act, to a limited number of areas already subject to QMV, namely transport and free movement of services. It would be logical to extend it also to the environment if this were made subject to QMV.

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Elsewhere, it is judged that extension of the co-operation procedure would be unhelpful to the UK. In any event we should argue that its scope should be limited to the Single Market area.

18. There is unlikely to be any tactical advantage in making this concession at an early stage.

E. Commission proposals.

19. The desirability of giving the Council power to require the Commission to produce particular proposals is difficult to assess. The advantage to the UK of being better able to press its priorities on the Commission may well be outweighed by the disadvantage of other member states being able to do the same (e.g. in the social field). Moreover, there would be pressure to give the same right to the European Parliament.

20. A formal requirement for the Commission to consult interested parties before making proposals could be advantageous. We would need to guard against the Commission consulting the wrong parties (e.g. excessive consultation of trade unions) or insufficiently widely (e.g. only the farmers on farm prices).

F. Amendments in writing.

21. A requirement that amendments should not be agreed until they have been circulated in writing to the Council could be useful. But Art. 8 of the Council's Rules of Procedure already appears to allow any member state to insist that this should be done. In any case, any strengthening of the requirement would be a matter of changing the Rules rather than the Treaty.

G. Delegation of Powers to the Commission.

22. The Commission is likely to seek strengthened powers, probably including a revision of the Comitology Decision which defines member states' involvement in the Commission's exercise of implementing powers. This would not be to the UK's advantage. Our objective could be a declaration that all the procedures set out in the Decision should be regarded as available (at present the Commission endeavours to ensure that the procedure entailing greatest member state involvement is never used).

23. Further consideration is needed of possible ways of enhancing the role of the Council in monitoring Commission activity. There is a danger that, if the point is pursued, others will press for controls over areas where we are happy for the Commission to have a free hand, e.g. state aids and competition policy.

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H. Non-financial accountability.

24. Further work is required to establish whether it would be worth tabling specific ideas for more effective use of the European Parliament's existing procedures for questioning the Commission. Promoting greater interest in the scrutiny role of national parliaments would be better achieved by a declaration or preambular Treaty language (or both) than by provisions in the body of the Treaty. Encouraging a closer relationship between MPs and MEPs should be pursued separately, since it would not be an appropriate subject for Treaty amendment.

25. The Foreign and Commonwealth Secretary has raised in the House of Commons the question of establishing an EC Ombudsman. This would be consistent with the general UK approach of making the Commission more accountable for its actions. On the other hand difficult legal and practical issues arise concerning the definition of the Ombudsman's role, his locus as regards national actions, and the consequences of his decisions. Further work is need.

I. Protective measures in intra-Community trade.

26. Two Treaty articles (46 and 115) providing for controls or charges on goods at national frontiers are likely to become redundant or unworkable after the Single Market has been achieved. The possibility of proposing their repeal, as a way of consolidating the Single Market, is being considered. It would be important not to provoke bids to repeal other articles of the Treaty.

III. Financial Management and Accountability

27. Officials have identified the following set of proposals, most of which would involve Treaty change:

- a. To spell out the concept of "sound" financial management in Article 206a(2), which defines the purpose of scrutiny by the Court of Auditors.
- b. To forge an explicit link between the Court's work on financial management, its Annual Report and the procedure (Article 206b) whereby the Parliament "gives a discharge" to the Commission in respect of its implementation of each year's budget.
- c. To include the Court of Auditors' Special Reports, as well as the Annual Report, in the discharge procedure.

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- d. To provide for the Court's Annual Report to be presented simultaneously to the Council, Commission and Parliament (instead of the Commission commenting first).
- e. To formalise the framework within which the Court of Auditors' views are delivered (by requiring the Court to provide a statement of assurance that the accounts represent a true and fair view of the underlying transactions).
- f. To give the Budgetary Control Committee of the European Parliament more scope for calling the Commission to account for the execution of spending programmes, i.e. on matters such as administration, value for money and financial propriety.
- g. To secure a commitment from the Council to institute a full review of the structure of the Court of Auditors, involving professional consultants.
- h. To allow for ad hoc enquiries by the Budgetary Control Committee, e.g. promoted by Special Reports from the Court of Auditors.
- i. To add a provision enabling the Budgetary Control Committee to question the Commission more effectively on fraud issues, including member states' reports to the Commission justifying the adequacy of their anti-fraud-systems.

#### IV. Compliance, Implementation and Enforcement

##### A. Sanctions for non-compliance with European Court judgments.

28. The Treaty contains no provision to oblige a member state to implement a judgment of the European Court. Officials have devised the following model for imposing finances on member states for non-compliance with judgments:

- a. Where the Commission considers that a member state has failed to comply with a judgement of the Court, it would be entitled to initiate further proceedings, under an accelerated procedure. It would be required to state in its application if it were seeking the imposition of a fine, and if so to propose the amount.
- b. The Court would decide whether the member state was in default, whether the default

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was such as to warrant the imposition of a fine and, if so, the amount.

- c. The member state would have to pay the fine within e.g. two months; in the event of default, the Commission would have the right to add the fine to the amount of budget contribution which it called up from the member state concerned.
- d. If the member state still failed to comply with the Court's judgement, the Commission could restart the procedure, seeking a larger fine.

29. It is for consideration whether another member state, as well as the Commission, should have the right to bring such proceedings. If so, would it be for the plaintiff member state or the Commission to suggest the level of fine? Given that the existing procedure whereby a member state may take another member state to Court for failure to observe a Treaty obligation is little used, it might be felt that the likely benefit from such a provision would not be worth the extra difficulty of negotiating it.

30. Ministers will need to decide whether the UK should make such a proposal. The intention, of course, is that it should bite on other member states, many of whom have poor records for compliance with Court judgments. On the other hand it is not hard to imagine that the UK might find difficulty in complying, within the time-scale that the Commission or Court thought appropriate, with possible future Court judgments e.g. on drinking water quality or on bathing water, in which case we could ourselves become liable to fines.

31. In any event, we should propose a requirement on the Commission to report annually to the Council on Parliament on the state of compliance with Court judgments.

B. Streamlining European Court of Justice procedures.

32. The Court of Justice is itself considering what proposals might be put forward for streamlining present procedures, and it may be more appropriate to let the Court take the initiative. Ministers could however say publicly in general terms that they support the principle of streamlining ECJ procedures, e.g. by giving the Court of First Instance competence to deal with anti-dumping cases. If at a later stage the Court proposed allowing certain straightforward Article 169 cases to be heard in Chambers, the United Kingdom should also be able to support this.

33. It is for consideration whether arrangements might be devised for particularly speedy action, probably via interim measures, in specially flagrant cases.

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C. Implementation.

34. The Foreign and Commonwealth Secretary has proposed to the Commission that they should extend their practice of six-monthly reports on implementation of Single Market measures to all sectors of Community work; and to the European Parliament that it should hold regular debates on implementation and enforcement. EC posts have been asked to step up their reporting on these issues. There is no obvious advantage in proposing a Treaty amendment to support these efforts; but there could be merit in a joint Council/Commission declaration on the need for regular reporting on implementation.

D. Enforcement.

35. Concrete measures aimed at improving enforcement are difficult to devise and further work is needed. The most promising idea so far identified is for the Commission to "audit" national enforcement systems. In some cases it might be appropriate for Community legislation to include explicit guidance on enforcement procedures (as in the General Product Safety Directive). In many cases, however, it would be difficult to lay down on a general basis the appropriate level of checks to be carried out.

36. Ministers expressed caution about strengthening the Commission's autonomous powers of investigation. Officials are accordingly considering:

- a. whether there are areas where there could be scope for enhancing the Commission's ability to conduct investigations or inspections in association with the relevant authorities in the member states, as it does at present in a variety of fields (fisheries, meat hygiene etc); and whether Community inspectorates, which generally work on this basis, might be appropriate in areas such as animal welfare where the United Kingdom enforces high standards and has a particular interest in ensuring that other member states are kept up to the mark.
- b. whether more specific ideas could be developed for the United Kingdom to propose, particularly in relation to fraud.

37. In addition strengthened investigative powers for the Court of Auditors might be desirable. But it would probably be preferable to encourage the Court to produce its own proposals in this field.

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V. Other ideas previously canvassed.

38. Annex I lists other ideas which officials consider should not be pursued as UK initiatives, at least for the present. It may, however, be appropriate to re-consider some of them at a later stage of the negotiations.

Cabinet Office  
19 June 1990

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ANNEX I

Ideas not to be pursued as UK initiatives at the present stage

1. Amending unanimity rule to avoid blockage by one member state.
2. Scrapping Council's first reading of the preliminary draft budget (disadvantages outweigh possible presentational advantages vis-a-vis European Parliament).
3. Clarifying extent of Commission's right to withdraw proposals (risks weakening Council's position, without obvious compensating advantages).
4. Strengthening Council Secretariat.
5. 12 month Presidencies.
6. Redistribution of seats in the European Parliament (possible tactical weapon in wider debate on increased powers for the Parliament).
7. Right for European Parliament to summon national officials (could be considered later).
8. Abolition of Economic and Social Committee (desirable but unnegotiable).
9. Early termination of European Coal and Steel Treaty (Commission considering separately; no obvious advantage in a United Kingdom initiative).
10. 1985 ideas for Commission/Council to withhold EC benefits from member states failing to comply with ECJ judgements (overtaken by current proposal for fines; withholding of benefits could present severe legal and practical difficulties).
11. Removing Article 168a limits on jurisdiction of Court of First Instance (unlikely to lead to any significant improvement).
12. Setting time limits for stages in Article 169 proceedings (practical objections).

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PRIME MINISTER

22 June 1990

cc John Whittingdale

*Eric Ashwin* (2)  
0007  
22/6

EC DIRECTIVES ON PART-TIME AND TEMPORARY WORK

Michael Howard's note of 21 June to Douglas Hurd sets out what action is in hand to combat directives flowing from the Social Charter.

*with CAP?/SP?*

Specific attention is drawn to one directive the effect of which would be to require all employees who work for more than eight hours to pay NICs. This, if implemented, would replace the existing £46 lower earnings limit. As the note makes clear 1.75 million employees earning less than £46 per week would be made liable for NICs for the first time. While a smaller group, who earn more than £46 per week but work less than eight hours, would cease to pay them at all. This is plainly a nonsense.

It does, however, provide useful ammunition to use against the Commission's directives and to influence public opinion. Moreover, it will help to highlight important weaknesses in Labour Party policy.

For example:

- their blanket endorsement of the Social Charter without first counting the cost;
- their tax plans. As you know Labour plan a new tax band below 20% to help those on low incomes. The EC directive, making a significant number of low paid workers pay NICs for the first time, would drive a coach and horses through this policy.



Michael Howard has done a terrific job so far in drawing attention to the damaging effects of the directives. Attached are some recent press cuttings which demonstrate his success and there is scope to do even more. But, to press our arguments home, we do need more information, specifically:

- the overall cost to 1.75 million low paid employees of making them liable to NICs;
- illustrations of what this would mean for particular individuals on given levels of income eg a comparison might be made between a cleaner who works more than eight hours a week and a part-time company director who works for less.

I sense from discussions with Department of Employment officials that their counterparts in DSS are reluctant to do the work necessary to provide this further information. They argue that this directive is not likely to be implemented in any case.

But politically, having this information to hand is crucial. A firm steer from you would resolve matters.

#### Recommendations

1. Endorse the robust line Michael Howard has been taking in presenting the Government's case;
2. Note that the presentation of this case would be further assisted if we could illustrate what the effect of these directives would be on specific individuals;

3. Ask DSS urgently to provide information on:

- (a) the overall cost to the 1.75 million employees earning less than £46 per week of making them liable to NICs;
- (b) illustrations of the cost/savings per week to specific individuals eg the cleaner earning less than £46 per week but working more than eight hours or the part-time director earning more than £46 per week but working less than eight hours.

*on the married women computer operator & physiotherapist - ?*

*Agreed*

*Andrew Dunlop*

ANDREW DUNLOP

*with working less than  
£46 but earnings  
more than £46.*

# Charter 'threatens 5 million workers'

By TOM MCGHIE  
Industrial Correspondent

THE GOVERNMENT is ready to go to court to stop a Left-wing Social Charter being imposed by the Common Market.

Employment Secretary Michael Howard said last night that the "misguided" rules on workers' rights could cost Britain nearly five million part-time jobs.

"If they were accepted they would damage job prospects not only in this country but right across Europe," he said.

The directives — unveiled in Strasbourg — could become law next year.

Employers would be forced to provide a wide range of benefits for all workers employed more than eight hours a week.

Part-timers would have to be covered for sickness and unemployment benefits, pensions, and safety provisions.

Critics say the red-tape tangle would make efficiency impossible.

Under the regulations,

THE OFFICE is bad for you, an international health expert warned yesterday. Dr Wilfried Kreisel said a "Pandora's Box" of allergies and diseases was brewing in office buildings and unless the quality of the air was improved Legionnaires disease could be the first of a potentially deadly list of bacteriological illnesses.

The problem would become worse because half of all new jobs in the next 10 years will be office-bound and the air is getting more polluted, he told 400 delegates at the World Federation of Building Service Contracts conference in Birmingham.

part-time North Sea divers would not be allowed to work in the sea unless there was a doctor swimming with them.

## Tactics

EC Social Affairs Commissioner Vasso Papandreu is using legal tactics to force the scheme through by a qualified majority.

This would take away Britain's right of veto.

Mr Howard insisted the regulations would encourage employers to sack part-timers.

"The proposed directives seem deliberately designed

to discourage part-time work," he said.

"Employers who tried to take on new employees would be subject to a mass of new regulations.

"If employers are faced with a mountain of red tape every time they need to recruit they are certain to cut down on the number of people they employ."

Mr Howard said part-time workers now represented nearly 25 percent of the labour force, contributing greatly to Britain's growth.

But Mrs Papandreu said this growth in the use of part-

timers was the reason for the new regulations.

"We want employees to pay proportional contributions for part-time workers, so the same criteria apply to full and part-time employees," she said.

"Otherwise, there would be a distortion in competition."

The Commission insists it has the right to apply majority voting under EC rules because the legislation involves the introduction of the single market in 1992.

If the Government takes court action it will be on the grounds that such legislation must be agreed unanimously.

Labour's shadow employment spokesman Tony Blair welcomed the plans.

"We hope the Government will now abandon its negative and insular attitudes to the Social Charter," he said.

"This is a major advance for Britain's six million part-time workers, and fully accords with good practice elsewhere in Europe and with the existing practice of Britain's best employers."

# Britain takes dim view of EC job policy

From MICHAEL BINYON IN STRASBOURG

BRITAIN yesterday expressed outrage at proposals announced by the European Commission to give part-time workers the same sickness, redundancy, pensions and maternity benefits as full-time workers, saying they were misguided and would damage job prospects.

Michael Howard, the employment secretary, said the proposals, the first from the social charter, seemed designed to discourage part-time work. The employment department said the move would dissuade employers from providing generous incentives for their full-time workers.

The proposed directives were announced by Vasso Papandreu, the social affairs commissioner. They oblige employers to pay pro rata similar benefits to the 14 million part-time and 10 million temporary employees now working in the EC.

Mrs Papandreu said some countries, such as Britain and West Germany, would have to change their laws. The measures were needed to give better social protection to employees and because the differing social security obligations meant that employers at

present could seek to move their operations to countries where there was the least need to pay security benefits: a clear distortion of competition.

Mrs Papandreu's directives apply only to part-time employees working more than eight hours a week. They will add considerably to employers' costs in Britain. About five million people now work part-time with a further one million in temporary employment. Under British law, anyone earning more than £46 a week has to pay national insurance, with the cost being divided between the employer and employee. That entitles them to sickness, pension and unemployment benefits.

The employment department was also angry that Mrs Papandreu put forward her measures on the basis of a clause in the Treaty of Rome banning distortion of competition, which allows ministers to pass it by majority voting, instead of requiring unanimity. Britain, which would otherwise have vetoed the directive, seems likely to take the commission to court. Mrs Papandreu said EC lawyers were confident they could win any case.

100/31

THE GUARDIAN  
Thursday June 14 1990

P3

## Britain opposes law for part-timers

John Palmer  
in Strasbourg

THE European Commission yesterday angered British ministers by agreeing proposals which would oblige employers to give greater benefits to part-time workers.

The draft law is the first to be drawn directly from the European Charter of Social Rights, which Britain, alone among the 12 EC states, refused to endorse at last year's Madrid summit.

It would oblige employers to provide equality of treatment with full-time employees to part-time and temporary workers, employed for eight or more hours a week, by offering pro-rata benefits for pensions, maternity leave, sickness and redundancy.

The measure is almost certain to be passed by the Council of Ministers because the commission has decided on a procedure which would allow a majority vote.

Whitehall lawyers were yesterday considering a challenge in the European Court.

The Government claims that

matters affecting taxation or the treatment of employees should be decided by a unanimous vote, in accordance with the Treaty of Rome.

Under the Single European Act, the commission is empowered to seek a majority vote where it can show that differences in treatment of workers distort competition.

Vasso Papatheou, the ex-social affairs commissioner, said: "There are employers who may want to shift production simply to exploit the workers in countries with lower social provision."

Michael Howard, the Employment Secretary, said yesterday: "The proposed directives are unnecessary and misleading and they will damage job prospects not only in Britain but throughout the Community. They seem deliberately designed to discourage part-time working."

At present, there is a threshold of £46 a week pay before British employers have to provide social security and other benefits. The changes could affect some 2.4 million part-time workers.

Daily Mail, Thursday, June 14, 1990 P6

## Daily Mail COMMENT

### Who cares about working mothers?

NOW the indefatigable Commissioner Papatheou wants part-time workers to have full pension and sickness rights under Europe's social charter.

Sounds lovely, doesn't it? As cheery as Christmas all the year and as enticing to sweet-toothed welfare enthusiasts as a big rock candy mountain.

Just the sort of succulent proposal a Kinnockian Government would swallow whole. Whereas Mrs Thatcher is determined to resist the plan, which Brussels has no power to impose on Britain.

Does that mean she is intent on grinding down Britain's 5½ million part-timers — most of whom are working mothers? Not at all. She understands that if you suddenly make it more expensive for firms to take on staff part-time, then they will make do with those on full-time.

Result: Fewer on the payroll and more women unable to find an acceptable mix between work and family.

So ask yourselves honestly: Who cares most about working mothers? Labour which loves the Social Charter? Or the Tories who count the cost?

P24

FINANCIAL TIMES THURSDAY JUNE 14 1990

## UK fights EC plan to aid part-time staff

By Lucy Kellaway in Strasbourg

RADICAL European Commission plans designed to improve the lot of part-time and temporary workers were greeted with fury yesterday by the British Government.

It said they would increase unemployment, disrupt the social security system, and that they could be illegal under European law.

The proposals — which caused a split within the Commission itself — mean that part-time and temporary workers would have the same rights and benefits on a pro-rata basis as full-time staff.

The measures, the first to be brought forward under the Commission's so-called "social action programme," are seen

as a test case for future European social legislation.

At issue is whether the Commission is acting properly in subjecting a directive to qualified majority voting in the Council of Ministers, the final decision-making body, rather than to unanimous voting.

The question is of considerable practical importance, as any radical social measures that were put to a unanimous vote would probably be blocked by the UK, which refused to sign the Social Charter last December. The Social Charter was a solemn declaration, without legal force, while the social action programme will seek to enforce some of its principles.

The commission said a majority vote on this directive was justified on competition grounds — for which majority voting is standard practice — as differences in benefit levels between full and part-time workers distorted competition between member states. In some countries it was up to a third cheaper to employ part-time workers.

British officials said that the Government was considering taking the matter to the European Court if a majority of member states voted in favour.

The directive would require employers to pay social security benefits to those part-time employees working more than eight hours a week. This could

cause wide changes in the UK system, where the national insurance threshold is not set on an hourly basis but at £46 a week.

On commission estimates, the UK avoids paying social security to some 2.5m part-time workers, who earn up to 20 per cent less per hour than full-time staff. Other countries such as West Germany, in which social security is payable only after 19 hours' work a week, are also expected to oppose the measure.

The directive also proposes limits that would make it impossible for companies to employ workers for more than a limited period without giving them permanent contracts.

10/30

# Part-time jobs under threat from EC plan

By DAVID MORRIS  
Industrial Correspondent

MRS THATCHER is heading for a major showdown in Europe over new laws for 5.5 million part-time workers.

EC commissioners yesterday voted in favour of a directive which would, according to Employment Secretary Michael Howard, put thousands of people on the dole at a stroke and hit hard-pressed employers with extra costs and paperwork.

The new rules mean bosses will have to provide full sickness benefits and pension rights for workers employed for more than eight hours a week. And they will be forced to offer full-time employment to part-time or temporary staff the moment a vacancy arises.

There seems little doubt that many firms will react by shedding their part-timers, and thinking hard before taking on temporary workers, who will have to receive the same costly benefits.

Mr Howard immediately condemned the move, instigated by the EC's Greek social affairs commissioner, Mrs Vassou Papandreu, as 'unnecessary and misguided'.

He said it would be welcomed neither by the employers nor the part-time workers. The latter will be obliged to contribute to pension schemes whether they want to or not.

## Approval

The commissioners' decision will have to go before the ruling EC council of ministers, probably in November, before it becomes policy which each member state must implement.

But it seems certain to get the rubber stamp of approval. Voting was ten commissioners in favour, three against and two abstentions.

This time, however, Britain will not be standing alone. The German commissioners joined the UK in opposing the move. Like us, they are horrified at the prospect of the extra pension bills their firms will face — at a time when they are struggling to keep down costs to beat Japanese invaders.

Those from France and Spain made it clear they are extremely uneasy. They were the abstainers.

Mr Howard made it clear he will fight the Papandreu laws, which are part of her Social Charter, with every means possible. He said part-time working had played a major part in 'the unprecedented growth of employment in the UK'. Such jobs were popular and 'reflected the wishes of working people', he added.

At the moment, part-timers do not pay National Insurance contributions — and neither do their firms — unless they earn £45 a week or more. Now, they will have to start paying once they work more than eight hours, even in casual jobs where they could be earning as little as £3 an hour.

Last night there were hints that the UK Government will use the European Court to fight the move. It will argue that the measures take away people's rights to choose whether they want to work part-time or full-time.

THE SUN, Thursday, June 14, 1990

P13

## EC bid to ban 999 overtime

BARMY Eurocrats were blasted last night for new laws that could ban firemen from doing overtime — in the middle of a blaze. The European Commission will vote next month on a "social charter" that will mean NO overtime for night workers — including firemen, midwives, doctors and nurses.

NO second jobs to top up earnings and NO working all night on farms at harvest time. Employment Secretary Michael Howard slammed the "misguided" rules — meant to protect staff from exploitation.

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ROYAL COURTS OF JUSTICE  
LONDON, WC2A 2LL

*copy  
PC*

CONFIDENTIAL

The Rt. Hon. Douglas Hurd, CBE, MP,  
Secretary of State for Foreign and  
Commonwealth Affairs,  
Downing Street,  
London,  
SW1A 2AL.

*CA 226*

21 June 1990

*Dear Douglas:*

EC OMBUDSMAN

Thank you for copying to me your minute of 8 June to David Waddington.

I find the idea of an EC Ombudsman an interesting one. I do however share David Waddington's reservations, set out in his minute to you of 18 June. I fear we should have difficulties in defining a satisfactory role for an Ombudsman to play.

I do of course agree that officials should work up the idea, to ascertain whether the anticipated problems can be overcome. I believe that your officials have agreed to prepare the initial paper.

I am copying this letter to the recipients of your minute.

*James  
A. H. R.*

CONFIDENTIAL

*\_\_\_\_\_*

Euro Pa: Budget

R46



Ref.AO90/1440

PRIME MINISTER

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Cabinet: Community Affairs

The Foreign Secretary and Mr Ridley attended the 18/19 June Foreign Affairs Council:

- in preparation for the Dublin European Council, a generally pragmatic paper on political union was agreed; one on EMU will go forward after some amendment; the Presidency's draft declaration on the environment will be examined urgently by a working group; on South Africa continuing unwillingness to lift sanctions was matched by growing support for a Dublin statement indicating future flexibility subject to further political progress; possible assistance to the Soviet Union emerged as an additional major subject for Dublin;
- a satisfactory response to recent events in Romania was agreed (signature of the Trade and Cooperation Agreement was deferred, and it was generally agreed that G24 assistance should also be withheld);
- discussion of Japanese cars confirmed likelihood of eventual agreement on transitional import protection for French, Italian and Spanish markets after 1992. Mr Ridley continued to take a firm line that there must be no question of any restraints on supplies from transplants;
- mandate for the negotiation of a European Economic Area with the EFTA countries was adopted;





- Commission will hold exploratory talks with Eastern European countries such as Poland which have asked for association agreements.
2. Mr Parkinson attended the 18/19 June Transport Council:
- welcome agreement on the second aviation liberalisation package covering fares, market access, capacity sharing, competition rules and negotiations with EFTA countries;
  - disappointing lack of progress on road haulage quotas (blocked by Germany, Italy and Spain) and on shipping liberalisation;
  - acceptance in principle of a three year transport infrastructure fund; no agreement on the details;
  - resolutions on marine pollution and ferry safety (the latter satisfactorily reflecting the mixed competence of the Community and member states).
3. The Home Secretary may mention the meeting of Interior Ministers on 15 June. The main points were:
- signature of the Asylum Convention (except by Denmark which expects to do so later);
  - a welcome for UK proposal to expand and speed up a European Drugs Intelligence Unit.
4. At the Internal Market Council (currently in progress) the Irish Presidency hope to reach agreement on a number of measures on standards, customs issues, motor insurance and company law.



5. Other major events in the last week have been:

- the signature of the Schengen Agreement on the abolition of frontier controls between France, Germany and the Benelux countries;
- the European Court of Justice's judgment in the Factortame case: the Solicitor General has minuted you and other members of Cabinet about this. Mr Gummer is expected to raise this.

6. Future meetings are:

- Dublin European Council, 25-26 June;
- Agriculture Council, 25-26 June;
- Fisheries Council, 27 June;
- Telecommunications Council, 28 June;
- Research Council, 29 June.

HER. B.

ROBIN BUTLER

20 June 1990

CONFIDENTIAL



CCP/E

Foreign Secretary

Am  
18/6

EC OMBUDSMAN

Prap

Thank you for your minute of 8 June. I can certainly see the attractions of an EC Ombudsman in providing a positive contribution from the United Kingdom and as a possible defence against proposals to increase Strasbourg's role. I agree that officials might well work up the idea.

2. I have some reservations, however, about the proposal as such should it be taken up. There is a danger that we could create a further Community institution which would impede rather than promote efficiency. The problems of determining who should investigate whom, and for what, and with what sanctions, may not be easy to resolve; and I fear the end result might be merely added bureaucracy.

3. Whilst I see the merits of the idea for negotiating purposes, therefore, I hope we do not become committed to its implementation until we have been able to assess the implications.

4. I am copying this minute to the recipients of yours.

JW

18 June 1990

CONFIDENTIAL

Exo Pol + Budget P146.



Treasury Chambers, Parliament Street, SW1P 3AG  
071-270 3000

14 June 1990

Barry Potter Esq  
Private Secretary to the  
Prime Minister  
10 Downing Street  
LONDON  
SW1A 2AA

Dear Barry

**EQUAL VOTING RIGHTS**

... I understand you requested a short brief on the issue of EC proposals to require equal voting rights, which was raised recently with the Prime Minister. I attach a short note.

Yours

Kate

MISS K GASELTINE  
Assistant Private Secretary

## BARRIERS TO TAKEOVERS AND EQUAL VOTING RIGHTS

### Introduction

1. Part of the UK-inspired Commission proposals to reduce unequal barriers to takeovers across the EC is for shareholders' voting rights to be in proportion to their share of the company's subscribed capital. The UK has welcomed this principle, contained in the proposed 5th Company Law Directive, as removing a common takeover barrier used against UK firms. But we shall need to seek amendments to the detail of the proposal; and major difficulties for the UK and other member states with other proposals in the 5th Directive mean that progress will be slow. The DTI is in the lead.

### Background - Barriers to Takeovers

2. 75% of EC takeovers involve UK firms. But while the UK is relatively open to foreign investment through acquisitions by overseas companies, UK firms making takeovers in the EC face a range of barriers. The problem has been highlighted by takeovers of UK firms by EC companies themselves virtually immune to takeover, and UK industry has complained of an unlevel playing field. In the context of agreeing to Commission control over the largest EC mergers, the UK therefore secured a Commission initiative to reduce barriers to takeovers across the EC. To influence this, the DTI commissioned and published a Coopers and Lybrand study of EC barriers to takeovers which identified, among others, the existence of unequal voting rights as one of the legal barriers more amenable to action. Unequal voting rights prevent the holders of the majority of subscribed capital from accepting a bid and allow minority holders to block it.

### Consultation Exercise

3. To determine which proposals to press on the Commission, the DTI issued a consultative document. On the proposal to require equal voting rights, there was support in principle from a clear majority of those commenting, including Guinness, the Institute of Directors, the CBI, the Association of British Insurers, the National Association of Pension Funds, and British Steel. Those who thought action unnecessary mainly argued that shareholders would be aware of unequal voting rights when they bought such shares. There was a general recognition that some exceptions from the principle would be required, but that these should be on national interest grounds only. Reuters argued that the golden share held by Reuters Trust to preserve their independence should qualify as such an exception.

### Commission Proposals

4. The Commission came forward with their own proposals in May. They included a proposal to strengthen the existing provision enshrining equal voting rights in the draft 5th Directive. The UK

welcomed the Commission proposals in principle: support from other member states for reducing barriers to takeovers was lukewarm at best and individual proposals are likely to encounter outright opposition from a number of states. Mr Ridley has recently identified barriers to takeovers as one of the key issues which, if not tackled, could undermine the Single Market effort.

#### 5th Directive

5. The equal voting rights provision in the 5th Directive, as amended by the Commission's recent proposal, would establish the principle that shareholders' voting rights should be proportionate to their share of a firm's subscribed capital. Companies could restrict the right to vote in respect of shares carrying special advantages (eg preference shares) but only where special advantages were actually granted and providing such shares did not comprise more than 50% of the capital. Limits on the votes to be exercised by one individual (common in other member states) would be prohibited. The provision would apply to new and existing share issues. The UK's position is to support the provision in principle and to negotiate constructively to meet particular UK concerns in such a way as not to undermine the principle as a whole. Concerns include: how to deal with different classes of shares carrying different rights issued at different times, a difficult technical problem which may yet render the whole proposal impractical; and how to protect the Government's own special shares, both timeless and time-limited. In discussions so far on the 5th Directive, the UK has argued against exceptions to meet problems of particular countries or companies (such as Reuters) on the grounds that this would undermine the effectiveness of the general principle, to the detriment mainly of UK firms.

#### Prospects for the 5th Directive

6. The requirement for equal voting rights, however, is only one provision of the 5th Directive which contains others unacceptable to the UK, in particular mandatory worker participation requirements. Other member states also have significant difficulties and the Directive, although part of the Single Market programme, is currently stalled. The Italian Presidency propose to re-open discussions on the non-worker participation elements of the Directive; the equal voting rights provision could be reached as early as July. However, even if the worker participation proposals were dropped, which is by no means likely, the UK would have major difficulties with other provisions. Officials' current judgement is that these difficulties in the Directive as a whole are not outweighed by the advantages to the UK of the equal voting rights provision in terms of reducing barriers to takeovers. Consequently, the UK would still want to block the Directive as a whole, unless significant amendments could be secured; prospects for implementation of equal voting rights are therefore uncertain at best.



R C.F.C.  
②  
Foreign and Commonwealth Office

London SW1A 2AH

14 June 1990

Dear Charles,

mb  
Eric Runitter  
COR 15/6

Community Fraud: Letter from M. Delors

I enclose a letter of 7 June from M. Delors to the Prime Minister and other Heads of Government, drawing their attention to the European Court of Justice's judgment on a case of fraud against the Community budget. He emphasises the importance of national action against infringements of Community law.

This initiative is useful. We shall shortly let you have a draft reply reflecting the views of all Departments concerned.

I am copying this letter to John Gieve (HM Treasury) and to Sonia Phippard (Cabinet Office).

Jaw.  
Stephen Wall

(J S Wall)  
Private Secretary

C D Powell Esq  
10 Downing Street



The President

Brussels, 07. vi. 1990

SG(90) D/ 22712

Dear Prime Minister,

As you are aware, the Commission attaches particular importance to stepping up the fight against fraud. A description of the progress already made on this front, partly as a result of increased cooperation with the Member States, is contained in the Commission report of 31 January.

I would like to draw your attention to the importance in this context of the judgment given on 21 September 1989 by the Court of Justice of the European Communities in Case 68/88 (Commission v Greece) concerning fraud against the Community budget. One of the points of law at issue in this case was whether Member States were obliged under Community law, and in particular under Article 5 of the EEC Treaty, to take action in their own courts against infringements of Community law and, more specifically, in cases of fraud against the Community budget.

The Court gave a positive and categorical answer to this question. It held that, where Community rules do not include any specific provision for a sanction in case of infringement or where they refer the matter to national laws, regulations and administrative provisions, Article 5 of the EEC Treaty imposes on the Member States the obligation to take all appropriate steps to ensure the effectiveness of Community law.

The Court took the view that, while the Member States may choose the penalties, they must ensure that infringements of Community law are subject to sanctions on conditions which are, both in substance and procedure, analogous with those applicable to infringements of national law of a similar nature and importance, and which in any case confer on the sanction an effective, proportionate and dissuasive character.

The Right Hon. Margaret THATCHER, F.R.S., M.P.  
Prime Minister  
Downing Street

GB - LONDON SW1A 2AL

It also held that national authorities must be as scrupulous in acting against infringements of Community law as they are in implementing corresponding national legislation (grounds 23 to 25).

The Commission welcomes this strong and explicit statement by the Court of the obligations of the Member States to take action against infringements of Community law. It is convinced that the definition of these principles will be of valuable assistance in safeguarding Community law in general, and in combating fraud in particular.

The Commission takes the view that the principles deriving from Case 68/88 apply not only where Community rules make no specific provision for penalties, but also where Community instruments carry provisions dealing with certain consequences of failure to comply with the rules they contain.

I would be most grateful if you would check that your country's legislation and the application of this legislation are consistent with the principles defined by the Court. It is of particular importance to ensure that :

- infringements of Community law are punishable under your legislation, particularly in cases of fraud against the Community budget;
- the penalties provided for by your legislation are consistent with the criteria established by the Court (i.e. they are analogous with those which apply to infringements of national law of a similar nature and are of an effective, proportionate and dissuasive character).

I would be most grateful if you would let me know the results of this examination.

Yours faithfully,



Jacques DELORS

Ref. A090/1392

PRIME MINISTER  

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29 June

Cabinet: Community Affairs

Mr Gummer may mention last week's emergency Agriculture Council on BSE:

- other member states agreed to lift their bans on British beef in exchange for the United Kingdom introducing certification of exports;
  - our latest information suggests that after some delays the French, Germans and Italians have all lifted their bans. Some non-EC countries have maintained their bans, but are not significant markets for British beef;
  - the main concern now is that there will be pressure for certification of beef supplied to the domestic market.
2. Mr Patten may mention the 7 June Environment Council:
- the Presidency did not press its draft resolution on climate change, but went instead for uncontroversial procedural conclusions with no reference to specific targets for stabilisation or reduction of CO2 emissions;
  - agreement was reached on the Community's position for the London meeting to review the Montreal Protocol, in terms acceptable to the United Kingdom;
  - in discussion of the environment in the GDR it emerged that, as currently envisaged by the FRG and GDR governments, FRG and EC law will apply to all new plant from 1 July 1990, with derogations for existing plant until around 2000.

3. The Chancellor may report on Monday's ECOFIN Council:

- a progress report on EMU will be submitted to the European Council, identifying the main issues for resolution; there was general agreement that further substantive discussion should be kept within the ECOFIN machinery;
- the Greek economic situation was discussed: Greece made no specific request for EC assistance but sought an expression of solidarity. The Council agreed that the current economic reform programme was a step in the right direction but that further reform would be needed;
- the Commission described their new proposals for post-1992 VAT and statistical systems: there was general agreement on the need for early decisions;
- a package of long-outstanding tax measures to facilitate cross border company activity was agreed (and welcomed by business organisations).

4. A Consumer Council is currently in progress, discussing package travel, product safety and other issues: there are unlikely to be significant developments to report.

## 5. Forthcoming meetings are:

- Foreign Affairs Council, 18-19 June;
- Transport Council, 18-19 June;
- Informal Meeting of Agriculture Ministers, 18-19 June;
- Internal Market Council, 20 June;
- Agriculture Council, 25-26 June;
- European Council, 25-26 June.

F.R.B.

ROBIN BUTLER

13 June 1990



Foreign and Commonwealth Office

London SW1A 2AH

12 June 1990

*From The Minister of State*

**The Hon Francis Maude MP**

Peter Lilley Esq  
Financial Secretary  
HM Treasury  
Parliament Street  
London SW1

CAN  
13/6

*Dear Peter*

**MINISTER'S EUROPE MEETING ON 14 JUNE**

My Private Secretary's letter of 16 May recording our last meeting promised some ideas from me on topics for our next one.

We have now had a full set of responses from EC posts to the first of my letters on the development of policy, on political union. We have produced action programmes for each of the 11 member states on the basis of recommendations by Ambassadors. I shall let you have copies on Thursday.

Replies to the letters on the Single Market and the Social Dimension are due by the end of this week. Our officials will then be in touch to draw up specific plans in those areas. I shall be sending out shortly the second wave of letters - on frontiers, other social issues and the environment (we await a Department of Environment draft).



We might briefly review this exercise as the first item on 14 June.

I suggest that after that we should look forward to forthcoming Councils and other events. I enclose a list of visits based on returns from departments. As far as future Councils are concerned, the three most likely to receive publicity seem to be the Foreign Affairs Council on 18/19 June (preparations for Dublin, GATT, EFTA); the Transport Council on the same days (air transport liberalisation and shipping cabotage); and the Internal Market Council on 20 June (motor insurance directive, and an opportunity to review progress at the end of the Irish Presidency).

As our third item, we might discuss the main conclusions of the first meeting of Whitehall-EC press officers held on 5 June. I enclose the summary record. This seems to have been a successful meeting, and there are a number of ideas for the group to follow-up, in addition to any specific remits we may wish to give them. They will meet again in the week before our next meeting on 18 July.

Finally, David Curry mentioned recently that he thought it might be useful for us to discuss our procedures for nominating British members of EC institutions. He was thinking particularly about the current Economic and Social Committee process, but there is of course the wider question of our representation in the Commission, Council Secretariat etc. I would be happy to say a word or two about our recent efforts in that area and my contacts with the Commission.



Could I take this opportunity to remind those of you who have not replied to my letter of 3 April on special events for the UK 1992 presidency that it would be very helpful to have your thoughts as soon as possible, and at the latest by 18 June. As you know, our plan is to have a meeting of officials at the end of this month or early next so that we can take stock at our July meeting.

I am copying this letter to Tristan Garel-Jones, Malcolm Caithness, David Curry, Tim Eggar, Eric Forth, David Heathcoat Amory, Douglas Hogg, Gloria Hooper, Robert Jackson, Peter Lloyd, Roger Freeman, John Redwood and Gillian Shephard, and to Charles Powell at No 10.

Francis Maude

FORTHCOMING INWARD AND OUTWARD EC RELATED VISITS AND SPEECHES  
TO JULY 1990

10-11 June	Berlin	Visit by Mr Maude
11-12 June	Bonn	Visit by Mr Ridley, DTI
11-13 June	FRG	Visit by Mr MacGregor, DES
11-13 June	London	Dept of Environment Minister (probably Mr Trippier) to attend IPCC workshop on CO <sub>2</sub> emission targets
14 June	Netherlands	Visit by Foreign Secretary
14-15 June	Dublin	Meeting of TREVI and EC Immigration Ministers
16 June	Dublin	Dept of Environment Minister (probably Mr Trippier) to attend EC Ministerial Meeting on Eastern Europe
18 June	Italy	Visit by Mr Howard, Dept of Employment, for talks with Sr Donat-Catlin, Italian Labour Minister
18 June	London	Baroness Hooper, Department of Health, to meet Chairman and UK Members of the European Parlia- ment Committee on Environment, Public Health and Consumer Protection
20-29 June	London	Dept of Environment Minister (probably Mr Trippier) to attend Second Meeting of Montreal Protocol Parties
25-26 June	Strasbourg	Visit by Mr Jackson, DES, to Academia Europa
26 June	Rome	Visit by Mrs Shepherd, DSS
26-28 June	France	Visit by Mrs Rumbold, DES
28 June	Brussels	Visit by Mr Ridley and Mr Hogg, DTI for talks with Dr Bangemann
28 June -	Belgium	Visit by Mr Waddington, Home Office



June/July	Spain	Possible meeting between Mr Howard, Dept of Employment, and Spanish Labour Minister
June/July	France	Possible meeting between Mr Howard, Dept of Employment, and M Soisson, French Minister for Labour, Employment and Vocational training
Date to be decided	London	Visit by Mr Koos Andriessen, Netherlands Minister for Economic Affairs, for talks with DTI
Date to be decided	London	Visit by Herr Schauble, FRG Minister of Interior, to meet the Home Secretary and other Ministers
5 July	London	Baroness Hooper to speak at Insight Conference
9-11 July	Rome	Visit by Mr Maude
mid-July (poss)	Rome	Visit by Mr Forth, DTI for discussions on telecommunications and consumer affairs
17-19 July	Germany	Visit by Mr Eggar, Department of Employment
18 July	London	Visit by Sr Solbes, Spanish EC Minister, for talks with Mr Maude
19 July	London	Visit by M Dumas, French Foreign Minister
21 July	Naples	Visit by Baroness Hooper to attend informal Health Council
25 July	London	Visit by Herr Vogt, German Labour Minister for talks with Mr Howard, Dept of Employment
22-24 July	Lisbon	Visit by Mr Maude
23-24 July	Czechoslovakia	Possible visit by Foreign Secretary

WHITEHALL PRESS OFFICERS GROUP

Minutes of meeting on 5 June 1990

Chairman: Brian Mower (FCO)

Present :

Dept of Transport	Ministry of Agriculture Fisheries and Food
Dept of Energy	Treasury
Dept of Employment	FCO
Dept of Social Security	UKREP Brussels
Dept of Health	Cabinet Office
Dept of Trade and Industry	No.10 Downing St
Dept of Education and Science	Home Office

1. The Chairman opened the first meeting of the Press Officers Group by recalling its origins. An OD(E) paper, endorsed by the Prime Minister, had called for an improvement in the presentation of the British Government's EC policy goals. This signalled a need to give greater emphasis in Whitehall Departments to presentation activities. The Ministers Europe Group, under Mr Maude's chairmanship, had at its last meeting on 14 May agreed that a Whitehall Press Officers Group should be established with the following terms of reference: to promote, both at home and abroad, more active and better coordinated press publicity for HMG's policy on EC matters. It would meet monthly in advance of the Ministers Europe Group and report to it.

2. The Chairman added that an EC Planning Unit was being set up within the FCO. It would be headed by Nigel Sheinwald. In addition to providing the Secretariat for both the Ministers Europe and Press Officers Groups, the Unit's main tasks would be to construct operational plans for public presentation and lobbying in each EC member state, and to work with Whitehall Departments to produce targetted material primarily intended to influence opinion outside Governments.

2. Mr Sheinwald explained that the Planning Unit's first important task would be to draw up strategies based on the themes discussed at the Ministers Europe meeting on 14 May (EC institutions, single market, social issues, GATT, frontiers and the environment). To this end, information was being gathered from EC posts which would enable the Unit to design specific presentational programmes with the lead Whitehall Departments. They would concentrate on the main issues arising in the next 3-6 months. The Unit would alert Departments to opportunities and needs for exposing particular issues in particular media and countries.

3. In discussion the following points were made:

- it would be important to ensure a clear distinction between presentational activities and current day-to-day lobbying of other EC Governments and the Commission;
- the availability of resources had to be taken into account. While presentation was clearly a priority area, there was already much activity on the policy side. Activities abroad would need to be tailored to Embassy resources.

4. The Chairman concluded that the terms of reference were agreed. The reference to resources was noted: it would be necessary to re-assess priorities to meet the remit from Ministers.

5. On improving presentation in the UK, the Chairman drew attention to Section IV of the OD (E) paper. There were two key targets among many: the Brussels Press Corps and column and leader writers in the UK. It was important that Whitehall Departments kept in close touch with UKREP Brussels.

6. In discussion the following points were made:

- There were three important characteristics in terms of Brussels presentation:

- (i) Unlike other press stories, it was often possible to predict in advance when subjects would arise and to

assess which would be sensitive in presentational terms. This should mean that the presentational aspects could be considered in conjunction with the formulation of policy.

- (ii) Council meetings were very public occasions despite being held nominally in private. There was much competitive briefing and the UK position (as well as that of others) quickly became known. It was therefore important to ensure that the UK press officer was in a position to get HMG's views across.
  - (iii) The Brussels correspondents looked at EC stories in comparative terms - ie. was the UK isolated or in the pack - rather than the merits of the issue. Press briefings had therefore to be tailored accordingly.
- In ECOFIN and the Internal Market Council it was often not possible to forecast accurately what would come up in advance and what the outcome of the discussion would be.
  - In general this Group should aim to look forward to forthcoming Councils, and should be in a position to ask the policy makers hard questions about how their idea would present in public.
  - Press briefing in advance of the Internal Market Council proved worthwhile. Where Britain achieved its aims, credit was generally given. When it failed, there was at least recognition that an effort had been made.
  - It was worthwhile sending London-based press officers out to Brussels/Luxembourg for a Council to give them first-hand experience of how the Brussels press corps operated.
  - In presenting the Government's policy it was also important to be armed with details of the position of other EC member states. Often the Commission would be a good source of such information (especially factual details).

- Explanatory Memoranda should be drafted bearing in mind that they were public documents and on occasion were picked up by Parliamentary correspondents.

7. The Chairman concluded that there was agreement to proceed on the basis of his introduction and drawing on the ideas above. The Group would review towards the end of the year how well this approach was working. In order to assist consideration of items on forthcoming Council agendas, it was agreed that UKREP Brussels would provide a consolidated forecast in advance of each Press Officers meeting.

8. On improving presentation in the EC media, the Group focussed on three areas: foreign correspondents based in London; disseminating information through British Embassies in EC capitals; and outward Ministerial visits. The following comments were made:

- our EC post should be encouraged to identify, in a more systematic way, key targets in the European press and present clearer recommendations about who they should see and why.
- it was pointed out that Information Department (FCO) would soon be taking over management from the COI of sponsored visit programmes. That should help to ensure a more coherent approach.
- Departments and posts should look more systematically for opportunities for briefing key European journalists visiting the UK with the their national Prime and Foreign Ministers.
- It was suggested that priority should be given to areas such as the environment and social matters where we had the greatest presentational problems.
- The Foreign Press Association might be invited to organise collective briefings for their members on a more regular basis. It was pointed out that the Commission Office in London, on occasion, brought together groups of journalists

for such sessions.

- It was considered that more use could be made of the COI London correspondents service since making contact with European journalists through the FPA was often cumbersome.
- It was recalled that at the recent EC Heads of Mission Conference, there had been a strong appeal for summaries of speeches to be transmitted to post to allow speedy dissemination of the key extracts. The FCO had already taken action and other Whitehall Departments were encouraged to follow suit (liaising direct with Information Department).
- It was recalled that outward Ministerial visits presented a good opportunity to get Britain's message across both to the local media during a visit and in pre-visit interviews. The EC Planning Unit could keep a running programme of Ministerial visits building on the existing Cabinet Office system.

9. The Chairman concluded that there was agreement to adopt a more systematic approach in each of the three areas. To assist the coordination process, Whitehall Departments would provide EC Planning Unit monthly with a forecast of Ministerial visits together, if possible, with details about pre-visit interviews and articles placed in the EC press to coincide with a visit or other important events.

10. Next meeting: during week before the 18 July meeting of the Ministers Europe Group.

RWK

12 June 1990

Euro Pol: Budget

A 46





RESTRICTED

cc/c

FCS/90/114

2/10/90

HOME SECRETARY

EC Frontier Control Issues

1. Thank you for your letter of ~~4~~ June. WITH CAP: / WITH REQUEST  
IF REQUIRED
2. I agree that frontier control issues are unlikely to be prominent at the Dublin European Council, which suits us.
3. I agree with the line you propose to take over Danish signature of the Asylum Convention, and I hope a way can be found to avoid shelving this at such a late stage.
4. I, too, want to avoid the Schengen partners claiming that their agreement is a model for the Twelve. We must stress the geographical asymmetry which makes the Schengen Treaty not really relevant for the rest of us.
5. On visas for Eastern Europe, I understand our officials are meeting to discuss this further.
6. On drugs, I am glad that you intend to give renewed impetus in TREVI to the European Drugs Intelligence Unit, and we shall make what mileage we can on this in the Dublin European Council conclusions. We are looking separately at the points in your minute of 8 June.

RESTRICTED





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7. Copies of this minute go to the Prime Minister, other members of OD(E) and to Sir Robin Butler.

DH

(DOUGLAS HURD)

Foreign and Commonwealth Office

12 June 1990

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FCS/90/112

Edw. M.C.

HOME SECRETARY

EC Ombudsman

1. We discussed in OD ways of strengthening accountability in the European Community, and have begun to surface some of our ideas. An additional idea, not raised in OD, would be to explore the possibility of establishing an EC Ombudsman, to examine cases of apparent mal-administration by Community institutions. The political attraction of this is obvious; it would add a new UK element to the EC debate. It might also help us to head off some unwelcome Spanish ideas about "European citizenship". By suggesting a link between the Ombudsman and the European Parliament we would also strengthen our case against pressure for unwelcome increases in Strasbourg's role.

2. I hope you and the Attorney-General will agree that officials should work up this idea, and let us have a proposal on the possible role for an EC Ombudsman, including how he would fit alongside existing institutional and legal arrangements.

/3.

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3. Meanwhile, unless colleagues disagree, I propose to float the idea in the EC debate in the House on 11 June. I would note that democratic accountability means satisfying the citizen; that various member states have different ways of providing for citizens' recourse to an Ombudsman; that while none of these models might be right for the Community level, the absence of any such arrangement at that level might be a defect worth remedying; and that the case for an EC Ombudsman could therefore be worth examining as part of possible reform of Community institutions.
  
4. Copies of this minute go to the Prime Minister, other members of OD and OD(E) and to Sir Robin Butler.

*DH.*

(DOUGLAS HURD)

Foreign and Commonwealth Office  
8 June 1990

CONFIDENTIAL



cc PC  
PU

Department of Employment  
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Secretary of State

The Hon Francis Maude MP  
Minister of State  
Foreign & Commonwealth Office  
London  
SW1A 2AH

CM 1026

6.1 June 1990

*Dear Sir*

**IMPLEMENTATION AND ENFORCEMENT OF EC MEASURES**

Thank you for your letter *at hand* and the information in the Annex on other states' implementation and enforcement record.

I believe the subject is very important. It seems to me intolerable that we should be operating what amounts to a two-speed Community - one part which implements and enforces what has been agreed, and another which lags behind in taking any action at all.

Of course I recognise that our record is not spotless. There may well be areas where for sound policy reasons we will be extremely reluctant to comply fully or quickly with Community legislation. There is therefore a risk that any move to strengthen enforcement mechanisms will, on occasion, embarrass the United Kingdom.

However, I think this is a risk we can live with. In general, we shall always be the subject of pressures in this country to implement measures properly, both because of the transparency of our system, and our active lobbies. Moreover, the gain seems to me that we have in this theme an excellent topic to demonstrate our Community credentials in the run-up to the Inter-Governmental Conference - one which should moreover test the commitment of other member states to anything more than empty political rhetoric.



Employment Department - Training Agency  
Health and Safety Executive - ACAS



Secretary of State  
for Employment

I have already secured Commissioner Papandreou's agreement that the Commission will report regularly on member states' records on implementation of those measures already agreed in the employment field. I am pleased to say she has already given a first oral report informally at the Social Affairs Council last Tuesday (29 May). I have asked her to let member states' governments have a written record of her report. I believe we should also consider seriously how we might improve enforcement of those measures member states have implemented. One way forward might be to ask member states or the Commission to report on how measures have been enforced.

I would like us to develop proposals to empower the European Court of Justice to impose fines on member states which have not implemented agreed directives, especially where there has been an earlier Court judgement against them. We should also consider increased use of Article 170 which entitles member states to make complaints to the Court about the conduct of others.

Both these suggestions have the advantage that whilst they should encourage more thorough implementation, they avoid giving more powers to the Commission.

I appreciate at this stage that in the public domain we are simply trailing those subjects which we shall be putting forward after the Dublin summit in the form of more detailed proposals. I look forward to discussion of these at a later date.

In the meantime, as you suggest, we might approach particular interests both in the UK and in other member states. When I visit other European Community countries, I try to see employer representatives. If appropriate, I shall continue to raise issues of implementation and enforcement both with them and of course with my counterparts in the Community.

I am copying this to recipients of yours.

*J. C. S.*  
*Michael*

MICHAEL HOWARD

Eko Per: Budget  
Pr4



50% 75  
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Ref. A090/1327

PRIME MINISTER

K.C.F. - Bathing water  
N.W. 1985-86  
Brought forward compliance  
Plan in programme

Cabinet: Community Affairs

1990 level by 2000  
CO emissions

Industry Council, 28 May (Sir David Hannay represented the United Kingdom):

- Helpful conclusions on the participation of small and medium sized enterprises in public procurement and R & D.
  - General welcome for Commission's 1990-95 objectives for steel. Vice-President Bangemann gave an account of Commission work on possible early winding-up of the Treaty of Paris: he will report further to the Council after consultation with industry.
2. Social Affairs Council, 29 May:
- The UK and Germany abstained over the action programme on continuing training (FORCE); UK secured a satisfactory Council and Commission minutes statement that the programme did not confer rights on individuals.
  - Acceptable resolutions on racism and xenophobia and on long term unemployment.
3. Education Council, 31 May:
- UK secured helpful statement that conclusions adopted on equality of opportunity in teacher training do not invite legislative proposals from the Commission.

- Satisfactory conclusions on a new convention for the European Schools.
  - Acceptable resolution on integration of handicapped children.
4. Other events since Cabinet last met include:
- US/EC disagreements at the OECD Ministerial Meeting over the GATT negotiations;
  - Action by France and other countries to block imports of British beef;
  - An uneventful Development Council on 29 May.
5. Forthcoming meetings are:
- Environment Council, 7-8 June;
  - ECOFIN, 11 June.

*Successful Outcome*  
*Developing countries*

4 June 1990

R.R.B.

ROBIN BUTLER



dti

the department for Enterprise

Prime Minister

ccpe

The Rt. Hon. Lord Trefgarne PC  
Minister for Trade

CONFIDENTIAL

The Rt Hon William Waldegrave MP  
Minister of State  
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Your ref  
Date

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w03

31 May 1990

Dear William,

CHEMICAL WEAPONS RELATED EXPORT CONTROLS

Thank you for your letter of 11 April concerning the extension to EC Regulation 428/89 which provides for export controls on chemical weapons (CW) precursors. *will request if required*

I note your proposal that we should now be prepared to agree to the addition of thionyl chloride to the list of CW precursors covered by the Regulation. You will recall that on the last occasion on which this was discussed by Ministers it was agreed that we should oppose in principle any attempt to extend the scope of this EC Regulation. This reflected concerns about the need to retain freedom of action over export controls, and to avoid giving any encouragement to the Commission to seek to extend its competence into the field of strategic export controls and defence-related equipment. These concerns remain relevant to our policy towards the EC Regulation.

I acknowledge that there are certain advantages from a strictly DTI viewpoint in having an up-to-date and relevant EC Regulation covering CW precursors. It offers a more effective means of persuading some other Member States to strengthen their export control systems which are currently inadequate. This will facilitate the freer movement of industrial goods within the single market after 1992 without creating undue risks.

Yours,  
David

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EDUCATION COUNCIL: 31 MAY 1990

(Z) DENOTES ITEMS NOT REPORTED ELSEWHERE

SUMMARY

1. MRS O'ROURKE (PRESIDENCY) PRESIDED BRISKLY AND EFFECTIVELY OVER A THIN AND UNCONTROVERSIAL AGENDA. UK CONCERNS ABOUT COMMUNITY BECOMING CONTRACTING PARTNER TO EUROPEAN SCHOOLS AGREEMENT TAKEN INTO ACCOUNT IN ADOPTION OF NEW CONCLUSIONS Tabled AT LAST MINUTE. UK ALSO RECEIVES ASSURANCES ABOUT COMMISSION INTENTIONS ON EQUALITY OF OPPORTUNITY IN TEACHER TRAINING WHICH ALLOW ADOPTION OF CONCLUSIONS. RESOLUTION ON INTEGRATION OF DISABLED YOUNG PEOPLE INTO NORMAL EDUCATION AGREED WITH MINOR AMENDMENT. COMMISSION REPORTS NOTED ON A NUMBER OF COMMUNITY PROGRAMMES AND BY NOW TRADITIONAL GERMAN REPORT ON IMPLICATIONS FOR EDUCATION OF UNIFICATION. BRIEF DISCUSSION ON PRESIDENCY PAPERS ON DISTANCE EDUCATION AND EDUCATION FOR ENTERPRISE.

2. UK REPRESENTED BY MR MACGREGOR AND MR JACKSON

3. DETAILS BELOW IN MY 5 IFTS (NOT TO ALL).

DETAIL

4. AGENDA AGREED AND 'A' POINT ADOPTED.

PREPARATION OF NEW CONVENTION CONCERNING THE EUROPEAN SCHOOLS

5. UK FIRMLY OPPOSED TO PROPOSAL THAT COMMUNITY BECOMES A CONTRACTING PARTNER TO SCHOOLS AGREEMENT. NEW TEXT Tabled OMITTING REFERENCE TO CONTRACTING PARTNER AND TAKING FULL ACCOUNT OF UK CONCERNS. REVISED CONCLUSIONS ADOPTED.

EQUALITY OF EDUCATIONAL OPPORTUNITY FOR GIRLS AND BOYS IN THE INITIAL AND IN-SERVICE TRAINING OF TEACHERS

6. IN RESPONSE TO UK CONCERNS, THE PRESIDENCY CONFIRMS THAT DRAFT CONCLUSIONS DO NOT INVITE COMMISSION TO BRING FORWARD LEGISLATIVE

**PROPOSALS. CONCLUSIONS ADOPTED.****INTEGRATION OF CHILDREN AND YOUNG PEOPLE WITH DISABILITIES INTO ORDINARY SYSTEMS OF EDUCATION**

7. RESOLUTION ON INTEGRATION OF YOUNG PEOPLE WITH DISABILITIES INTO ORDINARY SYSTEMS OF EDUCATION APPROVED BY MINISTERS WITH MINOR PORTUGUESE AMENDMENT. DISCUSSION EMPHASISED NEED TO EXAMINE INDIVIDUAL NEEDS AND TO TAKE ACCOUNT OF PARENTAL WISHES.

**COMMISSION PRESENTATIONS ON COMMUNITY PROGRAMMES**

8. COMMISSION REPORTS ON LATEST POSITION ON TEMPUS, TRAINING FOUNDATION, ERASMUS AND GENERAL DIRECTIVE, NOTED WITHOUT SUBSTANTIVE DISCUSSION. FRG MAKES, BY NOW, TRADITIONAL INTERVENTION ON IMPLICATIONS OF GERMAN UNIFICATION FOR GDR EDUCATION SYSTEM.

**(Z) DISTANCE EDUCATION AND TRAINING**

9. MR JACKSON ACKNOWLEDGING THE POTENTIAL FOR EXPANSION IN THE USE OF DISTANCE LEARNING SAID BRITISH EXPERIENCE INDICATED IT HAD HIGH FIXED COSTS BUT LOW MARGINAL COSTS. IN CERTAIN AREAS SUCH AS LITERARY TRAINING, WHERE TUTOR SUPPORT WAS ESSENTIAL, IT WAS INAPPROPRIATE. THERE WAS MUCH RECENT DEVELOPMENT IN INTERNATIONAL CO-OPERATION AND IT WAS BEST TO BUILD ON THE WORK OF EXISTING DISTANCE TEACHING INSTITUTIONS. THE ESTABLISHMENT OF A EUROPEAN OPEN UNIVERSITY WAS NOT A GOOD IDEA AT THIS STAGE. THERE WAS A NEED TO ASSESS THE EFFECTIVENESS OF EXISTING EC PROGRAMMES FOR THE DEVELOPMENT OF DISTANCE LEARNING BEFORE ENGAGING IN ANY NEW INITIATIVES. FUTURE DEVELOPMENT SHOULD BE BASED ON SUCH DISCUSSION AT THE PROFESSIONAL LEVEL, AND DID NOT REQUIRE ADDITIONAL EC INITIATIVES.

10. RITZEN (NETHERLANDS) SAID THAT A WORKING GROUP OF EXPERTS TO EXAMINE POTENTIAL HARMONISATION AND CO-OPERATION AMONG DISTANCE LEARNING INSTITUTIONS WOULD PROVE OF VALUE. ARGULO (SPAIN) AND COENS (BELGIUM) SUPPORTED THE ESTABLISHMENT OF SUCH A WORKING GROUP, WHILE CARNEIRO (PORTUGAL) AND MATTARELLA (ITALY) ARGUED FOR THE DEVELOPMENT OF A NETWORK OF DISTANCE LEARNING ORGANISATIONS.

**EDUCATION AND ENTERPRISE**

11. BRIEF DISCUSSION REVEALS WIDESPREAD SUPPORT FOR FURTHER REPORT ON THIS ISSUE. DELEGATIONS EXPRESS COMMON DESIRE FOR CLARIFICATION OF UNDERLYING ARGUMENTS.

**(Z) ITALIAN PRESIDENCY**

12. MATTARELLA PLEDGED THE ITALIAN PRESIDENCY TO CONTINUE WORK ON

DISTANCE EDUCATION AND EDUCATION FOR ENTERPRISE. THE COMMISSION WOULD BE ASKED TO BRING FORWARD PROPOSALS. WORK WOULD ALSO BE CONTINUED ON DEVELOPING EDUCATIONAL CONTACTS WITH EASTERN EUROPEAN COUNTRIES.

13. A CONFERENCE WOULD BE ARRANGED IN SIENNA FROM THE 5/7 OCTOBER ON UNIVERSITIES IN EUROPE AFTER 1992. MINISTERS WOULD BE INVITED TO AN INFORMAL COUNCIL ON 8 OCTOBER, ALSO IN SIENNA, WHICH WOULD FOLLOW THE WORK OF THE PRECEDING CONFERENCE.

(Z) LUNCH TIME DISCUSSION

14. OVER LUNCH MRS O'ROURKE REPORTED ON HER MEETINGS WITH EUROPEAN TEACHERS TRADE UNIONS AND PARENT ASSOCIATIONS. MINISTERS ALSO NOTED THE SUGGESTED FOR A JOINT HEALTH AND EDUCATION COUNCIL TO DISCUSS HEALTH EDUCATION. THE PORTUGUESE MINISTER ANNOUNCED THAT INVITATIONS WOULD BE SENT SHORTLY FOR A CONFERENCE IN THE AUTUMN ON CURRICULUM DEVELOPMENT IN RELATION TO EASTERN EUROPE. THE DUTCH RAISED THE ISSUE OF COMMUNITY COMPETENCE IN THE AREA OF VOCATIONAL EDUCATION, WITH THE SPANISH THREATENING TO PRODUCE A PAPER ON THIS ISSUE IF THE COMMISSION DID NOT.

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**dti**

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Your ref  
Date 31 May 1990

*Dear Francis*

*with request  
of required*

Thank you for your letter of 9 May. I am also grateful for John Wakeham's of 18 May. I fully agree with him and with you about the need to ensure proper implementation and enforcement of EC measures.

This issue has been discussed so far mainly with reference to the Single Market programme. We support the Single Market because we believe that it will produce real benefits for business and consumers. For this to happen in practice, it is clear that the Single Market must be not just a theoretical exercise in Brussels. We need to ensure that Single Market measures are implemented into national legislation across the Community, and that they are properly enforced on the ground.

There are also wider reasons for supporting your initiative. Our Embassies' comments about the quality of implementation in other member states confirm what I regularly hear from industry - that the UK is considerably more punctilious about its Community commitments than most other member states. Anything we can do to expose the gap between their pro-European rhetoric and the less edifying reality will help to take the wind out of their sails.

On your points for action, I support the proposal in Douglas Hurd's letter that the Commission should extend their regular reports on implementation of Single Market measures to all areas of Community legislation. I am happy to raise the profile of implementation and enforcement in the DTI's sphere of responsibility. We already have a Compliance Unit whose function is to collect and pursue complaints about unfair barriers to trade within the Community - and I definitely include failure to

*080 31/5*



implement a directive within that category. We will also consider regular features on implementation in our quarterly news magazine, Single Market News, which has a business readership of over 200,000.

The one point I have some reservations about is your positive stance on the Commission's proposals for direct reference to the relevant Community directive in national implementing legislation. Initially we too took a positive view of this measure; however, on reflection we are not completely clear how useful it would be in securing better compliance. I recognise that Douglas Hurd's letter only welcomes the intention behind the proposal, but I understand that it could cause considerable practical difficulties to make UK legislation truly transparent.

I shall be glad to assist, as John Wakeham suggests, in spreading the word among industry trade associations about completion of the internal energy market. This might start with an article in the next edition of Single Market News.

I am copying this to recipients of your letter.

*Johnson*  
*Amulins*



PERSONAL

PRIME MINISTER

MEETING WITH ALAN CLARK

You are to have a talk with Alan Clark tomorrow afternoon, so that he can expound his views on what you might say in your Aspen speech. You have read his note (attached) and are unlikely to agree with his advice that you should champion a single currency and an independent European central bank.

Alan may also raise the Defence Options Study. You will want to be cautious about getting involved in discussion before the Defence Secretary reports to you on Saturday.

C.P.P.

CHARLES POWELL

30 May 1990

c:\wpdocs\foreign\clark.dca



From: The Hon. Alan Clark, M.P.

PRIME MINISTER

---

*Tim Hunt*  
A slightly eccentric  
approach  
not CAP.

BRUGES II

It is very good of you to let me have half an hour next Thursday.

I thought I should send a short note of what I am going to suggest as this makes discussion less random.

My concern (as I mentioned in my letter to Charles in February) is for you to take an intiative which will reassert your primacy in an International and, particularly, in a European context.

Although at that time I took the view that it was important for this to be done promptly I now see that, by good fortune, your position is stronger than it was then. You have traversed a particular bout of party-political turbulence (most unlikely to recur) and your cautious approach to German unification and your scepticism concerning federalist initiatives from Brussels are now seen to be better grounded than was the general view at the time. Thus you can take credit for being right even though apparently, at that time, 'isolated'. It can often happen that popular intuition reasserts itself as media hype runs out of steam.

Nonetheless I believe that there are great prizes to be won and now that you have re-established your power base domestically, and internationally, I would like to test your reaction to certain ideas. And in putting these to you I simply repeat that my sole objective is to maximise the power and leverage of the UK and I am not, as ever, particularly bothered about propriety; treaty obligations; funds (largely notional, I maintain) of 'good will'; etc etc. It is for you alone to interpose your political judgement as to what is practicable or realistic.

We have a severe medium term problem. Namely, how not so much to contain, but to avoid being terminally disadvantaged by German accretion of power. [And I should say that although I regard this as a medium term problem which the interests of our children demand that we get right I believe that it is one which if approached in the right way can also be made to yield a short term political dividend.]

---





At the Chequers meeting on 27 January you rejected my arguments that our best policy would be to align ourselves with the Germans at the expense if necessary of the interests of the lesser Community partners, including France, and construct some kind of inner Hanseatic League that would have close conduit with the United States. Your instincts may well be right, but they have their origins in historic prejudice rather than logic. (Although I admit logic would have indicated a continuation of appeasement in 1939/40.)

Accepting this, I would argue that if we cannot join them we must outflank them. Rigid opposition, founded in the uncertain recruitment of smaller client states whose passing interest may put them in  cursory alignment with our own is a most uncertain base for diplomacy. It will end in disappointment and loss of status.

Where is the vulnerable flank? Fortunately it is where our own forces are, at present, strongest. But the 'enemy' position is liable to harden rapidly over the next few years. I refer of course to the whole Financial Services field and the dominance of the City of London. Because although immensely strong economically Germany is relatively unsophisticated and hesitant in Financial Services.

The two most important symbols, or totems of European federalism are the central bank and the common currency. It is my belief that we can safely take the initiative in welcoming - indeed sponsoring - both of the these and draw very considerable advantage from so doing.

If we don't take this initiative we miss the opportunity:

- a) to locate the bank in London with all the incidental advantages of placing key personnel; accessibility; continuous political contact; conditioning to City behaviour patterns
- b) to determine the nature of the common currency (and the two are inseparable if either is to work effectively)
- c) to pre-empt the coming into existence of an organisation which would otherwise be little more than a bureaucratic mish mash of existing central bank committees.

I don't know the extent to which you still discuss these things with Alan Walters. He has his own views about how a common, zero-inflation currency can be brought into being and I am not enough of an economist to validate his theory that it can be commodity index-linked. But I do know that unless we move quickly and tackle both these subjects in parallel we will end up with the Bundesbank performing this function, and becoming the Community Central Bank in all but name with the DM as the dominant reserve currency.



Even if the Bundesbank were to abide by standards to which it has adhered for the last forty years - and this I rather doubt given the way it folded up over Kohl's insistence on a Deutsch-Ost Mark exchange at parity - the Community economy would come to be dominated by a central bank which would always in the last resort respond to the dictates of one exclusive national interest.

I am no more than agnostic about the merits of joining the ERM. I see there may be short term electoral advantages. And if we can phase the timing of entry with the timing of the General Election that's fine. But I have no doubt that within a year of entry we could start getting into difficulties and with even less scope for independent solution than we enjoy at present. Within five years we and all the other subscribing countries will be entirely at the mercy of the Deutschmark and those who determine its value.

The advantages of your proclaiming the need both for a truly independent central bank and a zero-inflation currency commonly available throughout the community is that it would be very hard for any other 'partner' to resist the idea after all that they have been saying. And our sponsorship of such a move could exact a very high price - notably the location of the bank in the City and a close and direct input into the creation of the new currency.

It is not the case that existence within a particular currency zone inevitably curtails economic or political freedom. There are plenty of examples of sovereign states entering and leaving such zones at the behest of their own Parliaments should they think it advisable. Canada left the Sterling area at the turn of the century, South Africa did so in the fifties. The oil states remained part of it long after their own natural resources had made their indigenous currencies under valued. Korea and Taiwan have both been evicted from the dollar zone because their manufacturing industries had given rise to large distortions in the nominal parities.

It is the idea that I want to sow in your mind. How, when, where, etc comes later. I do not think it would even be a U-turn - more a pre-emptive strike!



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Secretary of State

The Rt Hon Douglas Hurd CBE MP  
The Foreign Secretary  
Foreign and Commonwealth Office  
Whitehall  
LONDON  
SW1A 2AH

*CPA 31/5*

290 May 1990

*Dear Douglas*

**EC INSTITUTIONAL REFORM**

Thank you for copying me your letter to the Chancellor. I am sure we need to co-ordinate our approach to trailing the topics for EC institutional reform in public; and welcome your lead.

As you know I am embarked on a strategy for presenting our EC policies in a positive light both domestically and within the Community; and I would like to incorporate in both articles and the speeches I make, in very general terms, the ideas we agree we want to put forward later. I believe it would be helpful to put them in this wider context. We should not lose sight of our Single Market aims, which remain essentially to remove barriers. Our economic success has been achieved through deregulation; and we need to make clear we are not about to be converted to a whole raft of new regulations. In parallel to presenting positive ideas for the IGC it is important therefore that we maintain our social dimension theme: the community's top social priority is the creation of new jobs; our social dimension must respect subsidiarity; and it must respect member states' traditions.

As you know I have issued to journalists and others, both here and within the Community, an information pack setting out our approach to the social dimension. It covers in general terms the importance of implementation, and of seeing that action is undertaken at Community level only when it cannot be taken



Employment Department - Training Agency  
Health and Safety Executive - ACAS



Secretary of State  
for Employment

at a national level. The pack is designed so that we can add to it subsequently. It may well be appropriate to include in later additions material appropriate to our IGC themes, as they relate to employment and social affairs.

In addition, I shall be very happy in speaking engagements to trail in general terms some of the themes identified in OD. The most appropriate themes for me I think are those which were agreed in Madrid on the social dimension and matters of implementation, following on the commitment I secured from Ms Papandreou for regular reports on this in the Social Affairs Council.

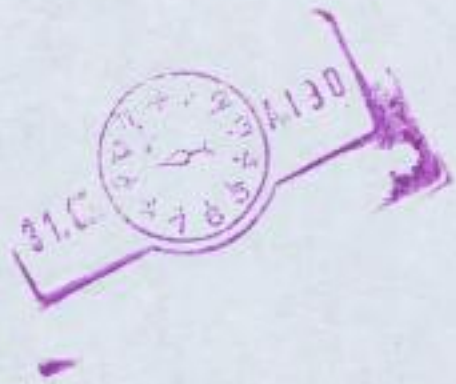
I am copying this letter to recipients of yours.

*y-ew*

*Michael*

MICHAEL HOWARD

Autopa: Budget 1700





10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

28 May 1990

*Dear Stephen,*

EDUCATION COUNCIL

Your Secretary of State wrote to a number of colleagues about the line which he intends to take at next week's Education Council. She very much welcomes the firm approach which he will adopt to resist extension of Community competence in education and shares his scepticism about the Community becoming a contract party to the European Schools Agreement. She very much hopes that he will stand firm on this whatever arguments are advanced on the day.

The Prime Minister disagrees strongly, however, with your Secretary of State's view that the proposed Council conclusions on "equality of opportunity in the training of teachers" are unexceptionable. She has also seen the document which the Department has submitted to the Scrutiny Committee on this. She does not think that "gender" issues should be a priority for us and she regards the sort of language in the Council conclusions as thoroughly unhelpful and irrelevant. She hopes that your Secretary of State will distance the United Kingdom as far as possible from the conclusions.

I am copying this letter to Richard Gozney (Foreign and Commonwealth Office) and David Hadley (Cabinet Office).

*Yours sincerely,*

C. D. POWELL

Stephen Crowne, Esq.,  
Department of Education and Science

*tw*



Ministry of Agriculture, Fisheries and Food  
Whitehall Place, London SW1A 2HH

From the Minister

The Rt Hon Douglas Hurd CBE MP  
Foreign Secretary  
Foreign and Commonwealth Affairs  
Downing Street  
London  
SW1A 2AL

25 May 1990

*John Gummer*

EC INSTITUTIONAL REFORM

I have seen a copy of your minute of 15 May to John Major. I think it is a very good idea that we should, between us, try to build up the impression in the Community that we in London are thinking positively about institutional reform.

I shall be glad to contribute towards this. Because the business of my Department is so closely bound up with the Community on all fronts, I have many occasions for speaking on Community themes.

I have already started to weave in remarks about the functioning of the Community on appropriate occasions and I propose, in the light of your suggestions, to look actively for other opportunities to doing this in the weeks to come.

I am copying this letter to the Prime Minister, members of OD(E) and to Sir Robin Butler.

*John Gummer*

JOHN GUMMER

Europa: Budget R 46





Rice Minister

①

PRIME MINISTER

25 May 1990

Yes - very friendly

Agree to minute out as proposed by

Professor Griffiths?  
CDP

EUROPEAN COMMUNITY: EDUCATION POLICY

John McGregor has written round to colleagues about the line he intends to take at next week's Education Council.

26/5

He intends to be robust in resisting Commission ambitions to extend Community competence in education. This is excellent. But there is one agenda item which troubles me greatly from the policy point of view, but which John McGregor dismisses in one line as unexceptionable.

This concerns Council conclusions on "equality of opportunity in the training of teachers". These will commit us to three things;

and ... to having teachers training as community competence

giving priority to equality of opportunity as an issue to be addressed in the training of teachers;

encouraging research on women's studies and gender issues and strengthening the links between those doing such research and those training teachers;

- giving priority to training teacher trainers on issues related to equality of opportunity.

DES has submitted the attached document on this to the Scrutiny Committee. This claims that the conclusions are in line with Government policy, by quoting a document published last year by the DES on the National Curriculum as saying that:

".... the whole curriculum will certainly need to include .... coverage across the curriculum of gender and multi-cultural issues".

The document goes on to refer to the NCC's 'Whole Curriculum' committee's preparing advice for teachers on cross-curricular issues including equal opportunities.

I believe that subscribing to this kind of thing sends out entirely the wrong signals: Agreed

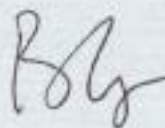
- agreed*
- Once language like this is enshrined in Council conclusions, it helps justify the worst excesses of educationalists in the DES and in bodies like the NCC. The History Working Group's report, for example, is full of references to "gender issues" and how important they are.
  - It strengthens the criticisms of "whole curriculum" policy in Mrs Ivens' recent letter which was very critical of John McGregor publishing the No 4 circular (on economic committees) without realising that Nos 1-3 could well relate to race and gender and be just like ILEA.
  - It is the thin end of the wedge as far as the Commission is concerned. The next step is to be a Commission progress report, which will lead to pressure for more resolutions, action programmes etc. This is exactly how the Commission gradually makes progress in areas where it does not have competence. And it is able to work in league with national 'experts' who are equally committed by the Council conclusions.
  - Above all, the whole tone is wrong. None of this is a priority for us and we should not pretend otherwise. By subscribing to this kind of language we shall never get sense into teacher training or the National Curriculum.

#### Other issues

John McGregor says he is inclined to resist attempts by the Commission for the Community to become a contracting party to the intergovernmental agreement on the European Schools. But his letter also suggests he may not want to hold out on the day if others press him hard. I think you should stiffen his resolve. Unanimity is required for change, and as he says there is no real reason for the change. It is just another attempt by the Commission to muscle in on education policy, through what appears on the surface to be a wholly innocuous issue.

## Recommendations

- welcome John McGregor's firm line on resisting Community competence in education;
- in this vein, strongly agree with his scepticism about the Community's becoming a contracting party to the Europeanm Schools agreement, and urge him not to retreat on this whatever arguments are advanced on the day;
- strongly disagree with his view that the statement on equal gender opportunity in teacher training is unexceptionable, and urge for the reasons outlined above that he distances the UK from it as far as possible.



BRIAN GRIFFITHS

EXPLANATORY MEMORANDUM ON EUROPEAN COMMUNITY DOCUMENT

Proposal for Conclusions of the Council and Ministers of Education meeting within the Council on the enhanced treatment of equality of educational opportunity in the initial and in-service training of teachers

Submitted by the Department of Education and Science, 21 May 1990

SUBJECT MATTER

1. The attached document is a proposal from the Presidency for Ministerial Conclusions which would promote in Member States an enhanced attention to equality of educational opportunity, as an issue to be addressed in the initial and in-service training of teachers, and would seek from the Commission various supporting measures such as the dissemination of good practice in this field. The text is made available on the Government's authority only and is not an authoritative Community document. The Commission would be invited to submit a progress report to a future meeting of the Council and to make proposals for further action.

2. A Resolution on Equal Opportunities in education was adopted in 1985 (OJ C 166, 5.7.1985). It instigated a programme in Member States involving educational and vocational guidance, a review of teacher training provision and curricular materials, and measures to help disadvantaged children, together with supporting action by the Commission. An advisory working party assists the Commission in coordinating the programme and the report called for in the presently proposed Conclusions would be produced in collaboration with that working party.

### MINISTERIAL RESPONSIBILITY

3. The policy area addressed by the proposed Conclusions is the responsibility of the Secretary of State for Education and Science, and of the Secretaries of State for Northern Ireland, Scotland and Wales.

### LEGAL AND PROCEDURAL ISSUES

4. The proposed Conclusions are presented in a mixed form, reflecting the fact that their objective is to influence the education system as a whole, which is the responsibility of each Member State; cooperation in this field must be on a voluntary basis and requires unanimity. The Commission has opposed the mixed form, asserting that teacher training lies within the definition of vocational training covered by Article 128 of the Treaty: their view is that purely Council Conclusions would be appropriate. The Government could not accept this. The FRG has likewise proposed deletion of the invitation to the Commission to propose further action, on the grounds that the content of teacher training is not within the competence of the Community.

5. The Conclusions would have no impact on UK law.

### POLICY IMPLICATIONS

6. The Government supports the objective of the proposed Conclusions. In initial teacher training, equal opportunities practice was reviewed by the Equal Opportunities Commission in 1989 and the recently introduced revised course approval criteria (DES Circular 4/89), which apply in England, Wales and Northern Ireland, take this review into account. For in-service training, it is for local education authorities and schools to decide on requirements. However it is DES Ministers' policy that "the whole curriculum for all pupils will certainly need to include...

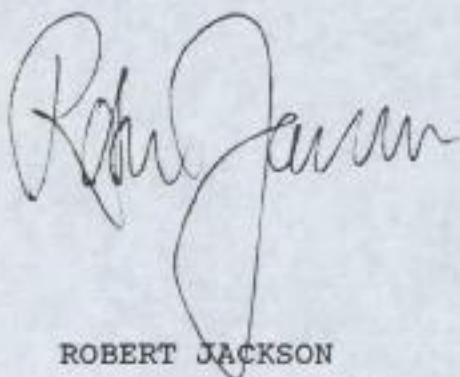
coverage across the curriculum of gender and multi-cultural issues" (The National Curriculum, From Policy to Practice, DES 1989). The National Curriculum Council have established a Whole Curriculum Committee and are preparing advice for teachers on cross-curricular issues including equal opportunities.

#### FINANCIAL IMPLICATIONS

7. There are no direct financial implications.

#### TIMETABLE

8. The draft Conclusions are proposed for adoption at the Education Council on 31 May, when Ministers expect to be able to agree a text acceptable to the UK.



ROBERT JACKSON

Parliamentary Under-Secretary of State  
Department of Education and Science

## Draft

Conclusions of the Council and the Ministers of Education  
meeting within the Council <sup>(x)</sup>  
on the enhanced treatment of equality  
of educational opportunity in  
the initial and in-service training of teachers

The Council and the Ministers of Education, meeting within the Council,

Having regard to their resolutions concerned with the achievement of equal opportunity in education, particularly that of 3 June 1985 containing an action programme in this field; <sup>(1)</sup>

Taking into account that the Commission guidelines for education and training in the medium term (1989-1992) place the issue of equality among the main objectives of the next phase of European educational co-operation and that the conclusions of the Council and Ministers of 6 October 1989 on co-operation and Community policy in the field of education in the run-up to 1993 <sup>(2)</sup> identify equality of access to high-quality education as one of the basic elements for achieving a Europe of training;

Recognising that the extent to which educational systems effectively deal with issues of equality of opportunity is an important indicator of the quality of the systems themselves;

Reaffirming their commitment to the objective of achieving equality of opportunity in education,

Conclude that:

- teachers have a fundamental role to play in achieving that objective;
- the nature and quality of initial and in-service training of teachers is a major factor influencing the extent to which that objective can be achieved;
- there is a need in the initial and in-service training of teachers to improve their awareness of equal opportunity in education and their skill in promoting it.

---

(x) Reservation of the Commission on the mixed form.

(1) OJ No C 166 of 6. 7.1985.

(2) OJ No C 277 of 31.10.1989.

Agree that, within the framework of the specific educational policies and taking into account the structures of each Member State:

- the competent authorities in the Member States should review the existing provision in relation to equality of educational opportunity in teacher education courses and examine, as far as is necessary, how this question could, to a greater extent, permeate the initial and in-service training of teachers or become an integrated component of such training as appropriate;
- the development of women's studies and research on gender issues in appropriate research institutions, in particular in higher education institutions, in the Member States should be encouraged and the links between those involved in such studies and research and those responsible for the training of teachers should be strengthened;
- the training of teacher trainers within the Member States on issues related to equality of educational opportunity should be a priority area, as a means of achieving the best results within the resources available;

Note that in connection with the Action Programme on Equality a pilot project of action research on equal opportunities in the initial and in-service training of teachers was established and that the results of it will be disseminated in due course.

Call on the Commission, within the limits of its competence and financial resources:

- to examine ways in which it can supplement and assist actions by the Member States on issues of equality of educational opportunity in the initial and in-service training of teachers;
- to arrange exchanges of information and experience between the Member States concerning examples of good practice in this field;
- to make, in collaboration with its advisory working party on equal opportunity in education, a progress report through the Education Committee to a future meeting of the Council, based inter alia on the experience of the Member States, and to submit appropriate proposals in this connection for improving treatment of equality of educational opportunity in the initial and in-service training of teachers.



emulator: budget pr 46



DEPARTMENT OF SOCIAL SECURITY  
Richmond House, 79 Whitehall, London SW1A 2NS  
Telephone 01-210 3000

*From the Parliamentary Under Secretary of State for Social Security*

CONFIDENTIAL

Nicola Brewer  
Private Secretary to  
Mr Francis Maude  
Foreign and Commonwealth Office  
Downing Street  
LONDON SW1A 2AH

24 MAY 1990

Dear Nicola,

CM

will request if required.

Thank you for your letter of 16 May setting out the operational points raised during the Ministers Europe Group meeting on 14 May. Mrs Shephard has seen your note and has commented that in the presentation of her contribution to this meeting two issues have become confused.

Mrs Shephard would like it recorded that -

'Mrs Shephard said that the DSS are considering how to handle the new proposal from the European Commission that 1993 is designated the 'Year of the Elderly', and are carefully looking at the 'over 60's card' in the light of previous bad publicity.

I am copying this letter to Charles Powell, and to the Private Secretaries to the Financial Secretary, the Deputy Chief Whip, the Paymaster General, David Curry, Tim Eggar, Eric Forth, Robert Jackson, David Heathcoat-Amory, Douglas Hogg, Baroness Hooper, John Redwood and Roger Freeman.

Yours sincerely

Claire Edwards

Claire Edwards  
Private Secretary to  
Mrs Gillian Shephard



ELIZABETH HOUSE  
YORK ROAD  
LONDON SE1 7PH  
071-934 9000

The Rt Hon Douglas Hurd CBE MP  
Foreign Secretary  
Foreign and Commonwealth Office  
LONDON  
SW1A 2AH

24 May 1990

*Dear Douglas,*

EC Education Council: 31 May

I am writing to you and colleagues to outline the line I propose to take at the Education Council on 31 May. The agenda is, in fact, quite low key for the most part although there may be some difficulty over the item concerning the European Schools.

Two substantive agenda items will be a draft resolution on the integration of children and young people with disabilities into ordinary systems of education and draft Ministerial conclusions on the promotion of equal gender opportunity in teacher training. These are unexceptionable mixed instruments which are in line with Government policy on education and do not concede competence to the Community. They might have been taken as 'A' points but for the fact that one or two Member States have indicated that their Ministers may wish to make statements giving their blessing to the instruments.

The European Schools are intended for the education of children of EC officials based outside their home country and are governed by an intergovernmental agreement which is represented by a Statute and various amending protocols. The Commission would like the Community to become a contracting party to the agreement, along with the Member States, and to secure a change from unanimity to majority voting on the European Schools Board of Governors. These changes can be secured only by unanimous agreement of the contracting parties. I believe that a change to majority voting would facilitate decision making in the Board of Governors and would lead to more cost-effective management of the schools. I am sceptical, though, about the grounds for contracting party status for the Community which would have little practical effect since the Commission already has a seat on the Board of Governors.

*cc. Professor Griffiths*

*for my comments.*

*CDP  
24/5*

*CC/K*

The Presidency is bringing forward draft Ministerial conclusions inviting the Commission, without commitment by Member States, to draft a new codified Convention incorporating the changes I have mentioned. This would then be for negotiation in the Education Committee with a view to adoption at a future joint Council and intergovernmental conference of the contracting parties. My concern is that by then it will be more difficult to resist contracting party status for the Community than it is now, simply because expectations will have been raised and the proposal will have gathered more momentum. On the other hand it may be difficult to justify resisting the present conclusions which do not entail any commitment to the Commission's proposal. Unless you and other colleagues suggest otherwise I propose to go to the Council disposed to resist the conclusions, but to make a decision on the basis of the force of the arguments which are advanced on the day.

The agenda will include two discussion items, on distance education and training and on education for enterprise. The Presidency may be hoping for some form of political statements to come from these discussions. I shall argue in favour of the underlying sentiments but against excessive Community involvement. I shall argue in particular against any suggestion of harmonisation of approach across the Community on the grounds that it is better to build on existing national measures within individual member states. The Community already has some interest in distance education through its vocational training programmes, but education for enterprise in schools is outside Community competence and is suitable only for voluntary co-operation on the basis of agreement of the Council and the Education Ministers meeting within the Council.

The 'A' points will include conclusions agreeing to regular informal meetings of senior education ministry officials under Presidency chairmanship. The UK actually originated this suggestion at an informal Council in 1989. Last year we decided not to pursue a separate idea that EC education permanent secretaries might meet regularly under Commission chairmanship.

Unless I hear otherwise I shall proceed on the basis outlined in this letter. Copies go to the Prime Minister, the Lord President, the Secretaries of State for Employment, Northern Ireland, Scotland, Trade and Industry and Wales and to Sir Robin Butler.

Yours ever,

JH

CONFIDENTIAL

THE RT HON JOHN WAKEHAM MP



Department of Energy  
1 Palace Street  
London SW1E 5HE

071 238 3290

The Rt Hon Douglas Hurd CBE MP  
Secretary of State for Foreign  
and Commonwealth Affairs  
Foreign and Commonwealth Office  
Whitehall  
LONDON  
SW1A 2AH

24 May 1990

*See Doyle*

**EC INSTITUTIONAL REFORM**

*at AAP*

I read with interest your note of 11 April to the Prime Minister and the associated paper. I understand there will be further opportunities to discuss the matters raised therein but there are a couple of points I should like to make now.

In his letter of 8 May Chris Patten suggested qualified majority voting on environmental matters. I agree that has a certain logic. But the price tag could be very high. For instance QM voting might allow the Commission to get imposed upon us the more extreme targets such as that of the Netherlands on abatement of greenhouse gases or the complete removal of all platforms in the North Sea. We cannot rely on support from those Member States which give less priority to the environment. The Commission has shown both on acid rain and in its latest proposed conclusions on climate change a readiness to obtain the support of the Southern Member States by bribing them with less onerous treatment. In any event we must ensure that any change in the environmental provisions does not allow the Community to interfere with our depletion policy for UKCS oil and gas.

Secondly there may be some opportunities to reduce Community intrusion. The history of the gas burn directive has shown how difficult it is to repeal Community legislation: on general deregulation grounds there is much to be said for making legislation easier to repeal than to enact. Again the Commission is giving a very wide interpretation to Article 100A such that it could cover almost any difference in practice between Member States on the grounds that it constituted a distortion of

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competition. It would be worth seeking opportunities for tightening up the wording of that Article, though that would require us to clarify our own views about the right balance between subsidiarity and a level playing field.

I am sending copies of this letter to Cabinet colleagues, the Attorney General, the Chief Whip and Sir Robin Butler.

*John Wakeham*  
*[Signature]*

JOHN WAKEHAM

CONFIDENTIAL



Euro BL: Community  
Budget R 46



Ministry of Agriculture, Fisheries and Food  
Whitehall Place, London SW1A 2HH

From the Parliamentary Secretary (Commons)

The Hon Francis Maude MP  
Minister of State  
Foreign and Commonwealth Office  
Downing Street  
London SW1A 2AH

*CO  
25/5*

24 May 1990

*Dear Francis -*

IMPLEMENTATION AND ENFORCEMENT OF EC MEASURES

I was interested to see your letter of 9 May to Nick Ridley. The question of how efficiently other member States implement and enforce Community measures is of interest to all of us whose Departments are involved in Community business.

The distinction between implementation and enforcement is quite important. At least in relation to the CAP, implementation is less of a problem. Although the volume of legislation is very great the major part of it takes the form of Regulations which are directly applicable, and there is not so much scope for member States to fall down on implementing what is decided. In other areas of policy such as the single market, where legislation more often takes the form of Directive, the problems can be much greater.

Uneven standards of enforcement, on the other hand, are quite as much a problem in relation to the CAP - or CFP - as anywhere else. It seems to me entirely right that we should think how to tackle this problem more effectively. But I have strong misgivings about using traders in the role of an unpaid enforcement authority.

We have come up against this issue over the application of the CAP. The volume of CAP legislation is very large, and our farmers and traders frequently allege that this or that rule is being applied less strictly in other parts of the Community than in the UK. Our response is to say that if we can be supplied with chapter and verse we can refer the case to the Commission

*—will request if reqd.*



and press them to take their responsibility, and bring the other member States up to the mark. Sometimes this brings results. But often our traders, for understandable reasons, are reluctant to report all the details or are unable to substantiate their accusations in a way which would provide sufficient solid ammunition for us to demand action in Brussels.

So traders in MAFF's area of policy are pretty well aware of the role they can play in keeping Governments and the Commission up to the mark, and we should make use, where we can, of the first-hand information which they can collect. But as I see it theirs is and will remain a limited role and we ought not to press it too far.

I therefore do not think we should launch into a campaign of encouraging our traders into a formalised system of reporting. Apart from anything else we would risk provoking an adverse reaction from our partners if it became known - as it surely would - that we were stimulating a campaign of that kind.

In my view the problem of enforcement has to be tackled more fundamentally. We have to face the fact that member States need manpower to police the legislation which the Community is producing. This is a particularly acute problem with the single market. I see it in relation to the new rules on animal and plant health, animal welfare and fisheries, which fall within my responsibilities. But it is a much wider issue. I do not believe that we or our partners have thought through sufficiently the implications of the 1992 programme in relation to the new administrative burden which this is bringing for governments, and the need for manpower to match the enormous range of very important commitments that the single market is creating. The latest report of the European Court of Auditors documents ways in which member States - including we ourselves - are at present falling short of policing certain Community rules adequately. I believe that we do have to face up to this issue, or the problems of enforcement that we can see now will simply get worse; and I should like to suggest that we discuss this at a forthcoming meeting of your Group.

I am copying this letter to the Prime Minister, other members of OD(E), Chris Patten, John MacGregor, Kenneth Clarke, Cecil Parkinson, Kenneth Baker, David Waddington, John Wakeham and to those who attend your Ministers' Europe Group; and to Sir Robin Butler.

Yours ever,  
David.

DAVID CURRY





SECRETARY OF STATE  
FOR  
NORTHERN IRELAND

Rt Hon David Waddington QC MP  
Home Secretary  
Queen Anne's Gate  
London  
SW1

*cell*

NORTHERN IRELAND OFFICE  
WHITEHALL  
LONDON SW1A 2AZ

*CO 2245*

23 May 1990

*Dear David,*

*Step*

DRAFT EC RESOLUTION ON THE FIGHT AGAINST RACISM AND XENOPHOBIA

Thank you for copying to me your letter of 14 May to Douglas Hurd. The Resolution might bear on Northern Ireland in several distinctive ways. GB Race Relations legislation does not, of course, extend here; however, our officials having considered the wording of the Resolution, I do not think this makes for serious difficulties. It may give a little ammunition to those who would like us to give greater encouragement to the Irish language, but again I do not see this as a problem.

I was a little concerned at the drafting of the section on the Commission's "assessments" of anti-discrimination legislation, and studies on the "state of relations between the various communities living in Europe", which appears to open the way to the Commission considering, among other things, community relations in Northern Ireland. I doubt they would wish to do so. We should no doubt register strongly, if they tried to, our objections on competence grounds. Certainly it is hard to see that we might welcome such a development. I would prefer not to draw attention directly to the point by raising it but it is a further consideration to bear in mind at the Social Affairs Council in pressing to tighten the text up.

Subject to that I am content with your proposals. Copies of this letter go to recipients of yours.

*L. ...*  
*P. ...*

PB

*/*



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Budget 0646



Ref.AO90/1244

PRIME MINISTERCabinet: Community Affairs

Health Council, 17 May. Main points of a low-key meeting were:

- formal agreement to the 1990-1994 Cancer Programme and the tobacco tar yield directive;
- no agreement on tobacco advertising where the United Kingdom would prefer to maintain voluntary agreements with advertisers. Issue referred back to COREPER.

2. Informal meeting of EC Foreign Ministers last weekend. Key points were:

- BT/ED*
- Bids for extra powers for European Parliament and Commission; but most Ministers' focus was on strengthening the European Council and the Foreign Affairs Council;
  - much reference to integrating EPC more closely into the mainstream of Community work;
  - Foreign Secretary underlined need for better implementation of existing legislation and a stronger role for the European Parliament in financial accountability;

3. Informal Meeting of Trade Ministers, 18-19 May, which took stock of the GATT Uruguay Round. Mr Ridley attended:



- general support for Commission view that EC must show flexibility, particularly in reducing differences with the US;
  - Mr Ridley said that any sectoral problems would be outweighed by the benefits of a successful overall outcome. Agreement on an effective dispute settlement procedure would be a key issue, and the EC must take a liberal position on agriculture and textiles.
4. Agriculture Council, 21-22 May was fairly uneventful:
- general concern about implications of the draft nitrate directive for agriculture. Presidency accepted UK suggestion that agricultural experts should consider it before there is further discussion in the Environment Council;
  - Commission will prepare a paper for the June Council on agricultural aspects of German unification;
  - limited progress on some veterinary proposals and marketing standards for eggs and poultry.
5. Energy Council, 21 May made good progress on the Internal Energy Market:
- directive on transparency of energy prices agreed, and common position reached on electricity transit. Unwelcome Commission proposal for notification of major energy investments was shelved;
  - satisfactory conclusions on Energy and the Environment; but the Irish then made tendentious (anti-Sellafield) statement calling for an EC nuclear inspectorate: UK stressed that we did not accept this.



6. Forthcoming meetings are:

- Industry Council, 28 May
- Social Affairs Council, 29 May
- Development Council, 29 May
- Education Council, 31 May.

R.R.B.

ROBIN BUTLER

23 May 1990



FLG  
UB  
bc PC

10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

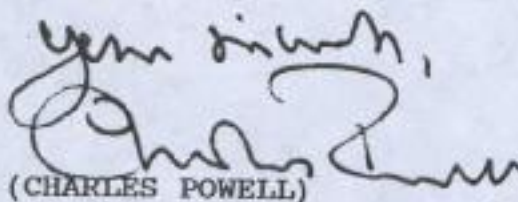
23 May 1990

*Ms Sara,*

Draft European Community Resolution on the  
Fight against Racism and Xenophobia

Thank you for your letter of 22 May about the Commission's role under the draft of the Community Resolution on the fight against racism and xenophobia. It was helpful to have the additional clarification. On this basis I do not think the Prime Minister would wish us to block the Resolution next week.

I am copying this letter to Stephen Wall (Foreign and Commonwealth Office), Juliet Wheldon (Law Officers' Department) and David Hadley (Cabinet Office).

*Yours sincerely,*  
  
(CHARLES POWELL)

Ms. Sara Dent,  
Home Office.

*FLM*

CCP



HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT  
22 May 1990

Dear Charles

DRAFT EUROPEAN COMMUNITY RESOLUTION ON THE  
FIGHT AGAINST RACISM AND XENOPHOBIA

*at Ros*

Thank you for your letter of 18 May.

The Commission has agreed to drop its proposal to report on the implementation of the Resolution, but is arguing that the references to its "making studies and reporting" role in paragraph 4(a)(i) do no more than reflect the status quo. In this connection, the Commission would no doubt cite, as one example, its current study of immigration and the social integration of third country nationals, which was endorsed by the European Council in September 1988 and by the Council of Foreign Affairs.

The Presidency has, however, proposed, in addition to a recital and minutes entry which we see as helpful, an amendment in paragraph 4(a)(i) so that it would start:

"Note that the Commission in compliance with Article 4 of the  
KEC Treaty....."

Article 4, of course, includes the proviso that each Community institution "shall act within the limits of the powers conferred upon it by this Treaty".

This proposal goes some way to meeting our concern, though we accept that it is not a perfect solution. But no other member state has supported us on this issue, and the Commission does have some powerful arguments to support its case that the limitations we are seeking would represent a reduction in the existing scope of their competence.

As the Home Secretary said in his letter (with which the Foreign Secretary, the Lord Chancellor and the Employment Secretary have agreed), we do not feel that the point which divides us now is so critical as to require the drastic step of blocking the Resolution next week.



2.

I am copying this letter to Stephen Wall (FCO), Juliet Wheldon (LOD) and David Hadley (Cabinet Office), and also to Keith Masson, UKREP.

Yours sincerely  
Sara Dent .

MS S J DENT

Charles Powell, Esq.  
No 10 Downing Street  
LONDON, S.W.1.

Enro 100: Budget 1946





ELIZABETH HOUSE  
YORK ROAD  
LONDON SE1 7PH  
01-934 9000

Rt Hon David Waddington QC MP  
Home Secretary  
Home Office  
Queen Anne's Gate  
London SW1H 9AT

22 MAY 1990

COO  
22/5

Dear David,

Draft EC Resolution on the Fight against Racism and Xenophobia

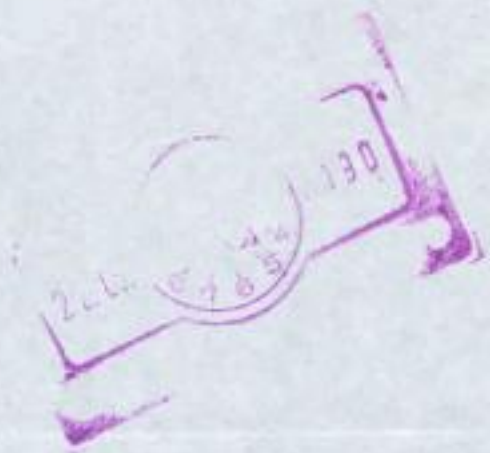
Thank you for copying to me your letter of 14 May to Douglas Hurd. In view of the fact that the draft Resolution annexed to your letter is in the mixed form, that it contains no explicit invitation to the Commission to take new action in the field of education, and that the invitation to Member States in Section 4(b)(iii) is compatible with Government policy on education, I agree with you that it can now be endorsed at the Council.

Copies of this letter go to the Prime Minister, the Lord Chancellor, the Lord President, the Chancellor of the Exchequer, the Secretaries of State for Agriculture, Fisheries and Food, Employment, Northern Ireland, Social Security, Scotland, Trade and Industry, Wales, the Attorney General and Sir Robin Butler.

Yours etc,

JH

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Budget  
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FM FCO  
TO IMMEDIATE UKREP BRUSSELS  
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OF 211143Z MAY 90  
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INFO PRIORITY OTHER CSCE POSTS

SECTION ONE OF TWO

FOLLOWING FROM PRIVATE SECRETARY

EC FOREIGN MINISTERS INFORMAL WEEKEND, PARKNASILLA, 19-20 MAY:  
POLITICAL UNION

SUMMARY

1. GOOD, FAIRLY OPEN DISCUSSION. DESPITE BIDS FOR EXTRA POWERS FROM THE EUROPEAN PARLIAMENT AND, FROM THE GERMANS, FOR THE COMMISSION, FOCUS OF MOST MINISTERS WAS ON STRENGTHENING THE EUROPEAN COUNCIL AND GENERAL AFFAIRS, OR FOREIGN AFFAIRS, COUNCIL. MUCH REFERENCE ALSO TO INTEGRATING EPC INTO THE MAINSTREAM OF COMMUNITY WORK. SECRETARY OF STATE SUGGESTS FOCUS ON BETTER IMPLEMENTATION OF EXISTING LEGISLATION AND MORE OF A ROLE FOR THE EP IN CONTROL AND INVESTIGATION. FUTURE PLANNING SHOULD TAKE ACCOUNT OF THE POSSIBILITY OF 20 OR SO MEMBER STATES.

DETAIL

2. COLLINS (PRESIDENCY) CIRCULATED A LIST OF QUESTIONS (TEXT IN MIFT).

3. DUMAS (FRANCE) SAID THAT CONTRIBUTIONS SO FAR SHOWED A SENSE OF PROGRESS. HE STRESSED THE NEED TO REINFORCE THE COMMUNITY'S DEMOCRATIC LEGITIMACY. MEMBERS OF THE ASSEMBLEE NATIONALE FELT THEY WERE LOSING CONTROL, BUT THAT NO OTHER DEMOCRATIC INSTITUTION WAS GAINING. HE OUTLINED FRENCH IDEAS:

(A) REINFORCEMENT OF THE EUROPEAN PARLIAMENT. POSSIBLY A SECOND CHAMBER.

(B) COMMUNITY INSTITUTIONS TO BE REFORMED AND MADE MORE EFFICIENT.

(C) ESTABLISHMENT OF A COMMON SECURITY POLICY. WE SHOULD CHOSE GEOGRAPHICAL AREAS/THEMES (SUCH AS EASTERN EUROPE) TO MAKE FOREIGN POLICY COOPERATION MORE EFFICIENT.

4. THE EUROPEAN COUNCIL WAS THE RIGHT INSTITUTION. IN NOVEMBER IT HAD SET UP THE EBRD IN 3 HOURS. FOR DAILY TASKS COMPETENCE SHOULD LIE WITH THE GENERAL AFFAIRS COUNCIL (GAC). ONE DAY, NOT TOMORROW, THE DIFFERENCE BETWEEN THE COMMUNITY AND EPC SHOULD BE SUPPRESSED. THE COMMISSION SHOULD BE PRESENT AT ALL LEVELS TO ENSURE CONSISTENCY. THE MANDATE OF THE PRESIDENCY SHOULD BE PROLONGED.

5. DUMAS SAID THAT POLITICAL UNION SHOULD BE BASED ON:

- COMMON INSTITUTIONS,
- THE PRINCIPLE OF FEDERALISM (WITHOUT INTERFERENCE IN NATIONAL DECISIONS),
- A COMMON SECURITY POLICY,
- SUBSIDIARITY.

6. GENSCHER (FRG) EMPHASISED FRANCO GERMAN IDEAS. HE FAVOURED MORE POWER FOR THE EP, FUSION OF THE GAC AND EPC, AND FULL INTEGRATION OF THE COMMISSION INTO FOREIGN POLICY DECISIONS. HE WOULD WELCOME A COMMISSION ROLE IN CSCE. MINISTERS SHOULD THINK ABOUT A DIVISION OF LABOUR IN THE TROIKA. THE EUROPEAN COUNCIL SHOULD SHOULD THE RESPONSIBILITY IT HAD BEEN GIVEN AT STUTTGART AND PROVIDE REGULAR REPORTS ON FOREIGN POLICY.

7. HE FAVOURED A STRONG ROLE, AND THE RIGHT OF INITIATIVE, FOR THE GAC AND SOME, UNSPECIFIED, INCREASE IN THE ROLE OF THE COMMISSION. LIKE DUMAS HE INDICATED THE EXISTENCE OF A PAPER BUT SAID HE DID NOT WANT TO HAND IT OVER FOR FEAR OF PRE-EMPTING DISCUSSION.

8. ELLEMANN-JENSEN (DENMARK) CALLED FOR A COMPREHENSIVE FRAMEWORK FOR THE ROLE OF THE EC IN EUROPEAN ARCHITECTURE. THE COMMUNITY COULD NOT REJECT THE APPLICATION OF QUALIFIED CANDIDATES FOR MEMBERSHIP. IT SHOULD STRENGTHEN ITSELF AS A POLE OF ATTRACTION WHILE REMAINING OPEN TO BIDS FOR ASSOCIATION AGREEMENTS.

9. EYSKENS (BELGIUM) THOUGHT THAT EMU WAS IMPOSSIBLE WITHOUT INSTITUTIONAL REFORM. HE PREFERRED TO SPEAK OF INCREASING THE COMMUNITY'S COHERENCE AND EFFICIENCY THAN OF POLITICAL UNION. INSTITUTIONAL REFORMS WERE URGENT: INTEGRATION SHOULD BE RAPID. THE EUROPEAN PARLIAMENT SHOULD BE GIVEN GREATER POWERS BEFORE THE NEXT ELECTIONS IN JUNE 1994. AGREEMENT WAS NEEDED BY THE END OF 1992 TO ALLOW 1993 FOR NATIONAL RATIFICATIONS. PERHAPS THERE WAS SCOPE FOR A SECOND CHAMBER OF THE EUROPEAN PARLIAMENT.

10. THE GAC SHOULD DECIDE COMMUNITY FOREIGN POLICY: IT SHOULD BE FUSED WITH EPC. IN PARALLEL, COREPER SHOULD BE COMBINED WITH THE POLITICAL COMMITTEE TO PRODUCE 2 COREPERS, ONE INTERNAL AND ONE EXTERNAL.

11. SAMARAS (GREECE) WELCOMED BELGIAN IDEAS, ESPECIALLY ON THE EP. HE THOUGHT THAT THE NUMBER OF COUNCILS COULD BE REDUCED TO 4:

- POLITICAL AFFAIRS COUNCIL,
- A EUROPEAN POLITICAL COUNCIL.
- AN INTERNAL INTEGRATION COUNCIL.
- AN AGRICULTURE COUNCIL.

HE WONDERED IF THERE SHOULD NOT BE JUST 1 COMMISSIONER PER COUNTRY. HE WOULD ALSO ABOLISH THE RESTRICTION ON SECURITY POLICY SO THAT THE COMMUNITY COULD CONSIDER A COMMON DEFENCE POLICY.

12. PINHEIRO (PORTUGAL) DISMISSED THE NOTION THAT DEMOCRATIC LEGITIMACY WAS LINKED TO THE EP. POLITICAL ACCOUNTABILITY RESTED WITH MINISTERS. AT THE SAME TIME THE EP NEEDED TO BE MORE ACCOUNTABLE. HE FAVOURED MORE QUALIFIED MAJORITY VOTING, BUT WITH GUARANTEES AGAINST THE DEVELOPMENT OF BLOCS. THE COMMUNITY SHOULD TALK OF THEIR POLITICAL DIMENSION NOT OF POLITICAL UNION.

13. POOS (LUXEMBOURG) WARNED AGAINST LOOKING TO THE U.S. FEDERAL SYSTEM AS A MODEL. HE COULD ENVISAGE AN EXTENSION OF QM. HE ALSO REFERRED TO A SECOND CHAMBER FOR THE EP. THE GAC NEEDED MORE TRANSPARENCY. AS FOR EPC, IT WAS WORKING SATISFACTORILY, AND HAD IMPROVED MARKEDLY UNDER THE SINGLE EUROPEAN ACT. HE FAVOURED FUSION OF THE COUNCIL AND EPC AND

FULL INVOLVEMENT OF THE COMMISSION IN FOREIGN POLICY.

14. FERNANDEZ ORDONEZ (SPAIN) SAID THE COMMUNITY TALKED MUCH ABOUT A CITIZENS' EUROPE, BUT HAD NOT EVEN BEEN ABLE TO AGREE A RIGHT OF RESIDENCE DIRECTIVE. POLITICAL UNION MUST BRING THE EC CLOSER TO ITS CITIZENS. HE SUPPORTED THE FRENCH WISH TO REINFORCE THE COUNCIL AND FAVOURED A PRESIDENCY OF TWO YEARS AND A VICE-PRESIDENCY, ALSO OF TWO YEARS. THE GAC MUST MAINTAIN ITS MONOPOLY OVER THE AGENDA OF THE EUROPEAN COUNCIL.

15. HE ALSO SUPPORTED MERGER OF COREPER AND THE POLITICAL COMMITTEE, AND THE "COMMUNITISATION" OF EPC, INCLUDING QM IN CERTAIN CASES. SECURITY POLICY COULD NOT BE PUT TO ONE SIDE. HE ALSO FAVOURED A GREATER ROLE FOR THE EP, A STRONGER COMMISSION, AND IMPROVED RELATIONS BETWEEN THE PRESIDENCY OF THE COMMISSION AND THE OTHER COMMISSIONERS. BUT SUBSIDIARITY, HE THOUGHT, WAS DOUBLE EDGED: HE HAD DOUBTS ABOUT ITS EXTENSION.

16. DE MICHELIS (ITALY) THOUGHT A SECOND IGC SHOULD CONSIDER CERTAIN INSTITUTIONAL REFORMS:

- A COMMON FOREIGN POLICY IN SOME AREAS,
- A START TO THE INTRODUCTION OF SECURITY ISSUES,
- FORMAL LEGAL RULES FOR THE ROLE OF THE COMMUNITY IN EUROPEAN ARCHITECTURE, INCLUDING THE CONCENTRIC CIRCLES OF EUROPE.

HURD

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SECTION TWO OF TWO

FOLLOWING FROM PRIVATE SECRETARY

EC FOREIGN MINISTERS INFORMAL WEEKEND, PARKNASILLA, 19-20 MAY:  
POLITICAL UNION

17. THE DEMOCRATIC DEFICIT WAS A QUESTION OF LOOKING AT  
NATIONAL PARLIAMENTS AS WELL AS THE EP.

18. HE FAVOURED THE BELGIAN APPROACH, OF SEA BIS. THE  
COMMUNITY SHOULD DISCUSS PRAGMATIC CHANGES. IT DID NOT NEED A  
CONFEDERAL MODEL. HE FAVOURED ENHANCING THE ROLE OF THE COUNCIL  
SO THAT IT BECAME WHAT HE CALLED A PROVISIONAL GOVERNMENT. IT  
WAS THE SOLE PLACE FOR POLITICAL DECISIONS. THE COMMUNITY  
SHOULD RECREATE THE GAC'S ROLE AT THE CORE OF DAY TO DAY COMMUNITY  
GOVERNMENT.

19. VAN DEN BROEK (NETHERLANDS) STRONGLY SUPPORTED BELGIUM AND  
LUXEMBOURG. INITIALLY THE DUTCH HAD FELT THAT IT WAS UNWISE TO  
INDULGE IN FUTURISTIC CONCEPTS RATHER THAN PRACTICAL STEPS. BUT  
SOME CONCEPT WAS NEEDED. FROM THE WAY DISCUSSION WAS GOING IT  
SEEMED THAT THE COUNCIL WOULD BE THE NUCLEUS OF THE COMMUNITY.  
THIS HAD NOT BEEN THE IDEA OF THE FOUNDING FATHERS. SOME MEMBER  
STATES SEEMED TO WANT TO PUSH THE COMMISSION TO ONE SIDE.  
PERSONALLY HE DID NOT AGREE THAT THE COUNCIL WAS THE MOST  
DEMOCRATIC BODY.

20. HE THOUGHT THAT CONCENTRATION ON STRUCTURES, RATHER THAN  
SETTLING THE DIRECTION OF THE COMMUNITY, WOULD CAUSE  
DIFFICULTIES. HE ALSO BELIEVED THAT THE TWELVE SHOULD NOT  
BECOME A CLOSED SHOP, NOR THE COMMUNITY SO COMPLICATED THAT  
OTHERS COULD NOT JOIN.

21. DELORS (COMMISSION) REPORTED THAT DISCUSSION WITHIN THE

COMMISSION TENDED TO REFLECT THE DAY'S DISCUSSION BETWEEN MINISTERS, EXCEPT THAT THE COMMISSION WAS NATURALLY ATTACHED TO ITS OWN POWERS. ON POLITICAL UNION HE SAW THREE PARAMETERS:

- THE MOMENT IN HISTORY LENT ITSELF TO THE CONSTRUCTION OF A GRAND EUROPE.

- THE ROLE OF THE TWELVE IN EUROPEAN ARCHITECTURE: HE WARNED AGAINST SEEKING TO CREATE A MODEL.

- THE ASSUMPTION BY THE COMMUNITY OF ITS INTERNATIONAL ROLE: THE RELAUNCH OF EUROPE CALLED FOR POLITICAL LEADERSHIP BY THE COMMUNITY.

22. TREATMENT OF EPC IN THE COMMISSION'S OWN PAPER HAD PROVED SCHIZOPHRENIC FOR HIM BECAUSE HE RISKED EXCEEDING HIS OWN COMPETENCE.

23. AS FOR THE DEMOCRATIC DEFICIT HE WANTED PEOPLE TO FEEL EUROPEAN CITIZENS AS WELL AS CITIZENS OF THEIR OWN COUNTRIES. THE ROLE OF THE EP SHOULD EXTEND TO AREAS SUCH AS CONSUMER RIGHTS. THE DELORS/TINDEMANS REPORT OFFERED MODEST PROPOSALS FOR CHANGING THE EP. HE WAS CONVINCED THAT SOCIAL QUESTIONS NEEDED MUCH GREATER ATTENTION. THE COMMUNITY'S COMPETENCE SHOULD EXTEND TO HEALTH POLICY EG THE FIGHT AGAINST CANCER, ALTHOUGH NOT/NOT TO SOCIAL SECURITY.

24. THE GAC WAS AT THE HEART OF THE COMMUNITY. SHOULD IT STIMULATE ACTIVITY OR ARBITRATE? IF IT WAS NOT TO ARBITRATE IT MUST LEAVE TO THE COMMISSION THE LATTER'S PROPER ROLE, WHICH WAS EQUIVALENT TO THAT OF THE OFFICE OF PRIME MINISTER IN FRANCE. HE WONDERED WHO WOULD LOOK AFTER THE COMMON COMMUNITY INTEREST INCLUDING THE SMALLEST COUNTRIES. THE COUNCIL SHOULD NOT BE USED TO RESOLVE PROBLEMS WHICH WERE REALLY FOR THE COMMISSION. THE COUNCIL WAS NOT A COURT OF APPEAL.

25. THE SECRETARY OF STATE SAID THAT WE WERE NOT AMONG THE ENTHUSIASTS FOR ADDING POLITICAL UNION TO THE COMMUNITY'S OTHER TASKS. BUT SINCE MEMBER STATES WERE KEEN WE WOULD PLAY OUR PART. THE PRESIDENCY PAPER WAS AN EXCELLENT POINT OF DEPARTURE. THE COMMUNITY COULD SAY WHAT SHOULD NOT/NOT BE INCLUDED IN POLITICAL UNION. THEY COULD ALSO CONCENTRATE ON IMPROVEMENTS TO EXISTING INSTITUTIONS.

26. SUBSIDIARITY WAS A USEFUL ANCHORING POINT. THE FUNCTION OF THE EP TO CONTROL AND TO INVESTIGATE WAS IMPORTANT. IF, AS DELORS HAD INDICATED, THERE WOULD BE LESS LEGISLATION IN THE FUTURE, THE EP SHOULD SPEND MORE TIME ON SCRUTINY AND FINANCIAL ACCOUNTABILITY. HE SUPPORTED MEETINGS OF NATIONAL PARLIAMENTARIANS SUCH AS THE RECENT ONE IN CORK. IMPLEMENTATION OF COMMUNITY RULES WAS IMPORTANT TO AVOID A GAP BETWEEN THE GOALS BEING PURSUED BY THE COMMUNITY AND WHAT THE TWELVE WERE IN FACT IMPLEMENTING. THE COMMISSION SHOULD PUT IMPLEMENTATION UNDER THE SPOTLIGHT. THE COURT SHOULD HAVE MORE TEETH.

27. HE THOUGHT THAT IF THE COMMUNITY WAS PLANNING FOR 15 OR 20 YEARS AHEAD IT SHOULD THINK IN TERMS OF A COMMUNITY OF 24, OR PERHAPS 20, MEMBERS. THIS WAS NOT AN ARGUMENT FOR DELAY OR FOR DILUTION OF THE EC, BUT IT WAS UNREALISTIC TO PLAN FOR A COMMUNITY OF ONLY 12.

28. HE DEFENDED THE RIGHT OF INDIVIDUAL MEMBER STATES TO TAKE THEIR OWN INITIATIVES. HE WAS NOT A CRITIC OF THE KOHL/MITTERRAND LETTER TO THE LITHUANIANS.

29. COLLINS (PRESIDENCY) CHALLENGED THOSE TALKING OF COMMUNITY SECURITY POLICY TO EXPLAIN HOW IT WOULD WORK. WOULD IT NOT ONLY RATIFY DECISIONS TAKEN ELSEWHERE? DUMAS REPLIED THAT THE COMMUNITY SHOULD NOT MAKE THE BEST THE ENEMY OF THE GOOD, NOR ENGAGE IN THEOLOGICAL DEBATE. IF THE COMMUNITY WANTED A SECURITY POLICY MEMBER STATES SHOULD RECOGNISE THAT THEY WOULD HAVE TO DELEGATE SOME NATIONAL AUTHORITY.

30. DUMAS BELIEVED THAT THE COMMISSION SHOULD TAKE PART IN THE DEBATE ON COMMUNITY FOREIGN POLICY. PERHAPS THIS POLICY SHOULD START WITH HUMAN RIGHTS. THE EC COULD INSIST ON CONSENSUS AMONG THE TWELVE BEFORE ANY HUMAN RIGHTS POSITION WAS ADOPTED. THE TWELVE MIGHT ALSO AGREE THAT THEY WOULD ALWAYS VOTE TOGETHER IF ONE OF THEIR NUMBER WAS NAMED IN A RESOLUTION.

31. VAN DEN BROEK AGREED THAT THE COMMUNITY SHOULD WORK TOWARDS A COMMON SECURITY POLICY, BUT WITHOUT FORCING THE PACE. HE THOUGHT THE ROLE OF THE COMMISSION IN IT SHOULD BE NEGLIGIBLE. IT WAS UNREALISTIC TO EXPECT MEMBER STATES TO RENOUNCE SOVEREIGNTY OVER THEIR SECURITY POLICY AT THIS STAGE.

32. PINHEIRO SAID THAT A COMMON EXTERNAL POLICY WAS NECESSARY FOR POLITICAL UNION.

33. ELLEMANN JENSEN (DENMARK) THOUGHT A COMMON FOREIGN POLICY SHOULD BE BUILT PRAGMATICALLY, AND SHOULD INCLUDE PROVISION FOR THE RIGHT NOT TO DEVELOP COMMON POLICY IN CERTAIN AREAS.

34. DELORS, REVERTING TO ENLARGEMENT, WAS WARY ABOUT DESIGNING FOR THE PRESENT MEMBERSHIP OF TWELVE SOMETHING WHICH WOULD BE ACCEPTABLE TO 24 MEMBER STATES. THE ACCESSION OF AUSTRIA AND NORWAY WOULD LEAD TO NO RADICAL CHANGE, BUT ACCESSION BY OTHER STATES WOULD CHANGE THE COMMUNITY'S NATURE OR AT LEAST REQUIRE IT TO RENOUNCE SOME OF ITS AMBITIONS. POOS AGREED THAT IT WAS TOO OPTIMISTIC TO THINK THAT THE COMMUNITY COULD PLAN FOR 20-24 MEMBERS. BUT THEY HAD TO RECKON ON MOST OF THE EFTA STATES ACCEDING.

35. EYSKENS THOUGHT THAT 60-65 PERCENT OF A COMMUNITY FOREIGN POLICY WOULD BE SECURITY POLICY. THERE SHOULD BE A COMMUNITY SECURITY POLICY, WITHOUT COVERING MILITARY ASPECTS. A COHESIVE COMMUNITY MUST HAVE ITS OWN DEFENCE. PERHAPS THIS SHOULD BE CHANNELLED THROUGH THE WEU. THE ACCESSION OF AUSTRIA WOULD POSE A PROBLEM.

36. FERNANDEZ ORDONEZ WAS SURPRISED THAT ANYONE HAD DIFFICULTIES OVER THE PARTICIPATION OF THE COMMISSION IN FOREIGN POLICY. THE COMMISSION'S ROLE OVER EASTERN EUROPE HAD EXTENDED INTO EPC, WITH NOTABLE SUCCESS.

37. IN CONCLUSION, COLLINS THOUGHT IT WAS UNREALISTIC TO EXPECT MINISTERS TO COMPLETE THEIR WORK AT THE JUNE FAC. SHOULD THERE BE AN EXTRA MEETING IN JUNE? HE URGED THOSE WHO SEEMED TO HAVE PAPERS UP THEIR SLEEVES (BY IMPLICATION GERMANY PLUS OR MINUS FRANCE) TO TABLE THEM QUICKLY. DUMAS THOUGHT THE DISCUSSION HAD TAKEN THINGS FURTHER THAN THE COREPER PAPER. FOREIGN MINISTERS COULD FULFIL THEIR REMIT FROM DUBLIN I ON 28 APRIL BY SETTING OUT, ON ONE SIDE OF A PIECE OF PAPER, THE QUESTIONS FOR AN IGC. HE SUGGESTED THAT SPECIAL REPRESENTATIVES OF THE MINISTERS SHOULD MEET AND LOOK AT A FIRST DRAFT. THERE SHOULD BE NO NEED FOR AN EXTRA MINISTERIAL MEETING. THIS WAS AGREED BY OTHER MINISTERS AND THE PRESIDENCY.

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PRIME MINISTER



# CABINET OFFICE

70 Whitehall London SW1A 2AS Telephone 071-270 0101

From the Secretary of the Cabinet and Head of the Home Civil Service  
Sir Robin Butler KCB CVO

*CBM*

Ref. A090/1214

CHANCELLOR OF THE DUCHY OF LANCASTER

EC Institutional Reform

*- will remain of record*

May I offer a comment on your minute of 16 May to the Foreign Secretary. It relates to the reference on page 4 to advice from media sources and advertising agencies on the presentation of the Government's proposals.

2. In some circumstances paid publicity or advertising on institutional change in the EC can be perfectly appropriate - the present campaign on the advent of the single market is an example which informs and encourages preparation for the change.

3. However the Government conventions on publicity and advertising discourage the use of public relations consultants for certain tasks. These include image building, opinion forming in political support of Ministers, and representational tasks.

--- (A copy of the relevant guidance is attached).

4. Your minute does not specify the sort of advice you have in mind. But I envisage there would be some difficulty in reconciling paid advice from media sources or advertising agents with the conventions, although I would of course be happy to give

further advice. The analogy with privatisation may be misleading: advertising in such circumstances is in support of the taxpayers' interest in a successful sale at the right price and does not relate to the merits of the policy.

5. I am copying this minute to the Prime Minister, the Foreign Secretary and the Secretary of State for Energy only.

*Auisa Rippard*  
*(Approved by Sir Robin  
and signed in his absence)*

21 May 1990

## GOVERNMENT USE OF PUBLIC RELATIONS CONSULTANTS

1. The Government convention on the use of public relations consultants was set out by the Prime Minister in February 1988:

"It is also clear that there is increasing pressure from the public relations industry for Ministers to employ their services in a consultancy capacity. Again it has been the stated policy of successive Administrations to rely upon the expertise and experience of the Government's own advisers and to decline offers from commercial public relations companies. I do not believe that Ministers could, as a general rule, justify to Parliament the use of public relations consultants, and I consider it important that the well established conventions in this area should also continue to be observed."

2. Following this re-statement questions were raised about the extent to which the guidance was intended to rule out the use of any firm which might call itself a public relations consultant regardless of the nature of the services sought and provided.

3. This note elaborates on this basis guidance with the aim of achieving a clearer understanding of what is, and what is not, permissible in the use of public relations consultants by Government Departments.

4. It is not intended that either all firms styling themselves public relations consultants, or all firms with a public relations capability, should be barred from employment by Departments. The nature of the task to be undertaken, not the title of the firm, is the crucial test, and there are some tasks for which a "PR consultancy" might legitimately be employed. Financial PR agencies, for example, have been engaged on a consultancy basis in the privatisation of nationalised industry. Others have been used for design and other presentational purposes.

5. However, a high degree of sensitivity attaches to the engagement of a PR or similar consultancy, and they should not be used if the relevant skills are available within government. Departments considering a proposal to use PR consultants should bear in mind the following, in addition to the general guidance on propriety

- (iii) if not, can the appointment of a consultancy be justified as a cost effective means of carrying out the task, satisfying the value for money criteria in the general guidance on government publicity?
- (iv) is the task one for which the use of a consultancy is not prohibited on propriety grounds?
- (v) is the task a discrete and closely defined one?
- (vi) are the arrangements for supervision adequate to keep the consultancy to its brief?
- (vii) are the arrangements for appointment demonstrably objective and thorough?

7. The Central Office of Information can provide advice on the capability and performance of many consultants and assist with selection.

8. If Departments have any doubts about the propriety of engaging a consultant for publicity work, they should seek the advice of Cabinet Office. Any dispute would be referred to the Chief Secretary who acts as a point of reference on Government publicity matters and who, in relation to his Treasury responsibilities, may also need to be satisfied that the arrangements made secure value for money.



FROM THE RIGHT HONOURABLE THE LORD MACKAY OF CLASHFERN

*ccpc*



HOUSE OF LORDS,  
SW1A 0PW



21<sup>st</sup> May 1990

*CR*

Dear David,

DRAFT EUROPEAN COMMUNITY RESOLUTION ON THE FIGHT AGAINST  
RACISM AND XENOPHOBIA

*at hand*

Thank you for copying to me your letter of 14th May to Douglas Hurd.

I agree that this Resolution requires our endorsement, and that adverse inferences would undoubtedly be drawn from any attempt to block it.

I am copying this letter to the Prime Minister, the Foreign Secretary, the Lord President, the Chancellor of the Exchequer, the Secretaries of State for Agriculture, Fisheries and Food, Education and Science, Employment, Northern Ireland, Social Security, Scotland, Trade and Industry, Wales, and to the Attorney General and Sir Robin Butler.

*Yours ever,  
James.*

The Right Honourable  
David Waddington, Q.C., M.P.

ERS Pol: Budget A46



PRIME MINISTER

You may like to glance at the draft of a speech which Nick Ridley is thinking of giving to the Bruges Group. It is a brilliant analysis: but some of the later passages which I have outlined in yellow will lead to trouble with the Foreign Secretary and the Chancellor. You are seeing him next week, and may like to suggest that he tone them down a bit - or get someone else to say them, otherwise there will be "Government divided on Europe" stories.

CDP

CHARLES POWELL

18 MAY 1990



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DA  
LPC

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

18 May 1990

Dear Sir,

**DRAFT EUROPEAN COMMUNITY RESOLUTION ON  
THE FIGHT AGAINST RACISM AND XENOPHOBIA**

The Home Secretary wrote to the Foreign Secretary on 14 May about the draft Resolution on racism and xenophobia. I am sure that the Prime Minister will be exercised about the point to which the Solicitor General draws attention in his letter of 17 May, namely the increase in the Commission's reporting powers. It would be helpful to know whether you see any prospect for restricting these in further discussion.

I am copying this letter to Stephen Wall (Foreign and Commonwealth Office), Juliet Wheldon (Law Officers' Department) and David Hadley (Cabinet Office).

Yours sincerely,

CHARLES POWELL

Colin Walters, Esq.,  
Home Office.

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FCS/90/104

HOME SECRETARY

Handwritten notes and a pink stamp. The stamp contains the word "RECEIVED" and the date "15 MAY 1990". There are also some illegible handwritten initials.

Draft European Community Resolution on the Fight  
Against Racism and Xenophobia

1. Thank you for your letter of 14 May about the line you propose for the Social Affairs Council on 29 May.
2. This Resolution has been improved since it was first drafted. I agree that our main concerns on competence have now been met, and that opposing the Resolution in its present form would sit oddly with our own action against racial discrimination at home.
3. I therefore agree that we should try for a reference to Article 118, but should not block the Resolution if we do not succeed.
4. I am copying this minute to the Prime Minister, the Lord Chancellor, the Lord President, the Chancellor of the Exchequer, the Secretaries of State for Agriculture, Fisheries and Food, Education and Science, Employment, Northern Ireland, Social Security, Scotland, Trade and Industry, Wales, the Attorney General and Sir Robin Butler.

Handwritten signature: JxI

(DOUGLAS HURD)

Foreign and Commonwealth Office  
18 May 1990

Guano POC: Budget #46



18



ROYAL COURTS OF JUSTICE  
LONDON WC2A 2LL

01-936 8289

The Rt. Hon David Waddington, MP,  
The Home Secretary,  
Home Office,  
50 Queen Anne's Gate,  
LONDON  
SW1.

*ccpc*  
*Await John  
refin  
AQ*

17 May 1990

*Dear David,*

**DRAFT EUROPEAN COMMUNITY RESOLUTION ON  
THE FIGHT AGAINST RACISM AND XENOPHOBIA**

I refer to your letter of 14 May to Douglas Hurd, copied to Patrick Mayhew, which attached at Annex B the draft Resolution of 12 April 1990 on racism and xenophobia.

I share your view that the fact that the Resolution is a "mixed" one removes most of our concerns about divisions of competence. There is however one difficulty which remains, and you draw attention to this in your letter.

Paragraph 4(a)(i) of the Resolution gives certain tasks to the Commission, including that of making a comparative assessment of legal measures taken by Member States to combat racism etc. The Commission is also to promote studies on community relations. The ambit of these studies and assessments is not limited to the Commission's powers as laid down in the Treaty, and could presumably cover such aspects of community relations as access to housing and the state of the blasphemy laws. This does appear to me to represent a considerable increase in the Commission's reporting powers, with obvious consequences for their use of resources. It is of course for you and others to judge whether that increase is acceptable.

I am copying this letter to those to whom yours were addressed.

*Yours ever*

*Nick.*

Euro POL. Budapest 1977 F46







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Foreign and Commonwealth Office

London SW1A 2AH

16 May 1990

Stephen Flanagan Esq  
Private Secretary to  
the Financial Secretary  
HM Treasury  
Parliament Street  
London  
SW1P 3AG

200 16/5

Dear Stephen,

MINISTERS EUROPE GROUP, 14 MAY

The following operational points arose from the meeting on 14 May.

Presentational Plans

Ministers reviewed progress on contributions to the letters to Ambassadors, and agreed that those still outstanding should be sent to the FCO as soon as possible. The first round of letters would be those on institutional reform, employment issues and the Single Market (including transport and animal and plant health). The second would cover environment, frontiers, other social issues (DSS, DES, Dept of Health), and external relations. The FCO and departments concerned would work on Ambassadors' replies (due by early June) in order to produce operational plans for each subject in each country.

Visits/Speeches

Mr Maude asked for the remaining forecasts of inward and outward EC-related Ministerial visits to be sent to me by 18 May. (They are still owed by the Paymaster General's office, MAFF and the Departments of Environment, Health, Education and Transport). We shall then produce a composite list. Early discussion with the FCO on visits was important, to avoid duplication and to maximise presentational impact.

The Press

Ministers agreed on the need for more active and better coordinated press publicity. There was some discussion of the handling of environmental issues (particularly CO2 emissions) at forthcoming international, including EC meetings. Regular meetings of Departmental press officers just before the Ministers' Group meetings (beginning next month) would help this.

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#### Future Councils

Mr Heathcoat-Amory said that the DoE intended to throw down a challenge at the June Environment Council on diesel engine emissions. UK standards were higher than other member states'.

Mrs Shephard said that in the light of previous bad publicity the DSS had decided to re-examine the EC's proposed "year of the elderly" and "over 60's card".

Mr Lloyd said that the agreed 6-monthly Presidency report to the European Parliament on frontiers and the movement of people presented both opportunities and pitfalls. To exploit the former and avoid the latter we would need to think about handling early on. It will be important to involve the EDG in this.

ECOFIN discussion of CAP fraud was to be considered at a separate meeting.

#### UK Presidency

Mr Maude asked for the remaining replies to his letter of 3 April to Mr Redwood on the 1992 UK Presidency by 25 May. It was agreed that the Ministers Europe Group should review this in July after official-level inter-departmental discussion, which the FCO would pursue.

#### EC Subsidies

Mr Heathcoat-Amory asked whether criteria existed for handling requests from UK organisations for EC money to subsidise sometimes unviable projects for which no UK funding would be justified. Various points were made in discussion; on the one hand, bad projects should not be supported simply because funding was available from the EC; on the other hand, it would be undesirable for the UK to lose its share of agreed EC funds, eg structural funds. Mr Heathcoat-Amory will circulate a short note on this, for consideration by the DTI, Treasury and other departments, and discussion at a future meeting of the Ministers Europe Group.

The next Ministers Europe meeting will be on 14 June (we will be in touch by telephone to confirm the arrangements); Mr Maude will circulate an informal agenda to colleagues nearer the time.

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I am copying this letter to Charles Powell, and to the Private Secretaries to the Deputy Chief Whip, the Paymaster General, David Curry, Tim Eggar, Eric Forth, Robert Jackson, David Heathcoat-Amory, Douglas Hogg, Baroness Hooper, John Redwood, Gillian Shephard and Roger Freeman.

*Yours Sincerely*

*Nicola Brewer*

Nicola Brewer  
Private Secretary to  
Mr Francis Maude

CONFIDENTIAL

Ref. A090/1162

PRIME MINISTERCabinet: Community Affairs

The Secretary of State for Trade and Industry may report on the 14 May Internal Market Council at which Mr Redwood represented the United Kingdom. The main points were:

- no significant movement on the main agenda item, a liberalising directive on Motor Insurance Services Directive, or on the European Company Statute;
- a Commission Communication on tackling Barriers to Takeovers: Mr Redwood welcomed this package of proposals as a good basis for further work;
- further factual presentation by FRG on German unification, underlining FRG's wish to keep the Community informed and to encourage participation in the GDR by companies from other member states.

## 2. Future meetings are:

- Health Council, 17 May
- Culture Council, 18 May
- Informal meeting of Foreign Ministers, 19-20 May
- Energy Council, 21 May
- Agriculture Council, 21-22 May

R.R.B.

ROBIN BUTLER

16 May 1990

RESTRICTED  
FM DUBLIN  
TO IMMEDIATE FCO  
TELNO 425  
OF 150940Z MAY 90  
AND TO IMMEDIATE UKREP BRUSSELS  
AND TO PRIORITY OTHER EC POSTS  
AND TO ROUTINE WASHINGTON, NIO(L), NIO(B), UKDEL NATO

MR HAUGHEY ON IRISH PRESIDENCY AND EUROPEAN UNION

SUMMARY

1. IN A WIDE RANGING INTERVIEW IN THE IRISH TIMES ON 12 MAY, MR HAUGHEY ARGUES FOR A PRAGMATIC AND FUNCTIONAL APPROACH TO EUROPEAN UNION. HE GOES OUT OF HIS WAY TO EMPHASISE HIS WISH NOT TO ISOLATE THE PRIME MINISTER, (AND TELLS ME THAT THERE ARE SOME DELIBERATE OLIVE BRANCHES IN IT). HE STRESSES THE IMPORTANCE OF SUBSIDIARITY.
2. ON SECURITY MR HAUGHEY RECOGNISES THAT ALL OTHER MEMBER STATES WISH NATO TO CONTINUE WITH US INVOLVEMENT, BUT IS OPTIMISTIC ABOUT DEVELOPMENT OF CSCE ON A FRAMEWORK FOR STABILITY AND SECURITY. HE CLAIMS IRISH NEUTRALITY IS NOT UNDER THREAT.
3. ON EMU, HE SAYS IRELAND WOULD HAVE TO INSIST ON STRUCTURAL ASSISTANCE FOR PERIPHERAL REGIONS CONTINUING AFTER 1992. BRIEFING ON THE PRESIDENCY'S AGENDA FOR PARKNASILLA.

DETAIL

THE IRISH PRESIDENCY

4. MR HAUGHEY DEFENDS HIS HANDLING OF THE IRISH PRESIDENCY AGAINST OPPOSITION ACCUSATIONS THAT IT LACKS LEADERSHIP AND IS TOO CONSENSUAL, POINTING TO THREE MAJOR IRISH POLITICAL INITIATIVES: AGREEMENT ON A NEW EC RELATIONSHIP WITH THE US, THE CALLING OF THE DUBLIN SUMMIT ON GERMAN UNIFICATION, AND MANAGING THE DEBATE ON POLITICAL UNION.
5. MR HAUGHEY DESCRIBES CHANCELLOR KOHL AS A KEY FIGURE, FULLY INVOLVED IN PRACTICALLY EVERY ASPECT OF THE IRISH PRESIDENCY. BUT HE ALSO PAYS TRIBUTE TO THE PRIME MINISTER, WITH WHOM HE HAS ALWAYS HAD A GOOD WORKING RELATIONSHIP. IT IS MISLEADING TO CONVEY THE IMPRESSION THAT SHE IS ALWAYS SEEKING TO BE ISOLATED, AND 'I HAVE

ALWAYS MADE A PARTICULAR EFFORT TO DISPEL THAT PARTICULAR NOTION BECAUSE IT IS NOT TRUE. THE BRITISH PRIME MINISTER WOULD ARGUE THAT...IN SOME AREAS THE BRITISH RECORD AND PERFORMANCE IS SECOND TO NONE.''

#### POLITICAL UNION

6. MR HAUGHEY DEVELOPS THE CASE FOR A PRAGMATIC AND FUNCTIONAL APPROACH TO POLITICAL UNION. 'I WOULD SEE THE MEMBER STATES CONTINUING TO PLAY A MAJOR ROLE FOR A LONG TIME TO COME AND...POLITICAL UNION DEVELOPING MORE ALONG THE LINES OF AN AMALGAMATION OF FUNCTIONS THAN OF STATES'. IT IS NOT A CASE OF MEMBER STATES SACRIFICING THEIR SOVEREIGNTY BUT AGREEING THAT IN ORDER TO ACHIEVE SOME PARTICULAR FUNCTION THEY WOULD POOL THEIR SOVEREIGNTY IN REGARD TO IT. THERE WOULD BE INCREASING ATTENTION TO THE PRINCIPLE OF SUBSIDIARITY, WHICH WOULD BE 'COMMON SENSE'. IRELAND WOULD VERY LIKELY HAVE ITS OWN INPUT INTO THE DISCUSSIONS NOW IN TRAIN.

7. MR HAUGHEY SAYS THAT 'AT THIS STAGE' DEMOCRATIC ACCOUNTABILITY HAS BEEN ADEQUATE, BUT THAT AS THE COMMUNITY UNDERTAKES MORE SPECIFIC FUNCTIONS, A GREATER DEGREE OF ACCOUNTABILITY WILL BE NEEDED. THE FORM THAT SHOULD TAKE HAS NOT BEEN DECIDED, BUT HE WOULD NOT BE HAPPY WITH INCREASED POWERS FOR THE EUROPEAN PARLIAMENT: IRELAND HAS MINIMAL INFLUENCE THERE, WHEREAS IN THE COUNCIL OF MINISTERS IT HAS AN EQUAL VOICE. DECISION MAKING BY EC COUNCILS WILL HAVE TO BE MADE MORE EFFICIENT, AND THERE MAY BE MORE FREQUENT MEETINGS OF THE EUROPEAN COUNCIL.

8. THE IRISH PRESIDENCY MUST GIVE PRIORITY TO THE COMPLETION OF THE SINGLE MARKET: PROGRESS IN THE IRISH PRESIDENCY IS CRITICAL IF THE 1992 TIMETABLE IS TO BE ACHIEVED. BUT AS THE SINGLE MARKET AND EMU DEVELOP, THE NEED FOR A POLITICAL UNION TO ACCOMMODATE ECONOMIC COVERGENCE WILL BE OVERWHELMING.

9. ON EMU, MR HAUGHEY SAYS HE WILL HAVE TO INSIST THAT AFTER 1992 THERE SHOULD BE A NEW FINANCIAL FRAMEWORK FOR CONTINUED STRUCTURAL ASSISTANCE FOR THE PERIPHERAL REGIONS.

#### GERMAN UNIFICATION AND EASTERN EUROPE

10. MR HAUGHEY PAINTS AN UPBEAT PICTURE: THERE IS NO COUNTRY IN THE WORLD BETTER EQUIPPED THAN THE FRG TO UNDERTAKE A TASK OF THE MAGNITUDE AND COMPLEXITY OF GEMU. THIS WILL HAVE NO DETRIMENTAL

EFFECT ON THE REST OF THE COMMUNITY.

11. EASTERN EUROPEAN STATES FACE ENORMOUS PROBLEMS: THE COMMUNITY CAN BEST HELP BY PROVIDING TRAINING AND ADMINISTRATIVE EXPERIENCE.

#### SECURITY, NEUTRALITY AND FOREIGN POLICY

12. MR HAUGHEY SAYS THAT DEVELOPMENTS ARE DIFFICULT TO PREDICT. OF THE THREE ENTITIES INVOLVED, THE COMMUNITY WILL INCREASINGLY HAVE A POLITICAL ASPECT BUT HAS NEVER HAD A DEFENCE DIMENSION. ON NATO, ALL ITS EXISTING MEMBERS WISH IT TO CONTINUE, WITH US INVOLVEMENT, AS DOES THE US ITSELF. THE IRISH ARE FULLY COMMITTED TO THE CSCE PROCESS, WHICH COULD PROVIDE A FRAMEWORK FOR A NEW STRUCTURE OF EAST-WEST RELATIONSHIPS. IT SHOULD DEVELOP AN ADMINISTRATIVE, POLITICAL AND ECONOMIC APARATUS TO THAT END.

13. MR HAUGHEY DOES NOT SEE IRELAND'S NEUTRALITY AS A PROBLEM INHIBITING POLICY TOWARDS THE CSCE OR THE COMMUNITY. THE EC WILL NOT DEVELOP A DEFENCE CAPACITY BECAUSE NATO WILL CONTINUE TO BE THE FORUM FOR DISCUSSION OF DEFENCE AND SECURITY POLICIES. IRISH NEUTRALITY IS COMPATIBLE WITH POLITICAL UNION BUT IRELAND WOULD HAVE TO CONSIDER PARTICIPATING IN THE COMMUNITY'S SECURITY ARRANGEMENTS SHOULD THESE EVER BE BROUGHT FORWARD.

14. ASKED IF A COMMON FOREIGN POLICY WOULD INHIBIT IRELAND'S CAPACITY TO TAKE AN INDEPENDENT STAND AT THE UN, MR HAUGHEY SAID THAT WOULD HAVE TO BE CONSIDERED VERY CAREFULLY. IT WAS LIKELY TO BE A BIGGER PROBLEM FOR THE LARGER STATES, EG THE UK AND FRANCE WHO DO NOT CONSULT THE COMMUNITY ON THEIR POSITIONS IN THE SECURITY COUNCIL.

#### NORTHERN IRELAND

15. MR HAUGHEY REITERATES HIS BELIEF THAT THE ECONOMIES IN BOTH PARTS OF IRELAND ARE GOING TO CONVERGE WITH THE DISAPPEARANCE OF POLITICAL, ECONOMIC AND FINANCIAL BARRIERS. ALL THIS MUST HAVE A POLITICAL FALLOUT. 'IT IS NOT TOO ROMANTIC TO THINK IN TERMS OF A UNITED IRELAND AS PART OF A UNITED EUROPE.'

#### PRESIDENCY PRIORITIES

16. ASKED ABOUT HIS PRIORITIES FOR THE REMAINDER OF HIS PRESIDENCY, MR HAUGHEY HOPED FOR THE ADOPTION OF AN ENVIRONMENTAL CHARTER AT THE DUBLIN SUMMIT, AND PROGRESS ON SPECIFIC PROPOSALS FOR POLITICAL REFORM - 'BUT THAT MAY BE MORE DIFFICULT'. HE PLANS ANOTHER TOUR OF

CAPITALS BEFORE THE JUNE SUMMIT.

INFORMAL MEETING OF FOREIGN MINISTERS, 19-20 MAY

17. IN A BRIEFING ON OTHER MATTERS (BEING REPORTED SEPARATELY) BARRINGTON, DFA, SPOKE ON THE PRESIDENCY'S APPROACH TO THE FOREIGN MINISTERS' MEETING AT PARKNASILLA. THE INFORMAL AGENDA WOULD BE AS FOLLOWS:

(A) IT WOULD PROVIDE THE FIRST SUBSTANTIVE OPPORTUNITY FOR FOREIGN MINISTERS TO DISCUSS THE MANDATE GIVEN TO THEM AT THE INFORMAL EUROPEAN COUNCIL. THE PRESIDENCY EXPECTED FOREIGN MINISTERS TO HAVE BEFORE THEM AN INITIAL CATALOGUE OF IDEAS CONTRIBUTED BY MEMBER STATES, COMPILED IN COREPER AND PRESENTED BY THE PRESIDENCY:

(B) IT WOULD ALSO BE THE FIRST OPPORTUNITY FOREIGN MINISTERS WOULD HAVE TO DISCUSS INSTITUTIONAL ASPECTS OF EMU, ON THE BASIS OF THE PAPER WHICH THE COMMISSION WOULD PRODUCE THIS WEEK:

(C) A RANGE OF EPC ITEMS:

(D) EC/US. AT THE REQUEST OF ONE OR TWO PARTNER STATES THERE WOULD BE A DISCUSSION OF EC/US RELATIONS.

#### COMMENT

18. AN IRISH TIMES LEADER COMMENTS THAT SOME MAY FIND SURPRISING THE DEGREE TO WHICH THE TAOISEACH AND THE PRIME MINISTER ARE IN AGREEMENT. WHEN I CONGRATULATED MR HAUGHEY ON HIS INTERVIEW, HE SAID THAT HE WAS GLAD THAT I LIKED IT. THERE WERE, HE SAID, SOME DELIBERATE OLIVE BRANCHES IN IT. HIS DETERMINATION NOT TO ISOLATE THE PRIME MINISTER EMERGES CLEARLY FROM THE INTERVIEW. WE SHOULD CONSIDER IN THE LIGHT OF PARKNASILLA WHETHER THERE ARE ELEMENTS IN HIS PRESENTATION TO WHICH WE SHOULD RESPOND BILATERALLY.

19. MR HAUGHEY'S CLAIM THAT IRISH NEUTRALITY IS NOT AT RISK IS A COP OUT DESIGNED TO AVERT THE RISK OF CRITICISM AT HOME. BUT THE PASSAGE ON SECURITY MARKS A STEP FORWARD FROM THE PREVIOUS VIEW THAT NATO WOULD WHITHER AWAY.

20. MR HAUGHEY HAS GONE SOME WAY TOWARDS ANSWERING CRITICISM THAT THE GOVERNMENT WAS NOT FRANK ABOUT THE IMPLICATIONS FOR IRELAND OF EUROPEAN UNITY. THE IRISH TIMES SAYS THAT THE PICTURE HE DRAWS IS PRECISE AND PROVOCATIVE, NOT REVOLUTIONARY BUT EVOLUTIONARY,



ENVISAGING A STEADY BUT NOT SUDDEN POOLING OF SOVEREIGNTY, FUNCTION BY FUNCTION. IT NOTES HIS CLAIM THAT SMALL STATES HAVE MORE TO GAIN THAN BIG ONES BY POOLING THEIR SOVEREIGNTY, BECAUSE THEY THEREBY GAIN AN OPPORTUNITY TO INFLUENCE DECISIONS.

21. THIS INTERVIEW, AND HIS RECENT ACCOUNT TO THE DAIL OF THE INFORMAL EUROPEAN COUNCIL, DEMONSTRATES MR HAUGHEY'S CONTINUING CONFIDENCE IN AND OPTIMISM ABOUT FUTURE DEVELOPMENT IN THE COMMUNITY. THERE ARE USEFULLY PRAGMATIC ELEMENTS IN HIS THINKING ON WHICH WE MIGHT BUILD.

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EUROPEAN POLITICAL  
(COLLAR)

RID [-]

ADDITIONAL 1

NIO LONDON

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FCS/90/102

CHANCELLOR OF THE EXCHEQUER

*CAC*  
*CBM 15/5*

EC Institutional Reform

- Minutes attached*
1. At ~~OD~~ last week we agreed that the UK should put forward positive ideas for institutional reform in the three areas identified in the 28 Dublin conclusions. We should not table our ideas formally at this stage, but I believe we should trail them in ministerial speeches over the coming weeks. I suggest that we need a coordinated approach.
  2. OD commissioned further work on a number of the ideas we discussed, and it may be that on such topics we shall have to be rather general, or even interrogative, in our initial public comments. On other ideas, we can be firmer.
  3. I have already touched on some of our thinking in a speech in Paris on 24 April, and propose to do so again in Rome on 16 May. In giving evidence to the Foreign Affairs Committee on 23 May I propose to highlight the

/important



important role for national parliaments in providing democratic accountability within the Community. Our positive response to the Procedure Committee recommendations on Westminster scrutiny will add force to this (the Lord President's letter of 11 May).

4. But the financial element of accountability, on which we have commissioned further work, is also important, and I would see considerable value in a public speech by you, by early June, pointing to the need to strengthen the European Court of Auditors and the Budgetary Control Committee, on the lines we agreed in OD. This is high ground where the UK has a strong national tradition on which we can build.

5. I understand that the Trade and Industry Secretary plans a major speech to the Bruges Group on 5 June, and this too should prove a good vehicle for some of our positive ideas. We might have a word nearer the time about which areas were by then the best for public presentation.

6. Subsidiarity is an obvious topic for a speech, but until the Law Officers have developed our ideas further (and I am grateful to the Attorney General for his helpful letter of 8 May) I intend to keep my public comments on this rather general. Similarly we shall need to await further work in Whitehall before we say too much about improving enforcement/compliance/ECJ powers, although I hope we shall be able to do so in early June.



7. Finally I might float our ideas for practical improvements in the working of the European Political Cooperation machinery. I think this best done to an overseas audience.

8. I would be grateful for your views on this and for any other contributions colleagues would like to make to this campaign: it might make sense for us to coordinate the line we take by correspondence in OD(E). I should add that I do not envisage detailed prescriptive speeches, still less that we would set a detailed specifications of precise UK proposals. The aim would be to provide signposts to possible future proposals, as a way of steering the debate, without showing too much flank.

9. I am copying this minute to all members of Cabinet, to the Law Officers, and to Robin Butler.

(DOUGLAS HURD)

Foreign and Commonwealth Office  
15 May 1990

cepu



2 MARSHAM STREET  
LONDON SW1P 3EB  
01-276 3000

The Rt Hon John Wakeham MP  
Secretary of State  
Department of Energy  
1 Palace Street  
LONDON  
SW1E 5HE

NBPM at Mar Slope  
AS

My ref:  
Your ref:

14 May 1990

Dear Secretary of State,

**ELECTRICITY PRIVATISATION AND THE LARGE COMBUSTION PLANTS DIRECTIVE**

file 1745

Thank you for your letter of 4 April and its enclosure.

I too am glad that any differences that there were between us on the basic requirements for implementing the Directive have been resolved. I think both our Departments and, equally important, the generators themselves understand that the "firmness" of their plans will vary according to how far ahead we are looking. HMIP will review each generators programme annually to satisfy themselves that the generator has options in play to enable it to make its contribution to complying with the Directive in the future. HMIP will need to be convinced for example that commitments to installation of FGD coal import facilities, and of CCGTs are sufficiently advanced. They will probably need formal guidance from the Government on such matters as load projections.

Officials have discussed these general principles with National Power, who seem to have been expecting just such arrangements. PowerGen have been invited to have similar discussions. CEGB were accustomed to holding annual meetings with HMIP and National Power have now themselves proposed resuming this practice.

The matter of reductions before 1993 is now under urgent examination by our officials. The question of action after 2003 also raises legal issues, since the parent "framework directive" on air pollution is not time-limited. I have no wish to create unnecessary difficulties but again we must try to ensure that we are not open to challenge from the Commission. I will arrange for my officials to pass our legal advice to yours so that they can aim to reach a rapid common view from which to advise us. If there remain significant differences of view on the legal requirements it may be desirable for us to seek the views of the Law Officers.

I am copying this letter to the Prime Minister, Geoffrey Howe, John Major, Malcolm Rifkind, Peter Brooke and Sir Robin Butler.

Yours sincerely

CHRIS PATTEN

Approved by the Secretary of State  
and signed in his absence

EURO POL: Budget A46





*cc'd  
P.U.*

QUEEN ANNE'S GATE LONDON SW1H 9AT

14 May 1990

*Mr Douglas*

*Pl. on at committee  
e let me see  
again*

DRAFT EUROPEAN COMMUNITY RESOLUTION ON THE  
FIGHT AGAINST RACISM AND XENOPHOBIA

*CAD  
1415*

I am writing to you and to colleagues to seek your views on the line we should adopt when the draft Resolution on Racism and Xenophobia is tabled at the Social Affairs Council on 29 May.

As you will know, the draft Resolution first surfaced nearly 2 years ago. Whilst having no legal force, it did look like a possible extension of community competence as well as offering some potentially unwelcome policy commitments, particularly on the education front. John Patten's Explanatory Memorandum to Parliament of October 1988 (attached) drew attention to some of the difficulties and the preliminary line we were adopting.

After a hiatus, the current Presidency has decided to take the Resolution forward and official negotiations resumed at the beginning of February. We have secured a number of amendments which go a long way to meet our concerns. These are reflected in the most recent working document from the Secretariat (attached). Although there may be some further changes, I think that we have probably secured all the concessions we are likely to get. Therefore, we need to decide what line we should take on 29 May.

On the key issue of competence, the proposal is to have a Mixed Resolution, which was one of our major requirements when the Resolution was first tabled in 1988. Moreover, the text no longer refers to Third Country Nationals, cuts back the role of the Commission and makes it clear that the measures suggested, especially in section 2, are the

/responsibility

The Rt Hon Douglas Hurd, CBE, MP  
Foreign & Commonwealth Office  
Downing Street  
LONDON SW1

responsibility of Member States and not the Community. There is also a proposal to make a Minutes Entry which explicitly curtails any extension of the powers of the Community through the Resolution.

This is good progress but we have not got all that we wanted. The draft text points up the divergence of views on the scope of the Commission's locus for action where we have been trying to ensure that this is explicitly set down under the terms of Article 118 of the Treaty. Discussions are still continuing but we may not get support. In this event, my feeling is that, given the progress already made, this is not such a critical issue as to require us to block the Resolution. However, I would welcome comments on this.

On issue of policy, the Resolution makes a number of proposals which fall into three main categories: legal or institutional action; information; and education.

The legal or institutional measures are listed in Section 2 of the Resolution. The text makes it clear that it is up to Member States to adopt them as they consider appropriate. Looking at the list, I do not think we would be embarrassed by any of these measures which are consistent with our laws and practices and have no financial implications.

The first part of the next section deals with an information policy which is described as "of considerable importance" in dealing with racism and xenophobia. Some of the phraseology in this section is curious but, again, I do not think that there is anything to which we should take exception. I would, however, like to press for a specific reference to the Commission's activity being contained within Article 118 of the Treaty of Rome (which permits work "in the social field", eg employment, social security etc), although I would also argue that failure to secure this is not critical.

The third policy area is education, and this caused us major difficulties when the Resolution first surfaced. My understanding is that the amended text is now acceptable to us but I would, of course, welcome John MacGregor's comments on this.

You will note the final clause about the Commission's reporting activity. We have strenuously opposed this at the working group and have the support of the majority of Member States. It is likely to be dropped.

Overall, in considering the line to adopt at the Council, I would make the point that we have a good story to tell on

/race relations,

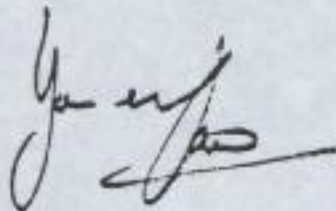


race relations, especially in comparison with other Community Member countries, and that we should not be unnecessarily defensive about it. We set a good example as far as other Member States are concerned about our laws and policies on race relations and the Resolution, which is not legally binding, does not commit us to anything which is incompatible with our domestic situation.

We have made good progress in cutting back any possible extension of Community competence. It is not perfect but I sense that we have secured as much as, realistically, we can. Blocking the Resolution on the grounds of the outstanding competence issues would be a drastic step, hard to defend both within the Community and here at home, especially with our ethnic minority communities.

Consequently, I would favour endorsing this Resolution at the Council but would, of course, welcome colleagues' comments. May I have these, please, by 18 May if possible, by which time there will have been time to reflect on any further changes made in the remaining negotiations.

I am copying this letter to the Prime Minister, the Lord Chancellor, the Lord President, the Chancellor of the Exchequer, the Secretaries of State for Agriculture, Fisheries and Food, Education and Science, Employment, Northern Ireland, Social Security, Scotland, Trade and Industry, Wales, the Attorney General and Sir Robin Butler.



7543/88

COM (88) 318 final

EXPLANATORY MEMORANDUM ON EUROPEAN COMMUNITY DOCUMENT

Resolution by the European Commission on the fight against racism and xenophobia.

Submitted by the Home Office

October, 1988

SUBJECT MATTER

1. This draft Resolution follows up the joint Declaration by the Community institutions against racism and xenophobia of 11 June 1986. This Declaration was a moral and political statement by the Community institutions condemning all forms of discrimination on racial grounds. They affirmed their resolve to protect the identity and dignity of every member of society and to reject any form of segregation of foreigners. The necessary steps to implement this joint resolve were regarded as indispensable. They stressed the importance of disseminating information, making all citizens aware of the dangers of racism and xenophobia and the need to prevent or curb all forms of discrimination.

2. The draft Resolution seeks to implement the Declaration by putting forward proposals in the fields of legal or institutional action, information and communication, and education and training.

MINISTERIAL RESPONSIBILITY

3. The Home Secretary has overall responsibility for UK Government policy on race relations and racial discrimination.

#### LEGAL AND PROCEDURAL ISSUES

4. i) Legal Basis. No Treaty basis is required.
- ii) Co-operation Procedure. This is not applicable.
- iii) Voting Procedure. Resolutions require consensus. The UK will be arguing that, since the Resolution includes provisions outside Community Competence, it should take a mixed format, ie be agreed both by the Council and by the Member States meeting within the Council (as the Joint Declaration was).
- iv) Impact on United Kingdom Law. The Resolution, which is not legally binding, will have no impact on UK law. The Race Relations Act 1976 already makes it unlawful to discriminate on racial grounds in employment, education and the provision of goods, facilities, services and premises. The UK has recently strengthened and extended the law on incitement to racial hatred through Part III of the Public Order Act 1986 which makes intention to incite racial hatred, as well as action likely to incite it, an offence.

#### POLICY IMPLICATIONS

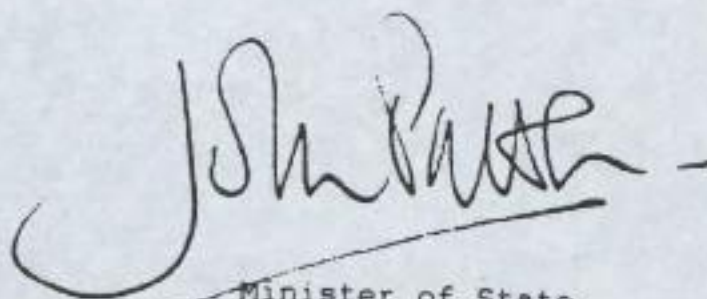
5. The Government is fully committed to the elimination of racial discrimination and has strong legislation in force to support this commitment. Therefore, many of the proposals contained in the Resolution are already embodied either in legislation or in custom and practice. The Government will be seeking clarification and amendment of some of the proposals which are of a range wider than current policy or practice or which the Government regards as ambiguous or unnecessary.

FINANCIAL IMPLICATIONS

6. There are no financial implications to this Resolution.

TIMETABLE

7. The opinions of the European Parliament and the Economic and Social Committee will be sought on the Resolution. It is probable that the Resolution will then come before the Council in December 1988.

A handwritten signature in black ink, appearing to read "John Patten", with a horizontal line drawn underneath it.

Minister of State  
Home Office

# ANNEX B

EUROPEAN COMMUNITIES  
THE COUNCIL

Brussels, 12 April 1990

5824/90

RESTREINT

SOC 83  
EDUC 42

## OUTCOME OF PROCEEDINGS

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of : Working Party on Social Questions on 6 April 1990

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No. prev. doc.: 5504/90 SOC 66 EDUC 38

No. Cion prop.: 7543/88 SOC 145 EDUC 67 COM(88) 318 final

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Subject: Draft Resolution "Fight against racism and xenophobia"

---

Delegations will find attached:

- Annex I: draft Resolution,
  
- Annex II: draft statement for the Council minutes.

Draft (1)

RESOLUTION OF THE COUNCIL AND THE REPRESENTATIVES OF THE GOVERNMENTS  
OF THE MEMBER STATES, MEETING WITHIN THE COUNCIL,

on the fight against racism and xenophobia

-----

THE COUNCIL OF THE EUROPEAN COMMUNITIES AND THE REPRESENTATIVES OF THE  
GOVERNMENTS OF THE MEMBER STATES, MEETING WITHIN THE COUNCIL,

Having regard to the Treaties establishing the European Communities,

Having regard to the draft Resolution submitted by the Commission (1),

Having regard to the Opinion of the European Parliament (2),

Having regard to the Opinion of the Economic and Social Committee (3),

1. Whereas the fight against racism and xenophobia forms part of the broader context of protecting fundamental rights, [which is one of the main features of the Community identity and movement towards integration] (2); whereas the joint declaration of 5 April 1977 bears witness to the prime importance that the Community institutions attach to respect for fundamental rights (4);

---

(1) OJ No C

(2) OJ No C

(3) OJ No C

(4) OJ No C 103, 7.4.1977, p. 1.

---

(1) Cion: blanket reservation.

Dk: scrutiny reservation.

(2) UK: reservation.

2. Whereas in the Single European Act <sup>(1)</sup> the Member States stressed the need to "work together to promote democracy on the basis of the fundamental rights recognized in the constitutions and laws of the Member States, in the Convention for the Protection of Human Rights and Fundamental Freedoms and in the European Social Charter, notably freedom, equality and social justice";
  
3. Whereas in its Resolution of 16 July 1985 concerning guidelines for a Community policy on migration <sup>(2)</sup>, the Council stressed that "with a view to the harmonious coexistence of nationals of the Member States and migrant workers and their families, initiatives should be developed at Community, Member State and local level to inform and to promote awareness";
  
4. Whereas in its Resolution of 16 January 1986 <sup>(3)</sup>, the European Parliament, noting the recommendations contained in the Committee of Enquiry's report on the rise of racism and fascism in Europe, called on "the Commission, the Council, the other Community institutions, the parliamentary committees, the Bureau of the European Parliament and the governments and parliaments of the Member States to take the measures necessary to put them into practice";

---

(1) OJ No L 169, 29.7.1987, p. 1.  
(2) OJ No C 186, 26.7.1985, p. 3.  
(3) OJ No C 36, 17.7.1986, p. 142.

- Whereas on 11 June 1986, the European Parliament, the Council, the Representatives of the Member States meeting within the Council, and the Commission, recognizing "the existence and growth of xenophobic attitudes, movements and acts of violence in the Community which are often directed against immigrants", adopted a declaration against racism and xenophobia <sup>(1)</sup> "vigorously condemning all forms of intolerance, hostility and use of force against persons or groups of persons on the grounds of racial, religious, cultural, social or national differences; and looking upon it as indispensable that all necessary steps be taken to guarantee that their joint resolve to protect the individuality and dignity of every member of society and to reject any form of segregation of foreigners be carried through";
- [6. Whereas under Article 118 of the Treaty the Commission has the task of promoting close co-operation between Member States in the social field, and to this end may make studies, deliver opinions and arrange consultations] <sup>(1)</sup>;
- [6. Whereas it behoves the institutions of the Communities and the competent authorities of the Member States, each in keeping with its powers, to take the necessary measures to implement this Resolution] <sup>(2)</sup>;

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(1) OJ No C 158, 25.1.1986, p. 1.

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(1) UK: suggested this text.

Other delegations: did not support it.

Cion: opposed.

(2) Wording devised to take account of UK's concern, in place of the suggestion under (1).

UK: scrutiny reservation.



1. take note of the Commission communication on the fight against racism and xenophobia concerning the implementation of the Interinstitutional Declaration of 11 June 1986 against racism and xenophobia aimed at protecting in that respect everyone within Community territory;
2. recognize that acts inspired by racism and xenophobia may be countered by legislative or institutional measures such as the following:
  - (a) ratification, by those Member States which have not yet done so, of international instruments contributing to the fight against all forms of racial discrimination;
  - (b) recognition, by those Member States which have not yet done so, of the individual petitions referred to:
    - in Article 25 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and
    - in Article 14 of the International Convention on the Elimination of All forms of Racial Discrimination;ratification if necessary of the Optional Protocol to the International Covenant on Civil and Political Rights;
  - (c) resolute application of laws aimed at preventing or curbing discrimination or xenophobic acts and the preparation of such laws by those Member States which have not yet done so;

(d) efforts at national, regional and local level to integrate the different communities properly (and, where appropriate, promotion of national mediation procedures) <sup>(1)</sup>;

[(e) the granting to the bodies concerned in the fight against racism and xenophobia of the right to institute or support legal proceedings, to the extent that this is compatible with the legal system in the Member State concerned] <sup>(2)</sup>;

(f) the development of legal assistance, available in accordance with the rules of the legal system of the Member State concerned, to enable those concerned to defend their rights;

(g) underlining the importance of substantial measures to counter the possible effects on children of discriminatory acts based on racism and xenophobia;

3. call upon the Member States to adopt such measures as they consider appropriate, paying particular attention to those referred to in point 2;

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(1) Dk: specific scrutiny reservation.

(2) Dk: specific scrutiny reservation.

4. consider that an effective preventive information and education policy is of considerable importance in the fight against racism and xenophobia; in this context:

(a) in the field of information:

(i) note that the Commission:

- will make a comparative assessment of the legal instruments implemented in the various Member States to combat all forms of discrimination, racism and xenophobia and incitement to hatred and racial violence;

will contribute to improved dissemination of information on these legal instruments;

- will promote demoscopic studies <sup>(1)</sup> on the perception of democratic values and on the state of relations between the various communities living in Europe;

(ii) invite the Member States to:

- draw attention to the role that the media can play in eliminating racial prejudice and promoting harmonious relations between the various communities living in Europe; encourage reflection on information in the face of instances of violence, particularly of a racial nature;

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(1) UK: insert "in the social field".  
Other delegations: did not support this addition.  
Cion: opposed.

(b) in the field of education and young people:

(i) expect that the action taken to:

- promote a European dimension in education tailored to the specific situation of each Member State, such as will develop civic-mindedness and the values of pluralism and tolerance;
- promote exchange programmes for young people as a means of encouraging tolerance and understanding;
- develop and extend current community co-operation aimed at improving the education of migrant workers' children,

will make a significant contribution to, inter alia, reducing xenophobia and promoting and encouraging tolerance and mutual understanding;

(ii) recall the action they have already taken in this context:

- Resolution of the Council and the Ministers of Education meeting within the Council on the European dimension in education of 24 May 1988 <sup>(1)</sup>;
- Council Decision of 16 June 1988 adopting an action programme for the promotion of youth exchanges in the Community - "Youth for Europe" programme <sup>(2)</sup>;
- Council Directive of 25 July 1977 on the education of the children of migrant workers <sup>(3)</sup>;
- Actions to promote modern language teaching, actions for the schooling of the children of migrant workers and Community measures for the benefit of minority languages and cultures of origin;

(iii) invite the Member States to:

- encourage the civic and vocational training of teachers, particularly in areas with a large immigrant population, in order to introduce them to the characteristics of the various origins and cultures of their pupils and students;
- encourage knowledge of the languages and cultures of origin;

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(1) OJ No C 177, 6.7.1988, p. 5.

(2) OJ No L 158, 25.6.1988, p. 42.

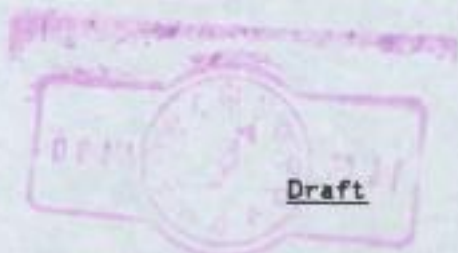
(3) OJ No L 199, 6.8.1977, p. 32.

5. stress the importance of all appropriate forms of co-operation between the Community and the Council of Europe;
- [6. recognize the significance of the action, and the initiatives promoted, by the United Nations in the fight against racial discrimination] <sup>(1)</sup>.
- [7. note the Commission's intention to submit a report on the application of this resolution within a period of three years from the date of its adoption, having assembled the necessary information from the Member States] <sup>(2)</sup>.
- 

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(1) I: suggested this text.  
Other delegations: scrutiny reservations.

(2) Gr.P.Cion: wanted to maintain this text.  
Other delegations: delete.



STATEMENT FOR THE COUNCIL MINUTES

[The Council, the Representatives of the governments of the Member States, meeting within the Council, and the Commission, stated:

"The implementation of this Resolution shall not entail any extension of the powers of the Community as defined in the Treaties." (1)

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(1) Text proposed further to a UK intervention.  
B.I: scrutiny reservations.  
Cion: opposed.

PRIME MINISTER

OD MEETING: POLITICAL UNION

You do not really need to read all the papers in the folder. My minute is intended to summarise the main issues. The most important are:

- Cabinet office brief (only just received)
- the Foreign Secretary's recent note on EC political union
- the Secretariat's note summarising the various ideas put forward by Ministers
- the Attorney General's note on subsidiarity
- the Lord President's note.

The last worries me considerably. We have so far had very harmonious discussions in OD and Cabinet on all these issues. The Lord President's note appears to be an attempt to hijack the discussion on to a much more "Euro" line, and to make the whole issue more contentious in political terms. To some extent he may see himself as balancing Nick Ridley. But I think it goes well beyond what is necessary: and assuming we reach a consensus tomorrow, you want to make sure the line is drawn to the windward of the Lord President's views.

CP

Charles Powell

9 May 1990

c: OD (MJ)





cc: [Handwritten initials]

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MR POWELL

cc: Sir R Butler  
Mr Hadley  
Mr Bender

OD, 10 MAY: EC INSTITUTIONAL REFORM

1. I attach the Chairman's brief for tomorrow's meeting.
2. The only change from the attendance we discussed last week is that the Attorney-General will probably be unable to attend in person because of the Committee stage of a Bill. He will be represented by the Lord Advocate.
3. Since only some of those involved in the correspondence so far are invited to the meeting, we have arranged for the Secretaries' Note and the OD minutes to be circulated exceptionally to all members of Cabinet.

LYN PARKER

9 May 1990

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Foreign and Commonwealth Office

London SW1A 2AH

9 May 1990

*From The Minister of State*

The Hon Francis Maude MP

The Rt Hon Nicholas Ridley MP  
Secretary of State for Trade and Industry  
1-19 Victoria Street  
London SW1

*edm 1075*

*See Minutes*

#### IMPLEMENTATION AND ENFORCEMENT OF EC MEASURES

In my paper ODE(90)5 of 7 March I highlighted the importance of tightening procedures for monitoring the implementation and enforcement of agreed measures in the Community and proposed a programme of action. We asked our posts in EC capitals to report on the local situation. I attach an annex summarising the results. They point to a predictably patchy performance both for implementation and enforcement. The available evidence is inadequate, but seems to suggest that standards of performance on implementation of Single Market measures tend to be reflected in other sectors too.

This round of reporting reinforces the case for a campaign within the Community institutions to improve transparency and monitoring of implementation. As proposed in my paper, Douglas Hurd is now writing to



Delors urging that the practice of six monthly Commission reporting on implementation of agreed measures in the Single Market programme should be extended to all other areas of EC legislation, with an overarching report to and review at each European Council, starting, appropriately, with the Rome Council in December. He endorses in principle the Commission's proposal for direct reference to the relevant Community directive in national implementing legislation. He is also writing to the President of the European Parliament suggesting that the Parliament should hold regular debates on implementation and enforcement of EC legislation in all sectors. I enclose copies of both letters.

I have asked our EC posts to report regularly on both implementation and enforcement in their host countries and in particular to note and report evidence from the press and business contacts on enforcement cases and non-compliance.

It would be helpful if colleagues were to reinforce this action in their areas of responsibility by bringing the question of implementation and enforcement to the attention of trade associations, lobby groups and other interested parties, and urging them to report more systematically - both to HMG and to the Commission - where breaches occur. It would also help if these organisations could get their counterparts in other EC countries to do the same - in my experience the British lobbyists (particularly those critical of government) are far more active than most of their continental counterparts. I would be grateful if you would let us know what response you have to this.



I am copying this to the Prime Minister, other members of OD(E), and Chris Patten, John McGregor, Kenneth Clarke, Cecil Parkinson, Kenneth Baker, David Waddington, John Wakeham, and to those who attend my Ministers' Europe Group, and Sir Robin Butler.

A handwritten signature in cursive script, appearing to read 'Francis Maude'.

Handwritten initials in cursive script, appearing to be 'F.M.'.

Francis Maude

## DENMARK

Implementation: On Single Market measures, second only to the UK. Commission say ten measures unimplemented. Similarly good record in other policy areas. No evidence of major shortcomings on enforcement. One major exception in 1989 when the Danes had to apologise to the Commission and pay compensation. No other serious breaches identified.

## FRG

An established interdepartmental system of implementation coordinated by the Economics Ministry (Referant EB 3). This works well and FRG has a good record. Some delays have arisen from the Länder system, and disputed competence. In cases of severe delay, State Secretaries responsible for European Affairs may intervene. The obvious weakness is lack of any system to check enforcement.

## IRELAND

Now fourth in the Single Market implementation league. Methods of implementation similar to UK: administrative and secondary legislative measures used where possible. Record on non-Single Market measures has deteriorated over the last decade: probably due to increasing volume and tiny Civil Service. Eg: environmental impact assessment directive was implemented 18 months after the deadline. Enforcement principally the responsibility of Government departments and agencies, but sometimes (eg environment) devolved to local government. On environment it seems very weak. Recent national environment action programme does not contain specific measures to meet Community commitments, nor have the Irish specified the action that they will take to reduce power station emissions of SO<sup>2</sup>. Animal Health also an area of concern: eg failure to combat bovine tuberculosis.

## FRANCE

Fifth in the Commission's Single Market implementation table. Generally a fairly good record of implementation of EC measures. No formal enforcement mechanism available for Embassy monitoring. The French Prime Minister has recently issued instructions to tighten up implementation. They include reinforcement of the secretariat responsible, more advance thought on how EC decisions are to be implemented, a faster start to the implementation process, and more efficient reporting back.

## NETHERLANDS

Paying increasing attention to implementation: growing parliamentary interest. To prevent duplication or omissions, MFA coordination arrangements recently established: monthly lists are prepared of new EC measures for allocation to departments. Three-monthly MFA meetings to monitor implementation. Lists of unimplemented measures sent to Parliament. Most recent list showed a total of 43 measures unimplemented. Commission also established to examine implementation methods and simplify legislative processes so as to remove backlog. Dutch Embassies in EC capitals also tasked to report on implementation systems. No enforcement monitoring system. Ministries rely on contacts with local authorities, trade associations, industry etc. No new moves on enforcement in pipeline. Dutch record on public procurement is poor: no contracts have gone to outside bidders in the last year.

## LUXEMBOURG

Committee on implementation of Single Market measures established in October 1989 under Secretary General of MFA. A two-man section also set up in MFA. Some 230 directives outstanding for implementation in all - the largest groups

in Agriculture (50) and environment (30). Manpower a problem: Luxembourg bureaucracy tiny. In some areas they rely on Benelux partners. Legislation by Grand Ducal Règlement. No formal enforcement procedures. Luxembourg has some difficulty in quality of water and agriculture.

#### SPAIN

Reasonable record on Single Market implementation. During the Spanish Presidency the record number of Single Market related measures adopted. But the record in other sectors less impressive. Spain close to top of the Commission's list for alleged environment infractions. Other identified problems include telecommunications (national monopoly trying to protect itself) and distribution of former state petroleum retail outlets. In January Spain reported the total of 235 Community directives not yet implemented: mainly on agriculture, indirect taxation, recognition of diplomas, and environment. No national system of enforcement: only way we can monitor practical compliance is through complaints which come to British Embassies' attention. We need to encourage British business representatives to record cases of non-compliance.

#### BELGIUM

Has dropped down the Commission Single Market table to third from bottom. Also identified by Ripa de Meana as among worst offenders on environmental infractions. Coordination falls to MFA European Division. Commission reported 85 legal actions against Belgium in September 1989. Belgians admit to 111 unimplemented directives, including 16 before ICJ. Environment the worst sector. Problems connected in part to new Belgian federal structures, and lack of central coordination. Proliferation of ministries makes central coordination difficult. MFA hope to improve record with introduction of central computer data-base.

## GREECE

Implementing legislation is by Presidential decree with no Parliamentary scrutiny. But any potentially controversial measures are usually delayed for domestic political reasons. More stable government may help to improve the record. On enforcement a bleak picture: bureaucracy inefficient and compliance with laws not a concept deeply embedded in the national psyche. Overall on EC legislation Greece probably second only to Italy in number of Commission infraction proceedings. Also a large black economy.

## PORTUGAL

Bad record of Single Market implementation: not a domestic political issue. Effort launched in January to catch up on backlog. Many Single Market implementation measures now alleged by Portuguese Ministers to be in an advance state of drafting. Post suggest Portuguese may be responsive to Commission criticism.

## ITALY

Worst record on Single Market implementation: latest Commission figures say 50 single market measures unimplemented. This poor record matched also in other sectors. Romita is running a campaign to improve implementation before the Italian Presidency by sweeping at least half the unimplemented single market legislation into one bill. Enforcement also very poor. Embassy reports glaring cases of non-enforcement of: EC toy safety directive: health and safety at work provisions: status of visiting British lecturers at universities: ending of monopolies for service companies at airports. There are also three Article 30 cases involving Italy.



PM.



CD  
18/5

With the compliments of

at flap

The attached letters were omitted from Francis Maudslayi's letter of 9 May to the Rt. Hon. Nicholas Ridley, a copy of which you will have received.

A.L. Webb.  
Francis Maudslayi's Office.

FOREIGN AND COMMONWEALTH OFFICE

LONDON, SW1A 2AH



Foreign and Commonwealth Office

London SW1A 2AH

*From the Secretary of State*

9 May 1990

Dear Jacques,

We agreed at Dublin that work should start on analysing what political union in the Community should cover. Despite the many other important tasks which we have on our agenda, to which you drew attention in your press conference on 26 April, there is clearly a desire in the Community to see how we might strengthen our institutions and carry forward the process of European construction.

As we agreed in Dublin, an important part of this task will be for Foreign Ministers to examine the need for possible Treaty change to make the Community more efficient and effective. We will participate fully and constructively in that work, and as Margaret Thatcher has made clear, we will certainly come forward with our own suggestions in due course.

Fundamental to the process of European construction must be the principle that decisions taken at Community level are faithfully implemented at national level. As you recognise, Britain's record in this respect is exemplary. But there is across the Community a wide gap between what member states have agreed to, and what they have done. We owe it to our citizens to remove this gap between aspiration and reality.

M. Jacques Delors



Treaty changes to facilitate this may be desirable. We are likely to make some such proposals. But we would open ourselves to damaging criticism if we failed to take those steps which are open to us now within the Treaty to accelerate this aspect of European construction.

I have no doubt that the Commission's decision to publish six-monthly reports on implementation of the Single Market programme has started to improve performance elsewhere in the Community. That was an admirable initiative. I now propose that, as a further step, you extend this practice to all areas of EC legislation. Six-monthly reviews in the transport, telecommunications, energy, environment, industry, fisheries, agriculture, social and ECOFIN Councils would significantly enhance the effectiveness of Community decision-making. I suggest that in order to show the importance which we all attach to this, after such reviews in these Councils, you should make an overall report at the end of each Presidency so that the European Council can review progress. Our next European Council meeting in Dublin next month is probably too soon for the first such review, but I hope that this practice can be well established by 1 January 1991. I am thinking of a series of reviews during the Italian Presidency with the first full review at the European Council at Rome in December 1990.

I understand the Commission has also been considering ways of monitoring implementation in other sectors too; for example through its recent proposal that member states should refer in national implementing

/legislation



legislation to the relevant Community directive. I welcome the intention to achieve greater transparency in this field and I hope that an arrangement can be worked out which overcomes any practical obstacle.

I have discussed these ideas with Margaret Thatcher, and we see them as an important means for giving the Community the firm foundation in actual accomplishments which we shall need in this next stage of European construction.

Best wishes

Yours sincerely

Douglas Hurd

DOUGLAS HURD



Foreign and Commonwealth Office

London SW1A 2AH

*From the Secretary of State*

9 May 1990

Dear Mr. President,

At the Dublin Special Summit on 28 April we took an important step forward in deciding to analyse what political union should cover, and to report back to the European Council in June on what possible Treaty changes might be necessary. I was most interested to hear your own contribution in Dublin.

One of the areas of key importance to us of course will be the work of the European Parliament and the key role you have to play within the institutional structure. The consensus at Dublin was that the Community should operate effectively and efficiently. One procedural point flows immediately from that, where I think the European Parliament can make a very valuable contribution.

We attach particular importance to implementation and enforcement of agreed measures at the national level. The Commission's decision to publish six-monthly reports on the implementation of Single Market measures has done much to increase awareness of this important issue throughout the Community. I am glad to see that the most recent Commission report of 20 March reflects the success of the British Single Market implementation programme.

Sr Enrique Baron Crespo



I believe we now need to extend and strengthen the mechanisms of the Community institutions for monitoring implementation in areas beyond the Single Market programme. I have written to the President of the Commission proposing that the Commission should extend its practice of six-monthly reporting to all other areas of EC legislation. I believe this would help improve both the efficiency and the public image of the Community.

You may like to consider whether the European Parliament should have a role too. I have in mind, for example, the value to us all if there were regular debates on implementation of legislation in all sectors. This is of course a matter for the Parliament not for a member state, but I thought I might put this idea to you given that we talked about the working of the EC institutions when you were in London, and the mood at Dublin was clearly to move in the direction of greater efficiency.

DOUGLAS HURD

Yours sincerely  
Douglas Hurd.

Euro Pol: Budget P. 46





Ref. A090/1102

PRIME MINISTER

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Cabinet: Community Affairs

The Foreign Secretary will wish to report on the Foreign Affairs Council which Mr Maude attended on 7 May. Main points were:

- unanimous agreement to remove the requirement for visas from the GDR;
- signature of the EC/Czechoslovakia trade and cooperation agreement;
- in a general debate on the Commission's action plan for extending G24 assistance to other Eastern European countries, general support for conditionality and differentiation between individual countries;
- adoption of the regulations setting up the European Training Foundation and the TEMPUS student exchange programme with Eastern Europe; however France refused to agree to begin preparatory work on the Training Foundation until the site was agreed: this is likely to be decided at or after the European Council on 25/26 June;
- despite calls from Italy and the Netherlands for a special committee of junior Ministers to consider political union, satisfactory agreement that the issue should be handled in special meetings of Permanent Representatives, involving Political Directors as necessary;



- general pressure on the Commission to bring forward its draft EC/EFTA negotiating mandate (subsequently finalised by the Commission on 8 May).

2. Future meetings are:

- Internal Market Council, 14-15 May
- Health Council, 17 May
- Culture Council, 18 May.

R.B.

ROBIN BUTLER

9 May 1990

PRIME MINISTER

for Employment - EMU  
D57

OD: POLITICAL UNION

OD is to have a discussion of Political Union tomorrow, to set guidelines for further work in the Community over the period between now and the European Council at the end of June. The basic document is the Foreign Secretary's minute of 11 April. A number of colleagues have subsequently commented on that, and their views and suggestions are summarised in the note by the Cabinet Office. The Foreign Secretary has also sent a further note setting out where we have got to in Europe. There are two aspects to the discussion:

- the substance of the ideas we might put forward;
- the tactics of how we present our ideas.

Substance

Our first aim is to get certain areas ruled out of discussion altogether i.e. those listed in your speaking note for the informal Dublin Council. At the other end of the spectrum, we must prevent the others from trying to construct a model of what political union might be in 20 or 30 years time, a sort of Delors Stage 3 for political union. We don't want any blue-prints: they would certainly be tiresome and undesirable.

Beyond that, the Dublin meeting set out three areas for further examination:

- strengthening democratic accountability. We want to put the stress on the role of national Parliaments, to which governments of member states are answerable for decisions reached by the Council of Ministers. We also want to see the Court of Auditors strengthened to ensure better financial accountability. The more disputatious area concerns the European Parliament. No one in his right mind wants to see the European Parliament given more powers: but unfortunately a

number of other member states are not in their right mind and do want this, including the Germans. We can plant our standard in the ground now and say they shall not pass, as recommended by the Policy Unit. It will make us feel good now, but will look a bit more ragged when you actually come to face decisions at the end of a long debate in the Community. If our assessment is that, at the end of the day, the European Parliament will have to be given some additional powers, then we need to start manoeuvring now to make sure they are as limited and confined as possible. At all costs we want to keep their hands off anything to do with raising revenue. That is and must remain exclusively for member states. And we have already conceded too much power to them over the budget. The only area where they might do something useful is scrutiny of the way the Commission spends the money, a sort of PAC function. The Chancellor is quite keen on this. We need not propose it: but others will make more far-reaching proposals, and we should be clear in our minds that if something has to be ceded to the Parliament, this is probably the area to which we should look;

- making the Community's institutions more effective and more efficient. This is the main area in which we have a lot of ideas. We want to see much improved implementation, compliance and enforcement including more teeth for the European Court of Justice. We can revert to our earlier proposal for only one Commissioner per member state. Most members of OD are in favour of establishing the doctrine of subsidiarity as part of the Treaty, although the Law Officers have doubts over how effective a counter-balance to integrationist and centralising tendencies it would be. Chris Patten has suggested that the Council should have to confirm that all Commission proposals meet the objective test of subsidiarity before they were allowed to proceed. The principle of reinforcing the Council's dominant role in decision-taking is also accepted. But there are two more disputatious issues. The first is whether there should be any extension of qualified majority voting. Your colleagues are generally cautious on this, although there is thought to be

the Council to amend proposals of the Commission other than by unanimity. The FCO are very un-keen to pursue this, because they think it has no chance of acceptance and will only alienate others. But you have already mentioned it in the House: and Mr. Ridley and many other colleagues support the idea, as a way of diluting the Commission's power. We may not get anywhere with it: but it could at least be a useful bargaining card for the final stages of a negotiation.

- unity and coherence in the Community's international action. Goodness knows what this means, but it was agreed at Dublin. If it is just some strengthening of POCO, there is no harm. At the end of the day, no-one is going to give up sovereignty on foreign policy. But I suspect the Commission will see the Dublin remit as giving them a greater role as spokesman for the Community, which we must resist.

#### Tactics

The first point to remember is that our proposals are modest, sane and reasonable: there are a lot of wild-eyed Eurofanatics around who will be suggesting much worse. You have seen the Belgian ideas. The French have some pretty hare-brained schemes: for instance that the Commission should chair all meetings of the Council of the Ministers except for the European Council and the Foreign Affairs Council. There are ideas for twelve month Presidencies and so on. That's probably just the tip of the iceberg. We are going to have to do a lot of knocking out of undesirable proposals.

The Foreign Secretary advises that we should not release all our proposals at once, which will only give a target for others to shoot at. We should filter them out as the course of debate demands, holding some back for the greatest tactical effect. He also proposes that the main device for launching our specific ideas should be a series of speeches by Ministers. I think that is probably right provided we don't fire off all our ammunition too soon, simply because we are the most efficient and have our ideas ready first.

ammunition too soon, simply because we are the most efficient and have our ideas ready first.

You will find in the folder:

- the Foreign Secretary's note;
- the Cabinet Office note summarising the various ideas suggested by OD colleagues;
- the Law Officers' advice on subsidiarity;
- the original Foreign Secretary note;
- the replies from OD colleagues;
- the Policy Unit's views.

C.D.P.

(C. D. POWELL)

9 May 1990

a:\foreign\OD (srw)

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CHAIRMAN'S BRIEF: OD, 10 MAY 1990

EC Institutional Reform

Papers for discussion:

- Foreign Secretary's minute of 11 April and subsequent correspondence
- OD(90)11 - Summary Note by the Secretaries

PURPOSE

1. You will want the meeting to agree on the main areas in which the United Kingdom may want to make proposals; to establish what further work is needed; and to agree on our tactics over the weeks ahead.

ISSUES FOR DISCUSSION

2. Since colleagues will not be aware of your recent exchanges with the Foreign Secretary, you might start by inviting him to set out the likely course of the negotiations up to the Dublin European Council, and the input he hopes the United Kingdom can make. This approach should command general support.

3. Next, before turning to the detailed issues summarised in the Secretaries' note, you may wish to pick up briefly the references in the correspondence to the relevance of future enlargement. The Foreign Secretary considers that by the mid-90s there will be several applications for accession, some of which are likely to succeed; and that possible institutional reforms must be considered in this light (though they would come into force several years before any new enlargement could actually take place). Mr Ridley argues that we should more openly favour an enlarged Community, steering it towards

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"variable geometry" under which groups of member states would be free to pursue more integrated policies if they wished (these ideas are likely to be discussed further next week when OD(E) considers the Commission's draft mandate for the EC/EFTA negotiations.) The Chancellor points out some of the risks of enlargement, and argues that:

- a. we should privately recognise the likelihood of enlargement in the late 1990s, but that
- b. advancing enlargement as an argument in the debate on institutional reform is likely to be unhelpful.

You may wish to confirm that colleagues agree with this analysis.

4. You could then turn to the Secretaries' summary of the ideas canvassed by Ministers so far, taking each heading briefly:

Ia. Subsidiarity

The Law Officers agree that the United Kingdom should seek to exploit the general Community support for subsidiarity, but point out a number of difficulties and risks. Colleagues should agree on the need for further detailed work by officials; but also that in the meanwhile Ministers should make clear publicly that subsidiarity is an issue of central importance which any IGC would have to address.

Ib. Majority Voting

Mr Howard would oppose any attempt to extend majority voting in the social field: colleagues are likely to agree.

Mr Patten suggests that from a purely departmental point of view he could probably go along with majority voting on

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environmental matters; but flags up the broader policy implications of such a change, particularly in a period of active environmental diplomacy on major issues. Colleagues may agree that the implications in the environment field need further study, along with the points identified in the Secretaries' note.

Ic. "Cooperation procedure"

Mr Howard rejects the Foreign Secretary's suggestion that we might if necessary consider extending the "cooperation procedure" to the Social Fund (it already applies to the Regional Fund). Colleagues may agree that it would be premature at this stage to indicate any willingness to extend the cooperation procedure, but that officials should produce a detailed analysis on a contingency basis.

Id. Legislative relationship between the Council and Commission

A number of colleagues have expressed interest in modifying the Commission's exclusive right of formal legislative initiative. The Foreign Secretary's paper argued that such a change would on balance act against our interests. Colleagues may agree that before taking this further officials should produce an assessment of the range of options, and the potential advantages and risks involved.

In addition, Mr Ridley has suggested a search for procedural devices which would make Council decision-taking more difficult but which we could present as aimed at improving the quality of EC legislation. Colleagues should agree that officials should explore these possibilities further.



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Ie. Strengthening the Council

Colleagues may agree that officials should pursue the analysis suggested in the Secretaries' note, casting their net widely to identify any other possibilities.

IIa. Implementation and Enforcement: European Court of Justice

Whitehall lawyers are examining the options for imposing sanctions for persistent non-compliance; colleagues may agree that, subject to the Law Officers' advice in due course, this should fit well with our wider concerns on implementation and enforcement.

IIb. Commission

Mr Gummer sees potential advantages in greater use of Community inspectorates, at least in agriculture. Mr Patten points out that we have strongly resisted such ideas in the environmental field. Colleagues may agree that officials should identify specific areas where inspectorates or other increased enforcement powers might be useful, and any clear "no-go" areas.

IIc. Council

The Foreign Secretary has written to M Delors about improving present procedures for reviewing implementation. Ministers will wish to continue to emphasise the importance of this; it does not require treaty amendment.

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IIIa. Financial Accountability

You might invite the Chancellor to explain briefly what he has in mind. Colleagues should agree that officials should work up detailed proposals.

IIIb. General Commission Accountability

Mr Gummer has made a number of suggestions, aimed particularly at strengthening the European Parliament's oversight of the Commission. Subject to any points made in discussion, you may wish to suggest that officials should explore these further.

IIIc. The European Parliament and National Parliaments

The Lord President will shortly complete his consultations in the House over the Government's response to the Procedure Committee's Report on parliamentary scrutiny of EC legislation: when this is announced, it will help to underline the importance the Government attaches to effective scrutiny by national Parliaments. Colleagues may agree that anything more than a very general reference in the Treaties to the role of national Parliaments would be dangerous; but that further work should be done on how the United Kingdom might promote recognition of their role.

IV. European Political Cooperation

Colleagues have not commented on the ideas in the Foreign Secretary's paper: they will presumably agree that work should go ahead to put them into possible treaty language.

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CONCLUSIONS

5. You may be able to conclude that:

- OD endorses the broad thrust of the Foreign Secretary's paper, and his recommendations for our tactical approach over the next few weeks;
- we should put forward no specific proposals at this stage, but should make clear publicly - in some cases interrogatively - the broad issues that will need to be addressed;
- the Cabinet Office should organise an intensive programme of further work on the lines discussed;
- there should be a progress report to Ministers in early June, in case further collective discussion is needed before the Dublin Summit.

Cabinet Office

9 May 1990



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PRIVY COUNCIL OFFICE  
WHITEHALL, LONDON SW1A 2AT

9th May, 1990

*Dear Douglas*

EC INSTITUTIONAL REFORM

1. I have read with great interest your paper of 11th April on EC Institutional Reform.
2. The basic conclusion of this paper - that we must be fully engaged in the forthcoming IGC on institutional reform (now seen as part of "political union") - is one that I fully share. As you rightly say, "a purely negative reaction ... would harm us domestically, in Europe and with the Americans. There would be no gain anywhere that counts". Our objective must be to put forward attractive and credible reforms and to secure agreement to them, so far as possible, at the IGC.
3. It is now clear that if, as seems likely, the Dublin European Council in June formally convenes an IGC on Political Union in the same timescale as the IGC already agreed on EMU - that is, working to the adoption of Treaty amendments by the end of 1992 - the two issues of EMU and Political Union are going to become increasingly interlinked, both domestically and in our European discussions. There will be strong pressure for the IGCs to complete their work in advance of the British Presidency (of July-December 1992), if amendments are to have any chance of being endorsed by national parliaments by the end of the year, and much of the IGC activity could well therefore coincide with the run-up to the next general election.

The Rt Hon Douglas Hurd CBE MP

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4. The Kohl/Mitterrand initiative on Political Union has thus guaranteed that the European issue will remain a centre-stage issue in British politics between now and 1992, with both hazards and opportunities for the Government. The decision of the Dublin European Council to set an end date to the EMU process has reinforced that. Our political response to the choices set out in your paper must be judged against that reality. It would certainly not be in the Government's electoral interest to have to recommend rejection by the House of Commons of a new European Treaty six or three months before a general election.

5. For all these reasons, it seems to me essential that we should get ahead now with working out a positive package of changes, and regard our success in shaping the EMU debate and the Political Union debate as two sides of the same coin. Success in one will build our credibility in the other. Conversely, failure in one will undermine our negotiating leverage in the other. Because EMU is currently the most advanced, the first priority should be to ensure that our in-put to the EMU IGC is as systematic and defensible as possible.

EMU

6. The unenthusiastic response to HM Treasury's November paper on EMU indicates the extent to which we need to develop our proposals further if we are to become effectively engaged in the evolving debate, and so influence it decisively. The essential thing now is to get a more fully worked up set of ideas on EMU finalised and marketed in Europe.

7. These ideas should, I believe, go beyond Stage One of the Delors Report, converting Stage Two from the procedural phase identified in the Delors Report to something more substantial in its own right. They should reject a maximalist form of economic union (as both ECOFIN and the European Commission have already done), in the sense of central control of national budget deficits. They should back the objective of a tighter monetary union, accepting the legitimacy of a progressive move towards irrevocably fixed exchange rates rather than the compulsory

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adoption of a common currency. The necessity of a strong monetary policy, increasingly evolved jointly by member states, should also be acknowledged, indeed affirmed.

8. Early entry into the ERM will be an important complement to such an initiative, indicating the UK's good faith to our European partners, at the same time as it enhances the effectiveness of our monetary and anti-inflation policy and its credibility in the eyes of the markets.

Institutional Reform

9. I share with Nick Ridley (25th April), Malcolm Rifkind (27th April) and others, a desire to define what sort of Europe we want before we decide on specific institutional reforms. The organic nature of the EC - with its step by step development - makes that difficult, but not impossible.

10. I do not agree with Nick that we want a "variable geometry" Europe, with countries opting in or out of European policies. This could all too easily serve French and German interests in marginalising Britain and enhancing their influence on the "core" policies of a "core" Union, which other countries (including ourselves) would have to follow. Britain should at all costs resist any move of that kind, which would serve only to diminish our influence on our own future.

11. I think Malcolm is optimistic in thinking that we can dilute pressure for stronger EC institutions by preparing for enlargement to a "Community of 20" incorporating "all the democratic market economies of Europe". Not only would many existing members have doubts about the desirability of such an explicit goal, but it is not clear whether such "widening", if it ever happened, would ever stall the process towards "deepening" the Community. The experience of Spanish and Portuguese enlargement is that new member states increasingly want to be "good Europeans", and that the larger the Community, the greater the pressure for institutional reform designed to encourage majority voting in the Council and to enhance the powers of the European Parliament.

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12. Any attempt to throw either "variable geometry" or "dilution of the EC" into the debate will, I suspect, lead nowhere, and could actually be counter-productive. There will be few, if any, takers among existing members for Nick's new-style looser EC where "the basic unit is seen as the wider Single Market". If there were serious support for a looser Community, it is unlikely that an IGC to forge "Political Union" would now be in prospect. Moreover, if the "wider Single Market" idea were to run, it would be fatal to use it as an excuse to prevent Britain from signing up to the policies of the "core" member states, so consigning us to the sidelines.

13. As you rightly caution in your paper, there is no point "in putting forward British proposals which would be ridiculed by all, or almost all, our partners as negative or backward looking". Instead, as John Gummer says, we need "imaginative proposals" located somewhere "in the middle of the debate". In this context, ideas like stripping the European Commission of its right to propose legislation (which some outside commentators advocate) or formally sharing that right of proposal with the Council of Ministers, are likely to be regarded as non-starters. They also underestimate the extent to which in practice the twice-yearly European Council already shares a broad, agenda-setting rôle with the Commission.

14. Equally, Nick Ridley's suggestion that "we should use this opportunity to restrict the legislative rôle of the EC to its genuine Single Market functions" flies in the face of everything all other member states believe. They do not see the EC as exclusively a single market - and it isn't. To suggest as much, in terms that make it explicitly the basis of our bargaining position, is to court disaster.

15. More positively, I think your ideas for trying to channel pressure for increased powers for the European Parliament into a strengthening of EP oversight over the administration, implementation and financial accountability of the Commission are inspired. These suggestions will, I am sure, be regarded as constructive and could well have some very positive effects. We should not, however, delude ourselves into thinking that they

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can ever wholly defuse the growing impetus for a stronger EP. We must have ideas of where in the legislative field that suggestion could be met.

16. One way of doing this may be to think in terms of extending the Cooperation Procedure to those areas (like the CAP, external trade policy and aspects of transport policy) which are already subject to majority voting (but where CP does not apply). You mention this possibility en passant, but do not endorse it. I think this concession would be greatly preferable to any extension of majority voting to the sensitive areas currently subject to unanimity (like aspects of social policy, let alone taxation or personal frontier controls). We are likely to come under some pressure for the latter. A concession of the former kind might help buy it off.

17. Extension of the Cooperation Procedure in the existing field of majority voting has one other, very important, advantage. Rather to my surprise, you do not mention it in your paper. It can be seen as helping to meet the "democratic deficit". Areas like the CAP and foreign trade policy - where there is majority voting but no EP power - are largely outside democratic control, this being difficult at national and European levels alike. Sir Christopher Prout has been particularly articulate on this point over the years, and I think his critique is broadly valid. (He also claims, wrongly I think, that competition policy falls into the same category: here the Commission is in fact exercising quasi-judicial powers rather like those of the Secretary of State for Trade and Industry in respect of references to the MMC).

18. Our difficulty in this whole area is, I suspect, epitomised in your categorical statement that "In the UK view, EC political accountability is already achieved through members of the Council answering to their national parliaments." I agree with John Gummer's assertion that this statement is inadequate as it stands, for a variety of reasons, not least because it stretches the truth. Certainly political accountability can be partly achieved through national parliaments - and we are proposing to enhance our own procedures to that end - but we raise false expectations if we assert that theirs is an exclusive rôle.



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National parliaments cannot scrutinise the Commission, and when many decisions in the Council are taken by majority vote, the notion of national parliaments regularly mandating Ministers to particular courses of action in Brussels is less and less convincing in practice.

19. Effective political accountability involves, of course, a combination of both national and European parliaments. Although the European Parliament can and must help check the Commission, it would be unwise to argue that there can never be any extension of its powers vis-à-vis the Council. In some areas that may be a legitimate possibility - we trod exactly this path with the Cooperation Procedure in the Single European Act. Flatly to assert the contrary, in any case, will be to discredit our attractive ideas for extending the Parliament's remit vis-à-vis the Commission.

20. The proposal of John Gummer that we might allow the European Parliament to dismiss the Commission by simple majority is, I think, a little overambitious. But we could do very well to pick up John's other ideas for imposing tighter responsibilities on individual Commissioners to defend and justify their policies before the Parliament (just as we are carrying forward his very sensible ideas for strengthening links between MPs and MEPS). Some of these latter changes (in Commission accountability to the Parliament) may require inter-institutional agreement rather than Treaty change. More generally, I strongly recommend that you refloat our 1985 proposal to limit the Commission to twelve members, as a positive, practical way of curtailing the ambitions and improving the performance of that institution.

21. Nick Ridley suggests that in order to make the Commission more accountable to the Council, the latter should set up special subcommittees to "monitor and question Commission representatives on a permanent basis, reporting any inadequacies to the Council for action". The Commission is not responsible to the Council in this way - it is a free standing institution appointed by national governments and dismissable by the European Parliament. The reform he proposes is likely to unite the Parliament, the Commission and many member states against us. I would not recommend it as part of our bargaining strategy.

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22. In order to improve the functioning of the Council, John Major suggests that we should consider extending the term of its Presidency from six months to one year. This is certainly an interesting idea. My suspicion is, however, that a six-month term has more than proved its worth as a stimulus to Presidency action, and that much of the recent impetus to enact Single Market legislation would have been missing if the term had been much longer. An interval of eleven years between national Presidencies could also turn out to be too long. Overall, I don't think that such a change would be worth the bother.

23. What does recommend itself, however - both as a means of improving the operation of the Council, and as a way of showing we are talking the same language as our partners - is a substantial strengthening of European Political Cooperation. An annex to your paper sets out practical means by which this might be done. As you rightly say, EPC is a development which the UK has strongly supported in the past, and where continuing to do so could serve us well in the future. It is an area where the UK has earned wide and genuine respect for the quality of its input.

24. I have left to last my comments on "subsidiarity". I very much welcome the fact that you have developed some detailed ideas of how the notion might be incorporated into the Treaty, either through general or specific references. Further legal advice will doubtless be required before we get that precisely right. Our "subsidiarity" proposal should be the "flagship" of our input to the Political Union IGC. We must take care to ensure, however, that if it is agreed in principle, references are not so general or ambiguous in practice that they have no operational effect.

Conclusions

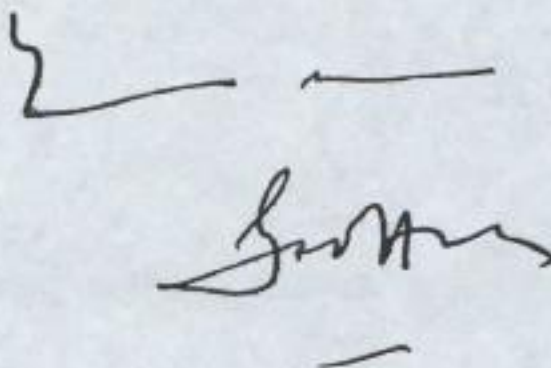
25. In conclusion, I strongly endorse the general thrust of your paper, and believe that only a committed, positive approach of the kind you advocate will bring results.

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26. I believe that, for a variety of reasons, the EMU and Political Union IGCs should be addressed from a common standpoint, since there is likely to be a strong read-over from one to the other. The most pressing need is to get credible EMU proposals in place. If we do so, this will generate political capital on the institutional front. In the latter field, where your paper makes specific proposals, I can happily subscribe to very much of what you propose. Certain differences of emphasis are set out above.

27. The notion of some that we can halt the European enterprise by diluting the Community through massive enlargement is wishful thinking. So too is the suggestion that we should espouse "variable geometry", which would all too easily endanger our position as a leading power.

28. In any case, any ideas that manifestly aim to stall integration or deliberately limit the emerging rôle of the Community are likely to fall on deaf ears. We must play from within, with the grain of the European process, with positive proposals likely to attract others. Your paper provides a good basis on which to build, towards that goal.



GEOFFREY HOWE



THE DEPARTMENT  
OF TRANSPORT



FROM THE SECRETARY OF STATE

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The Rt Hon Douglas Hurd CBE MP  
Secretary of State for Foreign  
and Commonwealth Affairs  
Foreign & Commonwealth Office  
Whitehall  
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My Ref:

Your Ref:

*Dear Douglas,*

- 9 MAY 1990

EC INSTITUTIONAL REFORM

Thank you for sending me a copy of your minute of 11 April to the Prime Minister together with the paper which considered the scope for EC institutional reform.

The proposal in the paper which probably has the greatest significance for transport is the suggestion, in Annex C, that the Co-operation Procedure should be extended to other areas of the Treaty where Qualified Majority voting is the rule. This would include Articles 75 and 84, which between them provide the Treaty base for most Community transport legislation.

The paper acknowledges that there are no benefits in such an extension per se. I agree: even under existing procedures, the European Parliament has significantly slowed down legislation and tried on occasion to introduce irrelevant and unhelpful amendments. And transport liberalisation measures like others can of course be linked to undesirable harmonisation or social measures. Further extending the Parliament's involvement can only exacerbate these difficulties.

On the other hand, I realise that the institutional reforms will not come into effect until we have passed the 1992 Single Market deadline. And I see the tactical logic of offering an extension of the Co-operation Procedure in order to stave off giving the Parliament powers of co-decision with the Council. If it is agreed that this tactic should be pursued, and if others accept that the Co-operation Procedure should be extended to other Treaty articles where Qualified Majority voting already applies, I can agree.

The second proposal in the paper which is of particular concern for transport is the idea that the principle of subsidiarity should be incorporated in the Treaty. This appears to be a helpful move although it might narrow in some cases the scope for resisting proposals on competence grounds. I understand that the Law Officers are looking at ways in which this can be done without giving hostages to fortune.

My officials are examining the full implications for transport of the Belgian proposal to extend qualified majority voting particularly if it is suggested that it should apply to Article 75(3). We rely on the unanimity rule under this Article concerning transport measures 'liable to have a serious effect on the standard of living' to get derogations on lorry weights in particular. But again this cuts both ways in that other Member States can also of course use the rule and obtain derogations where we would not want them to.

In general then I would not expect our problems on the transport front to raise serious difficulties for your proposals.

I am sending copies of this letter to Cabinet colleagues, the Attorney General, the Chief Whip and Sir Robin Butler.

*Yours* *E. Sel,*  
*Law*

CECIL PARKINSON

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PRIME MINISTER

8 May 1990

cc: Sir P Cradock

EC INSTITUTIONAL REFORM

OD on Thursday will be considering the FCO's paper on institutional reform. You have already indicated that it meets your general approval.

There are however two very important areas where the FCO paper departs from views which you have put forward strongly both in public and private. These concern the powers of the European Parliament and the Commission's exclusive right of initiative. In endorsing the general thrust of the FCO proposals, you need to ensure that these key concerns are not overlooked.

POWERS OF THE EUROPEAN PARLIAMENT

In the House last week you said

"we should be wary of further increasing the powers of the European Parliament, particularly over finance".

But the FCO paper (paras 30-32) does in fact propose this, mainly through strengthening the Parliament's Budgetary Control Committee to give it PAC-type powers, for example to summon Commission officials and formally to clear CAP accounts (now the preserve of the Commission and Member States). The Budgetary Control Committee's powers are at present minimal, and there is nothing it would like better than more teeth.

This may look fairly innocuous. But the power of any Parliament depends on financial control of the executive. Over time such a change is bound to increase the Parliament's powers, as well as its own view of its importance. The next step would be for it to seek powers over the raising of revenue, to match its new powers over

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controlling spending. The logic would be hard to resist. It is only Westminster's control over supply which creates the justification for the PAC and scrutiny over the executive.

The whole basis of your approach to the European Parliament is that its legitimacy should not be increased by its obtaining all the apparatus of a national legislature's control over the executive. Rather, we need to sustain and develop the view that the Council is the Community's legislature. Control over finance is critical to this.

Having said that, there is no doubt that greater financial discipline needs to be imposed on the Commission. But far the better way to achieve this is to concentrate on the FCO's excellent proposals to strengthen the Court of Auditors (para 33). One might well go further and propose giving the Court a specific VFM function like our own Audit Commission. That is much more likely to improve discipline over time without any of the dangers of entrusting such work to the Parliament.

Recommendation

Giving any extra powers to the European Parliament over finance is the start of a slippery slope and goes against your own well-publicised stance. The UK should not put forward any proposals at all in this area, but rather argue strongly for the status quo. Reforming the Court of Auditors should be presented as the best way of increasing financial discipline. This could include a specific VFM duty.

The Commission's Exclusive Right of Initiative

In the House last week, you also said

"we would propose that the Commission should not have the only power of initiative. Ministers should be able to amend the draft directives".

You have touched on this theme many times.

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But the FCO paper (para 14) concludes that the UK should not propose this, on the grounds that it could work against our interests by reducing the Commission's liberalising thrust in areas like the Single Market, and generally slowing down the running of the Community. More bluntly, the FCO doesn't want to propose this because it judges it has no chance of acceptance and thinks it would be regarded as spoiling tactics.

These are important considerations but they need to be weighed against the concept you have put forward of the Commission's gradually becoming a genuine impartial civil service, and the need to rein back the centralising tendencies which the Commission personifies.

They need also to be weighed against the fact that you have said so often that you think the Commission's exclusive power needs looking at.

The FCO paper argues that the Commission's ambitions and centralising tendencies can be held in check by relying on subsidiarity and rigorous tests of competence. But this is surely not enough, and going no further than this to deal with one of the most pressing problems of the Community - the growing power of the Commission as a politicised bureaucracy - would invite criticism that you had backed off your most radical idea for reforming the way the Community works.

You should note that Nick Ridley has also proposed action to remove the exclusive right. He will raise this at OD. He recognises the dangers of change, but argues that removal of the exclusive right in relation to new legislative proposals (as opposed to current business such as external trade) would be tenable and do much to make the Commission less overbearing.

A safeguard against abuse of a right of initiative which was given also to Member States could, he argues, be to require anything they propose to be approved by QM (or unanimity if necessary) and then treated as a mandate to the Commission to produce detailed proposals.

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This is worth careful examination.

It is not a question of taking away all the Commission's powers, but redressing a balance that has become rather lop-sided. The aim should be to create a situation where the Commission cannot, for example, pick and choose among Council amendments to its proposals threatening otherwise to withdraw the whole proposal. The way you put it in the House, emphasising the importance of amendments at the Council stage, captures the essence of this.

Recommendation

Do not accept the FCO argument that we should do nothing about the Commission's exclusive right of proposal. Further detailed consideration is needed, notably of Nick Ridley's ideas and variants upon them, in order to enhance the role of Member States in the Council.

*John Mills*

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The Rt Hon Douglas Hurd CBE MP  
Secretary of State for Foreign and  
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8 May 1990

copy 3/5

Dear Foreign Secretary

EC INSTITUTIONAL REFORM

Ap 1745

I have read with interest your note of 11 April to the Prime Minister and the associated paper.

I am sure you are right to start from the premise that further institutional reform is now inevitable, and that we should therefore begin to prepare some ideas to take to the conference table. I think the paper sets out the main issues well, but I have a few comments on the matters raised.

On possible adjustments to the decision-making process, you suggest that the environment may be an exception to the general conclusion that extension of qualified majority voting (QMV) should be resisted. It is of course true that the option to use QMV already exists in Article 130(S) (though it remains so far unused), and it is certainly the case that there will be strong pressure from the Commission and other member states for QMV to become the norm here. You rightly identify the two main arguments for such a change - to speed-up decision-making in an area with a growing backlog of new legislation, and to avoid important or urgently needed measures being blocked by one or two less environmentally conscious member states. Both of these arguments would be all the more powerful in the event of an enlarged Community.

On the other hand, it must be appreciated that such a change could in some cases carry a price tag. The United Kingdom would not be able, as in the past, to withhold agreement in isolation in pursuance of particular national interests. But we are no longer generally regarded as the "back-markers" in this area, and on most issues now find ourselves more comfortably placed in the middle of the pack. I agree that the subject merits further consideration, and am sure that

it will arise in any discussions on reform, whether or not we choose to advance it; speaking purely departmentally, I think I could go along with a change here. But we should recognise the broader policy implications of such a decision and that these are likely to be more extensive as we enter a period of active environmental diplomacy on major issues.

I note in passing that there appears to be some rather loose drafting in paragraph 12(b) of the paper: whilst I fully agree that environment is an area where further EC legislation is desirable, it is not necessarily the case that this should involve uniform standards throughout the Community, or that it should be confined to tackling cross-border pollution problems.

On subsidiarity, I agree that this is a principle we should seek to incorporate more widely into the Treaty. As you know, the environment is the only area to which it currently applies. It has been a useful concept to some extent - particularly as a basis for a welcome shift towards more broad-brush Community legislation which leaves detailed matters to member states. However, it is likely to be of very limited use once a proposal is on the table without some formal mechanism for enforcing it at an early stage. I understand that the Law Officers are looking at this point, and I would see some merit in a mechanism involving confirmation by the Council that the objective test of subsidiarity (and perhaps Community competence also) were satisfied before the Commission could formally submit its proposal. Such an arrangement would make it possible for the Council to nip unacceptable Commission ideas in the bud: at present once a proposal is made there is a strong likelihood that it will eventually be adopted in one form or another.

I fully agree that we should place great emphasis on measures to improve implementation and enforcement procedures. Particularly useful would be to provide the European Court with some form of punitive sanction against member states that fail to abide by its judgements. We could also seek to strengthen the roles of the Council and the Parliament here. Whilst I agree we must continue to encourage the Commission to make greater use of its existing enforcement powers, we should be cautious about extending these: the creation of a Community environmental inspectorate, for example, is an idea which will almost certainly resurface, but which we have hitherto strongly resisted.

Improvements in financial accountability are clearly desirable and should be pursued. Improved political accountability is likely to be much more problematical. I would only comment here that the environment is an area in which the European Parliament is very active, but where its lack of accountability and responsibility for the effects of its actions often tends to lead to an absence of realism in what it proposes. Its current role most resembles that of an environmental pressure group. I would therefore see dangers in any suggestion to increase the Parliament's powers or to give it a right of proposal. I can on the other hand see some merit in giving the Council a right of initiative to dilute the Commission's

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concentration of power in this area. At the very least, this might be a useful bargaining counter in negotiations on reform. The risk of way-out items being pursued by a single member state could be reduced by requiring qualified majority approval in Council for a particular initiative before the Commission were obliged to pursue it.

I am copying this letter to Cabinet colleagues, the Attorney General, the Chief Whip and Sir Robin Butler.

CEJ Bush

pp CHRIS PATTEN

(Approved by the Secretary of State  
and Signed in his Absence)

Enko Pac : Budapest PNH





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8 May 1990

The Rt Hon Douglas Hurd CBE MP  
Secretary of State for Foreign and Commonwealth Affairs  
Downing Street  
LONDON S W 1

*Douglas Hurd*

**EC INSTITUTIONAL REFORM : SUBSIDIARITY**

You asked the Law Officers, in paragraph 6 of your minute of 11 April to the Prime Minister, to consider the subsidiarity issue identified in paragraphs 18-24 of, and Annex D and G2 to, the FCO paper enclosed with your minute. The following advice is agreed between the English and Scottish Law Officers.

I am afraid I must begin this letter by expressing the Law Officers' concern that, despite a written request from my office, we were not provided with instructions agreed by the relevant departmental lawyers or indeed any instructions other than the papers you circulated on 11 April. For the Law Officers to be asked to advise on important matters of this sort without the relevant issues and interests being comprehensively identified in proper instructions is unsatisfactory, especially when - as at present - there are differences of opinion within Departments or between them.

We assume that all Ministers will share the objective of avoiding unnecessary Community legislation (paragraph 18 of the FCO paper). We also assume that Ministers would regard this objective as covering two somewhat different sub-objectives:

- (i) that action should not be taken at Community level unless its objective can be achieved only by action at that level; and

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- (ii) that action at the Community level should go no further than is necessary to achieve the Community objective.

In other words, subsidiarity is intended to be a means of preventing, or at least slowing down, the extension of Community legislation into new areas such as education or social policy; and is also intended as a safeguard against over-regulation by the Community, not only in these new areas but also in areas such as agriculture and the common commercial policy where the Community is already acknowledged to have exclusive competence.

If these are indeed the UK objectives, it is worth asking whether the UK believes that they are shared by others in the Community who are supporting the concept of subsidiarity, such as M. Delors. To the extent that the objectives of others are thought to be different, this suggests that their concept of subsidiarity may be different from ours and that, even if they would subscribe to the same formulation of the principle as the UK, they would expect its practical effect to be different. It may be, for example, that some would see subsidiarity as extending beyond legislative decisions to executive decisions, and beyond central government decisions to local government decisions. The Law Officers therefore must sound some notes of caution.

First, there is at present no agreed definition of subsidiarity. Some formulations, arguably including the only formulation at present incorporated in the Treaties (Article 130 r.4 of the EC Treaty), might be construed as actively encouraging Community action once the judgment is made that a particular objective is better achieved at Community level than the level of Member States. Not all likely formulations would apply subsidiarity where the Community assumes competence in a new area, for example by legislating under Article 235 of the EC Treaty; and not all formulations would address the problem of over-regulation once the decision to regulate a specific topic has been taken.

Second, there is a risk, which is impossible to quantify while the definition of subsidiarity is still at large, that the new principle will extend, rather than restrict, Community competence. The UK has been less successful than we



would have hoped in arguing for a restrictive construction of Community competence within the Community. Nevertheless, competence is justiciable and does act as a restraint on Community legislation. Unless it is clearly established that subsidiarity will operate as an additional restriction on Community action, and that Community competence will remain a precondition of such action, we may find that the relatively subjective test of subsidiarity ousts that of competence, to the detriment of the UK.

Third, whatever definition of subsidiarity is agreed, it will involve the exercise of subjective judgment. This means that opinions will differ as to how the concept applies in a particular set of circumstances and the UK may find that its own view is in a minority.

This leads to the question of enforcement. If the UK believes that proposed legislation breaches the principle of subsidiarity, will it be able to appeal to the European Court? Clearly not if subsidiarity is agreed only on a political level and is not written into the Treaties. But even if subsidiarity is written into the Treaties, there will be very considerable difficulties about enforcement.

Despite its reputation in some quarters, the European Court has in the past been reluctant to intervene in any question which it regards as essentially a matter of political judgment. An illustration of this was its refusal to take a view on what was "necessary to ensure the proper functioning of the Community" in the context of the capital movements provisions of the EC Treaty (Article 67). If subsidiarity were inserted in the Treaty in the form of general provisions such as those in Annex D to the FCO paper, and the present procedures continued under which legislation can only be challenged after it has been enacted by the Council, the Law Officers think the chance that the European Court would be induced to override legislation, on the basis that Community legislation was unnecessary, is remote. The new provisions would be technically justiciable but would depend on a political consensus for their effective implementation. It may be worth considering devices by which such a consensus might be buttressed, for example a conciliation procedure under which the compatibility of proposed legislation with subsidiarity would be formally considered by the Community institutions, but such devices would clearly have their limitations.



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It would be possible significantly to increase the pressure on the European Court to intervene on the issue of subsidiarity by including in any Treaty amendments a new procedure under which the Court could be required to give a preliminary ruling on whether proposed legislation was compatible with subsidiarity, which would have a suspensive effect if the Court ruled that the subsidiarity criterion had not been met. Moreover, general language such as that in Annex D could be coupled with specific treaty provisions, perhaps in the form of a list, expressly prohibiting Community action on particular subjects for reasons of subsidiarity. Provisions of this sort, which would in effect seek to redefine and cut back Community competence, could not be ignored by the Court. On the other hand, even if the UK were able to negotiate all the Treaty provisions which it wanted (and the drafting of specific exclusions would not be straightforward) colleagues should not underestimate the ability of the Court to reach communautaire decisions in face of what appears to the UK to be a clear legal barrier.

There has apparently been some discussion within the Community about the possibility of setting up a new constitutional court under the Treaty to carry out the function of testing legislation against the subsidiarity criterion. Although there may be much to be said for this idea, on the basis that the European Court is an inappropriate body to make political assessments and should not be encouraged to do so, there must be considerable doubt as to whether any new tribunal, the composition of which would have to be agreed by by all the Member States, would be significantly less communautaire than the Court.

Clearly further work is needed on possible enforcement mechanisms. Indeed we recommend that further work is done at official level on the whole topic of subsidiarity, referring to the Law Officers as necessary. This work should include looking at the relevance of subsidiarity to particular areas of the Treaties, and consideration of what Treaty amendment would best suit the UK's objectives. At this stage the Law Officers consider it premature to analyse the drafts in Annex D. We do however question whether the suggested test of a transfrontier element to policy is a useful addition to the basic definition of subsidiarity.

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Our views on the question of subsidiarity can be summed up as follows. We share the objective of avoiding unnecessary Community legislation, and we agree that the UK should seek to exploit the general Community support for the principle of subsidiarity. We see, however, certain risks and weaknesses in the concept. We believe that, unless there is a continuing political consensus as to how the principle will be applied, a subsidiarity test will prove a less effective counter-balance to integrationist and centralising tendencies within the Community than colleagues would wish.

I am copying this letter to the Prime Minister, members of the Cabinet, the Lord Advocate, the Chief Whip and to Sir Robin Butler.

*James G. ...*  
*... ..*

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PM/90/023

PRIME MINISTER

EC: Political Union

1. We agree on the need for an active UK contribution to the analysis and preparation of proposals commissioned at Dublin. This note sets out how we might build this up.
2. We were able to get agreement, in Foreign Affairs Council on 7 May, on sensible procedures ensuring a brisk pace and the right coverage. Six special meetings of COREPER, and Foreign Ministers' discussions on 19/20 May and 18 June are envisaged: we have suggested a third Ministerial discussion (in early June) to ensure that the report to Dublin II fully matches the requirement.
3. I believe we should run our two themes concurrently, ensuring that the analysis sets sensible parameters for later discussion (i.e. rules out our "no-go" areas) and focusses on the areas where we shall have substantial positive proposals to put forward in the autumn, or in the eventual IGC.
4. Setting out our "no-go" areas should not be difficult, for you have set the ball rolling. The trap to avoid is being drawn into an attempt to define what a political union (like EMU Stage III) might look like in 2100; but there will be plenty of support for our

/arguments

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arguments that political union is a process not a product, and that the Dublin remit is for an analysis not just of areas where institutional reforms might make sense now, but also of areas not to be covered. We shall encourage others to sign up to the "no-go" areas you suggested in Dublin, and consider adding to the list; and we shall work for them to be included in the report to Dublin II.

5. On the areas of our positive proposals we shall be helped by the wording of para. 7(i) of the Dublin Conclusions which sets out three areas for examination:

- (i) how to "strengthen democratic legitimacy";
- (ii) how to make the Community institutions work efficiently and effectively; and
- (iii) how to ensure "unity and coherence in the Community's international action".

6. If OD agrees my earlier paper on institutional reform, we shall have useful suggestions to offer in all three areas:

- (a) on democratic accountability, we shall be stressing the role of national parliaments in relation to the Council (holding governments to account for Council decisions, and scrutinising legislation); the role of the European Parliament in holding the Commission to account, particularly on financial accountability, where we envisage a Public Accounts Committee role for the EP, and a strengthened Court of Auditors; also improving links between Strasbourg and national parliaments;

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- (b) on making the institutions work better, we shall bring out the key importance of implementation, compliance and enforcement; the case for strengthening the role and effectiveness of the ECJ, giving it teeth on compliance issues; and perhaps for more systematic application of the principle of subsidiarity;
- (c) we shall also stress the need to get the right institutional balance; reinforcing the Council's dominant role in decision-making (but possibly agreeing to QM voting on Environment issues - a subject on which Chris Patten will I think comment before OD); strengthening the machinery of European political cooperation; and improving the links between the two structures.

7. We agreed not to put our cards on the table in a definitive UK paper, which would merely give critics at home and abroad a target to shoot at. But I envisage a series of speeches, building on your Statement in the House, in which we would surface key elements in our approach - in some cases interrogatively - with follow-up in COREPER.

8. In area (i), the Chancellor will be able to report in OD on Treasury work on how best to secure greater Commission financial accountability: the public launch of such material might be appropriate to a speech by him.

/On

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On implementation and compliance there might be a case for encouraging Nick Ridley to fire our first shot - though other elements in his OD letter would be unsuitable (as they conflict with our positive approach) - and we shall in any case publicise our letter to Delors. The complementary roles of the EP and national parliaments is a theme which you or I could tackle; and I envisage floating some of our ideas for EPC improvements rather quickly, perhaps in Rome on 15 May.

9. The campaign must be effectively coordinated, but I see advantage in moving fast, to retain the tactical advantage abroad and at home which we have secured.

DH.

(DOUGLAS HURD)

Foreign and Commonwealth Office  
8 May 1990

CONFIDENTIAL

cc/c

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Oddf with Ysgrifennydd Gwladol Cymru

The Rt Hon David Hunt MBE MP

From The Secretary of State for Wales

CT/12173/90

4th May 1990

*Dear Douglas*

**EC INSTITUTIONAL REFORM**

*WITH COP*

I have read with interest your paper to the Prime Minister on the forthcoming negotiations on EC institutional reform.

I am sure that the central premise in it is correct: namely that we must seek as early as possible to define those areas of the Treaty which are of fundamental importance to the UK on which we are not prepared to negotiate, as well as those areas where it will be in our interests to consider change, either because it will improve the operation of the Community from the UK's point of view or because it will make our negotiating position more tenable.

If this work can be initiated by OD against a background of information on the negotiating aims of other Member States then that would be helpful. What we need is an indication of the extent to which our ideas might be acceptable to partners as well as of those elements which might give rise to problems in negotiation.

As with other colleagues my own view is that the key issue is the accountability of the Commission to the Council and to Member States and I look forward to seeing detailed proposals as to how this could be improved. The feasibility of applying a UK model along the lines of the PAC is worth exploring further although one disadvantage of proposing an increase in the European Parliament's control of the execution of the Budget might, of course, be that it will increase the pressure by others for enhanced EP powers on revenue raising. We also have to be prepared for any Community version of the UK PAC model to entail increases in both bureaucracy and administrative costs domestically since that has been the case with the fraud proposals and to a lesser extent the proposals on security of information.

/Pressure by

The Rt Hon Douglas Hurd CBE MP  
Foreign and Commonwealth Office  
Downing Street  
London SW1A 2AH



Pressure by the EP for improved reporting and information on Budget execution is, for example, likely to increase the Commission's requirements on Member States and although we may feel that other Member States may have more to fear from this than does the UK, experience on previous initiatives of this sort indicate that this does not necessarily follow. Indeed on the structural funds, which have been the subject of improved budgetary control and monitoring, administrative costs have risen considerably as a result of the Commission's additional requirements.

Part of the problem is, of course, the difficulty which we have in exercising control over the Commission's administration of policy since most policies are administered through the medium of committee structures on which we may not be adequately represented and whose proposals Member States cannot overturn, even if the preponderance of opinion is against the Commission's recommended line of action, since the committee is invariably advisory. Improving the EP's control over the Commission's execution of the Budget will of course do nothing to rectify this situation. We also presumably have to accept that in a number of instances the Parliament's reaction to scrutiny will be to tell the Commission that they should be executing the Budget in ways which are undesirable from our point of view. The long standing question of the "additionality" of EC receipts springs immediately to mind. I hope, therefore, that alongside our consideration of the potential for review of the main institutions we will also be able to at least lay the basis for some further consideration of the structure and powers of such Committees since it seems to me that Member States' ability to influence the execution of policy is much less than it ought to be.

Finally, there is also the question of subsidiarity. It will again be useful to see the Law Officers' views on how this might be taken up but if we opt for a draft which says that action should only be taken at the Community level when it would "ensure greater benefit and effectiveness than action at the level of individual Member States" (cf. Annex D) then it seems to me that it would be extremely easy for other Member States to argue that most issues should be handled in this way, or at least that action should be taken within an agreed framework. This may of course explain why others are so keen to espouse the doctrine.

/The problem





The problem with the concept is, of course, its very subjectivity and the danger that, over time, it will serve to weaken the fundamental consideration of competence. If we do decide that it should be incorporated into the Treaty my own view, therefore, is that the wording will have to be very carefully considered and the references will have to be as specific as possible to prevent unhelpful exploitation of a general Treaty preamble in areas which we might find totally unacceptable to our long term interests.

Copies of this go to the Prime Minister, Cabinet colleagues, the Attorney General, the Chief Whip and to Sir Robin Butler.

Yours ever

David

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*Spoken to DM & explained:  
a quota would be protectionist.  
half the time it's for protectionist.  
for national interest should provide  
state of the Commission. Too many N.J.C.  
there are hostile to us. not*

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(FRAME INSTITUTIONAL)

FOLOW-UP TO EUROPEAN COUNCIL: POLITICAL UNION: DUTCH VIEWS

SUMMARY

1. THE DUTCH GOVERNMENT ALREADY WORKING ON IDEAS OF SUBSTANCE AND PROCEDURE. LIKELY TO BE LOBBYING ON THEM BEFORE LONG. WE SHOULD COMPARE NOTES WITH THEM SOON.

DETAIL

2. AT ONE OF MY REGULAR LUNCHES TODAY WITH VAN SWINDEREN (DIRECTOR GENERAL FOR EUROPEAN COOPERATION, MFA) AND THE FRENCH AND GERMAN AMBASSADORS, THE FORMER SAID THAT THE DUTCH WERE ALREADY AT WORK ON THE THREE TOPICS IDENTIFIED AT THE EUROPEAN COUNCIL AS CENTRAL TO THE NEXT STEPS TOWARDS POLITICAL UNION (DEMOCRATIC LEGITIMACY, GREATER EFFICIENCY, AND UNITY AND COHERENCE IN INTERNATIONAL ACTION). THEY WERE ALSO LOOKING CLOSELY AT A POSSIBLE TIMETABLE. THEY BELIEVED THAT IT WOULD BE DIFFICULT FOR AN IGC TO REACH SATISFACTORY RESULTS BY THE END OF 1991 AND SAW THE END OF 1992 AS A MORE REASONABLE TARGET DATE. THIS WOULD LEAVE A YEAR FOR RATIFICATION OF TREATY AMENDMENTS. IF THESE WERE TO INCLUDE NEW POWERS FOR THE EUROPEAN PARLIAMENT, IT WAS IMPORTANT THAT THEY SHOULD BE IN PLACE BEFORE THE EUROPEAN ELECTIONS IN 1994.

3. VAN SWINDEREN ADDED THAT AN IGC SHOULD ALSO CONSIDER BUILDING INTO THE TREATIES A REVISED ARTICLE 235 WHICH WOULD PROVIDE MORE EXPLICITLY FOR FURTHER INSTITUTIONAL STEPS IN THE YEARS AHEAD. TO BE WORKABLE ANY SUCH ARTICLE WOULD HAVE TO PRESERVE THE PRINCIPLE OF UNANIMITY AS ITS BASE.

4. COMMENTING ON THE THREE POLICY AREAS, VAN SWINDEREN SAID THAT THE 'DEMOCRATIC DEFICIT' PARTICULARLY PREOCCUPIED HIS MINISTERS. THEY WANTED TO FINND WAYS OF STRENGTHENING THE POWERS OF THE EUROPEAN PARLIAMENT ALTHOUGH THEY WERE NOT IN FAVOUR OF GIVING THE PARLIAMENT

? THE RIGHT TO INITIATE LEGISLATION. THIS SHOULD REMAIN THE PEROGATIVE OF THE COMMISSION. ONE POSSIBLITY WOULD BE TO TIGHTEN LINKS BETWEEN THE EUROPEAN PARLIAMENT AND NATIONAL PARLIAMENTS (FOR EXAMPLE THROUGH A SYSTEM OF DUAL MANDATES) IN A WAY WHICH WOULD STRENGTHEN PARLIAMENTARY CONTROL OF EC POLICY-MAKING SIMULTANEOUSLY AT NATIONAL AND COMMUNITY LEVELS.

5. AS REGARDS IMPROVING EFFICIENCY, VAN SWINDEREN SAID THAT THEY WERE THINKING IN TERMS OF A WIDE EXTENSION OF MAJORITY VOTING, AS WELL AS OF A REVISION OF VOTING PROCEDURES IN COMMISSION/COUNCIL COMMITTEES. ON RELATIONS BETWEEN POLITICAL COOPERATION AND COMMUNITY POLICY MAKING, THE DUTCH WERE ATTRACTED BY THE BELGIAN IDEAS. THEY THOUGHT THAT IN THE FIRST INSTANCE IT MIGHT BE USEFUL TO CONSIDER ANY CHANGES IN RESPECT OF A SPECIFIC POLICY AREA, SUCH AS EASTERN EUROPE.

## COMMENT

6. MFA OFFICIALS HAVE TOLD US SEPARATELY THAT THESE IDEAS ARE A PRODUCT OF ONE OR TWO EARLY MEETINGS CHAIRED BY STATE SECRETARY DANKERT. ONCE THE DUTCH HAD THEIR IDEAS MORE FULLY WORKED OUT, THEY INTENDED TO COME FORWARD WITH THEM, THERE APPEAR TO BE A NUMBER OF POINTS IN THE BELGIAN PAPER WITH WHICH THEY CAN AGREE, BUT THEY CLEARRLY DO NOT WISH TO LEAVE THE FIELD TO THE BELGIANS. IT WOULD I BELIEVE BE MOST USEFUL IF AT AN EARLY STAGE WE COULD COMPARE OUR OWN THINKING WITH THE DUTCH AT A SENIOR OFFICIAL LEVEL.

JENKINS

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DEPARTMENT OF SOCIAL SECURITY  
 Richmond House, 79 Whitehall, London SW1A 2NS  
 Telephone 01-210 3000

*From the Secretary of State for Social Security*

CONFIDENTIAL

The Rt Hon Douglas Hurd CBE MP  
 Foreign Secretary  
 Foreign and Commonwealth Office  
 Downing Street  
 London  
 SW1

4 May 1990

COO 4/5

Dear Foreign Secretary

filed into  
 copy  
 17/4/90

EC INSTITUTIONAL REFORM

I have read with great interest the FCO paper enclosed with your note of 11 April to the Prime Minister. I agree with the main thrust of what you say.

I was slightly surprised that the paper came down on the side of retaining the Commission's exclusive right to initiate proposals, apparently on the assumption that the alternatives would be to give an exclusive right to some other body or to leave a vacuum where any institution might make proposals. Like Nick Ridley, I think it would be worth considering an arrangement any Member State could put a proposal to the Council, which would then mandate the Commission if unanimity or the necessary majority, depending upon the usual criteria, was obtained.

At present all social security matters require unanimity for approval and I would wish to keep it that way. So, I suspect, would most other States. Social security costs a lot of money and we would not want to be forced to spend more without our agreement. But I would not disagree with your paper's conclusion that qualified majority voting might replace unanimity in some areas, particularly the environment.

E.R.

The doctrine of subsidiarity is one we wholeheartedly support in the social security field, as do our fellow member states, and the Commission appear to accept this. Nevertheless I support strongly the proposal to enshrine the principle in the Treaty. I hesitate somewhat over the phrase "Trans-frontier elements" that appears in the drafts of your paper. I fear that almost anything could be shown to have such elements - for example social security contributions affect employers' costs and so trans-frontier competition. I can foresee much discussion and argument over the wording of any provisions.

I am sure we would have much to gain from the Commission taking a stronger line on implementation and enforcement and on greater transparency (and accuracy!) in making the results known. Our record is good and clearer evidence of this would help to demonstrate that we do more, and more quickly, than some countries whose pro-Europe rhetoric is loud. You mention the possibility of increasing the Commission's powers in investigating fraud - I wonder whether there is any scope similarly for increasing the responsibilities and powers of the Court of Auditors in this respect.

Overall, I agree with the four main conclusions in paragraph 35 of your paper.

I am copying this to the Prime Minister, to other Cabinet colleagues, the Attorney-General, the Chief Whip and to Sir Robin Butler.

Yours sincerely,

John P. Hodge

pp. TONY NEWTON  
(approved by the  
Secretary of State and  
signed in his absence)

EURO Poc: Budget P.46





Treasury Chambers, Parliament Street, SW1P 3AG  
01-270 3000

FOREIGN SECRETARY

EC INSTITUTIONAL REFORM

*Rep. 1945*  
I read your paper with considerable interest, and I look forward to our discussion in OD next week. In general, I believe we should seek constitutional development in the Community which:

- (i) buttresses the power of the Council against the Commission and European Parliament aspirations;
- (ii) gives a larger role for national parliaments;
- (iii) concedes greater powers to the European Parliament but only for the scrutiny of the implementation of policy.

2. Your paper certainly goes in this direction. We need to work up your ideas so as to find practical ways of strengthening Westminster's role, and increasing the Council's powers and influence.

3. On enlargement, I suspect that the pressures for enlargement in the '90s will be earlier and more intense than your paper suggests. The political case for welcoming some EFTA and Eastern European countries will increasingly be seen as a strong one, especially for countries in Eastern Europe facing a daunting political and economic future: for them, the prospect of eventual membership could be a highly stabilising force and should encourage them to sustain their political and economic reforms.



But I am also well aware of the dangers that enlargement will pose, not only in the financial area, but also by leading to more power at the centre, and because enlargement will bring in countries which do not share some of our liberal economic instincts.

I hope  
less

4. I would want to draw a clear distinction between

- (a) recognition on our part of the likelihood of enlargement in the later 1990s, and
- (b) advancing enlargement as an argument in the case for institutional reform.

In our own private discussions, I certainly favour (a), but (b) may well be unhelpful in the context of the IGC on institutional reform.

5. Nicolas Ridley goes on, in paragraph 2 of his letter, to propose different patterns of constitutional development within the Community. This should be examined further.

6. On subsidiarity, we must certainly investigate ways in which this could be turned to our advantage, perhaps by writing the principle into the treaty in such a way that it applied to the Commission, to the Council, and to the European Parliament. I am not much attracted to the "clear trans-frontier element to policy" line, because most Community measures can be seen in this light. I believe that subsidiarity could help in reducing the Commission's influence by tempering its right of initiative and it is worth looking further at the possibility of enabling the Council to amend proposals of the Commission other than by unanimity. This may need to be balanced by an explicit endorsement in the Treaty of the Commission's right to withdraw





legislative proposals if the Council abuses its right of amendment.

7. Improved enforcement and implementation procedures are certainly an important part of the UK's approach to the Community over a wide range of issues. I suggest that officials resume the work begun in 1985 to assess the desirability of a Treaty amendment empowering the ECJ to impose fines on Member States for persistent non-compliance with EC obligations. We will need to consider carefully how to relate this to the enforcement of budgetary rules now under discussion in preparation for the EMU IGC.

8. I also see scope for Treaty amendments designed to improve financial management, to make the Commission far more accountable for the execution of spending programmes and to offer the Parliament more influence in this area without enhancing its powers over policy or legislation. As your paper suggested, we should focus on the respective roles of the European Court of Auditors and the Parliament's Budgetary Control Committee; and seek to draft mutually reinforcing amendments which would move these two bodies closer to the sort of relationship which exists in the UK between the National Audit Office and the Public Accounts Committee. That relationship cannot, of course, be replicated in its entirety, given that the European Parliament, unlike our own, is not sovereign in financial matters.

9. There is a great deal of work to be done before the IGC. I propose that we charge officials with providing a full analysis of and recommendations on the following areas:

- (i) **Subsidiarity:** as you suggest, let us ask the lawyers to pursue their work.

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- (ii) Implementation and enforcement: let us try to write appropriate changes into the Treaty.
- (iii) Financial accountability: my officials will shortly be circulating a paper based on the ideas outlined in paragraph 8 above.
- (iv) Increasing the powers and effectiveness of the Council, including strengthening the Secretariat and the possibility of making each Presidency last 12 months rather than 6.
- (v) The practical and political implications of different patterns and speeds of constitutional development within the Community.

10. I am copying this minute to Cabinet colleagues, the Attorney General, the Chief Whip and Sir Robin Butler.

A handwritten signature in cursive script, appearing to read "John M.", written in dark ink.

[J.M.]

3 May 1990

Enlo for: Budget P706



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RUE

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celc

10 DOWNING STREET

LONDON SW1A 2AA

*From the Private Secretary*

MR. PARKER,  
Cabinet Office.

EC INSTITUTIONAL REFORM: OD DISCUSSION

I am grateful for your minute of 3 May about the meeting of OD on 10 May. I think we should go ahead on the basis you propose, inviting in addition those listed in paragraph 3 of your minute.

I also think it would be helpful if the Secretariat could produce a short note listing all the specific ideas and proposals which are being canvassed within the Government, i.e., those in the Foreign Secretary's minute and its annex on institutional reform, together with the further suggestions made in correspondence by the Trade and Industry Secretary and other colleagues. This will give us a compendium of the ideas in circulation and a basis for refining those which we want to pursue further.

C.D.P.

(C. D. POWELL)  
3 May 1990

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MR POWELL - NO 10

cc: Ms Phippard

EC INSTITUTIONAL REFORM: OD DISCUSSION

1. Following our rather rushed telephone conversation today, this is just to confirm that:

- we can assemble those chiefly concerned for an OD meeting on Thursday 10 May after Cabinet (the following week is ruled out by diaries);
- Departments consider that it would be helpful if the Secretariat provided a short paper picking out the key issues and identifying where further work is needed. We will be happy to do this.

2. You will recall that the Secretary of State for Trade and Industry will be away in Japan over this period: he would be content for a meeting to take place in his absence, but hopes that Mr Redwood may attend to represent his views. The Secretary of State for Defence will be in Canada: we have assumed that his presence is not essential.

3. In addition to the regular members of OD, we propose inviting the Minister of Agriculture, the Secretary of State for Employment, the Secretary of State for Environment and the Attorney-General (who may need to be represented by the Solicitor General).



LYN PARKER

3 May 1990

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Ministry of Agriculture, Fisheries and Food  
Whitehall Place, London SW1A 2HH

*CEPE*  
*(2)*  
*2/5*  
*Zine Minister*  
*COO 3/5*

From the Minister

CONFIDENTIAL

The Rt Hon Douglas Hurd CBE MP  
Foreign Secretary  
Foreign and Commonwealth Affairs  
Downing Street  
London  
SW1A 2AL

3 May 1990

*ms*

*Dear Foreign Secretary*

EC INSTITUTIONAL REFORM

*Asap P443*

You asked for ~~comments~~ on the papers you forwarded to the Prime Minister on 11 April.

Tactically, we start these discussions with our motives somewhat suspect. This is partly, of course, because we find it difficult to subscribe to or associate ourselves with vague phrases like "political union" without any generally agreed precise meaning. Others, apparently, do not have such qualms. It is also partly because in some of the major recent debates, notably those on the budget and the CAP, we have won and, worse, been shown to be right. There are also the differences over monetary union. For all these reasons we need to make imaginative proposals if we are to secure a place in what might be described as the middle of the debate. Otherwise we will simply be regarded as backward-looking participants to be dragged along by one means or another. For the fact is that all the others are not cynical; some of them have genuine European ideals they would like to be shared. In this connection I think it would be helpful to have an analysis of the views and motives of the other member states; I understand one will be circulated to Ministers shortly by the Cabinet Office.

7

I have considered the paper against this background and taking account of the fact that following Dublin an IGC is now certain to be called on this subject. I am sure that there will be a general expectation in the Community that significant progress will be achieved and result in changes that can, or at any rate be represented as, a major step towards "political union" - even if it is not possible even then to agree on a precise definition of the phrase.

There is much in the paper with which I agree. I agree that we need to bear in mind the likely eventual accession of several other member states not least to ensure the continued efficient functioning of the Community. Certainly, others will examine the institutional arrangements from this perspective. As the paper points out, enlargement would be likely to make Council business more difficult especially where consensus is necessary. It is therefore highly likely that there will be pressure to extend the use of majority voting particularly in areas such as the environment and social policy, and possibly even further. If we do not wish to go along with this suggestion we would be well advised to come up with some alternative proposal for ensuring that progress in these areas could not be blocked by one, possibly maverick, member state.

I also agree it would be useful to include the principle of subsidiarity in the Treaty if this can be done in a legally acceptable way. I agree that we should seek to achieve improved implementation and enforcement procedures. Since there is plenty of evidence that we are in general rather better at implementing our obligations than most, this would on balance help us. One way of achieving this would be by enhancing and extending in appropriate circumstances the role played by Community inspectorates. We would need to consider this carefully. There might be instances where we would consider the extension of Commission competence implied to be detrimental to our interests and to outweigh the advantages which we would expect to see from an inspectorate. But our experience in the operation of the Fisheries and Veterinary Inspectorates, for example, suggests that there is much to be gained where we cannot rely on others to enforce to the same standards as ourselves. Last year, the establishment of a Community plant health inspectorate was singled out as a key element of the regime we wish to see in place post-1992. Animal welfare, an extremely sensitive area and one where we would wish to see standards raised throughout the Community more in line with our own, is another example of where it would be in our interests to see a Community inspectorate set up.

However, it is in the area of political accountability that I feel the paper does not entirely carry conviction. I fear that if we seem to be highly reserved in this area we will not be regarded as "true Europeans", and that as a consequence the proposals we put forward may get less attention than they deserve. It is not good enough to state (paragraph 29 of the paper) that "EC political accountability is already achieved through members of the Council answering to their national Parliaments". It is of course quite true that national Ministers are accountable to their national Parliaments and electorates in this way. But the matter does not end there. What about the political accountability of the European Commission, which has extensive powers under the Treaty and is at present accountable only in a very limited way to the European Parliament (which can dismiss all Commissioners) and to national Governments (which can replace Commissioners every four years)? Further enlargement will inevitably increase the powers of the Commission, if only because the round table discussions which are central to Council control will become more and more unwieldy with each additional participant.

We might, for example, suggest that the EP should have increased powers over the Commission. At present the Treaty requires that a motion of censure on the Commission has to be carried by a two-third majority of the votes cast, representing a majority of the members of the EP, in order to lead to the resignation of the Commission as a body. We could seek to remove the two-third majority requirement leaving only the requirement for a majority of EP members. We could also seek changes in the procedure laid down for the Commission's replies to EP questions, for example, a proper question time where Commissioners answered only on their specific responsibilities, much tighter time requirements for the answering of written questions, and much clearer responsibilities for Commissioners to defend proposals in the European Parliament. All these would increase accountability.

It would of course add credibility to support for these changes if the Government could also be seen to be encouraging a closer relationship between MEPs and Westminster MPs. Improved access and more consultation here would enable us to press for similar relationships with other national Parliaments where they do not exist elsewhere in the Community. It might well be that national Parliaments will themselves have a salutary braking effect on the otherwise freewheeling MEP.

We need also to look out for proposals which present the UK in a positive light and which put others in a defensive position. Could we not look again at the constitution of the EP? For us to suggest that the EP ought to be more responsive would help to challenge the assumption of some countries that they alone have an interest in the European democratic process. If the EP is



supposedly a democratic assembly, then there is gross over-representation of the smaller countries. It would be reasonable for us to argue that to the extent that that body gains in power and influence and is a genuine focus of democratic accountability, it should be truly democratic. The EP represents people and I believe individual votes should count equally in each member state. This would lead to a reduction in the proportional number of representatives elected in the smaller member states but it is not a point they will find easy to argue against, given that they are already over-represented in the number of votes they command at Council level. The Council of course represents Member States and the delicate checks and balances which have been established there have their parallels in constitutional relationships elsewhere in the world.

I am copying this letter to the Prime Minister, to other Cabinet colleagues, the Attorney-General, the Chief Whip and to Sir Robin Butler.

Yours sincerely  
A. Gummer

'' JOHN GUMMER  
(approved by the Minister  
and signed in his absence)

Eulo Po: Budget 1746.



Ref. AO90/1038

PRIME MINISTER

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*annually*

*EC*  
*Fr*  
*IR*  
*FRG*  
*U.K.*

Cabinet: Community Affairs

You may wish to give colleagues your assessment of the Dublin informal Summit.

2. Mr Gummer may wish to report on the Agriculture Council on 25-27 April which reached agreement on the annual price-fixing. The main points were:

- a price freeze for most products and decreases for some, consistent with the 1988 stabiliser agreement and with the GATT standstill commitment (but the Commission, under its own powers, undertook to reduce payment delays on goods bought into intervention, which will partly offset the price cuts);
- the Commission, with UK support, resisted calls for reductions in the cereals and milk coresponsibility levies without offsetting price cuts;
- agreement on the Commission's "rural world" proposals but with the aid for small arable producers subject to review after 2 years and apparent acceptance by the Commission that they would not propose further measures of this kind;
- a substantial devaluation of the green pound (MCA reductions ranging from 7.7 per cent to 11.7 per cent for

the various sectors) as a step towards dismantlement of MCAs by 1992, giving an increase of UK producer incomes of about £450m in a full year;

- total costs of the settlement are 334 mecu in 1990 and 1090 mecu in 1991, which can be met within the financial guideline; the estimated effect on the RPI is an increase of 0.1 per cent.

The settlement overall has been widely welcomed by farmers and in the House.

3. Forthcoming meetings are:

- Foreign Affairs Council, 7-8 May
- Internal Market Council, 14-15 May.

R.E.B.

ROBIN BUTLER

2 May 1990

SUBJECT CCMASTER



10 DOWNING STREET  
LONDON SW1A 2AA

From the Private Secretary

2 May 1990

See Stople.

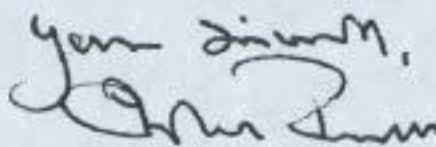
EUROPEAN COMMUNITY

The Prime Minister and the Foreign Secretary had a short talk this evening about the follow-up to the informal European Council in Dublin. It was agreed that we would need to contribute very actively to the discussion among Foreign Ministers on political union over the next few weeks. We had already floated a considerable number of ideas and there should be a discussion in OD pull these together and to confirm our overall approach. The Foreign Secretary said he was against putting in a single British paper: it would be better to put forward individual proposals as and when they were likely to be most effective.

The Prime Minister said she remained convinced that discussion on EMU would be very much more difficult than the debate on political union. We had to decide when to put forward further proposals of our own for the next stage. It might be worth floating them privately with one or two other countries first to see what prospect they had of attracting support. Once we had reached a firm decision to launch a proposal, it would be for consideration whether we should not seek a Resolution of the House to ensure there was adequate Parliamentary support. These points would need to be settled once we had a fully worked up proposal.

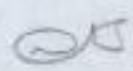
The Foreign Secretary said that we needed to persuade the Commission to be more active in monitoring and reporting on implementation of Community decisions and directives. He wondered whether the Prime Minister might like to write to the President of the Commission about this. The Prime Minister suggested it would be more appropriate for the Foreign Secretary himself to write, although she was fully supportive of the aim.

I am copying this letter to John Gieve (HM Treasury).

Yours sincerely,  
  
 C. D. POWELL

Stephen Wall, Esq.  
Foreign and Commonwealth Office

file etc  
 (C-1 Foreign)  
 European, das)  
 bc: PC



PERSONAL



Foreign and Commonwealth Office

London SW1A 2AH

2 May

Jean Chayles,

CRM  
2/5

This is the text that Mr Claude mentioned to you yesterday on the telephone, on which you offered to do a 'consumer test'.

Yours Sincerely

Nicola Brewer

PS / Mr Claude

2 May 1990

M Jacques Delors  
President of the Commission

We agreed at Dublin that work should now start on analysing what political union in the Community should cover. Despite the many other important tasks which we currently have on our agenda, to which you yourself drew attention in your press conference on 15 April, there is clearly a desire in the Community to see how we can strengthen our institutions and carry forward the process of European construction.

As we agreed in Dublin, an important part of this task will be for Foreign Ministers to examine the need for possible Treaty change to make the Community more efficient and effective. We will participate fully and constructively in that work, and we shall certainly come forward with our own suggestions in due course.

Fundamental to the process of European construction must be the principle that decisions taken at Community level are faithfully implemented at national level. As you yourself recognise, Britain's record in this respect is exemplary. But there is across the Community a wide gap between what member states have agreed to, and what they have done. We owe it to our citizens to remove this gap between aspiration and reality.

Treaty changes to facilitate this may very well be desirable. We are likely to make some such proposals. But we would betray the vision of Jean Monnet if we failed to take those steps open to us now within the Treaty to accelerate this aspect of European construction.

I have no doubt that the Commission's decision to publish six-monthly reports on implementation of the Single Market programme has started to improve performance elsewhere in the Community. I now propose that, as a further step, you extend this practice to all areas of EC legislation. Six-monthly reports to and reviews in the transport, telecommunications, energy, environment, industry, fisheries, agriculture, social and ECOFIN Councils would significantly enhance the effectiveness of Community decision making. I further propose that in order to demonstrate the importance which we all attach to this, after such reviews in these Councils, you should make an overall report at the end of each Presidency so that the European Council can review progress. Our next European Council meeting in Dublin next month is probably too soon for the first such review, but I hope that this practice can be well established by 1 January 1991. This would mean a series of reviews during the Italian Presidency with the first full review at the European Council at Rome in December 1990.

I understand the Commission has also been considering ways of monitoring implementation in other sectors too; for example



through its recent proposal that member states should refer in national implementing legislation to the relevant Community directive. I welcome the intention to achieve greater transparency in this field and I hope that an arrangement can be worked out which overcomes any practical obstacle.

I see these steps giving us the firm foundation that we shall need in the next stage of European construction to which we have all committed ourselves.

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MY TELNO 388 AND UKREP BRUSSELS TELNO 1190: EUROPEAN COUNCIL: 28  
APRIL: THE NEXT STEPS

## SUMMARY

1. THE PRESIDENCY IS EUPHORIC. BUT IS BEGINNING TO FOCUS ON THE NEXT STAGE. TENTATIVE IRISH THINKING IS SURPRISINGLY CLOSE TO OUR OWN. OPPORTUNITY TO FEED IN IDEAS IF WE MOVE FAST.

## DETAIL

2. THE TAOISEACH IS BASKING IN HIS MOMENT OF GLORY. EVEN HIS OLD RIVAL, GARRET FITZGERALD, WHO REGARDS HIM AS AN UNRECONSTRUCTED REPROBATE, PAID GRACIOUS TRIBUTE TO HIM LAST NIGHT.

3. OFFICIALS CLOSE TO HIM CONFIRM THAT HE IS ON CLOUD NINE. THEY SAY THAT IT WAS A NOTABLY HARMONIOUS CONFERENCE IN WHICH THE PRIME MINISTER AND CHANCELLOR KOHL WERE THE STAR PERFORMERS.

4. THEY ALSO SAY THAT MR HAUGHEY IS TAKING ACCOUNT OF THE FIRST STIRRINGS OF PUBLIC DISQUIET OVER HIS EMBRACE OF FULL BLOODED EUROPEAN INTEGRATION WITHOUT CONSULTING THE IRISH PEOPLE (MY TELS 367, PARA 9 AND 388). THEY REFER TO ALL THREE OF THE CONSTRAINTS SET OUT IN PARA 7 OF MY TELEGRAM 329: WITHOUT SPECIAL ARRANGEMENTS FOR COHESION, THERE MAY BE LESS MONEY FOR PERIPHERAL IRELAND FROM A COMMUNITY WHICH INCREASINGLY LOOKS EAST INSTEAD OF WEST: POLITICAL UNION MAY REQUIRE A COMMON SECURITY POLICY INCOMPATIBLE WITH IRISH NEUTRALITY: AND IRISH NATIONAL INTERESTS ARE ILL SERVED BY ISOLATING BRITAIN. ON THIS LAST POINT THEY CLAIM CREDIT FOR MR HAUGHEY'S CONCERN AT THE SUMMIT TO AVOID PRESENTING MRS THATCHER AS THE OBSTACLE TO PROGRESS.

5. THE TAOISEACH AND HIS SENIOR ADVISERS ARE BEGINNING TO GRAPPLE WITH THE NEXT PHASE, WHICH WILL BE DISCUSSED BY FOREIGN MINISTERS NEXT WEEK. THE REMIT GIVEN TO FOREIGN MINISTERS WILL REQUIRE SOME OFFICIAL GROUP WORKING TO MINISTERS. THIS CANNOT VERY EASILY BE

COREPER OR POLITICAL DIRECTORS SINCE TO SOME EXTENT THE ROLES OF THESE TWO BODIES MAY BE AT ISSUE. THE PRESIDENCY MAY SUGGEST AN AD HOC COMMITTEE OF PERSONAL REPRESENTATIVES OF FOREIGN MINISTERS. IF SO, THEIR NOMINEE WILL PROBABLY BE TED BARRINGTON, UNDER SECRETARY EQUIVALENT FOR COMMUNITY AFFAIRS IN THE DFA.

6. READING PARA 7 (11) OF THE PRESIDENCY CONCLUSIONS IN THE COLD LIGHT OF DAWN, THE TAOISEACH LIKED THE IDEA OF FOREIGN MINISTERS UNDERTAKING 'EXAMINATION AND ANALYSIS' BUT WAS LESS KEEN ON THEM 'PREPARING PROPOSALS' FOR THE EUROPEAN COUNCIL IN JUNE. HE THINKS THAT FOREIGN MINISTERS SHOULD SET OUT THE OPTIONS FROM WHICH HEADS OF STATE AND GOVERNMENT IN JUNE WOULD DETERMINE THE ORIENTATIONS SO THAT PROPOSALS COULD BE REFINED UNDER THE ITALIAN PRESIDENCY FOR THE ROME EUROPEAN COUNCIL IN DECEMBER. THE PRESIDENCY WILL NOT WANT FOREIGN MINISTERS BEFORE THE JUNE COUNCIL TO IDENTIFY MUCH IN THE WAY OF PROPOSALS, LET ALONE DECISIONS.

7. IN A PRIVATE CONVERSATION LATE ON 30 APRIL DERMOT NALLY SET OUT HIS RECOLLECTIONS OF THE TAOISEACH'S MEETING EARLIER IN THE DAY. ON SUBSTANCE, HE THOUGHT THAT FOREIGN MINISTERS MIGHT FOCUS ON THREE QUESTIONS:

A. HOW MIGHT THE COMMUNITY BE MADE MORE ACCOUNTABLE? THERE WERE THOSE WHO FAVOURED STRENGTHENING THE COMMISSION AND ITS ACCOUNTABILITY TO THE EUROPEAN PARLIAMENT IN ORDER TO REDRESS THE 'DEMOCRATIC DEFICIT'. MR HAUGHEY DID NOT LIKE THIS NOTION BECAUSE IT WOULD ENHANCE THE POWERS OF THE EUROPEAN PARLIAMENT WHERE IRELAND WAS UNDER REPRESENTED (15 MEPS OUT OF 518, SOME OF THEM UNRELIABLE MAVERICKS AND ONLY SIX FIANNA FAIL). HE PREFERRED WHAT HE UNDERSTOOD TO BE THE BRITISH IDEA OF STRENGTHENING THE COUNCIL OF MINISTERS AND ITS ACCOUNTABILITY TO NATIONAL PARLIAMENTS:

B. HOW COULD THE COMMUNITY BE MADE MORE EFFICIENT? SOME WANTED TO REMOVE THE COMMISSION'S MONOPOLY ON PROPOSING NEW LEGISLATION. HE DID NOT THINK THAT THIS WOULD RUN. BUT HE HAD NOTED THE WIDESPREAD SUPPORT FOR A MORE SYSTEMATIC APPLICATION OF THE PRINCIPLE OF SUBSIDIARITY AND FOR PROPER PROCEDURES TO ENSURE THE ENFORCEMENT OF COMMUNITY DECISIONS ONCE THEY HAD BEEN TAKEN:

C. HOW COULD THE COMMUNITY BE MADE MORE COHERENT? THE EXTERNAL POLICIES OF THE COMMUNITY NEEDED TO BE MORE CLOSELY RELATED TO ITS INTERNAL DEVELOPMENT. SOME WAY MUST BE FOUND OF CAUSING THE TURTLE OF POLITICAL COOPERATION TO CATCH UP WITH THE EXPRESS TRAIN OF ECONOMIC INTEGRATION. MR HAUGHEY WAS HESITANT ABOUT THIS BECAUSE OF ITS

IMPLICATIONS FOR NEUTRALITY. HE WANTED TO INSULATE SECURITY AND DEFENCE POLICIES FROM THE REST, ON THE GROUND THAT FOR THE ELEVEN, THIS WAS A MATTER FOR THE CSCE. UNDER THE SAME HEADING OF COHERENCE MR HAUGHEY WANTED TO STRENGTHEN THE POLICIES OF COHESION IN THE INTERESTS OF THE POORER-MEMBER STATES.

8. THESE IDEAS ARE EMBRYONIC AND MAY WELL EVOLVE FURTHER IN THE NEXT FEW DAYS. NALLY PROBABLY TOLD ME MORE THAN HE SHOULD (PLEASE PROTECT). BUT MR HAUGHEY'S TENTATIVE THINKING HAS A GOOD DEAL IN IT THAT WE WOULD FIND CONGENIAL. IF YOU WOULD LIKE TO FEED IN ANY IDEAS EITHER ON PROCEDURES OR ON SUBSTANCE I SUGGEST THAT WE SHOULD DO SO QUICKLY - IN DUBLIN AS WELL AS IN BRUSSELS.

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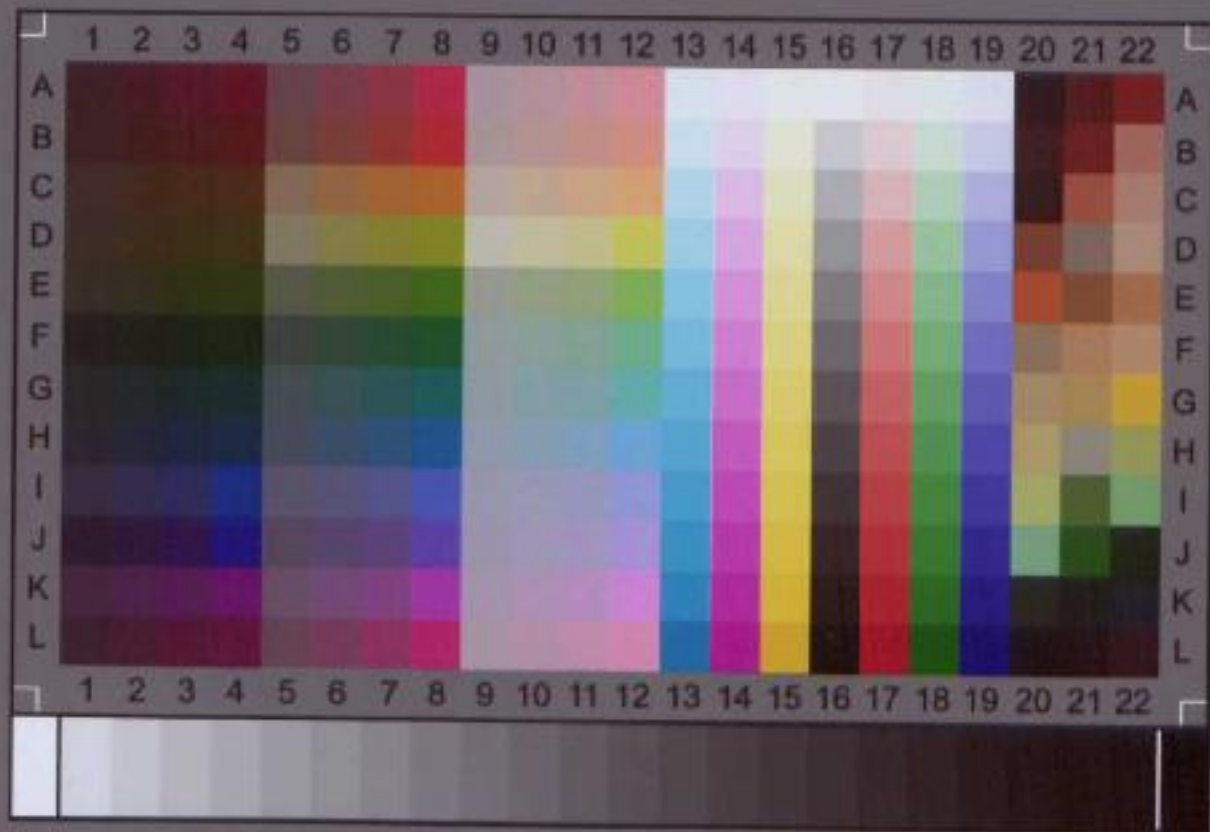
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PART 46. begins:-

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