

PREM 19/2977

Confidential Filing

The Community Budget

Developments in the Community

[In attached folder:- white paper "developments in the EC Sec - June 1990]

EUROPEAN

POLICY

Part 1: May 1979

Part 47: July 1990

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
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PART 47 CLOSED							

● PART 47 ends:-

FERB to PM (A090/2541) 31.10.90

PART 48 begins:-

CDP to FRO 1.11.90



## Published Papers

The following published paper(s) enclosed on this file have been removed and destroyed. Copies may be found elsewhere in The National Archives.

Cm 1234: Developments in the European Community,  
January – June 1990  
HMSO, October 1990 [ISBN 0-10-112342-6]

Signed Wayland Date 31 October 2016

**PREM Records Team**



Ref. A090/2541

PRIME MINISTER  

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Cabinet: Community Affairs

1. You may wish to give Cabinet colleagues your impressions of last weekend's Special European Council.

2. Mr Patten and Mr Wakeham attended a joint Energy and Environment Council on 29 October to discuss climate change:

- Mr Patten successfully resisted strong pressure for the UK to advance its 2005 CO2 target to 2000. After a difficult discussion, a suggestion from the FRG led eventually to a compromise text which preserves the UK's 2005 target and effectively puts any additional burden of trying to stabilise total Community emissions by 2000 on these member states - Germany, Denmark and the Netherlands - who are anxious to move faster than the UK.

- On conditionality, the text explicitly assumes that other leading countries will undertake commitments along similar lines.

3. Mr Wakeham also attended an Energy Council on 29 October:

- Satisfactory conclusions on the oil market were adopted.
- Ambitious Commission proposals for developing the Community's role in the control of oil stocks etc in times of emergency were widely criticised.

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6  
to  
Programme

- Agreements were reached on electricity and gas transit.
  - Agreement was reached that the gas burn directive should be repealed (as the UK has been arguing for some time).
4. Mr Parkinson may mention the Transport Council on 30 October, at which there were uneventful discussions of combined transport (road and rail); infrastructure; drivers' hours; third country transit for road haulage and fiscal harmonisation.
5. Future meetings are:
- Development Council, 5 November
  - Informal Education Council, 7/8 November
  - Internal Market Council, 8 November.

R.R.B.

ROBIN BUTLER

31 October 1990



CCPC



Foreign and Commonwealth Office

London SW1A 2AH

31 October 1990

Philip Rutnam Esq  
 Private Secretary to  
 the Financial Secretary  
 HM Treasury  
 Parliament Street  
 London SW1

Jean Ruitip,

**MINISTERS' EUROPE GROUP, 25 OCTOBER**

At the meeting of this group on 25 October, Mr Garel-Jones began by emphasising the importance of all members of the government putting across the same message on the European Community - at home and abroad, and in private as much as in public.

EMU

Mr Maude commented that though battle was now joined, there was a good chance of the UK achieving its main objectives on EMU. These were, firstly, that there should be no firm commitment to a single currency, though without foreclosing that option for the future; and secondly, that the UK must be a signatory to any eventual treaty on EMU. A failure to meet either of these objectives would have serious political consequences. The Prime Minister was fully behind both of them. The UK's hard ecu proposals had managed to avoid being pushed off the table. Now that discussion was getting into the detail of what Stage II meant, people were realising it would not be easy. The UK would be ready to exploit the gap that would open up between governments and their central banks. Most other Member States acknowledged the importance of keeping the UK on board, so he was more optimistic about the eventual outcome.

Political Union

Mr Garel-Jones said that here too we had avoided a preemptive strike to rule out the UK's ideas. Many of our partners, including the next Luxembourg Presidency, realised the importance of agreeing measures to ensure more effective implementation. Mr Poos had agreed these questions should be tackled early on in the IGC. Several delegations were





obviously going into the negotiations with relatively modest aims and we would be developing our thinking on security issues. We had promised a non-paper to the Luxemburgers.

Mr Heathcoat-Amory raised the question of subsidiarity. We needed a system that would vet legislation before it was agreed by Council. The legal problems we faced with the Birds Directive could have been avoided if this had existed. Mr Maude emphasised that a sufficiently clear definition would prevent the ECJ misinterpreting it. Baroness Hooper asked how it would be enforced. Mr Garal-Jones agreed that it was necessary to look for both a clear definition of subsidiarity and a system for monitoring it that would ensure the right result.

#### Implementation

Mr Heathcoat-Amory also commented that the Commission did not seem to have an effective mechanism for amending bad legislation. Our efforts to have the Birds Directive amended had been rejected by the Commission. The limits prescribed for cleanliness in the drinking water directive were virtually unobtainable. This led to a dreadful waste of resources. It did not affect the Commission or the EP as neither had to pay for it. More systematic economic and financial appraisal of Commission proposals was needed before they were agreed. Some estimate of "compliance cost" should be attached to every proposal. Our problem was that some other member states were untroubled by this, having little intention of enforcing European legislation they had signed up to. Mr Baldry commented that others supported the idea of a cost benefit analysis in private but were very reluctant to appear un-European in public. Mr Maude commented that it had been agreed the Commission should report to the Rome European Council on the implementation of Community measures. Delors had supported this idea. We should remind him of it at a suitable moment.

#### GATT

Mr Sainsbury pointed out that the GATT was an excellent example of the benefits of Community competence in a particular sphere. If there was a good outcome to the Uruguay Round, the Community would go up in public estimation. If not, the opposite would happen. We must be ready to play up the benefits in the former case. Mr Curry agreed that it was important to hammer home in public the advantages of free trade that the Community brought. In fact, the Community's offer on agriculture, though not yet agreed, was relatively modest. It implied only an 8% price cut for agricultural products between now and the end of the Round which should occur anyway with the existing stabilisers. The UK, while trying to minimise the sweeteners, was liable to suffer in the





post-GATT arguments over how a settlement should be implemented. We needed to remind people that the US were hardly free-traders in agriculture either. Their own offer was as self-interested as anyone's.

Mr Maude drew attention to the National Consumer Council studies last year of the costs of protectionism on cars, textiles, shoes etc. It would be helpful if DTI could draw up some of the key facts from these studies for use by ministers in speeches. Mr Sainsbury agreed. Mr Garel-Jones referred to his own letter to de Michelis about the GATT, which he hoped would stir up the Latin Americans to put pressure on the Germans.

#### Other areas

Baroness Hooper drew attention to existing Community activity in the public health area. The UK supported a Community role in some of these areas. There was not, therefore, a case for blanket opposition to the extension of competence into the area of health.

Mr Curry drew attention to the arguments that would probably arise over the common fisheries policy between now and Christmas. This was an annual squabble, but would be tough on the fishing communities.

#### Presentation

The meeting was reminded of the value that could be derived from contact with the UK and other European press in Brussels when Ministers attended Councils. This had proved valuable in the past and should continue to be exploited. Mr Garel-Jones suggested that Ministers should keep an eye open for opportunities to publish articles in the overseas press. The Chief Whip's article had had excellent coverage throughout Europe.

I am copying this letter to Charles Powell and to the Private Secretaries to the Deputy Chief Whip, David Curry, Eric Forth, Tim Sainsbury, David Heathcoat-Amory, Douglas Hogg, Gloria Hooper, Alan Howarth, Peter Lloyd, Roger Freeman, John Redwood, Gillian Shepherd, Tony Baldry, Tim Eggar and Patrick McLoughlin.

*Yours Sincerely*

*Nicola Brewer*

Nicola Brewer  
Private Secretary to  
Mr Tristan Garel-Jones

*colg*



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PM/90/075

*Colg 5/6/90*

PRIME MINISTER

EC Frontiers Issues

1. I have seen the Home Secretary's minute to you of 30 October. *John Goss*

2. Having discussed the matter with him, I agree that we should now remind other member states of the basis on which we are negotiating. Following his action with Immigration Ministers, I propose to make a similar statement in the Foreign Affairs Council.

3. We need to do more to persuade other member states of the commonsense of the UK position. Our position on frontiers should not be seen as a test of our Community credentials, but as a genuine attempt to implement an effective policy on third country immigration, terrorism, etc. Using our water's edge is the most sensible way to do this. I am instructing our posts in the Community to step up their lobbying.

/4.

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4. I am sending a copy of this minute to the Home Secretary and other OD(E) colleagues, to the Secretary of State for Northern Ireland and to Sir Robin Butler.

*D.H.*

(DOUGLAS HURD)

Foreign and Commonwealth Office

31 October 1990

CONFIDENTIAL



C:\WFOODS\FORIGN\REFORM  
(MEM)

bcc PC

10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

31 October 1990

*Dear Jenny,*

EC INSTITUTIONAL REFORMS

The Prime Minister had read with interest the Lord Chancellor's minute of 27 October about institutional reform in relation to the Community's legal institutions. She thinks the proposals he makes well worth pursuing, and would like to see them worked up and tabled for discussion in the Community.

I am copying this letter to Private Secretaries to members of OD, to Phillip Ward (Department of the Environment), Martyn Waring (Department of Employment), Andy Lebrecht (MAFF), Juliet Wheldon (Attorney General's Office), Alan Maxwell (Lord Advocate's Department) and to Sonia Phippard (Cabinet Office).

*Yours sincerely,  
Charles D. Powell*

CHARLES D. POWELL

Miss Jenny Rowe,  
Lord Chancellor's Office

MEM



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frontier (MEM)



bcc PC

10 DOWNING STREET

LONDON SW1A 2AA

*From the Private Secretary*

31 October 1990

*See Ch.*

1992: FRONTIER CONTROLS ON PEOPLE

The Prime Minister has seen the Home Secretary's minute of 30 October about the divergences which have emerged within the Twelve over the External Frontiers Convention. She agrees that we must emphatically state our reservations about the way in which the text of this Convention is developing, and warn that, unless there is a change of course, the United Kingdom will be unable to sign the Convention. The Home Secretary should do this at the forthcoming informal Ministerial meeting in Naples.

I am copying this letter to Stephen Wall (Foreign and Commonwealth Office), to Private Secretaries to members of OD(E), Tony Pawson (Northern Ireland Office) and to Sonia Phippard (Cabinet Office).

*Yes sir,*

CHARLES D. POWELL

Colin Walters, Esq.,  
Home Office

CONFIDENTIAL

MEM



cc/k  
①



Prime Minister

Agree to proceed as

Yes no

1/2 Home Security  
recommendations? He must

PRIME MINISTER

1992 : FRONTIER CONTROLS ON PEOPLE

hold fast to  
our bottom line on

This reports that we have reached a point in our negotiations within the Twelve over the External Frontiers Convention where we shall have to restate our position on internal frontiers and warn our partners that their current approach to the External Frontiers Convention will have to be changed if we are to sign it. I believe I shall have to signal this at the informal Immigration Ministers' meeting in Naples this week; and I understand that the Foreign Secretary, with whom I have discussed the matter, intends to take similar action soon in the Foreign Affairs Council. There could be repercussions in the European Council, since the Strasbourg and Dublin Summits called for the Convention to be completed this year.

this.  
CBN  
30/12

Background

2. You will recall the discussion last year which settled what should be the United Kingdom's "bottom line" on the maintenance of internal frontier checks under the Single European Act. We have made our position clear. But we have also been prepared to discuss means of co-operating on frontier issues within the EC where this could be justified in its own right.

3. Meanwhile, however, the five Schengen states pursued a frontiers Convention of their own, based on the removal of all internal frontier controls. After hesitating over the absorption of the German Democratic Republic and the opening of the Eastern European borders, the Schengenites signed the agreement in June. They are now presenting this as a blueprint for wider agreements amongst the Twelve. The five original states have now acquired eager applicants in Italy and Spain, who will almost certainly join shortly, and Portugal is likely to follow suit.



# CONFIDENTIAL

2.

4. These developments have totally changed the negotiating climate. The larger Schengen bloc are now insistent on making the draft External Frontiers Convention follow the Schengen model. But by signing the Convention on that footing, we should be prejudicing the retention of our frontier controls on all passengers arriving from other EC states.

## Current position

5. The Italian Presidency has been dilatory and unbusiness-like. However, whilst they are unlikely to produce a finished text for Rome in December, they clearly intend to settle at least all the important elements of the Convention.

6. The Presidency have arranged an informal Ministerial meeting in Naples at the end of this week. The Foreign Secretary and I have no doubt that I must take this opportunity to restate emphatically our reservations about the way in which the text is developing and warn that, unless there is a change of course, the United Kingdom will be unable to sign the Convention.

7. We shall need to give further thought to the next steps in the light of the reaction that I get in Naples. One major element will be the line taken by Denmark and Greece, who have hitherto supported us, and the reaction of the Irish, who have been more equivocal. I do not think, however, that any of these considerations can affect the judgment that we cannot continue with the Convention on the present basis without seriously prejudicing our "bottom line" position on the internal frontier, and I thought I should let you know the situation straightaway.

8. I am copying this minute to Douglas Hurd and other OD (E) colleagues, to Peter Brooke and to Sir Robin Butler.

30 October 1990

# CONFIDENTIAL



010

CC PA  
① AC

Prime Minister

Yes

Prime Minister  
Agree to exchange  
the Attorney to pursue  
these ideas?

EC Institutional Reform

COP 29K

1. I consider that we can make a positive contribution in the forthcoming IGC on Political Union in relation to the Community's legal institutions. I suggest that our objectives should be:

- (i) to secure improved implementation of Community legislation, and of the orders of the Community's Courts;
- (ii) to make the Community's Courts more effective in their operation; and
- (iii) to improve co-operation between the legal systems of Member States.

Implementation

2. Failure to implement Community obligations results in a Member State's being brought before the European Court of Justice. If, however, that State persists in not complying the only available sanction is political pressure. What is lacking is a practicable mechanism for the enforcement of the Court's judgments. Expulsion from the club is not a realistic option.

3. The United Kingdom has a good record both in implementing Community measures, and in complying with Court orders. The Commission's latest compliance report, presented to the Internal Market Council on 9th October, shows that we have only eighteen Directives to implement, putting us in second place to the Danes. The full figures are as follows:



Denmark	15
United Kingdom	18
Germany	20
Portugal	20
Spain	27
France	28
Ireland	31
Belgium	32
Netherlands	33
Luxembourg	35
Greece	44
Italy	62

The latest figures available for compliance with Court orders are as at the end of January 1989. The United Kingdom then had one order with which we had not yet complied. The records of the other States, however, were:

Denmark	2 judgments not complied with
Greece	2
Ireland	2
Netherlands	2
Germany	4
France	5
Belgium	12
Italy	24

4. Even if we can anticipate that on some future occasion we might have some difficulty in complying with a Court judgment against us, on balance it is very much in our own interests that the other States should not so frequently be lagging behind in the implementation of mutually agreed legislation. I believe that we should be willing to give the Court power to enforce its own judgments, and to provide an effective and flexible procedure for achieving this.

5. A preliminary study has been carried out by the Legal Adviser to the Cabinet Office [EQO (90) 89 Annex A]. I broadly endorse his conclusion that the determination of what constitutes a proper period for compliance, and of the size of any monetary penalty should be made by the Court on a case-by-case basis.



6. Proposals to strengthen the enforcement powers of the Court of Justice are also being considered in Belgium, Denmark, Luxembourg, the Netherlands and Portugal, as well as by the European Parliament. The matter is being discussed within the Court itself. Accordingly, I believe that it would be worth our while to promote a sensible scheme to give the Court enforcement powers and this might well attract considerable support.

#### Effectiveness of the Courts

7. We are continually pressing for more effective procedures in the Court of Justice. With the opening of the Court of First Instance, we also want to ensure that cases go to the right level of court: the same principles that we are pursuing in the civil courts at home. At present, regrettably, anti-dumping cases are outside the jurisdiction of the Court of First Instance and have to be heard in the main Court, although this falls to be reconsidered next year. These cases are ideally suited to the lower Court which is much better equipped to sift and assess complex evidence than is the Court of Justice. We should do everything possible to ensure that the reassessment is begun at the earliest opportunity.

#### European Political Co-operation

8. The Working Group on Judicial Co-operation is presently a useful forum for the discussion of technical legal problems. For example, it has recently concluded negotiations on an Agreement on the simplification of procedures for the recovery of maintenance payments: a measure which should have a significant practical effect on the enforcement of maintenance judgments and which has been actively supported by the UK. It would be worthwhile to give this Working Group a more central role in the formulation of legislative proposals, thereby strengthening the

position of Member States. The administration of justice in Member States is primarily a matter for them and not for the Commission.

9. I am sending copies of this minute to members of OD, to the Secretaries of State for the Environment and for Employment, to the Minister of Agriculture, to the Attorney General and Lord Advocate and to Sir Robin Butler.

MAC

27 October 1990



# Commentary

## Events at Home and Abroad

By Caspar W. Weinberger, Publisher

Prime Minister  
You will  
enjoy this.  
CWS



### 1992—EUROPEAN COMMON MARKET... OR A NEW COUNTRY?

One day last year several FORBES writers and editors had lunch in the FORBES town house with Jacques Delors, head of the European Community Commission organizing the Common Market. He asked me why there seemed to be so much opposition to the Common Market idea in the United States. First I mentioned the familiar point that there was concern over the Common Market's becoming a protectionist Fortress Europa. Then I said that I had heard many express uncertainty and some worry that Mr. Delors was really trying to form a whole new country instead of a Common Market, and I continued, with undiplomatic directness, "Are you?" Delors replied, "Of course."

The gigantic implications of his answer led me to wonder if he had correctly understood me. But, as the months have gone by and we have seen so many steps and proposed steps away from national sovereignty, it seems clear that most of the officials of the 12 countries hammering out the details of the Common Market have become enamored of the idea of a European political union—as some phrase it, "a whole new country."

Much of the impetus toward this political, rather than just an economic, union stemmed from the adoption of the Single European Act, which abandoned the requirement of unanimity on major decisions involving taxes, movement of peoples and conditions of employment. Very soon, I should venture, the European Community will try to assert control over not just taxes but the allocation of revenues—in short, the 12 countries will no longer be able to determine their own spending programs. Instead, these will be decided upon by a majority of EC countries.

It should be no surprise to anyone who knows Prime Minister Margaret Thatcher that she has expressed serious reservations about this attempt to turn the Common Market, which she supports, into a "whole new country." She worries over possible far-reaching changes now that the old idea that each member country could veto any EC legislation it did not like has been abandoned.



**Jacques Delors**  
A strong go-ahead



**PM Thatcher**  
...with reservations

Some proponents of the political union claim that the only real difficulty is that some EC countries do not completely trust others. Thus, England is said to oppose the abolition of immigration and custom checkpoints because the English do not trust the French to do the kind of job Britain wants. Indeed, two close observers of the Common Market's birth pangs, Nicholas Colchester and David Buchan, who have just written *Europe Relaunches\** conclude that the EC will succeed only if there is established "such a degree of mutual trust and influence between EC states that they will be halfway to political union without knowing it."

Would such a "whole new country" be good for the U.S.? I think not. Protectionist measures would be far easier for the EC to adopt if a unanimous vote were not required. And special and still highly valuable U.S.-bilateral relationships would not be possible if these countries were to give up so much of their own sovereignty, including making up their own defense budgets.

Iraq's aggression has demonstrated how much more decisively and quickly countries like England and France can act (and have acted) as separate nations than can the EC, which cannot even discuss military matters. The 12 nations could use NATO or, as they are trying to do, the Western European Union (WEU), a separate body of only 9 nations. It took the WEU three weeks to decide that a joint naval mission to the Persian Gulf would be a good idea.

At the very moment when Eastern European countries, so long under the heel of the Soviet Union, are emerging and demanding their own sovereignty and the right to choose the kind of economic systems they want, when even each of the Soviet Union's 15 republics is demanding independence, it is indeed odd that Europe should move closer to the possibility of a political union—one that could impose socialist economics on the very countries that have conclusively demonstrated that communist and socialist economics do not work, that a free market does.

\*Title of the British edition; the American edition is titled "Empower."





FCS/90/192

*copy  
RJ?*

*COM 26th*

LORD PRESIDENT OF THE COUNCIL

IGC: Institutional Reform: National Parliaments

*Notes attached*

1. We agreed in OD that national parliaments should become more involved in the process of EC legislation. This point is well reflected in the paper which Foreign Ministers are putting to the European Council this weekend.
2. A conference of European Parliaments ("Assizes") has been called in Rome from 26-30 November, aimed in particular at agreeing parliamentary proposals for the IGC. I understand that David Howell will be nominated as leader of the Westminster delegation. There will of course be British MEPs there too.
3. Tim Renton and Alistair Goodlad have recently concluded a successful round of EC capitals, in an attempt to stimulate thinking about greater involvement of national parliaments. In Paris, for example, there are interesting ideas about involving national parliaments, perhaps through institutionalising the current Assizes.
4. We need now to develop our thinking. It will be for Westminster to come forward with proposals in the first instance, which we can then press in the inter-governmental discussions, both before and after the opening of the IGC.

/5.





5. I have had a preliminary with David Howell. He made clear he had not focussed on this yet, but appreciated the importance of developing ideas soon.

6. I am copying this minute to the Prime Minister, to members of OD(E), to the Lord Privy Seal, the Chancellor of the Duchy, to the Chief Whip and to Sir Robin Butler.

DH.

(DOUGLAS HURD)

Foreign and Commonwealth Office

26 October 1990



CCP  
PK



Treasury Chambers, Parliament Street, SW1P 3AG

The Rt Hon Peter Lilley MP  
Secretary of State  
Department of Trade and Industry  
1-19 Victoria Street  
London SW1

EM 26K

26 October 1990

Dear Peter

FUTURE OF THE EUROPEAN COAL AND STEEL COMMUNITY

H2P

I have seen a copy of your letter of 11 October to Douglas Hurd.

I agree with you that our starting point should be that in future the coal and steel industries should be treated in the same way as any other industry under the Treaty of Rome. The ECSC Treaty is now anachronistic in many ways, and we should indicate our preference for abolition. If this is unrealistic as a likely outcome, I agree that it is sensible to draw up a shopping list as you describe, for "reinterpreting" the Treaty. I am content with the items on the shopping list, subject as you say to adding items when these have been worked out by our officials, such as on the financial provisions of the Treaty beyond ending the levy.

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

FRANCIS MAUDE



Enlo Pol: Budget P+47



From: THE PRIVATE SECRETARY

*CS*

*Darwin?*

*US*



HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

25 October 1990

*no paper  
in*

*Dear Caroline*

The Home Secretary has received from the Boundary Commission for England a notice dated 12 October 1990, stating their intention to begin a supplementary review of two European Parliamentary constituencies.

The Commission are required by the European Parliamentary Elections Act 1978 to take account of the effects on European Parliamentary constituencies of the changes made to parliamentary constituencies as a result of periodical or interim reviews. This supplementary review is intended to carry through the changes to constituency boundaries resulting from the interim review of the constituencies of Buckingham and Milton Keynes.

The Home Secretary announced receipt of the Commission's notice by way of a Parliamentary Written Answer on 25 October, a copy of which is attached.

Copies of this letter and its enclosure go to the Speaker's Secretary and the Private Secretary to the Lord President.

*Yours sincerely,*

*Heather AS*

MISS H J WILKINSON

Ms Caroline Slocock  
Private Secretary to  
The Prime Minister  
10 Downing Street  
LONDON SW1



Thursday, 25 October, 1990

Written No. 226

Mr David Nicholson (Taunton): To ask the Secretary of State for the Home Department, whether the Boundary Commission intends to conduct any supplementary review of European Parliamentary Constituencies in England.

MR DAVID WADDINGTON

The Commission has informed me that it intends to consider making a supplementary report on the following two European Parliamentary Constituencies in England:

Oxford and Buckinghamshire

Bedford South



CC PA  
CC PER

9 BUCKINGHAM GATE  
LONDON SW1E 6JP

071-828 1558

The Rt. Hon. John Patten MP  
Minister of State  
Home Office  
Queen Anne's Gate  
London  
SW1

CRD 20/2

24 October 1990

Dear John,

flap

DRAFT EC DIRECTIVE ON MONEY LAUNDERING

I have seen Francis Maude's letter of 16 October to you. In particular I note Francis' comments on the possibility of using an inter-governmental declaration which "properly handled, .....can provide a powerful bastion to prevent any danger of a concession of Community competence."

I agree with your own warnings, and with Francis Maude's caveat, that both the drafting and the handling of such a declaration require careful thought. The question whether such a declaration would constitute the ceding of competence to the Community and, if so, to what extent depends upon various factors some of which you identified in your letter of 4 October. Even if competence were not ceded directly there are other potential problems. It is difficult to advise further since it is not clear how the Presidency compromise will evolve. When it is clearer how the position in Brussels is developing, it would be wise to seek further legal views. In the circumstances, I would support Francis' suggestion that officials be asked to consider the competence issues further in EQ(O).

I am copying this letter to the Prime Minister, Geoffrey Howe, Douglas Hurd, Peter Lilley, Kenneth Clarke, Malcolm Rifkind, Peter Brooke, Francis Maude, Peter Fraser and to Sir Robin Butler.

Yours ever

Nick.



Auto pol: Budget pr 47



Ref. AO90/2478

PRIME MINISTERCabinet: Community Affairs

1. The Foreign Secretary and Mr Lilley attended the Foreign Affairs Council on 22 October:

- On GATT Agriculture, Germany took the lead in blocking the Commission's proposal for the Community's offer to reduce agricultural support and protection. Agriculture and Trade Ministers will discuss this again on 26 October; if they fail to agree some discussion at the European Council seems unavoidable.
- On Political Union, the Special Representatives' report for the European Council was introduced: various areas were identified where further work was needed before the IGC. Delors gave an account of the Commission's formal Opinion on the convening of the IGC, which sets out areas which the Commission considers the Conference should address.
- On EMU, there will be a report to the European Council on ECOFIN discussion so far by Carli, the Italian Chairman: the Foreign Secretary, with some support, successfully resisted an attempted Presidency conclusion that preparation for the IGC was now complete.
- The package of transitional measures on German unification was agreed, subject to finalisation of some uncontroversial points of detail by COREPER.



2. There was an uninteresting Consumer Affairs Council on 22 October, at which there was inconclusive discussion of the proposed General Product Safety directive.

3. Forthcoming meetings are:

- Special European Council, 27/28 October
- Environment/Energy Council (meeting both jointly and separately), 29 October
- Transport Council, 30 October.

CONFIDENTIAL

*W Davidson*

for ROBIN BUTLER

24 October 1990

(Approved by Sir Robin Butler  
and signed in his absence)

CONFIDENTIAL  
FM FCO  
TO PRIORITY UKREP BRUSSELS  
TELNO 318  
OF 231000Z OCTOBER 90  
INFO PRIORITY OTHER EC POSTS

## DINNER WITH DELORS

1. I HAD DINNER WITH DELORS IN LUXEMBOURG AFTER THE FAC ON 22 OCTOBER. HE WAS RELAXED AND IN GOOD FORM. THERE WERE NO HISTORICALS. WE COVERED GATT, CAP REFORM, BUDGETARY QUESTIONS, THE SOVIET UNION, THE IGCS, AND ENLARGEMENT. DETAILS BELOW.

## GATT

2. DELORS WAS DISAPPOINTED BUT RESIGNED ABOUT THE FAILURE TO REACH AGREEMENT ON GATT AGRICULTURE AT THE 22 OCTOBER FAC. TRADE AND AGRICULTURE MINISTERS MUST TRY AGAIN LATER IN THE WEEK. THE ISSUE MIGHT NEED TO GO TO THE EUROPEAN COUNCIL, BUT HAD SOMEHOW TO BE RESOLVED. THE COMMUNITY WAS ISOLATED, AND THE STAKES WERE HIGH. THE FRENCH AND GERMANS HAD TO BE MADE TO REALISE THE GRAVITY OF THE SITUATION. THE GERMANS PROBABLY DID, BUT HAD POLITICAL DIFFICULTIES. THE FRENCH PROBABLY DID NOT. THE WAY FORWARD WAS NOT OBVIOUS. THE COMMUNITY WOULD HAVE TO BE TOUGH ON ITS OWN FARMERS, BUT ADOPT MORE OF A FIGHTING SPIRIT WITH THE AMERICANS TOO. THE COMMISSION WOULD NEED TO DECIDE WHETHER TO GIVE A LITTLE GROUND IN ORDER TO TRY TO GET THE GERMANS ON BOARD, FOR EXAMPLE THROUGH COMPENSATORY MEASURES. BUT IT WAS NOT CLEAR THAT THIS WOULD WORK. GENSCHER WOULD PROBABLY PRESS FOR AGREEMENT WITHIN THE GERMAN CABINET, BUT HE MIGHT NOT SUCCEED. DELORS HIMSELF WOULD HAVE A WORD WITH KOHL. I UNDERLINED THE IMPORTANCE OF A QUICK AGREEMENT ON AN OFFER IF THE SUCCESS OF THE ROUND WERE NOT TO BE JEOPARDISED. I ALSO STRESSED THE UNREALITY OF RUSHING AHEAD WITH EMU AND POLITICAL UNION WHEN THE COMMUNITY COULD NOT GET ITS ACT TOGETHER ON THE ONE NEGOTIATION THAT REALLY MATTERED.

## CAP REFORM

3. DELORS SAID THAT THE CAP NO LONGER MET THE COMMUNITY'S NEEDS. THERE WAS A RISK OF GRAVE SOCIAL TENSIONS IN SOME MEMBER STATES, INCLUDING FRANCE. REFORM WAS NEEDED TO PROVIDE MORE HELP TO SMALLER AND WEAKER FARMERS. HE FORESAW A CAP WHICH WOULD BE 60 PER CENT PRICE SUPPORT AND 40 PER CENT INCOME



SUPPORT. THERE SHOULD BE GREATER EMPHASIS ON THE ENVIRONMENT TOO. BUT THIS WOULD ALL COST MONEY. I SAID REFORM MIGHT INDEED BE NEEDED. BUT SO WAS PROPER BUDGET DISCIPLINE.

#### BUDGETARY PRESSURES

4. DELORS WAS WORRIED AT THE PRESSURES ON THE BUDGET, FROM GERMAN UNIFICATION, AID TO THE GULF COUNTRIES MOST AFFECTED BY THE GULF CRISIS, AID TO THE SOVIET UNION AND TO EASTERN EUROPE, AND ELSEWHERE. THERE WAS A GROWING TENDENCY FOR COUNTRIES TO LOOK TO THE COMMUNITY, AS A RESPONSIBLE ACTOR ON THE WORLD SCENE, FOR HELP. IT MIGHT BE HELPFUL FOR THE FAC - OR PERHAPS A EUROPEAN COUNCIL - TO DEBATE THE ISSUE. PLANNING STAFFS OF COMMUNITY FOREIGN MINISTRIES MIGHT WORK AT IT. I SAID WE WERE CONSCIOUS OF THE DEMANDS. BUT AS DELORS HIMSELF HAD SAID AT THE LUNCHTIME FAC DISCUSSION OF THE SOVIET UNION, THERE WERE NOT ENOUGH SAVINGS IN EUROPE TO MEET THEM ALL. SOMETIMES ONE HAD TO HAVE THE COURAGE TO SAY NO. WE WOULD OURSELVES HAVE GREAT DIFFICULTY IN FINDING EXTRA MONEY. I WAS SCEPTICAL ABOUT A WIDE-RANGING DISCUSSION OF ALL THIS. IF THERE WERE TO BE ONE, FINANCE MINISTERS SHOULD BE INVOLVED.

#### SOVIET UNION

5. I SAID THAT THE COMMISSION REPORT TO THE ROME EUROPEAN COUNCIL WHICH DELORS HAD OUTLINED AT THE FAC LUNCH - ANALYSIS OF THE PROBLEM, BUT NO PROPOSALS - SEEMED RIGHT TO US. BUT WOULD THERE BE PRESSURE FROM THE FRENCH AND GERMANS TO GO FURTHER? DELORS SAID THERE MIGHT, BUT IT SHOULD BE POSSIBLE TO WITHSTAND IT THROUGH COMMUNIQUE LANGUAGE WHICH STRESSED COMMUNITY SUPPORT FOR GORBACHEV PRINCIPALLY THROUGH EMPHASIS ON TECHNICAL COOPERATION, FOR EXAMPLE BY FILLING OUT THE EXISTING COOPERATION AGREEMENT.

6. DELORS SAID THERE COULD BE NO QUESTION OF SUBSTANTIAL AID TO THE SOVIET UNION UNTIL THE RELATIONSHIP BETWEEN CENTRE AND STATE WAS CLARIFIED. HE SAW NO CASE FOR SHORT-TERM BALANCE OF PAYMENTS SUPPORT SINCE THE RISE IN THE OIL PRICE WOULD GREATLY IMPROVE SOVIET PROSPECTS. HE HAD TOLD GORBACHEV THERE WOULD BE NO LARGE-SCALE COMMUNITY AID IN THE SHORT TERM, BUT THAT HE WAS CONSIDERING THE CASE FOR MEDIUM-TERM HELP. GORBACHEV HAD ACCEPTED THIS.

7. DELORS SAID HE SAW THREE OPTIONS FOR THE SOVIET UNION:  
- AN EXPLOSION, WITH THE POLITICAL STRUCTURE AND THE ECONOMY DISINTEGRATING:  
- A 'BIG SLEEP', WITH THE SOVIET UNION RETREATING INTO



ITSELF TO RESOLVE ITS PROBLEMS:

- PROGRESSIVE SUCCESS FOR GORBACHEV, MORE THROUGH THE FAILURE OF HIS OPPONENTS THAN HIS OWN ACTIVITIES.

HE DID NOT KNOW WHICH TO GO FOR, BUT SAW GORBACHEV AS A SURVIVOR.

EMU IGC

8. I ASKED FOR DELORS'S VIEWS ON TIMING. HE SAID THERE WAS A DILEMMA. THE UNITED KINGDOM NEEDED TIME. BUT QUICK PROGRESS TOWARDS EMU WAS NEEDED IN ORDER TO BIND THE GERMANS INTO THE COMMUNITY. WE SHOULD NOT UNDER-ESTIMATE THE ECONOMIC AND SOCIAL TENSIONS WHICH UNIFICATION WOULD BRING. KOHL HIMSELF WAS CONSCIOUS OF THIS, AND HAD SPOKEN PESSIMISTICALLY TO DELORS ABOUT THE PROSPECTS AFTER HIS OWN DEPARTURE. THREE WEEKS AGO KOHL HAD TOLD HIM THAT HE COULD NOT TAKE A DECISION ON THE DATE FOR STAGE II BEFORE THE 2 DECEMBER ELECTIONS. HE HAD SINCE DONE SO BECAUSE, DELORS BELIEVED, OF A REALISATION THAT THREE OUT OF FIVE GERMANS WERE AGAINST EMU AND QUICK ACTION WAS NEEDED. THERE WAS A REAL RISK OF A WEAKENING IN GERMANY'S COMMITMENT TO THE WEST. I SAID I THOUGHT THIS ANALYSIS TOO PESSIMISTIC. IT WAS NATURAL, BUT NOT NECESSARILY REALISTIC, FOR KOHL TO BE CONCERNED ABOUT GERMANY AFTER HIS DEPARTURE FROM THE SCENE. AND EVEN IF THE POSITION WERE AS BLEAK AS DELORS PAINTED, I DOUBTED WHETHER QUICK PROGRESS TO EMU WOULD HELP. TO PUT STAGE III BEFORE STAGE II REALLY WAS TO PUT THE CART BEFORE THE HORSE. REAL PROGRESS COULD BE MADE WITH THE RIGHT KIND OF STAGE II: WE HAD PUT OUR OWN PROPOSALS FORWARD.

AND STAGE I HAD ONLY JUST BEGUN. THE PRESENT APPROACH CAUSED US VERY REAL DIFFICULTIES. IT RISKED MAKING THE IGC A BATTLE, NOT A CONFERENCE. LATER AND MORE PRIVATELY I TOOK DELORS THROUGH THE POLITICAL SITUATION IN THE UK IN ORDER TO SHOW THAT THERE WAS NO PROSPECT OF DRIVING US INTO ACCEPTING STAGE III.

POLITICAL UNION IGC

9. IN A BRIEF DISCUSSION, DELORS SAID THAT THE KEY ELEMENT OF THE IGC WAS THE PROPOSAL FOR A COMMON FOREIGN AND DEFENCE POLICY. MEMBER STATES MUST FIND A CONSENSUS ON THIS IF THE COMMUNITY WERE TO PLAY ITS PROPER ROLE IN THE WORLD. GREATER COHERENCE WAS NEEDED BETWEEN EPC AND THE EC TREATY. DELORS STRESSED THAT THE MEMBER STATES HAD PUSHED HARDER FOR POLITICAL UNION THAN THE COMMISSION, AND NOTABLY GERMANY, SPAIN AND PORTUGAL AFTER ACCESSION, AND THE BENELUX COUNTRIES. I SAID THAT THERE WERE SOME VERY REAL DIFFICULTIES FOR US IN THIS IGC TOO. AS DELORS KNEW, WE HAD PUT FORWARD IDEAS OF OUR OWN AND WERE PLAYING A POSITIVE PART IN THE NEGOTIATIONS. BUT HERE TOO,



IT WAS IMPORTANT NOT TO RUSH.

ENLARGEMENT

10. I SAID THAT THERE WAS SOMETHING OF A FALSE DEBATE GROWING ON ENLARGEMENT. NO-ONE WAS SAYING THERE SHOULD BE NEGOTIATIONS BEFORE 1993. NO-ONE WAS SAYING THERE SHOULD NEVER BE FURTHER ACCESSIONS. SO THERE WAS COMMON GROUND. MUCH WOULD DEPEND ON THE NEGOTIATIONS WITH EFTA AND ON ECONOMIC PROGRESS IN EASTERN EUROPE. BUT WE HAD TO ACCEPT THAT BY 2000 THE COMMUNITY WOULD BE LARGER THAN TWELVE. DELORS SAID THAT THE COMMUNITY COULD ABSORB NORWAY AND AUSTRIA WITHOUT GREAT DIFFICULTY. BEYOND THAT, IT WOULD BE A DIFFERENT KIND OF COMMUNITY.

11. FINALLY, DELORS SAID THAT THERE WERE FOUR MAIN THINGS THAT HE WANTED FROM THE NEGOTIATIONS:

- (I) A SUCCESSFUL STAGE I OF EMU:
- (II) A REALISATION BY MEMBER STATES THAT THE COMBINATION OF NATIONAL ACTION AND COMMUNITY ACTION ENHANCED THEIR INTERESTS: THE WHOLE WAS GREATER THAN THE SUM OF THE PARTS:
- (III) FOR THE COMMUNITY TO DISCHARGE ITS RESPONSIBILITY IN THE WORLD AS A WHOLE:
- (IV) TO BUILD A GENUINE CITIZENS' EUROPE.

THESE WERE BIG ISSUES. BUT WE SHOULD NOT FORGET THE REAL IMPORTANCE OF LESS VISIBLE ACTIVITY, SUCH AS COMPLETING THE SINGLE MARKET. THE COMMUNITY NEEDED TO TURN ITS ATTENTION BACK TO SUCH ISSUES ONCE THE TWO IGCS WERE UP AND RUNNING.

HURD

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cc/PC (2)



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23 October 1990

*Prime Minister*

David Anderson Esq CMG  
Legal Adviser  
Foreign and Commonwealth Office  
London SW1

*CDP*

*Should welcome  
a discussion*

*23/10.  
at flat*

*Dear David*

The Attorney General has seen Charles Powell's letter to Richard Gozney of 21 October, which records the Prime Minister's wish that the Law Officers be asked to look at the paragraph of the "European Magna Carta which concerns legal remedies. He has read the draft of the "Magna Carta" attached to your letter to me of 22 October.

The Attorney has noted that the draft is in the nature of a political affirmation rather than a legal text. To render the freedoms set out in the text legally justiciable it would be necessary to draft them in more specific terms and to add appropriate exceptions and qualifications. (Freedom of movement, for example, would have to be qualified by reference to appropriate immigration regulations.) This would require long and careful negotiation and we would end up with something not very different from the European Convention on Human Rights. Indeed, the Attorney notes, the Convention does the job rather well and emerging East European democracies might profitably be encouraged to become parties to it in due course.

The Attorney notes that any strengthening of the legal remedies referred to in the draft as it stands would have to be by way either of new international machinery or by the incorporation of specific rights and remedies in a country's domestic law. He does not consider that it would be desirable to set up separate international machinery to adjudicate upon the implementation of the "Magna Carta". For the reasons set out above he does not consider the freedoms, without further elaboration, are susceptible of international enforcement.

If "entrenched" domestic remedies are to be urged, the Attorney considers that the Prime Minister should be aware of the implications for present Government policy on the non-incorporation of the ECHR into our own domestic law. He has received a letter from "Charter 88" which adverts to the Prime Minister's speech in Aspen "where she calls for our fundamental rights to be 'entrenched'". If this should be so for the





countries of the 'Helsinki' process, surely it is also time for our rights to be genuinely entrenched in Britain."

The Government's policy hitherto has been to resist incorporation of the ECHR into our law, but to comply with the Convention, including any judgments of the Court, as a matter of treaty law. Successive governments have followed this policy. This has the twin advantages of avoiding a legislative vacuum deriving from the striking down of a Westminster statute, and of avoiding the foreseeable politicising of the judiciary deriving from the necessity for judicial interpretation of concepts such as the "economic well being of the country". This would lead us into the American experience - Judge Bork country.

It was on these grounds that the Attorney General opposed the second reading of Sir Edward Gardner's private member's Bill on 6 February 1987 and secured its defeat in the Commons.

The Attorney considers that great care needs to be taken in making any reference to "entrenchment" in the context of legal remedies for breach of any of the fundamental freedoms that are envisaged. It is not easy to advocate a deeper trench for others than we are prepared to provide for ourselves, and he hopes we will not depart from our own policy in relation to the ECHR.

If the Prime Minister would like to look into this further, the Attorney would welcome a discussion; he would of course be happy to prepare a paper if this would be useful.

I am copying this letter to Charles Powell and Richard Gozney.

*You are*

*Elizabeth*

ELIZABETH WILMSHURST

Euro for Human Rights Act





THE RT HON JOHN WAKEHAM MP



Department of Energy  
1 Palace Street  
London SW1E 5HE  
071 238 3290

*COO*  
*2/1/4*

The Rt Hon Peter Lilley MP  
Secretary of State for Trade and Industry  
1-19 Victoria Street  
LONDON  
SW1H 0ET

23 October 1990

*Dear Peter*

FUTURE OF THE EUROPEAN COAL AND STEEL COMMUNITY

Thank you for copying to me your letter of 11 October to Douglas Hurd. I agree that the provisions of the Treaty of Paris are now looking increasingly outmoded and that it would be sensible for the coal and steel industries to be subject in due course to the Treaty of Rome. I endorse your proposed "shopping list". However, on the question of tactics, I am concerned to avoid discussion at the forthcoming IGC of Euratom or of a possible Energy Chapter in the Treaty of Rome. Raising the future of the ECSC Treaty could increase the risk of such a discussion particularly if we indicate that immediate abolition was the ideal. I should therefore be glad if, when we put our shopping list to the Commission or other Member States, we would at the same time indicate that in our view negotiation over the future of the ECSC Treaty would overload the forthcoming IGC and that therefore we did not wish now to raise abolition of the ECSC Treaty. I am sure that the levy should be stopped as soon as possible and detailed study given to the best means of dealing with ECSC borrowing and financial reserves in the period to expiry of the Treaty.

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

*John Wakeham*  
*John*

JOHN WAKEHAM



Euro Policy Budgets # 47



*ujs*



Foreign and Commonwealth Office

London SW1A 2AH

22 October 1990

From The Minister of State  
Tristan Garel-Jones MP

The Rt Hon Peter Lilley MP  
Secretary of State for Trade  
and Industry  
Department of Trade and Industry  
1-19 Victoria Street  
London SW1H 0ET

*CGA 25/10*

*Dear Peter,*

**FUTURE OF THE EUROPEAN COAL AND STEEL COMMUNITY (ECSC)**

Thank you for your letter of 11 October to Douglas Hurd. I am replying in Douglas' absence overseas.

I agree with the approach you suggest: there is no reason in principle for coal and steel to be given different treatment from other parts of industry. But since winding up of the ECSC Treaty before 2002 seems unachievable, I fully agree that we should aim for a liberal reinterpretation of the Treaty on the lines you propose.

I also endorse your 'shopping list' and proposed line with the Commission. Once this has been worked up by officials, we shall ask our posts to take supporting action with other governments.

I am copying this letter to the recipients of yours.

*Yours  
Tristan*

Tristan Garel-Jones

Europa: Budget 1947





Box.



(2)

Rinehiser

10 DOWNING STREET

LONDON SW1A 2AA

*From the Private Secretary*

22 October 1990

CDP  
22/X

*am*

EUROPEAN COMMUNITY

I had some discussion over lunch with Jacques Attali today about European Community matters ahead of the Rome European Council. I think there are two points from the discussion worth retaining.

The first is continued French obsession with Germany. Attali spoke histrionically of France's nightmare that within a few years of "independence" (as he called it) Germany would simply announce that it did not really want any more integration in Europe and that it was intending to acquire its own nuclear weapons. This was why President Mitterrand was so keen to press ahead with European integration: it was the only way to tie Germany down and stop it from breaking out once more. You simply could not trust the Germans. The French have been seriously taken aback by the speed with which the Russians had moved last year to accept German unification. Gorbachev had told President Mitterrand in Kiev in December 1989 that the Soviet Union could never accept a reunified Germany, yet within weeks he had given Kohl the green light.

The second point was the interest Attali showed in the Prime Minister's ideas about bringing the East Europeans into the European Community. He wondered whether she was thinking in terms only of allowing them to become members of the Community: or whether her thinking also embraced the slightly different idea proposed by President Mitterrand, which was a confederation of European states of which the Twelve would be one member. If it was the former, it would mean an end of the further integration of Europe which would be difficult for France to accept for the reasons he had given me earlier. I said that it was indeed the former, not least because we did not want to create first and second class members of Europe. We judged it very important to bring the East Europeans within the perimeter of the Community, in a way which would allow them to preserve their nationhood while preventing nationalism from getting out of hand once more. Attali said that one had to ask the East Europeans, in that case, not only whether they would be prepared to join the Community as it was now, but as it would be in ten years time.

I might also add that Attali was very dismissive of a common defence policy, which he described as utterly impossible for France, and defensive about common foreign policy which "would apply only in certain circumstances". I asked if this meant only when France agreed with it, which he thought a pretty fair summary.

(CHARLES POWELL)

J.S. Wall, Esq., L.V.O.,  
Foreign and Commonwealth Office.



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YOUR TELNO 584 TO ROME : EC INSTITUTIONAL REFORM

SUMMARY

1. MOST DUTCH IDEAS TO IMPROVE THE FUNCTIONING OF THE COMMUNITY ARE COMPATIBLE WITH OUR OWN, DESPITE OUR DISAGREEMENT OVER THE FINAL DESTINATION. THE DUTCH WILL STUBBORNLY RESIST FRENCH ATTEMPTS TO INCREASE THE POWERS THE EUROPEAN COUNCIL.

DETAIL

2. THE DUTCH VIEW OF POLITICAL UNION IS GENERALLY AS REFLECTED IN RECENT WHITEHALL PAPERS, AND WAS SET OUT AT LENGTH IN THE POLICY DOCUMENT 'EUROPE THE WAY FORWARD' SENT TO THE DUTCH PARLIAMENT IN JUNE OF THIS YEAR (JONES' LETTER OF 14 JUNE TO HITCHENS, ECD(I)). A FURTHER PAPER SETTING OUT DUTCH GOVERNMENT VIEWS IN ADVANCE OF THE IGCS HAS BEEN CLEARED AT OFFICIAL LEVEL AND, IF APPROVED IN CABINET ON 26 OCTOBER, WILL THEN BE PRESENTED TO PARLIAMENT AND DISTRIBUTED IN BRUSSELS. THE MAIN LINES OF DUTCH THINKING ARE, HOWEVER, ALREADY REASONABLY CLEAR.

3. THE DUTCH START FROM THE BELIEF THAT THEIR LONG TERM INTERESTS WILL BE BEST SERVED BY A FEDERAL EUROPE. THEY ARE WILLING TO ADVANCE TOWARDS THIS GOAL BY PRAGMATIC STEPS, AND RECOGNISE THAT MUCH NEEDS DOING TO IMPROVE THE DAY-TO-DAY MANAGEMENT OF THE COMMUNITY. THEY WILL BE CONTENT WITH LIMITED PROGRESS SO LONG AS IT IS IN THE DIRECTION THEY REGARD AS PROGRESSIVE OR AT THE VERY LEAST DOES NOT GO IN THE OPPOSITE DIRECTION. THEY ARE PARTICULARLY OPPOSED TO ANY PROPOSALS WHICH WOULD STRENGTHEN THE INTER-GOVERNMENTAL CHARACTER OF THE COMMUNITY, AND DISLIKE FRENCH IDEAS FOR DEVELOPING THE POWERS OF THE EUROPEAN COUNCIL. (WE TOO COME IN FOR SOME SUSPICION BUT LESS OPEN CRITICISM ON THIS SCORE).

4. DUTCH OBJECTIVES FOR THE IGC ARE THUS ON THE WHOLE MODEST. BUT THEY ARE PREOCCUPIED BY THE DEMOCRATIC DEFICIT, AND WILL SUPPORT MOVES TO IMPROVE THE POWERS OF THE PARLIAMENT (BUT NOT MORE RADICAL



IDEAS SUCH AS GIVING PARLIAMENT THE RIGHT OF LEGISLATIVE INITIATIVE). THEY WILL ALSO SUPPORT THE EXTENSION OF QUALIFIED MAJORITY VOTING AT LEAST TO ENVIRONMENTAL ISSUES, AND POSSIBLY MORE WIDELY. THEY MAY WANT TO PROPOSE CHANGES TO ARTICLE 235 TO MAKE IT MORE 'EVOLUTIONARY', THOUGH STILL ON THE BASIS OF UNANIMITY. THEY WILL BE IN FAVOUR OF BROADENING THE SCOPE OF EPC TO INCLUDE SECURITY QUESTIONS, BUT WOULD NOT (YET) BE IN FAVOUR OF THE COMMUNITY ASSUMING THE ROLE AND RESPONSIBILITIES OF THE WEU. THERE IS STRONG DOMESTIC POLITICAL SUPPORT FOR THE IDEA OF A COMMON POLICY ON ARMS EXPORTS. COMMUNITY PARTICIPATION IN THE UN SECURITY COUNCIL AND THE G7 WILL REMAIN A GOOD DEBATING ISSUE FOR THEM, BUT WE WOULD NOT EXPECT THE DUTCH TO PRESS FOR ACTION NOW.

5. AGAINST THIS BACKGROUND THERE ARE DIFFERENCES OF OPINION WITHIN THE GOVERNMENT ABOUT WHICH AREAS THAT MAY BE RIPE FOR QUALIFIED MAJORITY VOTING. THE FOREIGN MINISTRY TAKE A MAXIMALIST POSITION BUT ARE NOT ALWAYS ABLE TO CONVINCE DOMESTIC DEPARTMENTS. THE DUTCH WILL IN ANY CASE REMAIN COMMITTED TO PRESERVING A NATIONAL CULTURAL IDENTITY AND WILL THUS RESIST THE ENCROACHMENT OF COMMUNITY COMPETENCE INTO EDUCATION AND CULTURAL ISSUES SUCH AS BROADCASTING.

6. THE STATE SECRETARY FOR EUROPEAN AFFAIRS. DANKERT, WHO IS A FORMER PRESIDENT OF THE E P AND PERHAPS THE MOST 'EUROPHILE' VOICE IN THE PRESENT GOVERNMENT, SET OUT HIS OWN VIEWS ON THE 'DEMOCRATIC DEFICIT' IN AN ARTICLE PUBLISHED IN THE N R C HANDELSBLAD NEWSPAPER OF 19 OCTOBER. HIS WISH LIST FOR THE EUROPEAN PARLIAMENT, WHICH HE ADMITS IS AT PRESENT WITHIN REACH, INCLUDES EXTENDING Q M VOTING WITH CONSEQUENT INCREASED USE OF AN (EXTENDED) COOPERATION PROCEDURE: A RIGHT TO TAKE THE POLITICAL INITIATIVE TO STIMULATE LEGAL PROPOSALS FROM THE COMMISSION: POWER OVER THE INCOME AS WELL AS THE EXPENDITURE SIDE OF THE BUDGET AND THE RIGHT OF THE PARLIAMENT TO REJECT PROPOSED LEGISLATION ON CASES WHERE THE COUNCIL HAS TURNED DOWN AMENDMENTS FROM THE E P ACCEPTED BY THE COMMISSION. HE ARGUES THAT NATIONAL PARLIAMENTARY CONTROL IS NO SUBSTITUTE FOR A PROPER DEMOCRATIC CONTROL AT THE EUROPEAN LEVEL AND THAT MEASURES TO REMOVE THE DEMOCRATIC DEFICIT WILL HAVE TO BE TAKEN AT THE COST OF THE COUNCIL WHICH IS AT PRESENT TOO POWERFUL. IT REMAINS TO BE SEEN HOW FAR THESE IDEAS WILL BE INCLUDED IN THE DUTCH POSITION FOR THE I G C.

JENKINS



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YOUR TELNO 584: EC INSTITUTIONAL REFORM

1. YOU REQUESTED A BRIEF ANALYSIS OF THE ITALIAN APPROACH TO THE IGC ON POLITICAL UNION.

2. ITALIAN ATTITUDES DERIVE FROM SEVERAL UNDELYING FACTORS. FOUR STAND OUT:

I) ITALIANS ARE GENUINE EUROPEAN IDEALISTS. AS A YOUNG NATION, FOR WHICH UNIFICATION IN THE LAST CENTURY BROUGHT GREAT BENEFITS, BUT WHICH SUFFERED GREATLY DURING THE WARS IN THIS CENTURY, EUROPEAN UNIFICATION IS WIDELY SEEN AS THE KEY TO PROSPERITY AND PEACE IN THE NEXT.

II) DISSATISFACTION WITH WEAK AND CORRUPT COALITION GOVERNMENT FROM ROME IS WIDESPREAD: RULE FROM BRUSSELS APPEARS AN ATTRACTIVE, CERTAINLY MORE EFFICIENT, ALTERNATIVE.

III) THE ITALIANS FEAR THE ECONOMIC POWER AND FUTURE POLITICAL WEIGHT OF A UNIFIED GERMANY. THEY THINK THIS IS BEST RESTRAINED WITHIN A FEDERAL EUROPEAN STRUCTURE.

IV) THOSE DIRECTLY CONCERNED WITH ITALIAN POLICY ON POLITICAL UNION - PRINCIPALLY ANDREOTTI AND DE MICHELIS - HAVE FURTHER POLITICAL AMBITIONS (ANDREOTTI FOR THE PRESIDENCY OF ITALY, AND DE MICHELIS FOR HIGHER MINISTERIAL OFFICE, OR EVEN FOR DELORS' JOB). FOR NEITHER WILL THE HONOUR OF HOSTING THE CEREMONIAL OPENING OF THE IGC BE SUFFICIENT: THEY WANT TO CLAIM CREDIT FOR CHARTING ITS COURSE. HENCE ITALIAN INSISTENCE ON THE NEED FOR A 'MANDATE' FROM THE EUROPEAN COUNCIL FOR THE IGCS, AND THEIR IDEAS ABOUT TROIKA SUB-SECRETARIATS TO 'STEER' THE IGCS THROUGH SUCCEEDING PRESIDENCIES.

3. AGAINST THIS BACKGROUND, THE OVERALL ITALIAN APPROACH TO EPU IS MAXIMALIST. THEY WILL SUPPORT ANY PROPOSALS THAT INVOLVE



SUBSTANTIAL STEPS TOWARDS EUROPEAN INTEGRATION: WHILE THEY FIND OUR MORE PRAGMATIC IDEAS MARGINAL AND UNEXCITING. THEY ARE UNINHIBITED ABOUT CEDING SOVEREIGNTY TO SUPERNATIONAL EUROPEAN INSTITUTIONS: DE MICHELIS TOLD THE EUROPEAN PARLIAMENT IN JULY THAT THE ITALIAN PRESIDENCY WOULD TRY 'TO ENSURE THE MAXIMUM TRANSFER OF SOVEREIGNTY TO COMMUNITY INSTITUTIONS' (AS CORRECTLY NOTED IN ANNEX B TO EQO(90)152).

4. MORE SPECIFICALLY, THEIR OBJECTIVES ARE:

I) TO STRENGTHEN THE POWERS OF THE EUROPEAN PARLIAMENT. IN PARTICULAR THEY WANT IT TO HAVE THE RIGHT OF CO-DECISION IN CENTRAL COMMUNITY POLICY AREAS, SUPERVISORY POWER OVER THE APPOINTMENT OF COMMISSIONERS AND THE RIGHT TO PROPOSE AMENDMENTS TO THE TREATY.

II) THOUGH THEY HAVE NO FIRM PROPOSALS THEMSELVES, THEY ARE LIKELY TO SUPPORT OTHERS' IDEAS ABOUT STRENGTHENING LINKS BETWEEN NATIONAL PARLIAMENTS AND THE EP.

III) THEY WANT EXTENDED USE OF QUALIFIED MAJORITY VOTING - PARTICULARLY IN SOCIAL AFFAIRS, BUT THEY WOULD SUPPORT ITS EXTENSION TO ALMOST EVERY AREA OF COMMUNITY ACTIVITY.

IV) THEY SUPPORT STRENGTHENED EXECUTIVE POWERS FOR THE COMMISSION, THE ECJ AND THE COURT OF AUDITORS.

V) THEY PROPOSE A STRENGTHENING OF EPC 'TO CREATE A REAL COMMON FOREIGN POLICY' INCLUDING SECURITY ISSUES. THEY HAVE CIRCULATED A PAPER WHICH PROPOSES INTER ALIA A SECURITY GUARANTEE AMONG MEMBER STATES: A COUNCIL OF DEFENCE MINISTERS TO CONCERT DEFENCE AND SECURITY POLICY: CONCERTED POLICIES ON CRISES OUTSIDE EUROPE: THE COORDINATION OF DISARMAMENT POLICIES: AND CONSULTATION ON ARMS SALES.

5. THE NEED FOR A COMMON SECURITY POLICY HAS BEEN A RECURRENT THEME IN ITALIAN MINISTERIAL PRONOUNCEMENTS IN RECENT WEEKS. THERE HAS BEEN THE FURTHER SUGGESTION AT ASOLO THAT WEU BE INCORPORATED INTO THE EC. THE ITALIANS BELIEVE THE GULF CRISIS HAS CREATED THE CONDITIONS FOR A MAJOR INSTITUTIONAL CHANGE OF THIS KIND.

6. THERE ARE PERHAPS TWO POSSIBILITIES THAT THE ITALIANS WILL BE PARTICULARLY KEEN TO AVOID:

I) A CONFERENCE THAT BECOMES BOGGED DOWN IN DETAIL AND



DISAGREEMENT. THEY WANT IT TO FINISH WITHIN THE SAME TIMESCALE AS THE IGC ON EMU - THEY HOPE SIX MONTHS. THEY MAY WELL SETTLE FOR SUBSTANTIALLY LESS THAN THEIR MAXIMALIST ASPIRATIONS IN EXCHANGE FOR A QUICK RESULT. THEY JUDGE THAT EVEN IF THIS IGC DOES NOT PRODUCE ALL THEY WANT, IT WILL BE FOLLOWED BY OTHERS THAT DO.

II) ANY FORMAL DEFINITION OF SUBSIDIARITY THAT CIRCUMSCRIBES THE AREAS INTO WHICH COMMUNITY COMPETENCE MAY EVENTUALLY EXPAND.

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YOUR TELNO 584 TO ROME: EC INSTITUTIONAL REFORM - FRENCH VIEWS ON  
POLITICAL UNION  
SUMMARY

1. FRENCH APPROACH TO POLITICAL UNION FRAMED IN CONTEXT OF THEIR CONCERNS ABOUT GERMANY, DECLINING AMERICAN INVOLVEMENT IN EUROPE, THE NEED TO GIVE THE COMMUNITY 'A HUMAN FACE' AND TO PRESERVE THE BASIC INSTITUTIONAL GEOMETRY. POLITICAL UNION MEANS, ABOVE ALL, THE FORGING OF COMMON FOREIGN AND SECURITY POLICY. EMPHASIS ON THE EUROPEAN COUNCIL'S ROLE IN DRIVING THE UNION'S POLICIES. DIFFICULT BALANCING ACT BETWEEN PRESERVATION OF FRENCH FREEDOM TO ACT AS THEY WISH AND THE PERCEIVED NEED TO BE IN THE LEAD ON BUILDING EUROPE.

## DETAIL

2. STRATEGIC ELEMENTS IN THE FRENCH APPROACH TO THE POLITICAL UNION IGC REFLECT THEIR FOLLOWING CONCERNS:

- TO TIE GERMANY INTO THE COMMUNITY THROUGH NEWLY-DEFINED INSTITUTIONAL ARRANGEMENTS WHICH GIVE FRANCE AND OTHER MEMBER STATES A SAY IN THE KEY DECISIONS, ESPECIALLY IN MONETARY MATTERS:
- TO MAINTAIN THE SPECIAL FRANCO-GERMAN RELATIONSHIP AS A DRIVING FORCE IN EUROPEAN AFFAIRS:
- NOWWITHSTANDING THE ABOVE, DEFEND NATIONAL FREEDOM OF ACTION ON THE ESSENTIALS AND FRENCH POLITICAL LEADERSHIP EUROPEAN CONSTRUCTION:
- TO BEGIN CONSTRUCTION OF A COMMON FOREIGN AND SECURITY POLICY SO AS (A) TO GIVE THE COMMUNITY A VOICE IN WORLD AFFAIRS WHICH MATCHES ITS ECONOMIC WEIGHT: (B) TO STRENGTHEN THE EUROPEAN PILLAR TO WITHSTAND THE REDUCTION IN AMERICAN MILITARY COMMITMENT AND POLITICAL INVOLVEMENT IN EUROPE WHICH FRANCE EXPECTS:
- TO COUNTERBALANCE WITH A 'HUMAN DIMENSION' WHAT THE PRESIDENT SEES AS THE COMMUNITY'S UNDUE EMPHASIS ON REMOTE ECONOMIC CONVERGENCE (INCLUDING EMU):
- HENCE, TO INCREASE THE SENSE OF INVOLVEMENT BY INDIVIDUALS IN EUROPE (NOT NECESSARILY THROUGH THE EP ALONE, WHICH THEY REGARD AS UNREPRESENTATIVE AND IRRESPONSIBLE):
- TO WIN FORMAL AGREEMENT ON STRASBOURG AS THE SITE OF THE EUROPEAN PARLIAMENT:



- TO PRESERVE FRANCE'S PERMANENT MEMBERSHIP OF THE UN SECURITY COUNCIL:
- TO AVOID WIDENING AT THE EXPENSE OF DEEPENING.

3. FRENCH OBJECTIVES FOR THE POLITICAL UNION IGC INCLUDE:

- MAINTENANCE OF THE EXISTING INSTITUTIONAL BALANCE. ABOVE ALL, THE FRENCH OPPOSE EXTENSION OF COMMISSION POWERS, PARTICULARLY INTO THE CREATION OF A COMMON FOREIGN AND SECURITY POLICY. THEY COULD LIVE WITH MINOR CONCESSION TO THE EUROPEAN PARLIAMENT. BUT THEY INSIST ON THE PRIMACY OF THE EUROPEAN COUNCIL, IDEALLY FED EXCLUSIVELY THROUGH THE GENERAL AFFAIRS COUNCIL:
- STRENGTHENING OF THE EXIGUOUS SECRETARIAT SUPPORT FOR THE EUROPEAN COUNCIL, PROBABLY INCLUDING DEVELOPING THE AUTHORITY OF THE SECRETARY GENERAL OF THE COUNCIL TO MATCH MORE NEARLY THAT OF THE PRESIDENT OF THE COMMISSION:
- THE EUROPEAN COUNCIL TO GIVE A TOP LEVEL POLITICAL STEER TO OFFICIALS, WITHOUT GETTING INTO DETAIL. POSSIBLE INCREASE IN QUALIFIED MAJORITY VOTING ON IMPLEMENTING EUROPEAN COUNCIL DECISIONS TAKEN BY UNANIMITY:
- CAUTION ON QUESTION OF RELATIONSHIP BETWEEN WEU AND THE COMMUNITY: WE SEEN AS 'BRIDGE' TO THE 12 AND TO NATO, BUT INTEGRATION OF WEU INTO EPC IS REJECTED:
- DEVELOPMENT OF THE NATIONAL/EUROPEAN PARLIAMENTARY ASSISES AS A WAY OF INCREASING DEMOCRATIC LEGITIMACY:
- EUROPEAN CITIZENSHIP (DETAILS UNCLEAR):
- THE FRENCH ARE UNLIKELY TO OPPOSE OUTRIGHT THE UK'S OWN OWN PROPOSALS FOR IMPROVING THE COMMISSION'S ACCOUNTABILITY, ALTHOUGH THEY ARE LESS KEEN TO SUPPORT ACTIVE ENFORCEMENT OF ECJ JUDGEMENTS.

4. IN THE IMMEDIATE FUTURE, THE FRENCH RECOGNISE THAT THE POLITICAL UNION DOSSIER WILL BE INSUFFICIENTLY ADVANCED BY THE TIME OF THE OCTOBER EUROPEAN COUNCIL (AND PROBABLY THE DECEMBER ONE) TO ALLOW DETAILED DECISIONS TO BE TAKEN. INDEED, AS THE JAY/DE BOISSIEU MEETING SHOWS, THEIR OWN THOUGHTS ARE STILL EVOLVING. SO THEY WILL BE LOOKING FOR SOMETHING LONGER ON RHETORIC THAN ON SUBSTANCE AS THIS STAGE OF THE NEGOTIATIONS.

5. THE FRENCH ARE KEEN TO AVOID:

- BEING TOO SPECIFIC ABOUT WHAT FEDERALISM MEANS (THEY ARE PARTICULARLY WORRIED BY GERMAN DEFINITIONS)
- ANY SUBSTANTIAL INCREASE IN THE POWERS OF THE EUROPEAN PARLIAMENT AND THE COMMISSION:
- LIMITATIONS ON NATIONAL DEFENCE POLICIES THROUGH CREATION OF A COMMON SECURITY POLICY:



- SIMILARLY, LIMITATIONS ON FRENCH FOREIGN POLICY EXCEPT IN THOSE AREAS (SUCH AS CSCE) WHERE HEADS OF GOVERNMENT AGREE THAT THEY SHARE ESSENTIAL COMMON INTERESTS.

6. THERE ARE A NUMBER OF POINTS AT WHICH THE BRITISH AND FRENCH APPROACHES COME TOGETHER. AND THE FRENCH WANT THE UK TO PLAY A FULL PART IN THE POST-GERMAN UNIFICATION EUROPE, NOT LEAST AS AN IMPORTANT FACTOR IN THEIR AIMS VIS-A-VIS GERMANY. THEY DO NOT WANT TO HAVE TO FACE A CHOICE BETWEEN ACHIEVING THEIR MAJOR OBJECTIVES AT THE PRICE OF SPLITTING THE COMMUNITY, AND MOVING FORWARD AS 12 AT THE PRICE OF ABANDONING KEY OBJECTIVES. IN THE CONTEXT OF THE POLITICAL UNION IGC, THIS CHOICE IS UNLIKELY TO ARISE. BUT THEY WARN US THAT IT MIGHT ARISE IN THE CASE OF EMU, WHICH THEY SEE AS A KEY OBJECTIVE AND INTEGRALLY RELATED TO THE POLITICAL UNION DEBATE.

7. SEE ALSO OUR TELNO 1225.

LLEWELLYN SMITH

YYYY

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ADDITIONAL 1

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CONFIDENTIAL



*Si 10*  
*bc. PC.*

10 DOWNING STREET

LONDON SW1A 2AA

*From the Private Secretary*

19 October 1990

*Dear Richard.*

**EC INSTITUTIONAL REFORM: SUBSIDIARITY**

Thank you for your letter of 15 October about subsidiarity in the context of EC Institutional Reform. The Prime Minister has concerns about this which she will want to discuss with the Foreign Secretary before we adopt a position within the EC. Our basic starting point has to be that sovereignty rests and must remain with the separate member states where it has been explicitly given to the EC. She doubts that all other member states share this view: for some of them subsidiarity is a way of giving the centre a free hand save only for what is reserved for the periphery. The definition is therefore of crucial importance, as you recognise.

Beyond that, the Prime Minister has serious doubts about the concept of a Constitutional Council or committee of National Parliamentarians to adjudicate on whether the principle of subsidiarity is being observed. Would there not be a risk that such a body would be captured by those whose views on subsidiarity are very different from ours? The whole concept of a constitutional body adjudicating on what belongs to the centre and what does not is a central feature of federal systems of government.

There is also the risk that local government will try to capture and use the concept of subsidiarity for its own ends.

For these reasons, the Prime Minister thinks that we should concentrate for now on getting an acceptably tight definition of subsidiarity and not get into discussion of enforcement machinery.

I am copying this letter to the Legal Secretary to the Law Officers and to Sir Robin Butler.

*Yours sincerely,*  
*Chris Powell*  
C.D. POWELL

Richard Gozney, Esq.,  
Foreign and Commonwealth Office.

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Ref. A090/2421

PRIME MINISTERCabinet: Community Affairs

The Foreign Secretary minuted you and Cabinet colleagues about the informal Foreign Ministers' meeting on 6/7 October.

2. The Chancellor attended ECOFIN on 8 October, where:

- UK entry to the ERM was generally welcomed;
- the Presidency said they would produce a brief impressionistic report on EMU for the special European Council on 27/28 October;
- agreement on revision of the financial perspectives following German unification was blocked by French pressure for the creation of a contingency reserve allowing agricultural spending to rise above the established guideline ceiling.

3. Mr Gummer will wish to report on GATT Agriculture, on which the Commission's proposals, due to be tabled in Geneva by 15 October, have still not been agreed by the Council. In the last two weeks There have been two rounds of difficult discussions in the Agriculture Council (8 and 16 October) as well as a special meeting of the Foreign Affairs Council which Mr Lilley attended on 11 November. In response to the obstructive line taken by most member states, the Presidency have suggested a draft Council declaration to help resolve the blockage and allow the Commission's proposal (which we support) to be tabled. The present text contains some unwelcome elements, including an undertaking that any compensatory measures should be concentrated

UK  
Dunn  
Holland



on the "most vulnerable" categories of producers and regions (which could operate against UK interests) and a step backwards on rebalancing (which however seems unlikely to survive the negotiations with the United States). Member States (notably France and Germany) are seeking fresh instructions and the Agriculture Council will reconvene on 19 October. If no decision can be reached, there will be discussion at next Monday's Foreign Affairs Council and conceivably even at the European Council on 27/28 October.

4. Mr Lilley may refer to two recent meetings:

- a thin Internal Market Council on 9 October, at which the Commission presented their latest report on implementation, showing the UK's record as second only to Denmark;
- the 15 October Industry Council, where a Presidency bid to promote a more active and interventionist EC industrial policy was rejected by most member states.

5. Future meetings will be:

- Informal Culture Council, 18/19 October
- Consumer Council, 22 October
- Foreign Affairs Council, 22/23 October
- Special European Council, 27/28 October

F.R.B.

ROBIN BUTLER

17 October 1990

CONFIDENTIAL

MR POWELL

16 October 1990

SUBSIDIARITY

I strongly believe that the Prime Minister should remain cautious about the idea of a new Constitutional Council or Committee of Wise Men to adjudicate upon subsidiarity. The latest FCO letter offers no new arguments in support. *1/Play?*

Last summer there was a very thorough round of telegrams from EC posts analysing how each Member State viewed subsidiarity, and the extent to which it already operated in each national system. There has also been a certain amount of academic debate.

Two points stand out from this work:

- 1) Many Member States view the concept quite differently from us. One could summarise this by saying that, whereas we see subsidiarity as a way of limiting the Commission by defining what the centre can do, plenty of others see it in the reverse: as a way of giving the centre a free hand minus only what is specifically reserved to the periphery. (This is how Delors put it, for example, in a lengthy discourse on the subject last February to the Parliament's Institutional Affairs Committee.)

Can we really be confident that a new body would not be captured by views quite different from our own? I doubt it. But if we have put the idea of a new body on the table, we may be hoist by our own petard.

- 2) The idea of a constitutional body adjudicating on what belongs to the centre and what does not is a central feature of federal systems of government. Examples are Belgium and Germany in the EC, and the US and Canada outside. There must be a danger, if the UK supports such an idea for the EC, of our being tarred with a federal brush.



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One other important facet of the debate about subsidiarity was touched on at OD last May, although no further work seems to have been done on it. This is how local government might seek to capture and use for its own ends, not only the concept of subsidiarity, but more particularly a new Community body set up specifically to focus on the question. This would be fertile ground for the new body's role to be widened.

There is little doubt in my mind that the Government has plenty of critics in local government who would seek to exploit the existence of a new body in order to create maximum embarrassment.

I conclude from the above that, certainly at this early stage, we should concentrate on trying to get an acceptably tight definition of subsidiarity before saying anything about enforcement machinery. We might find that the definition most of the Community wants is something we would definitely not want to enforce.

*John Mills*  
JOHN MILLS

EURO POL Budget AE 47





*ccfe*



Treasury Chambers, Parliament Street, SW1P 3AG

Rt Hon John Patten MP  
Minister of State  
Home Office  
Queen Anne's Gate  
LONDON SW1

*CDP 17/A*

16 October 1990

*John*

DRAFT EC DIRECTIVE ON MONEY LAUNDERING

Thank you for your letter of 4 October <sup>Har</sup> to John Major on which the Prime Minister has commented.

I fully agree that, while supporting the objectives of the draft Directive, we should resist the extension of Community competence into the field of criminal law. As you may know, at the 8 October ECOFIN meeting, the Italian Presidency tabled a compromise solution on the competence issue. This involved the replacement of the requirement to criminalise money laundering by the formula used in the Insider Dealing Directive, coupled with an inter-governmental declaration that Member States would undertake to make money laundering a criminal offence.

Our response was that the compromise proposal did not address our difficulties on the requirements in the Directive regarding the enforcement of the criminal law. We also reserved our position on the need for a political declaration, given that the use of the Insider Dealing Directive formula would provide the necessary legal underpinning for action against money laundering. However, these points were not supported by other Member States, most of whom could accept the Presidency compromise. In the event, the Commission, supported by Belgium, held to its position that money laundering had to be criminalised under the Directive and the dossier has been remitted back to COREPER.

We now need to decide how to carry forward our competence concerns in the light of the ECOFIN discussion. We will continue to argue that an inter-governmental declaration is unnecessary. But properly handled, such a declaration can provide a powerful bastion to prevent any danger of a concession of Community competence.



I suggest that we ask officials to consider the competence issues further in EQ(O), and to come back to us. It might be useful at that point for you and me to meet to discuss this.

I am copying this letter to the Prime Minister, Geoffrey Howe, Douglas Hurd, Peter Lilley, Kenneth Clarke, Malcolm Rifkind, Peter Brooke, Patrick Mayhew, Peter Fraser and to Sir Robin Butler.

A handwritten signature in black ink, appearing to be "Francis Maude".

FRANCIS MAUDE





10 DOWNING STREET  
LONDON SW1A 2AA

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*Subject*  
THE PRIME MINISTER  
*Master*  
*Master cc Subject*  
*ofc*

15 October 1990

PRIME MINISTER'S  
PERSONAL MESSAGE  
SERIAL No. T212A/90

*Dear Helmut:*

Thank you for your letter of 14 September introducing your Government's memorandum on the harmonisation of taxes and charges in goods transport by road.

The opportunity to discuss this issue and to consider the way forward will arise when Ministers of Transport meet at the Transport Council later this month. Like you, I look forward to seeing the report of that Council and considering it at the European Council in December.

*Yours ever*  
*Rajan*

His Excellency Dr. Helmut Kohl

*[Handwritten mark]*





*No - for the reasons given in John Mills letter*  
*note - This Council would be disastrous. The red*  
 Foreign and Commonwealth Office  
 London SW1A 2AH  
 CONFIDENTIAL  
*Parliament is much*  
*remains* Sovereignty is with  
*the separate states such*  
*as on things*  
*which are*  
*irrevocably given*  
*to the*  
*centre.*  
*no*

*Rising Minister*

*Content for the Foreign*  
 15 October 1990

*Secretary to speak on*  
*these lines at the Foreign*

*Dear Charles, Council i.e. a tight definition of*  
 subsidiarity,

**EC Institutional Reform: Subsidiarity**

Thank you for your letter of 8 October. *Plus*

The Dublin European Council agreed that work should be done on how the principle of subsidiarity could be applied and defined in such a way as to maximise its operational effectiveness. In later discussions, several member states have indicated an interest in writing subsidiarity into the Treaty. So it will be on the agenda for the Inter-Governmental Conference. The Foreign Secretary does not think we need take a firm position at this stage. But he wants to be able to steer the debate which is now starting, to avoid member states distorting the principle and its application in a way which would result in the opposite effect from the one we seek.

It was agreed in OD last May that the UK should seek to capture the concept, by supplying a suitable definition which would lay down the criteria for Community-level action. In this way we could provide a strong presumption of action at the national rather than the Community level. This is one of the points on which the Foreign Secretary is seeking the view of the Law Officers, and on which the Solicitor-General has commented.

The question is how to make sure subsidiarity is applied in practice. If the principle is not included in the Treaty, ensuring its application may be difficult. If in the Treaty, the concept could ultimately be tested before the European Court. We have identified the following ways of giving it effect.

a) Stating subsidiarity as a general principle to which a member state can appeal in debate, i.e. outside the Treaty. This is a minimalist approach. Attaching some sort of procedure must be better, not least to encourage the Commission to stop and think before devising proposals.

/b)





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- b) Allowing a member state to challenge an adopted measure before the European Court. This would be the automatic result of simply writing the principle into the Treaty. But subsidiarity is more a political than a legal concept, and the ECJ is the wrong body to make the judgement. The ECJ would be reluctant to set aside the collective approval of the Council. We cannot look to it as an effective champion of the interests of individual member states. You indicated that the Prime Minister was not attracted by this option.
- c) Providing for a measure to be challenged before the ECJ when still a proposal instead of after adoption. Most of the same objections apply, at least to involvement of the ECJ at this preliminary stage.
- d) Providing for the Council itself to consider subsidiarity before it looked at other aspects of a proposal. There seems to be no way of forcing the Council to do this. Member states would consider the substance as a whole - particularly whether they would benefit financially - and give their opinion accordingly. If we could rely on the Council to block unnecessary or over-detailed measures which should be left to national governments, we would not need the principle in the first place.
- e) Providing for a proposal to be challenged before some new body, e.g. a Constitutional Council or a Committee of national parliamentarians.

*I wish  
this were  
so*

The Foreign Secretary is inclined to think that, of these options, the last offers the best chance of success. At the very least, such a body would want to establish its own locus and not act simply as a rubber stamp for the Commission. We would of course need to look carefully at its composition to try to ensure that it really set out to defend individual member state interests.

The Foreign Secretary does not expect the Foreign Affairs Council on 22 October to go into detail. He will argue that the paper for heads of government should contain options not prescriptions. His intention at this stage would be to have simply an exploratory discussion on subsidiarity. But he considers it important that we should steer the discussion in the direction of showing up the position of individual states, in order to avoid leaving a gap which could be filled by other, less acceptable proposals. Subject to the views of the Prime Minister and any further comments from the Law Officers, he would therefore propose to float our ideas for a tight definition of subsidiarity, and to indicate ways in which it might best be given effect, on the lines above.

/As

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As agreed in May, we shall clearly need sensible proposals of our own at this IGC which shore up the position of individual states and national parliaments. Otherwise we shall be unnecessarily wrong footed at home and abroad. A soundly based approach to subsidiarity is an important element in this tactic.

I am sending a copy of this letter to the Legal Secretary to the Law Officers and to Sir Robin Butler.

*Yours ever,*

(R H T Gozney)  
Private Secretary

C D Powell Esq  
10 Downing Street

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the department for Enterprise

CC PC  
CC PA  
CC BP



The Rt. Hon. Peter Lilley MP  
Secretary of State for Trade and Industry

Rt Hon Douglas Hurd CBE MP  
Secretary of State for  
Foreign and Commonwealth Affairs  
Downing Street  
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Our ref PE10147  
Your ref  
Date 11 October 1990

COPY 1/2

*Dear Secretary of State*

## FUTURE OF THE EUROPEAN COAL AND STEEL COMMUNITY

As you will know, the European Commission are shortly to make proposals on the future of the Treaty of Paris which established the European Coal and Steel Community. I am therefore writing to seek colleagues' agreement for the line the UK should take in discussions on this issue. In order to provide an opportunity for some lobbying in Brussels and in capitals, I should be grateful if we could settle our line by 16 October if at all possible, and no later than 22 October.

Our starting point should I think be the principle that the provisions of the ECSC Treaty should ultimately be ended and the coal and steel industries treated in the same way as any other industry, under the EC Treaty, unless there are specific issues where the circumstances of the industries require different treatment. We must however recognise that because abolition before 2002 would require unanimity, it is not in reality a practical option. Nevertheless, the ECSC Treaty is sufficiently flexible to enable our policy aims largely to be met through a less interventionist application of the provisions of the existing Treaty. I therefore suggest that our real aim should be to achieve such a "reinterpretation" of the Treaty.

In particular: although accepting that jurisdiction should remain with the Commission, we should seek to bring the procedures under which merger and competition cases are considered by the Commission more into line with those which prevail in the EC Treaty; we should press for the measures allowing production to be regulated to remain



Recycled Paper



unused for the remainder of the life of the Treaty; we should press for the ECSC pricing rules to be applied in the least interventionist manner consistent with the Treaty; we should press for the pre-notification requirements for investments to be waived, except where ECSC loans are involved, and for the Commission's investment opinions to be based solely on commercial considerations; and we should press for the levy to be ended, or at least significantly and progressively reduced, as soon as possible. Any other details can, I suggest, be worked out by our officials.

As to tactics, I think that in putting our "shopping list" to the Commission, we should indicate that immediate abolition was the ideal but that we are prepared to work for other solutions such as "interpretation". This will show where our priorities lie while demonstrating a willingness to work for a realistic solution.

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

Yours sincerely

Neil Kinsley

(Approved by the Secretary of State  
and signed in his absence)



Foreign and Commonwealth Office

London SW1A 2AH

11 October 1990

*EGM/xi*

*Jean Quinlan,*

White Paper on Developments in the  
European Community: January - June 1990

I enclose a pre-publication version of the latest six-monthly White Paper on developments in the European Community. It will be published on Friday 12 October. *(as Command 1234)*

I am copying this letter and enclosure to the Private Secretaries of the members of the Cabinet and to Sonia Phippard (Cabinet Office).

*Yours ever,*

*A. Charles Somers*

(R H T Gozney)  
Private Secretary

C D Powell Esq  
10 Downing Street



CONFIDENTIAL

*CPC*



Treasury Chambers, Parliament Street, SW1P 3AG

C D Powell Esq  
10 Downing Street  
LONDON  
SW1

10<sup>th</sup> October 1990

*Dear Charles,*

**HARMONISATION OF TAXES ON ROAD TRANSPORT**

Thank you very much for your letter of <sup>attached</sup> 8 October, enclosing a copy of a message from Chancellor Kohl and the proposed draft reply. The Paymaster General was most grateful to be consulted.

From his point of view, the key point is that the Commission is proposing that all Member States should be required, by EC law, to keep their taxes on diesel within a prescribed band, and the Germans appear to be supporting this. Kohl's memorandum proposes among many other things "to harmonise the mineral oil tax for diesel fuel on the basis of the tax rate proposed by the EC Commission". This is plainly unacceptable to the Government. It would therefore be odd for the Prime Minister to send too welcoming a message to Chancellor Kohl.

You will remember that the Dublin Summit "stressed the importance of sustained progress in ... fiscal harmonisation in the road transport sector as early as possible and not later than 31 December 1990"; but the Prime Minister insisted on adding to the communique that this should only be "in accordance with the provisions of the Single European Act". That requires harmonisation only "to the extent ... necessary to ensure the establishment and the functioning of the internal market". The Prime Minister and the Chancellor have long made plain the Government's view that harmonisation of tax rates is not necessary to the internal market.

Mr Ryder is concerned that it could give unnecessary hostages to fortune for the Prime Minister to imply, in her reply to Chancellor Kohl, that "inadequate" taxation could constitute "an impediment" to the development of the single market" or "that we must find a solution to the problem at Community level". This could, for example, be taken by others to signal that the Prime Minister might be prepared to consider some sort of minimum rate of tax, to be prescribed by the Community.

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Mr Ryder would prefer a more anodyne reply. A simple solution might be to omit the middle two paragraphs of the present draft.

He has asked me to stress that this is in no way intended to prejudge arguments which colleagues in the Department of Transport may wish to put forward about the handling of proposals for tax harmonisation: he is already in touch with Mr Chope about that. He is simply concerned not to give the Germans, or anyone else, any excuse to think that the Government might be prepared to relax its well known opposition to tax harmonisation.

To save time, I am sending a copy of this letter to Simon Whiteley in Mr Parkinson's office.

Yours sincerely,  
*Gina Haskins*  
GINA HASKINS  
Private Secretary





DeA

after  
MOD

10 DOWNING STREET  
LONDON SW1A 2AA

THE PRIME MINISTER

10 October 1990

Dear Mr. DeLors,

I know that John Major is writing to Mr. Christophersen to express his unhappiness at the way in which discussion within the European Community of economic assistance to Turkey, Egypt and Jordan was handled. I should like to add my voice.

This was the second occasion, the other being the discussion of assistance to the Soviet Union at the Dublin European Council in June, when attempts have been made to bounce member states into decisions with very major financial implications, without proper preparation or working papers.

In Dublin an attempt was made to commit us to provide assistance to the Soviet Union on the basis of a discussion after dinner, with no figures, no assessment of where the money would come from or how it should be administered. It was only on my insistence that the Commission was asked, as a first step, to conduct a proper study of Soviet needs and the options for how the Community could help most effectively.

In the case of Turkey, Egypt and Jordan, an attempt was made in early September to take decisions without Commission proposals or any indication of how the sums involved could be accommodated within the EC budget or the financial perspectives. While I understand the political importance and urgency of the issue, the proposals themselves were for aid from the 1991 budget, not the 1990 budget: there was time for the correct procedures to be followed.

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I realise that the conduct of Councils is a matter for the Presidency rather than the Commission. But may I say very firmly that the United Kingdom is not and will not be prepared to take decisions on issues involving major expenditure unless proper procedures are followed. I would hope the Commission would share that view and would join us in future in protesting vigorously at any future attempts to by-pass the established rules and procedures. We are simply not prepared to do business that way.

Yours sincerely

Margaret Thatcher

---

Monsieur Jacques Delors





10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

8 October 1990

HARMONISATION OF TAXES ON  
ROAD TRANSPORT

I enclose a copy of a message to the Prime Minister from Chancellor Kohl about harmonisation of taxes on road transport, together with the Department of Transport's proposed draft reply. Since the issue is primarily one of taxation, I should be grateful to know whether Mr. Ryder is content that the Prime Minister should reply as proposed.

(CHARLES POWELL)

Ms. Gina Haskins,  
Paymaster General's Office.

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10 DOWNING STREET

LONDON SW1A 2AA

*From the Private Secretary*

8 October 1990

I enclose the Prime Minister's letter to M. Delors about decision-taking in the Community on issues with financial implications. As you will see, we have dated it 10 October, in order to allow time for the Chancellor to write his letter to Mr. Christophersen. I should be grateful if you could arrange for the letter to be delivered in Brussels that day.

I am sending a copy of this letter and enclosure to John Gieve (HM Treasury) and Sonia Phippard (Cabinet Office).

(C. D. POWELL)

Stephen Wall, Esq.,  
HM Treasury.

FILE<sup>2</sup>  
EFCO  
MOD  
CO





THE DEPARTMENT  
OF TRANSPORT



FROM THE SECRETARY OF STATE

2 MARSHAM STREET LONDON SW1P 3EB  
TELEPHONE 01-276 3000

Charles Powell Esq  
Private Secretary  
10 Downing Street  
LONDON  
SW1A 2AA

My Ref:

Your Ref:

28 OCT 1990

Dear Charles

Thank you for your letter of 23 September enclosing a copy of the message to the Prime Minister from Chancellor Kohl about transport policy matters in the European Community, together with a memorandum. I attach a draft reply for the Prime Minister which I hope is self explanatory.

The background briefly is as follows:

The debate about lorry tax harmonization has been going on for some twenty years with the UK and Germany pressing unsuccessfully for progress. Last year the Germans, frustrated by lack of progress, proposed a unilateral tax which would have damaged UK interests. That has been suspended by the European Court. The Germans have now elevated the issue to the European Council in order to force more rapid progress in the Transport Council.

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

Yours sincerely  
Simon Whiteley

S C WHITELEY  
Private Secretary

DRAFT LETTER FOR THE PRIME MINISTER TO SEND TO CHANCELLOR KOHL

Thank you for your letter of 14 September introducing your Government's memorandum on the harmonization of taxes and charges in goods transport by road.

The United Kingdom has always been determined to ensure that domestic hauliers fully meet their track costs. I therefore share your concern about the competitive effects of the inadequate cost coverage achieved by some States. This is an impediment to the development of the single market.

I am sure you will appreciate the unfairness of unilateral action on hauliers from countries like the UK which already recover the public cost to which their vehicles give rise. I agree, therefore, that we must find a solution to the problem at Community Level.

The opportunity to discuss this issue and to consider the way forward will arise when Ministers of Transport meet at the Transport Council later this month. Like you, I look forward to seeing the report of that Council and considering it the European Council in December.

CA



Evmo Pol Budget PT47



COPIED

CONFIDENTIAL



*File  
Srew*

10 DOWNING STREET . .  
LONDON SW1A 2AA

*cc R*

*From the Private Secretary*

8 October 1990

*Dear Stephen,*

**EC INSTITUTIONAL REFORM: SUBSIDIARITY**

The Prime Minister has seen the Foreign Secretary's minute of 2 October to the Attorney on this subject, and the Solicitor-General's reply of 5 October. She would wish to be consulted before we decide what position to adopt at the 22 October Foreign Affairs Council. She is evidently not attracted either by adjudication by the European Court of Justice or by the establishment of a new Constitutional Council or Committee of Wise Men.

I am copying this letter to the Legal Secretary to the Law Officers and to Sir Robin Butler.

*Yours sincerely  
Chris Powell*

(C. D. POWELL)

Stephen Wall, Esq.,  
Foreign and Commonwealth Office.

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*EW*





DCA

alc

10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

8 October 1990

*Dear John,*

DRAFT EC DIRECTIVE ON MONEY LAUNDERING

The Prime Minister has seen a copy of the Minister of State/ Home Office's letter of 4 October to the Chancellor about Community competence problems over the draft EC Directive on Money Laundering. She very much shares the concerns expressed by Mr. Patten, and hopes that the Chancellor will be guided by them.

I am copying this letter to Claire Craig (Home Office), Tim Sutton (Lord President's Office), Stephen Wall (Foreign and Commonwealth Office), Martin Stanley (Department of Trade and Industry), Stephen Alcock (Department of Health), Jim Gallagher (Scottish Office), Tony Pawson (Northern Ireland Office), Juliet Wheldon (Law Officers' Department), Alan Maxwell (Lord Advocate's Department) and Sonia Phippard (Cabinet Office).

*Yours sincerely,*

CHARLES POWELL

John Gieve, Esq.,  
HM Treasury.

✓



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PM/90/071

PRIME MINISTER

Informal EC Foreign Ministers' Meeting:  
Asolo, 6-7 October

1. As there is no Cabinet this week, I write to report on this meeting. It can be done briefly. As befits an informal meeting, no decisions were taken.
2. There were two principal debates, the first on political union. This was tentative in character. Contrary to advance press briefings neither the French nor Italians pressed proposals for common foreign or defence policies, and there was no difficulty, with the Irish and on this occasion with the Danes, in arguing the case for caution. But I would expect the French, Germans and/or Italians to put forward something more definite at one of the Rome Summits, ie before the IGC begins. There was a strong feeling beginning to stir, articulated by Genscher and Delors, that the new deterioration in Eastern Europe and the crisis in the USSR would create difficult political as well as economic decisions for the Community in the next twelve months. Discussion of the European Parliament was limited to a call by one or two for the power to raise a tax for specific projects, and discussion of extension of competence and subsidiarity was low-key. This was a lull before some hard pounding in or before the IGC.

/3.

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Call  
(2)

Prime Minister

mt  
CS  
8/11





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3. The discussion on the Gulf was not at all bad. Dumas, reporting on his visit to the area with Mitterrand, stressed the view in Saudi Arabia and the Emirates that Saddam Hussein must be overthrown but stated very clearly that France (unless her forces were attacked) would not take military action except with further authority from the Security Council. There was no inclination from anyone to look for a compromise short of the Security Council requirements. Political Directors will consider what might be necessary if the requirement were fulfilled and Saddam Hussein survived in Baghdad. The Italian and French continue to needle away at US domination of the burden sharing procedures.

4. The Dane launched a surprise criticism of the Italian decision to hold a summit in Rome this October, and was supported for rather differing reasons by the Dutch and myself. Andreotti will be consulted, but doubtless the summit will be held because the Presidency and most members want it. But there was a general exchange about handling of business which enabled me to stress the need for proper preparations, especially of spending decisions.

5. There was no discussion of EMU. The Italians circulated a paper on procedures for the two IGCs which will cause difficulty but was not discussed. I have reported separately a private exchange with Delors on ERM/EMU. He was in melancholy and autumnal mood throughout.

/6.

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6. I am copying this minute to OD colleagues and to Sir Robin Butler.

A handwritten signature in black ink, appearing to be 'DH', located below the typed name.

(DOUGLAS HURD)

Foreign and Commonwealth Office  
8 October 1990

CONFIDENTIAL



*cc/c*  
*(2)*



THE LEGAL SECRETARIAT TO THE LAW OFFICERS  
ATTORNEY GENERAL'S CHAMBERS  
9 BUCKINGHAM GATE  
LONDON SW1E 6JP

General enquiries 071-828 7155  
Direct line 071-828-0496

Stephen Wall Esq  
Private Secretary to the  
Secretary of State for Foreign and Commonwealth Affairs  
Foreign and Commonwealth Office  
London  
SW1

*Prime Minister*

*You will want to  
keep abreast of*

5 October 1990

*Dear Stephen,*

*We shall need to keep  
close eye on any  
further moves  
into sovereignty  
not*

*at least  
this debate.  
ccp  
5/x*

**EC INSTITUTIONAL REFORM: SUBSIDIARITY**

The Attorney General was grateful for your minute of 2 October. As you know, he personally has not been able to consider the issues raised in the Foreign Secretary's minute and what follows must necessarily be a provisional answer which the Solicitor General trusts will give some guidance for the meeting of Foreign Ministers on 6 October. No doubt the matter can be considered in greater depth by the Law Officers in preparation for the Foreign Affairs Council on 22 October, which consideration can take account of the results of the Foreign Secretary's meeting on 6 October.

In addressing the specific questions enclosed in the Foreign Secretary's minute, the Solicitor General wishes to stress, by way of a general remark, that a large measure of political judgment is involved in dealing with them and that they do not readily admit of exact answers. One of the principal political judgments is whether the Government is obliged to recognise that there is now a momentum towards closer relationships within the Community which is unlikely to be reversed. If there is little prospect of such a reversal, then it becomes increasingly important to seek some formula to emphasise the rights of individual Member States. It is against the background of such developments that the concept of subsidiarity becomes increasingly relevant and useful. The concept is not yet precisely defined and there must be a danger that the formula eventually commending itself will not be suitable for the Governments purposes.

In that event, the UK would presumably wish to press for the matter to be kept out of the Treaties altogether. Conversely, if the formula is acceptable, the UK would wish to give it as much weight and force as can be achieved.





In reply to question 1(a) of the minute, the Solicitor General's provisional view is that assuming the UK achieves an acceptable formula, our objectives would, on balance, be better achieved by a general Treaty provision, rather than a series of specific provisions in particular policy areas. Relying on the latter alone would be a process fraught with danger, the danger being that specific provisions in particular policy areas may raise a presumption that subsidiarity would not apply in the policy areas not specifically mentioned. A general provision has the advantage of flexibility, and of applying potentially to the whole range of Community activity. Against that there is some risk that a general provision may be difficult to apply in particular instances. In theory, an ideal course would be to back the general provision with specific measures, but these may be difficult to negotiate. Care would need to be taken in any event over the drafting of such provisions to ensure that they do not have the effect of dissipating the general provision.

Question 1(b) of the minute asks for a judgment on the most effective option for giving effect to UK objectives in relation to subsidiarity. As yet, no agreed definition of the concept of subsidiarity has been arrived at. The UK's objectives have been expressed as first, that action should not be taken at Community level unless the objective can be achieved only by action at that level and secondly that action at Community level should not go further than necessary to achieve that objective.

The second of these elements would remain relevant even in those areas where the Community has exclusive competence and would serve to prevent over-regulation. As we perceive it, subsidiarity is quite separate from competence and would operate as a criterion for examining whether Community action was necessary or appropriate, it being established that such action was possible under the Treaties. Additionally, we might expect to refer to subsidiarity as a means of testing whether competence should be extended as, for example, by the adoption of measures under Article 235 EEC Treaty.

The various options to give effect to the UK's objectives seem to the Solicitor General to be: -

- i) To leave the matter for adjudication by the European Court of





Justice (ECJ) once a proposal has been adopted by the Council.

- ii) To introduce a form of review by the ECJ of proposals at an earlier stage, perhaps with the Court giving purely advisory opinions.
- iii) To provide for advisory or definitive opinions by a new body, such as a Constitutional Council or Committee of Wise.

The essential difficulty in conferring a jurisdiction on the ECJ to determine a question of subsidiarity is that the matter is primarily one for political judgment.

Our experience has been that the chances of the ECJ being induced to find against legislation which has been adopted by the Council are remote. The chances might be improved by a procedure whereby a subsidiarity question would be referred to the ECJ, suspending further Council deliberation. In practice, such references would be likely to become progressively more difficult the further advanced is consideration within the Council and there would be much to be said for a reference at the earliest stage when Commission proposals are submitted to the Council. A system of preliminary references might work better if the opinions of the Court were merely advisory, since the Court may be more ready to reach a decision on this basis.

Whilst there may be advantage in transferring overtly political judgments away from the ECJ, it does not seem very likely that a new body would be any less "communautaire" than the present ECJ save, perhaps, in one respect. It is probable that a body which exists only to consider questions of subsidiarity would not wish to appear to be merely a rubber-stamp for Commission proposals. Much would depend, however, on the composition of any new tribunal. Whether it should have the attributes of a court, or be a merely advisory body is a difficult, and perhaps an imponderable, question at this stage. If a legal formula can be devised it would amount to a constitutional principle and would most naturally be interpreted and applied by a court, but such a body might also attract new functions, such as determining issues of competence or the protection of human rights. There are considerable theoretical advantages in an advisory body, such as a Constitutional Council or Committee of Wise Men, since it might be less reluctant to address questions of political judgment, but there are also considerable practical difficulties in ensuring the status of such a body and





respect for its opinions.

In considering which of the options are most likely to meet UK objectives most effectively and amount in practice to a significant check on unnecessary Community action one can only say at this stage that each has strengths and weaknesses. Either a new constitutional body or a preliminary reference jurisdiction for the ECJ may offer some prospect of acting as a check on unnecessary Community action, but ultimately the effectiveness of either is likely to depend on the political consensus among Member States. The new body or the ECJ is not likely to stray far from the prevailing political consensus and it must be improbable that a proposal would be blocked on subsidiarity grounds if it were supported by a good majority of Member States. There may, however, be more ground for expecting that over-regulation might be curtailed.

In relation to questions (c) and (d) of the minute it seems to the Solicitor General at present that the principal risk of subsidiarity being a legal concept, other than the danger of a weak formulation, is that it might, over time, displace competence as the governing principle defining the scope of Community action under the Treaties. To minimise this risk, it would need to be clearly established and understood that subsidiarity is to act as an additional restriction or qualification for Community action with competence remaining as a necessary pre-condition.

The inter-relationship of competence with subsidiarity will need the closest examination as negotiations proceed. For the moment, there is a good case for arguing that they are essentially different in nature, competence setting the legal subject-area boundaries of Community action with subsidiarity determining within those areas the expediency and intensity of Community action. Whilst the Solicitor General cannot offer any informed judgment as to the negotiating risks, it seems to him that this particular disadvantage does not point to the UK relying merely on a political declaration, and so keeping the matter outside the Treaties altogether.

Provided the distinction is maintained between subsidiarity and competence it ought not to be the case that failure in a challenge on subsidiarity grounds will preclude a subsequent challenge to competence. As a matter of principle, the two matters can be kept separate (and perhaps be determined by different institutions) but there must be some risk that a decision by an institution that a





measure can be better achieved (or only achieved) at Community level will make it more difficult to argue that the measure cannot be carried out under the Treaties. Again, the need to distinguish subsidiarity from competence will need close attention at any drafting stage.

I am sending copies of this minute to the Private Secretaries to the Prime Minister, to other members of OD and OD(E), and to the Home Secretary, and to the Private Secretaries to the Secretaries of State for Environment, Transport, Education, Health, and to the Private Secretary to Sir Robin Butler.

*Yours sincerely,  
Michael Carpenter*

MICHAEL CARPENTER

ERD Pr: Budget



1747



fst.sb/Philip/5.10.90.1.



Treasury Chambers, Parliament Street, SW1P 3AG

Dr Nicola Brewer  
Private Secretary to  
Mr Garel-Jones  
Foreign and Commonwealth Office  
Downing Street  
LONDON  
SW1A 2AH

5<sup>th</sup> October 1990

Dear Nicola,

WHITE PAPER ON DEVELOPMENTS IN THE EUROPEAN COMMUNITY: JANUARY TO JUNE 1990

You wrote to John Gieve on 28 September seeking clearance for publication of the latest White Paper on developments in the European Community.

Officials have passed on a few amendments direct to Cabinet Office. Otherwise, the Financial Secretary is content with the text of the White Paper and agrees to publication.

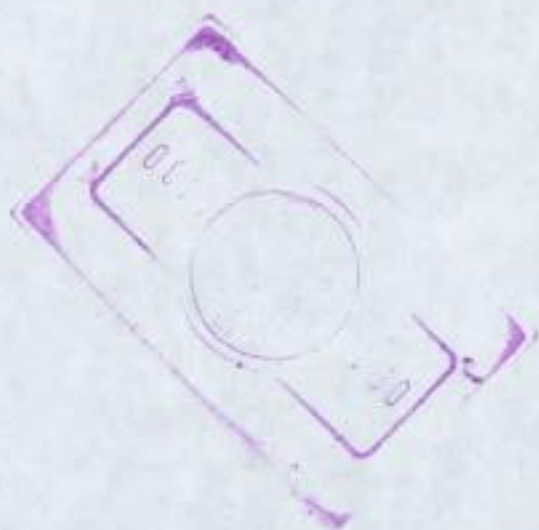
I am copying this letter to the recipients of yours.

Yours ever,

Philip.

PHILIP RUTNAM  
Private Secretary

Euro Por: Buzyt PT47







cc: Charles Powell

(2)

HOME OFFICE  
QUEEN ANNE'S GATE  
LONDON SW1H 9AT

cc: Mr Starr  
Mr Angel  
Mr Edwards  
Mrs Price  
Mr Wallace  
Mr Rooney  
Mr Taylor

4:1:90

Dear John

We must  
: resist this - it  
is another example  
of a

Time Minister  
This seems a  
very valid point.  
CAN  
FX

**DRAFT EC DIRECTIVE ON MONEY LAUNDERING**

aggressively meeting  
ambitions  
Commission's part

I am aware that our officials have been in regular contact on this draft Directive, and have established a close and effective working relationship on the issues of mutual interest that have arisen. I thought it might be helpful, nevertheless, in advance of the discussion of this subject at ECOFIN next week, to put on record my views on the aspects of particular relevance to the Home Office.

It is clear that money laundering is a substantial problem, and that we should welcome all moves to prevent it. The last thing we want is to appear to oppose worthwhile measures that might reduce the vulnerability of European financial institutions to money laundering - especially when we have led the way in action on drug trafficking and are already organised to meet most of the draft Directive's requirements.

Nevertheless we do have substantial difficulties on the issue of Community competence - not only because of the text as drafted requires the creation of a new criminal offence, but because it also contains requirements on the enforcement of the criminal law. Criminal law has rightly been regarded as a matter falling within the competence of individual member states, and the extension of competence into this area could have serious long term implications. The immediate effects might be gradual, possibly affecting the more technical regulatory areas, but we cannot tell where the Commission might try to go in the longer term. We have seen in the present context, for example, how concerns which originally focused on the laundering of drugs proceeds, have developed in the Commission's hands to apply to a much wider range of criminal offences. Conceding competence on this occasion could face us with future proposals for Community action in areas less deserving of our tolerance than money laundering.

/I am aware

The Rt Hon John Major MP



I am aware that officials have been pressing on their European colleagues and on the Commission ways of reconciling our desire for action on money laundering, while avoiding unacceptable indications in respect of Community competence. The most promising solution appears to be the precedent adopted in the case of the Insider Dealing Directive, which would mean omitting all direct references to law and enforcement, and leaving it to member states to ensure that appropriate penalties are in place for breach of the obligations in the Directive. I favour this. Although the Commission will doubtless go on arguing that this robs the Directive of much of its force, I do not believe that this would be the case at all. The Directive would still provide for a clear regime of customer identification, record keeping and overall vigilance in the financial community to detect money laundering. That would be a substantial prize, and I hope that we can achieve it.

I know that an alternative answer to the competence issue has now been suggested by the French, involving some kind of intergovernmental commitment to take action through the criminal law. But we do not want a device which, while appearing not to concede competence, actually creates a new mechanism for the Commission to get into criminal matters by another route in the future. Much would depend on the context in which such a declaration were made, how binding it purported to be, and how free states were to choose whether to make it or not.

My concern over competence is heightened by the fact that we face similar problems in regard to the proposed Regulation in respect of the precursor chemicals used in the illicit manufacture of controlled drugs - a number of provisions of which are concerned with enforcement of the original law, and where we have considerably less support from other states for a stand on competence than we do over money laundering.

I hope that setting out my concerns in this way will be of some help as background to the next stage of the negotiations. It will not be an easy task to achieve our objectives over this Directive, but we can take some comfort from what we are told about the substantial degree of solidarity still being shown by other member states, both as to the need to take action on money laundering and as to our anxieties on competence.

/The subject



The subject matter of the Directive touches a wide range of departmental interests, and I am copying this letter to Geoffrey Howe, Douglas Hurd, Peter Lilley, Kenneth Clarke, Malcolm Rifkind, Peter Brooke, Patrick Mayhew, Peter Fraser and Sir Robin Butler.

Yours ever,  
John.

JOHN PATTEN

Ref. A090/2300

PRIME MINISTER

Cabinet: Community Affairs

A quiet week in the Community. Mr Gummer attended a low key informal Agriculture Council on 30 September - 1 October, which discussed the CAP implications of developments in Eastern Europe.

2. In New York on 1 October the Foreign Secretary secured a scaling down (from one-half to one-third) of the EC budget element in the Commission's proposal for Community assistance to frontline states in the Iraq crisis. The UK's budgetary contribution will be £63 million (ie below the £70 million ceiling agreed by OD). The Foreign Secretary also made clear that the UK would not be contributing financially to the target for voluntary national contributions.

3. Forthcoming meetings are:

- Informal meeting of Foreign Ministers, 6/7 October
- ECOFIN, 8 October
- Special Agriculture Council (Uruguay Round), 8 October
- Internal Market Council, 9 October
- Special Foreign Affairs Council (Uruguay Round), 10 October
- Agriculture Council, 15/16 October.

F.R.B.

ROBIN BUTLER

3 October 1990





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FCS/90/175  
ATTORNEY GENERAL

*u/c  
p/c*  
*Await AG's  
reply - return, please  
em.*

Subsidiarity

1. The Dublin European Council agreed that work should be done on how the principle of subsidiarity could be applied and defined in such a way as to maximise its operational effectiveness. EC Foreign Ministers are preparing a further report on institutional reform which will cover this point. This will be considered by Heads of Government at the Informal European Council on 27 October.

*/* 2. We discussed this ~~in OD~~ <sup>*attached*</sup> on 10 May. Since then it has become clear that many member states want to give the principle a firm basis in Community practice and perhaps within the Treaty. But there is no consensus yet on how to achieve this. We can be certain that the intergovernmental conference on political union, starting in December, will address the issue.

*/* 3. It would be helpful to have the views of the Law Officers at this stage. Officials have agreed inter-departmentally a number of specific questions on which I would be grateful for your advice. I attach a paper.

/4.

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4. It would be helpful to have at least an initial reaction before an informal meeting of EC Foreign Ministers on 6 October. If necessary a more considered view could follow in time for the 22 October Foreign Affairs Council. At this stage we do not need to examine Treaty language. But at the October meetings I would like to be able, dependent on your advice, to develop one or more of the ideas outlined in the attached paper.

5. I am sending copies of this minute to the Prime Minister, to other members of OD and OD(E), the Home Secretary, and to the Secretaries of State for Environment, Transport, Education and Science, Health, Social Security, and to Sir Robin Butler.

*R. H. T. Somy*  
for (DOUGLAS HURD)  
(Approved by the Foreign Secretary  
and signed in his absence abroad)

2 October 1990

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September 1990

CABINET

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STEERING COMMITTEE ON EUROPEAN QUESTIONS

EC INSTITUTIONAL REFORM: SUBSIDIARITY

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Note by the Secretaries

SUBSIDIARITY

1. Questions for the Law Officers

- a) Would a general Treaty provision, backed by an appropriate procedure for dealing with disputes, be more likely to meet the objectives set out in para 2 of the attached note than a series of specific provisions in particular policy areas?
- b) If a general Treaty provision is included, which of the various options for giving effect to it discussed in the note do the Law Officers consider likely to meet our objectives most effectively? Would any of the options, in practice, be likely to act as a significant check on unnecessary Community action?
- c) How serious are any perceived disadvantages? In particular, do they point to a political approach to the problem?
- d) Are there any other major considerations which the Law Officers believe should be taken into account in further developing the Government's negotiating approach?

/ 2. Discussion paper attached.



Introduction

1. Subsidiarity will be a major issue in the forthcoming IGC discussions on institutional reform. We want to ensure that whatever arrangements are agreed work as much to our advantage as possible. We therefore need a clear picture of what arrangements will best achieve this. Whether, and if so at what stage, we should feed in our own ideas, and possible Treaty language, is a tactical decision to be taken in the light of discussion in Brussels and of the Law Officers' views.

Objectives

2. The main purpose of the principle of subsidiarity should be to act as a check on unnecessary EC action within Community competence. It should contain two elements:

- (a) action should not be taken at Community level (including decisions to extend existing competence under Article 235) unless the objective can be achieved only by action at that level;
- (b) 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.

3. This is a maximalist definition, differing in several respects from the only existing reference to subsidiarity in the Treaty (Article 130r). In particular it puts the onus on those proposing EC-level action to make the case for it. Whether wording on these lines could be achieved in practice would be a matter for negotiation.

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4. If new provisions and procedures on subsidiarity are in practice to curb unnecessary Community activity they should ideally operate on:

- the Commission's legislative proposals;
- Council legislative acts;
- action in the legislative sphere by the European Parliament;
- Commission acts, including its exercise of implementing powers.

Method : How to include subsidiarity?

Justiciable or Not?

5. The first question is whether we want the concept to be wholly justiciable; ultimately so; or not at all. In principle Community obligations should be expressed in legal form and thus capable of being brought before the Court. The possible drawback in relation to subsidiarity is that if an adopted measure were brought before the Court on grounds that the principle of subsidiarity had been breached, the Court would be unlikely in practice to annul it since it would regard the issue as having been essentially one of political judgement for the Council (though it might be marginally readier to reject excessive detail, as opposed to annulling the measure as a whole). A subsidiarity test applied in this way would therefore be of little use to us in practice. If several challenges brought before the Court were to be rejected, the subsidiarity principle itself would rapidly be undermined.



6. Provision could be made in the Treaty for a Commission proposal to be challenged before the Court at the outset, i.e. before the Council had taken a definitive view of the sort which would inevitably influence the Court. But the decision would remain essentially political in nature and it seems likely that the Court would still decline to block the proposal so as to leave it open to the Council to form its own view.

Where in the Treaty?

7. If the concept of subsidiarity were to be included in the Treaty, there are three ways of doing so. These are not mutually exclusive: indeed, they could be used cumulatively in the order set out below.

8. A provision in the preamble to the Treaty. This would constitute a principle to which a member state could appeal during consideration of measures. But it would create no legal rights or obligations, and would thus not permit a breach of the principle to be brought directly before the European Court. At the most the Court could take it into account as part of the context of the Treaty evidencing the intentions of the Contracting States. It might exercise some restraining effect on the Community institutions in political terms; but probably much less than if there were some effective procedure for invoking it (see below);

9. A general provision in the body of the Treaty, perhaps highlighted by placing it in Part One ("Principles"). This would make non-observance of the principle by any Community institution ultimately justiciable before the Court; it would also be possible to attach non-judicial procedures to such a provision (see paras 20 to 22). Appropriate cross references could also be made in existing provisions, e.g.:



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- Article 4 (powers of institutions);
- Article 5 (member states to take appropriate measures to fulfil the Treaty);
- Article 137 (role of the Parliament)
- Article 145 (Council to take decisions to attain objectives of Treaty);
- Article 155 (role of the Commission);
- Article 235 (additional powers and extension of competence; supplementary to one of the above).

10. It could prove useful if the Treaty referred to a general test, despite the problems set out in paras 5 and 6 above, if:

- a) a challenge on subsidiarity grounds could be made when the Commission proposal was tabled, before negotiations got underway;
- b) rather than providing for recourse to the Court the challenge could be brought before a new body set up to deal specifically with questions of subsidiarity; or alternatively, the Council itself could consider such a challenge and decide (by a specified majority) whether the proposal was acceptable in subsidiarity terms before considering other aspects. These options are analysed below.

In any event the possibility of member states in the last resort mounting a challenge before the Court on subsidiarity grounds would be retained: this could have some additional deterrent effect on the Commission when it is drawing up its proposals and on the Council when considering the measure.



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11. It would be possible to write the general principle into specific subject areas of the Treaty (as currently in Article 130r on the environment). But we would like subsidiarity to apply to all areas: and omitting any would inevitably imply that they were not subject to the principle. A general provision applicable to the Treaty as a whole therefore seems far preferable to this approach.

12. Specific provisions, inspired by the subsidiarity principle, could be written into individual areas of the Treaty defining in a concrete manner the limits beyond which Community action would not be permitted. This would amount to a competence test, and the Court should have no difficulty in applying it. It would be desirable for exclusions to be combined with, and operate without prejudice to, a general subsidiarity provision: otherwise there is a risk that anything not excluded would be assumed to be permitted. But there are problems with this approach: Departments have found it difficult to identify limits which it would be useful in practice to impose; successfully negotiating them into the Treaty, at least in existing areas of competence, would be still more difficult; and this solution would not be likely to deal as effectively with the type of case (arguably the more frequent) where it is the degree of detail, rather than the subject matter itself, to which we object. Clearly if opportunities arose in negotiation to draft any new provisions, or amend existing ones, in a way which concretely reflected subsidiarity considerations, we should wish to take advantage of this. But Departments doubt whether "specific" provisions by themselves are likely to prove an effective basis for our overall approach to subsidiarity.



Or Outside the Treaty?

13. An alternative would be not to include subsidiarity in the Treaty at all. Its application could be governed by a political declaration agreed by all three institutions or (less effective) by the member states alone. This would have political rather than legal force: there could be no recourse to the ECJ. A political declaration could nevertheless lay down a procedure for determining questions of subsidiarity on the lines of those considered in paras 19 or 22 (b) and (c) below. It would also be possible to combine general or specific Treaty provisions with a declaration spelling out in more detail (though without legal force) how those provisions should be applied in practice.

Commission Measures

14. Whatever the form of the provision, we would need to ensure that it applied not only to Council legislative acts but also to acts of the Commission, whether directly under the Treaty or under supplementary powers conferred by the Council: the latter, in particular, are at least as likely to offend against the subsidiarity principle as Council acts. It might be difficult to devise a procedure for challenging such measures before adoption. But there is no reason why they should not be referred, after adoption, under one of the procedures considered in paragraph 22. In addition, the ECJ might be readier to strike down Commission acts than those of the Council.

European Parliament

15. It is desirable that subsidiarity should also be made binding on the Parliament. But, as the Treaty stands at present, the main scope for the Parliament to offend



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against the principle is in their proposed amendments to draft Council legislation: and these cannot prevail unless embodied in a re-examined proposal from the Commission and adopted by the Council. No special procedure, therefore, seems indicated.

Procedures: giving effect to subsidiarity

16. Assuming that a procedure for challenging Commission proposals or eventual Council acts is desirable, it should satisfy a number of criteria. The procedure should:

- be easy for a member state (or a small number of them) to invoke;
- be capable of addressing the political nature of subsidiarity;
- oblige the Commission (or other Community institution) to take due account of an adverse opinion.

17 . The procedure at para 10 envisages that a subsidiarity provision would allow Commission proposals to be challenged before they are discussed by the Council on the grounds that this is the easiest stage at which to stop an undesirable proposal.

18. There are essentially two options for a body other than the ECJ to deal with subsidiarity: the Council itself, or a specifically created new body.

19. Once the principle was written into the Treaty, the Council would in any event consider, in the normal course of discussion, the subsidiarity aspects of a proposal. But a procedure could be envisaged for the Council, at the request of one or more member states, to rule separately on subsidiarity, probably before considering other aspects. Such rulings would presumably be binding on the Council



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itself but not on other institutions unless otherwise provided. The Council would take decisions either by unanimity for all issues of subsidiarity, or by the relevant voting procedure flowing from the Treaty base proposed for the instrument in question. There are disadvantages to this course. If the issue was to be decided by some form of majority vote, voting would be liable to reflect opinions on the substance and absence of approval would not necessarily provide a clear indication of the amendments needed. On social issues, for example, this might not provide us with the safeguard we are looking for. If unanimity were required, the procedure might be open to spurious obstructionism by member states simply blocking a legitimate proposal they disliked. Approval by the Council would probably doom to failure any subsequent recourse to the ECJ and would also be likely to reduce the chance of negotiating improvements desirable on subsidiarity grounds during subsequent Council procedure.

20. The second option would be for one or more member states to have the right to refer the proposal to a third party other than the ECJ for an opinion within a specified time limit. If this body ruled that some or all of a Commission proposal was contrary to the principle of subsidiarity, the Commission's proposal would fall and it would be obliged to produce a new one. Even if the opinion was not legally definitive, the Council could also be required to have regard to the body's opinion when considering the Commission's new proposal. The ECJ would no doubt take due account of such an opinion if a subsequent legal challenge were made.

21. Since the body's sole function would be to consider subsidiarity issues, it could be expected, unlike the ECJ, not consistently to rule in favour of Commission proposals: its procedures could well take on the character of an



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arbitration between the varying views of the Commission and member states. It would also presumably aim to deliver its opinions with reasonable speed. It would in due course be likely to develop a body of case law on the subject which would guide the work of the Commission and Council.

22. The third party could be one of the following:

- (a) a new Constitutional Court, separate from the ECJ, to examine issues of subsidiarity and presumably to issue legally definitive judgments. The relationship of such a body to legal procedures already in force would need to be defined. A possible drawback to advocating this solution is that negotiations might lead in one of two undesirable directions: either it would be argued (particularly by the ECJ) that a new body was unnecessary since the task could just as easily be assigned to the ECJ itself; or other member states would see other, much less attractive constitutional roles for it (e.g. ruling on competence, protecting human rights.)
- (b) Constitutional Council or Committee of Wise Men to pronounce solely on questions of subsidiarity.
  - Membership: one (or two) nominated by each member state. Further consideration would have to be given to whether it would be desirable to set particular conditions for membership, to ensure a degree of independence. The Council would need to be assisted by a small secretariat, including lawyers.
  - Meetings: presumably ad hoc when proposals were referred to them.



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- Working method: its opinions should ideally be by consensus. If no consensus could be reached, the Council should take that into account in considering the proposal; but it would not be realistic to expect absence of consensus to block any Community action whatsoever. Consideration would however need to be given to whether there should be provision for majority decisions, or majority/minority reports.
- Enforcement: Either its decisions should be legally definitive (at least as far as the content of Commission proposals was concerned: it might be preferable to leave the Council itself some discretion over how far to accept the Committee's opinions); or the Commission, Council and if possible the European Parliament should be explicitly required to take account of its opinions.
- Relations with the ECJ: If a question of subsidiarity were subsequently challenged in the Court, relevant opinions of the body should be taken into account, even if they do not have legal force.

Most of these factors would apply equally to the idea of a Constitutional Court, and to a certain extent to the two Parliamentary models below.

- (c) a Committee of national parliaments, an idea floated by Sir Leon Brittan. It could either be as small as a single representative from each member state or, as Sir Leon Brittan appears to envisage, a larger debating forum. The assumption (not necessarily accurate) is that national parliamentarians would protect their own prerogatives and would therefore restrain the Commission and limit the Community's role.



- (d) the European Parliament, a second chamber or Senate, (if created), or the Economic and Social Committee. These would be unacceptable to us, but might be proposed by others.

23. Departments do not believe that any of these procedures would necessarily force the Commission wholly to withdraw an objectionable proposal. But a binding commitment to take account of the outcome should have a significant influence on the behaviour of both the Commission and the Council. In particular the mere existence of the procedure should have a constraining influence on the Commission who are likely to want to avoid courting adverse opinions.


#### Risks

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

- might be held to encourage action, either by member states or the Community, in particular areas;
- might allow or promote a "Westminster by-pass", i.e. a presumption that the principle applied not only to the allocation of responsibilities between the Community and individual member states, but also between the latter and regional and local government. The Germans have already argued for delegation, in some circumstances, to regional level; we must argue that this is not a matter for the Treaty, but for member states themselves to determine.
- would blur the distinction between subsidiarity and competence tests, with the former effectively replacing the latter;



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- 
- creates a presumption that any list of exclusions is complete; or that where such an approach is not adopted, subsidiarity is not relevant;
  - does not apply where the Community has exclusive competence (as the Germans have suggested): even in sectors such as agriculture there are substantial areas which remain for action by member states.
  - (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;
  - allows a member state to block the legitimate business of the Community (e.g. agricultural price fixing, or establishing the Single Market) for spurious reasons.

Conclusion

25. It is already clear that there will be pressures at the IGC for the adoption of some provision for subsidiarity either in the Treaty or in a declaration. We may indeed want to argue for such an outcome ourselves as a means of strengthening the application of the principle of subsidiarity in the Community. Equally we might need to argue against, or to minimise, a subsidiarity provision if it looked as if it was going to be formulated in an unhelpful manner or open up the risks listed in paragraph 24. To be acceptable the provision would need to:

- meet our general objectives and include an appropriate definition of subsidiarity itself; and
- provide a credible and enforceable procedure for challenging Commission proposals or Council and Commission decisions or Commission acts which contravene the principle.





Foreign and Commonwealth Office

London SW1A 2AH

28 September 1990

John Gieve Esq  
Private Secretary to  
Chancellor of the Exchequer  
HM Treasury  
Parliament Street  
London SW1

*CG 28/9*

*Dear John,*

**WHITE PAPER ON DEVELOPMENTS IN THE EUROPEAN COMMUNITY: JANUARY  
TO JUNE 1990**

I enclose the draft of the White Paper on developments in the Community from January to June 1990. As usual it is based on contributions from departments and has already been agreed by officials in EQ(O). The draft has been approved by Mr Garel-Jones.

It was agreed in the summer that the style and layout of the White Paper should be improved, without adding substantially to the cost, in order to make it more user-friendly. The text has therefore been rearranged and is now in the form of a crisp introduction and short substantive chapters covering the most important developments, with issues of secondary importance moved to the annexes and appendices. A more readable typeface has been used and the general layout improved. The cover will be produced in colour.

Publication date is set for Friday 12 October. I should therefore be grateful if you and other recipients of this letter could let me have clearance or comments no later than 6.00pm on Thursday 4 October.

I am copying this letter, with the draft White Paper, to Charles Powell and to the Private Secretaries of other members of the Cabinet.

*Yours sincerely  
Nicola Brewer*

Nicola Brewer  
Private Secretary to  
Mr Tristan Garel-Jones

# Developments in the European Community

~~July - December 1989~~  
*January - June 1990*





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# 1 Introduction and summary

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This White Paper covers the period of the Irish Presidency from 1 January to 30 June 1990.

## The European Councils

1.1 There were two European Councils during the Irish Presidency. The first, an informal Council met in Dublin on 28 April. It was convened for two main purposes: to consider the consequences for the Community of German unification; and to discuss the way ahead in the Community's relations with Eastern Europe. The second was the European Council meeting in Dublin on 25-26 June. It considered four main issues: the steps still needed to complete the Single Market in 1992; political union; progress on Economic and Monetary Union (EMU); and assistance to the Soviet Union.

## EC/German Democratic Republic (GDR)

1.2 One of the major tasks for the Community in 1990 is to prepare for the integration of the territory of the GDR upon unification with the FRG. The two Dublin Councils agreed on the procedures for handling the transitional arrangements in the periods both before and immediately after German unification.

## Eastern Europe

1.3 The revolutions and democratic elections in Central and Eastern Europe have provided the background for the development of the Community's relations with Central and Eastern Europe. Following the conclusion of Trade and Co-operation Agreements, the EC is now considering Association Agreements to build a thicker relationship with the faster reformers. In parallel, the EC is extending its aid measures to the other Central and Eastern Europeans, in addition to Poland and Hungary.

## Political Union

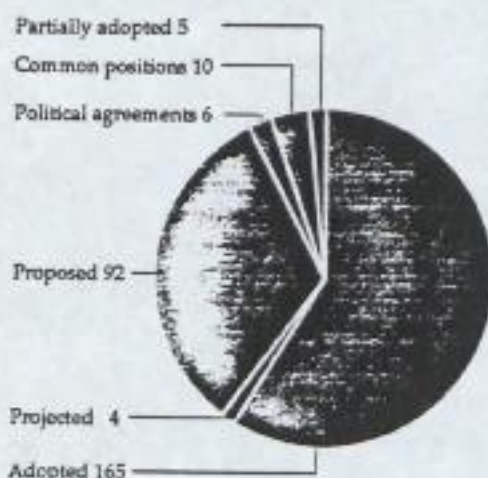
1.4 Following the April European Council, Foreign Ministers prepared a report on the question of institutional reform in the Community in order to improve the Community's effectiveness and democratic accountability. The Council also agreed to ensure respect for national identities and institutions. The European Council decided in June that a second Inter-Governmental Conference (IGC) on institutional reform should be held in parallel with that on EMU.

## European Political Co-operation

1.5 The European Council issued two declarations of particular importance on foreign policy matters: on Southern Africa and the Middle East. The declaration on Southern Africa fully recognised



**Progress on Commission's White Paper  
Position at 30 June 1990**



the importance of changes in South Africa and the role of President de Klerk in bringing them about. It offered positive encouragement to both de Klerk and Mandela to pursue dialogue and negotiation.

### Aid to the Soviet Union

1.6 The June Council invited the Commission to study the Soviet Union's economic problems in consultation with the Soviet Government, the IMF/IBRD, OECD, EIB, EBRD, and to report back to the Informal European Council in Rome in December.

### Single Market

1.7 Both Councils confirmed the commitment to complete the Single European Market by the end of 1992. The June Council agreed the Single Market priorities for the next six months. They include items of particular importance for the United Kingdom: financial services, insurance, further liberalisation of transport and public procurement.

1.8 The Irish Presidency successfully maintained the momentum towards completion of the Single Market. A record total of 69 measures aimed at removing barriers to trade in the Community were agreed or adopted, including 40 from the Commission's original White Paper. 186 of the 282 White Paper measures have now been agreed, and two thirds of the programme is now complete.

### Economic and Monetary Union

1.9 Preparations for the IGC on EMU continue. The June Council agreed that this would begin in December. In June, the United Kingdom put forward proposals for progress towards EMU after Stage I involving the establishment of a European Monetary Fund and the development of a "hard ecu" as a common currency.

### Financial Perspective

1.10 A revision of the financial perspective was approved on 21 May by the Council, mainly to provide for increased aid to Central and Eastern Europe. Commitments over the period 1990 to 1992 now amount to over 2.3 billion ecu (£1.6 billion).

### Agriculture, Fisheries and Food

1.11 In April the Agriculture Council reached agreement on the annual farm price-fixing package. On 6 June the Council agreed a number of measures relating to bovine spongiform encephalopathy (BSE). The Agriculture Council of 25-26 June adopted a number of animal health measures which are key elements of the Single Market programme in the veterinary field. In the Fisheries Sector there was substantial discussion of the EC technical conservation arrangements concentrating in particular on the need to reduce catches of immature North Sea cod and haddock.



## Transport

1.12 The 29 March Transport Council agreed to abolish minimum hire periods and to remove restrictions on hiring by own-account operators for vehicles under 6 tonnes. It also agreed a 40 per cent increase in Community road haulage quotas for 1990. Increases for 1991 and 1992 were discussed, but not agreed, at the 18-19 June Council.

1.13 The June Council adopted a second package of air transport liberalisation measures, sealing an earlier commitment to complete a Single Market in aviation by 1992, and allowing airlines greater freedom in setting fares and opening up the market. The Council also agreed in principle to an ad hoc programme of expenditure for EC transport infrastructure to the end of 1992. Other important discussions included the Commission's proposals for the second stage of the Community shipping policy; road and vehicle safety; and vehicle taxation.

## Environment

1.14 Increasing emphasis on environment issues, both within the Community and on a global level, culminated with a declaration on the environment at the European Council in June. This underlined the need for the Community to take a leading role in tackling the pressing problems which threaten the global environment, and set out principles and objectives for the Community's future environmental policy.

## Research and Development

1.15 On 23 April the Council adopted the third Framework Programme for Research and Development (R&D). The Council also adopted, or reached a common position, on a number of specific programmes under the 1987-1991 R & D Framework Programme.

## Energy

1.16 In the energy sector the 21 May Energy Council took the first tentative steps towards an internal energy market. Agreement was reached on the gas and electricity prices transparency directive and a common position achieved on the electricity transit directive. In addition the same Energy Council approved the Thermie programme for demonstrating new energy technologies and disseminating the results. The United Kingdom was successful in helping to resist Commission proposals to amend the notification of investments regulations.

## Social Affairs

1.17 In the field of social affairs the European council recalled the importance of the development of the social dimension in order to ensure that the opportunities offered by the Single Market benefit all the peoples of the Community. It referred to the continuing major problem of long term unemployment and welcomed the measures adopted by the May Social Affairs Council on action to assist the long term unemployed. It also

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welcomed the Council's measures on vocational training and on the health and safety of workers. The European Council also welcomed the timetable established for the presentation and examination of proposals under the Commission's Action Programme in application of the "Community Charter" of social rights.

1.18 The Government welcomes the EC Trans-European Mobility Scheme for University Studies (TEMPUS) which was adopted at the 7-8 May Foreign Affairs Council for the contribution it will make towards meeting the vocational training needs of Central and Eastern Europe.

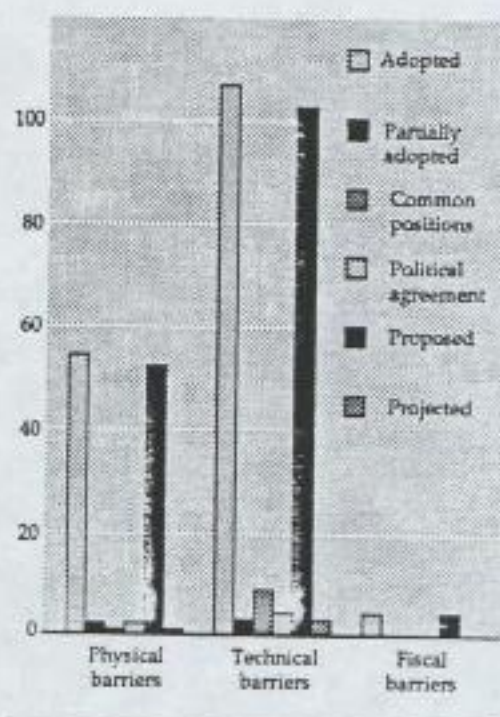
### **European Court Judgment ECJ Case C212/89: Factortame**

1.19 On 19 June the European Court delivered its judgment on a reference from the House of Lords on whether a national court had power under Community law to grant interim relief to protect putative Community law rights having direct effect in national law. The Applicants in Judicial Review proceedings alleged that Part II of The Merchant Shipping Act 1988 which introduced new more restrictive requirements for the registration of fishing vessels was incompatible with Community law. The Divisional Court referred the substantive issues to the European Court for a preliminary ruling under Article 177. It also made an Interim Order suspending the application of the relevant provisions of The Merchant Shipping Act which was successfully challenged on appeal on the grounds that there is in national law (i) a presumption of validity of an Act of Parliament; and (ii) no power to grant an injunction against the Crown. In answer to the House of Lords' question the European Court ruled that *a national court which, in a case before it concerning Community law, considers that the sole obstacle that precludes it from granting interim relief is a rule of national law must set aside that rule.*



## 2 The single market

Progress on Commission's White Paper Position at 30 June 1990



2.1 The Irish completed a very successful Presidency on the Single Market. Sixty nine measures aimed at removing barriers to trade within the Community were finally adopted, agreed in principle, or had common positions agreed for submission to the European Parliament. This bettered by one the previous record number agreed during any one Presidency, achieved by the Spanish Presidency during the first half of 1989. A list of all 69 measures is at Appendix A. A number of the more important measures agreed by the Internal Market Council including the 'Utilities' directive which extends public purchasing rules to the water, transport, energy and telecommunications sectors, directives on non-life and motor vehicle insurance, and on three separate directives dealing with a right of residence for students, pensioners and other non-economically active persons are described below; some others agreed by specialised Councils are described elsewhere in this White Paper.

### Public procurement

2.2 The Council on 29 March adopted a common position on a directive on procurement by public and private bodies in the "Utilities" sectors formerly excluded from the Works and Supplies Directives (water, energy, transport, and from the Supplies Directive only, telecommunications). The proposal widens the scope of EC public purchasing rules because it aims to cover some private as well as public bodies. Contracts worth over 600,000 ecu (about £432,000) in the telecommunications sector and 400,000 ecu (about £288,000) in other sectors will be subject to tendering and advertising conditions. The successful contract must be either the cheapest or the most economically advantageous.

2.3 The European Parliament considered the common position at its meeting on 12-13 June. The Commission subsequently circulated a provisional version of its final proposal and preparations began for adoption of this important directive in September.

### Insurance

2.4 On 14 May the Internal Market Council adopted the Third Directive relating to insurance against civil liability in respect of the use of motor vehicles (90/232/EEC). The directive clarifies certain points about the level and scope of compulsory insurance throughout the Community, the operation of member states' guarantee funds, and the availability of insurance details after a road accident. The main effect of the directive for the United Kingdom is that motor insurance policies will be required to provide their domestic level of third party cover automatically when the policyholder drives in member states with lower levels of compulsory cover.



## The single market

The European Community continues to work diligently through the heavy legislative programme required to complete the Single Market by the end of 1992. During the Irish Presidency 69 Single Market measures were agreed, of which 40 came from the Lord Cockfield White Paper, "Completing the Internal Market". This is a record score for any Presidency, and maintains the impressive head of steam the Community has built up on the Single Market programme. The last four Presidencies have all achieved scores of over 60 measures. 186 out of the 282 measures in the White Paper are now agreed, and the programme is two thirds of the way to completion.

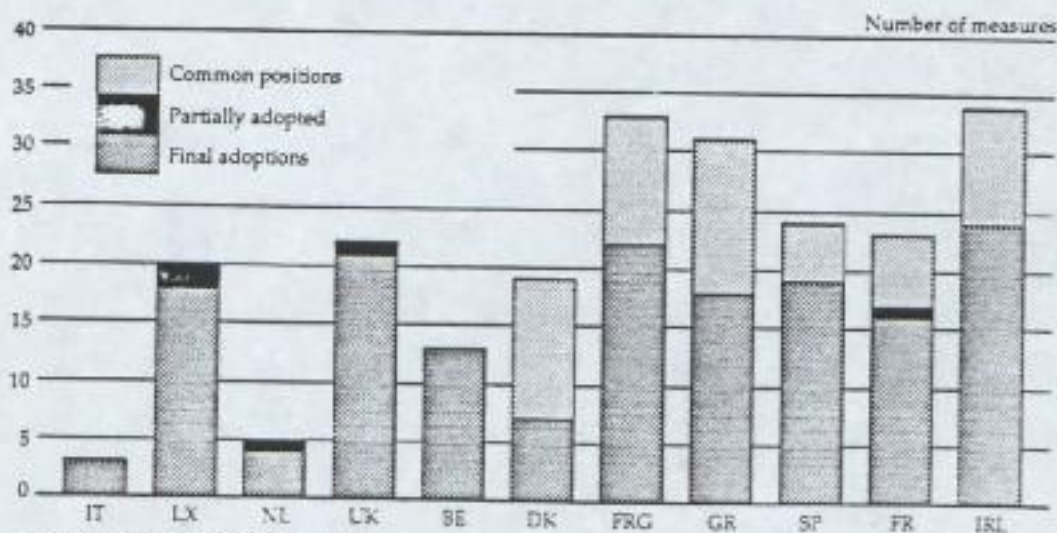
The highlights of the Irish Presidency are set out in the main body of the text. It may be useful to stand back a little from the hectic pace of negotiation in Brussels, and consider what happens next. For the rest of 1990, we have the Italian Presidency. They have started energetically tackling the 96 measures which still need to be agreed by the Council. We can hope for progress on the common passport for investment businesses and for insurance companies. There should be agreement on the system to be used for the collection of VAT after 1992 - though not on any harmonisation of VAT rates. Further work is needed on the liberalisation of transport, to provide the services needed by business in the Single

Market, and on opening up the public procurement markets. There will be negotiations on the sensitive issues of animal and plant health. Finally, we should see the first steps taken towards a Single Market in pharmaceuticals.

EC business in 1991 will be guided by Luxembourg and then by the Netherlands. The Community's target must be to have the bulk of the legislative programme finished by the end of the Dutch Presidency. At least a year will be needed for all the EC directives to be transposed into national legislation in time for the end of 1992.

So there is likely to be a slackening in legislative activity in Brussels from 1992 onwards. The United Kingdom Government will continue to pursue its policy goal of market liberalisation but there will definitely need to be a change of emphasis in the Single Market area from legislation to administration of a new body of law. This applies both to the Commission and to member states' administrations. We expect to see fewer legislative working groups and greater activity in the Committees set up to oversee the Single Market directives. More attention will need to be paid to enforcement so as to ensure that the Single Market really has created a level playing field for business and consumers across the Community.

### Measures agreed under each presidency



1. Current common positions or leaving office



2.5 On 20 June the Internal Market Council adopted a common position on a directive bringing motor liability insurance within the scope of the existing Non-Life Services Directive (which came into force on 1 July 1990). It includes additional measures intended to ensure that the level of protection afforded to motor accident victims will not be affected wherever motorists have obtained their insurance in the Community.

2.6 The Council on 29 June adopted a common position on the Life Assurance Services Directive. Political agreement in principle had been reached in December 1989 pending an opinion from the European Parliament. The directive will provide a regulatory framework for the provision of cross-frontier services in life insurance within the Community. In particular, it will establish a liberal regime for cases where a policyholder acts on his own initiative in seeking life assurance from an insurer in another member state.

### Right of residence

2.7 The Council on 28 June adopted three separate directives (90/364/EEC to 90/366/EEC) dealing with a right of residence for students, pensioners and other non-economically active persons after over ten years negotiation. Political agreement on the substance of these proposals was reached at the Internal Market Council on 21-22 December 1989. The question of the appropriate legal base for the directives remained outstanding but was resolved on 20 June when the Internal Market Council agreed to change the legal base for all three Directives to Article 235.

2.8 The directives are intended to provide a right of residence throughout the Community for EC nationals not already deemed to have such a right under the free movement provisions of the EC Treaty. All three directives contain provisions to ensure that beneficiaries do not become a financial burden on the host member state.

### Technical harmonisation

2.9 Steady progress in this field was maintained with common positions reached at the 20 June Internal Market Council on an amendment to the simple pressure vessel directive, and directives on the use of electrical equipment in explosive atmospheres, and electrically operated lifts.

2.10 Final adoption was also secured on three 'new approach' directives. On 20 June the Internal Market Council adopted directives on active implantable medical devices (90/385/EEC) applying to any medical device with a power source which is to be implanted and remain in the human body, and on non-automatic weighing instruments (90/384/EEC), for example shop scales and weigh bridges. On 29 June the Council adopted a directive on gas appliances (90/386/EEC). This will extend the coverage of the Single Market to most non-industrial gas appliances, excluding those where the normal water temperature exceeds 105 degrees Celsius. This represents a market of approximately 15 million appliances per annum, valued at between 12 and 15 billion ecu (£8.6 and £10.8 billion).

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## The single market: Insurance

We attach high priority to completion of the Single Market for insurance. The United Kingdom insurance market is well developed; United Kingdom insurers have a long tradition of competition and innovation world-wide, and London is one of the world's major insurance centres. As the table below shows, however, there is significant variation in the importance of insurance - particularly life assurance - in the economies of Community countries. The separate national markets have so far remained largely isolated from one another.

Several steps towards the Single Market were taken in the first half of 1990. A framework for exercising the freedom of establishment, enabling insurers to set up branches in other member states, already existed before the Single European Act. Such branches have to comply with the rules of their "host" state which in many cases include detailed control of premiums and policy conditions, and most states restricted the freedom of their residents to buy a policy from an insurer established in a different state (known as freedom of services). Three new directives came into force at the end of the half-year which have started to lower some of the remaining barriers:

- the Legal Expenses and Credit and Suretyship Directives (87/344/EEC and 87/343/EEC respectively) remove the right of Germany to insist that insurers offering these classes must specialise in them and

not insure other types of risk;

- the Second Non-Life Insurance Directive (88/357/EEC) provides a framework for freedom of services, although for private and small commercial risks most member states will still require the insurer to obtain authorisation and comply with any rules on premium rates and policy conditions.

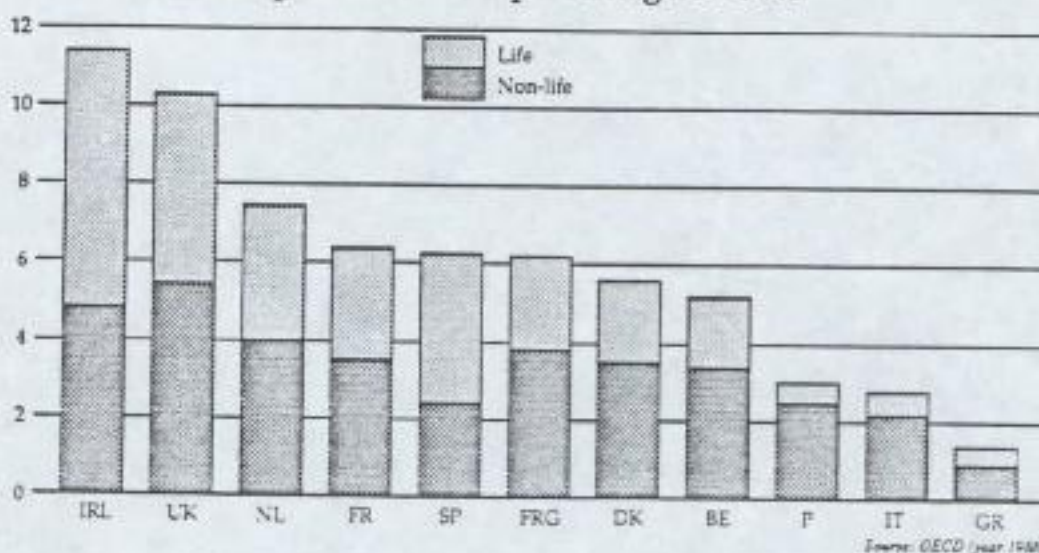
In June, the Council reached common positions on two further directives:

- the Second Life Assurance Directive, which will provide for life assurance similar regimes to those in the Second non-Life Insurance Directive in relation to freedom of services;

- the Motor Insurance Services Directive, which extends the scope of the Second Non-Life Insurance Directive to cover motor liability insurance

Taken together these measures represent important progress towards liberalising the Community insurance market. But significant obstacles remain, and so the Commission has now announced plans for further directives which will enable insurers to sell insurance throughout the community, either directly or through locally established branches, on the basis of a single authorisation from their "home" state. The first of these directives, covering non-life insurance, was submitted to the Council in July this year.

Gross insurance premiums as a percentage of GNP





2.11 On 20 June the Internal Market Council adopted a common position on a draft decision which will commit the Council to the use of a number of agreed conformity assessment procedures in future technical harmonization directives. The agreed "modules" set out in the draft decision will enable negotiations on future technical harmonization directives to proceed more quickly than hitherto by providing a comprehensive range of standard assessment procedures which can be drawn upon, thus avoiding the need to duplicate in one sector work which has already been carried out in another.

### **Company Law**

2.12 Following agreement at the 20 June Internal Market Council a common position was adopted on 29 June on a proposal for a Council Directive amending the scope of Directive 78/660 on annual accounts (the Fourth Company Law Directive), and Directive 83/349 on consolidated accounts (the Seventh Directive). The proposal would require those partnerships, limited partnerships and unlimited companies, where all the members having unlimited liability are limited companies, to draw up and publish accounts in accordance with the Fourth and Seventh Directives.

2.13 A common position was also adopted on 29 June on a proposal for a Council Directive to amend the Fourth and Seventh Directives with respect to exemptions available to small and medium sized companies and the publication of accounts in ecus. The proposed directive would provide for a relatively modest extension of the derogations member states may make available to small and medium sized companies. It would also allow all companies to publish accounts in ecus, in addition to publication in the currency in which they were drawn up.

### **Community Transit**

2.14 The Community Transit system facilitates the movement of goods within the Community and ensures that any charges payable on the goods are brought to account. Under its rules, a Transit Advice Note (TAN) had to be presented to the customs office at the point of entry into each member state. On 22 February the Internal Market Council adopted a regulation (No 474/90) which abolished lodgement of TANs at internal Community frontiers from 1 July 1990 thereby reducing frontier formalities. TANs are now required only where goods leave and/or enter the Community in the course of a Community/Common Transit operation eg when they cross Switzerland or Austria. To fully meet the needs on the Single Market and the establishment of the territory of the Community as an area without internal frontiers, the Community Transit system has been further reviewed, and a common position on a proposal for a new regulation to take effect from 1 January 1993 was adopted at the 20 June Internal Market Council. It has been estimated that 85 per cent of current movements will be excluded from this procedure after 1992.

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## Implementation

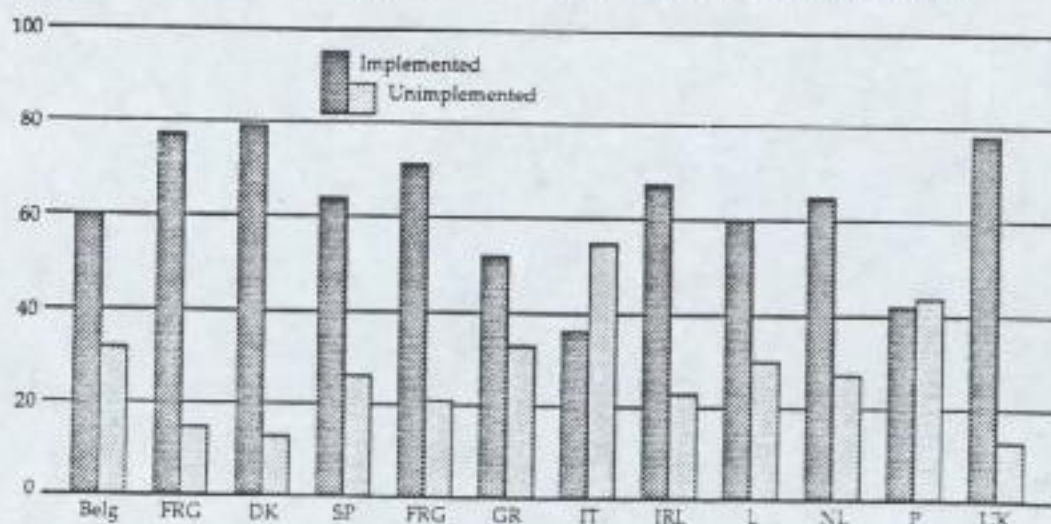
With two thirds of their 1985 White Paper programme now agreed the EC Commission are continuing to give increased and welcome attention to the implementation of Single Market measures into national legislation. This is crucial if the political commitments made by the Council of Ministers are to be translated into a genuine Single Market in which goods and services can move freely.

The publication in March of the Commission's Fifth Annual Progress Report on completion of the Single Market focussed attention on member states' records under implementation of Single Market measures into national law. The Report confirmed the United Kingdom's excellent record with only nine measures unimplemented out of ninety - a score

which took us to the head of the league table. The report also demonstrated an improvement in the number of measures implemented in all member states, which had risen to 21 from 7 in September 1989.

More recent summary figures made available at the Dublin European Council reported the United Kingdom with 13 measures unimplemented out of 95. This maintained our lead, equal with Denmark. However some member states still have a poor record and it will be a United Kingdom priority to keep implementation at the top of the Single Market agenda during the Italian Presidency to assist in highlighting that commitment to Europe needs to show in deed as well as word. A full table of member states' implementation records is below.

Implementation of single market measures: by member state





### Specialist Councils

**2.15** Most of the work remaining in the Single Market programme falls not to the Internal Market Council, but to specialised Councils. Among the major achievements were a package of three tax measures to encourage cross-border co-operation agreed after 20 years (see paragraph 3.19); political agreement on the second air transport liberalisation package (see paragraph 5.1); a boost to the internal energy market with the adoption of a directive on the transparency of gas and electricity prices and a common position on electricity transit (see paragraph 10.1); in telecommunications the adoption of a directive on Open Network Provision and agreement in principle on mutual recognition of type approval of terminal equipment; a sizable number of measures in the field of plant and animal health including veterinary checks on live animals, control of foot and mouth disease and expenditure in the veterinary field agreed as a package as were three proposals on veterinary medicinal products (see Section 4).

## Annex to section 2

### *"Europe - Open for Business" campaign*

1. The Department of Trade and Industry's Single Market campaign entered a new phase in February, with a much greater emphasis being given to the role of private sector bodies and professional advisers in providing firms with the specific information and advice they need to prepare for the Single Market. Whilst DTI's comprehensive and authoritative information service will continue, there is an expanding bank of help and more detailed advice available through trade associations, Chambers of Commerce and other business organisations. DTI published first editions of national and regional 'Guide to Practical Advice for Business' in February, listing organisations providing sector specific and other advice on the Single Market. These guides were updated in June.

2. During February to May, poster and press advertising around the theme *The Single Market is here now. Where are you?* was used to draw attention to the rapid progress being made on agreeing and implementing the Single Market programme, and to highlight the growing range of private sector advice available. Further press advertising commencing in June specifically drew attention to the availability of DTI's 'Guides to Practical Advice for Business'.

### *Barriers to takeovers*

3. The Commission presented a plan for the abolition of certain barriers to takeovers to the 14 May Internal Market Council on. This took the form of amendments to the Second Company Law Directive and to the draft Fifth and Thirteenth Directives.

### *Intellectual property*

4. On 27 February a Council working party approved Community participation in the World Intellectual Property Organisation working group on the application of the Protocol to the Madrid Agreement concerning the international registration of trade marks. On 12-16 March the first session of the working group took place.

5. On 3 April the Commission presented to the Council a proposal for a regulation for the creation of a supplementary protection certificate for medicinal products, which would have the effect of extending the patent term for pharmaceuticals.

### *Pharmaceuticals*

6. On 26 January the Commission presented to the Council a package of three measures on the wholesale distribution of medicinal products, on classification and patient information. Further proposals on homeopathic medicines and on advertising of medicines for human use were presented on 23 March and 12 June, respectively.

### *Consumer policy*

7. On 13 June the Consumer Affairs Council adopted a directive on package travel. It also considered and agreed to extend the duration of the system for the rapid exchange of information on dangerous consumer products. Agreement in principle was also reached to prolong for two years the European home and leisure accident surveillance system. There was also discussion of the proposed General Product Safety Directive and the Commission presented to the Council its three-year plan for consumer policy in the EC.



### *Customs and indirect taxation*

8. Following the agreements reached at the Economic and Finance Council at the end of 1989, the Commission has now produced a package of revised technical proposals. For VAT, the destination system would be retained for the majority of intra-Community commercial transactions, for a transitional period from 1 January 1993 to 31 December 1996 at the latest, when a switch to the origin system would take place. To help combat fraud, the Commission has proposed a system of administrative cooperation between member states' tax authorities, covering both VAT and excise. There has been no agreement on VAT and excise rates.

### *Intra-Community trade statistics*

9. The Commission also covered intra-Community trade statistics in its new package of proposals. The statistical proposal links the statistics and VAT regimes and specifies the framework for both the transitional period and for a final system, once the switch to the origin system has taken place. During the transitional period only the largest traders would report detailed monthly data. Traders would also report the totals of their intra-Community trade on their normal VAT returns. This system would meet Government needs.

### *EURACHEM*

10. The Laboratory of the Government Chemist has been taking the lead in establishing a European forum for chemical analysis and on 26 June in Frankfurt, 12 EC and EFTA countries plus the EEC signed a Memorandum of Understanding to develop EURACHEM. The new organisation will provide a framework in which analysts can collaborate on projects of mutual interest. The aim is to help to establish an international system of traceability for chemical analysis.

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## 3 Economic, budgetary and monetary matters

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### Financial Perspective

3.1 A substantive revision of the financial perspective under Article 12 of the Inter-Institutional Agreement was approved on 21 May by the Council and by the European Parliament in June. The revision provides for a net increase of 200 million ecu (£127 million) in 1990, 1,225 million ecu (£883 million) in 1991 and 1,478 million ecu (£1,065 million) in 1992. The overall increase for each year is within the contingency margin for unforeseen expenditure of 0.03 per cent of Community GNP specified under Article 12.

3.2 Around two thirds of the total increase over the period is for assistance to Central and Eastern Europe. Under the terms of the revision, the amounts set aside for this cannot be used for any other purpose without a further joint decision by the Council and the Parliament.

### 1991 Budget

3.3 On 11 June the Preliminary Draft Budget (PDB) for 1991 was published. It totals 55.5 billion ecu (£40 billion) in commitments and 53 billion ecu (£38.2 billion) in payments. The figures are well within the ceilings in the financial perspective - by 3.9 billion ecu (£2.8 billion) in the case of commitments and 4 billion ecu (£2.9 billion) for payments.

3.4 The PDB includes 838 million ecu (£603.9 million) in commitments for assistance to Central and Eastern Europe.

### 1990 Supplementary Budgets

3.5 The Commission presented two Supplementary budgets for 1990. The first was adopted on 16 February and inscribed a token entry covering a Community guarantee for the first tranche - totalling 350 million ecu (£223 million) - of a borrowing programme totalling 870 million ecu (£554 million) to provide medium term financial assistance to Hungary. This loan was agreed on 2 April.

3.6 Its purpose is to help Hungary implement structural reforms in its transition towards a market economy. The loan is dependent on Hungary's compliance with the terms and conditions of its International Monetary Fund (IMF) structural adjustment programme, and continued social stability. In addition, the loan is subject to the understanding that Hungary's present mix of public and private monetary obligations will remain unchanged. The Commission is responsible for negotiation and implementation of the loan, and for verification that Hungary's policies accord with the IMF programme.



3.7 The second Supplementary budget, presented on 23 March, was mainly to budgetise the 1989 surplus and to adjust the United Kingdom abatement. The Commission also presented two Letters of Amendment to the second Supplementary budget: the first Letter of 29 May was for additional administration costs for Commission and European Court of Auditors staff to take account of the depreciation of the ecu against the Belgium and Luxembourg francs; the second Letter of 8 June was for an additional 200 million ecu (£127 million) for assistance to Central and Eastern Europe. The Council gave a second reading to the second Supplementary budget and the Letters of Amendment on 25 June.

### **Fraud against the Community Budget**

3.8 The Commission published its first annual report on the fight against fraud on 31 January. In it the Commission reported on progress on the implementation of measures set out in the 45 point action programme and gave its priorities for actions in 1990.

### **Export Refunds for Agricultural Produce**

3.9 The European Court of Auditors published a special report on export refunds for agricultural produce on 31 May. In it the Court criticised the way the Commission administered the scheme, and exposed deficiencies in the control regimes operated by member states. The report is being examined by an ad hoc working group following the 11 June Economic and Finance Council.

### **Economic and Monetary Matters**

3.10 Progress towards economic and monetary union was discussed at every meeting of the Economic and Finance Council and at the meetings of the European Council on 28 April and 25-26 June. Two new Council decisions, one on co-operation between central banks and the other on the convergence of economic policies were formally adopted at the 12 March Economic and Finance Council. These will help to promote co-ordination and co-operation between member states in their economic and monetary policy-making during Stage 1 of economic and monetary union but without removing responsibility for policy from national institutions.

3.11 Procedures for the multilateral surveillance of member states' economies were agreed at the 23 April Economic and Finance Council. Regular surveillance of both short and long term issues will take place in the Council at least twice yearly with contributions from the Committee of Central Bank Governors. Member states' economies will also be examined regularly in the Monetary and Economic Policy Committees who will report to the Economic and Finance Council.

3.12 Debate continued as to what should follow Stage 1. At the informal meetings of the Economic and Finance Council on 31 March and 1 April, Ministers discussed a report by the Commission entitled "Economic and Monetary Union: the



Economic Rationale and Design of the System". The United Kingdom welcomed the growing consensus on economic union in that report but emphasised its reserve on the proposals for a single monetary policy throughout the Community.

3.13 Discussions on the future of economic and monetary union will continue before and during the forthcoming IGC. The European Council on 25-26 June decided that the IGC should open on 13 December. The Prime Minister has said that the United Kingdom will play a full part in both the conference and in the preparations for it.

3.14 In a speech to the German Industry Forum on 20 June, the Chancellor of the Exchequer outlined his suggestions for the development of economic and monetary union beyond Stage 1. He proposed that a European Monetary Fund should be established to promote the use of the ecu alongside national currencies. He favoured developing the present ecu (which is a 'basket' of the existing 12 Community currencies) into a new currency in its own right. It would be managed by the European Monetary Fund to ensure that at realignments it could never devalue against other Community currencies. This 'hard ecu' could have considerable appeal to both individuals and businesses, because it could be used as a common currency throughout the Community, and because of its stable anti-inflationary character. But - unlike proposals based on the Delors committee report - use of the new currency would be voluntary and open to choice. If the hard ecu became widely used it could lead eventually to a single currency for the Community. But change would be gradual and evolutionary and would allow time for the economies of the Community to achieve a much higher degree of convergence than exists at present.

3.15 The Chancellor's paper has been welcomed as a constructive contribution to the debate on future progress towards economic and monetary union and will be discussed further in the Economic and Finance Council and other appropriate Community bodies.

### European Investment Bank (EIB)

3.16 Two loans, one of 20 million ecu (£14.5 million) to the Polish State Railway and one of 35 million ecu (£25.2 million) to the Hungarian Electric Works Trust were approved by the Directors of the EIB. These are the first loans under the new provision of 1,000 million ecu (£721 million) by the EIB to fund investment projects to Poland and Hungary.

3.17 The EIB Board of Governors extended approval for the EIB to be a member of the European Bank for Reconstruction and Development (EBRD) and subscribe to EBRD capital. The EIB will act as trustee to the EBRD during the first stages of operations and provide a loan of 10 million ecu (£7.2 million) to the EBRD to cover initial running costs.



3.18 On 11 June the Economic and Finance Council also approved extending EIB operations to the German Democratic Republic in the period between German economic and monetary union and German unification.

### **Direct Taxation**

3.19 On 11 June, the Economic and Finance Council reached agreement on three long-standing proposals to remove possible tax obstacles to Community-wide business activity and cross-border expansion. The measures are the Mergers Directive (90/434/EEC), to defer tax charges that would otherwise arise on a cross-border merger; the Parents/Subsidiaries Directive (90/435/EEC), to eliminate double taxation of dividends and abolish withholding taxes on them when they are paid to a parent company in another member state; and the Arbitration Convention (90/436/EEC), to set up a mechanism to resolve transfer pricing disputes between taxing authorities in different states. These are the first direct tax measures to be agreed since the Mutual Assistance Directive in 1977. United Kingdom and European industry had been pressing for adoption of these measures and welcomes their agreement.

3.20 On 17 April, the Commission adopted a Communication setting out its policy on corporate taxation (Guidelines on Company Taxation). This paper addressed to the Council and the Parliament announces a shift in the Commission's policy away from centrally imposed tax harmonisation - which the United Kingdom has opposed - towards mutual recognition and convergence of systems. The 1975 proposal for a single corporate tax structure and approximated rates has been withdrawn. A committee of independent experts is to consider whether there are specific market distortions caused by differences in national tax systems, and if so whether some measure of harmonisation is needed and if it is, what role the Commission should take. Meanwhile, the Commission has concentrated on, in particular, 3 measures which it has identified as essential to the Single Market and which have now been agreed (see above). Two new proposals dealing with losses of foreign branches and subsidiaries of companies and withholding taxes on interest and royalties are expected to be tabled during 1990.

### **Indirect Taxation and intra-Community Trade Statistics**

3.21 On 11 June 1990, the Commission presented its revised technical proposals covering the VAT system, administrative cooperation between member states and intra-Community trade statistics. These proposals are based on the agreements reached in the Economic and Finance Council at the end of 1989. No agreement has been reached on VAT and excise rates (see paragraph 8 of the annex to Section II).

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## Investment Services

3.22 Early agreement on the proposed Investment Services Directive, and its supporting Capital Adequacy Directive, remained a UK priority. There was some progress on the Investment Services Directive in the Council Working Group and welcome agreement at the 11 June Economic and Finance Council that the Council should aim to reach a common position on the directive by the end of the year. On 6 June the Commission submitted a proposal for the Capital Adequacy Directive. This met a number of the concerns that the UK had expressed in the Commission Working Group which had considered the proposal.

1 Conversions related to budgetary issues in this section for 1990 are at the 1990 Budget rate of £1=1.568999 ecu; conversions for 1991 and 1992 are at the 1991 Budget rate £1=1.387537 ecu.



*Annex to section 3***Realignment of the Exchange Rate Mechanism (ERM) of the European Monetary System**

1. A realignment, involving a narrowing of the Lira's margin of fluctuation from  $\pm 6$  per cent to  $\pm 2$  per cent, as it joined the ERM narrow band, took effect on 8 January. The Lira's lower margin was left unchanged. As a result, the currency's bilateral central rates against ERM currencies were devalued by 3.7 per cent.

**Money Laundering**

2. On 23 March the Commission published a draft directive aimed at preventing use of the financial system for money laundering. The draft directive includes requirements for member states to have a criminal offence of money laundering, and for credit and financial institutions to require and retain customer identification records, to report suspicious financial transactions to enforcement authorities and to co-operate in criminal investigations. Negotiations in Council Working Group are now in progress.

**ECJ Case No C158/88: Commission-v-Ireland**

3. By the European Communities (Customs and Excise) Regulations 1987, the Republic of Ireland had restricted the benefit of the exemptions provided for in Council Directive No 69/169 on the harmonization of provisions relating to exemption from turnover tax and excise duty on imports on international travel to persons arriving at its borders after a period of 48 hours outside its territory. The Commission, supported by the United Kingdom, took the view that that measure was contrary to the provisions of the directive which made no distinction between travellers and provided for no restrictions based on the period spent outside the jurisdiction of a member state. Therefore, after the preliminary procedure provided for in Article 169 of the Treaty, the Commission brought this action before the Court on 1 June 1988.

4. The Court did not accept the Irish Government's claim that the exemptions provided for in the directive were confined to what is called "genuine" travellers as opposed to so called "fiscal travellers" who crossed the frontier solely to take advantage of lower tax and duty rates. If it became necessary to adopt exceptional provisions making the grant of exemptions subject to a period of time spent outside national territory, such provisions might only be adopted by means of a derogating directive or by way of protective measures, when the conditions laid down in Articles 108 and 109 of the Treaty were satisfied. However, the Irish regulations had not been adopted in pursuance of a Community directive or protective measure provided for in the Treaty. The Court concluded therefore that the Republic of Ireland had failed to fulfil its obligations under the EEC Treaty.

**ECJ Case No C126/88: The Boots Company PLC-v-HM Commissioners of Customs and Excise**

5. This case concerned the assessment of VAT payable by Boots on certain promotional sales. Under the promotion scheme, money-off coupons were printed on the packaging of certain goods entitling consumers to a price-reduction on subsequent purchases (the redemption goods). In its gross takings, Boots included only the sum received from its suppliers in exchange for the surrendered coupons and not their full nominal value. The Commissioners considered that the taxable value of the redemption goods included the full nominal value of the coupons surrendered. In its judgment on 27th March 1990, the ECJ held that the coupons were not a consideration for the supply of the redemption goods but simply evidence of entitlement to a discount. Accordingly they should be excluded from the value of the supply.

*ECJ Case No 333/88: P J K Tither-v-Commissioners of Inland Revenue*

6. This case concerned a reference by the Special Commissioners of Income Tax for a preliminary ruling on the interpretation of Article 13 of the Protocol on the Privileges and Immunities of the European Communities (the Protocol) and Articles 5 and 7 of the Treaty. Mr Tither, a Commission official exempt from national tax on the emoluments from his employment with the Commission in accordance with Article 13 of the Protocol, sought relief under the MIRAS scheme for interest payments on a loan to carry out improvements to his house in Wales. The Inland Revenue refused relief on the grounds that Tither was not a qualifying borrower for the purposes of the MIRAS scheme. The term "qualifying borrower" excludes employees whose emoluments are not chargeable to national tax by virtue of a special exemption or immunity. Tither's taxable income in the United Kingdom was insufficient to enable relief for the interest payments to be given. The Court found that the MIRAS scheme was designed to alleviate the burden on borrowers arising from the payment of mortgage interest, in order to encourage the purchase or improvement of houses by private persons. In the case of non-taxpayers, the scheme had the effect of granting a direct subsidy to the borrower. Article 13 of the Protocol did not require member states to give officials and servants of the Communities the same subsidies as were paid to beneficiaries determined in accordance with the relevant national provisions. Community law required that, whenever such officials were subject to certain taxes, they should be able to enjoy any tax advantages normally available to taxable persons, so as to prevent them from being subject to a greater tax burden. Community law did not prevent member states which subsidised interest paid by individuals on loans to purchase or improve their homes from denying that advantage to Community employees whose taxable income was less than the interest paid. The MIRAS scheme did not impede the functioning of Community institutions, so that there was no breach of Article 5. There was no discrimination on the grounds of nationality and consequently no breach of Article 7.



# 4 Agriculture, Fisheries and Food

## The Common Agricultural Policy (CAP) Price Settlement for 1990

4.1 On 25-27 April the Agriculture Council reached agreement on common prices and related measures of 1990/91.

4.2 The settlement maintained the progress which has been made on CAP reform and was consistent with the February 1988 European Council agreement on budgetary discipline and stabilisers. The vast majority of institutional prices were frozen in ecu terms with cuts for some, mainly Mediterranean products, such as oranges and mandarins (7.5 per cent), other citrus fruit (3 per cent) and tobacco (3 per cent). Measures were also taken to tighten up the arrangements in the citrus and tobacco sectors. Intervention payment delays were reduced for cereals, dairy products and beef.

4.3 The settlement included green rate changes for several member states. These represented a significant step towards fulfilling the Community's commitment to removing all monetary gaps by 1992. They included a substantial devaluation of the green pound.

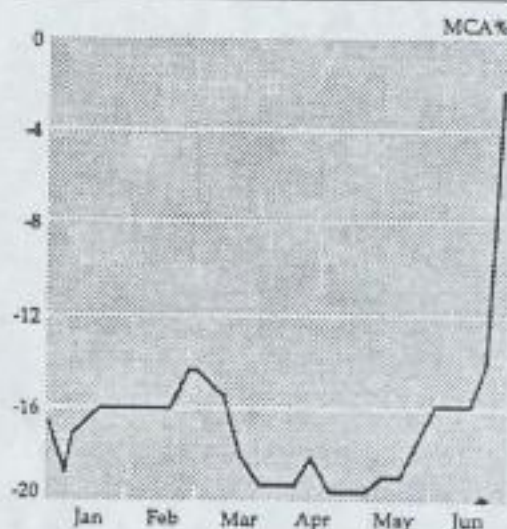
4.4 These devaluations together with movements in sterling's exchange rate have resulted in substantial reductions in United Kingdom Monetary Compensatory Amounts (MCAs). For example, MCAs in the cereal sector were 19.7 per cent at the end of April and fell to 2.5 per cent at the start of 1990/91 marketing year. The graph alongside shows movement in MCAs for cereals over the period 1 January 1990 to 1 July 1990.

4.5 It is estimated that, taking account of the green rate changes, the package represents a reduction in average EC support prices of 2.5 per cent in real terms. (see graph)

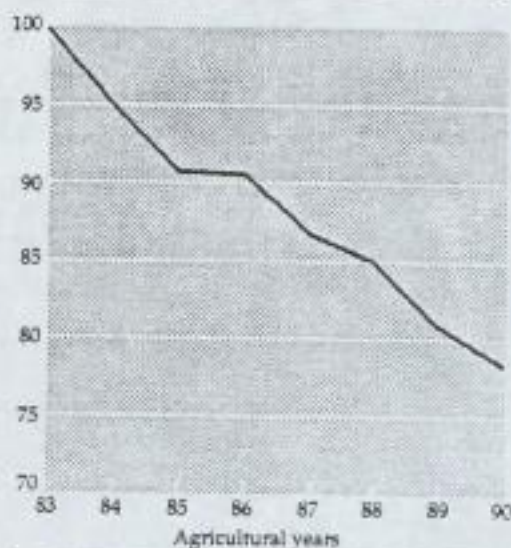
4.6 A number of related measures were adopted, designed to assist small farmers and those in disadvantaged areas. These included a new hectare aid for small producers of arable crops; a subsidy per hectare for producers of minor cereals; a milk quota buy-up scheme to assist quota redistribution to smaller producers; an extension of the suckler cow premium scheme to small dairy farms; and an additional ewe premium for farmers in less favoured areas.

4.7 The Commission estimated that their original proposal would have increased European Agricultural Guidance and Guarantee Fund Guarantee expenditure by 446 million ecu (£319 million) in 1990 and 564 million ecu (£403 million) in 1991. They

UK Cereals MCAs Jan-Jul 1990



Annual EC Agricultural Support Price Index (real terms)





estimate that the package adopted by the Council will cost 333 million ecu (£238 million) in 1990 and 1121 million ecu (£801 million) in 1991. The Commission confirmed that the cost of the package could be covered by the existing budget provision in 1990 and would fall easily within the financial guidelines for 1991. Since the settlement was reached, the Commission has announced its PDB for 1991, which includes a provision for Guarantee expenditure some 2.2 billion ecu (£1.5 billion) below the guideline.

## Non-Price Fixing Measures

### Cereals

4.8 In June, following a report to the Council on the potential for increasing non-food uses for agricultural products, the Council adopted a proposal from the Commission amending the set-aside scheme to allow member states to permit the production of cereals for non-food uses on set-aside land.

### Animal Health

4.9 At the 25-26 June Agriculture Council, Ministers discussed a total of seven Single Market veterinary items. In addition to adopting two proposals, and reaching political agreement in principle on a third, concerning animal health trade rules for porcine semen, horses and other equidae, and live poultry and hatching eggs respectively, the Council adopted rules providing for the recognition of member states, or parts thereof, as being free from enzootic bovine leucosis, as well as measures to establish a veterinary fund.

4.10 At the same meeting the Council also adopted two key directives concerning the Single Market and animal health. The first requires that vaccination against foot and mouth disease (FMD), currently practised in eight member states, should be discontinued throughout the Community on 1 January 1992.

4.11 The second, concerning veterinary checks in intra-Community trade in live animals, provides for the eventual elimination of veterinary checks at frontiers and substitutes instead a system of checks at points of origin and destination. Documentary checks, and quarantine where necessary, at ports of entry will however continue to be permitted.

### Sugar

4.12 In May the Council adopted three regulations to restore the competitive position of EC levulose producers which had been eroded by import penetration. These established import levies together with a tariff quota and introduced limited production refunds.



## The single market and animal health

A true Single Market depends on progress being made in a number of areas. For example, trade measures need to be harmonised so that the conditions under which animals and animal products are traded within the Community are limited to those strictly necessary to avoid the spread of infection. In addition, the conditions and controls on imports from third countries need to be harmonised - vital since progress towards the removal of internal frontiers will be hindered if one member state may import goods which another will not accept. Similarly the way in which compliance with Community rules is checked needs to be regulated to avoid unnecessary restrictions on the one hand while on the other ensuring that operators fulfil their obligations. Above all else, however, must be the eradication or control of serious animal diseases, and the Community is therefore rightly committed to the attainment of a uniformly high health status throughout the Community. After all, as disease is brought under control the need for trade rules and checks will diminish.

Although the United Kingdom is disappointed that much higher priority has not been accorded to disease eradication and control measures, we have, nevertheless, continued to take an active part in Community discussions on other essential Single Market measures. We supported the adoption of no less than seven Single Market animal health proposals at the June Agriculture Council, including two measures which represent key elements in the development of animal health control policy in the Community.

The first requires that vaccination against foot and mouth disease (FMD), currently practised in other member states, should be

discontinued throughout the Community by 1 January 1992. The main protection against FMD will thereafter be provided by the slaughter and destruction of animals from infected herds and compensation for the owner of such animals, as has been the case in the United Kingdom for many years. It is a major achievement to secure Community acceptance of United Kingdom policy in this area and an important step towards opening up trade within the Single Market.

Equally important is the directive concerning veterinary checks in intra-Community trade in live animals. Like that adopted in December 1989 in relation to veterinary checks on certain specified animal and fishery products, this directive provides for the eventual elimination of veterinary checks at frontiers and substitutes instead a system of checks at points of origin and destination. However, as a transitional measure, the directive permits the continuation of documentary checks at any point during transport (including at ports of entry) in order to check compliance with Community, or in their absence, national, veterinary rules; it also permits member states to maintain checks until at least the end of 1992 on all animals entering member states at points where animals from third countries may arrive. The directive as a whole has to be reviewed before the end of 1992, but in the meantime it recognises that areas with particular high health status should be protected and that the dismantling of frontier checks should be linked to progress in the successful implementation of other controls and the harmonisation of standards. The new directive also places an important obligation on the Council to decide before the end of 1990 on the rules and general principles for veterinary checks on animals imported from third countries.



## European Agricultural Guidance and Guarantee Fund (EAGGF)

4.13 United Kingdom receipts during the period from the Guarantee Section of the EAGGF were £731 million. Because of the operation of the system of delayed advances, these receipts relate to expenditure incurred during the period 16 October 1989 to 30 April 1990. The main areas of benefit were sheep premia, cereal refunds, oilseed crushing subsidies and reimbursement for losses under the special programme for butter disposal which was deferred from 1987 and 1988. United Kingdom receipts from the Guidance Section of the EAGGF amounted to £42 million.

4.14 On 29 March the Commission adopted Regulation 866/90 to improve the conditions under which agricultural produce is processed and marketed. It makes grant aid available to capital investments and replaces Regulation 355/77. The Commission also adopted on 29 March Regulation 867/90 aimed at improving the processing and marketing conditions for forestry products.

## Agrimonetary Changes resulting from European Monetary System (EMS) Realignment

4.15 As a result of the realignment of currencies within the EMS which took place in January, and the application of the special rules for dismantling newly created monetary gaps, green rates for a number of member states were adjusted on 11 January. This included a small devaluation of the green pound which increased support to prices in the United Kingdom by about half of 1 per cent. A subsequent stage of dismantling took effect at the beginning of the 1990/91 marketing year and at the same time support prices expressed in ecu were reduced by about 0.17 per cent as a result of the mechanism to remove monetary gaps resulting from the January realignment.

## Fisheries

### Internal Regime

4.16 On 27 June the Fisheries Council agreed, in the light of scientific advice, to increase the total allowable catch (TAC) for Irish Sea sole bringing the United Kingdom an additional 170 tonnes, including a swap with the Netherlands. An amendment to the management provisions for western horse mackerel was also agreed which will allow an extra 15 per cent of the Community availability to be taken by the beginning of September. In addition, important discussions took place on the EC's conservation regime which resulted in a Council statement urging the Commission to produce proposals for gear modification, aimed at reducing catches of immature North Sea cod and haddock. A German statement on the implications of unification on fisheries stressed that this would not involve upsetting any of the existing principles of the Common Fisheries Policy. This period saw the start of discussions in the Council on the Commission's Single Market proposals to harmonise fish health and hygiene controls across the Community.



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## External Regime

4.17 On 27 June the Fisheries Council agreed to allocate an additional 7000 tonnes of cod at Greenland (obtained in return for financial compensation) in accordance with the fundamental principle of relative stability, to Germany and the United Kingdom. The Commission reported on a useful visit by Vice-President Marin to Canada which had helped to improve the chances of a normalisation of fisheries relations.

## *Annex to section 4*

### *The Common Agricultural Policy Price Settlement for 1990*

#### *Cereals*

1. *The basic cereals co-responsibility levy was left at a level equivalent to 3 per cent of the breadwheat intervention price while, in implementation of the agreement reached at the end of 1989, the additional levy was set at 1\_ per cent. The monthly increments on cereals support prices were increased by 14.5 per cent, back to the levels of 1988-89.*

#### *Dairy Products*

2. *The target price for milk was cut by 3.5 per cent with a corresponding reduction in the threshold (minimum import) price. The intervention prices for butter and skimmed milk powder were unchanged (in ecu terms) from the March 1990 level but those for Italian cheeses were cut by between 2.2 per cent and 1.7 per cent where applicable. The co-responsibility levy remains at 1.5 per cent of the target price.*

3. *The intervention rules for butter were amended so that the same, more favourable, arrangements apply to Northern Ireland as to the Republic of Ireland.*

4. *The Council also asked the Commission to use its management powers to maximise the disposal opportunities for butter and skimmed milk and minimise sales to intervention.*

#### *Beef*

5. *The beef intervention price was cut by 2.5 per cent. The EC carcass classification grid will be compulsory in EC-approved abattoirs from 1992 and producers must be informed of the results. The basic price for pigmeat was cut by 6.6 per cent.*

#### *Oilseeds and Protein Crops*

6. *The definition of "double low" rapeseed, which determines eligibility for a production aid bonus, was maintained for a further year (until the 1991/92 marketing year).*

7. *For protein crops the standard quality was tightened from 17 per cent to 16 per cent combined moisture and impurities content. The Commission will monitor the effect of tightening the standard on production and marketing to ensure that the new standards do not create problems. For dried fodder, the Commission will consider establishing a maximum tolerance level for botanical impurities found in sun-dried fodder.*

#### *Fruit and Vegetables*

8. *In the processed fruit and vegetables sector, the Council agreed to maintain the quota system for processed tomato products for two more years, increasing the quotas for Spain and Portugal. The system for calculating production aid was amended to limit the rate of aid to the difference between Community and Third Country raw material prices, and provision made for a monetary coefficient. The Council deferred a decision on the Commission's proposals for the dried grape regime.*



9. In the fresh fruit and vegetables sector citrus prices were reduced by 7.5 per cent except for lemons, clementines and satsumas which were reduced by 3 per cent, and the minimum price for lemons for processing is to be reduced to 105 per cent of the 1989/90 withdrawal price over two years, three in the case of Spain. The Council also agreed to: schemes for grubbing up apple and mandarin orchards; establish a citrus register, measures to encourage the consumption of apples and citrus and assistance for sorting and packaging costs for withdrawn apples and citrus for free distribution.

### **Wine**

10. Guide prices for wine were aligned; for most white wines this meant an increase of 1.6 per cent and for most red wine a cut of 1.5 per cent. Funding of the permanent vineyard abandonment scheme will in future be solely by the EC budget. The Commission will also have the choice of excluding neutral alcohol from intervention in any given wine year. The ban on new planting of vines was extended to 1996 while the derogation permitting planting of vines for quality wines was extended only to August 1991.

### **Non-Price Fixing Measures**

#### **Oilseeds and Protein Crops**

11. The official method of analysis for the determination of the glucosinolate content of rapeseed was replaced by a more accurate method (HPLC). Member states were authorised to continue using national methods on a transitional basis for the 1990/91 marketing year.

#### **Sheepmeat**

12. On 22 January the Council adopted a decision agreeing a revised Voluntary Restraint Agreement with Uruguay involving a reduction in total Uruguayan imports, the introduction of a system of price surveillance for imports and limits on chilled sendings in exchange for a reduction in the import tariff from 10 per cent to zero.

13. On 26 March the Council adopted a decision agreeing revised Voluntary Restraint Agreements with Bulgaria, Hungary, Poland, the German Democratic Republic, Czechoslovakia and Yugoslavia. This involved their agreement to the introduction of a system of price surveillance for imports and limits on chilled sendings in exchange for a reduction in the import tariff from 10 per cent to zero and, in the case of Bulgaria, Hungary and Poland, additional quota for 1990 only.

#### **Beef**

14. On 21 May the Agricultural Council adopted two estimates of Community import needs in 1990 one for 50,000 tonnes of frozen beef for manufacturing (compared with 20,000 tonnes in 1989), the other for 198,000 head of young male cattle for fattening (compared with 175,000 head in 1989). The United Kingdom is a major user of the manufacturing balance sheet quota.

#### **Poultrymeat and Eggs**

15. On 25-26 June the Agriculture Council adopted a regulation under which common marketing standards for poultrymeat will be introduced throughout the Community. This is a framework provision which allows for the introduction of detailed Commission legislation on grading, condition of presentation, extraneous water content and labelling in respect of certain types and presentations of poultrymeat. The regulation does not apply to uneviscerated poultrymeat (Traditional Farm Fresh) but a statement has been recorded in the Council minutes to the effect that although marketing standards cannot be set for such poultry it may continue to be marketed.



16. The same Council also adopted a regulation which repeals and replaces Council Regulation 2772/75 which laid down the marketing standards for eggs. The new regulation allows for more of the detailed rules to be made in Commission legislation and also introduces other modifications and improvements to the standards system.

### **Sugar**

17. A Commission report on the operation of the scheme to provide sugar for the chemical industry led in June to the Council adopting modifications to enhance future uptake. The scheme is now of unlimited duration and the production refund level established by reference to the world price of sugar.

### **Animal Feedingstuffs and Medicines**

18. On 22 January the Council adopted a directive which completes the harmonisation of the animal feed label. It contains a requirement for manufacturers to declare the contents of animal feeds, provisions for an EC reference list of main feed ingredients, an EC list of ingredients prohibited from inclusion in animal feeds, and EC categories of similar ingredients which can be used by a manufacturer to describe the contents of his feed in place of specific ingredient names. The directive is to be implemented by 22 January 1992.

19. On 26 March the Council adopted a directive laying down conditions governing the preparation, placing on the market and use of medicated feedingstuffs in the Community. In particular it requires that only premises authorised in accordance with Directive 81/851 on veterinary medicines may be incorporated into feed and that manufacturers should be subject to prior approval. Farmers will be legally required to observe withdrawal periods. The directive does not cover feeds containing medicinal products authorised under Directive 70/524 (ie certain antibiotics, growth promoters and coccidiostats).

20. On 25 April the Council adopted a decision prohibiting the use of bovine somatotropin (BST) within the Community, except in authorised field trials, until 31 December 1990. This will ensure that the social and economic impact of using BST will be assessed in parallel with the rigorous scientific evaluation of its safety, quality and efficacy which is required before it may be licensed to go on the market, and obliges the Commission to present a further report before the end of the year.

21. At its meeting on 25-26 June the Council adopted a Regulation establishing a framework within which the Commission would evaluate the toxicology of all ingredients of veterinary medicinal products, and set maximum residue limits (MRLs) for them. MRLs are the maximum acceptable residual amounts in food, calculated on a precautionary basis to ensure that there is no risk to consumers. Provision is made for a ban on the use of particularly hazardous substances in medicines for food producing animals.

22. At the same meeting the Council agreed a common position on two draft directives amending Community rules on the licensing of veterinary medicinal products. These make technical amendments to the parent directive in the light of experience and developments since it was adopted in 1981, including the advent of the Single Market, and extend it to cover immunological veterinary medicinal products (vaccines)

### **ECJ Case 372/88 : MMB-v-Cricket St Thomas**

23. On 27 March the European Court confirmed the Milk Marketing Board's exclusive right to purchase milk and to impose a levy on milk producers who pasteurise and then sell their own (whole - ie not skimmed or semi-skimmed) milk. The European Court did not rule on the appropriate size of the levy and referred this matter to the national courts.



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# 5 Transport

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## Aviation Liberalisation

5.1 On 18 June, EC Transport Ministers adopted a second package of measures. This enshrines in EC law the earlier Ministerial commitment to the liberalisation of air transport in the European Community by the end of 1992, and provides for arrangements which will function in the interim. These build on the first set of measures agreed in 1987.

## Marine Transport

5.2 In the maritime sector, discussions continued on the Commission's proposals for the second stage of the Community shipping policy concentrated on the Commission's proposal for the liberalisation of domestic and coastal shipping (cabotage) but no conclusions have been reached. The Transport Council agreed in June a resolution on the prevention of accidents causing marine pollution and the Council together with the representatives of the governments of member states meeting within the Council agreed a resolution on improving passenger ferry safety. Also in June, the Commission tabled a draft Council regulations on the treatment of shipping consortia under the competition rules of the Treaty; and on facilitating the transfer of vessels between member states' registers.

## Road haulage

5.3 The 29 March Council agreed that the Community Quota for 1990 would be increased by 40 per cent. The Regulation was adopted on 25 April and came into force on 1 May. No decisions have yet been reached on any increases for 1991 and 1992.

5.4 Directive 84/647/EEC requires member states to permit under certain conditions, the use of vehicles hired without drivers for the carriage of goods by road, whether for hire or reward or on an own-account basis, for both national services and services between member states. The Transport Council on 18-19 June agreed that minimum hire periods would be abolished and that the restrictions on hire by own-account operators would be removed, but only for vehicles under 6 tonnes. This will take effect from 31 December 1990.

## Infrastructure

5.5 At the June Transport Council the twelve Transport Ministers reached provisional agreement on a further ad hoc programme to cover 1990, 1991 and 1992. Final agreement still awaits the resolution of outstanding questions on the scope of the programme and the way in which it will be operated.

## Liberalisation of air transport

The EC Transport Council on 18 June saw the adoption of a second package of measures which seals the commitment to the liberalisation of air transport in the European Community by the end of 1992, and provides for arrangements which will function in the interim.

The package incorporates into Community law an earlier commitment to introduce the key areas of a liberal market by the end of 1992. It also provides for measures which will further ease the market in the area of fares, capacity sharing and market access.

These build on the first set of measures agreed in 1987. They contain arrangements for setting fares which introduce an element of double disapproval and simplify the existing zonal system. The package also eases access to the market by creating third and fourth freedom traffic rights between virtually all Community airports, relaxing restrictions on fifth freedom services within the Community, and progressively lowering the thresholds for multiple designation. The Council accepted the need to deal quickly with predatory practices

and agreed principles against which air cargo services should be further liberalised by March 1991. Ministers also reached agreement on a mandate for the opening of aviation negotiations with EFTA.

Although there are now commitments to a Single Market by 1992, there will be much negotiating between now and then, in which the United Kingdom will take a leading role. The Government believes that only the introduction of free, open and above all fair competition in air transport will allow the needs of passengers to shape the development of the industry. Business people more than any will understand the importance of a highly-developed and competitively priced air transport network in the new European Single Market. An increasingly international marketplace demands an air transport industry to help it develop, as air transport will remain central to that development. We cannot afford to ignore the need for a flexible, responsive and, most importantly, competitive air transport industry which is capable of meeting the changing needs of Europe's consumers.



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## *Annex to section 5*

### *Railways*

1. *At the end of 1989, the Commission submitted to the Council a Communication on a Community Railway Policy. This contained proposals for: a directive on the development of the Community railways; an amending Regulation dealing with public service obligations of railway and other transport operators; a Council Decision on the establishment of a high speed network of trains; and an amending Regulation dealing with combined transport.*

### *Road and Vehicle Safety*

2. *The United Kingdom has strongly supported action in the vehicle safety field and a draft resolution on reducing road casualties through improvements in vehicle standards was discussed at the June Transport Council. It is foreseen that an outline programme of work will be finalised within a year. The Commission's proposals for harmonisation of laws on seat belt wearing, the blood alcohol level and speed limits have not progressed although they remain on the table.*

### *Vehicle Taxation*

3. *At the June 1989 Transport Council the draft directive on the charging of infrastructure costs to heavy goods vehicles was passed to the Economic and Finance Council with guidelines for consideration but it has not yet been discussed there. In March 1990 the EC Transport Commissioner offered to set aside the territoriality provision that has impeded progress on the draft directive. The June 1990 Transport Council resolved to set up a high level group to take forward the draft directive and report at the next Council in October. Progress on fiscal harmonisation by 31 December 1990 was called for at the Dublin European Summit.*

### *Driving licences*

4. *Driving licences on 11-12 June the European Parliament agreed its formal Opinion on the draft driving licence directive. Negotiations continue in the Council Working Group. The directive is not likely to come to Transport Council for a further 12 months.*

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## 6 Environment

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6.1 The Dublin European Council on 25-26 June adopted a declaration setting out objectives and principles as a guideline for future Community action on the environment.

6.2 The Environment Council adopted a directive on the Freedom of Access to Environmental Information. This requires member states to provide the public with access to environmental information held by all public authorities with environmental responsibilities, while setting out certain categories of information whose confidentiality may be protected.

6.3 Agreement was concluded on a Regulation establishing a European Environment Agency, although a decision on the site of the Agency remained to be taken.

6.4 The Environment Council adopted in March a Resolution setting out a strategy and principles for the Community's future policy on waste management. This includes commitments to waste minimisation and recycling, together with the aim of self-sufficiency of member states in waste disposal. In June the Council agreed a directive amending the existing framework directive on waste.

6.5 The environmental problems of Eastern Europe were discussed at an informal Council in April, and in June a special meeting of EC environment Ministers and their East European counterparts met to discuss future co-operation on resolving these problems.

### European Environment Agency

The new Agency will be responsible for the collection, co-ordination and analysis of environmental information, initially within the Community but with the possibility of extending participation to other European countries in due course. Its role will be to produce objective and comparable data on a range of environmental matters. This will

help to improve the scientific basis for decision-making and also assist the Commission in overseeing the implementation of existing Community legislation. A review of the Agency's role will be conducted after two years. A decision on the location of the Agency will be made separately.



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## 7 External relations, trade and aid

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### GATT

7.1 Negotiations in the Uruguay Round continued with the Community playing an active part. The Community and some member states, including the United Kingdom, were represented at an informal meeting of Trade Ministers to discuss the Round in Puerto Vallarta, Mexico, on

18-20 April. Ministers charged negotiators to prepare outline texts covering each of the fifteen negotiating groups for consideration at the Trade Negotiations Committee (TNC) in July.

### German Unification

When the two Germanies are politically united at the end of 1990 the territory of the former GDR will be legally incorporated into the European Community. Practical steps towards integration of the GDR are already happening as a result of German Economic and Monetary Union (GEMU) which took effect on 1 July. The United Kingdom and other Community member states have welcomed integration of the territory of the GDR and are determined to achieve it as smoothly and as quickly as possible.

The Informal European Council in Dublin on 28 April decided on the steps to be taken in the periods before and after political unification. Before unification, GEMU decisions will as far as possible be in-keeping with EC rules governing fair trade competition. The Governments of the FRG and GDR agreed to inform the Community and involve the Commission in these decisions.

EC law will apply in the territory of the ex-GDR from the day of political unification. There will be no amendment of the EC Treaties, but the Community has recognised that a number of temporary exemptions will be necessary in areas, such as environmental standards, where the GDR cannot meet EC requirements. In September the Commission will propose specific legislative measures for limited derogations. These will be discussed by the Community during the autumn so that we can agree final arrangements in time for them to take effect from the date of unification. The Community has agreed that these transitional arrangements should be as specific and as short-lived as possible. Other issues include the future of the GDR's external trade agreements and the budgetary implications for the Community. The United Kingdom will play a full part in seeking solutions which benefit both the united Germany and the rest of the Community.

### EC/United States (US)

7.2 Following Secretary Baker's December call for a strengthened EC/US relationship, the EC and US agreed new arrangements for more frequent Ministerial and official level contacts. EC President Delors led a team of Commissioners to Washington on 23 April and EC Foreign Ministers met Secretary Baker in Brussels on 3 May.



7.3 The Community maintained a constructive dialogue with the US on trade relations. In January, the EC accepted the report by a US-requested GATT panel on the EC's oilseeds regime and undertook to reform the regime in the context of the results of the Uruguay Round. Discussion continued between the Commission, member states and the US over problems associated with trade in civil aircraft.

### **EC/Canada**

7.4 The Joint Co-operation Committee of Commissioners and Canadian Ministers met in Ottawa on 23 May for wide-ranging talks on current concerns. Welcome progress was made on the fisheries dispute during Vice President Marin's 9-10 May visit to Canada.

### **EC/Japan**

7.5 A high level meeting between Commissioners and Japanese Ministers on 29 May re-affirmed mutual commitment to a strong working relationship and established a new working group on market access which will report to the autumn high level meeting of EC and Japanese officials.

### **Euro-Arab Dialogue**

7.6 Following the successful re-launching of the Euro-Arab Dialogue at the Paris Ministerial meeting in December, the Sixth General Committee of the Dialogue meeting in Dublin on 7-8 June, approved six joint projects and directed the future economic and cultural activity of the Dialogue.

### **EC/EFTA**

7.7 EC and EFTA Ministers had agreed in December 1989 to strengthen relations, and extend the Single Market to EFTA countries by creating a European Economic Area (EEA). After exploratory exchanges in Spring 1990, formal negotiations to set up the EEA began on 20 June. The aim is for the agreement to enter into force by 1 January 1993 to coincide with the completion of the Single Market.

### **EC/Latin America**

7.8 On 2 April the Community signed a Trade and Economic Co-operation agreement with the Argentine Republic. The sixth meeting of the San Jose process between the Community and Central America took place in Dublin on 9-10 April. The Community also had a meeting on 10 April with the Rio Groups of Latin American countries.

### **EC/Lome**

7.9 Following the expiry of the third Lome Convention, the Community and its member states agreed Interim Measures to apply until the Fourth Lome Convention, signed in December 1989, comes into force. The EC/ACP Council of Ministers met in Fiji on 28-29 March.



## EC/South Africa

7.10 In response to political developments in South Africa and having consulted Community partners, the British Government lifted its ban on certain new investment in South Africa on 23 February 1990. On 25-26 June the Dublin European Council recognised the significance of change, the principle of gradual relaxation of pressure in response to change, the need for economic underpinning of political change and called on all parties to refrain from violence or its advocacy.

## Eastern Europe

In response to the bursting of barriers with Eastern and Central Europe, the Community has pursued two tracks in developing its relations with the new democracies:

- the negotiation of Trade and Co-operation Agreements, later to be enhanced by Association Agreements;
- the extension of G24 co-ordinated aid.

During the Irish Presidency the Community completed its network of first generation Trade and Co-operation Agreements with individual countries. Though the Agreement with Romania was initialled on 8 June, signature was postponed in response to the deterioration in political conditions in the country. The Community decided at the informal Dublin European Council that these agreements should be built on through Association Agreements. The Commission has been requested to begin exploratory talks with the fastest reformers with the aim of concluding negotiations by the end of 1990. The United Kingdom launched the initial idea for closer forms of Association with the Community for the emerging democracies of Eastern Europe, and has pushed for swift progress. We look forward to the progressive enrichment of relations with individual countries, as economic and political reform takes root.

The detail of Association Agreements is at present being worked on by the Commission. They would include gradual

introduction of free trade; freedom of movement in capital, services and people; political dialogue and economic co-operation extending the provisions of existing agreements.

Among training proposals considered were those established under the PHARE fund to give training aid to Eastern European countries, starting with Poland and Hungary. The Community approved in May a Regulation to set up a European Training Foundation to contribute to the development of vocational training systems of Central and Eastern European countries and a Decision on the Trans European Mobility Scheme for University Studies (TEMPUS) which will enable Central and Eastern European higher education institutions to participate in education and training programmes modelled on existing Community programmes such as ERASMUS, COMETT and LINGUA. The Community in addition agreed to provide a medium term loan of up to \$1 billion to Hungary, \$200 million lending from the European Coal and Steel Community to Poland and Hungary and extra free food to Poland and Hungary.

On the basis of an Action Plan for co-ordinated G24 assistance, the Community decided on 4 July to extend its economic aid programme to include Czechoslovakia, Bulgaria, Yugoslavia and GDR. A decision on aid for Romania was deferred. Support and encouragement for economic and political reform remains the central plank of the Community's policy towards Eastern and Central Europe.



### Overseas Development

7.11 Under the European Development Funds, 39 projects worth a total of £233 million were approved; food aid worth £36 million from the Community's regular programme was allocated to 9 countries, 4 international organisations and various non-governmental organisations. Seventeen projects worth £155 million were approved under the Community's aid programme to Asian and Latin America developing countries, and its financial protocols with Mediterranean partners.

7.12 On 29 May the Development Council adopted resolutions on environment and development; on the conservation of tropical forests; on the integration of food aid with other forms of development assistance and multiannual programming; on the integration of women into the development process; and on evaluation of development cooperation.

### Anti-dumping

7.13 Anti-dumping investigations were opened by the Community against imports of eighteen products exported by a total of eighteen countries. In addition definitive anti-dumping remedies were imposed on eleven products from sixteen countries. This represents a rather higher level of activity than for the previous six monthly period.

## European bank for reconstruction and development (EBRD)

The Strasbourg European Council (8/9 December 1989) called for the establishment of a European Bank whose role would be to make loans and give financial assistance to reconstruction and development in Eastern European countries. There was consensus that the Bank's principal activity should be to assist the growth of the private sector. Forty countries, the European Community and the European Investment Bank became shareholders in the Bank; the EC has a collective shareholding of 51 per cent. The United Kingdom holds 8.5 per cent of the shares. The Articles of the Bank were signed by Ministers in Paris on 29 May.

Jacques Attali (President Mitterrand's personal adviser), was elected President-designate of the Bank which will be sited in London. Member states are engaged in ratifying the Articles and the Bank will become operational early in 1991. The Bank will play a major role in the international effort to build political democracy and assist economic reforms in Eastern Europe. The choice of London as its headquarters reflects recognition of London's status as Europe's leading financial centre and the United Kingdom's prominent role in promoting a constructive Western response to Eastern European countries, as they free themselves from Communism.



## The global diplomacy of the twelve

Global diplomacy is an important feature of the Community's work, generated through European Political Co-operation - the process of coordination and consultation among member states' Foreign Ministries. There are more and more issues on which partners seek to speak with a single voice and increasingly the Community is recognised internationally as carrying real political weight. During the Irish Presidency the influence the Community brought to bear through its collective diplomacy on international problems, including in the Middle East, Central America, Southern Africa, the Horn of Africa, South East Asia and the Indian sub-continent was considerable. The

Community also played a prominent part in international meetings, such as the UN Commission on Human Rights and the Copenhagen meeting of the CSCE Conference on the Human Dimension. At both meetings, concepts of human rights and democracy, for which the Community has always stood, were successfully advanced.

The United Kingdom played an active and constructive part in this work, in the firm belief that the member states maximise their ability to influence international affairs constructively when they speak and act together. We will continue to work within the Community in pursuit of this goal.

## Institutional Reform

8.1 A number of factors came together in early 1990 to revive Community debate about "political union" and the need for institutional reform. Questions raised in the debate about EMU, talk of a "democratic deficit" and the implications of German reunification persuaded some governments that a further strengthening of Community institutions was desirable. In March, Belgium put forward some ideas and in April, following a proposal by President Mitterrand and Chancellor Kohl, "political union" was discussed at the informal Dublin European Council. British concerns that "political union" should not undermine national identity, national sovereignty or national political institutions were recognised and widely shared. It was agreed that foreign Ministers would examine the scope for possible Treaty changes and report back to the June European Council.

8.2 During May and June, Foreign Ministers drew up a paper setting out the areas where institutional reform might be considered. It did not make specific proposals but emphasised the need for practical, incremental reforms to make the Community institutions more effective and more democratically accountable. The report covered the need for greater involvement of national parliaments as well as the European Parliament, better implementation of Community policies, closer co-operation on foreign policy issues, and ensuring that the principle of subsidiarity was applied more consistently and effectively. The United Kingdom floated a number of ideas of its own on institutional reform, eg for better financial accountability, on enforcement of Community law, for strengthening European political co-operation and for improving links between national parliaments and Strasbourg. Other member states put forward suggestions of their own.

8.3. The second European Council on 25-26 June decided that a second Inter Governmental Conference (IGC) on institutional reform should begin in December, running in parallel to that on EMU. The Foreign Ministers' paper was endorsed as a basis for further preparation. The "political union" IGC will aim to complete its work, like that on EMU, in time for ratification by national parliaments before the end of 1992.



## Annex to section 8

***ECJ Case 70/88: European Parliament-v-Council***

*In this case the European Parliament brought an action against the Council alleging that the Treaty base of Regulation 3954/87/Euratom fixing maximum permissible levels of radioactive contamination for foodstuffs and feedingstuffs after the Chernobyl accident should have been Article 100A of the EEC Treaty and not Article 31 of EAEC. On a preliminary issue the Council applied for a ruling that the Parliament's action was inadmissible following the judgment of the European Court of 27 September 1988 in Case 302/87 "Comitologie". The European Parliament argued that Case 70/88 could be distinguished. In the Comitologie case the Court had said that by virtue of Article 155 of the EEC Treaty it was for the Commission to protect the prerogatives of the Parliament. However, the Parliament said that this case demonstrated that the Commission could not fulfil this responsibility where it had chosen a Treaty base for a measure which was considered inappropriate by the European Parliament. In its judgment of 22 May the European Court of Justice accepted this argument and ruled that an action taken by the Parliament for annulment of a measure taken by the Council or the Commission was admissible on condition that the object of the proceedings was to safeguard the Parliament's prerogatives.*

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## 9 Social affairs

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### Employment Issues

#### Long term unemployed

9.1 On 29 May the Labour and Social Affairs Council adopted a resolution on action to assist the long-term unemployed. With over 7 million people unemployed for over a year in the Community, the Council agreed that long-term unemployment is one of the key labour market problems facing the Community and re-affirmed the importance it attaches to providing constructive and effective help for this group.

#### Social Action Programme

9.2 In May and June the European Commission published the first of the proposals in its social action programme. These were: three draft directives on part-time and temporary work; a revised draft directive on asbestos; a Commission recommendation on a European Schedule of industrial diseases; and a proposal for an action programme on the elderly, including a proposed Council decision to designate 1993 as a year for the elderly (see paragraphs 9.11 - 9.13).

9.3 The Commission's intention appears to be to put all the proposals in the social action programme to the Council by the end of 1991 with a view to them being adopted before the end of 1992.

#### Training

9.4 The 29 May Council considered an action programme on continuing training (FORCE). Ten member states adopted the programme. Although the United Kingdom is in favour of encouraging continuing training, it abstained from voting in favour of the programme because of the inclusion of a reference to the Social Charter, which had not been approved by the United Kingdom in 1989. West Germany also abstained.

9.5 The six months to June 1990 saw the emergence of Commission proposals, in a variety of areas including transport and culture, for initiatives in the field of training to support other Community activities.

#### Education

9.6 The 31 May Education Council adopted a Resolution on the integration of children and young people with disabilities into ordinary systems of education, conclusions on the treatment of equality of educational opportunity in the training of teachers, on



the preparation of a new Convention for the European Schools and on meetings of senior officials in the education sector.

## Health

### *Europe against Cancer*

9.7 A second action plan, for 1990-94, with a budget of 50 million ECU, (£36 million) was adopted in May 1990. The aim of the plan is to improve understanding of the causes of cancer and its prevention and treatment. It includes provision for projects related to:

- prevention and screening;
- public information and health education;
- professional training; and
- co-ordination of research

The United Kingdom will play a full part in the programme.

### **Acute Human Poisoning**

9.8 The European Commission has proposed a Council Resolution on "Improving the Prevention and Treatment of Acute Human Poisoning" which introduces a scheme for the collection of comparable information on cases of poisoning and the availability of antidotes within the Community.

### **Homeopathic Medicinal Products**

9.9 A proposal for a Council directive widening the scope of Directives 65/65/EEC and 75/319/EEC on the approximation of the laws of member states on medicinal products and laying down additional provisions on homeopathic medicinal products was presented to the Council in March 1990 and is being considered by the member states. Homeopathic medicinal products were excluded from earlier directives governing medicinal products in the EC. The proposals define the term "homeopathic medicinal products" by reference to official pharmacopoeias, and apply to products within the definition provisions currently applying to other medicinal products governing manufacture, control, import and export.

### **Tobacco: tar yield of cigarettes**

9.10 On 17 May the Health Council adopted a directive prohibiting the marketing of cigarettes with a tar yield of over 15mg by 31 December 1992 and those with a tar yield of over 12mg by 31 December 1997.

### **Action for the Elderly**

9.11 Earlier this year, the Commission put forward a draft decision on Community actions for elderly people which is currently under discussion by Governments and by officials in the member states. The document is wide ranging but concentrates in particular on what it identifies as two critical components of



national economies likely to be most affected by the trend towards larger elderly populations:

- the trend towards earlier retirement; and
- the growth of economic activity among a longer-lived, more active and better-off retired population.

**9.12** Actions proposed for the period 1991-93 fall into three categories: studies; events and information exchanges; and the setting up of a 'European network on innovative experiences' (eg ways of using elderly people's skills and experiences). The studies would focus on such issues as housing needs, incomes, technological aids, educational and cultural services and the impact on tourism and consumer affairs.

**9.13** The Commission also proposes to designate 1993 a 'Year of the Elderly and of Solidarity between the Generations'.

### Race Relations

**9.14** On 29 May, the Labour and Social Affairs Council adopted a mixed Resolution on Racism and Xenophobia. This followed up the Declaration by the Community Institutions on this subject in 1986. The Resolution, which is not legally binding, proposes a number of measures in the areas of legal action, information and education which member states might take to counteract these phenomena.

**9.15** In Dublin on 26-28 June, the European Council agreed a statement deploring all manifestations of anti-semitism, racism and xenophobia.

### Immigration

**9.16** On 15 June, Ministers responsible for immigration matters gathered in Dublin for the eighth of the twice-yearly meetings inaugurated during the United Kingdom's Presidency in 1986. The Ministers reviewed developments in the field of immigration and took stock of the work on free movement of people which is under way in preparation for the Internal Market. Eleven of the Ministers (Denmark being the exception) signed a Convention setting out procedures and criteria for determining the member state responsible for examining each application for asylum. Ministers also reviewed developments in Central and Eastern Europe (recalling that member states had jointly lifted their visa requirements in respect of the German Democratic Republic following the 7 May meeting of the General Affairs Council) and took note of progress on a draft Convention dealing with control of entry of persons through the external frontiers of member states.

### Policing Co-operation

**9.17** Also on 15 June the same group of Ministers approved, and decided to make public, a detailed programme of action for the Group's future work in reinforcing police co-operation among member states. Ministers also agreed upon an accelerated



timetable for the study already in progress of a proposal for a European Drugs Intelligence Unit, and upon the need for effective intelligence links with other European countries including those in Eastern Europe in the fight against drug trafficking. The meeting adopted the conclusions reached by a working group of officials on ways to co-ordinate the provision of technical assistance to drug producer and transit countries, and endorsed a paper for submission to the European Council on the links between drug trafficking and other forms of organised crime.

#### ECJ Case No C262/88: Barber -v- Guardian Royal Exchange

9.18 Mr Barber was made redundant at age 52. Under his employer's severance scheme men and women made redundant ten years before the scheme's normal retirement ages (65/60 respectively) - would be treated as taking early retirement, thus qualifying for an immediate pension. As Mr Barber was only 52, he received a deferred pension and redundancy compensation. A woman of the same age would have received an immediate pension. Mr Barber made a claim on the grounds of sex discrimination to an industrial tribunal and the Employment Appeal Tribunal. Both dismissed his claim. On appeal the Court of Appeal referred the case to the European Court of Justice to give a preliminary ruling as to whether the benefits received in connection with compulsory redundancy in the circumstances of this case constituted "pay" within Article 119 EEC Treaty, and accordingly whether they had to be equal for men and women. The UK argued that benefits paid from a pension scheme fall within Articles 117 and 118, not Article 119. The ECJ gave judgment on 17th May 1990 ruling that (i) the benefits paid by an employer to a worker in connection with redundancy fall within Article 119; (ii) pensions paid under occupational pension schemes, including contracted-out schemes, fall within Article 119; (iii) equal treatment must apply to each component part of remuneration including components of pension; and (iv) Article 119 has direct effect and does not apply to state social security benefits.

### Health and Safety

Article 118A of the Treaty (added by the Single European Act) provided a new legal base for legislation on workplace health and safety. Article 16 of the Health and Safety Framework Directive (the first directive to be progressed under Article 118A and adopted in June 1989) provides for "daughter" directives to be introduced covering particular areas. Initially, the Commission made proposals for five such directives. The first three in the initial package - work place, use of machines, equipment and installations and use of personal protective equipment - were adopted in November 1989. The Labour

and Social Affairs Council adopted the remaining two - manual handling of heavy loads and work with display screens equipment - in June. In addition, two further directives under Article 118A - biological agents and carcinogens - were brought within the scope of the Framework Directive (increasing the number of "daughters" to seven). Biological agents reached Common Position at the June Council; Carcinogens was adopted during the last few days of the Irish Presidency. Further proposals based on Article 118A are now awaited from the Commission's Social Action Programme.



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# 10 Research and Development (R&D)

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## Third Framework Programme, 1990-1994

10.1 On 23 April the Council adopted the third Framework Programme, 1990-1994, which has a total budget of 5.7 billion ecu (£4.1 billion). The programme will be implemented through the following 15 specific programmes:

1. Information technologies
2. Communications technologies
3. Telematics
4. Industrial and materials technologies
5. Measurement and test
6. Environment
7. Marine sciences and technologies
8. Biotechnology
9. Agricultural and agro-industrial research
10. Biomedical and health research
11. Sciences and technologies for developing countries
12. Non-nuclear energies
13. Safety of nuclear fission
14. Fusion
15. Human capital and mobility

10.2 The Commission's proposals on 13 of the specific programmes were transmitted to the Council at the end of May (those on nuclear fusion and nuclear fission safety are due to be published later this year). These will be examined by the Research Council in the course of 1990 and 1991.

## 1987-1991 Framework Programme

10.3 On 26 February the Research Council adopted an R&D programme on the Competitiveness of Agriculture and Management of Agricultural resources. The programme will receive funding of 55 million ecu (£39.7 million). Emphasis will be placed on research work which helps to identify alternative outlets for products and uses for land, conserves natural resources and develops production systems in harmony with the environment.

10.4 On 29 June the Research Council adopted a research programme on Human Genome Analysis. The programme will receive funding of 15 million ecu (£10.8 million) over a two year period; its main objectives are to develop and spread the basic technologies concerning the study of the human genome, to improve the resolution of the human genetic map and to organise networks on a European and international scale of researchers from all disciplines working in this field.

10.5 On 29 June the Research Council reached common positions on the EUROTRA II (European advanced machine



translation) and EURET (European research on transport) programmes. EUROTRA II, with funding of 10 million ecu (£7.2 million) over a two year period, has a wider technical content than its predecessor and will include research on other forms of language technologies besides machine translation. EURET, with funding of 25 million ecu (£18 million) over three years, aims to enhance the effectiveness, economy and safety of transport systems.

### **Co-operation with EFTA countries**

10.6 On 12 February the Council adopted co-operation agreements with the EFTA countries (excluding Iceland) on the SCIENCE (Stimulation of the international co-operation and exchange of European scientific researchers) programme.

10.7 On 26 February the Research Council adopted co-operation agreements with the EFTA countries (excluding Iceland) in the field of medical and health research.

### **Science and Technology Co-operation with third countries and Eastern Europe**

10.8 On 29 June the Research Council had a preliminary discussion of the Commission's two communications setting out possible guidelines for extending Science and Technology co-operation with third countries in general and with the countries of Central and Eastern Europe in particular.

### **COST (European Co-operation in the field of Scientific and Technical Research)**

10.9 On 29 June the Research Council adopted a resolution on COST and the countries of Central and Eastern Europe. The resolution encouraged the COST Senior Officials committee, together with the Commission and the countries concerned, to examine the modalities for the possible inclusion of Central and Eastern European countries as full members of COST.

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# 11 Energy

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## Internal Energy Market

11.1 The 21 May Energy Council considered four proposals connected with the completion of the Internal Energy Market. Agreement was reached on the gas and electricity prices transparency directive and a common position achieved on the electricity transit directive. Whilst the United Kingdom supported the gas transit directive a number of the member states maintained their objections and its progress was blocked. The Commission agreed not to pursue its amendment to the regulations on notification of investments. Instead the Commission agreed to a more thorough implementation of the existing regulation.

## Thermie

11.2 The 21 May Energy Council adopted the Thermie programme for demonstrating new, non-nuclear, energy technologies and disseminating the results. The programme has a budget of 700 million ecu (£505 million) for the five years, 1990 to 1995.

## Energy and the Environment

11.3 Also on 21 May the same group of Ministers considered the Commission's report on Energy and the Environment and adopted conclusions on the contribution energy policies should make to protecting the environment. It was noted that progress towards the Internal Energy Market should produce environmental benefits.

## Receipts from the Community

11.4 In the financial year 1990/91 the United Atomic Energy Authority expects to receive £13.66 million in respect of the Joint European Torus (JET) and the Authority's own fusion programme, and about £4.26 million for its non-nuclear radioactive waste management and safety research and development programmes. British Coal received, in the period January to June 1990 £32,810 from the European Regional Development Fund (ERDF) and also £300,000 from the Community and the European Coal and Steel Community together in research grants. It also received £2.1 million and the Department of Energy £8.6 million for readaption aid. The ERDF paid grants totalling £646,399 to the electricity supply industry in England and Wales. There were no receipts in connection with the gas industry over this period.



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## 12 Regional policy and industrial affairs

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### European Investment Bank (EIB) loans

12.1 Loans signed in the United Kingdom from EIB own resources lending totalled £7,111 million, all of which went to the private sector. The most significant loans were £110 million to Cable and Wireless Mercury, two loans of £80 and £50 million to North West Water and two loans of £50 million to London Docklands Railway Extension.

### Structural Funds

12.2 The European Commission adopted the Community Support Frameworks (CSFs) for Objective 5(b) (rural) regions on 6 June. The CSFs will govern the provision and use of funding under the reformed Structural Funds. For the United Kingdom this means £250 million support from the Structural Funds for the Highlands and Islands of Scotland, rural Wales, the Assisted Areas of Devon and Cornwall, and parts of Dumfries and Galloway from 1989 to 1993. The grants, which are intended to help these regions overcome the problems of peripherality and encourage economic development, will be spent on a wide range of measures including ferries, tourism and training.

12.3 The European Commission approved in March the ERDF Operational Programmes for the Black Country (£28 million), Coventry & Warwick (£12 million) and Shropshire & Staffordshire (£8 million) and a Multifund Operational Programme for Clwyd (£23 million); in each case from 1989 to 1991. They also approved in February two European Social Fund Programmes for Northern Ireland under Objectives 3 and 4, amounting to £21 and \$99 million respectively, from 1990 to 1993. The first meeting of the Northern Ireland Community Support Framework Monitoring Committee took place on 16 May 1990. This was the first such meeting of any Objective 1 region.

12.4 The Commission published in the Official Journal on 27 January details of the RECHAR Initiative for Structural Funds grant in coalmining areas and on 18 April published a list of areas eligible. RECHAR Operational Programmes are to be submitted to the Commission by 27 July.

12.5 On 28 March, Northern Ireland received £1.66 million and on 24 June £6.25 million from the IFL.

12.6 On 22 January the balance of the third and final tranche (£4.9 million) of aid under Regulation 1739/83, providing assistance for urban renewal in the Belfast area, was received. This means that a total of £61.8 million was received under the regulation.



### Industrial Affairs

12.7 The 13 March Industry Council held a series of policy debates on shipbuilding (possible 7th directive on state aids in the sector), industrial (as opposed to trade) aspects of the automobile, textile and footwear industries, the options for Community action in the biotechnology industries, and the possibility of extending patent cover for pharmaceuticals.

12.8 The 28 May Industry Council meeting considered the proposed 7th directive on shipbuilding, possible ways of increasing the participation of small and medium-sized enterprises in the Community's R & D programmes and their access to public purchasing contracts. The Council also considered the Commission's general objectives for the steel industry during 1990-1995. The Commission informed the Council that it had started preliminary work examining options for the future of the Treaty of Paris (which covers coal and steel products) which is due to expire in 2002.

### Telecommunications

12.9 At a meeting on 28 June 1990, the Telecommunications Council reached political agreement on a common position on a proposal for a Council directive aimed at establishing full mutual recognition of type approval for telecommunications terminal equipment. At the same meeting, a framework Directive on Open Network Provision (ONP) was adopted. The ONP Directive sets out a legal framework for subsequent proposals concerning access to and use of the telecommunications network infrastructure and certain (mainly reserved) services by users and private service operators. The Commission announced at the Council meeting that it would issue a Commission directive under Article 90 of the EC Treaty on competition in the markets for telecommunications services. The Telecommunications Council on 7 December 1989 had reached global political agreement on the policy content of this measure and the proposal on ONP as a "package deal". The Commission directive, which abolishes special or exclusive rights in respect of all telecommunications services over the fixed telecommunications network with the exception of voice telephony and telex (and subject to transitional arrangements in respect of data), was issued by the Commission on 13 July 1990. The measure also requires member states to ensure that telecommunications regulatory functions are carried out by a body independent of the telecommunications operator(s).

### ECJ Case C301/87 : Commission v France

12.10 France applied unsuccessfully for annulment of a Commission Decision which ruled that financial assistance given by France to the textile producer *Compagnie Boussac Saint Freres* constituted unlawful State Aid. The United Kingdom intervened in support of the Commission. The Court's Judgment of 14th February 1990 considered in some detail the powers of the Commission in cases where a member state is in breach of the notification requirements in Article 93(3) of the Treaty. The



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Commission had argued that since the aids had been granted without prior notification they were illegal per se regardless of whether, on further enquiry, they might be shown to be compatible with the Common Market. The Court held that in such a case the Commission could take interim measures requiring a member state to suspend the provision of aid and to provide the necessary information. Where a member state complied with interim measures the Commission must go on to examine the compatibility of the aid under Article 92(3). Where, after interim measures had been taken, the member state failed to provide the Commission with the necessary information the Commission can make an examination on the basis of the material and its disposal and has the power to demand repayment. If the member state fails to suspend the provision of aid the Commission can bring the matter directly before the Court.

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## 13 Parliamentary scrutiny of EC legislation

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### Enquiry by the Select Committee on Procedure

13.1 The report by the House of Commons Select Committee on Procedure on the scrutiny of European legislation was published on 30 November 1989. The report was the first major enquiry since 1978 into the way in which the House deals with European legislation. The Government published its response to the report on 21 May (Cm 1081). In its response the Government welcomed the report by the Select Committee noting that it was timely to re-examine Parliament's scrutiny arrangements in the light of the changes to the European legislative process brought about by the Single European Act. It was also desirable to ensure effective national Parliamentary scrutiny procedures to deal with the volume and significance of European legislation now emerging, for example, in relation to the Single Market programme.

13.2 In its response the Government accepted many of the recommendations made by the Select Committee on Procedure. The main plank of the government's response concerned the establishment of three new European Standing Committees each of which will specialise in particular subject areas. The Committees will have the power to question Ministers for up to 1 hour about the relevant EC proposals before debating the documents. This move will give MPs a greater role by allowing them to probe Government policy in greater depth and will ease the pressure on Parliamentary business taken on the floor. Other important changes to the scrutiny process include an amendment of the terms of reference of the Select Committee on European Legislation; a revision of the 30 October 1980 Resolution of the House; and agreement to make the six-monthly debates on developments in the EC more forward looking. They will be held shortly before the European Councils to allow consideration of subjects expected to be discussed at the European Council. The White Paper on EC developments during each Presidency would remain a relevant document.

13.3 A debate was held on 28 June in which the report by the Select Committee on Procedure, the Government's response to that report, and a special report of 27 June issued by the Select Committee on European Legislation were considered. In the light of that debate the Government drew up detailed proposals for change. The detailed amendments to Standing Orders which are required to implement a number of the proposed changes were to be tabled in July and a further debate would be held after the summer recess on the detailed changes. It is intended that changes to the scrutiny procedures agreed by the House will be introduced at the start of the 1990-91 Parliamentary Session.



## Annex to section 13

### *Deposit of Community documents in Parliament*

1. A total of 372 Community documents were deposited in Parliament. In addition, 113 unnumbered explanatory memoranda were submitted by departments where a depositable document was not available or had not been received.

### *House of Commons*

2. The House of Commons Select Committee on European Legislation reported on 486 occasions. They reported that 184 documents raised questions of legal and/or political importance and recommended 64 of these for further consideration by the House. 302 documents were considered to be of no legal or political importance. 13 debates covering a total of 22 documents were held on the Floor of the House, and 15 debates covering a total of 28 documents were held in Standing Committee. The Committee also withdrew recommendations for debate on 7 documents (see Appendix F).

### *House of Lords*

3. The House of Lords Select Committee on the European Communities considered 407 documents and recommended 131 for further consideration in Sub-Committee. 6 reports on 7 documents were presented to the House for debate; 7 reports covering 9 documents were presented to the House for information including a report on recent correspondence with Ministers; and 5 reports covering 10 documents were debated (see Appendix G).

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## Appendix A: Major Proposals Agreed

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### Part 1: Single Market Measures

#### PHYSICAL BARRIERS

##### Various customs controls on goods

1. Transit advice note (see paragraph 2.14).
2. Adjustment of the rules on Community transit (see paragraph 2.14).
3. Entry into free circulation

On 14 May the Internal Market Council adopted a common position on a directive prescribing two simplified procedures which member states would have to offer importers for the release of goods for free circulation. These are firstly, clearance at a designated inland place, and secondly a simplified import declaration procedure. The proposal also lays down the conditions importers would have to meet in order to be authorised to use these procedures.

4. Persons liable for a customs debt

On 20 June the Internal Market Council adopted a regulation (No 1716/90) determining the person liable for payment of a customs debt where goods have been consumed or used in a free zone or free warehouse, in circumstances other than those permitted by the free zone/free warehouses regulation (2504/88).

5. Customs nomenclature

On 20 June the Internal market Council adopted a regulation (No 1715/90) on the information provided by the customs authorities of the member states concerning the classification of goods in the customs nomenclature. From 1 January 1991, information relating to the classification of goods will be binding on the customs authorities in the member state which provided it. At a later date, still to be decided, it will be binding on all member states.

##### Veterinary and phytosanitary controls

6. Compound feedingstuffs (see annex to Section 4, paragraph 18).
  7. Swine fever  
On 12/13 February the Agriculture Council adopted a decision (90/63/EEC) recognising certain regions of Belgium and Italy as being either officially swine fever free or swine fever free for trade purposes.
  8. Pure bred breeding pigs  
On 5/6 March the Agriculture Council adopted a directive (90/118/EEC) removing all restrictions on the approval of pure bred breeding pigs for breeding and on the use of their semen, ova and embryos.
  9. Hybrid breeding pigs  
On 5/6 March the Agriculture Council adopted a directive (90/119/EEC) removing all restrictions on the approval for breeding of all hybrid breeding pigs and on the use of their semen, ova or embryos.
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**10. Bovine semen**

On 5/6 March the Agriculture Council adopted a Directive (90/120/EEC) amending Directive 88/407/EEC to take account of a number of practical difficulties identified by member states since 88/407/EEC was adopted. It also includes the provision of a revised model health certificate giving effect to the options in Directive 88/407/EEC in relation to semen from IBR/IPV positive bulls and semen from bulls vaccinated against foot and mouth disease.

**11. Medicated feeding stuffs**

(see annex to Section 4, paragraph 19).

**12. Plant health**

On 26/27 March the Agriculture Council adopted a Directive (90/168/EEC) making various amendments to the Plant Health Directive (77/93/EEC) including the provision of a revised safeguard clause enabling member states to take emergency action to protect themselves against the risk of infection from serious plant health pests and diseases elsewhere in the Community.

**13. Bovine somatotropin**

(see annex to Section 4, paragraph 20).

**14. African swine fever in Sardinia**

On 25/27 April the Agriculture Council adopted a decision (90/217/EEC) requiring Italy to prepare a reinforced programme, financed in part by the Community, for the eradication of African swine fever disease in Sardinia within a period of five years. The disease persists in Sardinia where it first occurred in 1978, and where there have been about 20 outbreaks each year for the past three years.

**15. Brucellosis in sheep and goats**

On 21/22 May the Agriculture Council adopted a decision (90/242/EEC) providing financial assistance towards the eradication of brucellosis (*Brucella melitensis*) in sheep and goats. Those member states affected by the disease are required to submit eradication plans.

**16. Porcine semen**

On 25/27 June the Agriculture Council adopted a directive (90/425/EEC) harmonising animal health rules for intra-Community trade in, and imports from third countries of fresh and deep frozen semen of domestic animals of the porcine species.

**17. Enzootic bovine leucosis**

(see paragraph 4.9).

**18. Veterinary checks in intra-Community trade**

(see paragraph 4.11).

**19. Foot and mouth disease (see paragraph 4.10).****20. Expenditure in the veterinary field**

On 25/26 June the Agriculture Council adopted a decision (90/424/EEC) establishing a Community veterinary fund to provide, inter alia, financial assistance to member states in eradicating or controlling serious diseases.

**21. Horses: zootechnical rules**

On 25/26 June the Agriculture Council adopted a directive (90/427/EEC) harmonising zootechnical and genealogical conditions governing intra-Community trade in horses and other equidae, their semen, ova and embryos. It is essentially an enabling provision instructing the Commission with the advice of the Standing Committee on Zootechnics to prescribe general rules for studbook entries, for monitoring the genetic potential of registered breeding equidae and for the use of their semen, ova and embryos. It envisages common procedures for the naming of equidae, common specifications for a horse passport and rules to ensure that Community standards also apply to imports from third countries.

**22. Horses: competition**

On 25/26 June the Agriculture Council adopted a directive (90/428/EEC) eliminating disparities between member states as regards the rules of all types of equestrian competitions. Exceptions are to be allowed for competitions reserved for improving the breed; for regional trials to select horses; and for historical or traditional events. It also allows a certain proportion of prize money to be paid to breeders of "home produced" horses for the purpose of encouraging the improvement of breeds and institutes arrangements for appeals to a neutral arbitrator in the event of horses being barred from competition.

**23. Horses: third country imports**

On 25/26 June the Agriculture Council adopted a directive (90/426/EEC) harmonising animal health rules for intra-Community trade in, and imports from third countries of horses and other equidae.

**24. Live Poultry and hatching eggs**

On 25/26 June the Agriculture Council reached political agreement in principle on a directive establishing harmonised animal health rules for intra-Community trade in, and imports from third countries of live poultry, including game, and their hatching eggs.

**25. Poultrymeat**

(see annex to Section 4, paragraph 15).

**26. Organic farming**

On 25/26 June the Agriculture Council reached political agreement in principle on a directive establishing a harmonised framework for the labelling, production and inspection of agricultural products and foodstuffs bearing or intended to bear, indications referring to organic production methods.

**TECHNICAL BARRIERS****New approach to technical harmonisation and standards****27. Active medical implantables**

(see paragraph 2.10).

**28. Non-automatic weighing instruments**

(see paragraph 2.4)

On 20 June the Internal Market Council adopted a directive (90/384/EEC) establishing "essential requirements" and certification procedures for non-automatic weighing instruments (for example shop scales and weigh-bridges) particularly those used for commercial



transactions; legal contracts relating to a weighing result or measured quantity; determination of tolls, tariffs, taxes, bonuses etc; law enforcement; and health monitoring in medical practice.

29. Gas appliances  
(see paragraph 2.4)

On 29 June the Council adopted a directive (90/396/EEC) establishing the "essential requirements" and certification procedures for gas appliances. It applies to all appliances, other than those specifically designed for industrial processes, used for cooking, heating, hot water production, refrigeration, lighting or washing, that burn gaseous fuels and have, where appropriate, a water temperature not exceeding 105 degrees celsius.

30. Simple pressure vessels

On 20 June 1990 the Internal Market Council adopted a common position on a directive amending the Simple Pressure Vessel Directive (87/404) to provide a transitional period during which it will be possible to continue to market vessels manufactured in conformity with existing national regulations.

31. Testing and certification (see paragraph 2.11).

## Sectoral measures

32. Nutrition labelling rules

On 22 February the Internal Market Council adopted a common position on a directive setting out nutrition labelling rules for foodstuffs. The proposal lays down the format to be used for nutrition labelling, including nutrients and properties which must be included; the order in which they should appear; and provides a list of nutrients which may also be declared by producers. It also lays down definitions of units to be used for each nutrient or property and sources from which information may be obtained. The giving of nutrition information would be voluntary but when a claim was made full nutrition labelling would be compulsory.

33. Veterinary medicinal products; residues  
(see annex to Section 4, paragraph 35).

34. Veterinary medicinal products; amendment  
(see annex to Section 4, paragraph 22).

35. Immunological veterinary medicinal products

On 25/26 June the Agriculture Council adopted a common position on a directive extending the scope of Directive 81/851 to cover immunological medicinal products (vaccines).

36. Electrically operated lifts

On 20 June the Internal market Council adopted a common position on a directive extending the scope of the Directive 84/529 to include hydraulically and electrohydraulically driven lifts.

37. Equipment for use in explosive atmospheres

On 20 June the Internal market Council adopted a common position on a directive extending the scope of Directive 79/196, which deals with certification of electrical equipment for use in explosive atmospheres, to cover equipment incorporating new means of protection for which European Standards have been drawn up since 1980.

38. Cigarettes - tar yield  
(see paragraph 9.10)

39. Industrial statistical classification

On 20 June the Internal Market Council adopted a common position on a regulation establishing a common statistical classification of economic activities in the European Community in order to guarantee comparability between national and Community classifications and therefore between national and Community statistics. It imposes no obligation on member states to collect, publish or supply data.

40. Consumer credit

On 22 February the Council adopted a directive (90/88/EEC) introducing a common mathematical formula for calculating the annual percentage rate of charge (APR) for consumer credit for use throughout the Community.

41. Package travel

On 13 June the Consumer Affairs Council adopted a directive (90/314/EEC) laying down common rules on package travel including package holidays and package tours, and establishing a minimum level of protection in this field. It will apply to domestic as well as overseas travel arrangements.

42. Dangerous consumer products

On 29 June the Council adopted a decision (90/352/EEC) extending duration of the Community system for the rapid exchange of information between the various member states administrations and the Commission on dangers arising from the use of consumer products.

## Public procurement

43. Public procurement - utilities  
(see paragraph 2.2).

## Free movement for labour and the professions

- 44 - 46. Right of residence  
(see paragraph 2.7).

47. Exchange of young workers

On 29 May the Social Affairs Council adopted a decision (90/268/EEC) extending the Third Joint Programme to encourage the exchange of young workers for one year (to 31 December 1991) so that its finish date and final report will coincide with that of the first phase of Youth For Europe, with a view to a possible merger of the two programmes after 1991.

48. Vocational training programme (FORCE)  
(see paragraph 9.4).

## Financial services

49. Third directive on motor liability insurance  
(see paragraph 2.4).
50. Services in the field of motor liability insurance  
(see paragraph 2.5).



51. Services in the field of life insurance  
(see paragraph 2.6).

52. Insurance: concerted practices

On 20 June the Internal Market Council reached agreement in principle on a regulation which will enable the Commission to grant "block exemptions" for certain arrangements between members of the insurance sector from the general prohibition in Article 85(1) of the EC Treaty.

53. Listing particulars

On 23 April the Council adopted a directive (90/211/EEC) extending the conditions under which a public offer prospectus prepared to the standard of listing particulars and approved in the issuer's home state shall qualify for mutual recognition in the host member state as listing particulars. It also extends mutual recognition to cover cases where admission is requested in only one member state, whether or not that member state is involved in the public offer.

## Transport

54. Civil aviation - air fares

On 18/19 June the Transport Council agreed a regulation on fares for scheduled air services. This regulation contains a commitment to the introduction of the double disapproval system for fares approval by 1 January 1993. In the interim, it introduces an element of double disapproval for setting fares, together with a simplified zonal system.

55. Civil aviation - passenger capacity and market access

On 18/19 June the Transport Council agreed a regulation on access for air carriers to scheduled inter-Community air service routes and on the sharing of passenger capacity between air carriers on scheduled air services between member states. The regulation contains a commitment to the abolition of bilateral capacity sharing by 1 January 1993, and to introduce uniform licensing criteria by 1 July 1992. In the meantime the regulation further eases access to the market by progressively increasing the maximum capacity share to airlines of a member state by up to 7.5 percentage points per annum, lowering in stages the thresholds for multiple designation to 100,000 passengers per annum by 1992, and by easing restrictions on the operation of fifth freedom services within the Community. The package also removes almost all the derogations from aviation liberalisation legislation which were previously enjoyed by some Community airports.

56. Civil aviation - concerted practices

On 18/19 June the Transport Council agreed a regulation amending Regulation (EEC) No 3976/87 on the application of the rules on competition to certain categories of agreements and concerted practices in the air transport sector. This regulation prolongs until the end of 1992, in a slightly modified form, the existing Regulation enabling the Commission to grant block exemptions to the competition rules in the field of air transport.

57. Road haulage - Community quota  
(see paragraph 5.3).

58. Road haulage - vehicles hired without drivers  
(see paragraph 5.4).

59. Transport infrastructure programme  
(see paragraph 5.5).

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## New technologies and services

### 60. Public radio paging

On 7 May the Council adopted a directive on the frequency bands to be reserved for an advanced pan-European land based radio-paging service (called ERMES) in the Community. The Council also reached political agreement on a recommendation for its coordinated introduction by 31 December 1992. This will be formally adopted at the same time as the associated directive.

### 61. Open network provision (see paragraph 12.9).

### 62. Telecommunications terminal equipment (see paragraph 12.9).

## Energy

### 63. Energy - electricity transit

On 29 June the Council adopted a common position on a directive which sets out the procedures to be followed in cases where one high-voltage grid wishes to send electricity to another across one or more intermediary grids.

### 64. Energy - price transparency

On 29 June the Council adopted a directive (90/377/EEC) that will require the suppliers of gas and electricity to industrial customers to provide the Commission with information on prices and the number of customers in different consumption categories.

## Company law

### 65. Company law - SMEs (see paragraph 2.13).

### 66. Company law - partnerships (see paragraph 2.12).

## Taxation

### 67. Taxation - arbitration procedure (see paragraph 3.19).

### 68. Taxation - parent companies and subsidiaries (see paragraph 3.19).

### 69. Taxation - mergers (see paragraph 3.19).



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## Part 2: Other Major Proposals Agreed

### Economic, Monetary and Budgetary Agreed

Council Regulation 610/90 - revised the 1977 Financial Regulation which lays down the rules for establishing and implementing the Community Budget. This Regulation was adopted on 13 March.

Council Decision 90/62 - grants a Community guarantee to the European Investment Bank against losses under loans for projects in Hungary and Poland. The Bank is authorised to lend up to 1 billion ecu (£721 million) to projects in Hungary and Poland. This Decision was adopted on 12 February.

Council Decision 90/83 - provides medium-term financial assistance for Hungary. The Community granted a loan of 870 million ecu (£554 million) (converted at 1990 budget rate) over a maximum of five years in order to overcome the difficulties of structural adjustment of its economy. This Decision was adopted on 22 February.

Council Decision 90/141 - on the attainment of progressive convergence of economic policies and performance during Stage 1 of economic and monetary union and Council Decision 90/142 which amends Council Decision 64/300/EEC on co-operation between the central banks of the member states of the EEC. Those two decisions are intended to promote economic convergence in the Community through the multilateral surveillance of member states' monetary and economic policies during stage one of Economic and Monetary Union. This Decision was adopted on 12 March.

### Agriculture and Food

Council Regulation 201/90, amending Regulation 2727/75 on the common organisation of the market in cereals: altering the arrangements for setting the rate of additional cereals co-responsibility levy. This Regulation was adopted in January having been agreed in substance in 1989.

Council Regulation 715/90 - opening an import quota for beef from ACP countries and prescribing both the volumes which may be imported, the relief from customs duties and providing for the redistribution of any country's unused quota amongst the remaining ACP beneficiaries.

Council Regulation 866/90 - on improving the processing and marketing conditions for agricultural products. To be achieved through the provision of grant aid for capital investment projects.

Council Regulation 867/90 - on improving the processing and marketing conditions for forestry products. To be achieved through the provision of grant aid for capital investment projects.

Council Regulation 1771/90 - concerning modifications to the sugar for the chemical industry scheme: removal of termination date for scheme and establishment of production refund level by reference to world price of sugar alone.

Council Regulations contained in Commission Document Com(89)660 fixing the agricultural prices for the 1990/91 marketing year.



Council Directive 90/168/EEC - amending certain provisions of Council Directive 77/93. Providing protective measures against the introduction into the member states of organisms harmful to plants or plant products, in preparation for the completion of the Single European market.

Council Directive 90/426 - on trade in equidae. Established harmonised animal health rules for intra-Community trade in, and imports from third countries or, horses and other equidae.

Council Directive 90/425 - concerning veterinary checks in intra-Community trade in live animals. Provides for the eventual abolition of veterinary checks at frontiers on certain live animals and for the substitution instead of a system of intensified checks at points of origin and destination. By way of transition provides for documentary checks at points of entry until end of 1992 at least.

Council Directive 90/423 - amending Directive 85/511 as regards control measures for foot and mouth disease (FMD). Requires the cessation of vaccination as a control measure against FMD on January 1, 1992, in line with current UK practice.

Council Directive 90/422 - amending Directive 64/432 as regards enzootic bovine leucosis (EBL). Establishes criteria for the recognition of member states, or parts thereof, as being free from EBL.

Council Decision 90/84 - adopting a research programme on Competitiveness of Agriculture and Management of Agricultural Resources (CAMAR). The research in this programme is required to meet very specific objectives. Research actions will contribute solutions to the common agricultural policy and to the rural society.

Council Decision 90/424 - on expenditure in the veterinary field. Establishes a Community veterinary fund to provide, amongst other things, financial assistance to member states in eradicating or controlling serious diseases.

Council Decision 90/218 - concerning the administration of bovine somatotropin (BST). This prohibits the use of BST in authorised field trials until 31 December 1990 and obliges the Commission to draw up a report before then.

Council Regulation 1874/90 - amending for the second time, Regulation 4047/89 fixing, for certain fish stocks and groups of fish stocks, the total allowable catches for 1990 and certain conditions under which they may be fished. Provides for increases in the total allowable catches for sole stocks in the Skagerrak and Kattegat and in the Irish Sea.

Council Regulation 1210/90 - establishing a European Environment Agency. On 22 March the Environment Council reached agreement on a regulation establishing a European Environment Agency responsible for the collection, co-ordination and analysis of environmental information. A decision on where the Agency is to be sited has still to be made.

Council Directive 90/313 - on freedom of access to environmental information. On 8 June the Environment Council adopted a directive requiring member states to provide the public with access to environmental information held by all public authorities with environmental responsibilities. Provision has been made for certain categories of information whose confidentiality may be protected.



Council Directive 90/219 - on the contained use of genetically modified micro-organisms. On 22 March the Environment Council agreed a directive which lays down common measures for the contained use of genetically modified micro-organisms with a view to protecting human health and the environment. This has since been adopted.

Council Directive 90/220 - on the deliberate release of genetically modified organisms. On 22 March the Environment Council agreed a directive which approximates the laws, regulations and administrative provisions required by member states to control the deliberate release of genetically modified organisms into the environment and the marketing of products containing such organisms. This has since been adopted.

Council Directive - amending framework Directive 75/442/EEC on waste. On 7 June the Environment Council agreed a directive amending the 1975 framework directive (75/442/EEC) on waste. The new directive calls on member states to encourage clean technologies, waste minimisation and recovery methods. It also strengthens existing requirements concerning the licensing of waste disposal installations and the production of waste management plans.

Council Directive - on batteries and accumulators containing certain dangerous substances. On 7 June the Environment Council agreed a directive which encourages the recycling or controlled disposal of spent batteries containing mercury, cadmium and lead. The directive will also require batteries, and in some cases the appliances into which they are built, to be labelled to indicate recyclability and heavy metal content, and to facilitate their separate collection. Certain batteries containing more than a specified amount of mercury will be banned from sale from 1 January 1993.

Council Directive 90/415 - amending Directive 86/280/EEC on the discharge of dangerous substances to water in respect of four new substances. On 7 June the Environment Council agreed a directive amending directive 86/280/EEC on the discharge of dangerous substances to water. The amendment sets limit values and quality objectives for significant discharges of Trichlorobenzene, 1,2-Dichloroethane, Trichloroethylene and Perchloroethylene. Small discharges of these substances will be controlled through national programmes. These measures will apply from 1 January 1993.

Council Resolution on Waste Policy setting out a strategy and principles for the Community's future policy on waste management. This includes commitments to waste minimisation and recycling, together with the aim of self sufficiency of member states in waste disposal. This was agreed at the 7 May Environment Council.

## Transport

Council Decision authorising the Commission to open negotiations between the European Economic Community and EFTA countries on scheduled air passenger services. This Decision authorises the Commission to begin negotiations with the EFTA countries to extend to them the EC liberal aviation market. Priority will be given to opening of negotiations with Norway and Sweden. This decision was agreed at the 18-19 Transport Council.

Council Resolution on the prevention of accidents causing marine pollution. This Resolution calls on member states to ensure strict application of the relevant international convention on safety and marine pollution, to give other member states assistance when accidents



causing marine pollution occur, and calls on the Commission to improve its "Task Force", the instrument of Community action in this area and to continue its research on a system of safety at sea. This was agreed at the 18-19 Transport Council.

Resolution on improving passenger ferry safety. The Council together with the representatives of the governments of member states meeting within the Council agreed a resolution on improving passenger ferry safety. This calls upon member states and the Commission to press for the urgent identification, elaboration, adoption and implementation of measures which will improve the safety of passenger ferries. This was agreed at the 18-19 Transport Council.

### **Social Affairs**

Council Resolution, adopted at the Labour and Social Affairs Council on 29 May 1990, on the protection of the dignity of women and men at work. This Resolution concerns sexual harassment of both men and women at work.

### **Health and Safety**

Council Directive 90/269/EEC - concerns the minimum health and safety requirements for handling heavy loads where there is a risk of back injury for workers at work. This Directive was adopted at the Labour and Social Affairs Council on 29 May.

Council Directive 90/1170/EEC lays down minimum health and safety requirements for workers using display screen equipment. This Directive was adopted at the Labour and Social Affairs Council on 29 May.

Council Directive 90/1307/EEC is intended to protect workers against risks arising or likely to arise from exposure to biological agents at work. A common position was reached at the Labour and Social Affairs Council on 29 May.

Council Directive 90/394/EEC is intended to protect workers against risks arising or likely to arise from exposure to carcinogens at work (ie cancer causing agents). This Directive was adopted at the Research Council on 29 June.

### **Education**

Council Decision - establishing a Trans-European Mobility Scheme for University Studies (TEMPUS) (90/233/EEC). A Programme to co-ordinate the provision of assistance to Central and Eastern Europe in the field of exchange and mobility, particularly for higher education students and teachers, to improve training in Central and Eastern European countries and to encourage their co-operation with partners in the EC. Higher education institutions will be able to participate in programmes similar to ERASMUS, COMETT and LINGUA. This Decision was adopted at the 7-8 May Foreign Affairs Council.

### **Energy**

Council Regulation 2008/90 - establishing a programme concerned with the promotion of energy technology on Europe (THERMIE). This Regulation was adopted at the 21 May Energy Council.



### **Aid**

Council Regulation 6334/90 - on food aid management, storage and co-financing. This Regulation extends indefinitely three existing regulations and brings Food Aid Committee procedures in line with those of the Committee types set out in the Council Decision (87/373/EEC) of 13 July 1987 (the Comitology Decision). This Regulation was adopted on 29 June.

### **Industry**

Council Directive 90/387 - on an Open Network Provision in the sphere of telecommunications. The Directive sets out a legal framework for subsequent proposals concerning access to and use of the telecommunications network infrastructure and certain (mainly reserved) services by users and private service operators. This Directive was adopted at the 28 June Telecommunications Council.

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**Appendix B:**  
**Major Treaties and Agreements signed**  
**by the Community**

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**i. EC/Argentina**

Agreement between the European Economic Community and the Argentine Republic on Trade and Economic Co-operation. This established a framework for trade in all but ECSC goods, including a Most Favoured Nation Agreement in accordance with GATT, promoting expansion of trade in agriculture and introducing measures to facilitate economic co-operation in all fields.

Signed by the Community on 2 April.

**ii. EBRD**

Articles of the European Bank for Reconstruction and Development. It will play a major role in international efforts to build political democracy and assist economic reforms in Eastern Europe.

Signed by the Community in Paris on 29 May.

**iii. EC/Andorra**

EC/Andorra Customs Union Agreement. The Customs Union provides for the elimination from 1991 of all tariffs and quantitative restrictions between Andorra and the Community, and the adoption by Andorra of the import regulations of the Community in respect of products from third countries.

Signed by the Community on 28 June.

**iv. EC/East Europe**

The Community signed Trade and Economic Co-operation Agreements with the German Democratic Republic, the People's Republic of Bulgaria, and the Czech and Slovak Federal Republic and initialled a similar agreement with Romania. They provide a framework for the liberalisation of trading relations between the Community and Eastern European countries (including the progressive removal of quotas); facilitate co-operation in a wide range of areas, including, agriculture, environment, training, industry, science and technology, tourism etc; and seek the improvement of conditions for Western businessmen in Eastern Europe.



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## Appendix C

### Meetings of Community Ministers and Ministers of Third countries or Regional Groups

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- 16-17 February Ministerial Conference of the European Community and the Association of South-East Asian Nations<sup>1</sup>, Kuching, Malaysia.
- 17 March Ministerial Meeting of the European Community and the Gulf Co-operation Council<sup>2</sup>, Muscat, Oman.
- 27-29 March Ministerial Council Meeting of the European Community and African, Caribbean and Pacific States<sup>3</sup>, Suva, Fiji.
- 9-10 April Ministerial Conference of the European Community and the Central American States<sup>4</sup>, Dublin.
- 10 April Ministerial Meeting of the European Community and the Latin American "Rio Group"<sup>5</sup>, Dublin.
- 3 May Meeting of European Community Foreign Ministers and US Secretary of State Baker, Brussels.

<sup>1</sup> ASEAN: Brunei, Indonesia, Malaysia, The Philippines, Singapore, Thailand.

<sup>2</sup> GCC: Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates.

<sup>3</sup> The 68 developing countries (the ACP) linked to the EC under the Lomé Convention.

<sup>4</sup> Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Colombia, Mexico and Venezuela.

<sup>5</sup> Argentina, Brazil, Colombia, Mexico, Peru, Uruguay, Venezuela.

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## Appendix D

### European Political Co-operation Statements

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18 January	Guatemala (on political assassinations)
18 January	Colombia (on the assassination of a Presidential candidate)
18 January	Cambodia
18 January	China
23 January	Horn of Africa
31 January	Occupied Territories
5 February	Lebanon
5 February	South Africa
6 February	Egypt (on the attack on an Israeli tourist bus)
13 February	South Africa
19 February	Angola
20 February	Occupied Territories
20 February	Namibia
20 February	Horn of Africa
20 February	South Africa
20 February	Cambodia
20 February	CSCE
23 February	Liberia
27 February	Nicaragua
14 March	Ethiopia
15 March	Iraq (on the execution of Farzad Bazoft)
22 March	Namibia
4 April	Lithuania
5 April	Angola
12 April	India and Pakistan
20 April	Senegal and Mauritania
26 April	Colombia (on the assassination of a Presidential candidate)
18 May	Burma
22 May	Occupied Territories
2 June	Occupied Territories
6 June	Burma
18 June	Romania
29 June	Haiti



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## Appendix E

### List of European Court of Justice Cases Involving the United Kingdom

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This list includes all cases awaiting judgement and those in which judgement was received during the period. An asterisk denotes those cases in which the United Kingdom applied to intervene or submitted Observations/Pleadings during the period.

#### i) **Actions Initiated by the United Kingdom under Article 173 of the EEC Treaty.**

1. Case C51/89: United Kingdom -v- Council (COMETT II programme).

#### ii) **Direct actions against the United Kingdom under Article 169 of the EEC Treaty.**

1. \*Case C146/89: Commission -v- United Kingdom (Shifting of baselines - fisheries arrangements for the coastal waters of the United Kingdom).
2. Case C202/89: Commission -v- United Kingdom (Equal treatment for men and women regarding employment, promotion and working conditions).
3. \*Case C246/89: Commission -v- United Kingdom (Nationality provisions of Merchant Shipping Act 1968).
4. \*Case C279/89: Commission -v- United Kingdom (Fishing licence conditions).
5. Case C337/89: Commission -v- United Kingdom (Quality of drinking water).
6. \*Case C30/90: Commission -v- United Kingdom (The Grant of Compulsory Licences where a patent is not worked in the United Kingdom to the fullest extent).
7. Case C56/90: Commission -v- United Kingdom (The Quality of bathing water in Blackpool and adjacent to Formby and Southport).

#### iii) **Cases referred to the European Court under Article 177 of the EEC Treaty from United Kingdom courts or tribunals.**

1. Case C118/88: Suffolk Coastal District Council -v- Notcutts Garden Centres Ltd. (Compatibility of Section 47 of Shops Act 1950 with Article 30 EEC Treaty). Removed from the Register.
2. Case C126/88: The Boots Company PLC -v- The Commissioners of Customs & Excise (Consideration of 6th VAT Directive purposes - special sales promotion). Judgment given 27.3.90.

3. Case C174/88: R -v- Dairy Produce Quota Tribunal ex parte Hall and Sons (Dairy Farmers) Ltd. (Calculation of reference quantity of milk to be assigned to a producer). Judgment given 6.6.90.
4. Case C195/88: Shrewsbury & Atcham Borough Council -v- B&Q PLC (Compatibility of Section 47 of the Shops Act 1950 with Article 30 EEC Treaty).
5. Case C232/88: Derry City Council -v- Hampden Homecare PLC (Compatibility of Section 6 of the Shops Act (Northern Ireland) 1946 with Article 30 EEC Treaty).
6. Case C262/88: Barber -v- Guardian Royal Exchange (Applications of Article 119 EEC Treaty and Equal Pay and Equal Treatment Directives to redundancy and pension payments to men and women at different ages). Judgment given 17.5.90.
7. Case C291/88: Torfaen Borough Council -v- Texas Homecare Ltd. (Compatibility of Shops Act 1950 with Article 30 EEC Treaty). Removed from the Register 12.5.90.
8. Case C301/88: R -v- IBAP Ex Parte Fish Producers Organisation and Grimsby Fish Producers Organisation (Compensation for fish withdrawn failing to comply with marketing standards).
9. Case C306/88: Rochdale BC -v- Anders (Compatibility of Shops Act 1950 with Article 30 EEC Treaty).
10. Case C331/88: R -v- MAFF & Secretary of State for Health Ex parte FEDESA & Others. (Challenge to UK legislation implementing Hormones Directive).
11. Case C333/88: Peter John Krier Tither -v- Commissioners of the Inland Revenue (Exclusion from MIRAS of those specially exempt or immune from tax on salaries). Judgment given 22.3.90.
12. Case C370/88: Procurator Fiscal, Stranraer -v- Andrew Marshall (Whether Articles 7 and 40(3) EEC prohibit carriage of certain type of net by fishing vessel. Validity of Article 19 of Regulation 171/83).
13. Case C372/88: Milk Marketing Board -v- Cricket St Thomas Estate. (Interpretation of Article 25 of Regulation 804/68 as amended by Regulation 1421/78 - whether exclusive purchasing right of MMB extends to pasteurised milk.) Judgment given 27.3.90.
14. Case C23/89: Quietlynn Ltd -v- Southend BC (Compatibility of sex establishment licence requirements under Local Government (Misc. Provisions) Act 1982 with Article 30 EEC Treaty).
15. Case C71/89: R -v- IBAP Ex Parte BEOCO & Others and Case C72/89: R -v- IBAP Ex Parte Cargill (Validity of Regulation 1587/88 subsidy for rape seed).
16. Case C188/89: A Foster & Others -v- British Gas PLC (Status of the corporation; sex discrimination in occupational retirement provisions).



17. Case C213/89: R -v- Secretary of State for Transport Ex Parte Factortame Limited & Others. (Reference from House of Lords on availability of interim relief pending ECJ judgment.) Judgment given 19.6.90.
18. Case C221/89: R -v- Secretary of State for Transport Ex Parte Factortame Limited & Others. (Reference from Divisional Court on compatibility of provisions of Merchant Shipping Act 1988 with the Common Fisheries Policy).
19. Case C233/89: Cray Precision Engineers Ltd -v- David William Clarke (Sex discrimination).
20. Case C292/89: R -v- Immigration Appeal Tribunal Ex parte Antonissen. (Whether a Member State may require a national of another Member State to leave its territory if after 6 months from admission he has failed to enter employment: Status of Council declaration on Minutes of a meeting adopting a directive).
21. Case C350/89: Sheptonhurst Ltd -v- Newham London Borough Council (Licencing of Sex Shops and breach of Article 30).
22. Case C355/89: DHSS (Isle of Man) -v- Barr and Montrose Holdings Ltd. (Undertaking employment in the Isle of Man without being an Isle of Man worker and without a work permit - Article 4 of Protocol No.3 to the Act of Accession).
23. \*Case C356/89: Roger Stanton Newton -v- Chief Adjudication Officer (Whether mobility allowance falls within Article 4(1)(b) of Council Regulation 1408/71; application of Article 10 of the Regulation).
24. \*Case C31/90: Elsie Rita Johnson -v- The Chief Adjudication Officer (Whether Directive 79/7 applies to persons who left employment for the purposes of child care and who were prevented from returning to employment due to illness).
25. Case C38/90: R -v- Thomas Edward Lomas (The validity of Commission Regulation 1633/84 - Clawback and Sheepmeat).
26. \*Case C84/90: R -v- MAFF Ex Parte John James Dent and Mary Astrid Dent (Article 3A(2) of Council Regulation 857/84 adopting general rules for the application of the levy referred to in 804/68 (Article 5C) on organisation of the market in milk and milk products).
27. Case C151/90: R -v- 1. Robert Leslie Fletcher, 2. Jeremy Nicholas Prichard, 3. North Riding Lamb Ltd. (Validity of Article 4(1) and (2) of Regulation 1633/84 - rules for applying the variable slaughter premium of sheep).
28. Case C191/90: Generics (UK) Ltd & Another -v- Smith Kline & French Laboratories Ltd. (Articles 30 and 36 EEC Treaty. Compatibility terms of licence: Right to import patent products from outside EEC provisions of Patents Act 1977.)

- (iv) **Cases referred to the European Court under Article 177 of the EEC Treaty from other Member States' courts or tribunals in which Observations have been submitted by the United Kingdom.**
1. Case C143/88: Zuckertabrik Suderdithmarschen AG -v- Hauptzollamt Itzehoe (Special elimination levy on sugar producers).
  2. Case C177/88: EJP Dekker -v- Stichting Vormingscentrum vor Jung Wolwassenen (Equal Treatment Directive, employer's refusal to employ a woman found suitable for the post on the ground that she is pregnant).
  3. Case C179/88: Handels-OG Kontorfunktionaerernes Forbund I Danmark on behalf of BV Hertz -v- Dansk Arbejdsgiverforening on behalf of Aldi Marked K/S (Equal Treatment Directive, protection from dismissal to cover protracted absence due to an illness following complicated pregnancy).
  4. Case C235/88: Louis Kassel -v- Bundesanstalt fur Arbeit (Article 3(1) of Regulation 1408/71 and the interaction between international social security conventions with third countries and EC regulations). Removed from the Register.
  5. Cases C267/88 to 285/88: Gustave Wuidart and Others -v- Societe Co-operative Laiterie Co-operative Eupenoise and Others (Validity and Interpretation of Community regulations governing the milk additional levy scheme). Judgment given 21.2.90.
  6. Case C326/88: Anklage - Myndigheden (the Public Prosecutor) - v- Hansen & Son IS in the person of Hardy Hansen. (Interpretation of Regulation 543/69 (road transport) - strict criminal liability of employer).
  7. Case C10/89: SA CNL-Sucal NV -v- HAG GF AG (Compatibility of German trade mark law with Articles 30 and 36 of the EEC Treaty).
  8. Case C73/89: Alain Fournier and Others -v- Vaiter Van Gerven and Others. (Registration of vehicles - the meaning of "normally based" for the purpose of motor insurance).
  9. Case C92/89: Zuckertabrik Soest -v- Hauptzollamt Paderborn. (Validity of Regulation 1914/87 introducing special elimination levy in the sugar sector for 1986/87 marketing year).
  10. Cases C100-101/89: M Peter Kaefer & M Andrea Procacci -v- Etat Francais (Scope of Council Decision 86/283 on the association of overseas territories with the EEC and effect of Articles 132 and 135 of EEC Treaty).
  11. Case C112/89: The Upjon Co & NV Upjon Puurs -v- Farzoo Inc. of Wilmington, Delaware (US) and Helmond (Netherlands) and Other (Whether a product administered to human beings with a view to restoring, correcting or modifying physiological functions may be regarded as a medicinal product).



12. Case C181/89: Eammon Dominic Cunningham -v- Milk Marketing Board for Northern Ireland (Article 25(1)(a) of Council Regulation 804/68 on the Common organisation of the market in milk and milk products).
13. Case C184/89: Helga Nimz -v- Freie und Hansestadt Hamburg Senatsamt für den Verwaltungsdienst (Article 119 of EEC & Council Directive 75/117 - approximation of laws relating to the application of the principle of equal pay).
14. Case C185/89: Staatssecretaris van Financien -v- Velker International Oil Co Ltd NV, Rotterdam (Article 15(4) of 6th Directive on the harmonisation of laws relating to Turnover tax). Judgement given 26.6.90.
15. Case C186/89: W M Van Tiem -v- Staatsecretaris van Financien (Articles 4(2) & 5(3)(6) of the 6th Directive on the harmonisation of the law relating to Turnover tax).
16. Case C191/89: Cargill BV, Amsterdam & Others -v- Produktschap voor Margarine Vetten en Olie, the Hague (The validity of Commission Regulation (EEC) No 1587/88 of 7.6.88 suspending the advance fixing subsidy for Colza rape and sunflower seeds).
17. Case C238/89: Firma Pali Corp -v- Firma P J Dahlhausen & Co. (Whether with the 'R' symbol added to the product name when there is no trade mark protection is contrary to Article 30 EEC Treaty.)
18. Case C297/89: Rigsadvokaten (State Prosecutor) -v- Nicolai Christian Ryborg (Articles 7(1) and 10 of Council Directive 83/182 on tax exemptions within the Community for certain means of transport temporarily imported into one Member State from another).
19. Case C357/89: Madame V J M Raulin -v- Minister Van Onderwijs en Wetenschappen (Meaning of a worker: Residence Permits: Allowances for study).
20. \*Case C361/89: Ministère Public -v- Patrice D. Pinto (Directive 85/577 to protect the consumer in respect of contracts negotiated away from business premises - application to traders canvassed at home in connection with the sale of their business).
21. \*Case C367/89: Monsieur le Ministre des Finances du Grand Duché de Luxembourg and Another -v- Monsieur Aime Richardt Société en nom Collectif: Les Accessoires Scientifiques (Council Regulation 222/77 on Community Transit: Recognition of TI Document).
22. \*Case C6/90: Francovich Andrea -v- Italian Republic (Directive 80/987 on the approximation of the laws of Member States relating to the protection of employees in the event of insolvency of employers).
23. \*Case C7/90: Openbaar Ministerie -v- 1. P J F Vandevenne, 2. M G M Wilms, 3. J J M Mesotten, 4. N V Wilms Transport (Regulation 3820/85 on the harmonisation of certain social legislation relating to road transport failure to observe rest and driving periods).

24. \*Case C8/90: Arbeidsauditeur Bij de Arbeidsrechtbank te Turnhout -v- 1. W P L Kennes, te Wilrijk, 2. PVBA Verkooyen, te hoogstraten (Article 18(2) of Regulation 3820/85).
25. \*Case C9/90: Danila Bonifaci & 33 Altri -v- Repubblica Italiana (Directive 80/987 the approximation of law relating to the protection of employees in the event of the insolvency of their employer).
26. \*Case C47/90: SA Etablissements Delhaize Freres et Compagnie Lion -v- SA Promalvin la Societe de Droit Espagnol AGE Bodegas Unidas SA (Whether Spanish Royal Decree concerning sale of wine amounts to a restriction on export - Article 34 EEC).
27. \*Case C76/90: Patentanwalt Dipl - Ing - Manfred SAGER -v- Firma Dennemeyer & Co Ltd (Whether under Article 52 EEC Treaty an English Company acting as a patent agent can be required to obtain a permit under German law).
28. \*Case C86/90: Thomas Anthony O'Brien -v- Ireland, The Attorney General and MAFF (Article 3C of Regulation 857/84 - application of the levy in Article 5C of Regulation 804/68 in milk and milk products sector).
29. \*Case (97/90: DIPL-KFM Hausgaeerg Lennartz -v- Finanzamt Munchen III (Application of Article 20(2) of the Sixth VAT Directive).

**v) Actions in which the United Kingdom intervened under Article 37 of the Protocol on the Statute of the Court of Justice.**

1. Case C241/87: Maclaine Watson & Co Ltd -v- Commission & Council (Claim for compensation for losses suffered in collapse of International Tin Council).  
Removed from the Register: 10.5.90.
2. Case C301/87: France -v- Commission (Aid to the French Textile industry). Judgment given 14.2.90.
3. Case C62/88: Greece -v- Council (Radioactivity levels in food-stuffs post Chernobyl). Judgment given 29.3.90.
4. Case C158/88: Commission -v- Ireland (Exemption from turnover tax and excise duty on imports in international travel). Judgment given 12.6.90.
5. Case C180/88: Wirtschaftsvereinigung Eisen und Stahlindustrie -v- Commission (Action under ECSC Treaty to declare void Commission decision relating to aid to BSC).
6. Case C229/88: Cargill BV & Others -v- Commission (Advance fixing for subsidy for colza, rape and sunflower seed). Judgment given 27.3.90.
7. Case C352/88: Commission -v- Italy. (Refusal of authorisation for Aer Lingus to operate Dublin-Milan service.)



8. Case C9/89: Spain -v- Council (Validity of Regulation 3483/88 amending 2241/87 establishing control measures for fishing activities). Judgment given 27.3.90.
9. Case C19/89: AMT (Tin Recoveries) Ltd & Others -v- Commission & Council (Tin brokers claim for damages post ITC collapse).
10. Case C57/89: Commission -v- Germany (Interpretation of the Wild Birds Directive).
11. Case C68/89: Commission -v- Netherlands (Council directive on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families).
12. Case C75/89 (now T-68/89): Italiana Vetro Spa -v- Commission (Italian flat glass - Articles 85 and 86 EEC Treaty).
13. Case C93/89: Commission -v- Ireland (Compatibility of Irish fishing licence conditions with EEC Treaty).
14. Case C97/89 (now T-77/89): Fabbrica Pisana Spa -v- Commission (Italian flat glass - Articles 85 and 86 EEC Treaty).
15. Case C98/89 (now T-78/89): PPG Vernante Pennitalia Spa -v- Commission (Italian flat glass - Articles 85 and 86 EEC Treaty).
16. Case C235/89: Commission -v- Italy (The grant of compulsory licences where a patent is not worked in Italy to the fullest extent).
17. Case C258/89: Commission -v- Spain (The registration of fish caught outside Community 200 mile zone).
18. Case C298/89: Gibraltar -v- Council (Annul Article 2(2) Directive 69/463).
19. \*Case C55/90: Cato -v- Commission (Payment of grants on decommissioning of fishing vessels - claim for damages under Article 215 of the EEC Treaty).

**vi) Cases referred to the European Court under the Judgments Convention.**

1. Case C115/88: M Mario Reichert & Others -v- Societe Dresdner Bank.
2. Case C220/88: Dumez Batiment SA & Others -v- Hessische Landesbank & Others.
3. Case C190/89: Marc Rich Co AG -v- Societa Italiana Impianti PA.
4. Case C214/89: Powell Duffryn PLC -v- Rechtsanwalt Dr Wolfgang Petereit Ms Konkursverwalter uner das Vermogen de Ibh Holding Kg.
5. \*Case C351/89: Overseas Union Insurance Ltd and Others -v- New Hampshire Insurance Co Ltd.

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Appendix F  
House of Commons Debates on  
European Community Documents

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a. Floor of the House

	Date	Subject
1	25 January	Vessels carrying dangerous goods
2	6 February	CAP price fixing
3	8 February	Rights of residence
4	27 February	1988 Court of Auditors report/fight against fraud
5	20 March	1989-90 Annual Economic Report
6	26 April	Single Community motor market
7	3 May	European Training Foundation/ TEMPUS
8	10 May	General product safety
9	21 May	Social Charter Action Programme
10	11 June	Commission Programme for 1990
11	12 June	Community railway policy
12	14 June	Safety of motor vehicles
13	27 June	Voting rights for Community nationals



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**b. Standing Committee**

	<b>Date</b>	<b>Subject</b>
1	11 January	Animals: Protection during transport
2	16 January	Civil aviation
3	14 February	Veterinary rules: Pathogens in feedingstuffs
4	21 February	South Korea, Poland/Hungary GSP
5	28 February	Health Rules: products of animal origin
6	22 March	Annual accounts of insurance undertakings
7	8 May	Revision of financial perspectives
8	15 May	Plants and plant products
9	22 May	Motor vehicle emissions
10	5 June	Marketing of animals and animal products
11	7 June	Animal health
12	19 June	Organic food production
13	20 June	Veterinary checks
14	20 June	Veterinary medicinal products
15	21 June	Marketing standards: poultrymeat

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**Appendix G**  
**Reports from the House of Lords Select Committee**  
**on the European Communities**

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**a. Reports presented for debate**

	<b>Subject</b>	<b>Report No and date of publication</b>
1	Tropical forests	11th Report 1989/90 20 March
2	Air traffic controls	12th Report 1989/90 20 March
3	European schools and language learning in United Kingdom schools	13th Report 1989/90 24 April
4	Relations between the Community and EFTA	14th Report 1989/90 22 May
5	Civil aviation; a free market by 1992	16th Report 1989/90 5 June
6	Community framework for R & D	17th Report 1989/90 26 June

**b. Reports presented for information**

1	Hill livestock compensatory allowances	5th Report 1989/90 23 January
2	Voting rights in local elections	6th Report 1989/90 6 February
3	Free movement of people and right of residence	7th Report 1989/90 6 February
4	Correspondence with Ministers	8th Report 1989/90 6 February
5	Appliances burning gas	9th Report 1989/90 6 March
6	Farm prices proposals 1990-91	10th Report 1989/90 6 March
7	Product safety	15th Report 1989/90 22 May



**c. Debates held**

	<b>Subject of publication</b>	<b>Report No and date</b>
1	Irradiation of foodstuffs (debated on 5 February)	4th Report 1989/90 12 December 1989
2	A Community Social Charter (debated on 19 February)	3rd Report 1989/90 5 December 1989
3	1992: Border control of people (debated on 5 April)	22nd Report 1988/89 7 November 1989
4	1992: Health controls and the Internal Market (debated on 5 April)	9th Report 1988/89 9 May 1989
5	Relations between the Community and EFTA	14th Report 1989/90 22 May 1990

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## Appendix H United Kingdom Trade with the European Community

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Note: All the figures in the following text and the accompanying table are on a balance of payments basis

### Importance of Trade with the Community

Over half the United Kingdom's total international trade (exports plus imports) is now with the other member states. In the first half of 1990 the proportion was 52 per cent, compared with about 33 per cent prior to United Kingdom membership. In recent years the Federal Republic of Germany has become our most important market and seven of our top ten markets are members of the Community.

### Trade Performance in the Community

In the first half of 1990 United Kingdom trade with other member states amounted to £59.6 billion compared with £53.2 billion in the first half of 1989. Exports grew by 18 per cent and imports by 8 per cent.

### By Commodity

In January to June 1990 exports of oil accounted for about 9 percent of our total exports to other member states, compared with 8 per cent in the same period a year earlier and 30 per cent in recent years. This declining share can to some extent be explained by falling oil output and weaker oil prices in recent years. The surplus on fuels rose from 1.0 billion to 1.7 billion.

The deficit on manufactured goods decreased by £1.4 billion to £5.8 billion, and the export/import ratio was at the highest level since 1981. The deficits on food, beverages and tobacco rose to 2.1 billion, while that on basic materials was little changed.



# United Kingdom Trade with the European Community

£ billion, balance of payments basis

	Total trade				Food, beverages and tobacco				Basic materials			
	Exports	Imports	Balance	Export/import ratio %	Exports	Imports	Balance	Export/import ratio %	Exports	Imports	Balance	Export/import ratio %
1970	2.6	2.5	+0.1	105	0.1	0.6	-0.5	23	0.2	0.2	-0.0	97
1971	2.8	2.9	-0.1	95	0.2	0.7	-0.6	22	0.2	0.2	+0.0	106
1972	3.1	3.7	-0.5	85	0.2	0.8	-0.6	27	0.2	0.2	+0.0	110
1973	4.2	5.5	-1.3	76	0.3	1.2	-0.9	28	0.3	0.3	-0.0	93
1974	5.9	8.0	-2.1	74	0.4	1.7	-1.4	20	0.4	0.4	0.1	87
1975	6.6	9.1	-2.4	73	0.6	2.2	-1.6	26	0.4	0.4	-0.0	90
1976	9.5	11.7	-2.2	81	0.7	2.3	-1.5	32	0.6	0.6	-0.0	94
1977	12.4	14.2	-1.8	87	1.0	2.6	-1.5	40	0.6	0.7	-0.1	92
1978	14.1	16.5	-2.5	85	1.5	2.8	-1.3	53	0.7	0.7	+0.0	101
1979	18.1	20.8	-2.7	87	1.5	3.1	-1.6	49	0.9	0.8	+0.1	109
1980	21.5	20.5	+0.8	104	1.7	3.0	-1.4	55	1.0	0.8	+0.3	135
1981	21.9	21.9	+0.0	100	1.8	3.3	-1.5	55	0.8	0.9	-0.0	96
1982	24.3	25.6	-1.3	95	1.9	3.6	-1.7	53	0.9	1.0	-0.1	90
1983	28.0	30.6	-2.7	91	2.1	4.2	-2.1	50	1.1	1.2	-0.1	92
1984	33.0	36.4	-3.5	90	2.2	4.7	-2.4	46	1.4	1.5	-0.1	91
1985	37.9	40.5	-2.6	94	2.4	5.1	-2.7	48	1.5	1.6	-0.1	97
1986	34.7	43.6	-8.8	80	3.1	5.8	-2.7	53	1.4	1.5	-0.1	94
1987	39.0	48.5	-9.5	80	3.2	6.1	-3.0	52	1.5	1.8	-0.3	83
1988	40.9	54.5	-13.6	75	3.2	6.5	-3.4	49	1.3	1.6	-0.3	82
1989	47.3	62.3	-15.0	76	3.6	7.3	-3.6	50	1.5	1.7	-0.2	88
1989 Jan/ June	22.7	30.5	-7.9	74	1.7	3.3	-1.6	51	0.7	0.9	-0.1	86
1990 Jan/ June	26.8	32.9	-6.1	81	1.7	3.8	-2.1	45	0.8	0.9	-0.1	87

# United Kingdom Trade with the European Community

£ billion, balance of payments basis

	Fuels				Manufactures			
	Exports	Imports	Balance	Export/import ratio %	Exports	Imports	Balance	Export/import ratio %
1970	0.1	0.1	-0.1	65	2.2	1.5	-0.6	143
1971	0.1	0.2	-0.0	70	2.3	1.8	+0.4	123
1972	0.1	0.2	-0.1	62	2.5	2.5	+0.1	102
1973	0.2	0.3	-0.1	67	3.3	3.7	-0.4	90
1974	0.4	0.6	-0.2	68	4.7	5.2	-0.5	91
1975	0.5	0.7	-0.3	65	5.1	5.7	-0.6	90
1976	0.8	0.9	-0.1	84	7.2	7.7	-0.5	94
1977	1.2	1.0	+0.2	123	9.3	9.8	-0.5	95
1978	1.4	0.9	+0.5	150	10.2	12.0	-1.7	86
1979	2.8	1.6	+1.2	178	12.6	15.2	-2.6	83
1980	4.3	1.5	+2.9	295	14.0	15.2	-1.2	92
1981	5.7	1.6	+4.1	357	13.3	15.9	-2.7	83
1982	6.5	1.6	+4.9	407	14.6	19.1	-4.5	77
1983	8.4	1.6	+6.8	513	15.9	23.3	-7.4	68
1984	10.0	2.6	+7.4	384	18.9	27.2	-8.4	69
1985	11.7	2.5	+9.2	468	21.8	30.8	-9.1	71
1986	5.7	1.3	+4.3	420	23.9	34.4	-10.4	70
1987	5.7	1.4	+4.4	422	28.0	38.7	-10.7	72
1988	3.7	1.2	+2.5	312	31.9	44.5	-12.6	72
1989	3.8	1.4	+2.3	262	37.6	51.3	-13.7	73
1989 Jan/ June	1.7	0.7	+1.0	243	18.2	25.4	-7.2	72
1990 Jan/ June	2.4	0.7	+1.7	343	21.6	27.3	-5.8	79



Ref:AO90/2203

PRIME MINISTERCabinet: Community Affairs

1. The Minister of State, FCO may mention the Foreign Affairs Council on 17 September. Main points were:

- Agreement on a series of measures in response to the Iraqi violation of diplomatic premises in Kuwait; and postponement of a decision on EC assistance to front line states until 30 September.
- Agreement on interim measures for handling the trade and competition implications of German unification, pending approval of the full package by the Council.
- Agreement that the Commission could begin exploratory talks on association agreements with Poland, Hungary and Czechoslovakia.

2. Mr Lilley may mention the 17 September Internal Market Council. It was a low key meeting, but:

- six single market measures were agreed, including a Directive to liberalise purchasing by utilities companies.
- Commission and Presidency said they would shelve the Fifth Company Law Directive for the present and

concentrate on the European Company Statute. Mr Redwood reiterated the UK's opposition to including worker participation in either instrument.

3. Mr Lilley may also mention the Informal Meeting of EC Trade Ministers on 18 September. It was agreed that the Gulf crisis made a successful GATT Round outcome even more important. The Commission also reported on their uncompleted negotiations for continued restraints on exports of Japanese cars to certain member states after 1992. Mr Lilley received assurances that the restrictions would not extend to Japanese cars produced within the EC.

4. Mr Gummer may report on the Agriculture Council on 24-25 September. Main points were:

- Discussion of EC offer on agriculture on the GATT Round postponed till 8 October, because proposal not agreed within Commission and therefore not tabled. Signs of hardening attitude from some member states (especially Germany) against cut of as much as 30% in farm support (from 1986 base), which Agriculture Commissioner had already floated publicly.
- UK exports of meat and live animals to France, the French Minister affirmed his Government's commitment to maintaining law and order, said that legal action was being taken against those concerned, and confirmed that compensation would be paid. He and others called for EC action to support livestock markets generally.
- Inconclusive discussion of German unification: some pressure for increased CAP expenditure ceiling to accommodate spending in E. Germany.



5. The Chancellor minuted ~~you~~ you about the informal ECOFIN Council on 8 September, mainly devoted to economic and monetary union.

6. Forthcoming meetings include:

- Informal Meeting of Tourism Ministers, 28/29 September.
- Informal Meeting of Agriculture Ministers, 29 September - 2 October.
- Informal Meeting of Foreign Ministers, 6-7 October.
- Foreign Affairs Council, (GATT Round) 10 October.

F.R.B.

ROBIN BUTLER

26 September 1990



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PM/90/066  
PRIME MINISTER

ccp  
②

Prime Minister

mt

COP  
27/9.

Negotiations in the European Community

1. I thought it would be useful to set out in the enclosed minute the range of issues before the EC between now and the end of the year. The Gulf crisis has obscured these European issues but not postponed their discussion or altered their importance.

2. The special European Council on 27/28 October will mark an important point in the final preparations for the IGCs. You will have seen Giulio Andreotti's proposed agenda. We shall need to talk through our tactics for handling the Council nearer the time.

3. One point I have not included in my minute is the ERM. The timing of our entry will and should be decided mainly on economic grounds. But I have no doubt that, if we were to join before the EMU IGC starts, our position in the negotiation would be strengthened, and conversely. Meanwhile, we and the Treasury are continuing our vigorous campaign in other member states to promote John Major's hard ecu proposals.

R. H. T. S. [Signature]

for (DOUGLAS HURD)

Drafted by the Foreign Secretary  
and signed in his absence

Foreign and Commonwealth Office  
26 September 1990





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LORD PRESIDENT

FCS/90/171

Britain and the European Community: The Outlook

1. In the months ahead we face a number of major Community negotiations, with much at stake. We must work hard to ensure that the Community evolves towards a free-market Community, open to the rest of the world, rather than an inward-looking, over-centralised Community. This note looks briefly at the main issues ahead.

Economic and Monetary Union (EMU)

2. We are somewhat better placed than once seemed likely in the run-up to the Inter-Governmental Conference (IGC) on EMU due to start on 13 December. John Major's hard ecu proposal has been well-received at technical level. The recent Spanish incorporation of it into their own ideas for Stage II is especially welcome. At the same time there are growing doubts among some member states about the wisdom of moving quickly to a single currency without a greater degree of economic convergence than we now have. There are real doubts too about the prospect of a two-speed Europe, notably but not exclusively from those who would be in the second tier. We must seek to reinforce these encouraging trends in the months ahead, and to prevent M. Delors, the French and the Italians

/from

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from making up the ground they have recently lost, as they may seek to do at the special European Council on 27 October. But even on an optimistic scenario there is a difficult task ahead. Although some have doubts about the speed of progress towards EMU and a single currency, eleven member states still seem ready to agree to a revision of the EEC Treaty which will set EMU, defined in terms of a single currency, as a final goal. The Italians or the Commission may come forward quite soon with Treaty language to this effect. Our main aim should be to deflect our partners from these goals. They and the succeeding Luxembourg Presidency may aim to complete the IGC by as early as spring 1991. We must seek a solution which ensures that all twelve member states move forward together without prejudicing our own position.

Political Union (institutional reform)

3. A difficult negotiation is in prospect too for the IGC on Political Union (i.e. institutional reform). The high-flown rhetoric of the spring has to some extent receded. Most of the issues under consideration in the preparatory meetings now under way in Brussels are more down to earth changes based on the existing Treaty structure, aimed primarily at improving the working procedures of the Community. We are putting forward modest ideas of our own in the fields of financial accountability, compliance and European political co-operation. But there remains a political determination in some capitals - including Paris, Bonn and Rome - to make an eye-catching and qualitative leap

/forward

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forward in the Community's institutional structure, particularly in the area of security and foreign policy. We shall need to keep a close eye on others' thinking. The negotiations will not be easy. We shall be under pressure to agree extensions of the powers of the European Parliament (some want full co-decision with the Council), increased qualified majority voting e.g. for social or fiscal decisions, and perhaps extensions of competence. Such ideas cause difficulty for us. There will be pressure for the IGC to proceed quickly in 1991, so that the outcome can be ratified and enter into force on 1 January 1993, along with the IGC on EMU. The unanimity requirement for Treaty change may provide us with more of a lever in this IGC than in the EMU IGC. why?

#### The Single Market

4. The Community has made good progress in this key area. The Italian and Luxembourg Presidencies span the key period for agreeing the remainder of the Single Market legislative package. We must keep pushing for agreement in the outstanding areas - transport, public procurement, financial services. We shall want to build on our achievements over the past couple of years in changing the direction of the debate on indirect tax. Difficult issues remain, but the Commission's latest proposals on the post-1992 excise system look sound. We may want further liberalising measures agreed (for example on insurance) which go beyond the White Paper. Implementation and enforcement become increasingly important as 1993 approaches. There is at last a

/recognition

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recognition of the need for this in other member states and in the Commission, but we must keep up the pressure. We must make sure there is a really good story to tell in December 1992 when the end of the British Presidency coincides with the date for the Single Market's completion.

5. Technical work on external frontiers and other aspects of inter-governmental cooperation is under way at official level. But the issue will come under the political spotlight again before long. Italy and perhaps Spain and Portugal may join the Schengen Agreement quite soon. The pressure is bound to grow for a Community commitment to abolish all internal frontier controls. There are disturbing signs that the Irish may now move with the majority on this, thereby weakening our negotiating position.

#### Social Issues

6. So far the Commission have brought forward some of the more difficult elements in the social action programme - those which impose unnecessary regulations on employment practice, for example part-time work and working time. It is clear that the Commission intend to use qualified majority voting to the maximum extent they consider possible. We should be able to accept some of the Commission's proposals (e.g. on health and safety) and can expect limited support on the detail of some others from other member states. Some of this is likely to come to a head this autumn and we should not under-estimate our difficulties.

/German Unification

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### German Unification

7. For the next few weeks we have a heavy negotiating task in agreeing the detailed derogations which will apply to the former GDR in the transition period between unification on 3 October and the time when the territory can meet EC standards and other Community obligations. The final package will be adopted at the beginning of December. Meanwhile we have agreed a procedure for limiting GDR derogations during the interregnum between unification and adoption by the Council of the transition measures. The Commission proposals are broadly sensible, keeping the derogations to the minimum. We do not anticipate major problems. Handling the Westminster Scrutiny angle could, however, be very tricky, given the tight time-scale. The implications for the EC budget look manageable.

### EC Budget and Agriculture

8. The 1988 reforms have been holding up quite well, with stabilisers biting in successive years. But although the 1991 draft budget is within the guidelines, we shall have to raise the financial perspectives to cover unforeseen expenditure on German unification and perhaps the Gulf. Furthermore, with agricultural markets moving adversely, intervention stocks are beginning to mount again and the margin below the guidelines is shrinking: an immediate aim is to identify off-setting savings. In the longer term, after completion of the

/GATT

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GATT Uruguay Round, one of our aims in the negotiations which may start towards the end of next year on the future of the Community's finances must be to tighten agriculture spending further.

#### Uruguay Round

9. Some difficult issues remain to be resolved before the final Ministerial meeting in Brussels on 3-7 December, notably EC/US differences on the reduction of support for agriculture, agreement on which is crucial to a successful outcome of the Round. It is important that the UK should remain at the liberal end of the EC spectrum, using our influence to produce a positive EC offer on agriculture and to build bridges between the Community and the agricultural exporters (US and Cairns Group). Brinkmanship is inevitable in these negotiations, and with it the risk of failure. A successful outcome is needed to safeguard and enhance the international trading system. We must do all we can to promote agreement, both in the Community and in bilateral contacts with third countries. Thereafter we must press for implementation of the agreement and further progress to build on its outcome, e.g. services.

#### EC/EFTA

10. This is an important negotiation for the UK, although the outcome now seems likely to slip into spring 1991. The scope of the proposed agreement on a

/European

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European Economic Area is likely to cause fewer difficulties than its institutional aspects. We are encouraging the Commission to recognise the importance the EFTA countries attach to the latter and to negotiate each in parallel. We will need to continue to play a constructive role, keeping the Commission up to the mark and ensuring that the EFTA countries have an effective role in the shaping of decisions affecting the whole European Economic Area, so that they in turn accept as much as possible of the existing Community legislation. A successful outcome is desirable in its own right, whether or not it represents a transitional step towards enlargement, but the institutional aspects of the negotiations will be difficult.

#### The Soviet Union and Eastern Europe

11. We await the outcome of parallel Commission and IMF studies of the Soviet economy. The former is expected just before the 27 October European Council, and we must continue to work for a realistic approach closely linked to the IMF conclusions expected by the end of the year. We must avoid unrealistic proposals for large-scale financial assistance. Measures to promote economic and trade liberalisation can make an important contribution. The Community's trade and economic cooperation agreement with the Soviet Union offers a way of providing much-needed expertise to help the Russians mobilise their own resources, as could the Lubbers initiative on energy cooperation which HMG supports. There may be scope for practical Community help in food distribution. Progress

/on

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on Eastern Europe is generally good. G24 cooperation is well established. The Commission's approach to new Association Agreements for Eastern Europe mirrors our wishes, and the FAC has approved exploratory discussions with Hungary, Poland and Czechoslovakia.

The Shape of the Community

12. A fundamental question underlies all current issues: do we want a more closely integrated Community of 12, or a larger, more diffuse, Community of, say, 20, which might have to cede more power to central institutions? The Single Market will bring about closer integration, quite apart from the outcome of the EMU and Political Union IGCs. And some further enlargement seems likely, even though member states are agreed that no decision should be taken before 1993. We shall be discussing this whole issue in OD(E) next month.

13. I am copying this minute to other members of OD(E) and to Sir Robin Butler.

*R. H. T. S.*

*for* (DOUGLAS HURD)

Approved by the Foreign Secretary  
and signed in his absence

Foreign and Commonwealth Office  
26 September 1990

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FM PARIS  
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FRENCH VIEWS ON EUROPEAN POLITICAL UNION (EPU)  
SUMMARY

1. MME GUIGOU (THE PRESIDENT'S ADVISER ON EUROPEAN COMMUNITY AFFAIRS) DESCRIBES FRENCH VIEWS ON THE CURRENT STATE OF NEGOTIATIONS ON EUROPEAN POLITICAL UNION.

DETAIL

2. THE MINISTER AND CRABBIE DISCUSSED FRENCH VIEWS ON EPU WITH MME GUIGOU ON 26 SEPTEMBER.

3. SHE THOUGHT THAT THE SPECIAL REPRESENTATIVES MEETINGS IN BRUSSELS HAD BEGUN WELL. DE BOISSIEU PUT FRANCE'S VIEWS WITH AUTHORITY. MAIN FRENCH PERCEPTIONS AT THE MOMENT WERE:

A) THE BASIC DIVISION OF RESPONSIBILITIES IN DECISION-TAKING SHOULD BE MAINTAINED, IF marginally ADJUSTED. THE COMMISSION PROPOSED, THE PARLIAMENT WAS CONSULTED, THE COUNCIL DISPOSED.

B) IT WAS TOO EARLY TO SEE WHAT ADJUSTMENTS NEEDED TO BE MADE. FOR EXAMPLE THERE WERE AREAS IN WHICH CO-DECISION COULD PROBABLY BE STRENGTHENED. BUT IT WAS IMPORTANT TO LOOK AT THE WHOLE, NOT JUST AT THE INDIVIDUAL PROPOSALS COMING FORWARD.

C) THE PREEMINENCE OF THE EUROPEAN COUNCIL IN SETTING GENERAL ORIENTATIONS FOR THE IGC'S WAS ESSENTIAL. SUCH MATTERS AS EMU COULD NOT BE LEFT TO FINANCE MINISTERS ALONE.

D) SIMILARLY, THE EUROPEAN COUNCIL SHOULD BE AT THE HEART OF THE COMMUNITY'S REGULAR DECISION-TAKING PROCESS: FRENCH THINKING ON SUCH MATTERS AS THE INCREASED FREQUENCY OF COUNCILS HAD NOT YET CRYSTALLISED. BUT GREATER FREQUENCY WAS NOT NECESSARILY THE BEST WAY OF STRENGTHENING THE ROLE OF THE EUROPEAN COUNCIL - REINFORCEMENT OF THE SECRETARIAT COULD BE A MORE PROMISING APPROACH.

E) A STRENGTHENED POCO MECHANISM WAS WELCOME.



F) EARLIER FRENCH IDEAS ON A POSSIBLE SECOND CHAMBER FOR THE EUROPEAN PARLIAMENT WERE NOT (NOT) THAT IT SHOULD HAVE A LEGISLATIVE ROLE BUT THAT IT MIGHT SERVE AS A WAY OF IMPROVING LINKS WITH AND INVOLVING NATIONAL PARLIAMENTS. MME GUIGOU ACCEPTED THAT THIS WAS ONE OF THE TOUCHIEST ISSUES FACING THE IPU NEGOTIATORS, NOT LEAST BECAUSE OF THE DIVERSITY IN RELATIONSHIPS BETWEEN THE EUROPEAN AND NATIONAL PARLIAMENTS.

G) THE FRENCH WERE STILL THINKING ABOUT WHETHER THE DURATION OF THE PRESIDENCIES SHOULD BE LONGER THAN 6 MONTHS, AS PART OF THEIR CONSIDERATION OF WAYS OF STRENGTHENING THE EUROPEAN COUNCIL.

H) ON SECURITY, THE FRENCH WERE SATISFIED AT HOW THE WEU HAD PERFORMED IN THE GULF CRISIS AT BOTH A POLITICAL AND A MILITARY LEVEL. THEY WERE CAUTIOUS ABOUT ITALIAN IDEAS FOR CLOSER INTEGRATION BETWEEN THE COMMUNITY AND THE WEU: THESE NEEDED FURTHER REFLECTIONS. BUT IT WAS EVIDENT THAT, DESPITE THE WEU'S PERFORMANCE, THERE WAS AS YET NO EUROPEAN DEFENCE IDENTITY AND SOMETHING SHOULD BE DONE ABOUT THIS. (WE DREW ON YOUR TELNO 273 TO UKREP BRUSSELS.)

COMMENT

4. FRENCH THINKING ON THE IGC ON EPU IS STILL EVOLVING. THEY DO NOT WANT TO COMMIT THEMSELVES TO PARTICULAR SOLUTIONS IN ONE AREA UNTIL THEY SEE THE SHAPE OF THE OVERALL PACKAGE WHICH IS LIKELY TO EMERGE. THEIR EMPHASIS ON THE PRIMACY OF THE EUROPEAN COUNCIL IS REASSURING AS FAR AS IT GOES, BUT THEY CLEARLY HOPE THAT THIS WILL ALLOW THEM TO OUTFLANK THE OBSTACLES IN THE WAY OF AN EARLY MOVE TO DELORS STAGE 3.

5. SEE MIFT FOR MME GUIGOU'S VIEWS ON EMU.

FERGUSSON

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MR GREENSTOCK

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10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

23 September 1990

*Dear Simon,*

EUROPEAN COMMUNITY: TRANSPORT POLICY

I enclose a copy of a message to the Prime Minister from Chancellor Kohl about transport policy matters in the European Community, together with a memorandum. I should be grateful for advice and a draft reply in due course.

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

(CHARLES POWELL)

Simon Whiteley, Esq.,  
Department of Transport.

ca



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the department for Enterprise

n.b. PM.

3/11/90

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celg  
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The Rt. Hon. Peter Lilley MP  
Secretary of State for Trade and Industry

Rt Hon Douglas Hurd CBE MP  
Foreign and Commonwealth Secretary  
Foreign and Commonwealth Office  
King Charles Street  
LONDON  
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Your ref  
Date

20 September 1990

Dear Douglas

EC INSTITUTIONAL REFORM

File with BP.

Thank you for copying to me your minute of ~~10~~ September to the Prime Minister. I have also seen the Prime Minister's response in Charles Powell's letter of 11 September. We have an interest in two points raised in the correspondence.

The first is the question in your note of who can complain. As the note says one significant area of complaint is likely to be administration of the Structural Funds (including the Regional Fund). There are a number of problems here - mostly arising from inadequate analysis or bias by the Commission. This mainly affects public authorities, not private citizens. I therefore agree with the paper's suggestion that public authorities should have a right of complaint and, for the reasons given in your paper, do not believe this should cause difficulties for central government.

The second is the Prime Minister's suggestion that one area where the Ombudsman might operate is that covered by Sir Leon Brittan. When officials looked at this earlier, they concluded that Commission decisions on state aids and competition policy were already actionable in the ECJ - where both procedural and substantive actions could be challenged. I think it is worth examining, however, whether the Ombudsman could usefully take on complaints about the abuse of



**dti**

the department for Enterprise

Commission investigative powers. I have asked my officials to look at this. We are of course willing to participate in any further work you may wish to initiate.

I am copying this letter to Prime Minister, Members of OD and OD(E), David Waddington, Chris Patten, Cecil Parkinson and Sir Robin Butler.

*Yours ever*

*Peter*





EKO PA : Budget PUA





**CONFIDENTIAL**  
 Department of Employment  
 Caxton House, Tothill Street, London SW1H 9NF

Telephone 071-273 . . . 5802  
 Telex 915564 Fax 071-273 5821

Secretary of State

*1. OPP*  
*2. n.s.p.g.*  
*BHP*  
*21/9*  
*CCP*  
*P.H.*

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

20 September 1990

*Dear Douglas*

**EC INSTITUTIONAL REFORM**

*flat*

I welcome your suggestion, in your minute of 10 September to the Prime Minister, of an early meeting to examine tactics on EC institutional reform before the 22 October Foreign Affairs Council. We do need to have some good proposals of our own, but we must also consider how to respond to those of others, bearing in mind the inclination of the Italian Presidency, as you say, to press ahead fast.

There is for example a strong head of steam building round proposals to extend qualified majority voting (QMV), especially throughout employment and social affairs. We are agreed that this must be strongly resisted. Its effect would be to threaten our major achievements in bringing a better balance to industrial relations and deregulating the labour market over the last ten years.

I recognise that we should uphold the agreement at Dublin that the IGC should set its own agenda and must not be anticipated. But we cannot control the actions of others. The Italian Presidency - primarily through the personal initiative of Foreign Minister De Michelis - has sought particularly to predispose the Council in favour of the extension of QMV. While it seems that one or more member states may to some extent at least share our reservations, it is already clear that most favour a change in this direction. I do not rule out a further Italian push in the next few months which others may be inclined to support. We may thus have to take up a firm and clear public position over this sooner than the opening of the IGC in December



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Secretary of State  
for Employment

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Moreover, we are already facing substantial pressure to proceed with a raft of proposals, brought forward by the Commission under its social action programme, the effect of which would be to increase employers' costs and undermine jobs. Although their effects run entirely counter to the employment priorities of the Madrid conclusions, at the Social Affairs Council on 25 November we may well be outvoted on one or more proposals to regulate part-time work, working hours and the rights to maternity pay and leave of pregnant women. These have been put forward under existing Articles of the Treaty - the use of which is, to say the least, questionable - which require only a qualified majority for their adoption. The danger of further measures which would increase employers' costs would clearly be considerably greater if the Treaty were amended to provide for QMV in all employment and social matters.

The meeting of an expanded OD you suggest will provide the opportunity to endorse the high priority we attach to resisting an extension of QMV.

As to the idea of an EC Ombudsman, my officials are looking into how this would bear on the application of Community measures in the employment area and will provide yours with our best assessment of the specific impact in different areas which the Prime Minister has asked for.

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

*Yours ever*  
*Michael*

**MICHAEL HOWARD**

**CONFIDENTIAL**

EURO POL: Budget, 1947



R2419

DER BOTSCHAFTER  
DER BUNDESREPUBLIK DEUTSCHLAND

Baron Hermann von Richthofen

20 September 1990

Already received  
OK

Dear Prime Minister,

I have the honour to transmit the enclosed letter from Herr Helmut Kohl, Chancellor of the Federal Republic of Germany.

A courtesy translation is attached.

With the renewed assurance of my highest consideration I am, dear Prime Minister,

Yours sincerely  
Hermann von Richthofen

Her Excellency  
The Rt. Hon. Margaret Thatcher, MP  
Her Majesty's Prime Minister and  
First Lord of the Treasury  
L o n d o n

Courtesy Translation

6 September 1990

**Letter**

**from**

**Herr Helmut Kohl, Chancellor of the  
Federal Republic of Germany**

**to**

**Her Excellency The Rt. Hon. Margaret Thatcher, MP  
Prime Minister of the United Kingdom of Great Britain  
and Northern Ireland**

Dear Prime Minister, dear Margaret,

At the meeting of the European Council held in Dublin in July we discussed transport policy matters in depth, and noted with interest the memorandum submitted on this subject by the Government of the Kingdom of the Netherlands. Together with the Heads of State and Government of the other EC countries, we agreed on the vital importance of a uniform transport policy for the successful completion of the Single European Market. In view of the significant progress already achieved in the liberalization of transport, harmonization of the fiscal charges on road haulage seems all the more urgent. The Commission has already paved the way for this by recognizing the principle of territoriality in 1988.

The completion of the Single Market, the establishment of the European economic area and the opening of the borders to the countries of central and Eastern Europe will lead to a large increase in traffic. Road haulage in particular is increasingly encountering opposition from the public. The threat of a change in the global climate and the negative effects of air pollution on



mankind and the environment thus force us to act soon and start new political initiatives. The Federal Government believes that harmonizing the various fiscal charges on haulage vehicles would be a good starting-point. This should be done at a level which takes into account not only the requirements of competition, but also environmental considerations.

With the enclosed memorandum the Government of the Federal Republic of Germany would like to play a part in ensuring that a European solution is found as soon as possible. Following the European Council's appeal in Dublin for progress in the harmonization of taxes in road traffic as soon as possible, but by 31 December at the latest, I consider it vital that the European Council discuss this subject at its next meeting.

A similar letter has been sent to the Heads of State and Government of the other EC Member States, as well as to the President of the Commission.

Yours sincerely,

sign. Helmut Kohl

MEMORANDUM OF THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY  
ON THE HARMONIZATION OF TAXES AND CHARGES  
IN GOODS TRANSPORT BY ROAD

On 1 January 1993 the creation of the European Single Market will have been completed. The entirely free movement of goods, people, services and capital, which will then be possible, requires also in the transport sector harmonized structures of competition and a close interconnection of transport, environment and last but not least fiscal policy interests.

I. Transports environment and the Single Market

The problems with regard to the utilization of the traffic infrastructure and the environmental burden caused by traffic within the European Single Market are closely linked with each other. A central approach towards a European solution must be aimed at introducing regulations which do not give an additional impetus to road transport with its already dynamic growth.

Mineral oil and motor vehicle taxes as well as road user charges are very important for the budgets of the member states and for financing the road traffic infrastructure.

The problem-related structuring of these charges on goods transport by road as a market-conforming instrument to avoid state-planned measures in the field of transport is of considerable socio-political and regulatory importance.

It is urgently necessary to regulate the three closely related controlling instruments simultaneously and comprehensively at European level. A European regulation must meet the following requirements:

Allocation of infrastructure costs

It will only be possible to cope with the expected strong growth of traffic if the infrastructures of all modes of transport are optimally used. This must be achieved by the control mechanisms of the market.



It is therefore necessary to bring also the utilization of the traffic infrastructure into line with market rules. The price to be paid for its utilization must reflect the costs and relative scarcity of the infrastructure. This implies at least the allocation of the costs of infrastructure to the users in goods transport by road.

According to the proposed directive of January 1988 and also from the point of view of the EC Commission the principle of territoriality would be the most suitable tool for this purpose.

#### "A Europe of the Citizen"

While the traffic by passenger cars in the EC member states sometimes covers more than the costs to be allocated to it, the traffic of commercial vehicles in the majority of countries does not fully cover the costs allocatable to it.

A united Europe is not only a common market of producers. The interests of the people as users of the traffic infrastructure also have to be taken into consideration. The utilization of the scarce road traffic infrastructure, therefore, may not be redistributed by a regulation favouring heavy lorry traffic.

#### Reduction of environmental pollution

Legally established technical requirements to reduce environmental pollution are to be used together with the instruments of the market in order to keep the level of environmental nuisance as low as possible. In accordance with the polluter-pays principle, the bases of assessment of governmental compensation systems in goods transport by road should therefore be more and more related to the degree of environmental pollution, too. This helps to avoid advantages for road transport which are unjustified from the point of view of environmental protection, and to encourage the utilization of energy-efficient transport systems.



#### The internal transport market

For the creation of an internal transport market it is necessary to adjust the conditions of competition with regard to the specific charges for commercial vehicles imposed on the road transport operators from the various EC Member States.

#### Equal treatment in the EC Member States

It must be ensured that the costs of the infrastructure in the individual EC Member States are allocated evenly to domestic and foreign vehicles so that the system of fiscal charges is considered "fair" and prejudices against a European integration are eliminated.

## II. The traffic situation

In the context of its deliberations concerning a European infrastructure, the EC Commission has described the situation of road traffic for the Community. The Federal Republic of Germany is distinguished by the following characteristics:

#### Road traffic infrastructure

Since the entry into force of the European treaties the trunk road network of the Federal Republic of Germany has been so densely developed with an investment volume of 65 billion ECU that further extensive new construction is no longer possible. The traffic burden on the German trunk road network is already too high on the sections used by international goods transport.

#### The traffic development up to now

In the Federal Republic of Germany - as everywhere in Europe - the growth of goods transport mainly took place on the road. In contrast thereto, railway and inland waterway transport had only minor increases. International traffic is becoming more and more important. Non-national lorries in transport to and from the Federal Republic of Germany have a share of 70 per cent.



#### Growth factors

Four factors will contribute to an overproportional growth of goods transport by road also in the future:

- The changing economic structure with continuing positive economic trend
- The realization of the Single Market
- The integration of the Eastern neighbours of the EC into an overall European system and the reunification of the two German States. This requires a rapid adaptation of the traffic systems of these countries to the structures achieved in central Europe. The Federal Republic of Germany will thus move still closer to the centre of European traffic and transit streams, in particular in road transport.
- The increasing short-distance goods transport by road which cannot be replaced by other types of transport.

Forecasts therefore predict an increase of 40 per cent and above in the transport performance of the road haulage sector in the Federal Republic of Germany up to the year 2010.

#### III. The environment situation

Coping with the environmental nuisance resulting from the dynamic increase in road transport is a special challenge. The pollution caused by the traffic of passenger cars has up to now been given greater attention than that caused by commercial vehicles. The emissions of lorries, however, are overproportionally high. The government of the Federal Republic of Germany, with their memorandum of March 1990, informed the EC Commission of their objectives regarding emission limits for lorries. But even these objectives cannot resolve the problem of emissions caused by lorry traffic completely. The main causes of environmental nuisance are air



pollution and noise, but land use also plays a considerable role.

#### Greenhouse effect

The threat of change of the global climate through an increase in the concentration of so-called greenhouse gases makes the protection of the earth's atmosphere increasingly a focal issue of international politics. The European Council has therefore requested all countries to take comprehensive measures to ensure an effective use and conservation of energy and to establish as soon as possible objectives and strategies for a restriction of the emission of gases causing the greenhouse effect. Within this framework, the efforts of the Federal Government are aimed at a considerable reduction of the energy-specific emissions of carbon dioxide (CO<sub>2</sub>). The plans to be prepared are to be based on a reduction of 25 per cent until the year 2005. Road transport is of paramount importance for the reduction of CO<sub>2</sub>. The traffic of commercial vehicles, the source of one fourth of the CO<sub>2</sub> emissions of road transport, must contribute its share. It must be prevented that the potential reduction of CO<sub>2</sub> emissions caused by motorized private transport is set off by higher emissions resulting from the strong increase in goods transports by road.

#### Nitrogen monoxides

As regards nitrogen monoxides which are among the substances responsible for the new kind of forest damage and are among the main causes of the ozone concentration, 35% of the road traffic emissions come from commercial vehicles (lorries and buses). For the year 2000 it has to be assumed that commercial vehicles will range before stationary installations and private cars as the main source of emission.

#### Soot

75% of the soot emissions of road traffic stem from commercial vehicles. Scientific examinations do not exclude the possibility that soot might be carcinogenic.



## Noise

According to representative surveys, large parts of the population of the EC countries are troubled by road traffic noise. It can also not be excluded that noise is hazardous to health. Lorry traffic has a high share in this.

## IV. The situation of the Single Market in road goods transport liberalization

In the course of the realization of the Single Market in road goods transport, international road goods transport has been increasingly liberalized in the last few years. The quota of community permits was augmented by 40% annually for the years from 1987 to 1990, from 1993 on the permit quotas for international goods transport by road will be completely abolished. On 1 July 1990 the right of cabotage in road goods transport was introduced.

## Harmonization

With increasing liberalization the competitive distortions which are due to differences in vehicle-specific taxes and charges become more pronounced. This was also stated by the commission in its note to the Council of December 1986. It is, therefore, necessary in order to realize the Single Market to eliminate also the differences in the field of goods transport by road. If this is not the case, the objectives of the EC internal market will not be achieved.

## The road haulage industry

45 000 companies employing 370 000 persons are active in road goods transport in the Federal Republic of Germany. The 9 000 companies carrying out international transport which are especially orientated towards the Single Market generate one third of the total turnover. This emphasizes the absolute necessity of equal competitive opportunities.

## The position of the EC

The EC Commission as well as the Council have recognized quite some time ago the necessity of harmonizing, in principle, the



fiscal burden. As early as 1968 the Commission presented a proposal for the harmonization of the tax structures for commercial vehicles. The council of transport ministers stated in their resolutions of 14 November 1985 and 30 June 1986 that the elimination of the distortions of competition in the fiscal field was an important objective of the community's transport policy and in their resolution of 25 June 1987 they established a time schedule for its realization. But up to now these declarations of political will have not been translated into concrete decisions to harmonize vehicle-specific taxes and charges.

#### V. European solution

In view of the historically different development of the tax systems and the different priorities of individual objectives in the overall context of the policy of the individual member countries, it is not necessary to select an EC-wide uniform system as the basis for the harmonization of taxes and charges relating specifically to commercial vehicles.

The same principles, however, are required for

- the calculation of the infrastructure costs,
- the determination of the share of infrastructure costs which, as a minimum, has to be covered by vehicle-specific taxes,
- the determination of road user charges.

#### Harmonization of the fiscal burden

To achieve coverage of at least those infrastructure costs which can be attributed to heavy goods transport it is necessary,

- to develop a compromise formula for the positions on levying road user charges and the related question of different levels of vehicle tax which up to now are incompatible in the EC Council. This formula should start out from the total fiscal burden per vehicle resulting from these two types of charges,



- to take into account the aspect of an equal participation of national and non-national vehicles in covering the infrastructure costs in the various EC countries,
- to harmonize the mineral oil tax for diesel fuel on the basis of the tax rate proposed by the EC Commission.

The total fiscal burden must not only take into consideration the aspects of competition, but also has to contribute to the limitation of environmental pollution resulting from road traffic.

This way goods transport by road which will be essentially necessary for Europe also in the future would have a tax system that would serve the interests of transport and environmental policy and meet the requirements of the Single Market. The higher cost burden would also lead to a better utilization of the vehicles (i.a. no empty journeys). This should be supported by the use of the latest technology.

As a Community acting in solidarity, the European Community has to find solutions also for those countries which have to carry the main burden of goods transport by road. For this reason transport, environment and the European Single Market require a harmonization of the taxes and charges for road goods transport on a level which does not only take into account the concerns of competition, but also environmental protection.

Bonn, den 6. September 1990

Ihrer Exzellenz  
Frau Margaret Thatcher, MP  
Premierminister des  
Vereinigten Königreichs  
Großbritannien und Nordirland

London

Liebe Margaret,

im Juni dieses Jahres haben wir uns auf der Tagung des Europäischen Rats in Dublin eingehend mit den Fragen der Verkehrspolitik befaßt und dabei mit Interesse das Memorandum zur Kenntnis genommen, das die Regierung der Niederlande zu diesem Themenbereich vorgelegt hat. Zusammen mit den anderen Staats- und Regierungschefs der Mitgliedsstaaten waren wir uns einig, daß für das Gelingen des europäischen Binnenmarktes eine einheitliche Politik im Verkehrssektor von wesentlicher Bedeutung ist. Nachdem bereits wichtige Fortschritte bei der Liberalisierung des Verkehrs erzielt worden sind, erscheint eine Harmonisierung der fiskalischen Belastungen des Straßengüterverkehrs um so dringlicher. Die Kommission hat hierfür u. a. mit der Anerkennung des Territorialitätsprinzips im Jahre 1988 bereits gute Vorarbeiten geleistet.

Die Vollendung des gemeinsamen Marktes, die Schaffung des europäischen Wirtschaftsraums und die Öffnung der Grenzen zu den Ländern Mittel- und Osteuropas werden zu einem starken Anwachsen der Verkehrsströme führen. Insbesondere der Straßengüterverkehr stößt zunehmend an die Grenzen der Akzeptanz durch die Bevölkerung. Die drohende Veränderung des globalen Klimas, die negativen Folgen der

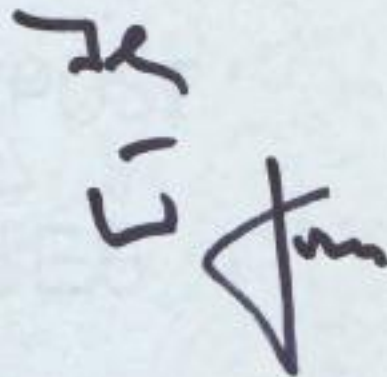


Luftverschmutzung für die Menschen und die Umwelt zwingen uns deshalb zu baldigem Handeln und zu neuen politischen Initiativen. Die Bundesregierung sieht einen Lösungsansatz in einer Harmonisierung der unterschiedlichen fahrzeugspezifischen Fiskalbelastungen des Straßengüterverkehrs. Die Harmonisierung sollte auf einem Niveau erfolgen, das nicht nur den Wettbewerbsbelangen, sondern auch dem Umweltschutz Rechnung trägt.

Mit der beigefügten Denkschrift will die Regierung der Bundesrepublik Deutschland einen Beitrag dazu leisten, daß möglichst bald eine europäische Lösung gefunden wird. Nachdem der Europäische Rat in Dublin Fortschritte bei der Steuerharmonisierung im Bereich des Straßenverkehrs so früh wie möglich, spätestens jedoch am 31. Dezember 1990 gefordert hat, halte ich eine Befassung der nächsten Tagung des Europäischen Rates mit diesem Thema für notwendig.

An die Staats- und Regierungschefs der anderen EG-Mitgliedstaaten sowie den Präsidenten der Kommission habe ich ein gleichlautendes Schreiben gerichtet.

Mit freundlichen Grüßen



The image shows a handwritten signature in black ink. The signature is stylized and appears to read 'H. Kohl'. It is written over a faint, large watermark of the German coat of arms (the Federal Eagle) and the text 'BUNDESREPUBLIK DEUTSCHLAND' and 'KANTON VAYORRE'. The signature is positioned to the right of the typed text 'Mit freundlichen Grüßen'.

Denkschrift der Regierung der Bundesrepublik Deutschland  
zur Harmonisierung der Abgabenbelastungen  
im Straßengüterverkehr

*Am 1. Januar 1993 wird der europäische Binnenmarkt verwirklicht sein. Der dann völlig freie Verkehr von Waren, Personen, Dienstleistungen und Kapital erfordert auch im Verkehrsbereich angeglichenere Wettbewerbsstrukturen und eine enge Verknüpfung verkehrs-, umwelt- und nicht zuletzt fiskalpolitischer Belange.*

I. Verkehr, Umwelt und Binnenmarkt

Die Probleme der Nutzung der Verkehrsinfrastruktur und der vom Verkehr ausgehenden Umweltbelastung im europäischen Binnenmarkt sind eng miteinander verzahnt. Zentraler Ansatzpunkt einer europäischen Lösung muß sein, Regelungen einzuführen, die den Straßengüterverkehr in seiner vorhandenen Wachstumsdynamik nicht noch zusätzlich begünstigen.

Mineralölsteuern, Kraftfahrzeugsteuern und Straßenbenutzungsgebühren sind von großer Bedeutung für die Haushalte der Mitgliedstaaten und für die Finanzierung der Straßeninfrastruktur.

Die problemgerechte Ausgestaltung dieser Belastungen im Straßengüterverkehr als marktkonforme Steuerungsinstrumente zur Vermeidung dirigistischer Maßnahmen im Verkehr ist von hohem gesellschafts- und ordnungspolitischem Gewicht.

Die gleichzeitige und umfassende Regelung auf europäischer Ebene der in einem engen Zusammenhang stehenden drei Steuerungsinstrumente ist dringend. Eine europäische Regelung muß folgenden Anforderungen genügen:

Anlastung der Wegekosten

Das erwartete starke Verkehrswachstum kann nur durch die bestmögliche Nutzung der Verkehrsinfrastrukturen aller Verkehrsträger bewältigt werden. Dies muß durch die Lenkungsmechanismen des Marktes erreicht werden.

Daher ist auch die Nutzung der Verkehrsinfrastruktur an die Regeln des Marktes heranzuführen. Der Preis für deren Nutzung muß die Kosten und die



relative Knappheit der Infrastruktur wiedergeben. Dies erfordert zumindest die Anlastung der Wegekosten an die Benutzer im Straßengüterverkehr.

Entsprechend dem Richtlinienvorschlag von Januar 1988 ist auch nach Auffassung der EG-Kommission das Prinzip der Territorialität dazu am besten geeignet.

#### "Europa der Bürger"

Während der Verkehr mit Personenkraftwagen die ihm zurechenbaren Ausgaben in den EG-Mitgliedstaaten zum Teil weit überdeckt, erreicht der Nutzfahrzeugverkehr in den meisten Ländern keine volle Abgeltung der ihm zurechenbaren Ausgaben.

Das geeinigte Europa ist nicht nur ein gemeinsamer Markt der Produzenten. Die Belange der Bürger als Nutzer der Verkehrsinfrastruktur sind gleichermaßen zu achten. Die Nutzung der knappen Straßeninfrastruktur kann daher nicht durch eine den Schwerverkehr begünstigende Regelung umverteilt werden.

#### Verminderung der Umweltbelastung

Rechtlich festgelegte technische Vorgaben zur Reduzierung der Umweltbelastungen sind Hand in Hand mit den Instrumenten des Marktes zu nutzen, um die Belastungen für die Umwelt so niedrig wie möglich zu halten. Die Bemessungsgrundlagen staatlicher Ausgleichssysteme im Straßengüterverkehr sollten deshalb nach dem Verursacherprinzip mehr und mehr auch auf den Grad der Umweltbelastung bezogen werden. Dadurch wird eine unter Umweltsichtspunkten ungerechtfertigte Begünstigung des Straßenverkehrs vermieden und die Nutzung energieeffizienter Verkehrssysteme gefördert.

#### Verkehrsbinnenmarkt

Im Zuge der Schaffung eines Verkehrsbinnenmarktes ist es notwendig, die Wettbewerbsbedingungen im Bereich der nutzfahrzeugspezifischen Belastungen für die Straßenverkehrsunternehmen aus den verschiedenen EG-Mitgliedstaaten anzugleichen.

#### Gleichbehandlung in den EG-Mitgliedstaaten

Die gleiche Beteiligung in- und ausländischer Fahrzeuge an den Kosten der Verkehrsinfrastruktur in den einzelnen EG-Mitgliedstaaten ist zu beachten, damit das System der fiskalischen Belastungen auch als "gerecht" angesehen wird und Vorbehalte gegen ein zusammenwachsendes Europa abgebaut werden.



## II. Ausgangslage Verkehr

Die EG-Kommission hat im Zusammenhang mit ihren Überlegungen zu einer europäischen Infrastruktur die Situation im Straßenverkehr für die Gemeinschaft beschrieben. Für die Bundesrepublik Deutschland ist kennzeichnend:

### Straßeninfrastruktur

Das Fernstraßennetz der Bundesrepublik Deutschland ist seit Inkrafttreten der europäischen Verträge mit einem Investitionsvolumen von 65 Mrd ECU so engmaschig ausgebaut worden, daß ein wesentlicher weiterer Neubau nicht mehr möglich ist. Bereits heute ist das deutsche Fernstraßennetz auf den vom internationalen Güterverkehr benutzten Straßen überlastet.

### Verkehrsentwicklung bisher

Wie in Europa insgesamt ist auch in der Bundesrepublik Deutschland das Wachstum des Güterverkehrs schwerpunktmäßig beim Straßenverkehr erfolgt. Eisenbahn und Binnenschiff verzeichnen dagegen nur ganz geringe Zuwächse.

Der grenzüberschreitende Verkehr gewinnt laufend an Bedeutung. Daran haben gebietsfremde Lkw im Verkehr mit der Bundesrepublik Deutschland einen Anteil von 70 %.

### Wachstumsfaktoren

Vier Faktoren begünstigen auch in Zukunft ein überproportionales Wachstum des Straßengüterverkehrs:

- Der wirtschaftliche Strukturwandel bei anhaltend guter Konjunktur.
- Die Verwirklichung des Binnenmarktes.
- Die Einbeziehung der östlichen Nachbarn der EG in ein europäisches Gesamtsystem und die Vereinigung der beiden deutschen Staaten. Sie bedingen eine rasche Anpassung des Verkehrssystems dieser Länder an die in Zentraleuropa erreichten Strukturen. Die Bundesrepublik Deutschland rückt dabei noch mehr in das Zentrum europäischer Verkehrs- und Transitströme, vor allem auch auf der Straße.
- Der wachsende und durch andere Verkehrsmittel nicht zu ersetzende Straßengüterverkehr.



Prognosen gehen deshalb von einer Zunahme der Verkehrsleistung des Straßengüterverkehrs in der Bundesrepublik Deutschland von 40 % und mehr bis zum Jahr 2010 aus.

### III. Ausgangslage Umwelt

Der dynamisch wachsende Straßenverkehr stellt für die Bewältigung der von ihm ausgehenden Umweltbelastungen eine besondere Herausforderung dar. Die vom Pkw-Verkehr ausgehenden Belastungen finden bisher eine stärkere Beachtung als diejenigen des Nutzfahrzeugverkehrs. Die Emissionen je Lkw sind jedoch überproportional hoch. Die Regierung der Bundesrepublik Deutschland hat der EG-Kommission ihre Zielvorstellung zur Frage der Emissionsbegrenzung für Lkw mit Memorandum vom März 1990 übersandt. Selbst diese Zielvorstellungen vermögen die Emissionsprobleme des Lkw-Verkehrs nicht zu lösen.

Im Vordergrund der Umweltbelastungen stehen die Luftverunreinigung und der Lärm, aber auch der Flächenverbrauch.

#### Treibhauseffekt

Die drohende Veränderung des globalen Klimas durch steigende Konzentration sogenannter Treibhausgase rückt den Schutz der Erdatmosphäre immer stärker in den Mittelpunkt der internationalen Politik. Der Europäische Rat hat deshalb alle Länder aufgefordert, umfassende Maßnahmen zur effizienten Energienutzung und Energieeinsparung zu ergreifen und so bald wie möglich Zielvorgaben und Strategien für eine Beschränkung der Emission von für den Treibhauseffekt verantwortlichen Gasen festzulegen. In diesem Rahmen strebt die Bundesregierung als wichtigen Baustein eines Gesamtkonzeptes an, die energiebedingten Emissionen von Kohlendioxid (CO<sub>2</sub>) deutlich zu senken. Die zu erarbeitenden Vorschläge sollen sich an einer 25 %igen Reduzierung bis zum Jahre 2005 orientieren. Dem Straßenverkehr kommt bei der CO<sub>2</sub>-Reduktion eine herausragende Bedeutung zu. Hierzu muß der Nutzfahrzeugverkehr, der heute ein Viertel der CO<sub>2</sub>-Emissionen des Straßenverkehrs liefert, beitragen.

Es muß vermieden werden, daß die möglichen Reduktionen der CO<sub>2</sub>-Emissionen im motorisierten Individualverkehr durch die erhöhten Emissionen des stark wachsenden Straßengüterverkehrs aufgezehrt werden.



#### Stickoxyde

Bei den Stickoxyden, die mit für die neuartigen Waldschäden verantwortlich und eine wesentlich Ursache der Ozonbelastung sind, stammen 35 % der Emissionen des Straßenverkehrs von Nutzfahrzeugen (Lastkraftwagen und Omnibussen). Für das Jahr 2000 ist zu erwarten, daß Nutzfahrzeuge der größte Emittent sein werden noch vor stationären Anlagen und Personenkraftwagen.

#### Ruß

75 % der Rußemissionen des Straßenverkehrs stammen von Nutzfahrzeugen. Wissenschaftliche Untersuchungen schließen nicht aus, daß Rußpartikel krebserregend sind.

#### Lärm

Nach Repräsentativbefragungen werden große Teile der Bevölkerung der EG-Mitgliedstaaten durch den Straßenlärm belästigt. Auch gesundheitliche Beeinträchtigungen durch Lärm sind nicht auszuschließen. Hieran hat der Lkw-Verkehr einen hohen Anteil.

### **IV. Ausgangslage Binnenmarkt im Straßengüterverkehr**

#### Liberalisierung

Im Zuge der Verwirklichung des gemeinsamen Binnenmarktes im Straßengüterverkehr wird seit Jahren der grenzüberschreitende Straßengüterverkehr zunehmend liberalisiert. Das Kontingent an Gemeinschaftsgenehmigungen wurde für die Jahre 1987 bis 1990 um jährlich 40 % aufgestockt; ab 1993 werden Genehmigungskontingente für den grenzüberschreitenden Straßengüterverkehr ganz entfallen. Am 1. Juli 1990 ist das Recht zur Kabotage im Straßengüterverkehr eingeführt worden.

#### Harmonisierung

Mit fortschreitender Liberalisierung verschärfen sich die Wettbewerbsverzerrungen, die von unterschiedlichen fahrzeugspezifischen Belastungen ausgehen. Dies hat auch die Kommission in ihrer Mitteilung an den Rat vom Dezember 1986 festgestellt. Die Beseitigung der Unterschiede ist daher für die Verwirklichung des Binnenmarktes auch im Straßengüterverkehr erforderlich. Andernfalls werden die Zielsetzungen des EG-Binnenmarktes verfehlt.



### Straßengüterverkehrsgewerbe

In der Bundesrepublik Deutschland sind 45.000 Unternehmen mit 370.000 Beschäftigten im Straßengüterverkehr tätig. Auf die besonders auf den Binnenmarkt ausgerichteten 9.000 Fernverkehrsunternehmen entfällt dabei ein Drittel des Gesamtumsatzes. Dies unterstreicht die Dringlichkeit gleicher Wettbewerbschancen.

### EG-Position

Die EG-Kommission und der Rat haben die Notwendigkeit der Angleichung der Fiskalbelastung vom Grundsatz her schon frühzeitig anerkannt. Bereits 1968 hatte die Kommission einen Vorschlag zur Harmonisierung der Strukturen der Steuersysteme für Nutzfahrzeuge vorgelegt. Der Rat der Verkehrsminister hat die Beseitigung der Wettbewerbsverzerrungen im fiskalischen Bereich in seinen Entschlüssen vom 14. November 1985 und vom 30. Juni 1986 zum verkehrspolitischen Ziel der Gemeinschaft erklärt und in seiner Entschlußung vom 25. Juni 1987 dafür einen Zeitplan aufgestellt. Diese politischen Willensbekundungen sind bisher jedoch nicht in konkrete Beschlüsse zur Angleichung der fahrzeugspezifischen Belastungen umgesetzt worden.

## V. Europäische Lösung

Angesichts der historisch unterschiedlich verlaufenden Entwicklung der Abgabensysteme und der unterschiedlichen Gewichtung einzelner Ziele im Gesamtzusammenhang der Politik einzelner Mitgliedsländer muß nicht ein EG-weites Einheitssystem als Ausgangspunkt der Überlegungen für eine Angleichung der nutzfahrzeugspezifischen Belastungen gewählt werden.

Gleiche Grundsätze sind jedoch erforderlich für

- die Berechnung der Wegekosten,
- die Festlegung des Anteils der Wegekosten, der mindestens durch fahrzeugspezifische Abgaben zu decken ist,
- die Festlegung streckenbezogener Gebühren.

### Belastungsangleichung

Zur Deckung der zumindest dem Schwerverkehr zurechenbaren Wegeausgaben ist es erforderlich,

- für die bisher im EG-Rat unvereinbaren Positionen zur Erhebung von Straßenbenutzungsgebühren und der damit verbundenen Frage der unterschiedlichen Höhe der Kraftfahrzeugsteuern eine Kompromißformel zu entwickeln. Diese Formel sollte an der Gesamtbelastung je Fahrzeug aus diesen beiden Arten von Belastungen anknüpfen;
- dem Gesichtspunkt der gleichen Beteiligung in- und ausländischer Fahrzeuge an der Deckung der Wegekosten in den verschiedenen EG-Ländern Rechnung zu tragen;
- die Mineralölsteuern für Dieselkraftstoff in Fortentwicklung des bisher von der EG-Kommission vorgeschlagenen Steuersatzes zu harmonisieren.

Die Gesamtfiskalbelastung muß nicht nur die Aspekte des Wettbewerbs berücksichtigen, sondern auch zur Begrenzung der vom Verkehr ausgehenden Umweltbelastungen beitragen.

Der auch in Zukunft in Europa unverzichtbare Straßengüterverkehr erhielte damit ein der Verkehrs- und Umweltpolitik dienendes Abgabensystem, das den Erfordernissen des Binnenmarktes entspricht. Die erhöhte Kostenbelastung würde auch zu einer rationelleren Ausnutzung der Verkehrsträger führen (u. a. Vermeidung von Leerfahrten). Dies sollte durch den Einsatz modernster technischer Mittel zusätzlich unterstützt werden.

Die Europäische Gemeinschaft muß als Solidargemeinschaft Lösungen auch für die Länder ermöglichen, die die Hauptlast des Straßengüterverkehrs zu tragen haben.

Verkehr, Umwelt und Binnenmarkt erfordern deshalb in Europa eine Harmonisierung der Abgabenbelastung im Straßengüterverkehr auf einem Niveau, das nicht nur den Wettbewerbsbelangen, sondern auch dem Umweltschutz Rechnung trägt.



Baron Hermann von Richthofen

14 September 1990 PS-GK

Dear Prime Minister,

I have the honour to transmit the enclosed telegramme from Herr Helmut Kohl, Chancellor of the Federal Republic of Germany.

A courtesy translation is attached.

With the renewed assurance of my highest  
consideration I am, dear Prime Minister,

Yours sincerely

Hermann Richthofen

Her Excellency  
The Rt. Hon. Margaret Thatcher, MP  
Her Majesty's Prime Minister and  
First Lord of the Treasury  
L o n d o n

Courtesy Translation

14 September 1990

PRIME MINISTER'S

PERSONAL MESSAGE

SE~~R~~IAL No. T212A/90 Telegramm

Subject cc MARTER from

Ops Herr Helmut Kohl, Chancellor of the  
Federal Republic of Germany

to

Her Excellency The Rt. Hon. Margaret Thatcher, MP  
Prime Minister of the United Kingdom of Great Britain  
and Northern Ireland

Dear Prime Minister, dear Margaret,

At the meeting of the European Council held in Dublin in July we discussed transport policy matters in depth, and noted with interest the memorandum submitted on this subject by the Government of the Kingdom of the Netherlands. Together with the Heads of State and Government of the other EC countries, we agreed on the vital importance of a uniform transport policy for the successful completion of the Single European Market. In view of the significant progress already achieved in the liberalization of transport, harmonization of the fiscal charges on road haulage seems all the more urgent. The Commission has already paved the way for this by recognizing the principle of territoriality in 1988.

The completion of the Single Market, the establishment of the European economic area and the opening of the borders to the countries of central and Eastern Europe will lead to a large increase in traffic. Road haulage in particular is increasingly encountering opposition from the public. The threat of a change in the global climate and the negative effects of air pollution on



mankind and the environment thus force us to act soon and start new political initiatives. The Federal Government believes that harmonizing the various fiscal charges on haulage vehicles would be a good starting-point. This should be done at a level which takes into account not only the requirements of competition, but also environmental considerations.

With the enclosed memorandum the Government of the Federal Republic of Germany would like to play a part in ensuring that a European solution is found as soon as possible. Following the European Council's appeal in Dublin for progress in the harmonization of taxes in road traffic as soon as possible, but by 31 December at the latest, I consider it vital that the European Council discuss this subject at its next meeting.

A similar letter has been sent to the Heads of State and Government of the other EC Member States, as well as to the President of the Commission.

Yours sincerely,

sign. Helmut Kohl

14 September 1990

**T e l e g r a m m**

**von Herrn Helmut Kohl**

**Bundeskanzler der Bundesrepublik Deutschland**

**an**

**Ihre Exzellenz**

**The Rt. Hon. Margaret Thatcher**

**Premierminister des Vereinigten Königreichs**

**Grossbritannien und Nordirland**

Sehr geehrte Frau Premierminister,

Liebe Margaret,

Im Juni dieses Jahres haben wir uns auf der Tagung des Europäischen Rats in Dublin eingehend mit den Fragen der Verkehrspolitik befasst und dabei mit Interesse das Memorandum zur Kenntnis genommen, das die Regierung der Niederlande zu diesem Themenbereich vorgelegt hat. Zusammen mit den anderen Staats- und Regierungschefs der Mitgliedstaaten waren wir uns einig, dass für das Gelingen des Europäischen Binnenmarkts eine einheitliche Politik im Verkehrssektor von wesentlicher Bedeutung ist. Nachdem bereits wichtige Fortschritte bei der Liberalisierung des Verkehrs erzielt worden sind, erscheint eine Harmonisierung der fiskalischen Belastungen des Strassengüterverkehrs um so dringlicher. Die Kommission hat hierfür u.a. mit der Anerkennung des Territorialitätsprinzips im Jahre 1988 bereits gute Vorarbeiten geleistet.

Die Vollendung des gemeinsamen Marktes, die Schaffung des europäischen Wirtschaftsraums und die Öffnung der Grenzen zu den Ländern Mittel- und Osteuropas werden zu einem starken Anwachsen der Verkehrsströme führen. Insbesondere der Strassengüterverkehr stösst zunehmend an die Grenzen der Akzeptanz durch die



Bevölkerung. Die drohende Veränderung des globalen Klimas, die negativen Folgen der Luftverschmutzung für die Menschen und die Umwelt zwingen uns deshalb zu baldigem Handeln und zu neuen politischen Initiativen. Die Bundesregierung sieht einen Lösungsansatz in einer Harmonisierung der unterschiedlichen fahrzeugspezifischen Fiskalbelastungen des Strassengüterverkehrs. Die Harmonisierung sollte auf einem Niveau erfolgen, das nicht nur den Wettbewerbsbelangen, sondern auch dem Umweltschutz Rechnung trägt.

Mit der beigefügten Denkschrift will die Regierung der Bundesrepublik Deutschland einen Beitrag dazu leisten, dass möglichst bald eine europäische Lösung gefunden wird. Nachdem der Europäische Rat in Dublin Fortschritte bei der Steuerharmonisierung im Bereich des Strassenverkehrs so früh wie möglich, spätestens jedoch am 31. Dezember 1990 gefordert hat, halte ich eine Befassung der nächsten Tagung des Europäischen Rats mit diesem Thema für notwendig.

An die Staats- und Regierungschefs der anderen EG-Mitgliedstaaten sowie den Präsidenten der Kommission habe ich ein gleichlautendes Schreiben gerichtet.

Mit freundlichen Grüßen  
gez. Helmut Kohl

**Denkschrift der Regierung der Bundesrepublik Deutschland  
zur Harmonisierung der Abgabenbelastungen im Strassengüterverkehr**

Am 1. Januar 1993 wird der Europäische Binnenmarkt verwirklicht sein. Der dann völlig freie Verkehr von Waren, Personen, Dienstleistungen und Kapital erfordert auch im Verkehrsbereich angeglichene Wettbewerbsstrukturen und eine enge Verknüpfung verkehrs-, umwelt- und nicht zuletzt fiskalpolitischer Belange.

**I. Verkehr, Umwelt und Binnenmarkt**

Die Probleme der Nutzung der Verkehrsinfrastruktur und der vom Verkehr ausgehenden Umweltbelastung im Europäischen Binnenmarkt sind eng miteinander verzahnt. Zentraler Ansatzpunkt einer europäischen Lösung muss sein, Regelungen einzuführen, die den Strassengüterverkehr in seiner vorhandenen Wachstumsdynamik nicht noch zusätzlich begünstigen. Mineralölsteuern, Kraftfahrzeugsteuern und Strassenbenutzungsgebühren sind von grosser Bedeutung für die Haushalte der Mitgliedstaaten und für die Finanzierung der Strasseninfrastruktur. Die problemgerechte Ausgestaltung dieser Belastungen im Strassengüterverkehr als marktkonforme Steuerungsinstrumente zur Vermeidung dirigistischer Massnahmen im Verkehr ist von hohem gesellschafts- und ordnungspolitischem Gewicht.

Die gleichzeitige und umfassende Regelung auf europäischer Ebene der in einem engen Zusammenhang stehenden drei Steuerungsinstrumente ist dringend. Eine europäische Regelung muss folgenden Anforderungen genügen:

**Anlastung der Wegekosten**

Das erwartete starke Verkehrswachstum kann nur durch die bestmögliche Nutzung der Verkehrsinfrastrukturen aller Verkehrsträger bewältigt werden. Dies muss durch die Lenkungsmechanismen des Marktes erreicht werden. Daher ist auch die Nutzung der Verkehrsinfrastruktur an die Regeln des Marktes heranzuführen. Der Preis für deren Nutzung muss die Kosten und die relative Knappheit der Infrastruktur



wiedergeben. Dies erfordert zumindest die Anlastung der Wegekosten an die Benutzer im Strassengüterverkehr.

Entsprechend dem Richtlinienvorschlag von Januar 1988 ist auch nach Auffassung der EG-Kommission das Prinzip der Territorialität dazu am besten geeignet.

#### "Europa der Bürger"

Während der Verkehr mit Personenkraftwagen die ihm zurechenbaren Ausgaben in den EG-Mitgliedstaaten zum Teil weit überdeckt, erreicht der Nutzfahrzeugverkehr in den meisten Ländern keine volle Abgeltung der ihm zurechenbaren Ausgaben.

Das geeinigte Europa ist nicht nur ein gemeinsamer Markt der Produzenten. Die Belange der Bürger als Nutzer der Verkehrsinfrastruktur sind gleichermassen zu achten. Die Nutzung der knappen Strasseninfrastruktur kann daher nicht durch eine den Schwerverkehr begünstigende Regelung umverteilt werden.

#### Verminderung der Umweltbelastung

Rechtlich festgelegte technische Vorgaben zur Reduzierung der Umweltbelastungen sind Hand in Hand mit den Instrumenten des Marktes zu nutzen, um die Belastungen für die Umwelt so niedrig wie möglich zu halten. Die Bemessungsgrundlagen staatlicher Ausgleichssysteme im Strassengüterverkehr sollten deshalb nach dem Verursacherprinzip mehr und mehr auch auf den Grad der Umweltbelastung bezogen werden. Dadurch wird eine unter Umweltgesichtspunkten ungerechtfertigte Begünstigung des Strassenverkehrs vermieden und die Nutzung energieeffizienter Verkehrssysteme gefördert.

#### Verkehrsbinnenmarkt

Im Zuge der Schaffung eines Verkehrsbinnenmarktes ist es notwendig, die Wettbewerbsbedingungen im Bereich der nutzfahrzeugspezifischen Belastungen für die Strassenverkehrsunternehmen aus den verschiedenen EG-Mitgliedstaaten anzugleichen.

#### Gleichbehandlung in den EG-Mitgliedstaaten

Die gleiche Beteiligung in- und ausländischer Fahrzeuge an den Kosten der Verkehrsinfrastruktur in den einzelnen EG-Mitglied-



staaten ist zu beachten, damit das System der fiskalischen Belastungen auch als "gerecht" angesehen wird und Vorbehalte gegen ein zusammenwachsendes Europa abgebaut werden.

## II. Ausgangslage Verkehr

Die EG-Kommission hat im Zusammenhang mit ihren Überlegungen zu einer europäischen Infrastruktur die Situation im Strassenverkehr für die Gemeinschaft beschrieben. Für die Bundesrepublik Deutschland ist kennzeichnend:

### Strasseninfrastruktur

Das Fernstrassennetz der Bundesrepublik Deutschland ist seit Inkrafttreten der europäischen Verträge mit einem Investitionsvolumen von 65 Mrd ECU so engmaschig ausgebaut worden, dass ein wesentlicher weiterer Neubau nicht mehr möglich ist. Bereits heute ist das deutsche Fernstrassennetz auf den vom internationalen Güterverkehr benutzten Strassen überbelastet.

### Verkehrsentwicklung bisher

Wie in Europa insgesamt ist auch in der Bundesrepublik Deutschland das Wachstum des Güterverkehrs schwerpunktmässig beim Strassenverkehr erfolgt. Eisenbahn und Binnenschiff verzeichnen dagegen nur ganz geringe Zuwächse. Der grenzüberschreitende Verkehr gewinnt laufend an Bedeutung. Daran haben gebietsfremde Lkw im Verkehr mit der Bundesrepublik Deutschland einen Anteil von 70%.

### Wachstumsfaktoren

Vier Faktoren begünstigen auch in Zukunft ein überproportionales Wachstum des Strassengüterverkehrs:

- Der wirtschaftliche Strukturwandel bei anhaltend guter Konjunktur.
- Die Verwirklichung des Binnenmarktes.
- Die Einbeziehung der östlichen Nachbarn der EG in ein europäisches Gesamtsystem und die Vereinigung der beiden deutschen Staaten. Sie bedingen eine rasche Anpassung des Verkehrssystems dieser Länder an die in Zentraleuropa erreichten Strukturen. Die Bundesrepublik Deutschland rückt dabei noch mehr in das Zentrum



europäischer Verkehrs- und Transitströme, vor allem auch auf der Strasse.

- Der wachsende und durch andere Verkehrsmittel nicht zu ersetzende Strassengüterverkehr.

Prognosen gehen deshalb von einer Zunahme der Verkehrsleistung des Strassengüterverkehrs in der Bundesrepublik Deutschland von 40% und mehr bis zum Jahr 2010 aus.

### III. Ausgangslage Umwelt

Der dynamisch wachsende Strassenverkehr stellt für die Bewältigung der von ihm ausgehenden Umweltbelastungen eine besondere Herausforderung dar. Die vom Pkw-Verkehr ausgehenden Belastungen finden bisher eine stärkere Beachtung als diejenigen des Nutzfahrzeugverkehrs. Die Emissionen je Lkw sind jedoch überproportional hoch. Die Regierung der Bundesrepublik Deutschland hat der EG-Kommission ihre Zielvorstellung zur Frage der Emissionsbegrenzung für Lkw mit Memorandum vom März 1990 übersandt. Selbst diese Zielvorstellungen vermögen die Emissionsprobleme des Lkw-Verkehrs nicht zu lösen.

Im Vordergrund der Umweltbelastungen stehen die Luftverunreinigung und der Lärm, aber auch der Flächenverbrauch.

#### Treibhauseffekt

Die drohende Veränderung des globalen Klimas durch steigende Konzentration sogenannter Treibhausgase rückt den Schutz der Erdatmosphäre immer stärker in den Mittelpunkt der internationalen Politik. Der Europäische Rat hat deshalb alle Länder aufgefordert, umfassende Massnahmen zur effizienten Energienutzung und Energieeinsparung zu ergreifen und so bald wie möglich Zielvorgaben und Strategien für eine Beschränkung der Emission von für den Treibhauseffekt verantwortlichen Gasen festzulegen. In diesem Rahmen strebt die Bundesregierung als wichtigen Baustein eines Gesamtkonzepts an, die energiebedingten Emissionen von Kohlendioxyd (CO<sub>2</sub>) deutlich zu senken. Die zu erarbeitenden Vorschläge sollen sich an einer 25%igen Reduzierung bis zum Jahre 2005 orientieren. Dem Strassenverkehr kommt bei der CO<sub>2</sub>-Reduktion eine herausragende Bedeutung



zu. Hierzu muss der Nutzfahrzeugverkehr, der heute ein Viertel der CO<sub>2</sub>-Emissionen des Strassenverkehrs liefert, beitragen. Es muss vermieden werden, dass die möglichen Reduktionen der CO<sub>2</sub>-Emissionen im motorisierten Individualverkehr durch die erhöhten Emissionen des stark wachsenden Strassengüterverkehrs aufgezehrt werden.

#### Stickoxyde

Bei den Stickoxyden, die mit für die neuartigen Waldschäden verantwortlich und eine wesentliche Ursache der Ozonbelastung sind, stammen 35% der Emissionen des Strassenverkehrs von Nutzfahrzeugen (Lastkraftwagen und Omnibussen). Für das Jahr 2000 ist zu erwarten, dass Nutzfahrzeuge der grösste Emittent sein werden noch vor stationären Anlagen und Personenkraftwagen.

#### Ruß

75% der Rußemissionen des Strassenverkehrs stammen von Nutzfahrzeugen. Wissenschaftliche Untersuchungen schliessen nicht aus, dass Russpartikel krebserregend sind.

#### Lärm

Nach Repräsentativbefragungen werden grosse Teile der Bevölkerung der EG-Mitgliedstaaten durch den Strassenlärm belastigt. Auch gesundheitliche Beeinträchtigungen durch Lärm sind nicht auszuschliessen. Hieran hat der Lkw-Verkehr einen hohen Anteil.

### IV Ausgangslage Binnenmarkt im Strassengüterverkehr

#### Liberalisierung

Im Zuge der Verwirklichung des Gemeinsamen Binnenmarktes im Strassengüterverkehr wird seit Jahren der grenzüberschreitende Strassengüterverkehr zunehmend liberalisiert. Das Kontingent an Gemeinschaftsgenehmigungen wurde für die Jahre 1987 bis 1990 um jährlich 40% aufgestockt, ab 1993 werden Genehmigungskontingente für den grenzüberschreitenden Strassenverkehr ganz entfallen. Am 1. Juli 1990 ist das Recht zur Kabotage im Strassengüterverkehr eingeführt worden.



### Harmonisierung

Mit fortschreitender Liberalisierung verschärfen sich die Wettbewerbsverzerrungen, die von unterschiedlichen fahrzeugspezifischen Belastungen ausgehen. Dies hat auch die Kommission in ihrer Mitteilung an den Rat vom Dezember 1986 festgestellt. Die Beseitigung der Unterschiede ist daher für die Verwirklichung des Binnenmarkts auch im Strassengüterverkehr erforderlich. Andernfalls werden die Zielsetzungen des EG-Binnenmarktes verfehlt.

### Strassengüterverkehrsgewerbe

In der Bundesrepublik Deutschland sind 45.000 Unternehmen mit 370.000 Beschäftigten im Strassengüterverkehr tätig. Auf die besonders auf den Binnenmarkt ausgerichteten 9.000 Fernverkehrsunternehmen entfällt dabei ein Drittel des Gesamtumsatzes. Dies unterstreicht die Dringlichkeit gleicher Wettbewerbschancen.

### EG-Position

Die EG-Kommission und der Rat haben die Notwendigkeit der Angleichung der Fiskalbelastungen vom Grundsatz her schon frühzeitig anerkannt. Bereits 1968 hatte die Kommission einen Vorschlag zur Harmonisierung der Strukturen der Steuersysteme für Nutzfahrzeuge vorgelegt. Der Rat der Verkehrsminister hat die Beseitigung der Wettbewerbsverzerrungen im fiskalischen Bereich in seinen Entschliessungen vom 14. November 1985 und vom 30. Juni 1986 zum verkehrspolitischen Ziel der Gemeinschaft erklärt und in seiner Entschliessung vom 25. Juni 1987 dafür einen Zeitplan aufgestellt. Diese politischen Willensbekundungen sind bisher jedoch nicht in konkrete Beschlüsse zur Angleichung der fahrzeugspezifischen Belastungen umgesetzt worden.

### V. Europäische Lösung

Angesichts der historisch unterschiedlich verlaufenden Entwicklung der Abgabensysteme und der unterschiedlichen Gewichtung einzelner Ziele im Gesamtzusammenhang der Politik einzelner Mitgliedsländer muss nicht ein EG-weites Einheitssy-



stem als Ausgangspunkt der Überlegungen für eine Angleichung der nutzfahrzeugspezifischen Belastungen gewählt werden. Gleiche Grundsätze sind jedoch erforderlich für

- die Berechnung der Wegekosten,
- die Festlegung des Anteils der Wegekosten, der mindestens durch fahrzeugspezifische Abgaben zu decken ist,
- die Festlegung streckenbezogener Gebühren.

#### Belastungsangleichung

Zur Deckung der zumindest dem Schwerverkehr zurechenbaren Wegeausgaben ist es erforderlich,

- für die bisher im EG-Rat unvereinbaren Positionen zur Erhebung von Strassenbenutzungsgebühren und der damit verbundenen Frage der unterschiedlichen Höhe der Kraftfahrzeugsteuern eine Kompromissformel zu entwickeln. Diese Formel sollte an der Gesamtbelastung je Fahrzeug aus diesen beiden Arten von Belastungen anknüpfen,
- dem Gesichtspunkt der gleichen Beteiligung in- und ausländischer Fahrzeuge an der Deckung der Wegekosten in den verschiedenen EG-Ländern Rechnung zu tragen,
- die Mineralölsteuern für Dieselkraftstoff in Fortentwicklung des bisher von der EG-Kommission vorgeschlagenen Steuersatzes zu harmonisieren.

Die Gesamtfiskalbelastung muss nicht nur die Aspekte des Wettbewerbs berücksichtigen, sondern auch zur Begrenzung der vom Verkehr ausgehenden Umweltbelastungen beitragen. Der auch in Zukunft in Europa unverzichtbare Strassengüterverkehr erhalte damit ein der Verkehrs- und Umweltpolitik dienendes Abgabensystem, das den Erfordernissen des Binnenmarktes entspricht. Die erhöhte Kostenbelastung würde auch zu einer rationelleren Ausnutzung der Verkehrsträger führen (u.a. Vermeidung von Leerfahrten). Dies sollte durch den Einsatz modernster technischer Mittel zusätzlich unterstützt werden. Die Europäische Gemeinschaft muss als Solidargemeinschaft Lösungen auch für die Länder ermöglichen, die die Hauptlast des Strassengüterverkehrs zu tragen haben. Verkehr, Umwelt und Binnenmarkt erfordern deshalb in Europa eine Harmonisierung der Abgabenbelastung im Strassengüterverkehr auf einem Niveau,



das nicht nur den Wettbewerbsbelangen, sondern auch dem  
Umweltschutz Rechnung trägt.

Chairman

25/9/90  
R 14/9

## Daily Mail and General Trust PLC

Northcliffe House, 2 Derry Street, Kensington W8 5TT  
Telephone 01-938 6000

14th September 1990

The Rt Hon Margaret Thatcher MP  
Prime Minister  
10 Downing Street  
London SW1A 2AA

*Dear Prime Minister*

Thank you so much for seeing us yesterday.

We were greatly heartened by your rapid and sympathetic appreciation of our position, and by your most positive response.

We would like to do all we can to help on these European issues. To this end, I know my Chief Executive, Mr Charles Sinclair, will be in touch directly with John Redmond.

*John Redmond*  
*John Rothermere*

Lord Rothermere.





file SH

MEETING RECORD  
cc MASTER

10 DOWNING STREET  
LONDON SW1A 2AA

From the Private Secretary

13 September 1990

Dear Hans,

MEETING WITH LORD ROTHERMERE ET AL ON THE  
EC 5TH DIRECTIVE

The Prime Minister held a discussion with Lord Rothermere, Sir David English and Mr. Charles Sinclair from Associated Newspapers and the Minister for Corporate Affairs today about the impact of the proposed EC 5th Directive on the company and on the UK economy.

Lord Rothermere said he was concerned about the proposals under the EC 5th Directive to enfranchise non-voting shareholders. It would have a destabilising impact on control of Associated Newspapers. Half of the shares were non-voting shares; and of the voting shares, Lord Rothermere had been able to exercise control through a holding of just over 50 per cent. But, setting aside the concern about the potential loss of control over Associated Newspapers, the proposals would have a wider damaging effect on the UK economy. The UK market was open to foreign takeovers; European markets were not. Because of their limited scope, the proposals in the draft 5th Directive would expose some UK companies to a new threat of takeover; but it would not in practice make it easier for UK companies to take over their European counterparts.

Mr. Sinclair explained that Article 33 of the draft Directive caused particular concern. In the UK, companies operated in a stable and open company law environment. Unlike Europe, non-voting shares had played a limited role. But that role had been clear from the outset. The presumption must be that companies would never have issued non-voting shares, if they had envisaged that the shares might one day be enfranchised. Giving votes to the holders of non-voting shares would be an unsolicited and unearned bonus for them; correspondingly it would damage the interests, and threaten to take away control from, the owners of voting shares. Moreover, while Article 33 would limit the use of non-voting shares which were more prevalent in Europe, there were no provisions elsewhere in this or other relevant EC Directives to tackle the other mechanisms by which European countries protected share ownership or control. These included wide use of cross-holdings; and of trustee shares held by banks. But Article 33 would open up well-known UK companies, including GUS, W H Smith and Whitbreads, to threats of take-over - not only from European countries but from domestic competitors. Yet domestic takeovers could of course take place at present without hindrance by capturing a majority of the voting shares.



The Minister for Corporate Affairs said that the EC 5th Directive had first been drafted back in 1972. It could only make rapid progress if the sections covering worker participation were to be dropped. Otherwise it would continue to be held up. If, however, the worker participation clauses were removed, it would become a question of approval of the Directive by a qualified majority. But the discussions would move on to cover difficult issues on company law. It should be understood that there were a wide range of issues on company law which would then have to be addressed; and the discussions would inevitably be lengthy. In some areas the UK had support from other countries for their ideas; some trading on different aspects of the Directive might well develop.

The problems raised by Article 33 had to be seen in the wider perspective of the UK's initiative to reduce barriers to takeovers. It was important to create a level playing field so far as possible for UK and foreign companies on takeovers not just in the UK but also in other European countries. Nevertheless it would also be important to consider, and where appropriate safeguard, the position of UK companies where the original share structure had been developed on the basis of some shares having no vote.

Accordingly, as the Prime Minister had indicated, it would be necessary to prepare fall-back positions if the Directive did go forward. It might be possible to secure the support of one large and two small countries to vote against the proposals; and that would be sufficient to stop progress on the Directive. But it might be worth considering whether there were advantages for the UK in going ahead on some areas in the EC 5th Directive while providing scope for derogations that would protect the position on non-voting shares. Two possible forms of derogation could be envisaged: the first would exclude companies from Article 33 in particular areas - examples included the media and defence; secondly a derogation could be applied on the grandfather principle, ie. that only new firms would be subject to Article 33. That would be consistent with retaining the original intention in issuing non-voting shares.

Summing up the discussion the Prime Minister said it would be important to keep in touch with Lord Rothermere about his concerns on the 5th Directive. It was unclear whether the Directive would make further progress. But if it did, it would be important to create a suitable fallback position which would allow the UK to pursue proposals that would reduce barriers to takeovers in Europe, while safeguarding, as necessary, the position on existing non-voting shares. As your Minister had indicated, this might take the form of blocking further progress on the Directive. Alternatively, the derogations for particular industries or, ~~more promisingly~~, derogations on the "grandfather" principle, ie. that the Directive would fall only on new firms, seemed a promising way forward.

Yours,  
Barry  
BARRY H. POTTER

Has Dunstan, Esq.,  
Parliamentary Under Secretary of State,  
Department of Trade and Industry

*tw*





10 DOWNING STREET

~~BHP~~

*Prime Minister*

Sir David English phoned to ask Bernard if Charles Sinclair, Financial Adviser and Managing Director of Daily Mail could attend the meeting this afternoon.

Bernard has agreed to this.

English has asked that at the end of the discussion could he get some background briefing from the PM on the Gulf.

Bernard told him he'll have to play it by ear but BI's sure the PM will have no objection.

Anne

①

PRIME MINISTER

You are meeting Lord Rothermere at 17.00 tomorrow evening. He wants to discuss concerns about the Draft EC Fifth Directive on Company Law.

You may recall that you were due to meet Lord Rothermere at the end of July to discuss this. But the meeting had to be cancelled at short notice.

I attach a copy of the brief prepared for the earlier discussion, which you have of course seen previously. I understand there is no further progress to report.

BHP

BARRY H POTTER  
12 September 1990

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FILE SEW

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10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

11 September 1990

*Dear Sir,*

EC INSTITUTIONAL REFORM

The Prime Minister has considered the Foreign Secretary's minute of 10 September in which he seeks agreement to float a proposal for establishing an EC Ombudsman. She is not ready to agree to this on the basis of the information provided about the proposal so far.

The Prime Minister points out that the Commission does not administer the kind of personal and individual cases that Whitehall Departments do here, and that if the EC Ombudsman's role was really limited to this, there would be very little for him to do. What she suspects would actually happen is that enquiries would spill over into investigations in Member States. She also thinks that we shall end up with an Ombudsman who has a large staff, multiplying their own work for no real benefit.

The Prime Minister would like to see the proposed tasks of the Ombudsman spelled out in much greater detail, based on clear analysis of the differences between the national structures and the role and duties of the Commission. She thinks one particular area where an Ombudsman could have an effective role is that covered by Sir Leon Brittan. She would also like more detail of the safeguards we envisage against extension of the powers of Community institutions to investigate national authorities. This further paper would be a basis for discussion in OD.

I am copying this letter to the Private Secretaries to members of OD and OD(E), Private Secretaries to the Home Secretary, Environment Secretary and Transport Secretary and to Sir Robin Butler.

*Very sincerely,  
C. D. Powell*  
(C. D. POWELL)

Simon Gass, Esq.,  
Foreign and Commonwealth Office.

CONFIDENTIAL

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①

I think we need to do a lot more work before suggesting such a wide

Prime Minister

The Community does not PM/90/062 administer the kind of personal or individual cases that PRIME MINISTER departments do here.

Agree that the Foreign Secretary should put forward the proposal for an

and I fear it would justify you as a critic of job done, especially need to demand for more more investigation

EC Institutional Reform record attached

EC ombudsmen as defined in these papers?

here. The only alternative thing that this would be in line with the field of competition.

1. At your meeting of OD on 10 May we agreed that we should play a constructive role in the debate on institutional reform, putting forward ideas to improve the efficiency and accountability of Community institutions. Since then, we have floated a number of ideas in public speeches or in Parliament, including proposals for developing political cooperation, for strengthening financial accountability in the Community, and improving enforcement of, and compliance with, judgements of the European Court of Justice.

CAD 6/79

But I think we should have another layer of EC staff multiplying their own work

2. This approach has had some effect. At the Dublin European Council at the end of June, the debate on institutional reform was a little more realistic than in the spring. At least some Member States want to narrow the scope of the debate.

for ultimately no return in benefit. We just haven't

3. But there is a difficult negotiation ahead, both before and during the Inter-Governmental Conference due to start on 14 December. The Italians are pressing ahead fast. Special Representatives (in our case our Permanent

/Representative

would do better in parliament the fundamental differences between national structures and the role of the Commission - not





Representative in Brussels) will be meeting throughout this month. Foreign Ministers will meet informally on 6 October, and formally in the Foreign Affairs Council on 22 October. I shall pursue our own ideas during these discussions. Institutional reform is also likely to be on the agenda for the Special European Council on 27 October. It remains as important as before that we should be active with good ideas in order not to be hemmed in by bad ones.

4. I should like to float in discussions in Brussels one further idea which we have not yet considered collectively (although I touched on it in a minute of 8 June to David Waddington). This is the possibility of establishing an EC Ombudsman, along the lines of our own Parliamentary Commissioner for Administration, to investigate maladministration by the Community institutions, in particular the Commission. This could be a valuable additional check on the executive and a legitimate recourse for the citizen. There might be some tactical advantage, to head off calls for an increased role for Strasbourg, in establishing some link between the Ombudsman and the European Parliament. I attach a note on the idea. Subject to colleagues' views, I propose that we float the idea in Brussels later this month. The Ombudsman would not have power over Member Governments or national Parliaments.

5. I shall also be letting colleagues have further ideas on subsidiarity.



6. You might think it worthwhile to have a forward look at tactics in the weeks ahead, in a meeting of an expanded OD before the 22 October Foreign Affairs Council and 27 October Special European Council.

7. I am sending copies of this minute to other members of OD and OD(E), the Home Secretary, Environment Secretary, Transport Secretary, and to Sir Robin Butler.

(DOUGLAS HURD)

*(Approved by the Foreign Secretary  
and signed in his absence)*

Foreign and Commonwealth Office

10 September 1990



INTER-GOVERNMENTAL CONFERENCE ON EC INSTITUTIONAL REFORM:  
PROPOSAL FOR AN EC OMBUDSMAN

Our principal objectives in the forthcoming discussions on institutional reform are to make the Community institutions more efficient and more accountable. To help achieve this, we might propose the establishment of an Ombudsman for the European Community, on the lines of our own Parliamentary Commissioner for Administration. An EC Ombudsman could provide a safeguard for individuals, companies and other bodies against maladministration by Community institutions. By providing recourse to an independent body capable of direct investigation, we would increase the Community's accountability to its citizens.

There will be pressure too during the negotiations to increase the powers of the European Parliament. We shall want to resist this. But it would be worth having a relatively minor procedural proposal to offer the Parliament. The Parliament could be given a role in the Ombudsman's appointment. Furthermore we might propose that all complaints to the Ombudsman would have to be referred by Members of the European Parliament (as ours are referred by MPs). The EC Ombudsman would complement the EP's existing Committee on Petitions (set up in 1979). He would require a small staff but costs could be kept low if he drew on the existing services of the European Parliament. The Ombudsman would deliver his reports to both the institution concerned and to the EP. The Parliament could then play a useful role in seeing that the reports were followed up. In addition the Ombudsman might make an annual report to the European Parliament.

The Ombudsman's remit would be to investigate complaints from individual citizens or legal persons about maladministration by any Community institution or agency. But it would be important to avoid overlap or conflict with



the ECJ or with national courts or other procedures, including national Ombudsmen. Nor should he be able to review the terms of Community legislation or investigate complaints about national implementation of Community measures. The latter would be for the ECJ in the case of incorrect implementation; or for national remedies if there were maladministration which did not breach the Community legislation.

These exclusions would restrict his role considerably (because many actions which at national level would be purely administrative are, at Community level, embodied in legal acts, usually issued by the Commission). We should also exclude Community staffing issues, for which there is recourse to the Court of First Instance. We might suggest a review of the Ombudsman's remit after five years (as was agreed for the Court of First Instance).

Given these qualifications, the Ombudsman's remit would mainly cover problems arising from the maladministration of the Community's budgets or in cases where the institutions were responsible for tendering and contracts. This would cover the administration of the Structural Funds, the R&D and other Community spending programmes, and also the work of Community-funded bodies and agencies. Agricultural expenditure (EAGGF Guarantee) would, however, fall predominantly outside his remit - it is largely governed by detailed implementing legislation and administered by national intervention agencies rather than the Commission.

Within this restricted role, however, it would be necessary for the Ombudsman to have sufficient powers to investigate complaints properly. We might therefore propose that he be given the power to summon papers and officials from any Community institution, and to request (but not require) papers and the presence of officials from member states. He would be required to make a public report and could recommend financial compensation if maladministration



was proven. The institution would have to reply to the report within a specified time limit and, if compensation were accepted, pay it from the institution's budget.

Colleagues may wish to consider two additional points:

- a) judicial recourse: in order to avoid confusion with the role of the ECJ (paragraph 3 above), the Ombudsman should in general be debarred from investigating cases in which the complainant has, or had, a legal remedy before the ECJ. Cases investigated by the Ombudsman could not later be taken to the ECJ. Equally, a case dealt with by the ECJ should not later be investigated by the Ombudsman unless the case was found inadmissible by the ECJ or ECJ found evidence of maladministration even though it held there was no clear infringement of the law. Where it was unclear whether a complaint was justiciable or not, the complainant would have to choose one path or the other.
  
- b) who can complain: a likely area of Commission maladministration is the Structural Funds. But much of the money is paid to local authorities for infrastructural and other public works. They would be the ones to suffer. In the UK public bodies are excluded from access to the Parliamentary Commissioner for Administration. If the same applied to the Community, much maladministration might go unchallenged because the Ombudsman would be unlikely to accept complaints from individuals who were only indirectly affected by, for example, delays in building a road or clinic due to Commission maladministration. There seems, therefore, to be a case for allowing local authorities to make complaints to the EC Ombudsman. We should, of course want to avoid giving local authorities a chance to criticise central government, but para. 3 above should provide adequate safeguard.

We do not need to resolve every detail before floating the proposal in Brussels. We would do so initially in general and interrogative terms. Colleagues are invited to agree that we run this idea on the lines above.



Ref.AO90/2066

PRIME MINISTER

Cabinet: Community Affairs

No EC Ministerial meetings to report.

2. Mr Gummer may report on the problems for UK exporters of meat and livestock caused by the action of French farmers (on which he minuted you on 31 August).

3. Future meetings are:

- Informal Ecofin Council, 7-8 September (EMU)
- Foreign Affairs Council, 12 September (German unification) and 17/18 September
- Internal Market Council, 17 September
- Industry Council, 21 September.

F.R.B.

ROBIN BUTLER

5 September 1990



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FOREIGN AND COMMONWEALTH OFFICE  
EUROPEAN COMMUNITY DEPARTMENT (INTERNAL)  
MWB 300/6

*Rita Amira* (2)  
Paragraphs 20-27  
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EUROPEAN COMMUNITY: VALEDICTORY

HER MAJESTY'S PERMANENT REPRESENTATIVE AT BRUSSELS TO THE SECRETARY OF STATE FOR FOREIGN AND COMMONWEALTH AFFAIRS 23/9.

SUMMARY

1. The last five years have been a period of unprecedented development for the Community both internally and externally. Need to set development in wider perspective (paragraphs 1-3).

The Main Landmarks, 1985-1990

2. First main landmark the 1985 Single European Act whose voting provisions have, on balance, worked to our advantage. The enlargement to include Spain and Portugal tended to reinforce the Community's centripetal rather than centrifugal tendencies. The budgetary negotiation which started in 1987 led to serious progress on CAP reform and consolidation of our rebate. The success of the single market programme and the seeing-off of fortress Europe owes much to our efforts. The pressure which has built up for economic and monetary union should not be underestimated. The Community's internal development has given it greater importance in the eyes of third countries. The Community has risen well to the challenge of developments in Eastern Europe. (paragraphs 4-10)

A Glance to the Future

3. German unification should not prove unduly costly. The Community should be seen as part of the solution to concerns about the strength of a united Germany. Risk of German domination of the Community exaggerated. The IGC on political union can be put to good use even though we did not want it. The IGC on economic and monetary union raises serious problems; and risks, if the gap between us and our partners cannot be bridged. Enlargement another major issue for the 1990s. It will be expensive and we are wise to match our general welcome with caution about specifics. On the remaining single market issues more hard slog; but on taxation and frontier control our position has eased somewhat. The issues of implementation and enforcement are coming to the fore now the legislative programme begins to taper off. (paragraphs 11-18)

Some Lessons Learned

4. One major fault line in the Community runs between those member states whose institutions collapsed earlier in the century, which tend to look for Community solutions and those

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whose institutions survived and who see greater value in national action. There are also different national perceptions of concepts such as federalism and union. Pragmatism and an evolutionary approach are the only way to overcome these differences. (paragraphs 19-22)

5. The increased use of majority voting has underlined the need for alliance building. The Franco-German partnership makes it essential for us to strengthen our links with both of them. (paragraphs 23-24)

6. The role of European Councils has increased and we need to update constantly our techniques for handling its meetings. We are getting better at securing our interests but we need to be more selective about taking up the cudgels on particular issues. The perception that we are embattled works to our disadvantage. (paragraphs 25-27)

Envoi

7. UKRep and our Whitehall co-ordination machinery are major assets. I am grateful for your confidence and that of your Cabinet colleagues. (paragraphs 28-31)

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The Rt Hon Douglas Hurd CBE MP  
Secretary of State for Foreign and  
Commonwealth Affairs  
etc etc etc

28 August 1990

Sir,

1. I am leaving Brussels almost twenty-five years to the day after first being posted here to the small delegation we maintained during the period between our first and our second applications for membership of the European Community; and almost five years after being appointed Permanent Representative. Of the twenty five years since I first came into contact with the European Community, twenty one have been spent dealing with its affairs; if the Berrill Report recommendation that Diplomatic Service officers should spend up to one third of their careers in a specialisation such as the European Community is taken as the norm, then I have rather comprehensively over-fulfilled it.

2. In these last five years I have prepared and attended a dozen European Councils, over a hundred meetings of the Council in its other manifestations, and a couple of hundred or so meetings of Coreper; and UKRep has sent rather over twenty thousand telegrams to the Department. These figures alone show how hard it is for any of the main participants in Community business to maintain a view of the wood as well as of the trees which crowd around them week in, week out. They also illustrate graphically how easy it is to become obsessed by issues of negotiating technique and procedure to the exclusion of a wider view of policy; and they highlight one of the besetting weaknesses of the Community, that it often seems to outsiders to be an organisation designed by bureaucrats for bureaucrats.

3. So a sense of perspective is an important attribute for handling Community business. The widest perspective sets it in the framework of European, and indeed world, history in the twentieth century, with the collapse, disintegration and destruction of so much, and so many of the inhabitants, of our continent in the first half of the century, contrasting vividly with the prosperity and security achieved within a framework of cooperative effort and the rule of law which has characterised the second half. A somewhat narrower perspective contrasts 1965, the year I came to Brussels, with the present day. In 1965 the Community of Six seemed set to stay that way, the UK having been on the receiving end of De Gaulle's veto and appearing to have no

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stomach for another attempt. The Community was in any case dead in the water, crippled by a French boycott of its meetings; no Council met, not even Coreper. As an external force it was negligible except in Africa and in the Kennedy Round of trade negotiations. Now we have a Community of Twelve which has come successfully through three successive enlargements, with another (to include the GDR) imminent, and further accessions before the end of the century more likely than not; a single market is being created not just in the meeting rooms of Brussels but by the economic operators, and it is transforming the economies of Europe; the Community is regarded as an important, if hesitant and unsure, actor from one end of the world to the other. To sharpen the focus still more one can contrast the first half of the 1980s with the second, the former characterised by stagnation and internecine quarrelling over the need to right the inequity of our budgetary contribution, the latter a period of unprecedented development both internally and externally. These exercises in perspective are not tricks but they do conceal much. There have been plenty of failures, there are plenty of weaknesses and there are tensions, some of them set up by the very speed of developments in recent years. Recent success has owed as much to the substantial economic growth following the hard decisions taken by national governments earlier in the last decade, as to any Brussels alchemy.

The Main Landmarks, 1985-90

4. My early months as Permanent Representative were entirely absorbed in negotiation of the Single European Act. This strange animal, whose name epitomises the Community's capacity to reduce even the most significant development to almost meaningless mumbo-jumbo, was denounced at the time as a minimalist mouse and subsequently as a federalist trap. In truth it is neither. It was a compromise between those who sought much more wide-ranging constitutional reforms and those, like ourselves, who, while sharing the main objectives of achieving the Single Market and strengthening Political Cooperation, saw no need to change the basic treaties to do so. Its substantive content fell a good deal closer to our end of the spectrum than to the other. That judgement need not be taken on trust; an analysis of the decisions taken since then on matters falling under treaty provisions switched from unanimity to qualified majority voting by the Single European Act, shows the UK voted down only very seldom, much less frequently than a number of other member states. But the episode demonstrated that our own strong preference for proceeding pragmatically and step by step, without too much thought about, or too much definition of, the final objective, was in conflict with the views of all other member states which felt the need to reflect substantial developments in Community policy in new treaty provisions.

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5. Close on the heels of the Single European Act came the accession of Spain and Portugal. This third enlargement went more smoothly than the previous two. Fears at the time of a prolonged bout of indigestion proved misplaced. Spain, in particular, made its mark with a notably successful first Presidency. Contrary to much conventional wisdom, this enlargement tended to reinforce the Community's centripetal rather than its centrifugal tendencies, majority voting being more widely practised where it was provided for in the original treaties but had long been in disuse, it being generally recognised, even before the Single European Act came into force, that conducting the business of a twelve-member Community on the basis of consensus was going to be impossibly difficult.

6. 1987 was the year the Community ran out of money and when even creative accounting could no longer conceal it. Profligate spending on the Common Agricultural Policy despite earlier attempts at reform linked with the ambitions of the poorer member states, the Commission and the European Parliament to boost Structural Fund and other spending, dragged the member states back into another major budgetary negotiation only three years after they had wearily concluded the previous round at Fontainebleau. Like all such negotiations, this one was long, arduous and bad-tempered. But the final outcome was a clear advance from our point of view. Not only were we able, with the bare minimum of fracas, to carry over our two-thirds rebate provision into the new budgetary arrangements. But, for the first time, serious progress was made on CAP reform. Overall limits on agricultural expenditure were buttressed by individual product stabilisers. Since then, and thanks admittedly in part to the effects of two years of drought in the USA, agricultural spending has been well below the limits set and most of the main products in surplus have been subjected to effective penalties. A price had to be paid in the form of the doubling of Structural Funds; but, given the effect of the Fontainebleau mechanism on our own contribution and the support that was gained from the poorer member states for the Single Market programme, that could be considered an acceptable trade-off.

7. When the Milan European Council in 1985 set the 1992 deadline for achieving a Single Market and gave a broad blessing to Lord Cockfield's White Paper laying out what would be necessary to bring it about, few would have ventured much money on its fulfillment. After all, the history of the Community was littered with the whitening skeletons of such paper promises; the procedures for taking the decisions were laborious in the extreme and, although they were about to be facilitated by the introduction of qualified majority voting, they were also about to be complicated by giving the European Parliament a greater say in the process; most member states had not suddenly been transformed into fervent partisans of a liberal, economic approach but rather were being dragged reluctantly towards such policies. So the legislative programme which has ground its way remorselessly

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through innumerable Council meetings since then and which is now well past the two-thirds mark was certainly not condemned to succeed, as most historians will now, no doubt, say it was. It owes much to our own support, assisted by a scanty band of like-minded member states, and the effective determination and hard work of the Commission. Most important, we have together been able to ensure that the legislation reaching the statute book is generally of an open and deregulatory kind and to resist the attempts of a number of member states to make it no more than a further layer of regulation piled on top of existing ones. Fortress Europe has been comprehensively seen off.

8. As the Single Market programme took shape, the pressure began steadily to build up for progress towards economic and monetary union and now that issue dominates the Community's current agenda. It presents us with many problems. As a non-participant in the Exchange Rate Mechanism, I feel we have tended to underestimate the forces propelling our partners towards a treaty commitment to the final stages of EMU. Having committed themselves to maintaining a stable relationship with the strongest currency in the Community, the Deutsch Mark, most dramatically in the case of the French who tore up their previous interventionist and expansionary policies to achieve this, they see little political or economic merit in fighting to retain a national autonomy of decision-making on monetary policies which is widely regarded as a mere facade. This analysis has, quite fortuitously, been reinforced in their eyes by the imminence of German unification. Acquiescence in a DM zone, as opposed to what they hope will be a system in which decision making will be genuinely shared, becomes that much less acceptable as general concerns about excessive German strength lurk close to the surface.

9. The previous landmarks have all concerned the internal development of the Community and, in truth, these internal issues have dominated the agenda for much of the last five years. They have, however, influenced the Community's external relationships quite notably. The Single Market programme in particular has exerted a powerful external influence, at first arousing considerable alarm lest it be fundamentally protectionist and, more recently, as those fears receded and as the successful completion of the programme became more likely, acting as a kind of magnet. Thus the Community's responsibility for, and stake in, a successful outcome of the Uruguay Round has become more evident. And the EFTA countries seek a relationship amounting to a kind of country membership of the Single Market and going well beyond the simple industrial free trade arrangements they concluded when we joined the Community. Meanwhile the United States has clearly re-appraised its view of the Community's significance and potential usefulness and, since President Bush took office, has sharply upgraded it.

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10. But the external development which has wrought a sea-change in the Community and in its external policies has of course been the collapse of Communism in Eastern Europe, bringing in its train the unification of Germany and thus the inclusion of the GDR in the Community, the emergence of democracies and putative market economies in the Soviet Union's former satellites, and the Soviet Union's own remarkable shift from outright hostility towards the Community to a somewhat bemused anticipation of its emergence as an exemplar and a source of much needed material support. With the Commission propelled overnight at the Paris Economic Summit of July 1989 into the role of coordinator of all free world assistance to Eastern Europe, the Community has risen well to the challenge; emergency food aid, longer term assistance and, in the case of Romania, firm political action when it was needed, has been forthcoming. But a long and expensive road lies ahead; and choices no doubt less clearly black and white than those of the past year will have to be made.

A glance to the future

11. Prediction of future developments in and of the Community is always a chancy business, especially when it is, as now, in a period of rapid evolution and lies close to the centre of upheavals, to its East in particular, which are bound to have an important influence on it. Some major issues, German unification, the Uruguay Round, association agreements with Eastern Europe, the two Inter-Governmental Conferences on political union and economic and monetary union are likely to come to a head in the latter months of this year or in the course of 1991; others, such as further enlargement, the completion and dynamic effects of the Single Market and the budgetary review of 1992 lie further off, but certainly not over the horizon.

12. The Community dimension of German Unification will come first. It looks like being a rather messy affair as a result of the date of unification being advanced from December to October. A more orderly and systematic process with a December timetable would have been preferable. But the outcome is not in doubt nor is the detailed content likely to be much altered; nor should it be unduly costly, though some net costs there will be. Neither the derogations needed from the immediate application of Community law in the GDR nor the costs are likely to be as substantial as would have been the case if the GDR had formally acceded to the Community, the former because so much of FRG law will simply apply in the GDR without more ado, the latter because the FRG seems itself to have set its face against expensive solutions.

13. None of this addresses the concerns that have arisen since the Berlin Wall came down about the economic, political and military strength of a united Germany and the purposes to which that strength might in the future be deployed. These concerns are felt throughout the Community and beyond, even if their articulation and the response to them differs widely. All

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suffered to some degree from the events of the first half of the century. Most see the problems of that period as lying not so much in the economic strength of Germany but in the combination of that strength with a footloose and erratic foreign policy and a willingness to apply Clausewitz's dictum about war being an extension of diplomacy by other means in a singularly irresponsible and destructive way. In this view the right response is to sustain and to strengthen the multilateral disciplines, constraints and capacity for collective action of the Community and NATO, with the former playing the central and most durable role, given its readier acceptability to all shades of political opinion in Germany itself. German economic strength cannot in any case be gainsaid, based as it is now on a pluralist democracy and a free market economy. I find this analysis convincing. The thesis that a unified Germany will come to dominate the Community and thus be able to bend it to its will, I find much less so. After all Germany has been the dominant economic force in the Community for a long time now; it bears by far the heaviest budgetary burden; and yet it still punches below its weight in the conduct of Community business. Nor does the Community, its processes and its institutions, lend itself to domination by one member state, as the French found to their cost in the 1960's. So I would argue firmly that we should treat the Community as part of the solution to this problem, not as an extension of the problem itself.

14. The Inter-Governmental Conference on political union is not something we would ever have gone out of our way to look for, but now that we are landed with it, I believe we can put it to purposes consistent with our own approach and can contain the pressures for the sort of changes we wish to resist. The perception that this negotiation is designed to produce a kind of Single European Act Mark II and not a futuristic charter for a federal Europe is now general, whatever the rhetoric of the maximalists to the contrary. Some extension of majority voting, on environmental issues for example, may make sense; but we will need to resist it on social matters, where the pressure will be strong, and on fiscal matters, where it will be less so. The European Parliament and its chief protagonists among the member states will keep up a noisy clamour throughout the negotiation for more powers. Our own ideas for strengthening its control over the executive, ie the Commission, may help to channel this pressure in a helpful direction. The awakening awareness of national parliaments to the fact that the European Parliament is as much a rival as a partner may also prove useful. But we shall face some difficult choices at the end. The least predictable area is that covered by the Franco-German call for a common foreign and security policy. So far the two authors have failed to put flesh on the bare bones of their April initiative; it is hard to believe that either is really willing to accept the full implications of their rather opportunistic move. But other, smaller member states will have fewer qualms. It is all the more important therefore

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that we should ourselves come forward with a set of sensible and evolutionary changes to strengthen Political Cooperation; this would be the right move tactically, even if it were not also, in my view, the right approach in strategic terms given the trend of recent events, the shifting of international forces and the reinforcement of Germany's weight.

15. The outcome of the Inter-Governmental Conference on Economic and Monetary Union is a good deal less easy to foretell. The gap between the approach broadly favoured by the other eleven member states and the Commission and our own preferred approach has narrowed but it has not disappeared. It has narrowed because the original ideas in the Delors Report for elaborate, centralised decision-making on budgetary and fiscal policies have faded; and because our own recent proposals for a "hard" e.c.u. and a European Monetary Fund in the next stage are seen as a clear step forward. But it has not disappeared because the other member states appear determined to write into the treaty a commitment to a single currency and a central banking system to manage a single monetary policy, while we are equally determined to avoid any automaticity as to a move beyond the next stage and to ensure that any such shift, if it does eventually come about, results from an evolutionary process and is not pre-determined in advance. Can this gap be bridged? It is too soon to say. There are major advantages to all if it can be; and serious risks if it is not. Our partners are less keen to go it alone than they sometimes let the press suppose but they are determined to press ahead. We on our side need to weigh carefully the downside consequences - for the City and for inward investment to mention only the most direct ones - if it does go that way.

16. The further enlargement of the Community is not an issue for decision in 1991 but it is an issue for the 1990's. It is hard now, with four declared applicants and others speaking freely of their future applications, to see the Community reaching the turn of the century as a Community of Twelve. Our present policy of stating a general welcome to accessions by democratic European states which can assume the full obligations of membership while keeping clear of specific commitments on the timing and detail seems likely to serve well for some time to come. In particular it offers the East European countries the maximum incentive to stick to the stony path leading to stable democracy and a flourishing market economy. We are wise to be cautious about the specifics. There are plenty of snags. Enlargement could be expensive if it involved the East Europeans, all likely to be substantial beneficiaries from the C.A.P. and the Structural Funds and modest contributors to the budget. We can certainly not afford to assume that enlargement will lead to looser, more flexible institutional links. Putting off the evil day when the Community has to explain to Turkey that there is no room at the inn must surely be a plus. All these tricky problems will be easier to handle tactically if we ourselves have not shown too much zeal in the cause of enlargement in the meantime; accession terms tend to be shaped more by those who hold back than by those who dash forward.

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17. The Single Market will remain a constant and crucial theme through the 1990's. The process neither begins nor does it end on 1 January 1993. We still have a substantial amount of unfinished business, on financial services and transport in particular, on which we have to keep up the pressure. But things are moving the right way and the Commission are solid allies. In two difficult areas for us, taxation and frontier controls, we are not out of the wood yet, although our tactical position has considerably improved over the last year. A system which will permit the abolition of fiscal frontiers without the bureaucracy of Lord Cockfield's clearing-house approach and without elaborate measures of tax harmonisation should be agreed by the end of the year. But there will remain strong pressure from other member states to complement that system at the very least with a minimum VAT standard rate as a safety-net provision to avoid the risk of the competitive ratcheting-down and we will have to decide whether we can live with that. The frontiers question remains a delicate one but there is now a better understanding that the different geographical characteristics of member states justify quite different solutions; and the rising political pressures generated by the domestic sensitivity of third country immigration in virtually every member state are beginning to cause them to take a more cautious view of the sweet simplicities of the Commission's "Europe without frontiers" approach. If we play our cards well, it should be possible to achieve a substantial reduction in the present controls on business and individuals without sacrificing the essential checks needed to maintain our defences against drugs, terrorism and illegal immigration.

18. As the legislative thrust of the Single Market programme tapers off, so will the twin issues of implementation and enforcement come to the fore. The former is already moving sharply up the agenda as a result of the initiatives we have taken. Peer pressure is beginning to have some effect; the threat of Court action, particularly if new treaty provisions can be devised to give the Court more bite, should do the rest. Enforcement will be a slower, messier business but one in whose success we have just as great a vested interest. We will be sure to face some dilemmas in that, as with fraud, it is the Commission that will have to set the pace. In some instances that is bound to mean giving them powers and authority which will be criticised as intrusive. But the Commission is the only heavy roller available and, if we want a level wicket, then we will have to be ready to make use of them.

Some lessons learned

19. The European Community is no simple, tidy organisation, conforming to a recognisable pattern of multilateral international activity and proceeding towards clearly defined objectives. Nor is it an embryo of a sovereign state. It remains today and for the foreseeable future a construction sui generis, operating somewhere between these two extremes. Moreover it is shot through

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with paradoxes and criss-crossed with historical fault - lines which do much to explain the tensions which invariably surface when major decisions are imminent, as they are now.

20. A fault-line which runs as deep as any is the different historical experience of its member states in the first half of this century. Broadly speaking one can classify them into two categories; the first consists of countries whose national institutions - government, parliament, civil service and judiciary - foundered comprehensively in the maelstrom of that period; the second consists of countries whose national institutions survived that experience and indeed helped to carry them through intact. It is striking how often the instinctive reaction of each country to a further development of the Community runs along that fault-line. In the first category the tendency, when a new problem arises or an old one gets out of control, is to look for a Community solution; the proposition that a national solution makes more sense gets short shrift, given the fundamental lack of confidence in national institutions. Countries like Italy and Belgium fall quite obviously into this category; but so, to some extent, do countries as inherently nationalistic as France, whose flirtation with a Gaullist approach to Europe is now receding into the past. In the second category the tendency is the opposite, to turn towards a national solution unless it can be shown very clearly that a wider approach will make more sense. The UK falls quite obviously into that category, as do the Netherlands and Denmark. The second category is much less numerous than the first. It is not difficult to categorise aspirants to membership, Austria and the East Europeans in the first, the other EFTANs in the second.

21. There are plenty of other paradoxes around. Some are almost semantic but they are none the less real. For a German federalism means decentralisation, the avoidance of a unitary state; for us it means almost the opposite. To most member states the word union is a gloriously loose and imprecise concept that can mean all things to all men; to us it contains very precise connotations, the Acts of Union with Scotland and Ireland being characterised by the abolition of the parliaments of those two countries. Some paradoxes exist within our own policy. We recognise the crucial role of the Commission in bringing about the Single Market, in working to reform the CAP, in negotiating liberal solutions in the Uruguay Round; as a member state in a smallish minority on all these issues, we know we could get nowhere without them. But at the same time we resent and oppose the Commission's pretensions to greater power and are reluctant to give them a greater degree of democratic legitimacy.

22. It is quite clear that the Community cannot simply resolve these paradoxes or erase these fault-lines. They are too deep-seated for that. But nor can it simply camp on them. So it has to try to soften them, to build bridges across the fault-lines.

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In recent years it has been reasonably successful at that. The exercise requires a lot of pragmatism and a commitment to an evolutionary approach, two concepts which we hold dear but which I have sometimes felt we preach more actively than we practise.

23. The increase in majority voting following the 1986 enlargement and the Single European Act underlined, but did not create, the need to seek allies in Community negotiations. Although in some cases it is bearable, and indeed in the case of our budget contribution it was necessary, to be in a minority of one, this is something to be avoided if at all possible because it is not easy politically to sustain it and, if you cannot sustain it, you may end up failing to influence the outcome as well. Making allies in the Community is not simply a matter of seeking trade-offs; indeed that sort of crude horse-trading is not all that common and is certainly not desirable. It consists much more of identifying our important interests on any issue and then making common cause with other member states with similar interests or whose interests can be met with solutions similar to those we are seeking. We are rather better at identification than we are at making common cause. What is essential however is to pursue an active, alliance-building approach and that requires the cultivation of a complex network of contacts between capitals.

24. There are however no permanent allies for us in the Community or permanent adversaries. We may make common cause with, for example, the Dutch over a wide range of issues, CAP reform, trade policy, budgetary questions and very valuable that has been, but we will also differ on some such as EMU or the UK rebate. The only exception that appears to prove this rule is the Franco-German partnership, the handling of which presents us now with almost as many unsolved questions as when we first joined the Community. We can have no illusions that it is about to disintegrate, less still that we could bring that about, even if it was desirable to do so. We can also have no illusion but that it has from time to time a formidable, almost irresistible, influence on Community debates, limited, fortunately for us, by the difficulties the two have in agreeing on the details and substance of individual issues. In the future, with a more powerful Germany this influence can only be greater. So I draw the conclusion that we must redouble our efforts to strengthen our links with both of them at every level and on every aspect of Community business. Even that will probably not spare us a few nasty surprises. But it will keep them to the minimum. And there is no doubt that the quality of our relations with France and Germany crucially conditions the attitude towards us of the other member states and their willingness to cooperate with us.

25. Meetings of the European Council are not life-enhancing occasions, let alone pleasurable ones. They are poorly prepared, often chaotic and they are all set to become once again too frequent. But they are now an essential part of the governance of the Community. Past are the days when a bout of bad-tempered

/wrangling

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wrangling in the European Council could simply lead to the abandonment of any conclusions at all and the Community could more or less proceed as if nothing serious had happened. We need therefore to up-date constantly our techniques for handling these meetings and develop on each occasion a systematic tactical approach designed to maximise our influence at them.

26. It would be remiss, although perhaps prudent, to avoid a direct comment on Britain's role in Europe, contentious as that has been both within parties and between parties ever since I first began to deal with these matters. In my view we have in fact travelled a long way in the last decade towards a mature and successful role in the conduct of Community business. Of course you cannot have everything your own way in such a venture; but we are getting steadily better at furthering and securing our interests and at doing so in a way which is consistent with the overall Community interest. There remains, however, some way to go. Our caution, scepticism and rigorous analysis of Commission proposals are widely appreciated by those in the know, but more widely they are less so. We do need to be more selective about taking up the cudgels on particular issues and to ensure when we do so that our criticisms are directed principally at the policies we oppose and not in a blanket way at the institution, Commission or Parliament, or at the member state, which proposes them.

27. I have been struck and a little saddened by the number of people who have said to me in recent months "you must have had a terribly difficult time defending our corner these last few years". I do not in fact feel I have had a terribly difficult time of it. But it cannot be healthy that there should be so fundamentally negative and defensive a perception of what the British Permanent Representative is up to in Brussels. I am not among those who believe we should be trying to vie with the Italians or others in our Community rhetoric; if we did so, we would merely make fools of ourselves and convince nobody. The reality, it sometimes seems to me, is that, just as there is a large gap between the rhetoric and performance of a number of our partners to their considerable discredit, so there is in our own case a gap in the opposite sense, not to our discredit but to our disadvantage.

Envoi

28. UKRep is no ordinary Diplomatic Service post. With well over half its staff drawn from seven other departments, it is a mini-Whitehall. But it somehow manages to avoid, or at least to minimise, the departmental in-fighting which is such a feature of Whitehall life. For the unremitting hard work, for the loyalty, and for the negotiating skills of those who worked with me I have nothing but gratitude and admiration. Taken together with the superlative co-ordination machinery in Whitehall, these are major assets which we should do our best to nurture and to sustain. They are the envy of our Community partners.

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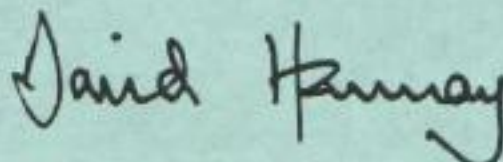
CONFIDENTIAL

29. The job of Permanent Representative to the European Community may be one of the more demanding in the Diplomatic Service but it is also one of the more rewarding. I am grateful indeed for the confidence you and your Cabinet colleagues showed. I am sure you will do no less for my successor, John Kerr, whose skill at the London end of the formulation of Community policy has been so notable over recent years.

30. Finally a word of dedication to my wife and to all those other UKRep wives who sat so often waiting for their husbands to return from this Council, that Coreper or the other Working Group and did so for many weary hours.

31. I am sending copies of this despatch to the Lord President of the Council, to the Chancellor of the Exchequer, to the Secretaries of State for Trade and Industry, for Energy, for the Environment, for Employment and for the Home Office, for Scotland, for Wales and for Northern Ireland; and to the Minister of Agriculture and the Attorney General. I am also sending copies to the Secretary of the Cabinet, Her Majesty's Representatives in EC, NATO, EFTA and East European posts, to the United Nations in New York and Geneva, to NATO and to the OECD and in Tokyo, Moscow, Canberra, Wellington and Pretoria.

I am, Sir  
Yours faithfully



D H A Hannay

CONFIDENTIAL



Northern Ireland Office  
Stormont Castle  
Belfast BT4 3ST

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

17 August 1990

*Dear John,*

INFORMAL ENERGY COUNCIL 16 JULY

Thank you for copying to me your letter of 19 July to Douglas Hurd.

I agree that the various EC procedural and tactical issues that arose following the recent informal EC Energy Council should be considered by the appropriate officials and advice forwarded to Ministers before EC business starts up again in September.

I am copying this to Cabinet colleagues and Sir Robin Butler.

*Leon*

*Pr*

PB

LD/SOFS/3578





→ CDP - Aspen  
off paras

CC PL  
✓ PC

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FCS/90/150

MINISTER FOR AGRICULTURE, FISHERIES AND FOOD

GATT: AGRICULTURE

1. Thank you for your letter of 26 July. ✓ *will request it returned*
2. I agree that the outcome of the Trade Negotiations Committee last week was satisfactory in that the EC and US agreed to continue negotiating on the de Zeeuw text. Since the text contains proposals on export subsidies, that issue will have to be addressed.
3. I also agree that we must take care, from the liberal wing of the Community, not to antagonise the Commission. You will have seen that Mr MacSharry praised our role at Houston: our contribution had been greatly appreciated in the Commission. So our credit with him is good, and I see no reason why we should not continue to play an active role. There will be plenty of member states arguing that the EC should not move at all: we should act as a counterweight.
4. There certainly are difficulties in making a commitment on export subsidies. But they need to be confronted. There is another negotiating group in the week beginning 27 August, so time for reflection is not great. It was encouraging that Mr MacSharry responded positively to David Hannay's argument in favour of a substantial Community offer in the Autumn.

/5.

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5. I recognise that flexibility by all sides is needed, and in particular that we need to encourage reasonableness by the US. The Americans have made statements which appear to retreat from the Houston agreement and are inconsistent with de Zeeuw. But they have then backed off and agreed positions which require almost no concessions from the Community. Both Mr Andriessen and Mr MacSharry have commented that these tactics risk encouraging, among EC member states which do not want to move, the impression that the Americans will always back down. The US would do better to maintain a consistent, realistic position and the Prime Minister's visit to Aspen could be an opportunity to tell them so.

6. Copies of this minute go to the Prime Minister and other members of OD(E).



(DOUGLAS HURD)

Foreign and Commonwealth Office  
1 August 1990



CONFIDENTIAL





ccp (2)  
Prime Minister  
CPS 31/7.

FROM: PAYMASTER GENERAL  
DATE: 31 July 1990

PRIME MINISTER

ms

1991 EC BUDGET

The Budget Council on 27 July went well from the UK's point of view.

The Council adopted a Draft Budget which was around £600 million below the Commission's proposal and more than £3 billion within the overall ceiling in the final perspective.

As foreshadowed in Malcolm Caithness's minute of 23 July, the Council decided that it would not be appropriate to apply the maximum rate procedure. It did, however, agree to cut the Commission's proposed level of non-privileged expenditure by more than in previous years; and it endorsed a robust declaration - inspired by the French Budget Minister - making clear that the procedure adopted in relation to this year's Budget was an inevitable consequence of developments in Eastern Europe and implied no weakening of budgetary discipline.

The Commission responded positively to the recent report by the Court of Auditors on staffing, and the Council agreed a declaration, drafted by the UK, calling for a detailed action programme to be drawn up in time for its second reading of the Budget in November.

Before that second reading takes place, the Commission is likely to present its proposals for a revision of the financial perspective related to the German unification. The Parliament will want the revision to go wider. But there was gratifying support from a number of member states - notably Germany and France - for the UK's position that a revision should cater for unification and nothing else.

pmg.to/RRyder/8.31.7

Finally, the Council decided (with only Italy voting against) to take the Parliament to the Court over the 1990 Supplementary budget. The Council's purpose is to uphold the principle that the Parliament has no competence as regards revenue; its case is said by the Council Legal Services to be "strong but not impregnable".

Copies of this minute go to Douglas Hurd, John Gummer and Sir Robin Butler.

R. A. R.

RICHARD RYDER



①

PRIME MINISTER

MEETING WITH LORD ROTHERMERE

You are meeting Lord Rothermere at 1200 on Monday. Lord Rothermere wishes to discuss his concerns about the draft EC Fifth Directive on Company Law. The meeting will also be attended by Sir David English (Editor, Daily Mail), John Redwood and Bernard Ingham.

In essence, Lord Rothermere is anxious that the Fifth Directive would remove the protected ownership of certain UK businesses (including the Daily Mail) by requiring non-voting shares to be transformed into voting shares.

Background

The EC Fifth Directive covers the structure, powers, and obligations of public limited companies. It was first proposed in 1972 and has been blocked since. It also contains draft provisions for employee participation which the UK Government and others have rejected.

There is a current round of discussion which might set aside the controversial provisions on employee participation in order to make progress on other more acceptable elements - specifically measures designed to remove barriers to take-overs.

The relevant Article - Article 33 - deals with equal voting rights for all shareholders. The draft Article would, in effect, prohibit the non-voting share. Such non-voting shares are much more common in other EC countries. Accordingly, it would be to the UK's general competitive advantage to proceed with this form of EC Fifth Directive. It would make it easier for UK firms to take-over their EC counterparts. (As you may know the latest figures suggest that the balance of take-overs is against UK interests - EC firms acquiring more of our companies than we of their's).

Lord Rothermere is concerned because, rather unusually, there is an element of non-voting shares underpinning the ownership of the Daily Mail. In brief the Daily Mail and General Trust Limited has two equal blocks of shares - non-voting and voting. This company owns directly and indirectly all shares of Associated Newspapers.



Discussion

John Redwood has been leading for the Industry Department on this subject and is well aware of the background. There are a number of points you might like to make in discussion.

- i. The UK has supported this part of the EC Fifth Directive, in principle, because it will eliminate barriers to take-over by UK firms in the rest of the EC - and in particular Germany and the Netherlands.
- ii. Such barriers need to be reduced or eliminated if UK firms are to compete on a level playing field for take-overs.
- iii. Earlier consultation by the DTI revealed a good measure of UK support for the principle of equal voting rights e.g. from the IOD, CBI, Association of British Insurers and National Association of Pension Funds.
- iv. However the proposal is unlikely to be adopted quickly. It is only one part of the draft Company Law Directive and progress has been very slow.

But, Lord Rothermere will no doubt be anxious that, given widespread UK support, the draft Directive may be agreed. And he will presumably accept that wider UK interests favour the Directive. So he may suggest a possible compromise - that the UK should seek a public interest derogation power for equal voting rights. Some such derogation powers may be necessary anyway - to protect Government special shares. You can say this is an idea which John Redwood might consider further.

BHP

Barry Potter

27 July 1990

c: Rothermere (MJ)



The Rt. Hon. Peter Lilley MP  
Secretary of State for Trade and Industry

Barry Potter Esq  
Private Secretary to  
the Prime Minister  
10 Downing Street  
LONDON SW1

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Direct line 071 215 5622  
Our ref PB5AGP  
Your ref  
Date 27 July 1990

*Barry Potter*

## PRIME MINISTER'S MEETING WITH LORD ROTHERMERE, 30 JULY 1990

Lord Rothermere is concerned about the EC Commission's proposal to limit the use of shares with unequal voting rights. The Government's policy, agreed collectively, has been to demand measures designed to reduce barriers to takeovers in the EC, in order to make continental companies as accessible to bids as British companies. We have secured a package of proposals by the Commission which will make a start on some of these barriers. The package includes the strengthening of an existing proposal which would prevent the use of disproportionate voting rights as a means of blocking takeover bids.

The Daily Mail's share capital is divided equally between voting and non-voting shares, and enfranchising the non-voting shares (without any other changes) would certainly affect control of the company. Lord Rothermere will know that this situation is unusual in the UK, at least outside the newspaper industry. He intends however to argue generally that, instead of opening up continental companies to UK takeovers, the Commission's proposal on voting rights will further expose UK companies - particularly in the media industries - to predators; and that it interferes with freely negotiated market arrangements.





The Prime Minister could make the following points:

- i. Experience - and the changing balance of takeovers between Britain and the continent - show that companies elsewhere in Europe are ready to take advantage of the openness of our market, while protecting themselves. Last year they made £1 billion more acquisitions in the UK than our companies made on the continent. This could become a serious problem in the single EC market. The Government have taken the lead in securing proposals to do something about it.
- ii. There are far more companies on the continent which have weighted voting structures than in Britain. Although these can vary and may have been created for all kinds of reasons, studies for the DTI and the Commission have shown that they could all be used to block development of a free market for corporate control. And in principle, there is a case for favouring "democratic" shareholding.
- iii. We recognise that this has to be kept in perspective. The Fifth Directive in which this particular proposal appears is full of problems, for us as well as for others; and the proposal itself will have to be improved before we are satisfied with it. Unequal voting rights are only one of a wide range of barriers to takeovers, and the Government and the Commission cannot expect to deal with all of them within a few years. We also know that not all EC countries always implement legislation as effectively as the UK - but it would be wrong not to use the means available to secure improvements; and there are signs that our pressure to improve continental performance is bearing fruit.
- iv. These problems will require hard work and negotiation; agreement is probably some way off. Lord Rothermere's views and those of others will certainly be considered carefully and taken into account. Grateful to him for explaining his concerns.

If Lord Rothermere suggests that the UK should demand a "public interest" derogation from equal voting rights to cover newspapers or the media generally, the Prime Minister could agree without commitment to consider it. However, it would be best not to encourage that idea, at least at this stage. In the UK, as in some other EC countries, there are regulatory constraints on newspaper mergers rather than exceptional



arrangements for voting and control. If the Government were to argue in favour of such exceptional arrangements there could be pressure to apply it to others, which could lead to abuse.

I can confirm that John Redwood will attend the meeting from here in my Secretary of State's absence. *As requested, I also attach a background note.*

*Yours ever*

*Ben Slocock*

BEN SLOCOCK  
Private Secretary

CONSERVATION



## SHARE VOTING RIGHTS: MEETING WITH LORD ROTHERMERE

### BACKGROUND

#### Policy issues

In a free and open market, companies and investors would contract on whatever terms, including voting rights, they were prepared to agree; this was the UK's policy towards Article 33, which already embodied the principle of equal voting rights, until 1988. The problem is that differential voting rights are capable of being used as a barrier to takeovers, thereby preventing the development of an effective market for corporate control. (It can also be argued that equal voting rights are an aid to market transparency).

During 1989, when the UK persuaded the EC Commission to consider ways of reducing barriers to takeovers generally, the question of voting rights was among the topics identified by both sides, and was included in the UK's shopping list for EC action. This led the Commission to propose a strengthening of Article 33. Lord Rothermere's concern is a reaction to the consultation process on this at the beginning of this year.

Other responses to DTI's consultation have been mixed; companies with non-voting shares and some representative bodies have followed a similar line to Lord Rothermere, while others have supported current policy. There have also been mixed views on the subject in the context of short-termism, where it has been argued that takeovers should be made more difficult in the UK.

#### Evidence

The DTI's study by Coopers & Lybrand, and the Commission's study by Booz Allen both concluded that the use of weighted voting rights was a significant barrier in some countries, while being of significantly less importance in the UK. Restrictions typically took the form of issuing shares with no or restricted voting rights (most common in Germany, Belgium and Denmark) or by limiting the percentage of votes that could be cast by an individual, irrespective of the number of shares held (most common in Denmark, Germany, France and Italy). By contrast, we are aware of only 30 or so UK companies with weighted voting rights in the Times 1000. This includes private companies and Government golden shares.

CSO figures show 274 mergers and acquisitions in other Community countries in 1989, worth £2.8b; the corresponding figures the other way are 58 and £3.8b. By contrast, the balance was in the UK's favour in the more open US market. Other significant restrictions are the issue of "preferred shares" (Netherlands) giving specific rights, eg to block amendment of the articles of association, and the French practice of giving double voting rights to shares that have been held for at least 2-4 years.



### Practical problems

Article 33 is unlikely to be agreed in its present form. Several member states are likely to be reluctant to legislate to remove barriers to takeovers; and the UK itself has problems with the proposal (see below). However, since cultural and institutional barriers are more important than legal ones, the UK has an interest in securing a forum for discussion of barriers, which Article 33 provides.

Assuming that Article 33 would affect existing as well as new share issues, it would be difficult to know how to compensate those whose voting rights are diluted. Changes in voting rights would inevitably affect share values, but it is not clear how this could be quantified.

The UK and probably other member states will need to demand a derogation provision in Article 33 to deal with Government special shares and regulatory powers which exist to suspend voting rights in certain circumstances. The UK will seek to ensure that these are not too widely drafted.

The Fifth Directive as a whole covers the structure, powers and obligations of the organs of public limited companies, eg the board, general meeting and auditors. It was first proposed in 1972 and has been blocked over a long period on the provisions for employee participation in company decisions. The current round of discussions will "set aside" these provisions, with the possibility of formally dropping them later, in order to make progress on the other provisions. Progress will probably however still be slow as there are some important company law problems in the text. Until these are resolved, the UK may not want to accept the Fifth even with some anti-barriers provisions and without employee participation. (It is subject to majority decision).

### Daily Mail

The Daily Mail and General Trust Ltd has two equal blocks of shares, non-voting (and listed) and voting shares. The company owns, directly and indirectly, all the shares of Associated Newspapers.

Lord Rothermere is also a trustee of Reuters, which has a "golden share" arrangement. DTI are in touch with Lord MacGregor about possible ways of preserving Reuters' independence from any dominant interest. The Daily Mail is in a different position from Reuters. There might in principle be a case for institutionalising such independence for newspapers as well, but it would be inconsistent with the present structure of the industry.



R2917

Prime Minister<sup>2</sup>

Do

Treasury Chambers, Parliament Street, SW1P 3AG

Barry Potter Esq  
Private Secretary  
10 Downing Street  
London  
SW1

27 July 1990

Dear Barry,

...

The Chief Secretary asked me to send you the attached article from Saturday's Financial Times. He tells me that he had promised to send the Prime Minister a copy.

Yours

A handwritten signature in cursive script that reads 'Jeremy'.

JEREMY HEYWOOD  
Private Secretary



Delors plan could result in the scrapping of up to 25 Soviet power stations

## EC and Moscow work together on nuclear safety programme

By Quentin Peel in Moscow

THE European Community and the Soviet Union are working on a joint nuclear safety programme which could result in the scrapping, or radical upgrading of, up to 25 Soviet power stations.

The extent of the programme, requiring a potentially large investment, was revealed yesterday by Mr Jacques Delors, President of the European Commission, on the first visit of the Community's chief executive official to Moscow.

He also singled out energy production, transportation and the environment, as well as technical assistance, as possible areas for EC involvement in the Soviet economy, in a package of measures to be presented to the next summit meeting of the 12 member states in October.

Assistance in a sweeping investment programme to upgrade Soviet nuclear power stations to western safety standards - and if necessary to scrap power stations which could not be modified - would not necessarily promote Soviet economic recovery. Instead, it would be intended, in the

### Train blast kills 5

FIVE people were killed and eight injured in an explosion on a train near Rostov, on the Russia-Ukraine border. Police were said to be looking for an Azerbaijani suspect.

This act of suspected nationalist terrorism came as Mr Gorbachev's federation council was meeting the presidential council to discuss the draft of a new Union Treaty to reconcile the interests of the country's 15 republics, and the country's redrafted economic reform plans. Page 2

words of one west European diplomat, to "prevent another Chernobyl."

Only this week, a top-level meeting of Soviet nuclear physicists revealed that the industry was in disarray, with almost every plan and construction project in the pipeline - totalling more than 100,000MW - cancelled. Operating existing nuclear power stations, they added, was under threat because of a steep fall in recruitment in the wake

of the Chernobyl disaster.

Details of preliminary EC investigations of the safety standards in Soviet nuclear installations have not yet been revealed.

Mr Delors was speaking after meeting most of the principal Soviet leaders - including President Mikhail Gorbachev, Mr Nikolai Ryzhkov, the Prime Minister, Mr Eduard Shevardnadze, the Foreign Minister, and Dr Leonid Abalkin, the deputy premier in charge of economic reform - to discuss the whole reform programme, and possible future EC involvement in supporting it.

He revealed that EC experts would return to Moscow next month for an extended visit and detailed discussions with their Soviet counterparts to draw up recommendations for the October summit.

Mr Delors said the Soviet authorities were very interested in the proposals for energy co-operation on the lines proposed by Mr Ruud Lubbers, the Dutch Prime Minister, at the EC summit in Dublin.

This would involve the opening up of Siberia to western oil



Jacques Delors listens to a translation in Moscow: he issued warning over Soviet republics' currency plans

companies, providing direct western access to Soviet oil, in exchange for guarantees of western markets for the product.

However, Mr Delors warned that no judgment on Soviet economic reforms could really be given until a revised package was finalised by the government and Mr Gorbachev's economic advisers in September.

He also repeated his fears about the proliferation of plans

in individual Soviet republics to create their own currencies and trading enclaves.

This would raise barriers to trade rather than remove them, as the EC was doing, Mr Delors said.

Mr Gorbachev argued strongly for western investment in the Soviet Union.

This would provide a stimulus to the perestroika process, and to more radical moves towards a market economy, to which he was committed.



Power Station

Ref.AO90/1824

PRIME MINISTERCabinet: Community Affairs

- 4 Sent
1. The Chancellor may report on the 23 July ECOFIN Council:
    - encouraging reaction to the UK's "hard ECU" proposal, with agreement that it should be studied at a special meeting of the Monetary Committee on 4 September;
    - Delors reported on his visit to the USSR, noting Gorbachev's desire for assistance but opposition to IMF conditionality, and Soviet interest in Mr Lubbers' ideas on energy;
    - upbeat German account of GEMU;
    - low-key but encouraging discussion of fiscal frontiers.
  
  2. Mr Gummer may mention the 24 July Agriculture Council, which is discussing next steps in the GATT Round in the light of yesterday's unexpected US/EC agreement in Geneva that negotiations would proceed with de Zeeuw's text being used as "a means to intensify negotiations" (as agreed at Houston). The outcome of the Agriculture Council discussion is not yet known.
  
  3. The Budget Council will meet on 27 July, after which there will be no further Council meetings until September.

F.E.R.B.

ROBIN BUTLER

Cabinet Office

25 July 1990





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*Ri Minister*  
*EM*  
*2 1/2*

From : Paymaster General

Date : 23 July 1990

PRIME MINISTER

1991 EC BUDGET

The Budget Council meets on 27 July for its first reading of the 1991 preliminary draft budget (PDB). I shall represent the UK.

2. The starting point for the 1991 Budget was the recent revision of the financial perspective, which provided for the needs of Eastern Europe while respecting budgetary discipline. The Commission is likely to propose a further such revision later this year to cater for German unification. My main strategy aim at the Council will be to agree a draft Budget which gives no ammunition to those who will be trying to use unification as a pretext for relaxing budgetary discipline.

3. The PDB is almost £3 billion below the overall ceiling in the financial perspective (which, in turn, is £6 billion below the own resources ceiling). Most of the margin relates to agriculture, where I shall be arguing for further reductions.

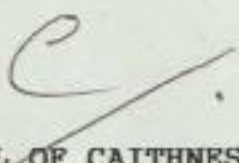
4. Apart from agriculture, discussion will focus on those areas of spending which are not subject to multi-annual commitments (so-called non-privileged expenditure). The conclusions of the February 1988 European Council provide that, at its first reading of the PDB, the Budget Council should restrict the growth of such expenditure to half the maximum rate referred to in the Treaty. The revision of the financial perspective increased the headroom for such expenditure by around £800 million in 1991. Of this, almost £600 million represents provision for aid to Eastern

Europe. I believe that the Council will conclude that it is not politically feasible to reduce this provision in line with the maximum rate procedure.

5. As regards other non-privileged expenditure, strict application of the procedure would require cuts of £350 million. I propose to argue for such cuts, but am not confident of achieving them in full. It should, however, be possible to reduce the Commission's bid by more than in recent years. So I would not propose to die in the ditch on the maximum rate, given both the exceptional situation arising from developments in Eastern Europe and the fact that the maximum rate procedure has had no practical effect: in each of the last two years the Parliament has used up virtually all of the available headroom in the financial perspective.

6. The Commission will press particularly hard at the Council for extra staff and, here too, we need to recognise the Eastern European dimension. But I would intend making my agreement to any new posts conditional upon an undertaking by the Commission to take positive action in response to the recommendations of a recent report by the Court of Auditors on staff management and deployment.

7. Copies of this go to Douglas Hurd and John MacGregor, and to Sir Robin Butler.

  
THE EARL OF CAITHNESS





10 DOWNING STREET  
LONDON SW1A 2AA

*From the Private Secretary*

23 July 1990

*Dear Ben,*

PRIME MINISTER'S MEETING WITH LORD ROTHERMERE

We spoke on the telephone this morning about the Prime Minister's forthcoming discussion with Lord Rothermere. As you know, Lord Rothermere wishes to discuss voting rights in companies under the proposed EC Fifth Company Law Directive.

First, I am sure the Prime Minister would be quite content for Mr. Redwood, as the Minister responsible for this area, to attend the discussion in place of Mr. Lilley.

Second, I would be grateful if you could provide briefing. The department was kind enough to provide comprehensive briefing on a previous occasion. However, impressive though these lengthy and detailed explanations were, this would not be appropriate for this kind of discussion. Rather, what is required is a short explanation of what Lord Rothermere is anxious about; four or five points for the Prime Minister to make; and a background note of no longer than one to two pages.

I would be grateful if this briefing could reach me by no later than the evening of Thursday 26 July.

*Yours,  
Barry*

Barry H. Potter

Ben Slocock, Esq.,  
Department of Trade and Industry

*KW*



Foreign and Commonwealth Office

London SW1A 2AH

23 July 1990

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

*Handwritten initials and date:*  
2/7/90

Dear Stephen,

**MINISTERS' EUROPE GROUP, 18 JULY**

The following points arose from the meeting on 18 July.

Presentation of Policy

Mr Maude commented that, after the successful placing of articles by the Foreign Secretary and the Chancellor of the Exchequer in leading papers in other member states, it would now be necessary to leave a gap before trying another one. Several suggestions were made for subjects for future articles: Mr Redwood suggested the single passport for insurance, Mr Freeman suggested transport, particularly UK policy on rail transport (an article at the end of this year or early next) and Mrs Shephard suggested pensions. An article on the Social Action Programme might be helpful in the autumn.

Social Dimension

Mr Eggar outlined what was being done to present UK policy on the Social Action Programme and particularly on the part-time, temporary and "working hours" directives, the





last of which was due to be published soon. The overriding impression was that while privately a number of partners agreed with our views, it was difficult to persuade them to speak out in public. The CBI was beginning to get to work, but their opposite numbers were similarly publicity-shy. Tactics should obviously vary according to the different countries. A fact pack had been prepared and translated into several Community languages; articles were being placed in UK trade journals. Action Programmes and briefing packages were being prepared for each country.

It was agreed that it would be important for DTI and Treasury Ministers to speak to their opposite numbers about the business and financial consequences of these directives. Mr Eggar said that the Department of Employment were working up statistics to demonstrate the effect on jobs, and other implications both in the UK and in Europe as a whole. He noted that the Commission had yet to produce a fiche d'impact for the directives.

In discussion it was agreed that the UK should press at every opportunity for the Commission to supply a fiche for the measures it introduced. Mr Redwood said we should gather small business horror stories about the impact of the Social Action Programme measures. Mr Maude stressed the importance of making these points to businessmen while on bilateral visits. Mrs Shephard pointed out that we should make clear the impact these directives would have on women. There seemed to be a widespread belief that women would benefit. In fact they were likely to be among the hardest hit. There were more working women in the UK, and so we would be hit harder than many other countries. It was agreed that, despite the difficulties in compiling figures, it was very important to have estimates of job losses and





other effects to deploy at meetings in member states.

Mr Maude asked if any more deregulation seminars were planned. It was decided that DTI, D/Employment and FCO officials should discuss how to get across the deregulation message on the Social Action Programme.

#### UK Presidency Special Events

Mr Maude drew attention to the list of Presidency special events discussed earlier in July by officials. The aim should be to use the coincidence of our Presidency with the completion of the Single Market to promote UK business and ideas: 1992 should be seen as a British-led success demonstrating UK influence more widely in the Community. Mr Curry said we needed to plan the strategy carefully and distinguish the European elements from the UK elements. Wherever possible we should build on existing events and give them a European flavour. He mentioned problems for those arriving at Dover; these should be overcome by 1992. He also suggested a 1992 British fashion industry event.

Mr Hogg emphasised the need to consider venues outside London. It was agreed that the regions and other member states should be considered when looking for venues, in order to achieve a high Presidency profile across the Community. Mr Garel-Jones stressed the need to avoid overlap with Expo 92 in Seville. Mr Redwood suggested that locating as many events as possible towards the end of our Presidency would help.

#### Forthcoming Councils and visits

Mr Maude pointed out that the months after the summer break would be very busy. Bilateral visits should be kept up. It was agreed that Departments should keep the FCO and Cabinet





Office up to date on forthcoming visits to EC capitals.

There was a short discussion of press briefing in Brussels. It was generally useful for press officers from departments in London to accompany Ministers to Brussels so that they could make direct contacts with the European press. UKRep will follow up with individual departments the proposals for regular background briefings, for both the UK and Foreign press based in Brussels.

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 Heathcoat-Amory, Gloria Hooper, Robert Jackson, John Redwood, Peter Lloyd, Douglas Hogg, Gillian Shephard, Roger Freeman and Malcolm Caithness.

Yours sincerely,

Valerie Ewan

PP Nicola Brewer  
Private Secretary to  
Mr Francis Maude



10 DOWNING STREET

LONDON SW1A 2AA

*From the Private Secretary*

23 July 1990

*See Andy.*

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

The Prime Minister has seen your Secretary of State's minute of 26 June about the European Commission proposal for a Council Resolution on Improving the Prevention and Treatment of Acute Human Poisoning. She is content with the line which Mr Clarke intends to take, since a mixed decision does not involve any extension of competence.

I am copying this letter to the Private Secretaries of the recipients of Mr Clarke's minute.

*Yours sincerely,*

CHARLES POWELL

Andy McKeon Esq  
Department of Health

KW

KW





DEPARTMENT OF SOCIAL SECURITY  
 Richmond House, 79 Whitehall, London SW1A 2NS  
 Telephone 071- 210 3000

cc/pb  
 (2)

*From the Secretary of State for Social Security*

*Eric Martin*

Charles Powell Esq  
 Private Secretary  
 10 Downing Street  
 London SW1A 2AA

*COO*

*23/7.*

*23 July 1990*

*ms*

*Dear Charles*

**EC DIRECTIVES ON PART-TIME AND TEMPORARY WORK**

1. In your letter of <sup>1100 P36</sup> 24 June to Martyn Waring, you recorded the Prime Minister's views on the need to strengthen our arguments against these directives by showing the costs to individuals of bringing them within the National Insurance (NI) contribution system. We have done some preliminary work in this area and our conclusions are as follows.

Current System

2. The current system of National Insurance contributions is entirely earnings related. Part-time workers and others who earn less than £46 a week (the lower earnings limit (LEL)) pay no contributions; nor do their employers. The criterion of minimum working hours in Article 1.3 and the requirement in Article 2 that all employees should have identical rights under statutory social security schemes would require a complete restructuring of our NI contribution system so as to create a new relationship between liability and hours worked.

3. Two groups of employees and their employers would be affected as follows:

- \* Approximately 1.75 million people currently earning less than £46 a week but working more than 8 hours who would be required to pay contributions.
- \* Approximately 60,000 people currently earning more than £46 a week but working less than 8 hours a week who would be taken out of the contribution system.



Employers' Costs

4. For employers, the costs of employing part-time workers would increase significantly. At present, the first contribution band is 5 per cent which applies to earnings up to £80 per week. Applying this rate to earnings below the current LEL would produce contribution costs of £1 on earnings of £20 per week; £1.50 on earnings of £30 per week and £2.00 on earnings of £40.00 a week. The estimated cost to industry would be some £2.5 million per week or £130 million a year. There would also be additional administrative overheads to be taken into account.

Employees' Costs

5. For employees, the costs would depend on the rate of contributions levied. The present system, which includes a 2 per cent entry fee at the LEL and thus particularly low contributions for low earners, could not be preserved. One option would be a single rate of 8 per cent on any earnings below the upper earnings limit but this would be particularly onerous for people on low incomes. A more realistic option would be a starting rate of 5 per cent and a higher rate of 7<sup>1</sup>/<sub>2</sub> per cent. This too would mean considerable contribution costs for part-time workers and there would also be higher contributions for those earning just above the LEL.

Earnings per week	Employee NICs		Employer NICs	
	Now	New <sup>1</sup>	Now	New <sup>2</sup>
£20	NIL	£1.00	NIL	£1.00
£30	NIL	£1.50	NIL	£1.50
£40	NIL	£2.00	NIL	£2.00
£46 (LEL)	£0.92	£2.30	£2.30	£2.30
£50	£1.28	£2.50	£2.50	£2.50
£60	£2.18	£3.00	£3.00	£3.00
£70	£3.08	£3.50	£3.50	£3.50
£80	£3.98	£4.00	£4.00	£4.00
£90	£4.88	£6.75	£6.30	£6.30
£100	£5.78	£7.50	£7.00	£7.00

<sup>1</sup>Assumes that NICs are levied at 5 per cent on the first £80 of income and at 7<sup>1</sup>/<sub>2</sub> per cent thereafter.

<sup>2</sup>Assumes that the first band of employers' contributions remains at 5 per cent

6. To summarise, the total additional contribution costs for those currently below the LEL would be around £130 million a year for employees and a similar figure for employers. A cleaner working more than eight hours a week and earning, say, £35 would pay £1.75 per week. A director working six hours a week and earning, say, £10,000 a year would save about £14.10 a week.



E.R.

7. On the basis of what we currently know about the Commission's intentions, it is very difficult to predict the long-term implications for social security spending. The biggest uncertainty is what effect the directives might have on the labour market in terms of discouraging part-time work. If, as we predict, the directives forced employers to change their employment practices so as to decrease the number of part-time jobs available then the main impact would be to increase spending on non-contributory benefits to replace lost income. But, until the Commission have clarified their thinking on the social security aspects of the directives, any costings we might do would be entirely speculative. We will, however, return to this point as soon as it is practical to do so.

#### Conclusion

8. There are of course wider DSS implications. In our view, the directives would damage job prospects and reduce living standards. They would require us to redesign our social security system, with significant administrative costs. They conflict directly with the well established principle of community legislation that issues which are best dealt with at national level should be left to member states to decide. There would be increased costs for employers in terms of additional NI contributions and administrative overheads. The net earnings of part-time workers would fall producing hardship for low-income families, lone parents and the disabled. The net effect would be to discourage part-time working thus decreasing employment and increasing dependency on the state. They would result in a loss of skills to the labour market and would represent a particular attack on the prospects and rights of working women in a country which has more women in civilian employment than any other Member State. In a recent meeting with the Italian Minister for Social Security, Mrs Shephard made the point that part-time work was sometimes the only avenue available to women who wanted to combine the role of motherhood with an outside occupation. The Italian Minister appeared to accept that the potential effect on the family would make these directives unworkable as they stand. This is a further point which can and will be used to oppose the directives.

9. Copies of this letter go to recipients of yours.

Yours

Helen

HELEN DUDLEY  
Private Secretary



TIME MINISTER

Eric Austin

① MRM

I confirm that a mixed decision does NOT extend competence.

I attach a minute from the Health Secretary about a European Commission proposal for a resolution on improving the prevention and treatment of acute human poisoning.

23/7.

Mr. Clarke points out that to accept the proposal as it stands would mean the United Kingdom conceding competence on a health issue, which we have always resisted. However there is a good chance of getting it accepted as a Mixed Decision, which would not concede competence but would allow for the establishment of an Advisory Committee of national experts to assist the Commission in reviewing data collection and information on antidotes. The alternative to accepting a Mixed Decision would be to exercise our veto. Mr. Clarke adjudges that this would do considerable harm to our reputation and medical scientific standing.

The Attorney General agrees with the Health Secretary that we should go for a Mixed Decision, with some further consequential amendments to eliminate reference to a Community policy and programme of action. The Foreign and Commonwealth Office are also content.

Agree to the Health Secretary's proposal?

CAP

CHARLES POWELL  
21 JULY 1990

Can we make it clear that this is NOT an extension of competence but an ad hoc arrangement

c:\wpdocs\foreign\Resolution (MRM)

with no competence significance. Is that what a 'mixed' decision is? no



K/ 55 / Health to 1/7

26.6.90



ENR 101

Geny 1/46

10 DOWNING STREET

Charles

You were awaiting reactions from Fco and A.G. before acting on Health minute at flap. A.G.'s advice attached. Fco & gather are content with the Health line but have not bothered to go into print. Health phoned me this pm. Fusing for a No 10 reaction

DM

Charles  
at flap.

Duty Clerk / 1.20/7  
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reference: C

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FRAME ECONOMIC

PROPOSAL FOR A THIRD NON-LIFE INSURANCE DIRECTIVE

SUMMARY

1. THE COMMISSION TODAY APPROVED A PROPOSAL DESIGNED TO PROVIDE SINGLE HOME COUNTRY AUTHORISATION FOR GENERAL INSURERS VALID THROUGHOUT THE EEC. IT IS THUS THE EQUIVALENT IN THE GENERAL INSURANCE SECTOR, OF THE SECOND BANKING CO-ORDINATION DIRECTIVE AND THE PROPOSED INVESTMENT SERVICES DIRECTIVE, WITH THE SAME 'SINGLE PASSPORT' CONCEPT. A PROPOSAL ON LIFE ASSURANCE IS STILL EXPECTED BY THE END OF THE YEAR.

2. THE PROPOSED DIRECTIVE ALSO HARMONISES, ON A LIBERAL BASIS, CERTAIN MINIMUM PRUDENTIAL REQUIREMENTS TO ENSURE THE FINANCIAL STABILITY OF INSURANCE FIRMS OPERATING IN THE COMMUNITY. THESE REQUIREMENTS CONCERN IN PARTICULAR THE ADMISSIBILITY, VALUATION, DIVERSIFICATION AND LOCALISATION OF ASSETS REPRESENTING TECHNICAL RESERVES.

3. ON THE BASIS OF THIS MINIMUM HARMONISATION, THE DIRECTIVE ADOPTS THE PRINCIPLE OF THE MUTUAL RECOGNITION OF AUTHORISATION AND SUPERVISORY SYSTEMS, AND THENCE THE PRINCIPLE THAT THE PRUDENTIAL SUPERVISION OF AN INSURANCE FIRM, INCLUDING ITS BRANCHES ESTABLISHED IN OTHER MEMBER STATES, SHOULD FALL WITHIN THE EXCLUSIVE COMPETENCE OF THE FIRM'S HOME STATE AUTHORITIES WHICH AUTHORISED IT IN THE FIRST PLACE. THE PROPOSAL WILL STATE THAT THE DIRECTIVE SHOULD BE IMPLEMENTED BY 1 JANUARY 1993.

DETAIL

4. THE COMMISSION TODAY APPROVED A PROPOSAL FOR A THIRD NON-LIFE INSURANCE DIRECTIVE, THE SO-CALLED NON-LIFE FRAMEWORK DIRECTIVE. ALTHOUGH WE DO NOT HAVE A FINAL TEXT, WE ARE ASSURED THAT IT DIFFERS LITTLE FROM THE DRAFTS ALREADY IN THE HANDS OF THE DTI. THE MAIN CHANGE IS THE INSERTION OF A NEW ARTICLE (43 BIS) WHICH STATES THAT WHERE HEALTH INSURANCE DOUBLES FOR SOCIAL SECURITY, IT WILL BE



TREATED AS COMPULSORY INSURANCE, FALLING UNDER ARTICLE 8 OF THE SECOND NON-LIFE INSURANCE DIRECTIVE AND 27 OF THE CURRENT DIRECTIVE. ONLY FOR COMPULSORY INSURANCE WILL MEMBER STATES BE PERMITTED TO REQUIRE SYSTEMATIC PRE NOTIFICATION OF POLICY CONDITIONS SO THAT THEY MAY ASCERTAIN THAT THESE POLICIES FULFIL THE OBLIGATIONS IMPOSED BY LAW. THIS HAD BEEN DONE TO ASSUAGE GERMAN SENSITIVITIES. NEVERTHELESS, THE GERMANS ARE LIKELY TO REACT NEGATIVELY TO THE PHASING OUT OF CERTAIN INSURANCE MONOPOLIES (ARTICLE 3) AND THE END OF A DEROGATION WHICH ALLOWED THEM TO REQUIRE HEALTH INSURANCE TO BE UNDERWRITTEN BY SPECIALIST COMPANIES (ARTICLE 5).

5. THE PROPOSAL MARKS A BREAK WITH THE APPROACH TO GENERAL INSURANCE WHICH HAS BEEN ADOPTED UNTIL NOW, WHEREBY A RELATIVELY LIBERAL REGIME, UNDER HOME COUNTRY CONTROL WAS APPLIED TO WHOLESAL (LARGE RISK) BUSINESS. WHILE RETAIL (MASS RISK) BUSINESS REMAINED UNLIBERALISED UNDER HOST COUNTRY CONTROL. FROM THE ENTRY INTO FORCE BY THE DIRECTIVE, ALL GENERAL INSURANCE ACTIVITIES WILL BE SUBJECT TO A SINGLE SYSTEM OF AUTHORISATION AND SUPERVISION UNDER HOME COUNTRY CONTROL. THIS PROPOSAL AMENDS THE FIRST AND SECOND NON-LIFE DIRECTIVES IN CONSEQUENCE.

6. THE THINKING BEHIND THE DIRECTIVE IS IDENTICAL TO THAT BEHIND THE SECOND BANKING DIRECTIVE AND THE PROPOSED INVESTMENT SERVICES DIRECTIVE: THE HARMONISATION OF ESSENTIAL PRUDENTIAL RULES, THE MUTUAL RECOGNITION OF SUPERVISORY SYSTEMS, THE GRANT OF A SINGLE AUTHORISATION VALID THROUGHOUT THE COMMUNITY BY THE HOME COUNTRY AUTHORITIES, WITH FINANCIAL SUPERVISION EXERCISED EXCLUSIVELY BY THOSE SAME AUTHORITIES.

7. THROUGH THE SINGLE AUTHORISATION AND THE PASSPORT THE DIRECTIVE PROVIDES THE EQUIVALENT FREEDOM OF ESTABLISHMENT AND TO PROVIDE SERVICES FOR COMMUNITY GENERAL INSURERS AS THOSE FOR BANKS IN THE SECOND BANKING CO-ORDINATION DIRECTIVE, AND PROMISED TO INVESTMENT FIRMS BY THE INVESTMENT SERVICES DIRECTIVE. IT THUS DOES AWAY WITH THE CURRENT PROHIBITION OF QUOTE CUMUL UNQUOTE: THE SIMULTANEOUS PURSUIT OF BUSINESS BY WAY OF ESTABLISHMENT AND BY WAY OF FREEDOM OF SERVICES (ARTICLE 33). AN INSURER WILL BE ABLE TO BRANCH OR PROVIDE CROSS-BORDER SERVICES THROUGHOUT THE COMMUNITY IN THOSE CLASSES OF INSURANCE FOR WHICH IT HAS BEEN AUTHORISED BY ITS HOME STATE. THESE CLASSES REMAIN AS LISTED IN THE ANNEX TO THE FIRST INSURANCE DIRECTIVE.

8. APART FROM THE SINGLE AUTHORISATION (ARTICLE 4) AND THE PASSPORT (ARTICLE 5), THERE ARE A NUMBER OF PROVISIONS SIMILAR TO



THOSE IN THE SECOND BANKING DIRECTIVE AND THE INVESTMENT SERVICES DIRECTIVE EG THE FITNESS AND PROPERNESS OF MANAGEMENT (INCLUDED WITH THE MINIMUM AUTHORISATION REQUIREMENTS IN ARTICLE 6), AND OF MAJOR SHAREHOLDERS (ARTICLE 7) THE REQUIREMENT TO ENSURE SOLVENCY ON A CONTINUING BASIS AND TO ENSURE THAT SOUND INTERNAL CONTROLS ARE MAINTAINED (ARTICLE 8). OTHER SIMILAR FEATURES INCLUDE THE ABILITY OF THE HOME STATE SUPERVISORS TO CONDUCT ON THE SPOT EXAMINATIONS IN A HOST STATE (ARTICLE 9), SANCTIONS AND THE RIGHT TO APPEAL TO THE COURTS (ARTICLE 10) AND THE WITHDRAWAL OF AUTHORISATION (ARTICLE 12 AND 13). THE NOTIFICATION PROCEDURES FOR COMPANIES BRANCHING OR PROVIDING CROSS BORDER SERVICES FOR THE FIRST TIME (ARTICLE 28-29 AND 30-32 RESPECTIVELY) WHICH ALSO SET OUT THE FORMS OF COOPERATION BETWEEN SUPERVISORS, LIKEWISE PARALLEL THE BANKING DIRECTIVE. THE RIGHTS OF HOST STATES TO TAKE ACTION AGAINST COMPANIES WHICH INFRINGE NATIONAL LAWS AND WHERE MEASURE TAKEN BY THE HOME STATE SUPERVISORS ARE SET OUT IN ARTICLE 35 ARE INSUFFICIENT. HOST STATES MAY ALSO REQUIRE CERTAIN STATISTICAL INFORMATION FROM HOME STATE AUTHORITIES (ARTICLE 39) AND THAT COMPANIES PROVIDING CROSS BORDER SERVICES PARTICIPATE, ON A NON DISCRIMINATORY BASIS, IN CLAIMS SETTLEMENT AND OTHER GUARANTEE SCHEMES.

9. ARTICLES 15-23 ESTABLISH HOME COUNTRY CONTROL OF TECHNICAL PROVISIONS. WHILE TECHNICAL PROVISIONS WILL BE DEFINED AND CALCULATED ON A BASIS TO BE AGREED IN THE INSURANCE ACCOUNT DIRECTIVE, HOME COUNTRIES WILL BE FREE TO SET THEIR OWN RULES GOVERNING TECHNICAL PROVISIONS SUBJECT TO A GENERAL PRINCIPLE OF PRUDENCE (ARTICLE 17), AND TO CERTAIN MINIMUM STANDARDS ON THE ADMISSIBILITY OF INVESTMENTS WHICH REPRESENT TECHNICAL PROVISIONS (ARTICLE 18), ON THEIR DIVERSIFICATION (ARTICLE 19), VALUATION (ARTICLE 20), AND SUBJECT TO A CAP OF 20 PERCENT ON THE FOREIGN CURRENCY MISMATCH WITH THE ABILITY TO MATCH 100 PERCENT IN ECU (ARTICLE 21). ARTICLE 15 ALSO ABOLISHES THE REQUIREMENT THAT TECHNICAL RESERVES BE LOCALISED IN THE COUNTRY WHERE BUSINESS IS CARRIED OUT, CONSISTENT WITH THE FREEDOM OF CAPITAL MOVEMENTS IN THE COMMUNITY. HENCEFORTH COMPANIES MAY LOCALISE TECHNICAL PROVISIONS ANYWHERE IN THE COMMUNITY. MEMBER STATES WILL NO LONGER BE ABLE TO REQUIRE INVESTMENT IN PARTICULAR TYPES OF ASSET.

10. THE CALCULATION OF THE SOLVENCY RATIO IS UPDATED BY THE INCLUSION OF SUBORDINATED LOAN STOCK AMONG ALLOWABLE CAPITAL INSTRUMENTS. TO BE ELIGIBLE, THE STOCK MUST SATISFY THE SAME CONDITIONS AS LAID OUT IN THE OWN FUNDS DIRECTIVE FOR CREDIT INSTITUTIONS (ARTICLE 22).



11. IN THE INTERESTS OF CONSUMER PROTECTION, THE PRIME TEST DETERMINING THE CHOICE OF LAW APPLICABLE TO THE CONTRACT IS THE HABITUAL RESIDENCE OF THE POLICY-HOLDER. HOWEVER, GREATER FREEDOM IN CHOICE OF LAW IS ALLOWED THE MORE SOPHISTICATED (ARTICLE 24). OTHERWISE, ONLY THOSE CONSUMER PROTECTION MEASURES IN THE GENERAL GOOD MAY BE APPLIED (ARTICLE 25). MEMBER STATES MAY NOT REQUIRE THE SYSTEMATIC PRE NOTIFICATION AND APPROVAL OF POLICIES (EXCEPT ON COMPULSORY INSURANCE, ARTICLE 27), PREMIUM SCALES AND PRINTED DOCUMENTS SENT TO POLICY HOLDER (ARTICLES 6 + 26). IN THE EVENT OF THE WINDING-UP OF AN INSURANCE COMPANY, ALL POLICY HOLDERS RANK EQUALLY IRRESPECTIVE OF NATIONALITY, OR WHETHER THE POLICY WAS WRITTEN ON AN ESTABLISHMENT OR SERVICES BASIS (ARTICLE 37).

12. THERE ARE NO COMITOLGY PROVISIONS ATTACHED TO THIS PROPOSAL. THE PROPOSED ESTABLISHMENT OF AN INSURANCE COMMITTEE TO FULFIL THIS ROLE OVER THE WHOLE FIELD OF NON-LIFE AND LIFE INSURANCE IS COVERD BY A SECOND DIRECTIVE WHICH THE COMMISSION HAS ALSO APPROVED TODAY (SEE MY IFT).

13. AS FAR AS TIMING IS CONCERNED, COMMON POSITION IS ENVISAGED BY JUNE 1991, WITH FORMAL ADOPTION IN DECEMBER 1991. GIVEN THE DIFFICULTIES THAT THIS PROPOSAL MAY CAUSE SOME MEMBER STATES, THIS MAY BE SOMEWHAT OPTIMISTIC. THE DIRECTIVE WILL STATE THAT IT SHOULD ENTER INTO FORCE ON 1 JANUARY 1993. WE HAVE BEEN ASSURED THAT THE COMMISSION RECOGNISES THAT THIS IS NOT A REALISTIC EXPECTATION, BUT IS A COSMETIC DEVICE TO MAINTAIN THE INTEGRITY OF THE SINGLE MARKET PROGRAMME.

HANNAY

YYYY

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PRIME MINISTER

Cabinet: Community Affairs

1. Mr Howard may report on the informal meeting of Labour and Social Affairs Ministers on 12 July. Main points were:

- Presidency statement about their priorities, concentrating on Social Action Programme proposals already published, but also mentioning protection of workers against asbestos (which we can generally support).

*33 documents under S. A. P. is now Spanish work*

Mr Howard had support from several other member states in criticising the use of Article 100a as legal base of one of the part time/temporary work directives; nevertheless most member states were prepared for the Council to set the legal issues to one side until the substance of the directives has been discussed.

2. Mr Wakeham may report on the informal meeting of Energy Ministers which Mr Baldry attended on 16 July. Main points were:

- The Presidency put forward an ambitious paper on a common energy policy, which emphasised new initiatives on energy and the environment at the expense of liberalisation of the internal energy market. This drew a sceptical response from the UK, France, Germany and other member states, who pointed out in particular the need to avoid duplication of work in other fora (in contrast to the Lubbers ideas circulated at Dublin, which were generally welcomed).



- Despite this sceptical reception, the Presidency's subsequent press conference gave the impression that their paper had largely been accepted. Mr Wakeham will write warning colleagues to expect this type of tactic and suggesting that officials should consider how to handle it in future.
- The Commission proposed that the IGC on institutional reform should also revise the ECSC and EURATOM Treaties.

3. The Foreign Secretary will wish to report on the Foreign Affairs Council which he attended on 16-17 July. Main points were:

- Widespread support for proposal that Commission should assess overall financial consequences of EC assistance to Eastern Europe; however an updated enabling regulation was blocked by a Greek reserve over treatment of Yugoslavia. At the UK's suggestion, signature of the Trade and Cooperation agreement with Romania was postponed pending further discussion at the September FAC. Council discussion of the Commission's initial study of assistance for the USSR is expected in October, as a contribution to the wider IMF-led exercise.
- Procedures for preparing the IGCs on EMU and political union were outlined by the Presidency. Delors called for a study of the UK's recent EMU proposals.
- Presidency-inspired discussion of the Social Action Programme was remitted to the Social Affairs Council.

- The Presidency introduced its proposal for a Mediterranean Bank (on the EBRD model). The Commission expressed caution, and the proposal was remitted (without endorsement) for study by officials.
- A satisfactory discussion of GATT, with agreement that the de Zeeuw text is acceptable as a basis for continuing negotiations, and that the Commission can float its ideas on dispute settlement in Geneva next week.

T.R.B.

ROBIN BUTLER

18 July 1990



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TO IMMEDIATE FCO

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FRAME GENERAL

PART 1 OF 2

EUROPEAN PARLIAMENT PLENARY, STRASBOURG, 12 JULY 1990:

ITALIAN PRESIDENCY PROGRAMME

## SUMMARY

1. AN AMBITIOUS PRESENTATION BY DE MICHELIS OF PRESIDENCY PRIORITIES AND ALSO IDEAS FOR INSTITUTIONAL REFORM. A MAJOR EFFORT PLANNED TO PREPARE THE TWO IGCS. ENCOURAGEMENT TO THE COMMISSION TO PUT FORWARD SOCIAL MEASURES ON LEGAL BASES ALLOWING FOR QM. ENVIRONMENTAL INITIATIVES FOR THE MEDITERRANEAN AND THE ALPS AND PRESSURE FOR MORE AID FOR AND CONTACT WITH NORTH AFRICA AND LATIN AMERICA. THE PRESIDENCY WOULD AIM FOR UNIFIED COMMUNITY POSITIONS IN INTERNATIONAL FORA, ESPECIALLY CSCE. DELORS ADDRESSED INSTITUTIONAL QUESTIONS, WARNING THE PARLIAMENT NOT TO BE OVER AMBITIOUS. THE RIGHTS OF THE MEMBER STATES HAD TO BE RESPECTED. GISCARD D'ESTAING (FRANCE, LIBERAL) THOUGHT THE HARD ECU PROPOSAL A USEFUL CONTRIBUTION TO THE EMU DEBATE. PATTERSON (UK, EDG) PROMOTED IT AND GREATER EMPHASIS ON IMPLEMENTATION.

## DETAIL

## SPEECH BY DE MICHELIS

2. INTRODUCING THE ITALIAN PRESIDENCY PROGRAMME TO THE EUROPEAN PARLIAMENT, DE MICHELIS REFERRED TO THE NEW PERSPECTIVES OPENED UP BY DEMOCRATISATION IN EASTERN EUROPE. THE CONSOLIDATION OF EC INTEGRATION HAD NEVER BEEN MORE IMPORTANT AND HE WARNED AGAINST EXCESSIVE PRUDENCE. IT WAS HARDLY POSSIBLE TO BE TOO AMBITIOUS. ALTHOUGH NOT EVERYTHING COULD BE ACHIEVED IN THE NEXT FEW MONTHS, IT SHOULD NONETHELESS BE POSSIBLE TO CONSTRUCT THE LAUNCHING PAD FOR A



QUALITATIVE LEAP FORWARD TOWARDS POLITICAL UNION. THE FIRST PRIORITY WAS TO CONSOLIDATE THE COMMUNITY'S OWN INTEGRATION, NOTABLY THROUGH THE PREPARATION OF TWO IGCS WHICH SHOULD LEAD BY THE END OF 1992 TO A QUITE NEW ORDER.

3. ON THE SINGLE MARKET THE PRIME OBSTACLE WAS THE NATIONALISM OF THE MEMBER STATES IN TAXATION MATTERS. THE IMPETUS OF COMMUNITY ACTIVITY WAS LIMITED BY UNANIMITY VOTING. THE COMMUNITY COULD NOT REMAIN CONSTRAINED BY THE EGOTISM OF THE INDIVIDUAL MEMBER STATES. THE MEDIUM AND LONG TERM OBJECTIVE WAS FISCAL HARMONISATION. IN THE SHORT TERM THERE SHOULD BE TEMPORARY SOLUTIONS TO ALLOW THE ELIMINATION OF FRONTIERS WITHOUT RISKING SERIOUS PROBLEMS FOR TAXATION, FRAUD, OR DISTORTIONS OF MOVEMENTS OF CAPITAL OR GOODS.

4. PRIORITY SECTORS INCLUDED SOCIAL AFFAIRS, IMMIGRATION, TRANSPORT, TELECOMMUNICATIONS, FINANCIAL SERVICES AND PUBLIC PURCHASING. THE MAIN OBSTACLE TO SOCIAL POLICY WAS THE DECISION-MAKING MECHANISM IN THE COUNCIL. THE PRESIDENCY WOULD ENCOURAGE THE COMMISSION TO PUT FORWARD ITS SOCIAL ACTION PROGRAMME ON LEGAL BASES PROVIDING FOR QUALIFIED MAJORITY VOTING. IT WAS INDISPENSABLE TO SEEK AGREEMENT BY THE END OF 1990 ON THE FIRST PART OF THE ACTION PROGRAMME, IE DIRECTIVES ON ATYPICAL WORK, WORKING HOURS AND WORKER PARTICIPATION IN EUROPEAN COMPANIES. THE GENERAL AFFAIRS COUNCIL SHOULD ALSO DEFINE WAYS IN WHICH FLOWS OF IMMIGRANTS COULD BE HANDLED. THE SINGLE MARKET REQUIRED A EUROPEAN TRANSPORT SYSTEM BASED ON A DOUBLE STRATEGY OF GOODS TRANSPORT BY ROAD ON PREFERENTIAL CORRIDORS AND ON NEW RAIL LINKS.

5. IN THE HEALTH SECTOR PARTICULAR PRIORITIES WERE VETERINARY, PHYTO-SANITARY AND PHARMACEUTICAL MEASURES, ON WHICH HE APPEALED TO THE EP TO PROVIDE RAPID OPINIONS. ON THE ENVIRONMENT THE PRESIDENCY WOULD STRIVE TO SET UP THE EUROPEAN ENVIRONMENT AGENCY AND WOULD ALSO PROMOTE NEW INITIATIVES FOR THE DEFENCE OF THE MEDITERRANEAN AND THE ALPS FROM THE ENVIRONMENTAL THREATS.

6. IMPLEMENTATION OF THE FIRST STAGE OF EMU WAS CONVINCING THE DOUBTERS AND SHOWING THE WAY TOWARDS POOLING SOVEREIGNTY. WORK ON PREPARING THE EMU IGC WAS ALMOST COMPLETE AND THERE WAS A LARGE CONSENSUS FOR THE DELORS REPORT OBJECTIVES. THE REMAINING CHOICES WERE POLITICAL AND CONCERNED A SINGLE CURRENCY, THE EXTENT OF COMMUNITY CONTROL ON NATIONAL BUDGETARY POLICIES, THE LINK BETWEEN ECONOMIC AND SOCIAL COHESION AND MONETARY POLICY, THE ROLE OF THE ECU, THE SCOPE OF STAGE II AND THE NEW INSTITUTIONAL BALANCES. THE PRESIDENCY WOULD WORK TO ENSURE THAT WHEN THE EMU IGC OPENED ON 13



DECEMBER THERE WAS ALREADY A BASIC TEXT AVAILABLE TO FACILITATE NEGOTIATION. GREATER UNITY ON ECONOMIC MATTERS WOULD ENABLE THE COMMUNITY TO PROMOTE CONSTRUCTIVE INTERNATIONAL INITIATIVES SUCH AS A PAYMENTS UNION OR A STABILISATION FUND FOR EASTERN EUROPE INCLUDING THE SOVIET UNION.

7. THE POLITICAL UNION IGC SHOULD ALLOW A QUALITATIVE LEAP FORWARD BEYOND THE HORIZONS OF NATIONAL SOVEREIGNTY. IT SHOULD START WORK ON 14 DECEMBER ON THE BASIS OF A REPORT LIKE THE ONE PRECEDING NEGOTIATION OF THE SINGLE ACT. HE WOULD PROPOSE AT THE JULY FAC THAT PERSONAL REPRESENTATIVES OF FOREIGN MINISTERS IMMEDIATELY START WORK ON A TEXT GOING BEYOND THE QUESTIONS POSED IN THE DOCUMENT APPROVED AT DUBLIN. WHILE PLAYING THE ROLE OF MEDIATOR BETWEEN THE DIFFERENT TENDENCIES IN THE COMMUNITY, THE PRESIDENCY WOULD DEVOTE ALL ITS EFFORTS TO ENSURING THE MAXIMUM TRANSFER OF SOVEREIGNTY TO COMMUNITY INSTITUTIONS.

8. FOUR KEY ELEMENTS THE PRESIDENCY WOULD ADDRESS WERE:

- BRINGING POLITICAL CO-OPERATION WITHIN THE COMMUNITY FRAMEWORK, WHICH WOULD INVOLVE CHANGES TO THE DECISION-MAKING PROCESS, IMPLEMENTATION AND COMPETENCE, WHICH WOULD HAVE TO BE EXTENDED TO SECURITY QUESTIONS:
- EXTENDING THE TREATIES TO COVER MORE EFFECTIVELY THE SOCIAL DIMENSION, IMMIGRATION, ENVIRONMENT AND REINFORCING HUMAN RIGHTS, FUNDAMENTAL TO THE CONSTRUCTION OF A REAL CITIZENS EUROPE, WHILE NOT NEGLECTING HEALTH, CULTURE, EDUCATION, CIVIL PROTECTION, DRUGS, TERRORISM AND ORGANISED CRIME. QM VOTING ON SOCIAL QUESTIONS WAS AN ESSENTIAL PRE-REQUISITE OF THE SOCIAL EUROPE WITHOUT WHICH IT WOULD BE IMPOSSIBLE TO CREATE A SINGLE MARKET:
- ENSURING DEMOCRATIC DEVELOPMENT BY GIVING THE EP CO-DECISION, THE RIGHT TO RATIFY EXTERNAL AGREEMENTS AND TREATY CHANGES AND CONTROL OVER THE NOMINATION AND ACTIVITIES OF THE COMMISSION, WHILE ENVISAGING ALSO A GREATER ROLE FOR NATIONAL PARLIAMENTS. THE EUROPEAN COUNCIL'S ROLE SHOULD BE DEFINED MORE PRECISELY AND CARE WOULD BE TAKEN TO RESPECT THE RIGHTS OF THE MEMBER STATES, WHICH SHOULD IN TURN RESPECT THE RIGHTS OF THE REGIONS:
- REINFORCING THE EFFICIENCY OF THE COMMUNITY NOTABLY BY INTRODUCING QM VOTING, REINFORCING THE EXECUTIVE POWERS OF THE COMMISSION, COURT OF JUSTICE AND COURT OF AUDITORS AND EXAMINING REVISIONS OF THE BUDGET PROCEDURES AND OWN RESOURCES.



TO ASSURE ADEQUATE EP INPUT, THE PRESIDENCY WOULD ORGANISE TWO INTER-INSTITUTIONAL MEETINGS IN SEPTEMBER AND OCTOBER, ONE FOR EACH IGC. THE ITALIAN PARLIAMENT WOULD ALSO BE HOSTING THE ''ASSIZES'' OF THE EP AND NATIONAL PARLIAMENTS.

9. DE MICHELIS EMPHASISED THE COMMUNITY'S ROLE IN FACILITATING THE SMOOTH INTEGRATION OF A UNIFIED GERMANY. THE PRESIDENCY WOULD WORK CLOSELY WITH THE COMMISSION AND THE TWO GERMAN STATES. HE FAVOURED AN INTER-INSTITUTIONAL AGREEMENT ON THE MODALITIES OF RAPID APPROVAL OF THE TRANSITIONAL MEASURES PACKAGE. HE ALSO INTENDED AT THE RIGHT MOMENT TO ASSOCIATE THE GDR FOREIGN MINISTER WITH THE FAC.

10. ON EXTERNAL ISSUES HE ENVISAGED AN INNOVATORY AGREEMENT WITH EFTA, GUARANTEEING THE EFFECTIVE PARTICIPATION OF EFTA GOVERNMENTS IN THE MANAGEMENT OF A EUROPEAN ECONOMIC AREA, WHILE RESPECTING THE AUTONOMY OF COMMUNITY DECISION-MAKING. EASTERN EUROPE WOULD NEED HELP BOTH THROUGH THE EBRD AND PRIVATE INVESTMENT. AN IMPORTANT ELEMENT OF THE AGREEMENTS TO BE NEGOTIATED BY THE COMMISSION WAS A POLITICAL DIALOGUE. BY 1991 THE PRESIDENCY HOPED THESE AGREEMENTS WOULD BE IN PLACE. IT WAS IMPORTANT TO ENSURE THAT THE SOVIET UNION FELT FULLY ASSOCIATED WITH THE NEW EUROPEAN ARCHITECTURE AND THE COMMUNITY SHOULD NOT FAIL TO SUPPORT THE SOVIET UNION'S TRANSITION TO A FREE MARKET SYSTEM, EVEN IF IT WAS NECESSARY TO DISCUSS CAREFULLY HOW TO DO SO. THE COMMISSION WOULD BE PRESENTING A REPORT TO THE OCTOBER FAC FOR CONSIDERATION BY THE EUROPEAN COUNCIL. RELATIONS WITH THE US AND CANADA WERE OF FUNDAMENTAL IMPORTANCE AND WOULD BE STRENGTHENED BY A TRANS-ATLANTIC DECLARATION. ANDREOTTI WOULD BE IN WASHINGTON BEFORE THE CSCE SUMMIT TO CONCERT A UNITED WESTERN POSITION FOR THAT MOST SIGNIFICANT INTERNATIONAL POLITICAL EVENT OF THE YEAR.

11. PROSPECTS FOR A SATISFACTORY CONCLUSION OF THE URUGUAY ROUND HAD IMPROVED AND THE HOUSTON SUMMIT WAS AN IMPORTANT STEP TOWARDS A BALANCED PACKAGE. IT WAS NECESSARY TO REAFFIRM THE MULTI-LATERAL APPROACH AND SUPPRESS UNILATERAL ACTION. AT ALL MAJOR INTERNATIONAL MEETINGS THE PRESIDENCY WOULD AIM TO SPEAK WITH ONE VOICE IN THE NAME OF THE COMMUNITY. IT WAS NO GOOD WAITING FOR INSTITUTIONAL REFORM BEFORE DOING SO. THIS APPLIED IN PARTIUCLAR TO THE CSCE SUMMIT WHICH WOULD GIVE BIRTH TO THE FUTURE PAN-EUROPEAN INSTITUTIONS. IT WAS VITAL TO AGREE A SOLID COMMUNITY POSITION. THE NEW SECURITY STRUCTURES WOULD HAVE THE CSCE AS A FRAMEWORK, BUT SHOULD ALSO INVOLVE EXISTING WESTERN INSTITUTIONS, SUCH AS A NATO, THE EC AND THE COUNCIL OF EUROPE.



12. DE MICHELIS ARGUED FOR AN EXTENSION OF EC DEVELOPMENT AID, NOTABLY FOR THE MEDITERRANEAN AND LATIN AMERICA. HE SOUGHT SOLUTIONS TO THE ARAB/ISRAEL DISPUTE AND THE INTOLERABLE SITUATION IN THE OCCUPIED TERRITORIES. THE PRESIDENCY WOULD MEET BOTH THE ISRAELI FOREIGN MINISTER AND THE ARAB LEAGUE. FOR THE MEDITERRANEAN, THE PRESIDENCY SOUGHT THE COMPLETION OF EXISTING BILATERAL AGREEMENTS BY ACCORDS WITH REGIONAL ORGANISATIONS NOTABLY THE ARAB-CO-OPERATION COUNCIL AND THE MAGHREB. THE COMMUNITY SHOULD SHOW CONCRETE SOLIDARITY WITH LATIN AMERICA AND ACHIEVE HERE ALSO A QUALITATIVE LEAP FORWARD INSTITUTIONALLY. POLICY TOWARDS SOUTH AFRICA SHOULD CONTRIBUTE TO RENDERING IRREVERSIBLE THE PROCESS OF CHANGE. THERE SHOULD BE REINFORCED CO-OPERATION AND DIALOGUE WITH JAPAN AND A PRUDENT RESUMPTION OF THE DIALOGUE WITH CHINA. FOREIGN MINISTERS OF THE TROIKA SHOULD MEET THE CHINESE FOREIGN MINISTER IN NEW YORK AT THE END OF SEPTEMBER.

HANNAY

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MR HEALY ECD(I)ADDITIONAL 2

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ROYAL COURTS OF JUSTICE  
LONDON, WC2A 2LL

The Rt. Hon. Kenneth Clarke, QC, MP,  
Secretary of State for Health,  
Richmond House,  
79 Whitehall,  
London,  
SW1.

July 1990

*Frank:*

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

Thank you for copying to me your minute of 26 June to the Prime Minister.

I have seen a copy of the draft Resolution to which you refer, and I agree that as it stands it would indeed concede competence on a health issue. To change the Resolution to a mixed instrument would improve the position; the opportunity should also be taken to make consequential amendments to the recitals so as to avoid the present references to a Community policy and programme of action.

I am copying this letter to those to whom your minute was sent.

*John G. ...*  
*As told*



euro pol Budget pr 47



Ref. A090/1662

PRIME MINISTER  

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Cabinet: Community Affairs

There have been no EC Council meetings in the last week.

2. Government lawyers were informed today that the House of Lords had concluded in principle that interim relief should be granted in the Factortame (Spanish quota-hopping) case. This relief would apply only to those original applicants who were excluded from the UK shipping register on the grounds that their directors or shareholders were not resident or domiciled in the UK. Other grounds of exclusion (eg the requirement that management, direction and control should be from within the UK) will not be affected by the ruling. The House of Lords has invited the parties to settle the details of a formal order. It will not be possible to judge any wider implications of the result until the Court's full reasoning is published, probably in October.

3. Forthcoming meetings are:

- Informal Social Affairs Council, 11/12 July
- Informal Transport Council, 12/13 July
- Informal Energy Council, 16 July
- Foreign Affairs Council, 16/17 July
- Internal Market Council, 17 July

R.R.B.

ROBIN BUTLER

11 July 1990





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

From the Minister

PRIME MINISTER

SEP 10  
②  
D. A. Minister

CPM  
12/7.

ms

#### ACTION BY FRENCH FARMERS AGAINST UK EXPORTS

I thought that I ought to expand slightly on what I said at Cabinet last week about the difficulties which some British traders have experienced in France in recent weeks. There are signs that French producers may be returning to their old practice of interfering with agricultural consignments, particularly of lamb and beef.

The incident I mentioned took place at Cherbourg on 2/3 July. French producers prevented two British lorries from leaving the port, threatening to interfere with the cargos unless the lorries returned to the UK. In another incident, beef and lamb carcasses, thought to have originated in the UK and Ireland, were hung from the railings of the prefecture in Angers.

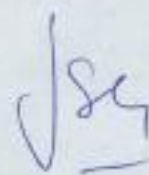
The motive behind these incidents is not altogether clear. It is unlikely to have been anti-British feeling as such or to be primarily related to BSE. There have been several incidents elsewhere in France, directed at imports from other countries. It is more likely that these form part of a campaign by French producers to put pressure on their government to respond to the present very weak markets, in particular for sheepmeat. But it is clear that increased levels of British lamb exports are perceived as one of the key factors behind the weakness of the market.

The specific incidents have now been resolved. The blockade at Cherbourg, for example, was lifted on 3 July, (although there are hints that difficulties may resurface). This was not achieved without considerable activity on our part. I am particularly grateful for the fine efforts of our Embassy in Paris, who took the matter up with the French at several different levels. We are now pursuing the question of compensation, seeking firm confirmation of an undertaking obtained from Nallet, the Minister of Agriculture, that the French authorities would ensure that claims for compensation will be met.

The developments are unfortunate and we shall clearly need to continue to be vigilant. They demonstrate once again the inability (or unwillingness) of the French authorities to prevent their producers taking blatantly illegal action. On this occasion, our traders were advised by French officials to return to England, implying that their safety could not be guaranteed. I am once again struck by the clear parallel between the illegal actions of the French producers and the willingness of the French government to disregard European Community law whenever it suits it to do so.

I shall keep you informed of any further significant developments.

I am copying this minute to Douglas Hurd, Nicholas Ridley, Malcolm Rifkind, Peter Brooke, David Hunt and to Sir Robin Butler.



JG

9 July 1990

Ministry of Agriculture, Fisheries and Food





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SECRETARY OF STATE FOR EMPLOYMENT

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EC Directives on Part-time and Temporary Work

1. Thank you for your letter of 24 June on the Commission's proposals for directives on 'atypical' work.

2. I agree with your approach. We need a vigorous campaign to secure support for our opposition to unnecessary regulation in this area. I understand that officials have prepared material with some good facts and figures (as requested in Charles Powell's letter of 24 June) to illustrate the costs to business, jobs and individuals. This will be used with M. Delors, following his recent request to me to spell out our difficulties with these proposals, and in our bilateral contacts. you are seeing the German Minister on 25 July; and Francis Maude and I will continue to talk to our opposite numbers. In addition, we should aim to mobilise private sector opinion in other countries, both employers and employees, to lobby their own Governments and the Commission.

3. Meanwhile, I had a first go at the Italian Foreign Minister when he was in London for the NATO Summit. I tried to do two things. I said that the Foreign Affairs Council should leave your Social Affairs

/Council

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Euro Pol: Budget P. 47



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Council to discuss these issues without interference. I fear, however, that Mr de Michelis will insist that Foreign Ministers include it on our agenda, and I shall look for allies in seeking to minimise foreign ministers' involvement in the subject. (I would also oppose QM voting on proposals which should be taken under unanimity). Second, and more important, I urged de Michelis to let the easier social issues come forward first so that the Italian Presidency can point to successes (on what are for us uncontentious proposals).

4. I am copying this minute to Cabinet colleagues, the Attorney General, the Chief Whip and to Sir Robin Butler.

DH.

(DOUGLAS HURD)

Foreign and Commonwealth Office

7 July 1990



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~~Press office~~

~~PRIVATE OFFICE~~

Daily Mail and General Trust PLC

Northcliffe House, 2 Derry Street, Kensington, W8 5TT  
Telephone: 071-938 6000

MS

CF?

3rd July 1990

pb

The Rt Hon Margaret Thatcher MP  
Prime Minister  
10 Downing Street  
London SW1A 2AA

From Vice Minister P46  
at flat

Thank you for your letter of the 29th of June, the contents of which are most helpful and interesting. I welcome the opportunity to discuss these concerns in more detail and agree that it would be most helpful if Nicholas Ridley were to join us for this discussion.

Naturally, I am consulting my expert confidential advisors, so that I may be able to present you with a concise account of the problem from our point of view.

I am most appreciative of the time and trouble given to this matter of such concern to ourselves and many others in this country.

*John G. Lind*  
*Rothermere*

The Rt Hon The Viscount Rothermere

Euro Pa: Budget 147

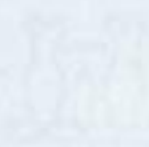
British Motor and General Trust PLC

BRITISH MOTOR AND GENERAL TRUST PLC  
100, Abchurch Lane, London EC4N 3DF  
Tel: 0753 634444

Opinion

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10 DOWNING STREET  
LONDON SW1A 2AA

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HMT*

THE PRIME MINISTER

3 July 1990

*Dear Monsieur Delors*

Thank you for your letter of 7 June drawing attention to the significance of the ruling by the Court of Justice in a Commission Case against Greece over fraud in the Community budget.

The UK attaches great importance to stamping out fraud and waste involving Community funds. This requires political will and determination by member states and the Commission.

I welcome the emphasis in your letter on the need for member states to prosecute EC fraud as vigorously as domestic fraud, and to provide for tough penalties. In the UK our arrangements do so. Nonetheless we are reviewing them to see whether any further improvements are possible.

Fraud against the EC Budget is punishable in the UK under the same legislation as domestic fraud, and can attract the same severe penalties. For example, the Act which covers Customs matters - including own resources and external aspects of the CAP, which have tended to be particularly prone to fraud - provides for imprisonment of up to seven years, or an unlimited fine, or both. The general criminal law also applies and the extensive powers of the Serious Fraud Office are available. Experts from the Commission recently discussed all this in detail with our officials.

*R*

I have been encouraged by the increased effort by the Commission to tackling fraud over the last year or so. The 45-point action programme and the creation of the anti-fraud unit were particularly helpful initiatives. The effort should be maintained. Given the Community's crowded agenda, there is always a risk that fraud will be overshadowed by other issues. I would urge you to ensure that the momentum of the fight against fraud is not allowed to flag. There is a case for looking at this question - in the wider context of the Community's financial accountability - during the forthcoming debate on the effectiveness of the Institutions.

Yours sincerely  
Margaret Thatcher

Monsieur Jacques Delors.



Ref. A090/1569

PRIME MINISTER

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Cabinet: Community Affairs

Mr Ridley may mention two not very eventful Council meetings:

- a. the 28 June Telecommunications Council, which
  - adopted a directive on open network provision;
  - reached political agreement on a useful liberalising measure on mutual recognition of telecommunications terminal equipment (France and Belgium were outvoted);
  - briefly discussed postal services, with predictable division of views between northern liberals and southern member states.
- b. the Research Council on 29 June which
  - agreed three research programmes: EUROTRA (translation), EURET (transport) and human genome analysis;
  - discussed Commission papers on research cooperation with third countries and Eastern Europe: Mr Hogg and several others sought clarification of the financial implications and urged priority treatment for EFTA.

2. On 28 June the European Court granted a temporary injunction preventing the FRG from introducing their discriminatory lorry-tax from 1 July. The injunction will be reviewed at a fuller hearing on 6 July; a final ECJ judgment on the tax is expected in 2-3 months.

3. The next Council meeting is on 16/17 July (Foreign Affairs).

R.B.

ROBIN BUTLER

3 July 1990





Foreign and Commonwealth Office

London SW1A 2AH

2 July 1990

*Case*  
*JPM*  
Jean Claude,

Community Fraud: Letter from M. Delors

*at hand*  
Our letter of 13 June enclosed one 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. I promised a draft reply. This is now enclosed. It has been cleared by the Treasury, Cabinet Office and Treasury Solicitors.

The draft refers to discussion between commission and UK officials on fraud. The Director in DG XX responsible for monitoring fraud met UK Customs officials on 25 June, and MAFF officials on 26 June, to look at our anti-fraud systems. Nothing arising from these discussions affects the draft reply.

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

*Yours ever*

*Richard Gozney*

(R H T Gozney)  
Private Secretary

C D Powell Esq  
10 Downing Street

Draft Reply from the Prime Minister

PO ref.  
OK

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always a risk that fraud will be overshadowed by other issues. I would urge you to ensure that the momentum of the fight against fraud is not allowed to flag. There is a case for looking at this question - in the wider context of the Community's financial accountability - during the forthcoming debate on the effectiveness of the Institutions.

M. Jacques Delors  
The President  
Commission of the European Communities

*efar*

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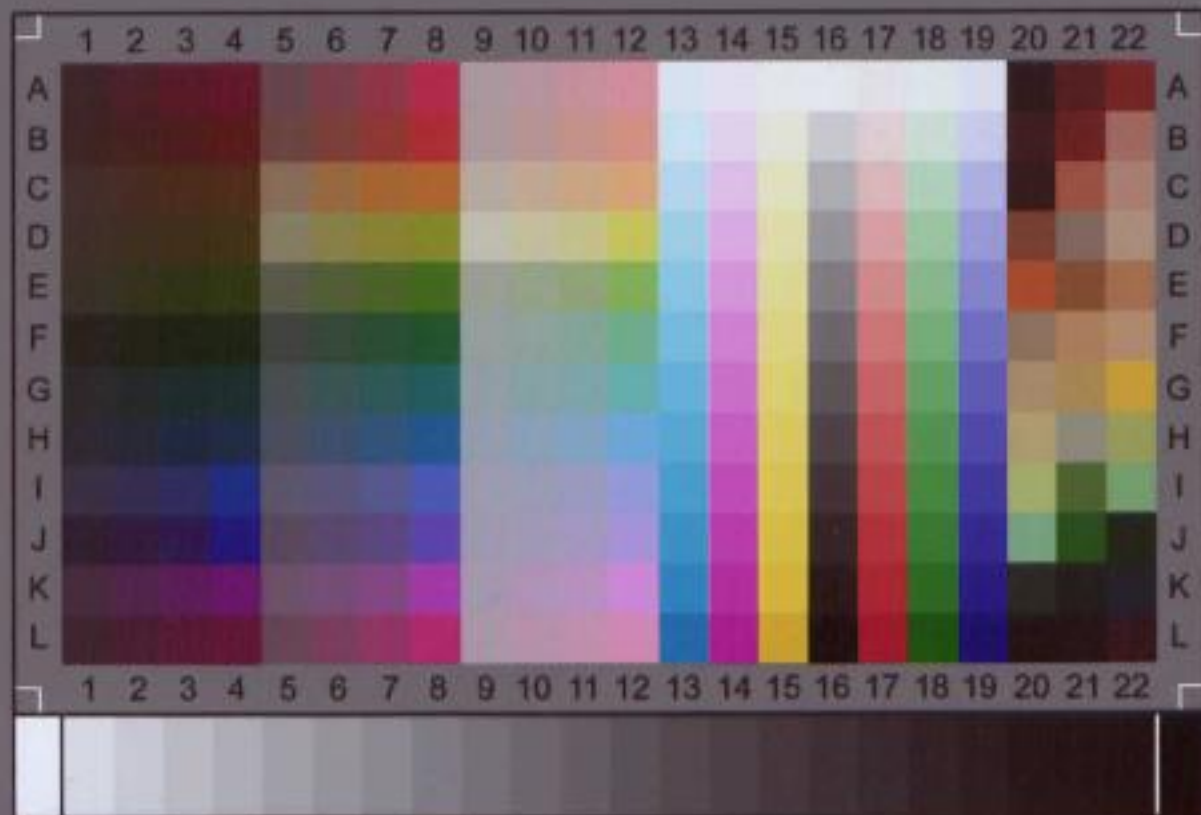


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**PART** 47 begins:-

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