

PRIME MINISTER

MEETING WITH SIR LEON BRITTAN

Leon Brittan is coming in to see you tomorrow afternoon. He originally sought the meeting back in February to talk about British membership of the EMS. We suggested a delay until he had served rather more time in Brussels.

You will want to thank him for the work he is doing. On most issues he is helpful and is clearly regarded as a heavy-weight in Brussels.

I think thereafter the main purpose of the meeting from your point of view is to get over to him your current worries about the Commission and its apparent determination to extend Community competence into new areas.

You should also mention your concern about failure to honour political agreements reached in the context of the Single European Act to preserve majority voting in key areas for us (and draw his attention to your misgivings about the Court's performance). You will also want to impress on him your priorities within the Community, above all in securing genuinely free competition (which is his prime responsibility).

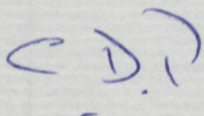
He will inevitably raise economic and monetary union. You need no briefing on that. But remember that he is no longer a member of the government and everything you say will go straight to Delors and the Commission.

There is detailed briefing attached on a number of specific issues which are his particular responsibility. But first a word of warning. David Young wants you to be aware that Leon Brittan has a tendency to try to bound senior Ministers and in particular to try to bypass Francis Maude who knows all the detail. You will want to stand up firmly for Francis and make clear that detailed issues must be settled direct with

Ministers responsible.

The main issues are:

- EC Merger Control regulation. He will try to argue that the UK is isolated and we should fall in with everyone else. Francis Maude tells me this is not so: we still have the French and Germans with us on some points and important issues are at stake.
- VAT approximation. This is going better, but we cannot compromise on our VAT zero rates.
- Frontiers. We shall continue to need checks for drugs, terrorism, etc.
- State Aids (i.e. subsidies). You welcome the very vigorous line which he is taking on these.
- Financial institutions. You will want to encourage him to maintain his flexible approach to reciprocity in the Second Banking Directive. ||


Charles Powell

17 May 1989



Foreign and Commonwealth Office

London SW1A 2AH

17 May 1989

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Dear Charles,

European Community *flat*

/ As requested in your letter of 1 March, I enclose briefing which we have commissioned for the Prime Minister's meeting on 18 May with Sir Leon Brittan. This falls into two parts:

- briefing by the Department of Trade and Industry on the proposed EC merger control regulation, general competition policy, and state aids; and
- briefing provided by HM Treasury on reciprocity in the proposed financial institutions legislation and fiscal frontiers.

/ I also enclose a copy of Sir Leon Brittan's speech to the National Drugs Conference in Preston on 20 April on action against drugs trafficking in the 1992 context.

Advice on the Delors Group report was given in Alex Allan's letter to you of 25 April before the Prime Minister's meetings with the Italian and Dutch Prime Ministers and the Federal Chancellor. *at Ref A*

The DTI and Treasury briefing notes have not been shown to the Foreign Secretary.

I am copying this letter and its enclosures to Alex Allan (Treasury), Neil Thornton (Department of Trade and Industry) and Roger Lavelle (Cabinet Office).

You ever

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(R H T Gozney)
Private Secretary

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PRIME MINISTER'S MEETING WITH SIR LEON BRITTAN, 18 MAY

EC MERGER CONTROL REGULATION

Objective

- To encourage Sir Leon Brittan to continue the process of improving the draft mergers regulation.

Points to Make

- We do not dispute that there should be controls of mergers at the Community level. This already exists. But we would only agree to a Community merger control regulation which provided a more efficient and effective mechanism for control than we currently have.

- UK negotiating under general reserve. We will make our minds up when we see the final package.

- Many key issues are unresolved and require further discussion - eg thresholds (need to be high), criteria (competition, not industrial policy), and the relationship of a regulation to Articles 85 and 86 of the Treaty.

- Although we make no formal link with the proposed merger control regulation, we do attach great importance to the barriers to takeovers exercise you are undertaking.

BACKGROUND

1. Certain mergers may be controlled under European Community law at present, by means of Articles 85 and 86 (EEC), which deal respectively with anti-competitive agreements and abuses of a dominant market position. By no means all mergers meet the criteria of Articles 85 and 86, however, and the Commission is seeking a specific instrument for the control of mergers at the Community level. The proposed EC merger control Regulation (which has been under discussion in various forms since 1973) would provide a system for the prior vetting and authorisation by the Commission of mergers having a "Community dimension", to be defined in terms of turnover. The Regulation can be agreed only by unanimity.

2. Although important issues remain unresolved, there has been progress recently on the main points of difficulty. We want a Regulation to cover only a relatively small number of genuinely Community-wide mergers. This requires high thresholds. The Commission have now increased the figure for the transitional period to 5 becu, and the lower turnover threshold for exempting acquisition of smaller companies to 200 mecu. If a Regulation were agreed, it should ideally be the only means of applying Community law to mergers (not Articles 85 and 86 too), to ensure clarity and the maximum possible legal certainty for companies. Procedures should also impose the minimum possible burden on business. The criteria for the assessment of mergers should be firmly based on competition, not 'industrial strategy' considerations.

3. The Commission believe that member states' positions are now converging - although the UK maintains its general reserve. The Commission probably hope to reach agreement during the French Presidency.

CONFIDENTIAL

4. In December 1988, UK pressure led to the agreement of the Commission and Member States to the need for a comprehensive study of barriers to takeovers, to be undertaken by the Commission. OD(E) agreed that, without making a formal link with the proposed EC merger control Regulation, we would want to see the outcome of the Commission's study before taking a final view on the Regulation. The Commission's study is due to be ready 'by the summer break'.

Department of Trade and Industry
17 May 1989

PRIME MINISTER'S MEETING WITH SIR LEON BRITTAN: 18 MAY

FISCAL FRONTIERS

Objective

- To emphasise UK welcome for greater Commission flexibility in this area which - if it continues - should help pave the way for a pragmatic, achievable solution.

Points to Make

- Welcome Madame Scrivener's recognition that greater flexibility - and a solution for zero rates - is required.
- This flexibility greatly improves prospects for a workable solution. Hope Sir Leon will encourage its continuation and further development.
- UK committed to abolition of fiscal frontiers. Moreover, have put forward ideas on how to achieve this. Can be done without tax approximation, which is unnecessary. Need to consider UK and other alternatives.
- No question of UK reneging on clear pledges on VAT zero rates.
- We will retain checks on drugs and terrorism - as permitted under Single European Act. But already looking for ways to minimise impact on legitimate business and travel. (In 1987 41% by weight of drugs seized came from or via another EC country. Up from 36% in 1986).

FISCAL FRONTIERS

BACKGROUND

1. Sir Leon Brittan's speech in Preston on 20 April to the National Drugs Conference (attached) set out his views on frontiers issues and particularly the need for action against drug trafficking in the 1992 context.

H M Treasury

17 May 1989

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SPEECH BY THE RT. HON. SIR LEON BRITTON
TO THE NATIONAL DRUGS CONFERENCE
PRESTON, 20 APRIL 1989

COMMUNITY COOPERATION

1. FOR MANY YEARS NOW, EXPERTS HAVE WARNED OF THE INCREASING SERIOUSNESS OF THE NARCOTICS PROBLEM, AND POLITICIANS HAVE WRUNG THEIR HANDS. BUT IT IS ONLY QUITE RECENTLY THAT COUNTRIES HAVE EMBARKED ON COMMON PROGRAMMES WHICH BEGIN TO MATCH THE SCALE OF THE THREAT. ONE REASON THAT THE RESPONSE HAS BEEN SO SLOW IS THAT THIS IS A WORLD PROBLEM IN ITS SCALE AND IMPLICATIONS: AND IT DEMANDS INTERNATIONAL SOLUTIONS. THE UN CONFERENCE ON DRUG ABUSE AND ILLICIT TRAFFICKING, CULMINATING IN THE CONVENTION SIGNED AT THE END OF LAST YEAR, WAS A MILESTONE IN THIS RESPECT.
2. THE CONFERENCE WAS ALSO IMPORTANT IN GALVANIZING THE EUROPEAN COMMUNITY, WHICH PARTICIPATED IN ITS OWN RIGHT, AND STEPPED UP ITS OWN JOINT ACTION, BOTH IN PREPARING FOR THE CONFERENCE, AND IN THE LIGHT OF DECISIONS REACHED THERE. BECAUSE OF THEIR SHARED HISTORY, GEOGRAPHY AND INSTITUTIONS, THE 12 MEMBER STATES OF THE COMMUNITY HAVE A PARTICULAR DUTY AND INTEREST TO WORK TOGETHER AGAINST THIS WORLD THREAT. AND WE DO.

NORTH-SOUTH COOPERATION

3. ONE AREA IN WHICH WE COOPERATE IS IN ASSISTANCE PROGRAMMES TO BOTH DRUG-PRODUCING AND CONSUMING DEVELOPING COUNTRIES. A NUMBER OF COMMUNITY PROGRAMMES ARE OPERATING, EITHER DIRECTLY IN THE COUNTRIES CONCERNED; THROUGH MULTILATERAL ORGANISATIONS (IN OUR SPONSORSHIP OF REGIONAL COOPERATION OPERATIONS, FOR EXAMPLE, OR OUR CONTRIBUTION TO THE UN.

COCAINE-SUBSTITUTION PROGRAMME IN BOLIVIA), OR WITHIN EUROPE (AS IN THE COMMUNITY'S SUPPORT FOR THE DURHAM REGIONAL DRUG TRAINING SCHOOL'S PROGRAMMES ON BEHALF OF SOUTH-EAST ASIAN COUNTRIES). ABOVE ALL, PERHAPS, THE COMMUNITY IS SEEKING TO COORDINATE THE EFFORTS WHICH ITS MEMBERS ARE MAKING INDIVIDUALLY, SO THAT WE CAN FOCUS OUR ENERGIES.

HEALTH AND EDUCATION

4. A SECOND AREA IN WHICH THE COMMUNITY COOPERATES IS IN HEALTH AND EDUCATION, WHETHER DIRECTED TOWARDS PREVENTION, OR TREATMENT AND REHABILITATION. SINCE 1984, FOR EXAMPLE, THE COMMISSION HAS CONTRIBUTED TO A SERIES OF PILOT PROJECTS - TWO IN THE UK - TO IDENTIFY HEALTH EDUCATION NEEDS AT A LOCAL LEVEL, AND TO DEVELOP PROGRAMMES WHICH CAN BE APPLIED MORE WIDELY.

IN A SEPARATE PROGRAMME FOCUSSED ON DRUG ADDICTION AND AIDS, GLASGOW WAS CHOSEN AS ONE OF A GROUP OF 6 CITIES AND REGIONS IN THE COMMUNITY WHICH ARE POOLING THEIR EXPERIENCE TO HELP DEVELOP MODELS AND SOLUTIONS WHICH MIGHT BE MORE WIDELY ADOPTED IN THE COMMUNITY. AS A FINAL EXAMPLE, A SEMINAR WAS HELD EARLIER THIS YEAR ON THE POSSIBLE ESTABLISHMENT OF A EUROPEAN INFORMATION EXCHANGE SYSTEM ON DRUGS.

MONEY-LAUNDERING

5. COMING CLOSER TO YOUR OWN FIELDS OF RESPONSIBILITY, THE COMMUNITY IS DEEPLY INVOLVED IN AN AREA IN WHICH BRITAIN HAS ALSO PLAYED A PIONEERING ROLE IN ITS OWN RIGHT : THE CONTROL OF MONEY-LAUNDERING. THIS IS A COMPLEX TASK, WHICH INVOLVES FINDING WAYS THROUGH THE MYRIAD OF NATIONAL LAWS AND REGULATIONS CONCERNING BANKING SECRECY AND ADMINISTRATIVE PROCEDURES. THE EUROPEAN COMMUNITY IS TAKING A LEADING ROLE IN DRAWING UP THE NECESSARY AGREEMENTS.

-3.

WITH A FULLY EFFECTIVE INTERNATIONAL NETWORK WHICH ALLOWS US TO TRACK DOWN AND CONFISCATE ILLEGAL DRUG-BASED ASSETS WE WOULD HAVE A REALLY POWERFUL WEAPON AGAINST THE INTERNATIONAL DEALERS. WE MUST BE AS FLEXIBLE AS THE DRUGS BARONS THEMSELVES. FROM THE POINT OF VIEW OF MY OWN RESPONSIBILITIES FOR FINANCIAL SERVICES IN THE COMMUNITY I SEE AN EFFECTIVE COMMUNITY POLICY IN THIS AREA AS VITAL. THE DRAFT LEGISLATION WHICH I AM CONSIDERING ON INSIDER TRADING MAY ALSO HAVE A ROLE TO PLAY.

INTERCEPTION OF DRUGS IN EUROPE AFTER 1992

6. I HAVE DWELT BRIEFLY ON THESE EXAMPLES, BECAUSE IT IS IMPORTANT TO REMEMBER THAT, LIKE IT OR NOT, DRUGS ARE A WORLD PROBLEM, DEMANDING INTERNATIONAL COOPERATION IN A NUMBER OF DIFFERENT SPHERES. THE INTERCEPTION OF DRUGS WHICH IS, OF COURSE, YOUR PARTICULAR INTEREST, IS NO EXCEPTION. AND IT IS HERE THAT WE COME UP AGAINST THE ISSUE WHICH HAS, PERHAPS ATTRACTED THE MOST INTEREST AND GENERATED THE MOST ANXIETY IN THE CONTEXT OF THE COMMUNITY'S 1992 REVITALISATION STRATEGY. EUROPE IS TO BECOME, IN THE WORDS OF THE SINGLE EUROPEAN ACT, 'AN AREA WITHOUT INTERNAL FRONTIERS'. HOW CAN THIS BE RECONCILED WITH A RESPONSIBLE APPROACH TO THE CONTROL OF DRUG TRAFFICKING?

I SPEAK TO YOU AS A FORMER HOME SECRETARY. I HAVE WORKED CLOSELY WITH ACPO IN THE PAST. I CAN HAVE NO ILLUSIONS ABOUT THE QUANTITY OF DRUGS FLOWING INTO BRITAIN FROM OTHER COMMUNITY COUNTRIES, THIS IS AN EVIL TRADE WHICH DESTROYS THE LIVES OF MANY YOUNG AND VULNERABLE PEOPLE. IT IS IMPERATIVE THAT WE SHOULD MAINTAIN AND, INDEED, STEP UP THE FIGHT AGAINST TRAFFICKING; AND I ACCEPT THE PART PLAYED BY CHECKS IN THIS WORK - CHECKS WHICH ARE OFTEN, PERHAPS USUALLY, BUT NOT ALWAYS, MADE ON THE BASIS OF SPECIFIC INTELLIGENCE. I CAN ASSURE YOU THAT MY EXPERIENCE AS A COMMISSIONER HAS DONE NOTHING TO CHANGE MY BELIEFS OR TO SHAKE MY RESOLVE. WE MUST NOT LOWER OUR GUARD AN INCH.

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7. IT IS WITH THAT RESOLVE AND DETERMINATION THAT I NONETHELESS SAY THAT IN THE DEBATE ABOUT BORDER CONTROLS MANY COMMENTATORS IN THIS COUNTRY HAVE ALLOWED THEMSELVES TO BE UNNECESSARILY ALARMED. PUT SIMPLY, THE STEPS REQUIRED TO ACHIEVE A COMMUNITY WITHOUT INTERNAL FRONTIERS WILL NOT IN ANY WAY STOP OR IMPEDE THE VITAL WORK OF CUSTOMS AND POLICE IN THE BATTLE AGAINST TRAFFICKING. (I AM INCIDENTALLY, TODAY TALKING ABOUT THE DRUG PROBLEM ALONE, AND NOT ISSUES OF IMMIGRATION, OR EVEN TERRORISM, WHICH RAISE DIFFERENT QUESTIONS). AS FAR AS DRUGS ARE CONCERNED, THE PROBLEM OF FRONTIER CONTROLS IS ONE OF VOCABULARY AND IMAGINATION MORE THAN IT IS ONE OF SUBSTANCE. THE CHANGES REQUIRED ^{can} BE LARGELY SYMBOLIC. THEY NEED IN NO WAY REDUCE THE EFFECTIVENESS OF ENFORCEMENT EFFORTS AT PORTS, AIRPORTS OR ANYWHERE ELSE.
8. THE CONTROL OF DRUG TRAFFICKING INVOLVES, AMONGST MANY OTHER THINGS, THE ABILITY TO CONDUCT CHECKS WHEREVER THAT MAY BE NECESSARY. THIS MIGHT BE AT THE COMMUNITY'S EXTERNAL FRONTIERS, AT THE PRESENT INTERNAL FRONTIERS, OR ANYWHERE ELSE. DRUG TRAFFICKERS MUST BE MADE TO FEEL VULNERABLE WHEREVER THEY MAY BE. NOBODY WISHES TO DEPRIVE THE FORCES OF LAW AND ORDER OF THE RIGHT TO CHECK FOR DRUGS ANYWHERE. IT CAN BE DONE, EITHER ON THE BASIS OF INTELLIGENCE OR OF SUSPICION, IN ACCORDANCE WITH NATIONAL LAW. IT IS A MATTER FOR DEBATE HOW MUCH OF THE WORK IS BEST DONE BY THE POLICE AND HOW MUCH BY CUSTOMS; HOW MUCH EFFORT IS BEST EXPENDED AT PORTS AND HOW MUCH ELSEWHERE. THE ESSENTIAL POINT IS THAT THOSE JUDGEMENTS NEED NOT BE AFFECTED BY THE DISAPPEARANCE OF EUROPE'S INTERNAL FRONTIERS. AND THEY CAN CONTINUE TO BE MADE BY NATIONAL AUTHORITIES, TAKING ACCOUNT OF DIFFERING NATIONAL CIRCUMSTANCES.

9. AS FAR AS CONTROLS AWAY FROM FRONTIERS ARE CONCERNED, I WOULD NOTE THAT THE CUSTOMS AS WELL AS THE POLICE ALREADY HAVE EXTENSIVE POWERS. IMPORTED GOODS, FOR EXAMPLE, CAN BE INSPECTED AT INLAND CLEARANCE DEPOTS AS WELL AS AT POINTS OF ENTRY. SECTION 77A OF THE CUSTOMS AND EXCISE MANAGEMENT ACT OF 1979 REQUIRES THE PRODUCTION OF ANY DOCUMENTS RELATING TO IMPORTED GOODS FOR INSPECTION BY A CUSTOMS OFFICER EITHER AT A PERSON'S PLACE OF BUSINESS OR 'AT SUCH OTHER PLACE AS THE OFFICER MAY REASONABLY REQUIRE'. THE 1984 POLICE AND CRIMINAL EVIDENCE ACT, WHICH CONFERS WIDE POWERS TO STOP AND SEARCH, WAS EXTENDED TO CUSTOMS AND EXCISE (WITH ONLY MINOR MODIFICATIONS) IN 1985. EVEN THE SECTIONS OF THE MANAGEMENT ACT WHICH HAVE TRADITIONALLY APPLIED TO CUSTOMS POWERS AT THE POINTS OF ENTRY (SUCH AS SECTIONS 78 OR 159) REFER TO EXAMINATIONS 'AT SUCH PLACE AND IN SUCH MANNER AS THE COMMISSIONERS MAY DIRECT'. SO IT IS CLEAR THAT CUSTOMS' POWERS ARE NOT NECESSARILY CONFINED TO POINTS OF ENTRY.

10. WHAT ACTUAL CHANGES WOULD THEN BE REQUIRED AT POINTS OF ENTRY?

TAKE THE CASE OF FOOT OR CAR PASSENGERS ARRIVING IN THE UK FROM ELSEWHERE IN THE COMMUNITY. AT PRESENT THEY ARE INVITED TO ENTER THROUGH A RED OR A GREEN CUSTOMS CHANNEL. MOST OPT FOR GREEN, AND MOST GO STRAIGHT THROUGH WITHOUT BEING SEARCHED. NO ROUTINE SEARCHING TAKES PLACE EVEN NOW. WITH 1992, THE RATIONALE FOR A RED CHANNEL DISAPPEARS, FOR THERE WILL BE NO PAYMENT OF CUSTOMS DUTIES AT THE POINT OF ENTRY. SO BOTH THE GREEN AND THE RED CHANNELS CAN BE ABOLISHED. THE VAST MAJORITY OF TRAVELLERS WOULD ENTER WITHOUT BEING STOPPED AT ALL. IN DOING SO THEY WOULD NO LONGER PASS THROUGH SOMETHING LABELLED 'CUSTOMS'. NONE-THELESS, THERE WOULD ALWAYS BE THE POSSIBILITY OF A SPOT CHECK, HERE AS ANYWHERE ELSE IN THE UK. IT WOULD BE UP TO THE NATIONAL AUTHORITIES TO DECIDE HOW MANY PEOPLE TO DEPLOY AT THE PORTS AND AIRPORTS TO MAKE SUCH CHECKS, AND WHETHER TO USE THE INTELLIGENCE THAT PROVIDES THE BASIS FOR MOST ARRESTS TO CONDUCT SEARCHES AT THE POINT OF ENTRY OR ELSEWHERE.

11. WE HAVE ENOUGH REAL DRAGONS TO SLAY IN THE FIGHT AGAINST DRUGS WITHOUT INVENTING MORE, AND I BELIEVE THAT IN THE FUSS OVER CUSTOMS AND INTERNAL FRONTIERS WE HAVE BEEN IN DANGER OF DOING JUST THAT. IN MANY WAYS, PRACTICE HAS ALREADY GOT AHEAD OF THE ARGUMENT.

JOINT EUROPEAN ENFORCEMENT EFFORTS

12. I SAID EARLIER THAT SPOT CHECKS WERE ONLY ONE OF THE ESSENTIAL WEAPONS IN THE FIGHT AGAINST DRUGS. ANOTHER IS ACCURATE INTELLIGENCE AND COOPERATION BETWEEN ENFORCEMENT AGENCIES IN DIFFERENT COUNTRIES. AND HERE I WHOLEHEARTEDLY AGREE WITH YOUR PRESIDENT, ROGER BIRCH, WHO COMMENTED A COUPLE OF WEEKS AGO THAT THE EMPHASIS ON FRONTIERS MAY HAVE DEFLECTED ATTENTION FROM THE INCREASING NEED TO POLICE BEYOND NATIONAL BORDERS, AND THE IMPERATIVE THAT WE SHOULD ESTABLISH REALLY EFFECTIVE COOPERATION TO THAT END.

BRITAIN MUST COMMIT ITSELF FULLY TO THIS TASK. AS YOUR PRESIDENT SAID : 'THE NEED TO INCREASE CO-OPERATION EXISTS NOW. THE QUICKER WE GET TO KNOW EACH OTHER, THE BETTER.' THE RAPID PROGRESS BEING MADE WITHIN THE SCHENGEN GROUP - GERMANY FRANCE AND BENELUX - DESERVES OUR FULL ATTENTION, FOR LESSONS WE MAY LEARN ABOUT HOW TO POLICE WITHOUT SYSTEMATIC INTERNAL BORDER CONTROLS. JUST AS IMPORTANTLY, WE MUST PLAY A FULL ROLE IN COMMUNITY POLICE AND CUSTOMS COOPERATION IN THE COMING MONTHS, AS EUROPE PREPARES FOR ITS INTERNAL FRONTIERS TO FALL, SO THAT WE CAN SHARE IN THE DEFINITION AND DEVELOPMENT OF THE SOPHISTICATED ARRANGEMENTS AND TECHNOLOGY WHICH WILL CERTAINLY BE NEEDED.

EUROPE'S EXTERNAL FRONTIER

13. WE HAVE MUCH TO LEARN. BUT WE HAVE MUCH TO CONTRIBUTE, TOO. ONE OBVIOUS POINT, FOR EXAMPLE, IS THAT THE NEED FOR THOROUGH ARRANGEMENTS AT THE COMMUNITY'S EX-TERNAL FRONTIERS WILL, IF ANYTHING, INCREASE AFTER 1992. THE VAST MAJORITY OF DRUGS TRAFFICKED WITHIN THE COMMUNITY START LIFE, AFTER ALL, OUTSIDE EUROPE. BECAUSE THE BRITISH SYSTEM HAS ALWAYS RELIED VERY LARGELY ON TIGHT BORDER CONTROLS, WHERE MANY OF OUR PARTNERS HAVE TENDED TO CONCENTRATE ON POLICING AWAY FROM THEIR FRONTIER, I SUSPECT THAT BRITISH EXPERIENCE AND PROFESSIONALISM WILL BE EXTREMELY VALUABLE TO THE COMMUNITY IN DEVELOPING MORE EFFECTIVE CONTROLS AT ITS BORDERS.

CONCLUSION

14. 'EUROPE WITHOUT FRONTIERS' IS NOT JUST A SLOGAN. IT IS A POLICY DICTATED BY ECONOMIC AND POLITICAL CONSIDERATIONS OF OVERWHELMING IMPORTANCE AND ATTRACTION FOR US ALL. THE ADVANTAGES OF AN OPEN EUROPE ARE OBVIOUS. SOME HAVE SOUGHT TO PLAY UP THE DISADVANTAGES, **BUT** THAT DOES NOT DO JUSTICE TO THE REAL PROBLEMS THAT STILL HAVE TO BE SOLVED. WITH CREATIVITY, IMAGINATION AND A POSITIVE APPROACH I BELIEVE WE CAN NOT ONLY RECONCILE THE WIDER OBJECTIVE OF AN OPEN EUROPE WITH THE PARTICULAR RESPONSIBILITY TO CONTROL DRUGS - BUT ACTUALLY STRENGTHEN OUR DEFENCES THROUGH CLOSER COOPERATION. LET US CONCENTRATE ON WHAT IS REALLY NEEDED, RATHER THAN THE SIMPLE MAINTENANCE OF SYSTEMS AND LABELS WE HAVE USED IN THE PAST; LET US ABANDON UNPRODUCTIVE RIVALRIES BETWEEN THE VARIOUS BODIES RESPONSIBLE FOR CONDUCTING THE BATTLE AGAINST NARCOTICS, BE IT ON THE HIGH SEAS, AT THE FRONTIERS, OR INLAND. ABOVE ALL, LET US APPROACH OPEN EUROPE WITH OPEN MINDS.



PRIME MINISTER'S MEETING WITH SIR L BRITTAN, 18 MAY

COMPETITION POLICY (OTHER THAN MERGER CONTROL)

Objective

- To make clear our support for vigorous but fair application of EC competition rules as important adjunct to UK's own competition policy.

Points to Make

- Support Commission efforts to deal firmly with eg horizontal cartels and predatory pricing.
- Rules should be applied flexibly to cross border collaboration eg technology licensing.
- Block exemptions for this purpose generally useful but UK industry find R & D exemption unclear.
- UK values consultation with Member States on application of rules.
- Powers of entry and investigation may be necessary but should be exercised with care.
- Look forward to greater liberalisation in air and shipping services by 1992.

COMPETITION POLICY

BACKGROUND

1. Main instruments of competition law are: Article 85 (control of restrictive agreements affecting trade within Community) and Article 86 (abuse of market power).
2. Commission can investigate and impose fines for infringement. Regulations indicate classes of agreement exempted from Article 85.

Department of Trade and Industry
17 May 1989



BRIEFING FOR PRIME MINISTER'S MEETING WITH SIR LEON BRITTAN,
MAY 1989

STATE AIDS

Objective

- To reiterate UK support for vigorous Commission policy on state aids.

Points to Make

- An important aspect of creating the Single Market is the rigorous and even-handed enforcement of Community state-aids rules. Industry will not accept the removal of trade barriers, if subsidies remain which distort competition.
- The UK has encouraged and fully supported the Commission in its efforts to tighten policy on state aids with a view to achieving a level playing field. But, in order to achieve genuine transparency and ensure that competition is not distorted, much work remains to be done.
- We thus welcomed Sir Leon's speech in London on 10 March, which highlighted the dangers for the Community in a proliferation of state aids in Member States and signalled his determination to review critically both existing and proposed state aids in order to achieve a marked reduction in their levels.

Background

1. The regulation of the EEC Treaty provisions on state aids forms an important part of our membership of the Community. The Treaty establishes the fundamental principle that aid granted, in whatever form, by Member States is incompatible with the concept of a common market, if it distorts or threatens to distort competition in trade within the Community.

2. Under Articles 92-94 of the Treaty, the Commission must be notified of any plans to grant or alter aid and may, if it so decides, open a formal investigation into proposed aids. The Commission has the power to present the implementation of proposed aid measures and can also order the withdrawal and repayment of aid granted illegally. The Commission may also review existing aid schemes.

3. Whilst the enforcement of Community state aids rules is not perfect, there is growing acceptance within Member States of the need for discipline. This has been demonstrated by agreements on codes for aids to various industrial sectors including steel and motor vehicles.

4. The Commission continually seeks to achieve increased transparency and a general de-escalation of state aids and has, in recent years, intensified work and generally tightened up its policy in this area. A recent analysis to identify the full extent of aids available in different Member States showed that since the early 1980s the level of UK subsidies has been set firmly on a downward trend whilst that in the other states has been upwards, in some cases markedly so (see Annex 1). The Commission believes that little of this aid has been accompanied by positive benefits but simply serves to cancel out similar aids granted elsewhere.

5. In a recent speech in London, Sir Leon Brittan highlighted the dangers for the Community if state aids are allowed to proliferate. Although the Commission's analysis is not yet complete Sir Leon said that it was already clear to him that urgent action is needed and where changes might have to be made. He thus signalled his firm determination to reduce the volume and scope of state aids in the Community from their present levels.

6. The UK has fully supported the Commission in its efforts to promote transparency and achieve a reduction in the levels of state aids throughout the Community.

Department of Trade and Industry
17 May 1989

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C. INDUSTRY AND REGIONAL TOTAL AID ELEMENT AS % OF GROSS VALUE ADDED
INDUSTRY

	1981	1982	1983	1984	1985	1986	Average
Belgium	8.02	7.40	6.71	5.72	7.57	3.83	6.44
Denmark	4.51	4.62	3.80	2.27	2.03	1.18	2.85
Germany	3.08	3.22	2.98	3.28	3.11	2.67	3.03
Greece	9.95	9.81	11.30	13.00	15.30	17.65	12.93
France	4.87	4.25	5.31	5.44	5.82	3.79	4.93
Ireland	11.41	10.74	13.01	12.20	15.08	12.39	12.91
Italy	11.89	15.21	20.88	18.19	16.57	16.81	16.72
Luxemburg	7.12	2.77	11.71	5.07	15.46	1.81	7.28
Netherlands	4.77	4.77	3.94	4.77	3.81	3.35	4.15
UK	5.24	4.53	3.83	3.92	3.13	2.56	3.81

D. AGRICULTURE AND FISHERIES TOTAL AID ELEMENT AS % OF GROSS VALUE ADDED
IN THESE TWO SECTORS

	1981	1982	1983	1984	1985	1986	Average
Belgium	8.97	8.21	6.16	7.01	7.07	7.13	7.35
Denmark	10.85	8.52	10.08	7.11	8.47	6.15	7.95
Germany	6.50	5.42	6.19	11.00	15.98	14.44	9.85
Greece	0.11	0.07	0.05	0.04	0.05	0.12	0.07
France	14.91	15.34	13.79	9.49	10.11	10.40	12.11
Ireland	20.37	18.16	11.22	9.39	12.08	11.75	13.20
Italy	5.11	8.81	6.75	9.47	8.80	11.24	8.60
Luxemburg	47.98	11.33	10.92	9.38	8.58	6.30	12.03
Netherlands	7.37	7.41	7.39	7.39	7.48	6.52	7.24
UK	12.80	12.78	15.76	15.40	14.22	13.24	14.07

E. TOTAL AID ELEMENT AS % OF PUBLIC EXPENDITURE

	1981	1982	1983	1984	1985	1986	Average
Belgium	10.58	9.88	10.19	9.75	10.41	8.80	9.91
Denmark	4.09	4.10	3.82	2.87	2.61	2.28	3.19
Germany	9.72	9.89	9.82	10.19	10.41	10.37	10.08
Greece	12.15	11.26	11.43	11.18	11.35	9.07	10.95
France	12.95	11.35	12.05	10.55	12.89	11.39	11.31
Ireland	13.80	15.10	17.58	18.89	14.31	14.09	15.09
Italy	21.84	15.54	23.34	17.68	25.28	11.17	18.80
Luxemburg	4.45	4.34	4.00	4.46	3.91	3.63	4.12
Netherlands	5.55	5.67	5.33	6.79	4.36	3.53	5.27
UK							

Source: European Commission: First Survey on State Aids in the European Community.

A. TOTAL AID ELEMENT AS % OF TOTAL GDP AT MARKET PRICES

	1981	1982	1983	1984	1985	1986	Average
Belgium	4.53	4.24	4.35	4.11	4.23	3.42	4.11
Denmark	1.69	1.76	1.61	1.25	1.08	0.89	1.33
Germany	2.52	2.68	2.48	2.54	2.58	2.48	2.53
Greece	2.08	1.92	2.23	2.48	2.88	3.20	2.48
France	2.83	2.73	2.88	2.80	2.78	2.17	2.60
Ireland	5.88	5.22	5.58	4.70	5.78	5.14	5.33
Italy	4.41	5.58	6.57	5.92	5.68	5.83	5.58
Luxemburg	6.92	4.71	7.48	5.13	8.12	3.94	5.99
Netherlands	1.54	1.58	1.45	1.58	1.37	1.27	1.48
UK	2.00	1.98	1.86	2.91	1.45	1.28	1.79

B. TOTAL AID ELEMENT PER PERSON EMPLOYED IN ECU

	1981	1982	1983	1984	1985	1986	Average
Belgium	1080	1030	1112	1128	1245	1084	1113
Denmark	346	405	405	346	324	293	353
Germany	603	589	738	803	843	895	761
Greece	196	216	248	301	348	359	278
France	698	726	799	848	918	764	792
Ireland	820	834	1033	989	1324	1204	1036
Italy	502	527	1511	1513	1514	1670	1357
Luxemburg	1489	1072	1811	1397	2385	1225	1562
Netherlands	397	444	443	508	445	441	444
UK	301	311	407	527	359	289	396

ANNEX I

Table 1.10.2: PERCENTAGE OF PERSONS EMPLOYED IN MARKET SERVICES

	1981	1982	1983	1984	1985	1986	Average
Belgium	4.53	4.24	4.35	4.71	4.23	3.42	4.11
Denmark	1.69	1.79	1.81	1.23	1.08	0.89	1.57
Germany	2.32	2.20	2.10	2.24	2.50	2.40	2.30
Greece	2.06	1.97	2.23	2.40	2.80	2.20	2.43
France	2.63	2.71	2.55	2.30	2.20	2.17	2.50
Ireland	5.66	5.22	5.55	4.70	5.75	5.14	5.33
Italy	3.47	3.50	3.37	3.92	3.55	3.53	3.58
Luxembourg	5.92	4.71	7.48	5.13	8.12	3.94	5.99
Netherlands	1.54	1.58	1.45	1.58	1.37	1.27	1.48
UK	1.50	1.35	1.50	2.31	2.43	1.25	1.79

Table 1.10.3: PERCENTAGE OF PERSONS EMPLOYED IN SERVICES

	1981	1982	1983	1984	1985	1986	Average
Belgium	1030	1020	1112	1126	1245	1084	1112
Denmark	348	373	405	346	324	293	353
Germany	472	469	478	502	543	555	491
Greece	115	114	142	101	343	150	175
France	772	772	752	740	713	734	752
Ireland	810	811	1033	859	1224	201	836
Italy	502	502	511	513	1514	1611	757
Luxembourg	1489	1472	1617	1397	2385	1225	1562
Netherlands	197	197	143	508	445	441	244
UK	232	232	307	227	353	237	305

INDUSTRY TOTAL AID ELEMENT AS % OF GROSS VALUE ADDED
IN THESE TWO SECTORS

	1981	1982	1983	1984	1985	1986	Average
Belgium	8.02	7.45	6.71	5.72	7.57	3.83	6.24
Denmark	4.51	4.62	3.80	2.27	2.03	1.18	3.22
Germany	3.08	3.22	2.98	3.28	3.11	2.67	3.05
Greece	9.95	9.81	11.30	13.00	15.30	17.65	12.93
France	4.87	4.25	5.31	5.44	5.82	3.79	4.93
Ireland	11.41	10.74	15.01	12.20	15.08	12.38	12.91
Italy	11.89	15.21	20.88	19.19	16.57	16.81	16.72
Luxembourg	7.12	2.77	11.71	5.07	15.48	1.91	7.28
Netherlands	4.77	4.77	3.94	4.77	3.81	3.35	4.15
UK	3.84	4.52	3.62	3.92	3.12	2.56	3.81

AGRICULTURE AND FISHERIES TOTAL AID ELEMENT AS % OF GROSS VALUE ADDED
IN THESE TWO SECTORS

	1981	1982	1983	1984	1985	1986	Average
Belgium	2.97	2.21	2.13	7.01	7.07	7.13	7.11
Denmark	10.85	6.52	10.08	7.11	8.47	6.15	7.95
Germany	6.50	5.42	6.19	11.00	15.98	14.44	9.85
Greece	0.11	0.07	0.05	0.04	0.01	0.01	0.07
France	14.21	13.34	10.79	9.49	10.11	10.41	11.11
Ireland	20.07	18.16	11.22	9.38	12.08	11.75	13.20
Italy	5.11	6.81	6.73	6.47	8.30	7.74	6.60
Luxembourg	47.98	11.33	10.92	9.38	6.58	6.33	12.03
Netherlands	7.37	7.41	7.39	7.39	7.48	6.52	7.24
UK	12.20	10.78	15.75	13.40	14.22	13.24	13.07

INDUSTRY AND AGRICULTURE AND FISHERIES TOTAL AID ELEMENT AS % OF GROSS VALUE ADDED
IN THESE TWO SECTORS

	1981	1982	1983	1984	1985	1986	Average
Belgium	10.99	9.66	10.16	9.75	10.41	6.60	9.91
Denmark	4.09	4.10	3.82	2.87	2.81	2.28	3.15
Germany	5.77	5.59	5.63	6.19	7.41	10.37	6.81
Greece	10.06	9.88	11.35	13.04	15.31	17.66	12.93
France	12.73	11.26	11.43	11.18	11.35	9.17	11.91
Ireland	12.95	11.35	12.05	10.55	12.89	11.39	11.91
Italy	17.00	15.10	17.58	15.89	14.31	16.81	15.19
Luxembourg	21.84	15.34	23.34	17.68	25.28	11.17	18.60
Netherlands	4.45	4.34	4.00	4.46	3.91	3.53	4.12
UK	5.84	6.57	5.63	6.79	4.36	3.67	5.27

Source: European Commission: First Survey on State Aids in the European Community.



BRIEFING FOR PRIME MINISTER'S MEETING WITH SIR LEON BRITTAN,
18 MAY 1989

FINANCIAL INSTITUTIONS AND RECIPROCITY

Objectives

- To encourage Sir Leon Brittan to maintain his flexible approach towards reciprocity in the second banking directive.
- To make clear our outstanding concerns with the Commission's revised reciprocity proposals.

Points to Make

- UK keen to see progress on both second banking directive and investment services directive.
- Grateful for Sir Leon Brittan's efforts in promoting Commission's revised reciprocity proposals. These are helpful step in right direction.
- However, points of difficulty remain. In particular, wish to see use of any reciprocity procedure under clear Council control.
- Hope that Commission will continue to assist in efforts to achieve acceptable outcome on reciprocity and on the other issues which need to be resolved before the directive can be adopted.

Background

1. The second banking coordination directive will set out the basis on which credit institutions (broadly, banks and building societies in the UK) will have the right to establish a branch in, or provide cross-border services into, another member state on the strength of their home-state authorisation.

2. Related measures in the banking and financial services field include the Own Funds Directive (defining the capital base of banks); the Solvency Ratios Directive (prescribing minimum capital requirements in relation to credit risk), under discussion in Council working group; the Investment Services Directive (parallel to the second banking directive as regards investment business), yet to be considered; and a proposed Position Risk Directive, to deal with capital requirements for investment businesses.

3. The original draft of the second banking directive included a provision for all applications from third-country credit institutions for authorisation to be subject to an automatic reciprocity test under Commission control. All member states were opposed to this; the UK made clear that we regarded the provision as objectionable in principle and likely to be unworkable in practice.

4. In the light of member state objections the Commission presented revised proposals on reciprocity which were discussed informally at ECOFIN on 17 April. These move in the direction of a reserve power for use only in exceptional circumstances. They represent a considerable success for Sir Leon Brittan in persuading some of his colleagues within the Commission that the original proposals were unacceptable. In addition, he has helpfully stated that the revised proposals are intended as a flexible liberalising measure.

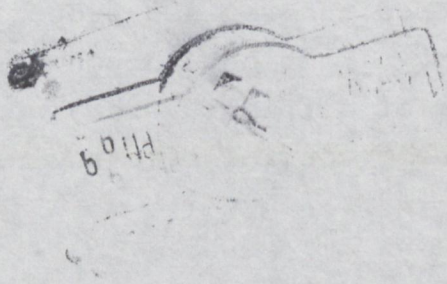
5. At ECOFIN the Chancellor welcomed the revised proposals as a constructive step in the right direction, though he made clear that significant points of difficulty remained. In particular, we wish to see Council control over the use of any reciprocity provision.

6. Discussions on reciprocity are continuing in COREPER. We are also pursuing in COREPER and in the Council working group a number of other concerns arising from the Directive. These include the provisions in the present text on initial and continuing capital requirements and on exchange of confidential supervisory information.

H M Treasury
17 May 1989

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EURO POLIEMS PT4



THE RIGHT HONOURABLE

SIR LEON BRITTAN, QC

VICE-PRESIDENT OF THE COMMISSION
OF THE EUROPEAN COMMUNITIES

RUE DE LA LOI, 200

1049 BRUSSELS - TEL. 235 25 14

235 26 10

R 13/3

3 March 1989

Dear Charles,

CDP
17/3

Sir Leon Brittan has asked me to thank you
for your letter dated 17 February.

I have been in touch with Amanda Ponsonby and
write to confirm that a meeting between the
Prime Minister and Sir Leon has been arranged for
Thursday 18 May at 1615.

Yours ever,
Julie Southcombe

Julie Southcombe
Personal Assistant

C D Powell Esq
Private Secretary
10 Downing Street
London SW1A 2AA
Grande Bretagne

Charles

Meeting fixed
for 1615 on
Thursday 18th
May .

Ananda

1/3

RESTRICTED



R6
EAM (47)
cc PC

10 DOWNING STREET

LONDON SW1A 2AA

From the Private Secretary

1 March 1989

EUROPEAN COMMUNITY

na
The Prime Minister has agreed to see Sir Leon Brittan on 18 May. I should be grateful if you would let me have appropriate briefing in due course.

I am copying this letter to Alex Allan (Treasury), Neil Thornton (Department of Trade and Industry), and to Roger Lavelle (Cabinet Office).

CHARLES POWELL

Richard Gozney Esq
Foreign and Commonwealth Office

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