



ccjc

Foreign &  
Commonwealth  
Office

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26 July 1991

London SW1 2AH

Prime Minister  
As discussed with the Fes. ✓

Jean Shepherd,

Post-Maastricht

Wall 20/7

/ The Foreign Secretary has looked at a minute of 22 July from Mr Garel-Jones. I enclose a copy. From what you said on the telephone yesterday, I think Mr Garel-Jones has also run through some of it with you. Next week in Spain he may do the same with the Prime Minister.

The Foreign Secretary has doubts that a bill could be ready by March 1992.

The Foreign Secretary sees attractions in a free vote and believes that the idea should be kept on the stocks.

/ I also enclose a copy of a note from Mr Arthur on the procedural steps involved in the ratification process which gives some useful background and the timetables for the passage of the European Communities Bill 1971/2 and the passage of the European Communities (Amendment) Bill 1985/6.

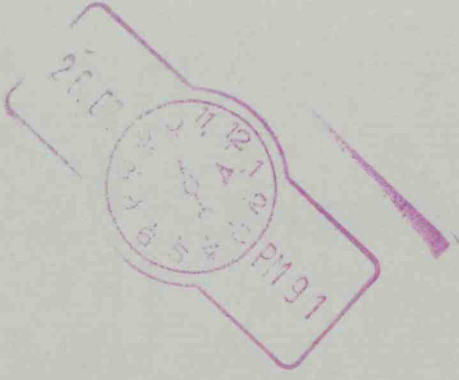
Yours ever,

Richard So  
(R H T Gozney)  
Private Secretary

J S Wall Esq  
10 Downing Street

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By all means discuss with the PM - I have  
gimm him a v. brief outline. I doubt a Bill  
can be ready by March. A free vote on the  
principle has its  
attractions & the idea shd be kept on the stocks.  
M

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From: Tristan Garel-Jones

Date: 22 July 1991

Secretary of State

**POST MAASTRICHT**

Assuming an agreement at Maastricht roughly along the lines set out in the note I submitted to you on 12 July and assuming a 1992 election, I would make the following observations and suggestions.

Mechanics

1. There will need to be a statement by the Prime Minister on Wednesday 11 December or Thursday 12 December.
2. Copies of the Draft Agreement will by then be circulating.
3. The final version of the Treaty, worked up by lawyers, should be available by end-February 1992.
4. We have until the end of December 1992 to ratify.
5. Prior to ratification we should need to introduce a Bill. The Bill will take the form of amendment to the 1972 EC Act. It will be short (5 or 6 clauses) and could be drafted very quickly.

Immediate Post-Maastricht

The Whips will, of course, organise the Statement. But in the immediate aftermath we shall need a co-ordinated hard sell on

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TV, the Press, and with selected opinion formers. This will be led by the Prime Minister and yourself. But I very much hope that Richard Ryder's Co-ordinating Committee will take this in hand and engage Cabinet colleagues, junior ministers, back-benchers, leaders of Industry etc. There may be a case for briefing the Opposition.

Action in 1992

There will be immediate calls for a debate and, in one form or another, those calls will have to be satisfied by the Government. Much will depend on the calculations made by the Whips on the number of potential rebels within the Party.

Broadly there are two routes available - and a number of variations within them.

I do not believe we could get away with a motion on the Adjournment and no vote - so I discard that.

(A) Go for immediate ratification. This would mean introducing the real live Bill in March 1992, taking it through in 2/3 days on the floor of the House and ratifying before a General Election.

(B) A debate on the floor of the House with a vote on a substantive motion. This provides the Government with the endorsement of this Parliament for its actions; it leaves the Treaty as a substantial election issue and, of course, still leaves the introduction of the Bill to be taken through the incoming Parliament.

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My own preference would be for (A) with the Bill taken through the House on a Free Vote. The viability of this approach depends on the Prime Minister and yourself being able to persuade Kinnock and Kaufman that this is in both their interest and the national interest. I will not rehearse the arguments here, but I believe there is at least a chance they would accept and I can see little or no downside for us in making the offer. An agreement that both Front Benches would support the Bill would, I hazard, produce at least 450 votes in favour. Britain would thus, in all probability, be the first country to ratify. Once the Bill had been obtained, we could probably ratify more or less at a time of our choosing. I think it would be a good curtain raiser for an election and would leave the issue largely de-fused (though I hope with an after-glow of success from the PM).

Second best and failing agreement with the Opposition, would be to take the Bill without Opposition support on a 3 line Whip. This depends on the calculations the Whips make, but in all probability if we cannot win the Bill we cannot win a motion either. And if we have to have a contentious and difficult vote it seems a pity to go through the blood-letting and to leave the issue unresolved and contentious for an Election and then still face a repeat performance in a new Parliament (albeit with some of the dramatis personae having left the stage).

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The other alternative would be if agreement were not reached at Maastricht - though I would be uneasy if this were solely caused by us! It could however arise simply because issues remained unresolved involving others as well as ourselves. If the dossier passed over into the Portuguese Presidency that might well avoid a vote before an election. I would not recommend that we should seek to contrive this - but simply point out that it could happen.

All of this needs careful thought. It is still early days but I think we should begin to focus on it. I have discussed these ideas with Richard Ryder. Do you want me to talk round the course with the PM in Spain in early August?

T G-J

cc: Chief Whip

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25 July 1991

/ I thought it might be helpful if I were to send you this briefing pack on Europe and on the two Inter-Governmental Conferences, which I hope you may feel able to draw on for speeches during the recess.

The brief makes one or two obvious points about the Community itself and then seeks to build on them with some of the positive suggestions we ourselves have put forward at the Conferences.

There is a lot of hard negotiating ahead. We cannot be certain that the final Treaty will be acceptable to Britain. But I am increasingly confident that John Major will make an agreement at Maastricht that will be good for Britain and the Community and that will vindicate his decision to negotiate positively at the heart of Europe.

If we can achieve it on acceptable terms, the Maastricht Agreement will show Britain actually shaping Europe's future rather than trying to pick up the pieces after others have taken decisions. That cannot be bad either for the future of our country - or of our Party when the Election comes.

Tristan Garel-Jones

## Britain in Europe

- \* A Conservative Government under Ted Heath took Britain into Europe. A Conservative Government under Margaret Thatcher signed the Single European Act. And a Conservative Government under John Major is negotiating positively for the next step forward in the two Inter-Governmental Conferences.
- \* The Conservative Party has fought every election since 1963 on a strongly pro-European platform. Labour has had seven different positions since 1962. Their policy now is ambiguous, confused and deliberately vague. Difficult to imagine Neil Kinnock and Gerald Kaufman negotiating credibly for Britain.
- \* The EC is now an economic superpower rivalling the USA and Japan. The motor of this success has been the Single Market. This was identified by Margaret Thatcher and Lord Cockfield as the top priority for Europe. We agreed to Qualified Majority Voting as the only way to break down the protectionist barriers in Europe. The Single Market will be completed in December 1992.
- \* The EC now accounts for more than half of Britain's trade.
- \* This success has led to a queue of applicants. Already EFTA is negotiating a Free Trade Agreement with the Community (Austria and Sweden have applied for full membership) - and the new democracies in Eastern Europe have indicated their wish to join when the time is right.
- \* European Political Co-operation (EPC) - or the Common Foreign Policy, as it may become - was also set up under the Single European Act. It was largely based on a British text and has proved a great success. John Major's "safe haven" plan for the Kurds was agreed at the European Council in April. It is no exaggeration to say that it influenced US policy, the United Nations and the World. Britain, by using its influence in Europe, was able to determine and to shape a major foreign policy issue for the good. Europe is now taking the lead in attempting to hold the ring in Yugoslavia and will be one of the



participants in any Peace Conference in the Middle East, along with the Soviet Union and the USA.

### Why the IGCs?

- \* Great economic wealth carries with it great responsibilities.
- \* Europe has to be prepared to punch its political weight in the world - not only to protect and defend its economic and strategic interests, but also to uphold the democratic free-market philosophy which we believe to be the guarantor of human rights and prosperity.
- \* Europe does not have the option of being just a Common Market. But the development of Europe need not only take place within the Treaty of Rome. We are now discussing with our partners how to build a wider European Union.
- \* The two Inter-Governmental Conferences are about the framework within which Europe is to take the next step forward.
- \* In the past Britain has sometimes either opted out of discussion, or joined in later only to spend years attempting to change or alter aspects of the Community designed by others.
- \* This will not happen again. John Major has placed us where we belong "at the heart of Europe" and the framework for the future of the European Union will have "Made in Britain" stamped firmly upon many of its working parts.

### 1. The Draft Treaty

- \* The Draft Treaty that we saw after the Luxembourg Council is a working document in a confidential negotiation. It is only a snapshot of the negotiations at a particular time.
- \* But it is already possible to see in the Treaty many British proposals moving into place. There is much still in the Treaty that we don't like and that will be the subject of tough negotiation in the autumn.

- \* John Major, along with other European leaders, is committed to working for a conclusion at the Maastricht Council in December. We shall work hard through the Autumn to achieve a final Treaty that will be a vindication of John Major's approach and a positive success both for Britain and Europe.

## 2. The Structure of the Treaty

- \* The Debate is between those who want all the common activities of the Twelve to come within a unitary structure under the Treaty of Rome (in the UK we would call this the federalist approach) and those who wish to maintain distinct areas of co-operation outside the Treaty of Rome.
- \* The unitary approach would mean that activities like the Common Foreign and Security Policy (CFSP) and Inter-Governmental Co-operation on interior/justice matters would be subsumed with Community activity into a single entity. They would, for example, become justiciable through the ECJ. This approach is not acceptable to Britain and, along with other partners, we have argued for a "pillared" approach; a "Union" broader than the Community and consisting of three separate pillars:

- (i) Treaty of Rome
- (ii) CFSP
- (iii) Interior and Justice

All of these overseen by the European Council - itself outside the Treaty of Rome - which would become the supreme body of the Union. This follows the structure of the Single European Act.

- \* The present draft text broadly follows this approach. There are still improvements we wish to see. But if we can achieve a structure on the lines we have proposed, that will be good for Britain. It will allow us to expand and improve Inter-Governmental Co-operation in Foreign and Security Policy and in securing greater co-operation on international crime, drugs and terrorism outside the Rome Treaty. And at the same

time it will enable us to work for real common sense improvements within the four institutions of the Treaty of Rome itself (the ECJ, the Commission, the EP and the Council).

#### Positive British Proposals

- A. In those areas of activity outside the Treaty (CFSP, Interior/Justice and Defence).
- B. In those areas inside the Treaty (Economic and Monetary Union, Powers of the EP, Compliance, ECJ, Subsidiarity, Animal Welfare, Environment, Role of National Parliaments etc.).

A.

#### CFSP

- \* EPC was formalised in the SEA. Originally it was envisaged that Foreign Ministers would meet quarterly. They now meet monthly and frequently more often - as the need for co-ordinated European positions on matters of foreign policy becomes increasingly necessary and important.
- \* EPC operates by consensus and outside the Treaty of Rome. Britain was responsible, in large measure, for the text setting up EPC in the Single European Act.
- \* Though common positions have become easier to reach as the habit of working together has grown, in other areas no nation is inhibited from taking action alone if it is in its national interest to do so.
- \* Britain is anxious to expand and improve EPC into a Common Foreign Policy and has suggested extending its remit to include security.

\* Our aim is:

- (i) To strengthen the role of the Twelve on the international scene on the basis of convergence of interest and consensus. Discuss together, agree together, and act together - that is the best way of setting about it.
- (ii) To continue to permit the exercise of national action.
- (iii) To extend the remit to include security matters including arms control, non-proliferation, arms exports etc.

#### Interior/Justice

- \* European Interior/Justice Ministers already meet informally e.g. under the TREVI process.
- \* It is increasingly clear that a number of law and order issues have an international dimension: crime, drugs, terrorism, extradition, migration need an international approach to complement and support efforts made by individual nations.
- \* These matters were raised by John Major and Chancellor Kohl at the Luxembourg Council. Chancellor Kohl put forward proposals for a European Criminal Investigation Agency (Euro-Pol).
- \* Britain is anxious to play an active part in ensuring that law and order is a serious item on the European agenda. We insist, of course, that these matters must remain in the competence of Member States working by Inter-Governmental Co-operation outside the Treaty of Rome.

#### Defence

- \* The Defence of Europe rests on NATO. NATO works. Whilst the Alliance must adjust - and is adjusting - to the changed world, we see it (as do our allies) as remaining the corner-stone of our defence.

- \* But the Gulf War demonstrated very clearly that no alliance exists through which Europe can respond to a threat to its political, economic or strategic interests outside the NATO area. That is why the European response to the Gulf War was, at best, patchy.
- \* We have proposed building up the WEU into just such an alliance enabling Europe to give a co-ordinated military response if necessary to any threat outside the NATO area.
- \* Many details remain to be negotiated. But if we are successful there is a substantial prize to be won.
- \* The European defence personality based on the WEU would not, of course, be a part of the Community or even of the European Union. It would need links into both NATO and the European Council.
- \* Britain has played a leading role in putting forward the ideas for developing the WEU in this way. A successful outcome will add a proper defence dimension to the wider Europe we are working for.

B.

British Proposals for Improvement of the Treaty of Rome

- (i) Subsidiarity. We believe the Community should only act if and insofar as any objective cannot be achieved by member states acting alone. We have put forward such a text. The present draft Article 3b can still be improved and we have good support from Germany for our position.
- (ii) Rule of Law. Britain has one of the best records in the Community for implementation, enforcement and compliance with EC law. We have proposed:
  - A declaration by Member States undertaking to implement directives.

- A declaration on ensuring mechanisms for enforcement exist.
- ECJ sanctions (financial) on any Member State that fails to implement a second adverse judgement by the ECJ.

These proposals should constitute a major advance in securing a level playing field for all.

- (iii) National Parliaments - we have tabled a declaration calling for an increased role for national parliaments in the life of the Community. This should involve more thorough scrutiny of EC legislation as well as closer involvement of national parliamentarians in the Community and of European parliamentarians in national parliaments. It will be for Westminster itself to take this forward in consultation with other national parliaments.
- (iv) European Parliament - We have put forward a number of proposals for enhancing the role of the EP in monitoring the Commission's work and in improving financial accountability. We are looking positively at proposals to give the EP a right of enquiry and to appoint an Ombudsman to examine instances of maladministration.
- (v) Animal Welfare - Britain has the highest standards of animal welfare in Europe. We have put forward a draft declaration that would ensure that the EC in framing all legislation should bear in mind the welfare of animals and their status as sentient beings.
- (vi) The Environment - We believe that all legislative proposals should take into account environmental impact and have put forward a draft declaration to that effect.

- (vii) The Commission - Britain strongly supports the proposal for reducing the number of Commissioners to one per country. This is a necessary measure in terms of efficiency now - more so as new members join the Community.
- (viii) Citizenship - This is not a British proposal, but we strongly believe in a Community responding to the needs of its citizens. The Luxembourg European Council called for a provision on Union Citizenship. We shall work to ensure it does not lead to legal confusion.
- (ix) Economic and Monetary Union

Britain has been playing a full and constructive part in the discussions on EMU, which are focussing increasingly on ways of hardening the ecu and promoting economic convergence, both of which we have been arguing for vigorously. We have made clear to the other member states that the Government cannot accept any imposition of a single currency upon Britain. There must be a separate decision of Parliament at the appropriate time, and that must be a decision about whether to participate in Stage III of EMU, not just when.

There remain a number of areas in the Draft Treaty which are not acceptable to Britain and which will be the subject of very tough negotiation in the Autumn:

- \* A wide range of proposals for extension of EC competence many of which are unacceptable.
- \* Extensions of QMV. We have no dogmatic opposition to QMV, but would need to be convinced (as in the case of the Single Market) that the objective was in Britain's and the Community's interest and could not be achieved by other means.

- \* We are particularly opposed to any extension of competence or QMV in the social area which would have the result of reversing many of the achievements of the last decade.
- \* Cohesion. We do not accept the case for new funding mechanisms. We believe that sound macro-economic and supply side policies and a Single Market based on a level playing field is the best motor for cohesion.
- \* Co-decision. We reject the principle that the EP should have the last word on the substance of legislative proposals. This must remain with the Council and with ministers accountable to their national Parliaments.
- \* Framework Law (Loi). Although the original proposal has been considerably watered down, we remain sceptical about it. We believe it is a recipe for legal confusion.

#### Conclusion

Much that is good already in the Treaty. But a lot of important and difficult battles still to fight. Can't be certain of success. We won't sign just anything. But a real prospect of a Treaty that is good for Britain and good for the Community.