



Foreign &
Commonwealth
Office

London SW1A 2AH

20 November 1991

me
Dear Stephen,

Chancellor @ E. Council ?

**PRIME MINISTER'S MEETING WITH DUTCH PRIME MINISTER,
FRIDAY 22 NOVEMBER**

The Prime Minister will be meeting the Dutch Prime Minister on the afternoon of Friday 28 November. The Dutch side will be Mr Lubbers, Mr Van den Broek, Mr Kok, and Mr Dankert (MFA State Secretary); with their Permanent Representative in Brussels (Nieman), Mr Lubbers' Private Secretary (Merkelbach), the Treasurer-General of the Ministry of Finance (Maas) and the Secretary-General of the Council (Niels Ersbohl). On our side with the Prime Minister will be the Foreign Secretary, the Chancellor, Mr Garel-Jones, Sir John Kerr, David Hadley, Michael Jay and Nigel Wicks.

This is part of Lubbers' pre-Maastricht tour. He will already have visited Copenhagen, Rome, Athens, Madrid and Dublin. Sir John Kerr's analysis and advice (UKRep telno 3046), has been taken into account in what follows.

Political Union

/ I enclose a paper summarising the main outstanding issues in the IGC together with the views of the main member states including the Presidency (Annex A) and two copies of a revised post-Conclave back-to-back commentary on the Presidency text (changes made at Conclave highlighted (Annex B)).

CONFIDENTIAL

/Mr Lubbers

PO2ABR/1

repeated, in slightly clearer form, in the pack below also containing the Treaty texts.



Mr Lubbers will want to explore the UK's bottom line in the IGC negotiations. Discussion is likely to focus on social, interior/justice matters, scope of EP's new legislative powers, CFSP/defence and aspects of competence/QMV. Our objective is to impress on him the difficulty of any movement in these areas and the concessions which we have already made elsewhere. The Prime Minister may wish to indicate some additional flexibility on interior/justice and CFSP, if he judges it tactically right, and press some specific amendments in other areas, particularly on the "chapeau", which will be essential elements in an eventual deal. It is important to impress on Lubbers that the Presidency cannot continue just seeking the broad majority view on any given text as they did at the Conclave: where we have real points of difficulty these must be met, or else there will be no treaty.

The Prime Minister may wish to draw on the following points (security and defence issues are covered separately at the end):

General

- Conclave made less progress than we had hoped. Momentum will be lost if negotiations postponed into Portuguese Presidency, and become more difficult the nearer UK gets to an election. If there is no deal at Maastricht, the negotiation may be stalemated for a long time.
- UK willing to work hard for agreement at Maastricht. But not at any price. We have not been demandeur for this Treaty.

/- Important



- Important that Presidency now help accommodate minority views, not just majority - otherwise whole treaty at risk.
- Others may be dissatisfied that proposals not as ambitious as they would like, but this will not be the last IGC. They can look to the future. For the UK what is conceded now will not be reversed. If too much asked, there will be no agreement. Even on terms UK would now accept, this treaty will by any standards be a big step forward for the Community - bigger than the SEA.
- UK's difficulties are illustrated by domestic concern over concession on co-decision at Conclave. Social policy, immigration issues and references to federalism even more difficult. If HMG get the wrong text on these, could precipitate rejection by Westminster: not in anyone's interest.
- Willing to make a great effort to get a Treaty accepted by Westminster, as in this week's debate. But others must make an effort too.
- Presidency's closing offer at Noordwijk remains unacceptable to UK. Institutional questions (apart from scope of co-decision) and citizenship are more or less settled. But we will need movement on the other issues at 2 December Conclave.

/CFSP

CFSP

- Sceptical about the concept of joint action. We have spelt out how we believe it could be made to work (eg specific scope, time limited, reversible, excluding defence). If these criteria taken into account in text, we should be able to resolve this on 2 December.
- UK will also need a "supreme national interest" clause, as proposed by Delors, covering the whole CFSP chapter. It is common sense, will help in Westminster, and should cause no problems to others. [Text in Annex C attached.]
- QMV very difficult. UK opposed because we believe it would weaken, not strengthen, action by the Twelve and because no-one has yet shown how a satisfactory distinction can be drawn between policy and implementing decisions. No need to set off on this risky path.

Social

- UK remains adamant. Cannot offer compromise texts: we have examined a number of possibilities but found none acceptable. The Commission is already interpreting existing Treaty texts more widely than we want (eg over pregnant workers). So widening those texts still further is not on. Hope others are getting this message.
- Unanimity for social security (Article 51) essential, as agreed at conclave.

/Interior/Justice



Interior/Justice cooperation

- UK remains enthusiastic advocate of closer cooperation. The text of the separate interior/justice chapter is a useful step forward.
- But opinion in this country will not accept Commission proposals and Community decisions on immigration rules. So we cannot accept immigration in Article 100c.
- Realise it is important to others to have the prospect of Community involvement. Therefore willing to consider Article K, allowing some subjects to be transferred into Community competence in the future.

[If decided to indicate flexibility]

- We are also examining whether Article 100C, as an empty box awaiting the transfer of subjects via Article K, but with no areas inside Community competence at the onset, might be acceptable. But still see considerable problems:
 - Would need to try to limit ECJ role in application of legislation: will be unworkable if thousands of individual cases go to ECJ.
 - Give member states a full right of initiative

Cohesion

- Recognise strength of Spanish views, but see no prospect of any further concessions.
- At a pinch, with one further change (to exclude EMU from Article 130b), we could agree the new cohesion text. But that would be sole substantive concession.

*ie No cooperation for EMU.
ie seeking
with original.*



- Could list Spanish concerns in a purely neutral declaration, provided they do not prejudice the outcome of the future financing debate. [Hand over UK illustrative text - attached as Annex E.]
- But no question of any commitment to produce new money or new funds whether for the environment or convergence in this IGC. Not acceptable to Westminster for the UK to concede greater powers and increased resources for the EC at one go. /A

Competence

- Useful progress at Conclave in getting energy, tourism, civil and consumer protection deleted. Must ensure these are not revived. Would prefer them deleted from Article 3 as well. Believe culture and industry should go the same way: contrary to subsidiarity and common sense.
- Willing to consider new texts on health, education and training sympathetically, including QMV.
- But extension of QMV to high spending areas like R and D, development and networks remains unacceptable. Real bottom line for us.
- Willing to consider QMV for the environment, but only on condition that the exploitation of energy resources is added to the list of issues that retain unanimity.
- Continue to have serious difficulties with industry text. Can see no option but to delete it.



- Must try to resolve competence texts at Second Foreign Ministers' Conclave, on 2 December, but may need to tackle some issues at Maastricht.

Chapeau

- Two different kinds of problem:

OUT - beginning review clause.

(a) Political: deleting references to federal vocation and a single currency are crucial to UK, but recognise they will only be resolved at Maastricht.

(b) Legal: some technical amendments to text needed to make it legally coherent and bring chapeau into line with rest of Treaty. Raised at Conclave. Realise reluctance of some to amend Luxembourg text. We have no wish to re-open structural argument or unravel that compromise. But these drafting points are important to UK. If not right, could lead to interminable wrangles before ECJ. Hope we can resolve them before Maastricht, to avoid having to raise them there.

Co-decision

/ C.P.

Negative Assent Procedure.

- UK agreement to procedure strictly conditional on limited scope, as indicated at Conclave. Could accept application only to:

Single Act.

- Article 100a, if applied only to general legislation not detailed technical regulations, as suggested by Commission;

/- R and D



- R and D Framework Programmes only if unanimity retained;
- (possibly) Environmental multi-annual programmes, if clarified that these set only objectives, not spending.

91 Subsidiarity

- An important element for UK. Text nearly right. Hope Presidency will accept remaining UK and German amendments.

Tax

- Reference to Article 101 in Article 99 could open way for QMV on taxation. Completely unacceptable: must be deleted.

Security/Defence

10
Now - holding text.

No subordination

The Dutch are concerned by the lack of progress in the IGC(P) on security/defence, and are worried that defence could become a serious obstacle to agreement on Political Union at Maastricht. Our aim is to convince Lubbers that we are doing all we can to reach agreement before Maastricht; and that the main obstacle is likely to be President Mitterrand's refusal to compromise before Maastricht on the Franco-German proposals.

The WEU Ministerial Council in Bonn on Monday 18 November agreed that officials should complete work on the WEU's relationship with the Union and the Alliance before the Conclave on Monday 2 December. This lifted the Franco-German block on drafting a WEU Declaration. It was



also agreed that WEU Ministers might discuss this draft in the margins of the Conclave. There was some talk on Monday of the WEU issuing two declarations: one, jointly with the Twelve, on its relations with the Union (which might be annexed to the Union Treaty), and one on its relations with the Alliance. A single Declaration, annexed to the Treaty, would probably go further in meeting our requirement of compatibility with NATO than a separate Declaration, not annexed to the Treaty, on WEU's links with the Alliance; but much would depend on the precise language.

The other significant development on the security/defence front is that Sir John Kerr and the French Personal Representative, and senior officials from London and Paris, are to meet privately this week to discuss possible Treaty and Declaration texts on security/defence.

Against that background, the Prime Minister may like to make the following points:

- On substance, Dutch and British positions close and familiar: any common defence policy must be long term and compatible with NATO; WEU autonomous, with links in both directions; and non-discrimination in WEU's relations with other partners and allies. Anglo-Italian ideas fully meet the requirement of balance: they are close to our bottom line;
- Like you, we want to get as close as possible to agreement before Maastricht;
- But Treaty text on defence not satisfactory. Need to use next two weeks to build up acceptable text and WEU Declaration on its future role, and links with the Union/Alliance. Grateful for continuing Dutch support on this;



- Dutch assessment of Mitterrand's aims and tactics? Is he likely to keep this issue firmly in his own hands, sticking to the Franco-German proposals meanwhile? If so, we risk arriving at Maastricht with significant points unresolved. Mitterrand needs to understand that we would prefer no agreement on defence to one which conflicts with our basic position on substance;

- We are trying to engage the French privately on possible texts of Treaty and Declaration. Are keeping your people abreast of progress so that you can judge if and when to table Presidency text.

EMU IGC

The Treasury will send you briefing separately when they have cleared it internally.

Sites of other EC institutions

If the EMI seat is discussed (see Treasury brief), the Prime Minister may want to make clear to Lubbers the undesirability of a move on this separately from the package of other EC institutions (Environment Agency, Trademarks Office, Training Foundation). The French have blocked decisions on sites for these for the past 18 months in an attempt to consolidate the position of Strasbourg. We want the three institutions up and running as soon as possible (we bid for the first two, although our candidacy was complicated by our EBRD success, which the Dutch will of course remember). The Prime Minister may want to make clear to Lubbers that any move on the EMI/ECB must be conditional on an explicit agreement to unblock the outstanding sites package.

GATT

Good progress was made on GATT at the 9 November EC-US Summit. On agriculture, there was a broad understanding on 30-35% reductions over five or six years, but some crucial details, eg which subsidies will be exempt, have not yet been settled. President Bush significantly lowered US demands, but even these would amount to deeper cuts than in the previous EC agriculture offer. The US also acknowledged that financial services should be fully within the GATT services agreement.

Further narrowing of EC-US difficulties on agriculture will be needed to conclude negotiations. Dunkel has dropped plans to produce a draft agreement this month, and unless an EC-US deal is struck by the end of November, there will be very little time to reach an overall agreement before Christmas, and there may be no need for detailed discussion at Maastricht. The uncertainty makes it unclear how Community approval of the package would be given. The Prime Minister wrote to G7 colleagues this week to remind them of their London Summit commitment to personal intervention if necessary. Should negotiations become stalled in December, there might be a case for G7 action, perhaps via Sherpas. There may be pressure (eg from France) for an agreement on the principles of CAP reform (ie compensation) as the price for a GATT settlement. If so, we would want to minimise the elements unwelcome to the UK, including those with serious budgetary implications.

The Prime Minister might say:

- Good progress made at EC-US Summit, especially on agriculture. Vital that follow up negotiations should capitalise on this. Aim must still be political agreement this year on overall package.



- But Dunkel now seems to be pushing timetable even further back. Right that breakthrough on agriculture will unblock other sectors, but must be a limit to how long he can wait. Ready to consider G7 action if all else has failed.
- Will need to consider carefully Community handling of end game. Would not want EC to be responsible for damaging hold ups.
- [If raised] Do not believe interim CAP reform agreement - which would be costly for efficient northern farmers and could weaken financial discipline - needed to unblock GATT negotiations. France will be isolated if German support for GATT deal remained solid.

Enlargement

[Commitment in E.C. conclusions]

Treaty

Swedish Prime Minister Bildt has suggested that Maastricht issue a statement committing the Community to process enlargement applications quickly. The Prime Minister has agreed to work for this. The chances of success will depend largely on the degree of Presidency support. Like us, the Dutch favour accession for the EFTAs and (eventually) the East Europeans. But they fear that enlargement could jeopardise further integration and may therefore want another round of institutional reform before the Community accepts significant numbers of new entrants.

The Prime Minister may wish to say:

- once the IGCs are over, enlargement will be the next big issue facing the Community.

/- it would



- it would be a further significant achievement of the Dutch Presidency if Maastricht could issue a statement pointing the way ahead on this issue. The Community might reaffirm its willingness to accept new members who can take on all the obligations of membership, including - when they are ready - the East Europeans: and commit itself to move ahead quickly by considering specific applications early next year (this would not affect the Community consensus that there should be no negotiations until 1993).
- the EFTA countries are the natural candidates for the first wave of accession. [If raised] Southern applicants (Malta, Cyprus, Turkey) all present difficult problems. Community may need to develop alternatives to membership for them.
- [if required] no need for further institutional changes before taking first batch of new entrants. Community structures likely to emerge from Maastricht will suffice for (say) three or four EFTAns.

European Energy Charter

Lubbers' initiative (June 1990) for a "European Energy Community", grew into a Charter for liberalisation and cooperation on energy, particularly to develop energy resources in the USSR. Signature of the Charter expected, on schedule, on 16-17 December in the Hague (Mr Wakeham will sign for the UK); we hope the basic agreement will be completed early next year.

The Prime Minister might say:

/UK fully



UK fully supports the Charter and is playing an active role in the negotiations, including chairing the working group on a legally binding Basic Agreement (which includes provisions on investment protection). Important to ensure that full and effective participation of the Soviet Union continues.

Yugoslavia

The situation is developing fast. We are working in New York for a resolution to impose an oil embargo and to start work (without commitment) on a UN peace-keeping operation. If the conditions for a peace-keeping force are met, an oil embargo may no longer be needed. Mr Cyrus Vance is in Yugoslavia following up Lord Carrington's soundings on the potential for a UN force. Depending on last minute developments the Prime Minister might wish to bring Lubbers up to date on the following lines:

- Hope UN Security Council resolution will institute an oil embargo, as requested by the Twelve (although resistance from non-aligned);
- Do not object to UN peace-keeping operation in principle, but conditions (ceasefire holding; agreement of all parties) must first be met;
- Must continue to work for political solution. Otherwise peace-keeping would become open-ended commitment. Lord Carrington's work particularly important here.

/Arab/Israel

Arab/Israel Peace Process

The successful opening of the Middle East Peace Conference took place as scheduled on 3 November. A further round will probably take place before the end of November. Multilateral negotiations on regional development, arms control etc are due to start in December. The Syrians are still refusing to attend, but may be brought round by American and Arab pressure.

There is no formal role for the EC or UK in the bilateral negotiations, though we shall be engaged behind the scenes. All parties are keen that the EC participate in the multilateral negotiations. Troika officials will be meeting the Americans in Washington later this week to discuss the EC's role.

The Prime Minister might wish to say:

- Madrid peace conference a success, despite inevitable difficulties. Pressures which brought the parties to the table may well keep them there.
- Must consult carefully with the US and regional parties before taking detailed decisions, eg on EC role in regional development. Your recent contacts?
- UK and Dutch concerns similar. Good working relationship. Look forward to close cooperation in Troika. Will continue to need to ensure that partners do not undermine the process by adopting independent positions. Disunity will damage EC credibility.

/Lockerbie

CONFIDENTIAL

Lockerbie

We and the Americans are having official-level talks with the French on Wednesday to seek their support for our demands on the Libyan government:

- surrender for trial of all those charged and acceptance of complete responsibility for the actions of Libyan officials.
- disclosure of all it knows of this crime.
- compensation.
- proof that Libya has renounced terrorism by providing concrete information about links with terrorist groups including the Provisional IRA and expelling terrorists.

We shall also be consulting further the Americans and the French about what to do if the Libyans do not accept these demands. The Prime Minister might wish to say:

- destruction of Pan Am 103 with loss of 270 lives particularly abhorrent crime.
- evidence against two Libyans named in arrest warrant clear and compelling. Impossible to believe they acted without approval at highest levels of Libyan government.
- will demand that Qadhafi comply promptly with our demands.

/- if he



- if he does not, must be strong and united international response. Already in touch with French. The Foreign Secretary has spoken to Van den Broek. Will welcome your support in the Twelve.

- do not want to see US take military action, but this will be much more likely if international community is not prepared to isolate Qadhafi.

I am sending copies of this letter to Jeremy Heywood (HM Treasury) and Sonia Phippard (Cabinet Office).

*Yours ever,
Christopher Prentice.*

(C N R Prentice)
Private Secretary

Stephen Wall Esq CMG LVO
10 Downing Street

POLITICAL UNION IGC: ANALYSIS OF THE KEY ISSUES FOR THE UK

Set out below is an analysis of the issues which remain to be settled in the Political Union IGC. The text sets out the current Presidency proposal, the UK approach and the views of others.

Union Provisions (introductory and final articles)

The Presidency text provides a pillared structure, but linkages remain which would blur the distinction between the pillars and might allow Community action or ECJ jurisdiction in CFSP or interior justice matters.

- The UK insists on the pillared approach but wants to avoid undesirable linkages. To achieve this we want:

(a) a clear distinction between action within Community competence and cooperation between member states outside it: The current drafts of Articles A, B, C and E need to be re-drafted to clarify the legal distinction.

(b) No reference to "federal goal": Article A and Article W (the review clause) both make explicit reference to this.

- France supports the pillared structure, might support some of our amendments at (a), but can live with the existing Presidency text. The Netherlands, Germany and Italy would prefer a more federalist structure and regard the present text as the minimum acceptable. All three would be reluctant to accept either of the amendments at (a) or (b). They all dislike the concept "pillared" structure - the less we use the term with them, the better the chance of securing the gains we have already made.

Common Foreign and Security Policy

(a) "Joint action."

The Presidency text includes a distinction between areas of cooperation (Article B) and more binding "joint action" (Article C).

- UK arguments against joint action have made no headway. But we continue to make clear that if joint action is to be given a Treaty basis, the relevant provisions must define it more clearly so that:

- joint action is specific in scope;
- it will be time-limited;
- it can be reversible;
- defence-related issues are excluded;
- there is no definitive list of areas for joint action in or annexed to the Treaty;

- All other member states (including France, Italy, the Netherlands and Germany) accept the Presidency text as it stands, though some (eg France) might support the first three of our criteria. France and Germany also support a list of priority subjects to which joint action could apply.

(b) Majority voting

All agree that unanimity is necessary for substantive policy decisions. But the Presidency text proposes qualified majority voting "as a general rule" for implementing decisions on subjects under joint action.

- The UK, (with dwindling support from Denmark) has opposed QMV, arguing that it would weaken the Twelve's influence and that it is impossible to draw a clearline between 'policy'

from 'implementing' decisions. If in the end we need to accept some QMV, we should require:

- a unanimous decision (within each joint action) to apply QMV to implementing decisions (ie not as a rule);
 - the specific measures to which QMV applies to be designated at the same time (so we can ensure they are narrowly defined).
- Germany is the strongest proponent of QMV but France, Italy and the Netherlands can all accept the Presidency texts. The last two may accept our requirement as part of a final deal.

(c) UN Security Council.

- We are concerned that the obligations to uphold common positions and joint actions could restrict the freedom of action we need to fulfil our obligations as permanent members of the UNSC. We have agreed with France a declaration on the Security Council to be tabled (we hope) by Belgium as their own initiative, endorsed by all Twelve and attached to the Treaty.

- Germany is keen to impose joint action in international organisations and Genscher has in the past (though not formally) questioned continued French and UK permanent seats. Italy and the Netherlands like the idea of the Twelve mandating the UK and France in the SC, but should accept the declaration as part of the package.

(d) A 'supreme national interest' clause:

- we want to insert a safeguard clause applying to CFSP as a whole and allowing us to act independently of the Twelve in cases of supreme national interest,. It was originally proposed by Delors in October.

- France believes there are already adequate let out clauses, though these apply only to joint action. Germany, Italy and the Netherlands have yet to be persuaded of the need for one.

(e) Defence

The Presidency text provides for the longer term perspective of a common defence policy and implies that the Union could make decisions on defence and give instructions to the WEU.

- The UK, (with varying degrees of support from Italy, Portugal, Denmark and the Netherlands) prefers the approach set out in the Anglo-Italian declaration. The WEU, as a separate organisation linked both to the Alliance and to the Union, should be developed as the defence component of the Union and as the European pillar of the Alliance. We want any Treaty reference to a common defence policy, combined if possible with a WEU declaration on its role vis-a-vis the Alliance and Union, to make clear:

- that it is a long-term goal and must be compatible with the Alliance;
- that defence questions arising from the CFSP should be the responsibility of the WEU;
- that the WEU remains separate from both the Union and the Alliance, with balanced, but not identical links to both;

- The position of France and Germany was set out in the Franco-German proposals of 11 October. These suggested that:

- the CFSP cover all questions of security and defence;
- the WEU implement the defence policy of the Union as decided by the Council, and is subordinate to it.
- WEU members should take common positions on essential Alliance questions.

- an enlarged Franco-German brigade to become the kernel of a new European corps (Germany says that German forces in it would be assigned to NATO; France says they would not).

We have so far worked closely with Italy at Foreign Minister level, but it is unclear how committed Andreotti is to this line.

Interior/justice cooperation

(a) Immigration and asylum:

The Presidency text includes a separate pillar for interior/justice matters, but some immigration matters (short-term immigration and visa issues) are placed within EC competence, with visas subject to QMV (Article 100c). A link with between inter-governmental cooperation and the Treaty of Rome is also provided (Article k) which would enable other immigration and asylum issues to be brought within Community competence, subject to unanimity and a national ratification procedure.

- The UK accepts the separate pillar but not competence on any immigration or other interior/justice issues.

- Germany wants all immigration and asylum policy to come within EC competence, subject to full Community procedures. France, Italy and the Netherlands support the Presidency text, the last two as the minimum acceptable and France provided member states have a right of initiative and the ECJ's role is unlimited. All but Germany agree in keeping asylum outside competence.

(b) Police and Justice Cooperation (Europol)

The Presidency propose a declaration embodying member states' determination to develop police cooperation in the

existing context (under Trevi, outside competence). No supranational powers of enforcement are envisaged for Europol.

- We support the Presidency approach and are working in the (British-chaired) European Drugs Information Unit to work up the German ideas for a report to Maastricht.

- France, Italy and the Netherlands accept the Presidency approach. Germany wants Europol to come within EC competence and to have (eventually) supranational enforcement powers.

Subsidiarity

The Presidency text includes subsidiarity in the chapeau and in a substantive Treaty article which would be justiciable in the Court. The formula has been improved at the Conclave but could still be strengthened.

- We support a subsidiarity article but only if it is sufficiently strong. We are still seeking improvements to the existing text.

- Germany supports an article on subsidiarity. The Laender want a tough definition, but the federal authorities could live with a weaker one. We should urge them to persist in seeking a stronger text. France and Italy would prefer a preambular reference only, but, with the Netherlands will probably accept the present text if we insist on it.

Citizenship

The proposals recognise existing rights of residence and establishment, introduce voting rights for all EC citizens in EP and local elections, and allow limited mutual consular rights in third countries.

- The UK, with all other member states including France, Germany, Italy and the Netherlands accept the Presidency proposals now that our key concerns on defining nationality and preserving the existing limitations in the Rights of Residence Directive have been met. Spain and Portugal are unhappy the text does not go further, but should accept it.

Competence and QMV

The Presidency text proposes extensions of competence in a wide range of areas, though in the Context of a package extending QMV the Conclave provisionally agreed to delete those on energy, tourism, civil and consumer protection. References will be retained in Article 3, allowing action under Article 235 by unanimity, and the possibility of including them in the Treaty would be reviewed in 1996. Details are set out in the list attached.

- UK aim for all the competence texts is to minimize the extensions of Community competence and the potential financial implications, avoid weakening the free market provisions of the Treaty, and where possible avoid the extension of QMV. In particular we want to delete the industry text.

- Germany and the Netherlands have in the past shared our concerns about the industry, energy, trans-european networks and R & D texts (on economic and financial grounds). They may support efforts to weaken them and at the Conclave they both accepted QMV for R & D. France and Italy accept all the competence texts and strongly defend those on culture and industry.

Social

The Presidency text proposes extensions of Community competence and QMV to cover a wide range of employment-related legislation, though some areas are

reserved for unanimity and a few excluded from competence altogether.

- UK has made clear our objection to any extension of Community action or QMV in the social area.

- The Netherlands and Germany can accept the Presidency text the latter on condition that certain issues are reserved for unanimity. France and Italy insist on this as a bare minimum.

Cohesion

The Presidency text would enable new funds for cohesion to be created by unanimity. But the southerners, in particular Spain, want more binding commitments to increase Community spending.

- We, Germany, France and the Netherlands resist excessive promises to the South, but all except the UK can accept the existing text. Italy would support greater provision for cohesion, but not Spain's demands for more ambitious changes on both the expenditure and revenue sides of the budget.

European Parliament

(a) non-legislative powers

The Presidency text includes a range of proposals to improve financial accountability and the EP's monitoring powers (eg rights of enquiry and petition and an EC Ombudsman), and an EP role in the appointment of the President and members of the Commission. It includes an EP right to request the Commission to bring forward a proposal, but not an EP right of initiative.

- We can accept this package, and could suggest a Parliamentary involvement in the operation of Association

Agreements (eg EP representation at Association Councils. We would oppose giving the EP the power to dismiss individual Commissioners and any formal EP right of initiative (both German demands, not in the text).

- The Netherlands and France accept the present text. Italy and Germany would like to go further (eg a Commission elected by the EP), but will probably not insist.

(b) legislative powers

The latest Presidency text introduces a negative assent procedure (no longer called co-decision) embodying a three stage consultation if the EP, with a conciliation procedure, and giving the EP the last word a right of negative assent) in specific policy areas which we consider too wide. The Presidency also proposed some extensions of its existing cooperation and assent procedures.

- The UK has in principle accepted some extension of the EP's legislative power, provided it is strictly limited in scope and part of an acceptable overall package at Maastricht. We have said we want the scope limited to Article 100a, and R and D, provided unanimity is retained for the last and perhaps multi-annual environment programmes.

- Germany has made clear that co-decision is an essential element for agreement at Maastricht but would like a far wider scope. France, Italy and the Netherlands support the Presidency proposals, though France would accept a narrower scope.

(c) National Parliaments

The Conclave broadly agreed the principle of a Congress of national and European Parliaments. The details of the French proposal will be discussed on 2 december. The

Presidency text includes provision for the UK's proposed declaration on the role of national parliaments.

- UK should continue to press our declaration and argue for changes to the French proposal for a Congress to give national parliaments greater weight.

- Germany and Italy will probably accept both ideas.

Regional body

- The Presidency text proposes an advisory body of 189 members, loosely attached to the ESC. It would be consulted on proposals relating to regional policy (to be defined in the Treaty. Germany strongly supportes a regional body. Our efforts to reduce in size at the Conclave had no success.

KEY ISSUES: COMPETENCE

(Order in which they appear in Presidency text).

Education, Vocational training and youth

Proposals to develop the European dimension of education and encourage an 'education of quality'. Recommendations and incentive measures on education and measures on training to be adopted by QMV but no harmonising legislation in either. We would still like to limit the scope for action and expenditure by closer definition. Otherwise texts broadly acceptable to us and all others.

Research and Technological Development

Proposals introduce QMV voting and an EP negative assent procedure for framework programmes with firmer budget ceilings and retaining Council decision for specific programmes. We want to retain unanimity for frameworks, as does Spain. Other supporters of unanimity (France, Ireland, Germany and Portugal) were silent at the Conclave but might be stirred up. We want budget ceilings extended to specific programmes.

Environment

Proposals introduce QMV, with EP negative assent for multi-annual programmes setting out priority objectives, and QMV with EP co-operation on most other environmental issues not dealt with under Article 100a. Unanimity would be retained for measures including fiscal provisions and for town and country planning, land use and water resources. We want to include 'the exploitation of energy resources' in this list to avoid interference in North Sea revenue. Southerners, supported by France, may insist on an Environment Fund as the price for accepting QMV. We (and possibly Germany) oppose it.

[Energy

A new chapter providing for the Council to adopt measures by QMV to guarantee security of supply, promote rational use of

energy, ensure a coherent response to oil crises and develop the internal market in energy. We, Germany and Netherlands have argued for deletion and this was provisionally agreed at the Conclave.]

Networks

A new chapter allowing the Council to adopt "guidelines" for trans-european networks and other measures in transport, telecoms and energy sectors, by QMV. We want to avoid language that might encourage interventionist policies or standardisation, avoid QMV (except for transport) and minimize the scope for spending. Southerners strongly in favour, Portugal and Ireland arguing for a stronger text, though Spain like the UK, wants unanimity. Germany is opposed to EC financing of networks, but other northern member states seem willing to accept it.

Industry

A new chapter allowing the Council to decide specific measures by QMV to help adjustment to structural change, ensure a favourable environment for initiative, encourage cooperation and improve exploitation of R and D. We want to avoid provisions that might limit competition, encourage interventionism or allow for EC action or expenditure, at least by QMV. Germany and Netherlands may support us. But France, Belgium, Italy and other Southerners strongly defend the existing text as a minimum.

[Tourism

A new chapter providing for measures, adopted by QMV, to encourage research, exchange of information, coordination for common projects and promotion of tourism in third countries. Provisionally deleted by the Conclave, which was accepted even by its main supporter (Greece).]

[Consumer Protection

A new chapter allowing for specific actions to be decided by QMV (with an EP negative assent procedure) to support and

supplement policies pursued by member states though some action already taken under Article 100a. Provisionally deleted by the Conclave, defended only by Luxembourg.]

Public Health

A new chapter providing for recommendations and incentive measures but excluding harmonising legislation, to be adopted by QMV with the possibility of co-decision objectives are to encourage cooperation between member states and the Commission, ensuring a high level of human health protection, eg by combatting major health scourges. We want to ensure a narrow scope for EC action, excluding all aspects of health care, and discourage significant expenditure. The present text broadly meets these criteria. All other member states support the present text.

[Civil Protection

New chapter providing for the Commission to organise exchanges of information and experience and the Council to adopt measures by QMV (possibly covering civil defence). Provisionally deleted by the Conclave, objections only from Italy and Greece.]

Culture

New chapter providing for Community recommendations and incentive measures (excluding harmonising legislation) adopted by QMV and co-decision, aimed at improving cooperation between member states and encouraging the spread of European culture, heritage conservation, non-commercial cultural exchanges and artistic, literary and audio-visual creation. We want to limit any text to as narrow (and cheap) a range of activities as possible. Germany (for Laender reasons) shares some of our concerns, but others accept the Presidency text, which is a minimum for France.

Development

New chapter providing a specific legal base for EC development policy, alongside bilateral aid programmes,

including action, by QMV, on financial and technical cooperation, food, humanitarian and other aid. We can accept the text provided unanimity is retained, and if possible a minor amendment is made to the section on member states' freedom of action. France, Spain and Portugal share some of our concerns, but are in general willing to accept the Presidency text.

European Community Department
(Internal)

18 November 1991

NEW FINAL ARTICLE TO CFSP TEXT

A Member State shall not be obliged to take or refrain from action if to do so would damage a supreme national interest.

QUALIFIED MAJORITY VOTING: UK PREFERRED LANGUAGE

ARTICLE C.2

The Council may stipulate that designated detailed arrangements for carrying out joint action shall be adopted by qualified majority. The qualified majority shall require 54 votes in favour, cast by at least 8 members. The votes shall be distributed in accordance with paragraph 2, Article 148 of the EC Treaty.

DRAFT DECLARATION ON COHESION

The European Council reaffirms that ever closer economic and social cohesion is an integral part of the general development of the Union. It considers that the amendments of the Treaty which have been agreed will provide a flexible framework within which the Community can support its objectives and the sound economic and monetary policies which will best ensure continuing and sustainable reductions in regional disparities within the Community.

2. The European Council notes that the Community's Structural Funds are being doubled in real terms between 1987 and 1993 and that the EIB is lending large and increasing amounts for the benefit of poorer regions; that the Structural Funds account for over 25 per cent of the Community's budget; and that they involve very large transfers especially as a proportion of the GDP of the poorest Member States. The European Council also notes that there have been proposals made for further expenditure in support of cohesion, particularly in the poorest Member States; for a greater progressivity in the Community's system of own resources; and for a sufficiency of resources in relation to Community policies and actions. The European Council agrees that these proposals and the means of achieving ever closer economic and social cohesion are matters which should be considered in the forthcoming reviews of the Community's finances and of the Structural Funds. The European Council considers that the Community will continue to devote substantial resources to the objective of ever closer economic and social cohesion, consistently with the maintenance of budget discipline.



Foreign and Commonwealth Office

London SW1A 2AH

21 November 1991

Dear Stephen,

Prime Minister's Meeting with Dutch Prime Minister,
22 November

/ Further to my letter of 20 November 1991, providing briefing for this meeting, I attach a revised and improved draft declaration on cohesion, approved by UKRep and HM Treasury.

-now "E" on brief

I should be grateful if you would replace the draft attached to my earlier letter with the new draft.

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

Yours ever,

Christopher Prentice.

(C N R Prentice)
Private Secretary

J S Wall Esq
10 Downing Street

R' 40

PRIME MINISTER'S MEETING WITH MR. LUBBERS: EUROPEAN POLITICAL UNION

General

- Even a minimalist Treaty will be going in the direction other Member States want.

- Even a minimalist Treaty will be going in the direction Britain does not want.

- For agreement to be reached therefore the most fundamental compromise has to be made by Britain. If others want an agreement they will have to compromise on a number of aspects of the text.

- The Presidency will have to stop simply producing texts which reflect a majority view.

- Will now be very hard to settle all these issues by Maastricht. We are prepared to try but not at any price.

- Public opinion polls show growing scepticism of Community. I can only get so far ahead of opinion in my Party and in the country.

CFSP

- Defence remains a very difficult issue. Much will depend on texts of WEU declarations and on further contacts with France/Germany.

- Our requirements remain:
 - a. Any eventual common defence policy must be compatible with NATO.

 - b. WEU should be autonomous, with links to NATO and European Union.

- c. Non-discrimination in WEU's relations with other partners and powers.
- d. Dutch assessment of French policy/tactics.

Foreign Policy

- Joint action can only work if:
 - a. it excludes defence;
 - b. its scope is stated specifically;
 - c. it is time limited; and
 - d. reversible.
- Parliament adamant that Britain's right to make its own foreign policy decisions cannot be fettered. Essential we have a supreme national interest clause, e.g. "A Member State shall not be obliged to take or refrain from action if to do so would damage a supreme national interest".
- Strong feeling in House of Commons against majority voting in this area. It is seen as the start of a slippery slope towards majority voting in matters of substance and as unworkable. I could get support for joint action in the Treaty but not majority voting.

Social

- We remain adamantly opposed to the texts.
- Problems are illustrated by working time directive under existing competence.
- Understand you may bring it to a vote at Social Affairs Council on 3 December.
- Very important national interests are at stake for Britain.

- Were we voted down on this text it would reduce the prospects of any agreement at Maastricht.
- Do not see why this has to be brought to a head at the Social Affairs Council before Maastricht.

Interior/Justice Co-operation

- Enthusiastic supporters of inter-Government co-operation in this area. Text of separate interior/justice charter a useful step forward.
- Cannot accept immigration in Article 100C.
- Willing to consider Article K which would allow possibility of some subjects being transferred into Community competence at a later date.

Cohesion

- Recognise strength of Spanish views, but see no prospect of any further concessions.
- At a pinch, with one further change (to exclude EMU from Article 130b), we could agree the new cohesion text. But that would be sole substantive concession.
- Could list Spanish concerns in a purely neutral declaration, provided they do not prejudice the outcome of the future financing debate. [Hand over UK illustrative text - attached.]
- But no question of any commitment to produce new money or new funds whether for the environment or convergence in this IGC. Not acceptable to Westminster for the UK to concede greater powers and increased resources for the EC at one go.

European Parliament

- Welcome progress at conclave but scope of extended co-operation procedure must be limited to Article 100A (general legislation not detailed technical regulations) and to the R&D framework programme provided unanimity is retained.

- Would consider including environmental multi-annual programmes provided these do not cover spending.

Competence

- Glad energy, tourism, civil and consumer protection deleted. Culture and industry should go the same way.
- Willing to consider sympathetically the new texts on health, education and training, including QMV. QMV for R&D, development and networks unacceptable.
- QMV for the environment would only be acceptable if exploitation of energy resources was decided by unanimity (this is a potentially very expensive area).
- Serious problems with Industry text.

CHAPEAU

- Essential to delete reference to federal vocation (and reference later in text) and to a single currency which would otherwise become a Treaty obligation.
- The texts must be legally coherent so that those things which are outside the jurisdiction of the ECJ are clearly outside the jurisdiction of the ECJ. These are technically small but with huge political ramifications.

Subsidiarity

- An important element for UK. Text nearly right. Hope Presidency will accept remaining UK and German amendments.

Tax

- Reference to Article 101 in Article 99 could open way for QMV on taxation. Completely unacceptable: must be deleted.

DRAFT DECLARATION ON COHESION

The European Council reaffirms that ever closer economic and social cohesion is an integral part of the general development of the Union. It considers that the amendments of the Treaty which have been agreed will provide a flexible framework within which the Community can support its objectives and the sound economic and monetary policies which will best ensure continuing and sustainable reductions in regional disparities within the Community.

2. The European Council notes that the Community's Structural Funds are being doubled in real terms between 1987 and 1993 and that the EIB is lending large and increasing amounts for the benefit of poorer regions; that the Structural Funds account for over 25 per cent of the Community's budget; and that they involve very large transfers especially as a proportion of the GDP of the poorest Member States. The European Council also notes that there have been proposals made for further expenditure in support of cohesion, particularly in the poorest Member States; for a greater progressivity in the Community's system of own resources; and for a sufficiency of resources in relation to Community policies and actions. The European Council agrees that these proposals and the means of achieving ever closer economic and social cohesion are matters which should be considered in the forthcoming reviews of the Community's finances and of the Structural Funds. The European Council considers that the Community will continue to devote substantial resources to the objective of ever closer economic and social cohesion, consistently with the maintenance of budget discipline.

DRAFT DECLARATION ON COHESION

1. The European Council reaffirms that ever closer economic and social cohesion is an integral part of the general development of the Union. It welcomes the amendments of the Treaty which have been agreed in the IGCs, as providing a flexible framework within which the Community can support its objectives and the sound economic and monetary policies which will best ensure continuing and sustainable reductions in regional disparities within the Community.
2. The European Council notes that the Community's Structural Funds are being doubled in real terms between 1987 and 1993 and that the EIB is lending large and increasing amounts for the benefit of poorer regions; that the Structural Funds account for over 25 per cent of the Community's budget; that they involve very large transfers especially as a proportion of the GDP of the less prosperous member states. The European Council reaffirms its belief that the Structural Funds will continue to play a considerable part in the achievement of Community objectives in the field of cohesion.
3. The European Council also notes that there have been proposals made for further expenditure in support of cohesion, particularly in the less prosperous member states; for a greater progressivity in the Community's financial arrangements; and for greater flexibility in administrative and financial arrangements under the Structural Funds. The European Council agrees that these proposals should be considered in the forthcoming reviews of the Community's finances and of the Structural Funds. The European Council agrees that the Community, while maintaining budget discipline, will continue to devote substantial resources to the objective of ever closer economic and social cohesion.

Bing

PRIME MINISTER'S MEETING WITH MR. LUBBERS: CHECKLIST

EMU

- Importance of generally applicable no-coercion clause.
- Excessive deficits:
 - a. Rules and sanctions must not apply in Stage II. Provisions must be legally watertight.
 - b. Excessive deficit procedure is too constraining: 3% deficit to GDP ratio will lead to far too many Commission investigations. Controversial domestically.
 - c. Continue to have serious reservations about legally binding rules and sanctions in Stage III.
- There must be no legal obligation to ban monetary financing until Stage III.
- Capital shares in ECB must be decided on political grounds. UK must have capital share at least as great as that of France and Italy.
- If there is to be agreement to national central banks being independent in Stage III there must be no requirement to change the status of central banks in Stage II and there must be adequate arrangements for ex-post accountability.
- Text must in no way prejudice our right to participate in international financial institutions like the IMF and World Bank.
- [If raised] UK preference is for London as seat of EMI.
- This issue should not be settled separately from the package of other EC institutions (environment agency, Trade Marks Office, training foundation).

- Any move on EMI/ECB must be conditional on explicit agreement to unblock the outstanding package on sites of institutions.

foreign\check.dca

PRIME MINISTER'S MEETING WITH MR. LUBBERS: OTHER ISSUES

- Attendance by Finance Ministers at Maastricht European Council.
- Enlargement: want a statement from Maastricht pointing the way ahead to eventual membership for Eftans and East Europeans.

GATT

- Congratulations on EC/US Summit. Must continue to press for programmes with view to political agreement this year.
- Dunkel seems to have given up.
- Must not allow Commission/US deal to jeopardise likelihood of agreement by Cairns Group.
- GATT settlement must not be pretext for lack of CAP reform.
- Possible further need for political impetus.