

PRIME MINISTER

EUROPEAN COUNCIL: THE DUTCH

At 10 o'clock tonight you are having a meeting with the Foreign Secretary, Chancellor and Home Secretary to discuss our tactics at tomorrow's meeting with Mr Lubbers at which the Chancellor and the Foreign Secretary (but not the Home Secretary) will be present. I attach the FCO brief for your meeting with Mr Lubbers. He will be accompanied by van den Broek, Kok and Dankert. He will also have with him the (Danish) Secretary General of the Council of Ministers (Niels Ersbohl). Ersbohl is traditionally the man who drafts texts on behalf of the Presidency, especially at a European Council. He is one of nature's fixers and his presence should be helpful.

EMU

The Chancellor has sent you a massive document about the EMU treaty text but you do not need to read it before tomorrow. The key issues are covered in the attached Treasury brief for tomorrow's meeting and you may tonight want to run briefly through the points you will need to emphasise when you see Lubbers. These are:

- Keep what's here.*
- i. The need to retain a no coercion clause of general application.
- Mark to note.*
- ii. The need for absolute clarity in the treaty that there are no legally binding obligations, or sanctions, on budget deficits in Stage 2. We remain opposed to legally binding rules and sanctions in Stage 3.
- Marked.*

In general, the procedure on excessive deficits (with a trigger of a 3 per cent deficit to GDP ratio) is much too tight - and has been criticised in Parliament.

Too long.

iii. Our requirement for no prohibition on monetary financing in Stage 2. *[Stage 3...]*

iv. Our capital share of the ECB. This must not be decided mechanistically on the basis of GDP and population but on the basis of a political solution giving us a capital share in the ECB at least as great as that of France and Italy.

v. On EMI you will want to resist any suggestion that Amsterdam should be the seat of the EMI. You could point out that the issue of the site of the EMI is linked to a package of issues on other EC institutions which has been blocked by France. In any case London is a firm candidate for the EMI.

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Political Union

The Foreign Secretary's note for tonight's meeting draws attention to the particular issues we need to settle before tomorrow. The most important is interior/justice (see para (vi) of the letter). The crucial article is article 100C of the draft treaty which provides for unanimous decisions by Council on:

*Govt. J.
Controls
European*

*Can't go
to committee*

a. Controls at external borders.

b. Arrangements for short stay visitors from outside the Community.

One possibility is to allow Article 100C to stand, but with nothing in it, i.e. it would make clear that the Council of Ministers could take certain decisions connected with the free movement of persons within the internal market but would not stipulate what they were. John Kerr argues (his argument is supported by the Cabinet Office) that this risks being more dangerous than putting something of substance into Article 100C, notably visa lists, i.e. a list of those third countries which require visas to come into the Community. The risk otherwise is that the European Court will interpret the Treaty more widely than we would like.

B

Home Office officials favour this course but it is not yet clear whether the Home Secretary himself does. He may argue that once visa lists are included an Indian immigrant could get a visa from the Portuguese Embassy and come into Britain via Lisbon. But I am told by the Cabinet Office that this could happen anyway under the External Frontiers Convention which we have signed up to (and which has only not come into force because of Spanish objections regarding Gibraltar).

CFSP

You will need to decide whether to hint to Lubbers at willingness to agree to majority voting for certain implementing decisions.

The FCO brief for Lubbers suggests a possible text:

"The Council may stipulate that designated detailed arrangements for carrying out joint action are to be adopted by qualified majority. The qualified majority will 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".

I think you do need to try to resolve our attitude on this issue. There is no doubt that we anyway need:

(i) to define more closely the concept of joint action which must be specific in scope, time limited, irreversible and must exclude defence.

(ii) to secure a supreme national interest clause, i.e. "A member state shall not be obliged to take or refrain from action if to do so would damage a supreme national interest."

The question about majority voting is not so much whether we can constrain it now as whether, by conceding the principle, we would be taking the first step down a road that will lead to majority voting on substance as well as implementation. That is certainly

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the intention of others and that is where the pressure will lie.

Social

C You will want to look at the attached Cabinet Office paper suggesting a possible way through on the Social Chapter for Maastricht. You will not want to hint at any give in our position tomorrow but I think the Cabinet Office paper does provide a basis for you to have a word with Michael Howard (see paragraph 11 of the note attached to David Hadley's minute in particular).

The Foreign Secretary's letter contains a suggested deal with the Spaniards whereby they would agree to back us in resisting the proposed extensions of competence in the social area in exchange for us backing off the proposed reduction in the number of Commissions. It is worth keeping in mind. But it would be a pity to lose the reduction in Commissions.

As you know, I shall be going over all this ground with Peter Hartmann tomorrow morning and will report to you before your meeting with Lubbers.

I shall let you have separately a check list for use with Lubbers.

I will come over to the House for the meeting.

JSW

J S WALL

21 November 1991

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