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Future of Europe	EUROPEAN POLICY
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Series : **EUROPEAN POLICY**

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Part : **16**

Date	From	To	Subject	Class	Secret
29/11/2004		Ch.Staff	From Keith Vaz MP: Thoughts on the Referendum Campaign	U	
29/11/2004	SS/DCA	FCS	Council decision providing for certain areas covered by title IV of part	C	
06/12/2004	SS/MOD	FCS	EU Constitution Comparative Analysis	U	
09/12/2004	Ch.Staff		To Keith Vaz MP: Thoughts on the Referendum Campaign	U	
15/12/2004	SCU	PM	Europe Referendum campaign	C	
23/12/2004	EU/PS	PM	The consequences on a no vote	C	
12/01/2005	SCU	PM	Referendum: No campaign briefing on complacency	R	
12/01/2005	FA/APS	EU/PS	Europe Prime Ministers meeting	C	
21/01/2005	Ch.Staff	PM	European Referendum Bill	U	
10/02/2005	EU/PS	fco	Structures for running the referendum	C	
18/02/2005	SCU	PM	Referendum: Your Cross Party Europe Meeting	C	
21/02/2005	EU/PS	PM	Spanish referendum result	U	
23/02/2005	FCS	CH EX	EU Referendum and future financing	R	
25/02/2005	PD(AA)	PM	David Owen and the Euro Constitution	C	
04/03/2005	EU/PS	PM	Refernda in other EU states	U	
04/03/2005	EU/PS	PM	Referenda in other EU states	U	
11/03/2005	SCU	PM	Referendum Ken clarke and charles Kennedy	C	
14/03/2005	EU/PS	Ch.Staff	The Referendum Propriety Guidance	R	
18/03/2005	SCU	PM	Referendum Ken clarke and charles Kennedy	C	
21/03/2005	SCU	PM	Agenda Referendum Ken clarke and charles Kennedy	C	
22/03/2005	Ch.Staff	PM	European Referendum Minister	C	
08/04/2005	EU/PS	SOC	Government Structures for running the referendum - New Services B	C	
22/04/2005	SOC	PM	Ministerial Responsibility for the Referendum on the EU Constitution	C	

Secretary of the Cabinet and Head of the Home Civil Service

PRIME MINISTER

cc Jonathan Powell
Ivan Rogers
David Hill
Sally Morgan
Kim Darroch
Steve Morris
Colin Balmer
Katrina Williams
Sue Gray

Bcc Zuna Etheridge

MINISTERIAL RESPONSIBILITY FOR THE REFRENDUM ON THE EU CONSTITUTIONAL TREATY

Following my note of 22 March, I thought you might value some further advice on the various options for government structures for handling the referendum.

I think there are broadly three options: and there is a timing issue.

Option 1

The Foreign Secretary has proposed that the **FCO Minister for Europe should take the main responsibility for the referendum**. He/she would stay in the FCO through the second half of this year and not move over to the Cabinet Office until the end of the UK Presidency. A unit could still be established in the Cabinet Office in order to co-ordinate Government work on the referendum, but activities would really only gear up after Royal Assent, since the Europe Minister would have all the normal, and very heavy, workload associated with the UK Presidency of the EU, as well as the task of taking the Constitutional Treaty Bill through Parliament.

This model has some attractions. Firstly, if a French "No" vote meant the ratification process across the EU was suspended, the Referendum Minister would not be marooned (as he would if the referendum were his sole responsibility). Secondly, since little would happen until the end of the year, there would be no problems in ensuring that government expenditure met the terms of the new services rule (the convention that expenditure cannot be incurred on a "new service" until authority has been given through an Act of Parliament). We

would – we hope – have Royal Assent by the end of the year, before any significant activity would start.

But there are big disadvantages. The first is that, though there are some secondary advantages to no activity until 2006, as set out above, there are some first order disadvantages. Without serious activity this year, the Government is unlikely to be ready for a referendum in mid 2006, and will not be able to motivate the wider pro-European movement to organise seriously. With the other responsibilities of the Europe Minister, there would in effect be no Ministerial driving of the referendum preparations through the autumn. Moreover, over in the FCO, the Minister would not be so close at hand, and would not report directly to you. And finally, appointing someone as a middle ranking departmental Minister of State doesn't give you the sort of heavy-hitter able to motivate cross-Governmental activity.

Option 2

This is the option set out in my minute to you of 22 March. It is to appoint a **Cabinet-ranking Minister for the referendum immediately after the election.** This Minister would be supported by a team of officials, all **sitting within the Cabinet Office**. There are a number of alternatives for his title - **Chancellor of the Duchy of Lancaster, Lord President (which follows the 1975 precedent, but would need to be unbundled from the Leader of the House of Lords post) or Minister without Portfolio**. Appointing a senior Minister to such a post would dramatically increase the Government's capacity to run and win the referendum, and would give pro-Europeans a sign of your serious intent.

We believe we could ensure that establishing the unit and appointing a Minister were within the new services rule: the Minister's portfolio would need careful consideration, but co-ordinating policy and communications (the essence of the Minister and Unit's roles) is core Cabinet Office activity. Discussions with Treasury are ongoing on these points.

Option 3

The third option is the Minister in the Cabinet Office – Option 2 – but additionally giving him/her **responsibility for the EU Bill**. Adding this to the portfolio ought to make the appointment somewhat less controversial – because it guarantees visibility, a full Parliamentary role, and would be clearly, while the Bill was going through, a big job. It also helps presentationally with the new services rule – because those officials working to him wouldn't be working just on how to win the referendum, but also on the detail of taking the Bill through Parliament. And it would avoid the duplication at official level of needing to have officials with a detailed knowledge of the new Treaty text in both the Cabinet Office (in the unit supporting the Minister) and the FCO (dealing with the Bill).

The disadvantage is the risk that the Minister would become tied up in Parliament for weeks dealing with hundreds of Opposition amendments to the

Bill. But this isn't insoluble – provided there is still a Europe Minister in the FCO, he/she could assist with the Committee stage slog.

The timing issue

It will be apparent from the analysis above that Option 3 is, at this stage, my recommendation. But there is one potential problem with either of Options 2 or 3 - that in the event of a French "No" vote, you would potentially have appointed a senior Minister who was then left with nothing to do. (It's not of course certain that in the eventuality of a French "No", the ratification process across the EU would be suspended or abandoned. But it is at least possible, and arguably probable, that this would be the outcome, after a certain amount of hysteria amongst our partners). What are the possibilities in these circumstances? Here are some ideas.

a) You might decide that the combination of opportunities and risks provided by a French "No" required a Cabinet rank Europe Minister free of other responsibilities to ensure Britain's interests were properly secured in the new situation. (This would, however, inevitably be seen as downgrading the Foreign Secretary's role).

b) You could simply **delay appointing a Minister** until after 29 May, by holding an individual in reserve for the post. But there are several drawbacks to this approach. If this delayed appointment leaked out, the government would look like it was banking on a French "No", and if the French then voted "Yes", it would be precisely the wrong start to the referendum campaign ("the Minister for the referendum you never wanted"). And you would still have to hold someone back for the job – if it weren't subsequently created, the individual would then presumably be left on the back benches, because all other senior Ministerial posts would have been filled.

c) Alternatively you could combine the referendum responsibilities with an existing post, but one without departmental responsibilities. For example, if post election you created a **Deputy Prime Minister** without any direct departmental responsibilities, you could add to the referendum to his/her portfolio if the French voted "Yes". If the French voted "No", and the ratification process across Europe were suspended, the DPM would continue with the normal responsibilities of your deputy (there are of course precedents from previous governments for DPM's without specific portfolio or departmental responsibilities). And the advantage of this arrangement is that the individual concerned would have both the title and the clout necessary to mobilise the referendum preparations across government. The individual could, as under the other models, be supported by a co-ordinating unit within the Cabinet Office.

Kim Darroch and I will provide further advice as the referendum day in France approaches.

ANDREW TURNBULL

22 April 2005

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From: Kim Darroch
Date: 8 April 2005

SIR ANDREW TURNBULL

cc: Colin Balmer
Jerry Page
Katrina Williams
Philip Hall
Susanna May

GOVERNMENT STRUCTURES FOR RUNNING THE REFERENDUM – NEW SERVICES RULE

When we spoke earlier this week, you asked whether we were yet clear on the implications of the new services rule for a referendum Minister and Unit, post-election; and whether any variations of the Foreign Secretary's proposals helped to resolve this problem. This is an interim reply, since we haven't yet got a definitive view on the impact of the new services rule – but you may nevertheless find an update useful given that you are seeing the Prime Minister on Monday 11 April.

The first point is that we shouldn't yet assume that there is definitely a big problem with the new services rule. We have now had fairly encouraging working-level discussions with Treasury Office of Accounts (TOA) about the shape of the proposal. It seems likely that we could ensure that establishing the unit and appointing a Minister were within the terms of the new services rule: the Minister's portfolio would need careful consideration, but co-ordinating policy and communications (the essence of the Unit's work) is core Cabinet Office activity. However, it seems it would be more difficult to justify Cabinet Office expenditure on publication of information material until after Royal Assent: Cabinet Office does not currently produce European information material, so there is a greater risk this could be considered a new service. We will explore these issues further with TOA and consider the implications for our proposal.

You specifically asked whether the option proposed by the Foreign Secretary of making the Europe Minister in the FCO responsible for the referendum might offer more room for manoeuvre in relation to the new services rule. The Foreign Secretary's proposal does help – but primarily because it envisages that the Europe Minister would not engage seriously on the referendum until around the end of the year (and hence – one hopes – post Royal Assent). The logic of this is that the activities of the referendum unit would also be restricted and largely preparatory until the Europe Minister focused on the referendum proper (so until this moment, the unit would not explicitly be promoting a particular outcome in the referendum). So for both the Minister and the unit, any new services problem would simply not arise.

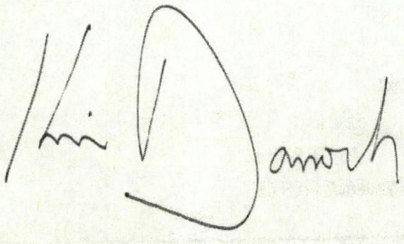
But the trouble with this proposition is that, hitherto, it's been clear that the Prime Minister will want substantial work to be carried out in the period from the election until the end of the year. Without it, the Government is unlikely to be ready for a referendum in mid 2006, and will not be able to motivate the wider pro-European movement to organise seriously. Moreover, the Prime Minister is likely to want the minister responsible for the referendum to be close at hand, and reporting directly to him. For these reasons I do not see this Foreign Secretary's proposal as likely to carry the day, whatever its advantages in the new services context.

You also proposed the alternative route of having the Referendum Minister in the Cabinet Office, as originally conceived, but adding to his portfolio responsibility for the EU Bill. This is certainly likely to help presentationally. But the effect is just presentational, in giving the Minister some cover – an additional, and initially headline, responsibility, which is fully within the terms of the new services rule.

The disadvantage is that we want the Referendum Minister to concentrate on winning the referendum. We don't want him/her tied up in Parliament for weeks dealing with hundreds of Opposition amendments to the Bill. But this isn't insoluble – provided there is still a Europe Minister in the FCO, the Referendum Minister could do the main set piece Parliamentary events, while the Europe Minister did the Committee stage slog.

There are also advantages to this structure at working level. It avoids the duplication problem – of needing officials in both the FCO (dealing with the Bill) and in the Cabinet Office (in the referendum unit) with a detailed knowledge of the new Treaty text. Moreover, if it were possible to design a structure in which most officials had mixed responsibilities, both for some aspects of the Bill and some communication tasks, it would be possible to avoid the appearance of significant numbers of officials in the referendum unit dealing just with communications – also potentially awkward in the new services context.

We will continue to engage with TOA and Treasury Solicitors, so as to be able to provide you with more authoritative advice, including some sort of analysis of the political and legal risks involved. Happy to discuss further if this would be helpful.



KIM DARROCH

CONFIDENTIAL

PRIME MINISTER

cc David Miliband
Jonathan Powell
Ivan Rogers
David Hill
Sally Morgan
Pat McFadden
Kim Darroch
Steve Morris
Colin Balmer
Jerry Page
Katrina Williams
Sue Gray

CROXLEY heritage

STRUCTURES FOR RUNNING THE REFERENDUM

--- **I attach a proposal for the governmental structures necessary to run and win the referendum after a General Election: a Cabinet-rank Referendum Minister, supported by a Referendum Unit staffed by civil servants, both situated in the Cabinet Office. This has been prepared by Kim Darroch and Steve Morris. You will want to consider in the light of other wider developments in the coming weeks.**

2. In broad outline the proposal is consistent with the recommendations contained in the Foreign Secretary's note to you of 24 January.

3. The scale of the task ahead means that you will need to play a prominent role. Your senior cross-party group will remain vital and will need to provide strategic leadership to the Yes Campaign. However, you will not be able to lead all the day-to-day work of campaign planning, strategy, and communication. And these tasks cannot be done by officials alone.

4. We therefore propose a Minister in the Cabinet Office dedicated solely to the referendum. This will be necessary in order to provide the authority, simplicity, and focus necessary if the Government is to win the referendum. The Foreign Secretary and Europe Minister will have too many distractions, particularly during the UK Presidency of the EU. And this is domestic - not just foreign policy. We also recommend that the minister have Cabinet rank, in order to have the necessary clout both within the government and outside. Do you agree?

5. The Minister would be supported by a unit in the Cabinet Office. The unit's remit would be to provide the central thrust for the Government communications campaign, while also harnessing the machinery of other Government Departments, galvanising ministers etc. Most of the work involved in actually running the referendum (Bill, secondary legislation, liaison with Electoral Commission) would remain the responsibility of FCO and DCA. However, the unit would - with No 10 - steer all strategic decisions. Do you agree with this division of labour?

6. The Minister, and hence unit, would need to be put in place immediately after the election. However, recruitment into the unit would need to be phased, with the unit reaching full strength (around 30 members of staff) by December this year. Do you agree with this suggested timing?

7. If you agree that a Cabinet-rank Minister is necessary, I would propose that the unit be headed by a senior civil servant at Director General level. Getting this appointment right will be key. The individual will need to have excellent organisation skills to manage what is a fairly complex project, will need to be able to pull the Whitehall machinery into the task, will need a clear sense of the proprieties involved – and will need to have an understanding of the EU, and of what is at stake.

8. Close co-operation with your office will be essential. Your adviser on Europe will also need to be intimately involved in all strategic decisions being taken on the referendum. The proposed structures will only work if there is seamless co-ordination and collaboration between the Referendum Unit and European Secretariat at all levels.

9. For these reasons the Minister and unit should be located in 70 Whitehall, although this will require other units (possibly the Cabinet Office press office) to be moved further away from Downing Street. Do you agree that the Unit should have priority in any reorganisation of 70 Whitehall offices?

10. The work of the unit will come under intense parliamentary and public scrutiny. I propose that we maintain the current system for assuring propriety of Ministerial and civil service conduct: the Propriety and Ethics Unit in the Cabinet Office, reporting to me.

11. The administrative cost of running such a unit (at full strength) would be £1.5 - 2 million per annum – though of course it is likely to be at full strength for only a few months, not years. The unit would also need a substantial programme budget in order to carry out central information activities (including any initiatives for grassroots campaigning).

12. One issue that remains to be resolved is the applicability of the the "new services rule" to the proposal. Under this convention the Government cannot incur expenditure on a new service until approved by Parliament. If you agree that a Minister and unit as proposed is right, we shall need to sort out what is permissible with Treasury, and at some stage it may be necessary for you to discuss this with the Chancellor: you and he will have to be willing to defend

payment of a government salary to a referendum minister, and other spending on a new unit, in Parliament.

13. In order to roll out a Government campaign after a General Election we would need to have advanced preparations as much as possible in advance. An early steer on whether this proposal is broadly in the right direction would therefore be very helpful.

AT I think this is right
How to do same (v. discreet)
planning. But my mind
is not yet made up.

ANDREW TURNBULL

22 March 2005

CROXLEY heritage

PROPOSAL FOR REFERENDUM MINISTER AND UNIT

1. This paper makes a proposal for the ministerial and civil service structures necessary to win the referendum on the EU Constitutional Treaty.

I PRECEDENTS

2. In 1975 a Referendum Unit was established in the Cabinet Office, responsible for considering aspects such as the wording of the question and the organisation of the poll. Subsequently a Referendum Information Unit was created, also in the Cabinet Office. It had 19 staff on secondment from a number of different departments. The FCO also had its own Referendum Unit, which represented FCO concerns, provided briefings and speeches for pro-EC ministers during the campaign, and helped deal with PQs and public correspondence. It also conducted political co-ordination with Britain in Europe.

3. The 1979 devolution referenda were overseen by a Constitution Unit in the Cabinet Office (COCU). The Unit was headed by a senior civil servant, and between 1976 and 1979 was staffed by a team which included 3-5 Band A equivalents. The Unit co-ordinated Ministerial consideration of timing and implementation questions (including input to Michael Foot's Informal Group). It also appeared to carry out the brunt of the Bill work. The Scottish and Welsh Offices fed into the process but concentrated on planning for implementation of devolution. Each had Bill teams, but these were largely providing comments and advice to the COCU, rather than taking the initiative. The Scottish and Welsh Offices made the practical arrangements for holding the referenda, though in the latter case with assistance from the Home Office. Scottish Office drafted secondary legislation, e.g. on the date and conduct of the referendum.

4. In the case of the 1997 devolution referenda a Constitution Unit was established in the Scottish Office to oversee production of the White Paper, the referendum bill and the referendum itself. It was staffed by a Grade 3, three Grade 5s, around 9 Band As, four legal advisers and support staff. Similar arrangements were in place in the Welsh Office. The Home Office oversaw the electoral process. A Cabinet sub-committee and an official level steering group were established to ensure cross-departmental co-ordination. These were serviced by a Constitution Secretariat within the Cabinet Office, headed by a Senior Civil Servant.

5. In 2004 the North East referendum was co-ordinated within

ODPM. One Band A, one/two Band Bs, and one legal adviser worked on the specific legislation necessary for this referendum and on the information campaign. The work was overseen by a Grade 5, taking up approximately 30% of his time. Other departments, in particular DCA, were drawn in as required.

II JUSTIFICATION

General principles

6. We need to ensure work on the referendum has:

- Authority. This work needs direct authority from the PM, clear lines of command, and close ministerial control day-to-day.

- Simplicity. Current organisation is unwieldy. We need a simple, coherent structure, clear roles and a minimum of overlap or division.

- Focus. The key task is winning the referendum. It will require 100% concentration. We must minimise diversions from this task.

- Propriety. This work – and the individuals involved - will come under extremely close scrutiny by Parliament, the media, the No campaign and the courts – legal challenge is certain.

Ministerial Leadership

7. The scale of the task, the state of public opinion and the expectations of the pro-European coalition mean that the PM himself will have to play a prominent role. His senior cross-party group will remain vital after the General Election. It will need to meet regularly, giving strategic leadership to the Yes campaign.

8. But it would be unrealistic to expect the PM to lead all the day-to-day work of campaign planning, strategy, message development, communication etc. And these are not tasks which could be done by officials alone. A referendum minister will be needed to deliver the major increase in effort we require.

9. This person must have the clout to ensure other ministers and departments play their part, and the status to deal with senior stakeholders in business and the political parties. This probably points to a senior minister – i.e. Cabinet rank.

10. This would be a massive, full time job. It could not be done effectively by a minister who also has other responsibilities. It would be essential that the Referendum Minister was not dragged into general EU business: running the UK Presidency, attending European Councils, framing Europe policy, handling the Working Time Directive, travel commitments, meetings with foreign counterparts, etc. etc. The structure needs insulation from these distractions. This would not therefore be a role for the Foreign Secretary or for the Europe Minister. We propose a Cabinet-rank Referendum Minister located in the Cabinet Office, and supported by a Referendum Unit.

11. Depending on wider considerations, the Referendum Minister could take an existing Cabinet "slot" closely linked to the Cabinet Office, such as Chancellor of the Duchy of Lancaster or Minister without Portfolio. The minister would be responsible to parliament for his/her campaigning activities, and the activities and spending of the Referendum Unit. It would be strongly preferable for he/she to agree to take oral parliamentary questions on these subjects (possibly just five or ten minutes following on from the Foreign Secretary's questions). Additional responsibilities should be minimised; it is not envisaged that the minister would be responsible for the Cabinet Office. Responsibilities of ministers in other departments are elaborated in Section IV.

12. Appointing a Referendum Minister and establishing a central Referendum Unit would be a serious demonstration of the Government's commitment to win the referendum, and should be welcomed by pro-Europeans. It would also undoubtedly attract criticism and intense scrutiny. Nevertheless, there are precedents for Cabinet-rank ministers overseeing similar activities, and precedents for establishing such a unit in the Cabinet Office. The Government should be able to argue that it was operating within the terms of the "new services rule" so long as staff were not working on the new service - in this case running the referendum or explicitly promoting a particular outcome in the referendum - until after Royal Assent to the EU bill. However, further clarifications on this will need to be sought with Treasury Office of Accounts. Suggested defensive lines are attached at Annex III.

III FUNCTIONS AND INDICATIVE STAFFING OF REFERENDUM UNIT

13. There are three main strands of Government referendum-related work:

- Informing voters: campaign planning, political leadership, communication;

- Setting up and holding the referendum itself: taking the EU Bill through Parliament, drafting and taking secondary legislation through Parliament, liasing with the Electoral Commission on organisation of the poll;

- Minimising the risk of successful legal challenge: agreeing and then ensuring we follow propriety guidance, while not unduly restricting Government activities.

14. The central objective of the Referendum Unit (RU) would be informing voters, i.e. winning the referendum. It would need to provide the central thrust for the Government campaign, while also harnessing the machinery of other Government Departments in order to maximise impact. It would need to steer other Government Departments in the achievement of particular tasks necessary to actually hold the referendum, in particular, passage of the EU Bill, and adoption of secondary legislation (see Section IV). However, it should not get embroiled in the detailed logistics. It would also make sense for the propriety of the Government's referendum activities to be assured through a separate channel (again, see Section IV).

15. The specific functions the RU would need to carry out can be loosely grouped under the headings of Leadership, Communications, Referendum/Treaty Policy and Legal support. The objectives, activities and likely staffing requirements for each of these are set out in Annex II. An organigram at Annex IV shows what a unit might look like at full strength. It also shows that in reality the policy and communications functions would partially merge.

16. The Head of the Referendum Unit should – if the Minister has Cabinet rank – be a Director General. This would help give him/her the necessary influence across Whitehall to ensure other Government Departments are fully engaged.

17. In practise, it would be necessary to phase recruitment, probably starting initially in May 2005 with four Band A members of staff, two Band Bs and a Band C member of support staff. A further tranche could start in September, and the full contingent from December. This approach would have the advantage of being able to adjust staffing levels, and responsibilities as requirements became more certain.

IV ROLE OF OTHER PARTS OF CABINET OFFICE AND OTHER GOVERNMENT DEPARTMENTS

18. Other Government Departments would be contributing staff to the RU. They would also be contributing to the cross-Whitehall referendum effort. The diagram at Annex I illustrates how the RU would fit within the wider Government and non-Government structure. The roles of other parts of the Government machinery are described in more detail below.

No 10/Cabinet Office

19. Close co-operation with the PM's Office will be essential.

20. The RU would be a discreet business management unit within the Cabinet Office. The Head of the RU would report to the Cabinet Secretary. The Chief Accounting Officer for the RU could be either the Cabinet Office's Managing Director, as is the case for some other CO business management units, or the Head of the Unit could be an Additional Accounting Officer.

21. The PM's adviser on Europe would be involved in all key decisions. The role of the European Secretariat would continue unchanged and the RU would not take over responsibility for co-ordinating work on EU policy dossiers or advising on EU issues. There would be a need for careful and continuous co-ordination between the Secretariat and the RU, possibly through a small steering group in addition to seamless working level contacts.

22. The RU and OGDs would need to be supplied with rapid propriety guidance. This would be provided by the Cabinet Office's Propriety and Ethics Group. The Cabinet Secretary would take the ultimate decisions on whether an activity was in line with the propriety guidelines, supported by an internal Committee (possibly a number of Wednesday morning colleagues). The Committee's secretariat would be located in the Propriety and Ethics Group, which would need to be reinforced, with at least one member of staff dedicated to working on EU referendum issues. Propriety and Ethics would continue to call on Treasury Solicitor and Counsel for legal advice, though to a greater extent than currently. Having propriety decisions taken outside the RU would ensure greater neutrality of the "referee."

23. The RU would not carry out its own media monitoring, but would

draw on the Media Monitoring Unit, which would probably need an additional member of staff.

24. The Referendum Unit would also need to draw upon the Cabinet Office's Press Office, but in the later stages would need dedicated support.

Foreign Office

25. The Foreign Secretary and Europe Minister would be key spokesmen in the campaign to ratify the Treaty, and would play an important role representing this process to our European partners. The EU Bill would be taken through Parliament by the Foreign Secretary after an election, and he/she would continue to be accountable to Parliament for EU policy. (The Referendum Minister would still be free to participate in debates). Depending on the number of Foreign Office staff joining the RU, there would be a need for back-filling to ensure that there was enough in-house support for the Foreign Secretary. There would need to be careful co-ordination between the FCO and RU during the bill process, both on referendum policy/strategic issues and on interpretation of the treaty, e.g. in consideration of amendments.

Department of Constitutional Affairs

26. DCA Ministers would continue to be responsible to Parliament for policy on electoral law, referenda, and campaign financing, and for relations with the Electoral Commission. DCA would therefore continue to lead on the generic and specific secondary legislation related to the referendum on the treaty. It would also have principal responsibility for liasing with the Electoral Commission and local authorities about the logistics of running the referendum, and for securing the finances necessary to hold the referendum. It would also prepare – in close collaboration with the Referendum Unit – the defence to any legal challenge.

Other Government Departments

27. All Government Ministers and Departments would be encouraged to play an active role in the referendum. They would be expected to carry out their own information activities, funded by their own budgets. The RU would provide quality assurance and co-ordinate activities and core messages. Departments with a major role to play in engaging their particular stakeholders would include: DTI, HMT, Defra and HO.

Devolved Administrations

28. The Scottish Executive has indicated that its ministers wish to play an active role in the Government campaign. The Welsh Assembly Government has also indicated informally that the First Minister is interested in playing a role. Any activities would need to be carefully steered and co-ordinated by the RU.

V SPECIAL ADVISERS

29. The Referendum Minister would need SpAd support. Their number and location would need to be considered at a later stage, taking account of SpAd arrangements in the CO, No 10 and FCO.

VI LOCATION

30. The RU should be located in 70 Whitehall, in order to facilitate co-ordination with No 10. There would be operational advantages to having an open-plan environment.

VII BUDGET

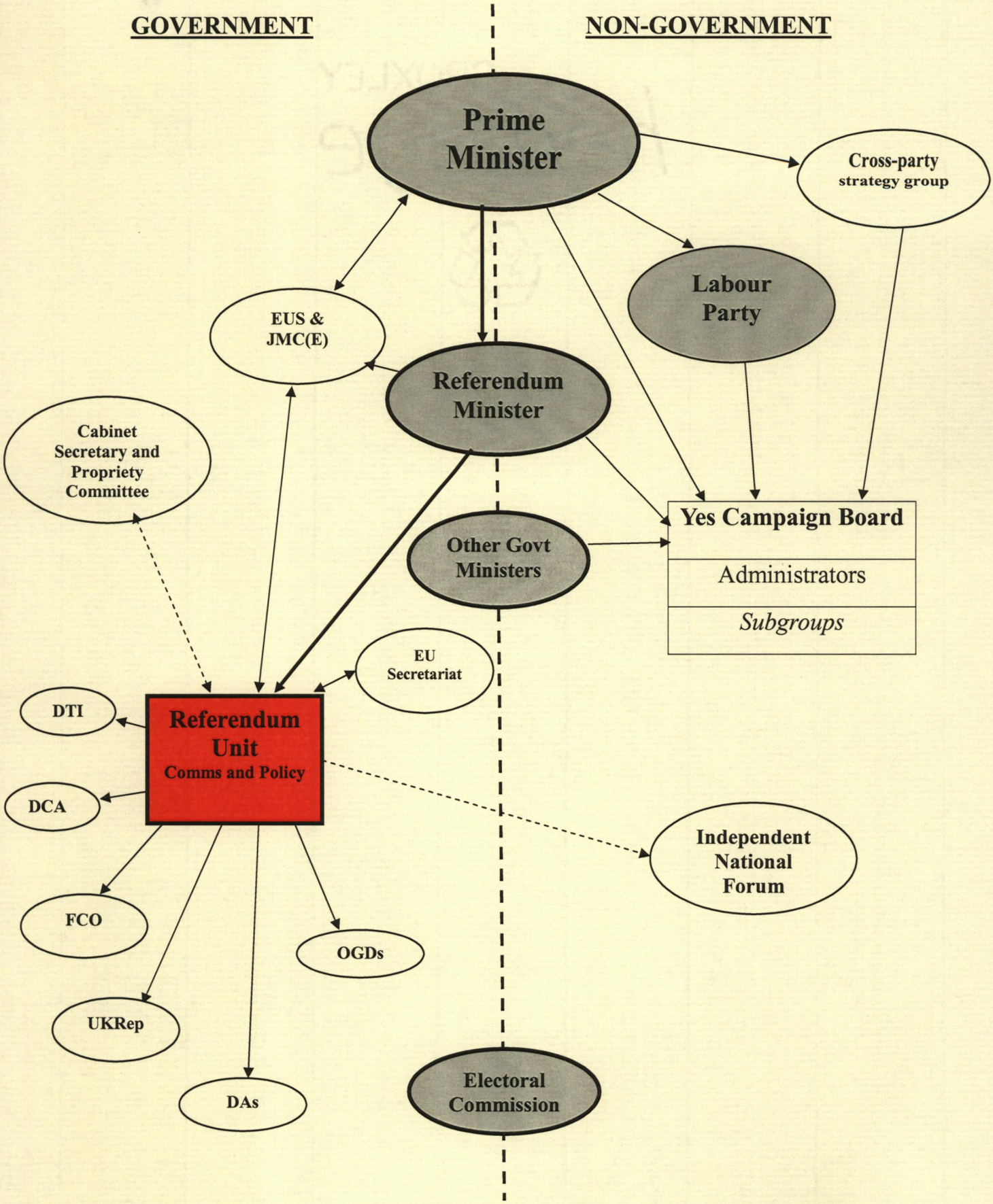
Administration Budget

31. Staffing at the maximum level described above would cost approximately £1.25 million, (including £250,000 for SCS). In addition, a significant budget would be required for travel (mainly within UK). More detailed proposals on administrative spend will be provided before May but a reasonable total per annum estimate (at full strength) would be in the region of £1.5-2 million.

Programme Budget

32. The Unit would need a significant programme budget for publications and events. The recent Preparing for Emergencies booklet (approximately 25 million copies, sent to every household) cost £8.3 million. Funding would also be required for any independent national forum, if the Government decided to pursue such a proposal. More detailed proposals on programme spend will be provided before May.

REFERENDUM STRUCTURES



OBJECTIVES, ACTIVITIES AND STAFFING FOR REFERENDUM UNIT

A LEADERSHIP

Key objectives

- Advise PM/Referendum Minister on **overall referendum strategy** (e.g. when referendum should be held, implications for UK of any negative results in other referenda) **and communications;**

- Ensure **all Government departments are pulling in the same direction,** by ensuring effective communication and co-ordination across referendum structures. (N.B. The Unit would NOT be responsible for co-ordinating EU policy);

- Provide **support** for Referendum Minister.

Staffing

These tasks would be carried out primarily by SCS Management. The Referendum Minister would be supported by a Private Office (see organigram at Annex IV). Depending on post-election changes in Cabinet Office, these could be existing CO Private Office slots. Staff would need to be in place from early May 2005.

B COMMUNICATIONS

Key objectives

- Develop and implement a **central Government communications strategy** which ensures that convincing consistent messages reach intended targets;

- Ensure **OGDs and DAs are implementing communication strategies** (including, in case of FCO, a communications strategy for EU Bill), and that they are in line with central strategy;

- Ensure that **regional and local governmental structures** such as Government Offices, RDAs, GLA, local authorities, Government News Network are used as channels for delivering the communications strategy.

Activities

On a day-to-day basis this would require the following activities:

- Ensuring press co-ordination. Liaison with No 10 and CO Press Offices, OGDs, lines to take etc.;

- Maintaining a central grid of events (and providing quality assurance of OGD grids);

- Managing internal scripts and writing rebuttals. Commissioning and providing quality assurance of OGD scripts/rebuttals;

- Article and speech writing for referendum minister, PM and others. Quality assurance of speeches from OGDs;

- Organising events and visits for referendum minister, and advising other departments on their activities;

- Producing public information (publications, partnerships work). Quality assurance of OGDs' publications;

- Producing and maintaining website, and carrying out possible e-communications activities;

- Monitoring (polls/research) and evaluation;

- Ensure co-ordination of messages with Yes Campaign;

- In co-ordination with OGDs, liasing with and engaging key stakeholders (Trade Unions, business etc), and developing a list of speakers;

- Briefing/advising PM/Minister/SCS on these aspects.

Staffing

Given the range of activities and number of staff the communications work would need to be overseen by a senior manager.

During the peak of communications work (Dec-April/May 2006) a total of around 6 Band As might be needed, with 4 Band Bs, plus 3 Band C

support staff. It would be advisable to recruit staff in stages, and subject to need, so that you would have in place a strong contingent of 2-3 Band As from May 2005, 4 from September and the full compliment of 6 from December (see Annex IV). This would allow room for adjustment.

The Minister would need a dedicated spokesperson – probably a Special Adviser. Beyond that, press handling should be managed through existing structures in No 10, CO and FCO.

C REFERENDUM/TREATY POLICY

Key objectives

- Ensure **central co-ordination of Government policy** on the referendum, through cabinet and working-level mechanisms;
- **Track/manage progress** of overall referendum project so that referendum can be held on desired date;
- **Ensure resources available** for referendum and related Government activities;
- Develop and implement policy to encourage a **grassroots campaign;**
- **Ensure openness** about Unit's activities.

Activities

On a day-to-day basis this would require the following activities:

- Supporting secretaries to EUS when referendum issues are discussed, and to working level steering groups. Providing papers/briefings when referendum issues discussed at JMC(E);
- Ensuring EU Bill developments (timing, any amendments) compatible with overall EU Constitution/referendum policy;
- Ensuring secondary legislation (timing and content: particularly generic conduct order, and orders on referendum period and date) compatible with overall EU Constitution/referendum policy;
- Ensuring through regular contacts with Electoral Commission,

and in co-ordination with DCA, that logistical preparations proceeding smoothly;

- Monitoring progress of key EU dossiers and advising on impact on referendum, in close co-ordination with European Secretariat and FCO. (N.B. NOT co-ordinating EU policy);

- Monitoring progress of referenda in other Member States, in close co-ordination with FCO and Posts;

- Working with FCO and UKRep to manage involvement of EU Institutions (e.g. visits from Commissioners, spending by EP/COM);

- Managing unit's administration and programme budget. Ensuring DCA and Electoral Commission secure necessary finances for running referendum, and that departments locate resources for their own communications activities;

- Working with partners outside Government to establish independent national forum to operate centrally and in the regions, and act as subsequent liaison point (if there is agreement to pursue such a proposal);

- Responding to FOI requests, PQs, Minister's correspondence;

- Briefing PM/Referendum Minister/SCS on these aspects.

Staffing

Again, given the range of activities and number of staff the policy work would need to be overseen by a senior manager.

Depending on timing of the referendum, the peak for the policy work is likely to be September 2005-January 2006, because of the timetabling of the bill and secondary legislation. During that period 2 Band As, 1 Band B, plus 1 Band C would be required for this work. There might be a need for significantly more resources depending on the extent to which the Unit was responsible for being the driving force behind a national forum.

In addition, one of the Band As would manage an FOI/PQ/ministerial correspondence unit, which would be staffed by an additional Band B and a considerable number (around 6) Band Cs. This would need to work in

co-ordination with the rest of the team, but would provide a shield from the weight of information requests likely to be made.

D LEGAL SUPPORT

Key objectives

- Ensure DCA has prepared comprehensive **defence to legal challenges;**
- **Monitor progress** of any legal challenges;
- Provide general **legal advice** to Referendum Minister and Referendum Unit.

Staffing

The unit would need support from one dedicated lawyer, probably a Band A, assisted by a Band C (who might in practise also be working to other members of staff). The peak of the legal work would depend on when challenges are issued but there is likely to be a need throughout the period up to the referendum.

DRAFT DEFENSIVE LINES ON APPOINTMENT OF REFERENDUM MINISTER AND ESTABLISHMENT OF REFERENDUM UNIT

- **Who will fund the Minister for the Referendum?**

  [x] is a Government Minister and is paid the appropriate salary for a Cabinet minister in the Commons from the public purse.

- **This is a misuse of Government funds for party political purposes.**

  The Government has signed the EU Constitutional Treaty and is committed to pursuing its ratification. As [*Chancellor of the Duchy of Lancaster/Minister without Portfolio etc*] he/she will be responsible for the development and implementation of that policy, supported by a Unit staffed by civil servants. He/she is a member of Cabinet and sits on a number of Cabinet Committees. The role has nothing to do with party politics.

  The Minister will take Parliamentary Questions in the House on his/her government responsibilities and will deal with correspondence with Members of the House on these issues.

  As a Government Minister he/she is of course bound by the Ministerial Code and is therefore required to ensure that he/she keeps government and party political activities separate and does not use official resources, including the Civil Service, for party political purposes.

- **Will the Minister have Special Advisers?**

  Under the terms of the Ministerial Code, as a Cabinet Minister he/she has two Special Advisers.

- **The taxpayer is funding the Yes Campaign.**

  The Referendum Minister and Unit will support Government policy on ratification of the treaty, and once approved by Parliament, on a referendum. Funding of the separate Yes and No Campaigns is something provided for by PPERA, if the Electoral Commission designates such organisations.

- **This is an attempt to distort the referendum; surely the Electoral Commission will rule this as being unfair?**

  The appointment of a dedicated minister, supported by a team of officials, is a matter of internal Government restructuring to ensure that Government policy is effectively co-ordinated and implemented. It is not a matter upon which the Electoral Commission has a duty to comment.

- **He/she will be the Minister for Propaganda.**

  The Government has a duty to inform the public, and will continue to provide objective, accurate information. In doing so it will respect the requirements of the Ministerial Code, the Civil Service Code, the Special Advisers' code of Conduct, and Guidance on the work of the Government Information Service, along with specific guidance on Government conduct which will apply throughout the referendum period.

- **Why is this Minister not part of the Foreign Office?**

  In the run up to the referendum this Minister will have to make sure that a number of different departments' activities are properly co-ordinated. This a natural role for a minister in the Cabinet Office. Other Ministers, including those in the Foreign Office will also, of course, play an important role in presenting the benefits of the Treaty.

- **The Government is breaking the terms of the Political Parties, Elections and Referendums Act (PPERA).**

  This is a matter of internal Government restructuring, upon which PPERA has no bearing. The Government continues to have a responsibility to inform the public.

- **Who will control the activities of this Unit?**

  The Referendum Minister will be accountable to Parliament for the activities and spending of the Unit. The Unit will be staffed by civil servants responsible to a Senior Civil Servant, reporting to the Cabinet Secretary. Propriety Advice will be provided through the existing structures in the Cabinet Office.

- **How can the Government spend money on this Minister and Unit before the EU Bill has even been approved by Parliament?**

  The Minister and the unit that supports him/her, will inform the public about the Treaty it has signed and about its policy towards that Treaty. Money will not be spent on actually running the referendum until authorised by Parliament.

ANNEX IV

POSSIBLE ORGANIGRAM AT FULL STRENGTH

HEAD OF UNIT (SCS)

Private Office

1 Private Secretary
2 Assistant Private Secretaries
3 Support Staff

POLICY

COMMS

Legal Adviser

- Track DCA work on legal challenge
- Legal advice to Minister/RU

Referendum strategy (Band A)

- Government policy co-ordination
- Overall project management
- Secondary legislation
- Bill liaison: timing /referendum issues
- Liaison with Electoral Com
- Budget

Treaty policy (Band A)

- Core scripts
- Rebuttals
- Co-ordination of OGD rebuttals
- Bill liaison: Treaty issues
- EU institutions

Comms Strategy (Band A)

- Development of comms strategy
- Co-ordination of OGD comms strategies

Public info & Outreach (A)

- Central publications
- Quality assurance of OGD publicns
- Partnerships work
- Co-ord of stakeholder outreach
- National Forum/ grassroots engagt strategy

Grid & Monitoring (SIO)

- Maintaining central grid
- Co-ordination of OGD grids
- Monitoring of debate/polls
- Liaison with MMU

Events & visits (Band A)

- Organising events/ visits for Referendum Minister
- Quality assurance of OGD events/visits

Press co-ord. (Band A)

- Liaison with No 10 and CO Press Offices, OGDs
- Developing lines-to-take

Article & Speech writing. (Band A)

- Speeches for PM and Referendum minister
- Quality assurance of OGD speeches
- Press articles

Band B

Budget

Band B

Corresp. Unit
Rebuttals writing

Band B

Liaison with DAs and local government

Band B

External and GSI Websites, e-comms

Band B

- Monitoring other MSs
- Evaluation

Band B

Events/Visits

Band C

Band C

Correspondence Unit and General Enquiries Point
6 Band Cs

Band C

Band C

Band C

CONFIDENTIAL

From: **Kim Darroch**
Date: **28 January 2005**

PRIME MINISTER

cc: **Jonathan Powell**
Ivan Rogers
David Hill
Sally Morgan
Pat McFadden
Steve Morris
Sir Andrew Turnbull
David Miliband

attached

STRUCTURES FOR RUNNING THE REFERENDUM

I attach a minute to you from Jack Straw. It sets out the work on the EU Constitution carried out by the Foreign Office since last July, and makes proposals on organisation and strategy for the run up to the referendum. There is a fair amount of Jack Straw's personal thinking in the minute; he is likely to raise it with you when he next sees you bilaterally (it hasn't been circulated around Cabinet colleagues). I will do so!

On future structures, the Foreign Secretary proposes, after a General Election:

- A Referendum Unit in the Cabinet Office, staffed by civil servants coordinating the government's role in the campaign.

- A Cabinet level Minister with full time responsibility for the Referendum campaign.

- Meanwhile, the Foreign Secretary would retain responsibility for the EU Bill, and for central coordination of the EU Presidency.

- That we try to get the future financing negotiations concluded by June this year, as far as possible ahead of the Referendum itself.

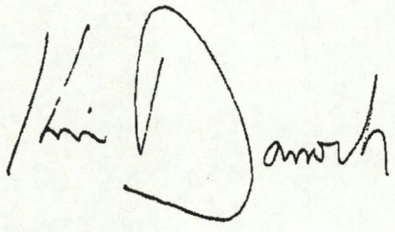
- And that he takes responsibility for preparing these new structures, bringing John Prescott, Gordon Brown, Patricia Hewitt, Charles Clarke and Charlie Falconer into the process.

Comments

Though there is no great disagreement with the FCO, this note is premature. We are working on these questions internally, through the Europe meetings which Jonathan is now chairing. We will work up a detailed proposal for you by the end of February, so the necessary structures can be ready immediately after the election. While this is happening, it wouldn't make sense to invite the FCO to lead the process – nor to bring other Ministers in before our own thinking is more advanced. We can, however, pull in the expertise of one or two senior FCO officials to assist our own planning.

Against this background I propose that I send the FCO a holding answer, thanking Jack for his minute, explaining that work is going on here on these issues and suggesting that his officials work with us on a more detailed proposal for you before bringing in the rest of the cabinet. **Are you content with this approach?** ✓

Steve Morris has agreed this minute.



KIM DARROCH

PM/05/003

PRIME MINISTER

EU Constitutional Treaty: Referendum

1. I wrote to you in July last year setting out an initial strategy for the Referendum on the EU Constitutional Treaty. You were content with this general approach. I attach a copy. It set out three stages: the period until May; the rest of 2005, mostly coinciding with our EU Presidency which begins on 1 July; and the Referendum campaign proper. Most of the general points on strategy and tactics still stand.

2. I believe it is now time to consider arrangements for the second stage, after a possible May Election, so that we can step up our activities. This minute explains progress so far and sets out my proposals for your consideration in respect of the organisation and strategy for the remainder of the campaign.

What has happened so far

3. As set out in my July proposals, I and my officials have been preparing the ground. I chair a regular steering group of FCO officials, which also includes Kim Darroch, David Hill, and Steve Morris. I have invited Patricia to attend these (and I welcome the fact that she gets a similar, smaller, group together herself too).

4. By the time of the Election, I expect that, under this group's auspices, we will have achieved the following:

- publication of a White Paper on the Treaty (9 September); the EU Guide (stemming from your commitment to a "plain man's guide to the Treaty": November); and a detailed *Commentary* on the Treaty (26 January), in addition of course to the Treaty itself;

- the EU Bill passing Second Reading. (This is essential: otherwise we will be bound by the constraints of the New Services Rule on spending on the Referendum until Second Reading is reached later in 2005);

- I will have made two major speeches (one on 9 December, explaining why a "no" vote would lead to Britain's marginalisation; and I hope to make one this spring on the "patriotic case for Europe");

- Patricia and I will have hosted two breakfasts for senior businessmen (we have already done one). These are only a part of wider outreach programme to explain the case for the EU Constitution with business, trade unions and other interest groups;

- we will have established a firm set of messages and scripts on the Constitution, for Ministers to use, in a hierarchy from the most simple (a pocket version) to the most detailed, for different audiences;

- we will have spent half a million pounds or so on work to make the case for the Treaty with the regional media, partnership marketing, publications, events management, research and qualitative opinion analysis, and establishing a dedicated EU Constitution.gov website ready to go live; and

- Denis MacShane will have made a dozen or so visits around the UK to make the case for the Treaty (these get good coverage locally).

5. In short, we will have done the necessary to ensure that we are ready to move into the second stage on the best basis possible. I am very grateful to all those in various Departments who have worked to achieve this.

6. We have of course also had some collective discussion of general referendum strategy, notably in EUS in October, which was valuable in establishing our thinking on certain issues. We will nevertheless need further discussion soon on some of the fundamentals underlying our campaign, for example on to what extent we play the vote up as a decisive point for our EU membership, and on the sort of language and tone that we use for our main campaigning messages.

7. Overall, it is clear that we will need a major increase in effort after May if we are to turn around sceptical public opinion on the Treaty. It will be an uphill task but I believe it is achievable if we get the right arrangements in place and give it real political priority.

Arrangements after May

8. It is therefore now time to think about how we manage the remaining year or so of the campaign after any spring Election. I think the FCO-coordinated arrangements have worked well so far. But we need to consider if they will suffice for the next stage of Referendum preparations.

9. The 1975 precedent is interesting, but circumstances were very different then. Back then, a small (half-dozen) Referendum Unit was set up to prepare the legislation providing for the referendum. It was disbanded before the referendum campaign began in March 1975. Three months before the poll, a Referendum Information Unit was set up in the Cabinet

Office, reporting through a Cabinet Office Permanent Secretary to the Foreign Secretary, to provide factual information and answer enquiries. Meanwhile, an FCO unit (European Communities Information Unit) ran over the same period. It briefed Ministers and MPs privately, and handled some public enquiries. More importantly, it was also involved in the informal coordination of activities between the Government, Britain in Europe (the "yes" umbrella group) and the Labour Committee for Europe. In brief, the visible face of the Government campaign was in the Cabinet Office; but most of the substantive work was done in the FCO.

10. We might want a different arrangement this time round. In 1975 most of the expertise on Europe was in the FCO and in MAFF, and these Departments' officials staffed the Referendum Units. Nowadays it is much more widely spread around Whitehall, and all Ministers will need to be engaged in a campaign. So the need is for central direction and co-ordination of a much wider operation. Moreover, the wider legislative framework for referenda today is tighter, and our institutional arrangements will be under much closer public scrutiny. So we will need to announce clear arrangements, consistent with the legal and propriety requirements, which we can defend publicly.

11. In my view the right step is to set up a Referendum Unit, in the Cabinet Office. The guiding principles for its successful operation should be authority, expertise, and focus/lack of distraction. So it should be tightly focused on the Referendum, and avoid getting into wider management of EU business. It needs a senior official to run it, and it should have a senior Minister, in the Cabinet, responsible for it and the campaign, full-time. And it must visibly have your authority. It must have ownership of the messages on the Referendum, and authority to get others in Whitehall to use them, but

would also need a communications capacity in its own right, and it should also have some analytical/policy capacity.

12. This CO/HMG unit needs to be up and running as soon as possible after the Election. Ideally that means taking decisions in principle now, in order to collect together the necessary staff, get them working together, and ready to go once the Election is over. A separate unit would also have the advantage of ensuring a clear public institutional distinction between our communications work for the Referendum (in the Cabinet Office) and for the Presidency (FCO).

13. The unit will need to draw on the cadre of EU policy and communications experts across Whitehall, with maybe a few outsiders too. We will need to be sure we get a really top-class outfit together. I would expect the core of the staff to be from the FCO and Cabinet Office: I would be ready to make some of the FCO's staff available.

14. Propriety and practicality suggest that the Unit should be a Civil Service operation in the usual way. I assume we will need a parallel, more political arrangement, in Cabinet Office or No10, made up of Special Advisers, and working directly to the Cabinet Minister responsible for the campaign. This could be the Foreign Secretary or a separate Minister with Cabinet rank, solely charged with running the campaign. We will also need to sort out the arrangements for working the link with Britain in Europe and other pro-European political parties and politicians. I know that the Cabinet Secretary is working on guidance on all the propriety aspects.

15. The EU Bill will almost certainly have to be reintroduced after the Election. I think it sensible for the Foreign Secretary to take that Bill through Parliament, as for previous EC/EU Bills. Even if a separate

Minister with Cabinet rank were to run the campaign, it would be a major distraction of time and effort for him or her to take on the Bill.

16. Finally, we need to ensure that the Labour Party retains a full campaigning capacity after May, so that it can make a full contribution to the wider campaign.

Resources

17. Once we move into a higher campaigning gear, we will need to make substantially more resources available. Of course, Departments will need to reprioritise towards a greater effort on the European front. But we will need more central resources, to fund publications and, no doubt, an information and advertising campaign, within the limits permitted by PPERA 2000. I assume the Government will draw on the Reserve for this. Our opponents are well funded, and we need to match them.

EU policy

18. I will not repeat what I said in my earlier minute, which still stands. I would merely emphasise the point that our wider EU strategy must be congruent with the Referendum strategy. That means ensuring that any difficult negotiations are either out of the way well before, or put off to well after, the moment of the Referendum. In particular, in my judgement we should, if at all possible, get the very tricky future financing negotiations concluded under the Luxembourg Presidency, by June this year.

Conclusion

19. These are my preliminary thoughts. Are you content for me to take work forward on all of this?

20. Given your own direct responsibility for machinery of Government, I am not at this stage copying this minute. But with your agreement I am happy to do so, and I suggest colleagues concerned should include John Prescott, Gordon Brown, Patricia Hewitt, Charles Clarke and Charlie Falconer.

(JACK STRAW)

Foreign and Commonwealth Office
24 January 2005

10 DOWNING STREET

PM

for your meeting with KC + CK tomorrow.

MEETING WITH KEN CLARKE AND CHARLES KENNEDY

9.00 TUESDAY 21 MARCH

SUGGESTED AGENDA

1) Progress since last meeting

- Dates clearer: French referendum fixed for 29 May, Dutch referendum for 1 June, 30th anniversary of Britain's 1975 referendum 5th June...

- Re-branding *Britain in Europe*: Work underway on new name / logo as suggested by Charles Kennedy. Chris Powell in charge.

- Arguments: coming together. You sent KC and CK our latest core script. It can still be improved. They may have comments.

- People for the campaign: KC and CK promised to come up with a list of names - key Lib Dem and Tory people for the Yes campaign.

2) Organisation and structure

- Who from Labour, Tories, Lib Dems will lead? A minister in charge after the election. Will Lib Dems have a front bench spokes in charge? Who should lead Tory Yes campaign? Who will organise Tories?

- Shift from unitary to diverse campaign? Do CK and KC support distinct Tory and LD strands? Who to run them? Who should lead overall Yes?

- Relaunching BiE as Vote Yes: rebrand will only work if accompanied by new grown up people, credible events, and money. Who? What? When?

3) Next steps

- How to keep preparations going during next 6 weeks? Can a planning group keep meeting during this period? Who?

- Next TB-KC-CK meeting?

From: **Steven Morris**
Date: **18 March 2005**

PRIME MINISTER

cc: **Jonathan Powell**
Ivan Rogers
Baroness Sally Morgan
Kim Darroch
Godric Smith
Martin Sheehan

REFERENDUM CAMPAIGN: YOUR MEETING WITH KEN CLARKE AND CHARLES KENNEDY

You asked for a note on referendum campaign preparations.

Ahead of your meeting with Ken Clarke and Charles Kennedy on Tuesday, here is an overview of progress, and some issues you might address with KC and CK. This meeting is probably the last chance before the election to make progress in readying a strong cross-party effort post-election.

I discussed these issues with Peter Mandelson this week.

1) State of play

As you know, work has been going on in various formats:

- Jonathan has been chairing office meetings overseeing progress on all fronts.
- On the government side, Kim will submit a separate note next week proposing Whitehall structures to handle the referendum post-election: a senior minister in charge of a Referendum Unit based in the Cabinet Office.
- Jack Straw has been chairing an FCO group, mainly on the Bill and FCO's communications activity. He also has views on the Whitehall structures.
- Patricia Hewitt has held her own meetings with BiE, FCO and others like Chris Patten and Ian Taylor. We are pushing her to mobilise DTI properly.
- I have been working closely with Chris Powell and Lucy Powell from BiE.

- Chris also chairs a wider BiE Communications Group : ourselves plus the likes of Lance Price, Colin Byrne, Leslie Butterfield and Roland Rudd. This group has been working up ideas on strategy, arguments and tactics. It generates good thinking, but needs to be tied into the political structures.

- Roland Rudd has agreed to head BiE's business preparations. He has been networking energetically, hosting two dinners this week for senior businessmen with Chris Patten and Peter Mandelson. He is a serious operator and obviously keen to play a bigger role.

- Britain in Europe board meetings are largely a talking shop / an exercise in coalition management. But Anthony Nelson is chairing them effectively.

This is all rather unwieldy, but inevitable until a senior government figure is put in charge full time.

2) <u>The political parties</u>

As background to what follows in terms of structure and strategy, a few personal reflections on the main parties in the coalition:

i) The Conservatives

he's one now!

The pro-European Tories are few in number, albeit high quality : essentially Ken Clarke, Chris Patten, Douglas Hurd, Geoffrey Howe and Michael Heseltine (plus people like Ian Taylor and Anthony Nelson in the background). They are probably still the best known and most respected Conservatives in the country.

None of them is in full time politics any more. They are dispersed around the country. They travel a lot. They are often unavailable for interviews or comment. It can take days to contact them. They do not have proper offices, and are not plugged into mundane things like media monitoring. They can be bizarrely disconnected and out of touch with events.

They are demoralised, can can be very sour. They blame you for 'letting them down'. Their marginalisation within their party is the more fundamental cause for their depression. Chris Patten describes life as a pro-European Tory as 'travelling by night, from safe house to safe house'.

Despite being such a small faction, they are anything but close-knit. There is a surprising degree of rivalry between them. Most of all, they lack any organisation, staff or structure. They seem rarely to meet, if ever. They don't know each other's views. Their fragmentation makes them even weaker than

their numbers would suggest. They are a long way from being a disciplined campaigning force.

ii) Labour

As you know, there is a small gang of fervent anti-Europeans in the PLP, of whom Ian Davidson ('Labour against the Superstate') and Kate Hoey appear to be working full time for the No campaign, churning out press releases and bombarding us with PQs and FOI requests. They claim around 50 parliamentary supporters, but 30 seems more realistic.

The bigger problem in Labour ranks is ignorance, apathy and disinterest. Pro-Europeanism is wide but shallow. A cynic would say that most Labour MPs are pro-Europe because the Tories are anti-Europe. Very few have any real interest : it's not what brought them into politics. The Labour Movement for Europe has stopped holding meetings because so few people turn up.

This is painfully apparent in Commons debates on Europe, and on the European Scrutiny Committee. A handful of Labour MPs turn up for European debates, out-numbered and out-gunned by the Opposition who love nothing more than attacking the EU. The European Scrutiny Committee is a showcase for the well-briefed Bill Cash and David Heathcote-Amory, and a lion's den for pro-EU witnesses. Its Labour members are mute.

iii) The Lib Dems

The Lib Dem majority is firmly pro-Europe. But there is a division : some (like Chris Rennard) think they have little to gain by being associated with the referendum : if it's won, the government will get the credit; if it's lost, the Lib Dems will be tainted by association.

Others think the referendum can not only be won, but could be a major milepost on the Lib Dems' road to overhauling the Tories.

Most take the more sober view that if there's a No vote, the Tories will be resurgent and the Lib Dems will suffer.

Kennedy himself wants to make a major Europe speech after the election.

There is some uncertainty about who is leading for them on the referendum. Dick Newby was sent to meet Patricia Hewitt. Menzies Campbell seems to run a separate operation.

It might be helpful if the Lib Dems put somebody in charge of the referendum on their front bench full time post election.

3) Future Yes campaign

The shape of future Yes campaign is a key question. What kind of campaign do we need, and how do we get there from BiE? In creating a new Yes campaign, I believe strongly that we should avoid creating "BiE Mark II" – the same organisation, same faces, same tactics, different name.

In my Christmas note, I suggested that we should steal from the successful No campaign strategy:

- Create a many-headed organisation, with groups for Business Yes, Labour Yes, Tory Yes, Left Yes, Women's Yes etc.
- Put Tories and moderate sceptics to the fore, not well-known TB loyalists.
- Cast ourselves as the underdogs. Refuse to be "the establishment".

We have discussed re-branding *Britain in Europe* quickly after the election. Work is now underway, led by Chris Powell and Leslie Butterfield. But a successful re-branding will require much more than a new name, logo and letterhead.

To convince people that this is a new and different organisation, it will need a new structure, new leadership and new staff.

i) Structure

BiE has always been difficult to manage. There is a high price to pay for keeping Tories, Lib Dems and Labour, business and trade unions, etc. etc. all on board.

In one sense this is unavoidable : we need all these groups on side, so the hassle of managing stakeholders must be endured. But it is extremely time-consuming - and a massive distraction from campaigning.

Effective campaigning is also hamstrung in a more serious way. BiE has never been able to attack the Conservatives, because the pro-European Tories won't allow it. Likewise, BiE cannot argue the Treaty is good for business without upsetting the unions, and vice versa.

In short, while everybody needs to be happy with everything, the result is nothing gets done.

Meanwhile, the No campaign attacks us daily, from all sides, without any inhibitions. Its business wing attacks regulation and social Europe; its 'Social Europe' wing attacks neo-liberalism. It works.

For this reason, I favour a many-headed organisation, with distinct groups for Lib Dems, Tories, business and others under the designated Yes umbrella:

BiE 1999 model	**Future Yes campaign**
One group	Several groups, one umbrella
Single platform, single brand	Diverse, multi-faceted
Unitary structure	Federal structure
Government lead, others follow	Partnership of distinct identities
Control model	Behind the scenes co-ordination.
The great and good : political establishment + big business	Heterogeneous : politicians + grassroots

Advantages of this would be :

- Escaping constraints : the whole coalition would no longer need to be happy with every press release. The campaign would be more supple and flexible.
- Breaking down our establishment image : a diverse, kaleidoscope campaign would dilute the government / establishment / great-and-good image.
- A diverse group of spokespeople : the head of each organisation would be a face of the campaign.
- Burden sharing : giving the Tories and Lib Dems semi-autonomous groups within the overall campaign would encourage them to pull their weight. We need them to take ownership, not sit back and expect us to do everything.
- Avoids excessive focus on government / you personally.

Obvious risks would be :

- Complexity, incoherence, rivalry between different groups.
- We would need strong co-ordination behind the scenes, and to ensure that the umbrella Yes group still got Electoral Commission designation.

Ken Clarke and Charles Kennedy are supposed to bring names of people to be involved in the campaign to Tuesday's meeting.

You might ask them how they think the Yes campaign should be structured, and if they think dedicated Tory and Lib Dem-run groups should be established within the campaign, and who might run them.

ii) Political leadership

Whatever structure we adopt, the umbrella Yes campaign needs a senior political figure to run it full time. A non-Labour figure makes sense.

Three names are most often mentioned : Ken Clarke, Chris Patten and Paddy Ashdown.

	Advantages	Disadvantages
Ken Clarke	- Best known Tory - Most popular - Respected by press / Tory party	- Does he have the dynamism? - Linked to big tobacco (BAT) - Historic also-ran / loser
Chris Patten	- Active, hard-working - Good campaigner - Based in the UK full time	- Ex-Brussels: fat EU pension - Loathed by Tory party/ press - Lowered Union Jack in Hong Kong
Paddy Ashdown	- More dynamic than Clarke - Better known than Patten ? - Patriotic, ex-SBS	- Less well known than Clarke - In Bosnia until November - Seen as close to TB - Lib Dems pro-Europe anyway: a Tory better to reach swing voters

Do you have a view on who should chair the Yes campaign?

Of these, Ken or Paddy - but why have a politician?

iii) Operational leadership

Turning Britain in Europe into an effective Yes campaign requires a scale of transformation which I'm not sure most of its stakeholders appreciate. BiE themselves certainly do not.

The organisation needs to be totally repopulated with first class new staff, especially experienced campaigners.

CLOSED UNDER THE

FREEDOM OF

INFORMATION ACT 2000

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FREEDOM OF
INFORMATION ACT 2000

PREM 49/4066

Minute dated 18 March 2005

The funding gap.

All plans to renew the Yes Campaign depend on recruiting good people fresh from the election campaigns. That means money to pay them from May or June – which we don't have.

This is a cash flow problem : we should be able to get monet coming in by the Autumn. But we can't wait until then.

There are three people who might be able to raise the necessary £300,000 - £500,000 quickly: Anthony Nelson, Roland Rudd or David Sainsbury. But this is an ask which would probably have to come from you personally. ✓

4) The arguments

We have been working with FCO and BIE on messages and arguments. Some things are clear:

- "Constitution" is bad. "Treaty" is good.
- Our best fact is 50% trade
- The biggest fear is isolation.

The big caveat to this work is that it is based on a handful of focus groups. No detailed quantative polling has been done.

While it is certainly a good start, I am concerned that too much store is being placed in this work. BiE treat it as cast on tablets of stone, before the politicians have seriously begun to engage with the arguments.

An example is the argument about "limiting the powers if the EU":

BiE think this, along with fear of isolation, is the key argument. They want to refer everywhere to the 'treaty to limit the EU's power'.

Others are sceptical about how much weight we should put on this. Is it really clear that this treaty is much clearer than the existing ones, or limits the EU more fiercely ? We can construct an argument about defining and limiting powers – but

the No campaign says this Treaty is worse, more ambiguous etc. It is not clearcut that our case is stronger. And does "stopping Europe" concede too much ground to eurosceptics (that Europe is bad and must be stopped) in the first place?

This and the other arguments need careful consideration by you and other senior politicians before we jump to focus group-led conclusions about key messages.

We need to do this quickly after the election. Until then, we risk giving the No campaign more gifts like this recent clanger:

- Blair (2002): "it's time to end the nonsense of 'this far and no further'."
- Straw (2004): "What this does is say 'this far and no further'"

Other choices

There are various other campaign judgements on which we need political consideration and consensus soon after the election, for example :

- Stress the economic or political case?
- Sell the need for European integration, or downplay it?
- Accept this is a 'cumulative referendum' on 30 years of European integration, or not?
- Argue that this is the end of the road for European integration, or not?
- Argue that we need the EU to deal with immigration, or that we keep full control of our borders?
- A 'nice' campaign ('we need co-operation with our EU neighbours') - or 'nasty' one ('victory for a British vision of Europe over the federalists')
- How to we deal with the euro? Rule it out for the next Parliament?

You might want to ask CK and CK's views on some of these issues.

5) Activity after the General Election

You have written to Ken Clarke and Charles Kennedy with an early outline grid of post-election activity (attached, along with the briefing pack you sent them).

The grid is just to get them thinking. There are two main choices for this period :

we should be about cost.

1) Move before or after the French and Dutch referendums ?

Advantages of before	Advantages of after
- Seize the initiative	- pause for breath before another political campaign
- Don't give No campaign a chance to put us on the back foot	- space for other 3rd term priorities in Queen's Speech.
- Show confidence in the treaty, vindicated by Yes votes	- nothing lost if French or Dutch vote No

2) How should we launch the campaign ?

- Joint platform TB, GB, KC, CK etc? (Risks echoes of 1999. Need something original eg. launch in London, then head for regions).
- A speech by you (eg. 5th June) with Tories and Lib Dems following? (too much focus on govt ?)
- Tory & Lib Dem events first, building up to TB speech / joint platform ?
- A 'non-political' / grassroots event with celebs, youth, etc. ✓

We can work up more detailed ideas and option on this, but you might want an initial discussion with KC and CK

STEVEN MORRIS

ILLUSTRATIVE REFERENDUM CALENDAR

MAY

1 EU enlargement + 1 year

8 VE Day 60th anniversary (Sunday)

9 Europe Day

W/c 16 Ministerial EU speech, tour?

20 Barroso lecture to LSE ('UK and the EU')

29 French referendum

JUNE

(all month: Trade Union annual conferences)

1 Dutch referendum

3 Ken Clarke debate vs. No camp, Nottingham

5 30th anniversary of 1975 referendum
Cross party newspaper advert
'Yes' personality on Breakfast with Frost

8 Re-introduction of EU Bill?

13 BiE rebrand as 'Vote Yes'?

W/c 13 Tory Yes launch (poss 15th)

W/c 13 Lib Dem Yes launch (poss 16th)

16 European Council

21 2nd Reading of Referendum Bill?

23 Govt public information launch

27 European Parliament visit London

30 Publication of White Paper on UK Presidency

JULY

1 British EU Presidency begins

6-8 G8 (Gleneagles)

10 Commemorations of end WWII

11 Commission visit London

AUGUST

Yes campaign summer activity?

SEPTEMBER

TUC congress

'Yes' launches – Business, Unions, North West, etc?

25 Labour Party Conference

27 Danish referendum

DECEMBER

15/16 European Council (Brussels)

End of British Presidency

FOE File

From: Kim Darroch
Date: 14 March 2005

JONATHAN POWELL

cc: Ivan Rogers
Sally Morgan
Pat McFadden
David Hill
Godric Smith
Tom Kelly
Antony Phillipson
Steve Morris
Susanna May - CO

THE REFERENDUM: PROPRIETY GUIDANCE

1. You asked to see an early draft of the propriety guidance being prepared for the referendum. We have been working with the CO Propriety and Ethics Team and with Treasury Office of Accounts on the two attached documents. Once they are agreed, the proposition is that they would be published and come into effect after the election.

Introduction

2. Apologies for the length of what follows. Some context-setting comments. The main constraints on civil servants fall into four categories:

- general conventions on the role of the civil service (as set down in, e.g. the civil service code);
- past precedents: guidance issued for the referenda in 1979, 1997 and 2004;
- The Political Parties, Elections and Referendum Act (PPERA), and the need to minimise the risk of a successful challenge to the result of the referendum on grounds of discrimination under the Human Rights Act (because spending limits apply to permitted participants but not Government); and
- FOI.

3. The guidance therefore tries to strike a balance between (i) not unduly restricting Government action (ii) ensuring Government action is defensible and that its case in any legal challenge is strong and (iii) proactively providing information on a regular basis in order to maximise our control over timing and

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manner of release and minimise the FOI burden. The guidance is important because, without it, we won't get Departments across Whitehall to support the referendum process. And the longer we go without publishing propriety guidance – but while doing other things like establishing a Referendum Minister/unit – the higher the risk of legal challenge. All that said, while the lawyers have been helpful in pushing the envelope to allow the sort of freedom we think we need for the campaign, the outcome isn't perfect, and there are still problems and restrictions, the acceptability of which you will want to consider.

Main elements of the guidance

4. The main document covers propriety of conduct:

5. Until 28 days before the referendum it will broadly be business as usual. Guidance on the last 28 days will be issued nearer the time. So this document explains what business as usual actually means in the context of the run up to a referendum. It would apply from the day it is published.

6. Requests for information should be responded to even-handedly. Information made available to a group advocating a particular outcome in the referendum should be made available to others, by placing on a website and in the Library of the House, retrospectively, on a quarterly basis.

[Comment: This is not current "business as usual" but is an attempt to meet the requirements of convention and precedent, combined with FOI. It means that civil servants will not be able to pass documents to the Yes Campaign without the information eventually becoming public (though up to 3 months later). We need to work out internally exactly what information would be covered by this (track changes to a Yes Campaign-produced speech?). Ministers and SpAds will, acting in political capacity, be able to pass documents across the firewall between Government and Yes Campaign unnoticed].

7. Publicity material: the Government has a duty to inform voters about the impact of the Treaty and to explain its policies in relation to the referendum. It can use paid publicity for this. Material should set out what the Government is doing, and what it wants to achieve (including likely consequences of ratification/non-ratification) so that citizens can make an informed choice. The Government should provide quarterly reports to Parliament on its referendum-related information activities, and on how much is spent on them.

[*Comment: The guidance does not explicitly prevent the Government producing leaflets etc saying "You should vote Yes" or "Vote Yes" However, if the Government wanted to produce leaflets with such direct and imperative statements, legal /propriety advisers would advise against, and suggest that statements be put more obliquely. This is on grounds of precedent and standard practice for Government publications (e.g. even in 1975 the Govt leaflet was couched in terms such as "The Government have decided to recommend to the British people to vote for staying in the Community" and " [The Govt's] advice is to vote for staying in. Now the time has come for you to decide." These statements would still be acceptable). N.B. all this applies to publications - not speeches/interviews. If you think that the constraints would overly blur the Government's message and that we should be able to produce publications saying "Vote Yes" then we can ask Counsel what the implications would be of ignoring past precedents, and possibly make the advice more explicitly permissive in this respect.]*

8. Meetings: Ministers and civil servants should be even-handed when considering requests for meetings. Dates of meetings should be published retrospectively on quarterly basis.

[Comment: Publication of dates of meetings is largely dependent on decisions more widely on how to treat diaries under FoI - and is NOT current business as usual. The guidance would not prevent frequent meetings with the Yes Campaign. However, we would need to also make ourselves available to the No campaign. This could potentially be a source of problems: we would risk being deluged by requests for meeting from the No campaign. We need to be sure that even-handedness only means we have to respond to requests within reason, e.g. a commitment for the Minister to make him/herself available on a quarterly basis. We would also need to be aware that the likely considerable imbalance in numbers of meetings would become public].

9. Support to Ministers: Civil servants have a duty to support Ministers in the promulgation and explanation of Government policy. It's therefore legitimate for them to provide briefings and speeches for referendum events, including ones organised by a particular campaign. But it's not appropriate to provide support to Ministers for single Party events.

[Comment: therefore civil servants would not be able to draft the speech for - eg - a Labour Yes rally].

10. There would be very tight restrictions on civil servants wishing to take part in the campaign in a private capacity. But civil servants can represent the Government at public events.

[Comment: i.e. civil servants can give presentations at IoD, Chatham House, briefings to the lobby etc. in the run up to the referendum (except final 28 days), so long as they make clear that these are Government rather than personal views. They can highlight the weaknesses in positions being advocated by the No campaign but - as normal - should not directly criticise the opposition parties.]

The proposed rules on expenditure

11. Annex I contains further guidance to departments on expenditure, and has been produced largely by Treasury Office of Accounts (TOA).

12. Other than the final 28 days, when the restrictions on the Government publishing information will make it almost impossible to spend money, the main restrictions relate to the new services rule. In this case TOA consider the "new services" to be actually holding the referendum, and explicitly promoting a particular outcome in the referendum. Money cannot be spent on these activities until after Royal Assent to the EU Bill. Nor can departments incur expenditure making arrangements for the new service to be performed (including the recruitment of staff - if those staff are to carry out a new service).

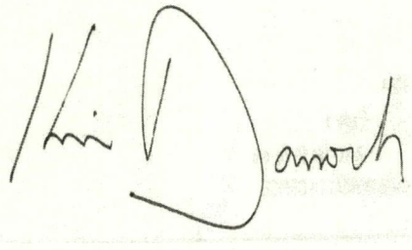
13. However, expenditure publicising and explaining the Treaty and its effects, and on explaining the Government's policy on the Treaty CAN be incurred without any new authority. This is provided that (i) the level of expenditure is broadly consistent with that on previous EU related activities and (ii) the material is objective (e.g. in line with FCO Guide to the EU produced last November, which did not use phrases such as "the Government believes..." and used the conditional tense to refer to consequences of the Treaty, so as not to prejudge the outcome of the ratification process).

14. In addition, after Second Reading of the bill departments may incur expenditure on information related to the holding of the referendum, and the likely consequences of ratification/non-ratification. They may also conduct studies to determine the costs and scale of information activities and methods of campaigning which may be required (i.e. preparatory work for the real campaign phase).

[Comment: This means that the Government could continue to produce publications like the FCO Guide this year, but would not be able to seriously ramp up expenditure on information activities (eg a leaflet through every letterbox) until early 2006. Does this matter?]

Process

15. I would be grateful for comments from you and copy addressees. These comments, plus those from a strictly limited circle in one or two other Government Departments, will go back to the Propriety and Ethics Team. They will adjust as necessary (and possible), put the draft guidance to Council, and then submit it to the Cabinet Secretary. He then sends it more formally to Perm Secs for their views. Once agreed at official level it would be put to the PM. As I've said, we imagine it would finally be issued - and come into effect - after the election. Its publication could be built into the programme of events for post-election roll-out.



KIM DARROCH

REFERENDUM ON THE TREATY ESTABLISHING A CONSTITUTION FOR THE EUROPEAN UNION: DRAFT GUIDANCE

1. Introduction

1.1 The Government signed the Treaty establishing a Constitution for Europe on 29 October 2004. Having done so, it is committed to pursuing ratification.

1.2 This note provides guidance to Ministers, special advisers and permanent civil servants, on their role and conduct in relation to Government business from now until the 28 days immediately before the referendum on the European Constitution.

2. Political Parties, Elections and Referendums Act 2000 (PPERA)

2.1 The Political Parties, Elections and Referendums Act 2000 (PPERA) will apply. For the majority of the period in the run up to the referendum, it will be business as usual and the normal conventions and rules will apply.

2.2 For 28 days immediately before the referendum, specific tight restrictions will apply. The normal business of Government will continue during the 28 day period but there will be certain constraints on Government related activities including speeches, media interviews and publicity material. See also section 7.

~~2.2~~ Further guidance on activity during this period will be issued nearer the time. The purpose of this guidance is assist departments on what they can and cannot between now and the 28 day period.

3. Handling requests for information

3.1 All requests for information should be treated urgently and even-handedly. Departments should aim to respond as quickly as possible. Information being provided by Government in response to a request from a group advocating a particular outcome in the referendum should be made available to others, by placing the material on departmental websites and in the Library of the House. This will be done on a quarterly [?] basis – see also 4.6.

4. Publicity material

4.1 The Government has a duty to inform those who will have a vote in the referendum about the impact the European Constitutional Treaty will have on their day to day lives. It also has a duty to explain the Government's policies in relation to the referendum. This is in addition to the Government's standing duty to explain its policies towards the European Union.

4.2 It is a long standing convention, recognised in guidance on the work of the Government Communication Network[1] ~~*[insert web addresss]*~~, for Government to use public funds and resources to explain their policies whether through direct contacts with the media or by means of publications, publicity or advertising and any

[1] http://www.comms.gov.uk/guidance/propriety/government-communications.htm

administrative structures. The convention applies to the day to day activities of Government press officers in dealing with the media, and to both paid and unpaid publicity as well as other civil servants.

4.3 Paid publicity includes paid advertising in the press or broadcast media. Unpaid publicity includes White Papers and other Government publications/leaflets, press notices and other official briefing material and work conducted in partnership with outside organisations.

4.4 Publicity material should set out what the Government is doing and what it wants to achieve in order to ensure that the public is properly informed about the Government's policies in relation to the referendum, including the likely consequences of ratification or non-ratification of the Treaty. The purpose of this publicity material is to help citizens make an informed choice. [It should be used where the Government believes that a direct approach to the public is needed to give more information about particular issues and policies or to clear up any misconceptions.]

4.5 In committing public funds to this activity, it is important that Ministers and civil servants take account of the requirements in both the *Ministerial Code* and the *Civil Service Code* to ensure the proper, effective and efficient use of public money. A rigorous examination of all proposals for publicity expenditure is therefore essential. The Propriety and Ethics team in the Cabinet Office stand ready to offer help and advice. [Insert contact names and phone numbers]. See also annex A on expenditure.

4.6 The Government undertakes to make quarterly reports to Parliament setting out details of information provided in relation to the referendum and the amount spent by Government on information activities in fulfilling its commitment to inform the public.

5. Meetings with campaign groups/individuals

5.1 Ministers and civil servants~~, including special advisers~~ should be even handed when considering requests for meetings. Every effort should be made to agree to requests. The dates of meetings between Ministers and/or civil servants and campaigning groups/individuals should be published retrospectively on a quarterly basis. **[NB** this will need to be considered further in light of discussions on ministers' diaries more generally]

6. Support to Ministers

6.1 Ministers have a duty to inform the public about the Government's policies in relation to the referendum. Civil servants have a duty to support Ministers in the promulgation and explanation of government policy including public justification and defence of that policy. Therefore, it is legitimate for civil servants to provide support to Ministers – briefing and speeches – for referendum-related events, including those arguing for a particular outcome of the referendum.

6.2 However, civil servants should not provide support for single Party events.

7. 28 day period

7.1 During the 28 day period, departments will generally be prohibited under the PPERA from issuing publicity material, making announcements or participating in media events, conferences etc on issues related to the referendum. As this period approaches, more detailed guidance will be issued on the restrictions as well as how to deal with websites, requests for information during this period etc.

8. Devolved Administrations

8.1 As a matter of courtesy, UK Ministers visiting the devolved administrations to consult their counterparts on this issue and/or engage in public debate should notify the relevant Ministers in advance, and the members for the constituencies concerned. In due course, the devolved administrations will issue their own guidance to their ministers and civil servants.

9. UK Presidency of the EU

9.1 The UK will hold the Presidency from 1 July to 31 December 2005. During the Presidency it will be business as usual for EU related activities. The fact that there will be a referendum will not restrict the Government in the exercise of its Presidency functions and obligations.

10. Involvement of civil servants in political activity associated with the referendum campaign

10.1 Political activity associated with the referendum falls within the definition of national political activity. There will be tight restrictions on civil servants wishing to take part in the campaign in a private capacity. Civil servants who wish to take a high profile and public role in the campaign will have to resign.

11. Civil servants' speaking engagements

11.1 Civil servants can represent the Government at public events. But in doing so they must make clear that they are representing the Government (and not their personal views). They can mount a public justification (and defence-) of the policy but they must not criticise the opposition parties.

For more advice on any of these issues contact the Propriety and Ethics team in the Cabinet Office on .....

ANNEX I

GUIDANCE ON EXPENDITURE

1. This annex guides government departments on expenditure they may incur on information activities relating to the EU Constitutional Treaty and to the referendum. It is intended to help departments comply with the accounting obligation to make prudent and efficient use of public funds. Information activities will also need to meet the guidelines on propriety of conduct set out in sections 1-10 of the above Guidance on Conduct, as well as the Guidance on the work of the Government Communication Network.[1] For further advice on whether expenditure is permissible departments should contact their Treasury spending team and/or the Treasury Officer of Accounts team in the Treasury (Contact: Jim Duncan [tel:]).

The New Services rules and powers to incur expenditure

2. New services are those activities or services which Parliament has not yet authorised. New services fall in one of two categories: first, there are those for which specfic stautory authority is needed, as well as the authority of the Appropriation Act, and, second, there are those which may rest on the authority of the Appropriation Act alone.

3. This means that before expenditure on a **new** service in the first category can be properly incurred, a department must have statutory authority both for the service and through theAppropriation Act, for the expenditure. Guidance on powers to incur expenditure and on the "new services rules" is given in chapters 2.2 and 2.3 of Government Accounting[2] respectively.

Current situation: general information activities

4. Expenditure on publicising and explaining the Treaty and its effects, and on explaining the Government's policy on the Treaty, does not relate to a new service and can be incurred without any new authority. This can however only be done provided :

- the level of such expenditure is broadly consistent with expenditure on previous EU related activities while taking due account of the

[1] http://www.comms.gov.uk/default.htm

[2] http://www.government-accounting.gov.uk/current/frames.htm

significance of the new Treaty; and
- the material is objective [and factual] in tone and does not make assumptions about whether or not ratification will be successfully concluded.

5. In practice, therefore, the circulation of any publications should be broadly comparable with previous information campaigns. Departments should take care to ensure that increases in expenditure or differences or increases in activity remain generally consistent with previous EU related information and publicity activities. A significant increase in activity or expenditure does not necessarily equate to activity on a new service, although it may be symptomatic of one. That is, if the activity or expenditure is markedly out of line with previous EU related activity, the conclusion may be drawn that it must be directed at the referendum. It may also be relevant to compare activities on the EU Constitutional Treaty with information and publicity activity in other policy areas.

6. In addition, departments must have the authority for the expenditure through the Appropriation Act. In particular, they must have the necessary resource provision and ambit cover in their relevant Request for Resource, and cover in the Net Cash Requirement for the Estimate as a whole.

EU Bill and the new services rules

7. The holding of the referendum on the new Treaty requires statutory authority and this will only be provided when the EU Bill receives Royal Assent. Expenditure related to matters covered by the Bill, i.e. implementation of the Treaty and holding the referendum, is subject to the new services rules set out in section 2.3 of Government Accounting.

8. In this case the new services are:

- holding the referendum;
- explicitly promoting a particular outcome in that referendum.

9. Under the new service rules, departments can properly incur expenditure on holding the referendum or explicitly promoting an outcome once:
- the EU Bill has received Royal Assent; and
- they have authority through the Appropriation Act to the relevant

Estimate for the financial year in question.

From 2nd reading until the EU Act gains Royal Assent

10. The Bill has passed 2nd Reading in the House of Commons. Between now and Royal Assent to the EU Bill, departments will still need to demonstrate that expenditure is consistent with the guidance in Government Accounting on powers to incur expenditure and the new services rules. For example, the following would not be regarded as new services:

(a) the formulation and the examination of alternative policy options (see paragraph 12 below);

(b) the legislative process, which will include the passage of the Bill, and the assessment and costing of the new functions which are the subject of the legislation, in order to provide Parliament with an adequate assessment of the financial, manpower and other implications;

However, the following would be expenditure on new services:

(c) making the necessary arrangements for the new task to be performed, e.g. recruitment of staff for this purpose, acquisition of accommodation, development of supporting IT systems and the acquisition of supplies; or

(d) the operation of the new task i.e. holding the referendum itself and campaigning for a particular outcome.

11. Departments may, however, continue to incur expenditure providing information about the Treaty. They may also incur expenditure about the holding of the referendum (timetable, mechanisms etc) and the likely consequences of ratification/non-ratification. Great care needs to be taken to ensure that information is presented in an objective manner.

12. Departments may, from 2nd Reading, also incur expenditure on studies to determine the costs and scale of information activities and methods of campaigning, which they require for a referendum.

13. In relation to incurring expenditure, departments should note that the

general conventions of expenditure control apply. That is, if departments do not have ambit cover or sufficient Supply provision for any of these permitted activities they would need to submit Supplementary Estimates. Prior to Royal Assent, this supplementary money can only be spent on these types of activities provided it has been approved via the Appropriation Act.

14. However, departments should not embark on explicit promotion of a particular outcome itself until the EU Bill has Royal Assent and their Estimates seeking authority for the expenditure have been approved via the Appropriation Act.

Urgency

15. As the EU Bill has passed its Second Reading it may be possible, on grounds of **urgency**, for departments to include amounts in their Estimates for expenditure on the new service of explicitly promoting a particular outcome in the referendum on the EU Constitutional Treaty and on more intensive information activity regarding the new Treaty. They will also be able to include the new service in the ambit of any relevant Request for Resource. Whether or not urgency can be established will depend in part on the likely timing of the referendum and whether or not it would be feasible to await a subsequent round of Estimates and Appropriation Act. In case of any doubt departments should consult their Treasury spending team and/or the Treasury Officer of Accounts team in the Treasury (Contact: Jim Duncan [tel:]).

16. However, departments will not actually be able to incur expenditure on this new service activity until the Bill receives Royal Assent; if the relevant Appropriation Act is passed before the EU Bill, they must wait until the latter is in force.

From Royal Assent until beginning of referendum period

17.. Royal Assent gives the necessary statutory authority. Therefore, departments will be able to spend in reliance on Estimates (once the relevant Appropriation Act is passed) on information activities on a scale going beyond previous EU-related activities. They will also be able to explicitly promote a particular outcome to the referendum.

Between the beginning of referendum period and the final 28 days before the referendum

18.. No new restrictions are placed on government expenditure at the beginning of the referendum period.

The final 28 days of the referendum period

19. The restrictions set out in Section 125 of PPERA mean that, in practice, any expenditure on information or campaigning activity during this phase is unlikely. In all other respects the conditions described as applying from enactment of the EU Act apply.

Devolved administrations

20. The devolved administrations are able to spend money on information activities related to the EU Constitution and referendum, should they wish, subject to their own accounting obligations. Such activities will need to be in line with the guidance set out in the propriety codes that will be adopted in due course by the Welsh Assembly Government and Scottish Executive, respectively).

BLP

From: Steven Morris
Date: 11 March 2005

PRIME MINISTER

cc: Jonathan Powell
Ivan Rogers
Baroness Sally Morgan
David Hill
Kim Darroch
Kate Gross
Martin Sheehan

REFERENDUM: KEN CLARKE AND CHARLES KENNEDY

You are seeing Ken Clarke and Charles Kennedy again on 22nd March to discuss preparations for campaigning on Europe after the General Election.

The key questions for this meeting are 1) the arguments; 2) the leadership and structure of the Yes campaign; and 3) planning for rollout after the election.

This will probably be your last meeting with them before the election, so it needs to deliver some operational decisions. We thought it might be useful if you write to KC and CK ahead of the meeting to focus their minds. I attach a draft letter.

You asked for a briefing to give KC and CK on the key questions. I attach a script covering the main issues. If you content with this, you could enclose it.

A letter might also highlight the issue of planning, so KC and CK give it some thought. I attach an initial grid – very much in draft – of how the rest of 2005 might look. Basically, it proposes a few events straight after the election to show intent, but the real push on the heels of the French and Dutch referendums, and the 30th anniversary of our 1975 referendum, in June.

Obviously this is highly leak-able, but again, it would help focus their minds. Are you are content to send this (or something like it) to KC and CK?

Steve Morris

STEVEN MORRIS

DRAFT LETTER FROM THE PRIME MINISTER
TO KEN CLARKE

Dear Ken,

We are meeting again on 22nd March to discuss preparations for the referendum on the European Constitutional Treaty.

When we last met on 21st February, I promised to send you and Charles some briefing on the Treaty. I enclose a short paper covering the main issues and arguments. Obviously the Treaty raises a great many other questions. We can provide any other briefing you would like. Steve Morris in my office will be happy to deal with any questions.

You will also be familiar with the work *Britain in Europe* are doing on the best arguments for the Treaty. We need to agree these amongst ourselves as quickly as possible. There are some key questions – including what to say about the consequences of a No vote, and how much weight to put on BiE's favoured argument "defining and limiting the EU's powers" – on which I would welcome your views.

We discussed the timing of events after the General Election. Since our last meeting, the French referendum has been confirmed for 29th May, with the Dutch referendum on 1st June. And 6th June will be the 30th anniversary of Britain's 1975 referendum on EEC membership.

As I mentioned, I am keen to move quickly to put a first rate campaign group in place, and to start making the case for the Treaty in earnest after the General Election. We should expect the No campaign to be making similar plans. I would like to discuss the timing and nature of our first campaign events on 22nd March. Meanwhile I enclose a calendar with a (purely illustrative) outline of how this period might look, to help focus our thoughts. We will need to consider how to pace our campaigning and sustain it over the rest of this year and into 2006.

I hope this is helpful, and look forward to seeing you next week.

ILLUSTRATIVE REFERENDUM CALENDAR

MAY

1 EU enlargement + 1 year

8 VE Day 60th anniversary (Sunday)

9 Europe Day

W/c 16 Ministerial EU speech, tour?

20 Barroso lecture to LSE ('UK and the EU')

29 French referendum

JUNE

(all month: Trade Union annual conferences)

1 Dutch referendum

3 Ken Clarke debate vs. No camp, Nottingham

5 30th anniversary of 1975 referendum
Cross party newspaper advert
'Yes' personality on Breakfast with Frost

8 Re-introduction of EU Bill?

13 BiE rebrand as 'Vote Yes'?

W/c 13 Tory Yes launch (poss 15th)

W/c 13 Lib Dem Yes launch (poss 16th)

16 European Council

21 2nd Reading of Referendum Bill?

23 Govt public information launch

27 European Parliament visit London

30 Publication of White Paper on UK Presidency

JULY

1 British EU Presidency begins

6-8 G8 (Gleneagles)

10 Commemorations of end WWII

11 Commission visit London

AUGUST

Yes campaign summer activity?

SEPTEMBER

TUC congress

'Yes' launches – Business, Unions, North West, etc?

25 Labour Party Conference

27 Danish referendum

DECEMBER

15/16 European Council (Brussels)

End of British Presidency

THE TREATY ESTABLISHING A CONSTITUTION FOR EUROPE

SHORT BRIEFING PACK

Version 10: March 2005

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THE NEW TREATY – MAIN ARGUMENT

Top lines

- **This Constitutional Treaty is a success for Britain. It means Britain strong in Europe. Leading, not isolated. A British vision: an expanded EU of sovereign nations, not a superstate.**

- **Defines and limits the powers of the EU.** Sets out what EU can / cannot do.

- **Makes the new Europe of 25 work effectively. A flexible, streamlined, fairer EU. More say for national Parliaments and national Governments.**

- **EU action where we want :** environment, asylum/immigration, security. **No obligations where we don't :** tax, foreign policy, public services, defence...

- **'No' would mean a weaker Britain, isolated from the rest of Europe.**

Why now?

- **Now 25 EU members, not six.** Common sense to update the rulebook. A larger Europe is in our national interest. Good for jobs, for security and our national influence. We need to make it work.

A British success

- **Victory for British vision of Europe.** The French call it 'La Britannique'[1], Le Monde said 'whatever people say, this text remains a British victory'[2]; the German President says it marks 'revival of the nation state'[3]

- **Eurosceptic fears not realised. Federalist proposals rejected.** Instead, a bigger voice for national Parliaments. Commission streamlined. Simplified voting prevents gridlock and protects our veto in key areas.

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[1] Robert Badinter in Le Nouvel Observateur, 17 June 2003
[2] Le Monde 26 June 2004
[3] Horst Kohler, (Frankfurter Allgemeine Zeitung, 12 May 2004

Why Europe matters?

- EU Membership is **vital to British jobs and economy**. Over half our trade is with Europe. 3million jobs linked to exports to the EU. More opportunities in an expanded EU of 450m people.

- We are **stronger in EU than isolated.** In a world of global markets and instant communication, now is not the time to retreat. Need to deal together with crime, the environment, world trade, illegal immigration and terrorism.

- **Europe has moved in our direction. Pro-reform, pro-NATO, less integrationist**. A strong Europe built on strong countries, not a "superstate".

- **Britain is a leading country in the new EU. Crazy to give that up**.

What NO means

- **A leap in the dark. A dramatic departure, with unpredictable results.** Not sticking with what we've got**. Britain isolated, marginalized, 2nd class status.**

- **What is opponents' alternative, really?** Some want 'renegotiation'. Would need 24 countries to agree; not one does. **'Associate status'** isn't membership. It is **on the margins or out**. Following rules we had no part in deciding.

- **Remember the myths: '**Britain forced to join the Euro', 'Brussels to set our taxes', 'lose our seat on the UN Security Council', 'our foreign policy to be set by Brussels' **- NONE of them true. No good reason to reject this Treaty.**

- **For anti-Europeans, a No vote is just the first step.** Their problem is not with this Treaty, it is with our membership of the EU. **A membership which is good for British jobs, security and our place in the world**.

TOP FIVE ARGUMENTS FOR THE TREATY

A British success

The Treaty is seen across Europe as a British success. It sets out a British vision of Europe of sovereign nations, not a "superstate". Bigger, more flexible, more streamlined, more effective. Not federal, not a straitjacket, no tax harmonisation. Crazy to reject a deal everyone knows is a success for us.

The New Europe needs a new Treaty

Europe transformed: from 6 members to 25. A good development for Britain. We always supported a EU expansion. New countries are pro-reform, pro-NATO, anti-tax harmonisation. Need to update rulebook so we are not caught in gridlock.

Defines and limits powers of EU

For the first time a European Treaty states that the EU only has the powers given to it by Member States. It makes clear where the EU can and cannot act. Nations decide to confer powers on the EU – not the other way round. Our veto retained key issues (eg. tax, welfare, foreign policy, defence and budget).

Myths proved false

They claimed:	**The reality:**
Britain would be forced to join the Euro	UNTRUE
The Queen would be replaced as Head of State by EU President	UNTRUE
The EU would set our taxes.	UNTRUE
Britain would lose seat on the UN Security Council	UNTRUE
Brussels would set our foreign policy	UNTRUE

No means isolation

Rejecting this Treaty would be a leap in the dark – a risky departure from Britain's consistent foreign policy of years. Would throw the status quo up in the air. No campaigners cannot explain what their alternative really is. No other country supports 'renegotiation'. We would be isolated, on the margins - or out altogether.

TOP FIVE ATTACKS REFUTED

Transfers power from Britain to Brussels

A Constitution for a country called Europe

More power for foreign judges

EU President and Foreign Minister will rule us

No vote is a vote for reform, a better deal

KEY ARGUMENTS
FOR THE TREATY

A FLEXIBLE EUROPE

New Europe of 25 is in our interests. Bigger Single Market; more clout on world stage. New countries share our views: pro-reform, pro-NATO, less integrationist.

But bigger Europe must be a flexible Europe. Rules that work for 25 nations, not six. Where nations have the room to make their own decisions.

Existing flexibility maintained. Neutrals not in EU defence. Britain and Ireland have own border controls. Some have the Euro, some don't.

A turning point in the EU's direction. Tax competition, not harmonisation. Flexibility - not centralisation - on welfare, economy, foreign policy, defence.

More flexibility in future. The Treaty simplifies complex 'enhanced co-operation'[4] arrangements.

Rules to ensure flexibility is fair:

- It mustn't cut across the single market.
- Must be open to all who wish to join. Nobody is shut out.
- A minimum number of Member States (8) must be required. Small pet projects cannot be dressed up as EU initiatives.

NOT "renegotiation" or "live and let live"

- "Renegotiation" is a fantasy. One thing to opt out of a policy at the outset. Another to demand "renegotiation" of any policy at any time.
- "Live-and-let-live" is a recipe for anarchy. Would spell disintegration of the single market. Would make EU treaties worthless.

[4] enhanced co-operation allows groups of countries to work closely in areas others do not want to

A STRONGER ROLE FOR NATIONAL PARLIAMENTS

A new role for national parliaments in EU decision-making. A key improvement. Increases accountability and scrutiny of EU institutions.

Until now, national parliaments have had no formal role in EU law making. Decisions are taken by governments in the Council and by European Parliament.

Under the Constitution, for the first time, **national parliaments will have a direct say in every Commission legislative proposal**. This was a UK idea.

Every new Commission legislative proposal will be sent to national parliaments for comments.

Parliaments will feed in their views. If they have concerns, they can send it back to the Commission.

If one third of national Parliaments believe the issue should be for national – not European – law, the Commission must withdraw it. It can then either:

- Drop the proposal.
- Submit an amended version which must go back to national parliaments.

But the Commission could re-introduce the law with no amendments?

In practice, the Commission could not ignore the wishes of a third of Europe's parliaments. Even if it did, very unlikely that Europe's governments, who are accountable to these parliaments, would agree it.

A STRONGER ROLE FOR NATIONAL GOVERNMENTS

- The Treaty will establish a **full-time President** of the European Council, appointed by and accountable to national governments.

- A **key British objective.** Rebalancing power in favour of national governments from the Commission. The President of the Council will help set the agenda of the EU and represent the views of national governments in Brussels. Achieved despite opposition from federalists and the Commission

Detail

- The current system of "rotating Presidencies" (in which each country takes turns to hold the Presidency for 6 months at a time) was designed for the old EEC of 6 members. With 25 countries or more, it has become unwieldy, diluting the coherence of the Council in relation to the Commission.

- Under the new Treaty, a President of the European Council will be chosen by heads of government for a term of 2½ years, which could be renewed to 5 years. He or she will help set the strategic agenda for the EU.

  The House of Lords European Union Committee concluded:
  "… it is clear that the balance of power in the European Union is going to shift from the Commission in favour of the Member States if the (Convention's) proposals … are adopted."
  [Lords Select Committee on EU, 21st report, HL 105, 15 May 2003]

THE BUSINESS CASE

Business has frustrations with the EU. Some ask if the new Treaty is relevant. Some think a No vote is a risk-free way of registering frustration. That would be a misjudgment - and a gamble with the market for over half Britain's trade.

Europe has moved in our direction. Jobs and growth top EU agenda. Economic reform is Commission priority. Why walk off the pitch when we're winning?

The last thing UK business needs is the uncertainty of a crisis in Britain's EU membership. Anti-Europeans cannot explain their alternative. But none of the options – Norway status, 'associate membership', Nafta – are in Britain's interests.

The new Treaty is a good deal for British business. It protects our flexibility on tax, welfare and the wider economy. It makes the new Europe, the new opportunity of a bigger market of 25 countries, work more effectively.

YES is a vote for continued British influence, continued economic reform.
NO is a vote for uncertainty, risk and a weaker voice for British business.

NO would mean Britain on the margins of our main market, or out altogether. Bound by rules made by competitors in France, Germany, Spain etc. A weaker voice on regulation, a setback for prospects of economic reform.

Whatever Europe's frustrations, our position is strong. A reform agenda is taking hold. British business is winning in Europe. A No vote would wreck it.

QUOTE

"It's very important that Britain stays engaged right now in Europe – the mood in Brussels is very pro-British". "Saying 'well I'm out of here' … is not going to make the most of what Europe can do for Britain".

Digby Jones, CBI Chairman - Financial Times 7th March 2004

MYTHS AND MISCONCEPTIONS

Debate about the new Constitutional Treaty went on for many months, including in the Convention and two summits of EU leaders. During this time there was a lot of speculation about what the treaty would mean. This led to many false alarms and misconceptions – for example:

- Britain would be forced to join the Euro
- Brussels would set our taxes
- We would lose our EU budget rebate
- We would lose our seat on the UN Security Council
- Brussels would seize control of our oil supplies
- We would lose control of our army
- Our foreign policy would be dictated by Brussels.
- We would lose control of our borders

None of these things is true. But opinion polls suggest they are widely believed. **We need to expose eurosceptic myths and scares – and reassure people that their real concerns have been addressed.**

QUOTES

"Britain would lose its cherished seat on the United Nations Security Council". *(The Sun, George Pascoe Watson, 21/05/2003)*

"The constitution is so far reaching the euro becomes almost inevitable. Once we sign, economic policy will be directed from Brussels, with clauses which could force us to scrap the Pound. The same applies to our right to set taxes."
(Trevor Kavanagh, The Sun 15/05/2003)

"Under its rules, Britain would never be able to take action as we did in the Falklands and in the two Gulf wars without permission from Jacques Chirac and other EU leaders". *(Trevor Kavanagh, The Sun, 08/05/2003)*

FULL MEMBERSHIP: BEST FOR BRITAIN

Today Britain plays a crucial role in the EU. Alternatives would put Britain on the margins, or out altogether. We are a first class country – we should not have second class membership, or no membership at all.

EU opponents cannot explain what their alternative really is. They are divided and dishonest. They flirt with various options – all bad for Britain:

Leaving the EU

- Losing Britain's position of influence in our own region.
- Outside world's largest single market of 450m customers. 3m British jobs linked to EU exports.
- Would need to re-negotiate trade agreements with EU from scratch: 24 vs 1…

The Norway option (European Economic Area - the EEA)

- Britain would have to obey the rules, but have no say in making them. We would lose Britain's seat on the European Council
- Would get no EU funds. But British taxpayers would still pay into EU budget.
- Weaker in the world, less valuable ally to US. Negotiating alone in the WTO. Outside cross-border EU action on crime/terrorism/pollution etc. All British EU exports/ EU imports would become subject to costly customs controls.

The Switzerland option (the European Free Trade Area - EFTA)

- Bilateral agreements with the EU, following rules we didn't decide.

NAFTA

- UK a big player in EU, would be a minnow in NAFTA. In 2003 55% of Britain's exports to EU, only 20% with NAFTA.

Full membership is the best deal for Britain – not outside, not second class.

RENEGOTIATION IS A FANTASY

Three fundamental problems with "renegotiation":

1) **They can't agree what to renegotiate**
2) **They know it is not realistic anyway**
3) **They can't say what will happen when they don't get their way.**

1. They can't agree what to renegotiate.

Wish lists vary from 'repatriating' fisheries, aid and social chapter; to abolishing the primacy of EU law, unpicking the single market ; opting out of majority voting. Includes every EU treaty any British Government has ever signed.

2. Which countries support "renegotiation"?

All 24 other countries would have to agree a change. **Advocates of renegotiation can't name a single other country which would.**

That's why Former PM John Major described renegotiation as "crazy". He said renegotiation could be " a euphemism for withdrawal" (Daily Tel 13/10/99).

3. What will happen when "renegotiation" fails?

Climbdown? Humiliation for Britain? Or withdrawal? Quitting the EU?

Bill Cash says "Associated status accompanied by the threat of withdrawal if they're not prepared to listen" (BBC, Daily Politics 5th Oct 2004).

Rejecting what the EU is, what it does, how it works, means rejecting membership. You can't be a member if you don't accept the rules of the club.

No matter how often people say they want Britain to stay in the EU, impossible demands would make it impossible to stay a member.

FEARS OF EUROSCEPTICS NOT REALISED

Opposition to this treaty was whipped up because of fears which did not actually come to pass. The final result is a success for the British vision of Europe. Ideas pushed for by Federalists but rejected in the Treaty include:

- The EU to be re-named "United States of Europe"
- EU to have certain competences "organised on federal basis."
- EU-wide tax.
- Election of the Commission President by EU citizens.
- Majority voting for deciding EU foreign policies.
- Majority vote on treaty amendments, no ratification by national parliaments.
- Commission President to Chair the European Council, and Commission and Council Presidents jobs to be merged into one.
- A European Mutual Defence Guarantee separate from NATO.
- Unanimous voting to be completely abolished and replaced with Super-QMV.
- EU Foreign Minister accountable to the Commission, not national governments.
- Single EU seat in international organisations e.g. UN.

The Treaty is a British success story. The scare stories didn't come true. There is no good reason for to reject it, and isolate ourselves from Europe.

KEY CRITICISMS REFUTED

IS THIS A TREATY OR A CONSTITUTION?

Background

Critics say this is a 'Constitution for a country called Europe'.

Top lines

- The EU Constitutional Treaty is a Treaty like any other international Treaty.

- All international organisations have rulebooks. Common sense to update the EU's. No fundamental change from existing treaty-based EU system.

- By bringing together current EU Treaties and existing ECJ case law, the EU Constitutional Treaty is clearer and more authoritative. Codifying existing ECJ case law does not represent an extension of competence, quite to the contrary it clearly defines where the EU can and cannot act.

- Calling it "a Constitution" is no big deal. The existing EU treaties serve a 'constitutional' function. Even Kent County Council has a Constitution.

QUOTES

- **Sir John Kerr** (draftsman of the Treaty) "It isn't a constitution… There's no 'we the people' …. No appeal over the heads of governments…. It's a Treaty .. an agreement between states". (7th December 2004)

- **French Government's Official Guide to the Treaty** (p.11):
"The Constitution for Europe remains legally an international treaty signed by sovereign States. The use of the term "constitution" has neither the purpose nor the effect of creating a European state which substitutes itself for the member states in the international legal order".

PRIMACY OF EU LAW

Background

Critics complain the Treaty enshrines the primacy of EU law over domestic law, and claim this is a fundamental constitutional change.

Top Lines

- **Anybody who rejects the primacy of EU law is effectively saying Britain should leave the EU.** No country can be a member if it rejects the rules.

- **It's in Britain's interests that EU rules are upheld.** The EU is a rules-based organisation. Without the primacy of European law, it simply would not work.

- **We accepted the primacy of European law when we joined the EEC in 1973**. In practice, nothing will change. Like today, the new Treaty means that no country can use national laws as an excuse to dodge its EU commitments.

- **The European Court protects UK interests:** enforcing EU law*; ensuring a level playing field for British business; ensuring Britons get access to the markets and facilities in other Member States; ensuring Member States which do not comply with EU law are held to account and penalised*:

QUOTE

Vernon Bognador, Professor of Politics and Government Oxford University:
""The primacy of European law over national law was established in the landmark case of Costa vs ENEL in 1964 ... the European Constitution merely codifies this principle"
(E!Sharp magazine January 2005)

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* Eg. recent penalties against Spain (C-278/01 Commission v Spain) for failure to implement EU bathing water rules and fine against Greece (C-387/97 Commission v Greece) for failure to ensure safe disposal of toxic waste.

CHARTER OF FUNDAMENTAL RIGHTS

Top lines

Britain made it clear it could only agree a Charter which set out no new EU powers. Britain succeeded. Charter sets out EU citizens' existing fundamental rights in relation to powerful EU institutions.

No new rights. No new powers.

It does not change our labour laws. British Government make the decisions.

Key treaty reference:

- "The provisions of this Charter are addressed to the institutions, bodies, offices and agencies of the Union with due regard for the principle of subsidiarity and to the member States only when they are implementing Union law." (Article II-111)

ECJ Judge Skouris (27 September 2002): "I do not believe that the integration of the Charter into the Treaty will alter the allocation of powers between the EU and the Member States."

Detail

Charter will harm UK business?

- No. There were genuine concerns about this, but HMG has met them. Only agreed to a Charter that creates **no new fundamental rights and no new EU powers.**

- Article II-111 (above) provides that **the Charter will not increase EU powers**

Charter creates the right to strike and other rights?

- **No. Charter only covers EU citizens' existing rights.** It's limited to current areas of EU power and EU has no power on industrial relations law. That's spelled out in the Treaty (AIII-210(6)). Industrial relations law continues to be a matter for member states.

- Article II-88 makes clear that the rights referred to are **in accordance with national laws and practices** and the legal Explanation to Article II-88 make it crystal clear that **strike action comes under national laws and practices**. UK insisted that this Explanation has legal force.

Everyone will be suing in Luxembourg now?

- The Charter does <u>not</u> change the existing system of legal remedies. National courts remain the prime guardians of their peoples' rights.

- All the rights set out in the Charter relate to existing EU, ECHR or national law.

FOREIGN POLICY
& EUROPEAN FOREIGN MINISTER

Top lines

Sensible for Britain to work with rest of Europe on foreign policy, if we can. Acting together, representing 450m people, Europe is a strong force for good in the world. That's why we created a Common Foreign Policy over 10 years ago.

But it only happens when all Member States agree. If we don't, we do our own thing. Nothing to stop us acting independently – eg. Iraq. Nothing can be imposed on us by Brussels. Nor can Brussels stop us doing anything we want.

Britain's seat on UN Security Council remains.

European Foreign Minister?

- Sensible reform, combining two existing jobs: Council High Representative (Solana) and Commission External Relations (formerly Patten).

- EUFM doesn't outrank / replace British Foreign Secretary. Chosen by governments. Directed by governments. No power over governments.

"Duty of loyal co-operation"?

- Nothing new, and no threat to our independence. Repeats what was agreed in Maastricht, which works fine. Wording of the new Treaty is the same.

- Does not mean UK is forced to obey, cannot act alone, needs permission from Brussels to go to war, or any of the other nonsense.

QUOTE

Colin Powell, former US Secretary of State: "I've always viewed Solana as something like the EU foreign minister anyway".

Daily Telegraph 26th February 2005

ASYLUM AND IMMIGRATION

Top lines

Polls show many people fear that the Constitution will mean Britain will lose control over its asylum and immigration policy. The UK would retain the right to opt-in to new asylum measures. Means that we only participate in measures which we believe are in our interests to do so.

Treaty references: "the United Kingdom and Ireland shall not take part in the adoption by the Council of proposed measures pursuant to Section 2 or Section 3 of chapter IV of Title III of Part III of the Constitution or to Article III-260 of the Constitution."

"The United Kingdom or Ireland may notify the Council in writing … that it wishes to take part in the adoption and application of any such proposed measure, whereupon that Sate shall be entitled to do so."

'Protocol on the position of the UK and Ireland on policies in respect of border controls, asylum and immigration, judicial co-operation, in civil matters and on police co-operation'

Detail

- EU asylum measures are required by the Treaty to be in accordance with the principles of the Geneva Convention. We fully support the measures we have signed up to, which have contributed to tackling asylum shopping: under the Dublin II regulation we are now returning about 200 asylum seekers a month to other Member States. None of the relevant EU measures have required the UK to change the fundamental principles of its law.

BEST QUOTES

NO SUPERSTATE

French Govt Guide to the Treaty (p.11): "The Constitution for Europe remains legally an international treaty signed by sovereign States. The use of the term "constitution" has neither the purpose nor the effect of creating a European state which substitutes itself for the member states in the international legal order".

Le Figaro (France)

The Constitution "will seal the victory of the nation-states over the European "super-state".' *(21 April 2004)*

Irish Taoiseach Bertie Ahern *(19 June 2004, BBC News 24)*

"It is not a super-state; it's not a federal state. It's about a group of nations, a group of peoples working to a Constitution".

A BRITISH SUCCESS

Le Monde

"Whatever people say, this text remains a British victory" *(26th June 2004)*

Corriere della Sera (commentary) (Italy)

"The British won the day." *(Corriere della Sera, 19th June 2004)*

Laurent Fabius, French No campaign leader

"The British concept has won" *(New Statesman 1 November 2004)*

Robert Badinter (Senator, former head of Constitutional Court, France)

"It would be fair to call the draft Constitution for the Europe of 25 'La Britannique' in homage to the diplomatic skill of our English friends".

(Le Nouvel Observateur, 17 June 2003).

WHAT THE EXPERTS SAY

Professor Alan Dashwood (European Law, Cambridge 7 Dec 2004)
"The treaty is not a blueprint for a superstate."

Lord John Kerr (7/12/04)
"It isn't a constitution… There's no 'we the people'… no appeal over the heads of governments…. It's a treaty… an agreement between states."

Egils Levits (ECJ Judge)
"There is no place for concern that it would change the structure and operation of the EU in a radical way. 90% of the constitution agreement is already in the current agreements. The innovations in the draft will clarify the structure of the EU and make its activity more efficient, as well as strengthen citizens' rights."
(Quoted in "Latvijas avize", Latvia, 21 June 2004)

BRITISH PRO-EUROPEANS

Kenneth Clarke:
"What is being proposed will not herald the 'end of a thousand years of British history', nor does it justify any other of the hyperbolic claims that are currently being made … We are not talking about a Constitution for Britain but a new Constitutional Treaty for a supranational organisation to replace the Treaties we have already signed up to." *[Conservative Case for a new European Constitution, October 2003]*

Michael Heseltine
"I am absolutely clear that any Conservative prime minister since Harold Macmillan would have signed the European constitution." [*BBC News 20/06/04]*

WHAT THE CONSTITUTIONAL TREATY DOES:
A TEN POINT SUMMARY

1. It **consolidates the main European Treaties into a single text.** Simpler and more transparent. This makes clear that the EU has certain powers invested in it by its member countries, and defines what those powers are. It brings the separate arrangements which exist today for different kinds of policy (the 'three pillars') into a single framework.

2. It creates a **full-time President of the European Council,** the body that brings together the leaders of member countries**.** Greater continuity, a stronger voice for national governments. Appointed by national governments for a period of up to five years. Replacing the current system where the Presidency rotates every 6 months.

3. It creates an **EU Minister for Foreign Affairs**. Simpler, more coherent. Appointed by national governments, answerable to national governments the Foreign Minister will conduct the Common Foreign and Security Policy on their behalf. No power to act outside areas agreed by national governments. Merging two existing roles of High Representative for Foreign Affairs and External Relations Commissioner.

4. It gives **national parliaments a voice in making European laws** for the first time. More democratic, more accountable. Every national parliament will receive all proposed EU laws directly. They judge whether the proposal conforms to the principle of "subsidiarity" (that the EU should only act where it adds value to national or regional action). If a third of national parliaments object, then the proposal will be sent back for review.

5. It **reduces the size of the European Commission**. Greater efficiency. There is currently one Commissioner from each country in the EU (25 in all). From 2014, the number of Commissioners will be reduced, so only two-thirds of

members provide a Commissioner at any time, with every country taking equal turns.

6. It **changes the decision making system** for national ministers in the Council (known in EU jargon as "Qualified Majority Voting" or QMV). Simpler and fairer; it means a minimum of 55% of the Member States representing a minimum of 65% of the EU's population must vote in favour for European legislation to be passed.

7. It **extends Qualified Majority Voting** to new policy areas. Prevents gridlock, protects our veto. In areas of vital national interest including tax, social security, defence, key areas of criminal procedural law and the EU budget, every country will still have to agree. The Treaty also preserves Britain's right to opt in to measures on asylum and immigration.

8. It **increases the number of policy areas where elected MEPs in the European Parliament also have to approve EU legislation**, as well as the national ministers in the Council. (In EU jargon, this is called "co-decision".)

9. **It simplifies the rules on 'enhanced co-operation' where EU countries can work together more closely on certain issues**, without affecting countries that do not want to join in. More flexibility. There are rules to prevent this being abused: at least a third of the Member States must want to co-operate, and others must be free to join at any time if they choose.

10. It incorporates the **Charter of Fundamental Rights** into EU law. This gives a clear statement of the rights of EU citizens (such as the rights to life and liberty). But the EU Constitution also relates these rights and principles to existing law, so the Charter creates no new powers for the EU and only applies to the EU institutions.

FAXED to Cheynes 4/3/05 KR

From: Kim Darroch
Date: 4 March 2005

PRIME MINISTER

cc: Jonathan Powell
Ivan Rogers
Sally Morgan
Nigel Sheinwal
Pat McFadden
David Hill
Godric Smith
Antony Phillipson
Tom Kelly
Sir A Turnbull

REFERENDA IN OTHER EU STATES

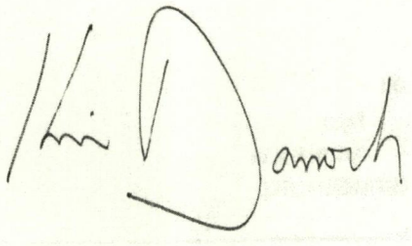
There have been two announcements this week about referenda dates in other Member States. Chirac announced today that the French referendum would be on Sunday 29 May. And Rasmussen announced earlier this week that the Danish referendum would be on Tuesday 27 September.

The reaction in France to the announcement has been broadly favourable. Chirac himself was thought to want an earlier date, and the "No" campaign a later one, so it is seen as a fair compromise. Hollande has said that he is content with it, and Sarkozy has gone further, commenting that it is "a very good decision. Three months of campaigning is exactly what is needed. I was always pro-end May".

Meanwhile, the latest opinion polls in France show the "Yes" vote stabilising at around 60% (and going up by three points in one poll immediately after the Spanish result). But the pollsters themselves, in private conversation with the Embassy, are predicting a gradual decline in the "Yes" vote to around 55%,

though still an eventual victory. John Holmes has commented, however, that this still looks a bit rosy – the politicians he is talking to are still picking up lots of negative vibes in their constituencies. In case you want more detail, I attach some Embassy reporting and poll charts.

The Danish decision means we are certain to have one referendum during our Presidency. But it is possible that we may have as many as four: the Luxembourgers are likely to go for July and the Irish and Poles for the autumn. I attach a table setting out the position in all the other Member States.



KIM DARROCH

Claire Harrington

From: sirjohn.holmes@fco.x.gsi.gov.uk

Sent: 03 March 2005 08:24

To: cathy.ward@fco.gov.uk; Paris-EUReferendumEmbassy@fco.gov.uk; ParisEUReferendumGSI@fco.gov.uk

Subject: RE: FRANCE: REFERENDUM: LATEST POLLS

Cathy ,

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John

-----Original Message-----

From: Cathy Ward Paris -Conf

Sent: 02 March 2005 18:40

To: Paris EU Referendum (GAL); Paris EU Referendum (GSI)

Subject: FRANCE: REFERENDUM: LATEST POLLS

SUMMARY

1. Latest polls show "yes" in general stabilising, going up by 3 points in one instance immediately after the Spanish referendum. Pollsters still expect decline in "yes" vote in run up to referendum, but not as severe as during 1992 Maastricht campaign. Reasons why. Expect final result to be around 55% for "yes", with high abstention, but still early days.

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<< File: 2 March poll chart.xls >>

Cathy Ward
First Secretary (Political)
British Embassy Paris
Tel: + 33 1 44 51 32 11
e-mail: Cathy.Ward@fco.gov.uk

Opinion Polls on the Referendum

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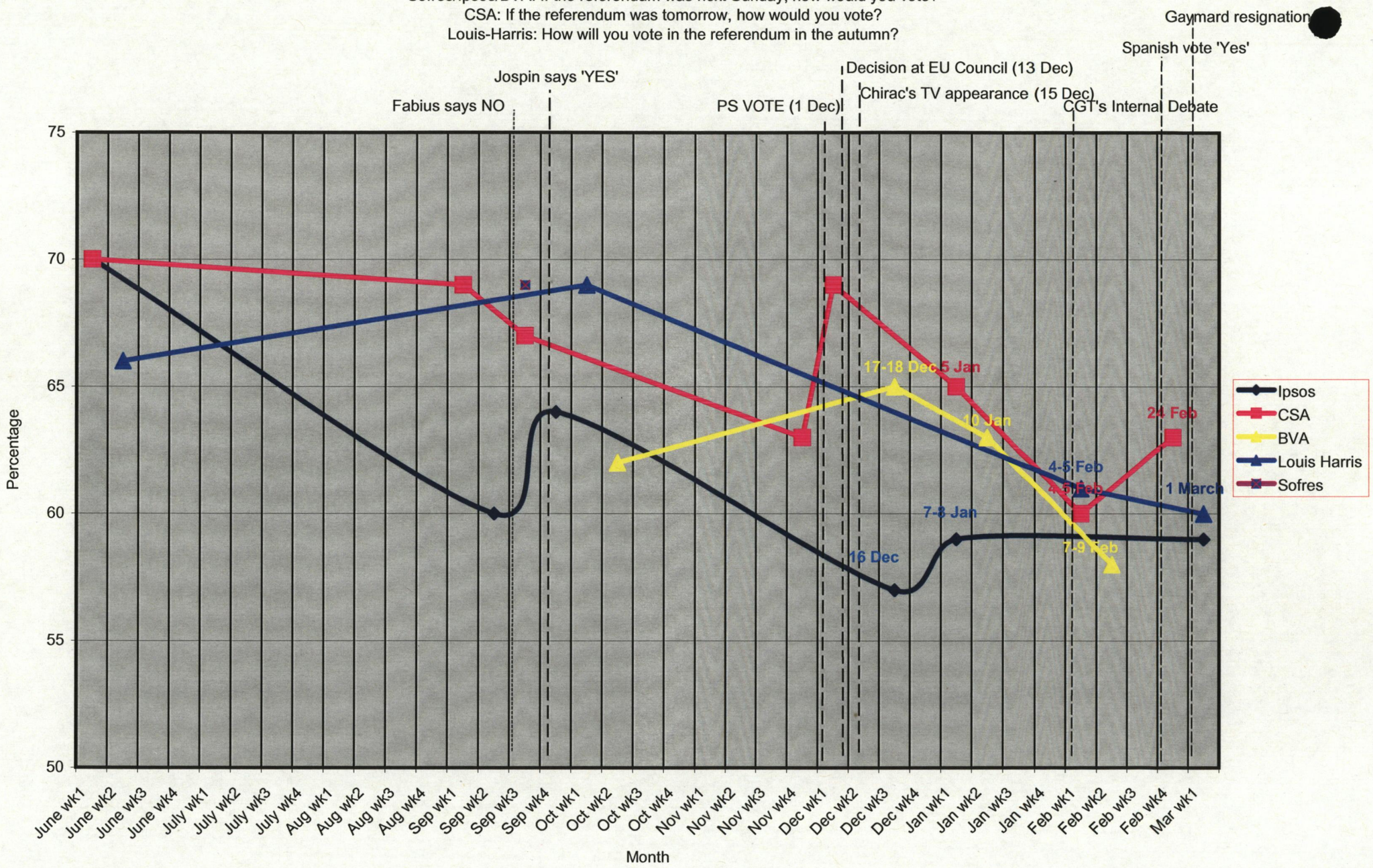

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UK	**Yes**	**None confirmed**	

From: Kim Darroch
Date: 4 March 2005

PRIME MINISTER

cc: Jonathan Powell
Ivan Rogers
Sally Morgan
Nigel Sheinwal
Pat McFadden
David Hill
Godric Smith
Antony Phillipson
Tom Kelly
Sir A Turnbull

REFERENDA IN OTHER EU STATES

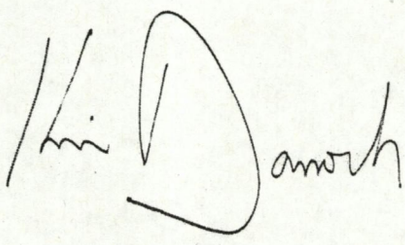
There have been two announcements this week about referenda dates in other Member States. Chirac announced today that the French referendum would be on Sunday 29 May. And Rasmussen announced earlier this week that the Danish referendum would be on Tuesday 27 September.

The reaction in France to the announcement has been broadly favourable. Chirac himself was thought to want an earlier date, and the "No" campaign a later one, so it is seen as a fair compromise. Hollande has said that he is content with it, and Sarkozy has gone further, commenting that it is "a very good decision. Three months of campaigning is exactly what is needed. I was always pro-end May".

Meanwhile, the latest opinion polls in France show the "Yes" vote stabilising at around 60% (and going up by three points in one poll immediately after the Spanish result). But the pollsters themselves, in private conversation with the Embassy, are predicting a gradual decline in the "Yes" vote to around 55%,

though still an eventual victory. John Holmes has commented, however, that this still looks a bit rosy – the politicians he is talking to are still picking up lots of negative vibes in their constituencies. In case you want more detail, I attach some Embassy reporting and poll charts.

The Danish decision means we are certain to have one referendum during our Presidency. But it is possible that we may have as many as four: the Luxembourgers are likely to go for July and the Irish and Poles for the autumn. I attach a table setting out the position in all the other Member States.



KIM DARROCH

Claire Harrington

From: sirjohn.holmes@fco.x.gsi.gov.uk
Sent: 03 March 2005 08:24
To: cathy.ward@fco.gov.uk; Paris-EUReferendumEmbassy@fco.gov.uk; ParisEUReferendumGSI@fco.gov.uk
Subject: RE: FRANCE: REFERENDUM: LATEST POLLS

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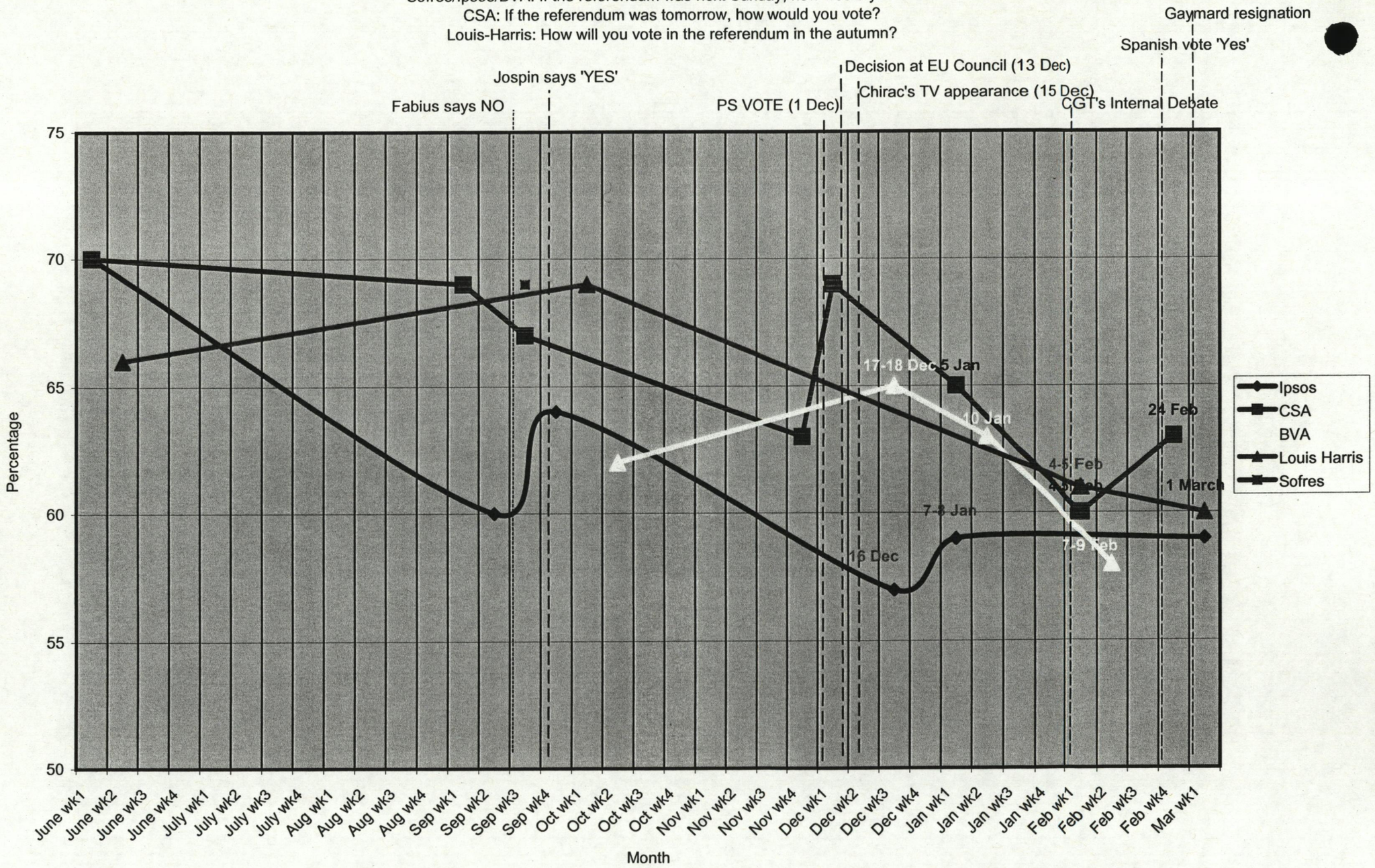

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Updated 03/03/05

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EU enlargement
2. Kite

From: Andrew Adonis
Date: 25 February 2005

PRIME MINISTER

cc: JP

DAVID OWEN & THE EURO CONSTITUTION

Long talk with David Owen. He was very interesting on the Euro constitution and his position on it – and how he thinks you should play it.

He thinks there won't be a referendum (if the French don't reject, the Dutch will, etc.). But if it comes to 24 against one, he doesn't want to be 'in the company of the lunatics'. His acute concerns about Russia (where he does a lot of business) and the Ukraine (which he thinks should be put on the same EU track as Turkey) leave him 'in no doubt about the big picture'.

However, he would only support the constitution – which he thinks dreadful in every respect, etc. – if there were assurances about the Euro and creeping federalism. He also thinks, tactically, that you would be wise to offer 'belt and braces' assurances to split the 'no' camp. He told me that this is what he had sought to do in 1978/79 over the European Assembly Elections Act, where – 'after a huge fight with the Foreign Office lawyers' – he got provisions inserted into the Bill for direct elections to rule out any further increase in the European Parliament's powers without express parliamentary approval.

I have looked up these provisions and a note on them is attached. They look to me entirely rhetorical, and of no real consequence (despite DO's claims during the debate on them). However, they raise an interesting prospect: whether you could split the 'no' camp before the referendum, and bring over DO and a few other prominent antis, by offering assurances in the Bill of a similar kind. That, plus a commitment of no early Euro referendum, might take the trick.

Owen would be keen to talk to you about all this – and it would probably be worth it after the election and the French referendum.

Andrew.

ANDREW ADONIS

FILENOTE

ENQ 2005/2/85HA

21 February 2005

European Parliament Elections

S6 of the *European Assembly Elections Act 1978* provided:

> No treaty which provides for any increase in the powers of the Assembly shall be ratified by the United Kingdom unless it has been approved by an Act of Parliament.

There does not appear to be any other provision in the Act which could be described as seeking to bind future Parliaments. The section was added by government amendment on 2 February 1978, in fulfilment of an undertaking to introduce a new clause relating to parliamentary approval of treaties increasing the powers of the Assembly (as it was then called). The Foreign Secretary David Owen described it as a major constitutional innovation, and said:

> [previous debates] revealed the continuing anxiety of many hon Members that direct elections mean movement towards federalism inside the Community, and that it might be followed by other moves whereby the powers of the House of Commons would be eroded through the extension of those of the European Assembly without there being adequate consideration of the issues in Parliament and without Parliament having the full opportunity of examining any such change.[1]

He went on to answer a point raised by Kenneth Clarke:

> I think that the hon Gentleman is asking whether this infringes the legislative power of the House of Commons. It is extremely difficult to draw the line or to have a clear-cut line. Unless we had drafted the clause on this way, making it clear that it applies to treaties in the broader sense, we should have had endless arguments whether the legislative power of the House of Commons had been infringed, in the sense that the House gives power to Ministers to make decisions on its behalf. I think it would be argued back that that is, in effect, an erosion of the powers of the House if we exclude from its ambit the discretionary power that the House vests in Ministers.

Enoch Powell's objection was:

> The hon Member was anxious to know whether, when the necessary legislation implied in the new clause was brought before the House of Commons, we should be

[1] HCDeb 2 February 1978 c795

able to amend it and what would happen if we amended it. I have to tell the hon Member that those of us who lived through the early stages of the European Communities Bill in 1972 can give him the answer. We should not be able to amend any such Bill. It would be a Bill to authorise the ratification of such and such a treaty, and whatever in that Bill failed to authorise the ratification, whatever did not fully comply with the necessity for the Government to ratify that treaty, would be out of order. It would be outside the powers of the House of Commons, as we speedily discovered when we addressed ourselves in Committee to the European Communities Bill in 1972.

SfBroadbridge
Home Affairs Section

2144

RESTRICTED

FCS/05/051

CHANCELLOR OF THE EXCHEQUER

cc GC. KD JPo NS.

(1) Tim - I asked for another copy as mine were missing pages - but I assume still your lead...

(2) Jack.

EU: Referendum and Future Financing

Summary

1. If we can, it would be good to finish the future financing negotiations in June 2005, largely for Referendum-related reasons. We should now engage in deeper discussions within the Group of Six on the expenditure side. But opposing views on the abatement may make a June agreement difficult.

Detail

2. At our meeting on 8 February, we discussed the question of whether it would be in the UK's interests to reach political agreement on the future financing negotiations in June 2005, or at least during 2005. This letter sets out my thoughts and touches on some related questions.

3. Many serious obstacles to a June 2005 finish still remain. Some net contributors, notably Germany, seem to lack political will to reach agreement to the agreed timetable, believing a late deal will be a better one. But many others, especially the net recipients, are pushing for a June 2005 finish. The Luxembourgers are still saying publicly that they will seek to reach agreement during their Presidency – and for political reasons I think they will have to try. So,

do we support the Luxembourgers, perhaps by trying subtly to nudge the negotiations forward a bit, or let things run?

4. I think that, as long as the deal was on the right terms (a big "if"), a June finish would actually suit the UK quite well. Most importantly, it would avoid any clash between the endgame of the future financing negotiation and the UK referendum. Although vigorously defending our abatement in isolation might play well with some opinion, it is likely to undercut our argument that we are winning in Europe. Moreover, it opens up the line of attack: "vote yes, and the Government will give away the Rebate tomorrow". It would be much better to have all this settled soonest.

5. Moreover, if we could settle in June, it would avoid a potentially awkward handling problem during our Presidency, and prevent a long-running dispute with the new Commission, whom otherwise we want to support. Moreover, if we do fail to settle in 2005, we will need – to avoid a clash with the Referendum – to ensure negotiations do not pick up till towards the end of 2006, but this would leave us with an end-game under unsympathetic (to the abatement) Finnish and German Presidencies. This does not look any easier. It is true that the net recipients will be desperate for a deal by then, and that the determination of our position on the abatement may have sunk in with other Member States by then. But it is also true that other net contributors will by then have mobilised opinion much more effectively against the abatement, and expectations that we might compromise after the referendum will have grown.

6. What would the essential elements of a June deal be? And is it actually possible?

7. The main elements of a deal seem to me to be: finding a presentable solution which satisfies the Dutch, Germans, and perhaps Swedes on their net contributions problem; ensuring that the French and Italians pay their way; and getting a fair deal (in cohesion receipts and beyond) for the new and poorest Member States. It is probably realistic to assume that we will have to find some way of giving the Spanish a softer landing on their net contribution too, though this should not be until the real end-game. Perhaps the best initial way into this would be to get into some deeper discussions with the Group of Six, individually rather than collectively, in the first instance on cohesion policy to see if we can find a way of solving the German and French problems in a way that doesn't compromise our wider objectives. We ought to begin this soon, not least because I suspect France and Germany may be tempted to do a separate deal with the Spanish, which could only be at our expense.

8. On own resources, of course the abatement is the main area where others have expectations of us that we can't fulfil. I have been struck by the increase in the temperature on the abatement in the last couple of months, particularly from the Italians. There is also plainly beginning to be a sense that we will look at things differently after any late spring Election here. We will have to disabuse those who hold this view. In the absence of any wholesale reform which guaranteed a net contribution no larger than with the abatement, substantive movement on the latter is not possible; though we should be willing to look at any cosmetic (but not substantial) fixes here.

9. Finally, I increasingly think that an important element of any deal must be a look forward to 2013. Whatever the final agreement, we should aim to have in it a

commitment to a serious review of CAP spending (perhaps linked with the abatement, at least rhetorically), and acceptance that a net fund methodology would be the right way forward for SCF from 2013. The language which we agreed at the December European Council linking Turkish membership to "financial reforms" in the EU should be helpful in this respect.

10. I am copying this minute to the Prime Minister and Sir John Grant.

Jack Straw.

Z(JACK STRAW)

Foreign and Commonwealth Office

23 February 2005

1. MyF (RO)
2. Rule

From: Kim Darroch
Date: 21 February 2005

PRIME MINISTER

cc: Jonathan Powell
Ivan Rogers
Nigel Sheinwald
Antony Phillipson

SPANISH REFERENDUM RESULT

The Spanish government won their constitutional referendum last night with a 75% "yes" on a 42% turnout. It seems that most other European leaders (including Schroeder) are either writing to Zapatero or telephoning him. On the assumption that the Prime Minister would prefer this to a telephone call or a few words in the margins of tomorrow's meetings, I submit a short Prime Ministerial note of congratulation.

KIM DARROCH

10 DOWNING STREET
LONDON SW1A 2AA

THE PRIME MINISTER

Many congratulations on the result of Sunday's referendum. A "yes" vote of over 75 per cent is a thoroughly impressive result, owes much to your role in the campaign, and provides a lead for the other referendums on this Treaty to be held elsewhere in Europe.

His Excellency Jose Luis Rodriguez Zapatero

MATRIX

From: Steven Morris
Martin Sheehan
Date: 18 February 2005

PRIME MINISTER

cc: Jonathan Powell
Ivan Rogers
Sally Morgan
David Hill
Pat McFadden
Kim Darroch
Godric Smith

REFERENDUM: YOUR CROSS PARTY EUROPE MEETING

On Monday, you have your first Cross-Party Strategy Group on the referendum with Ken Clarke and Charles Kennedy. This note covers the key issues to address. You may want to reflect on some of these internally before discussing with KC and CK.

Separately, it would be helpful if you could give us an early steer on your thoughts - particularly on how and when to move forward on the referendum after the General Election.

Purpose of this meeting

Incoherence and disaffection have dogged the pro-Europe movement. We need to get KC and CK on board for an agreed strategy – and put pressure on them to deliver their part of it.

The point of this meeting is to create the conditions for a strong cross-party effort starting after the election. Building on your bilaterals with KC and CK last month, we now need to focus on exactly what decisions and actions are needed.

Update on referendum business

- The EU Bill passed 2nd Reading. KC shied away from signing the Bill, but spoke in the debate.

- Patricia Hewitt has seen Chris Patten and Dick Newby, will see Ian Taylor, and is getting involved with Britain in Europe's work on focus groups etc.

- Jack Straw last week published a political pamphlet unpicking "renegotiation" as a policy. He continues to lead FCO work on the Bill.

- At official level, planning is underway for structures to handle the referendum post-election, (eg. a Referendum Unit) and for a government information campaign. We will give you a detailed proposal next month.

- Chirac wants the French referendum brought forward – probably to mid/late May. The Dutch and Danish referendums will probably be in June.

Key issues to address with KC and CK

A suggested agenda for Monday's meeting is attached with three items: campaign organisation; campaign strategy and message; action after the General Election.

1) Campaign organisation

Post-election, we need to transform the Yes campaign:

- What kind of campaign do we need? And how do we get there from BIE? We favour a many-headed organisation, with semi-autonomous groups for Lib Dems, Tories, others under the designated Yes umbrella. This creates a diverse group of spokespeople, but needs overall leadership. Who?

- When should the Yes campaign launch? We are anxious to break with the BIE brand. A June launch (or name change) is attractive. Is this too early?

- How will pro-Europe Tories organise themselves? They lack structures or staff. Clarke, Heseltine, Patten, Hurd etc. have no regular meetings, no resources to call on. They are sensitive that BIE is Labour-dominated. We need to get them to organise. A dedicated Tory-run group might help, but who would run it (Chris Patten, Ian Taylor?) You should ask KC how he will mobilise the pro-E Tories – and stress that Tory staffers are welcome in BIE/Vote Yes HQ, if they can identify good people.

- Lib Dems should be ready to provide some people for the Yes campaign after the General Election. You might ask C Kennedy if Chris Rennard can help, and if he can suggest some good campaigners for BIE/Vote Yes.

- On funding, BIE cannot absorb people from the election campaigns unless they have money to pay them from May / June. Can Ken Clarke get any money out of eg. Chris Gent to plug this gap?

2) Campaign strategy and message

We are clear about language: "Constitution" alarms people. We should refer to "the Constitutional Treaty"..."the new treaty"..."this treaty."

Other decisions about campaign strategy and message are yet to be resolved. We are working with BIE on messages etc – but on the basis of a handful of focus groups and no detailed quantative polling. These are some of the main questions:

- Timing. The big question for you is when to hold the referendum. May/June 2006, or hold on for the last possible moment in October 2006?

- Phasing. How quickly do we need to create momentum? What phases do we need? Our initial thinking is to start by i) establishing facts and challenging myths; ii) attack the flaws in the No argument; building up to iii) the big choice about Britain's place in Europe.

- How much drama do we create? Does this amount to an in/out choice? Do we argue that a No vote is a disaster, risking 3 million jobs? Do we risk raising the stakes too high?

- How do we characterise a No vote? The route to marginalisation? Associate status? What would the govt do? Respect the result by renegotiating? Could there be a second referendum (on membership?)

- How much weight should we put on "limiting the powers of the EU"? People like the idea. But is it really credible? The treaty is ambiguous. Other countries say it means "more Europe". And does "stopping Europe" concede ground to eurosceptics (Europe is bad and must be stopped)?

- Do we stress the economic or political case? Eurosceptics accuse us of denying the political implications. But primacy of EU law, majority voting, EU foreign minister, asylum and border co-operation etc. all require us to make the case for political co-operation.

- How to maximise splits in the No campaign ("Vote No and get out"; "Vote No and renegotiate"; "Vote No and stick with what we've got")

- Vis-à-vis the Europeans, a 'nice' campaign (we need co-operation with EU neighbours), or a 'nasty' campaign (victory for British vision of Europe)?

- The US angle. Lib Dems and anti-war Tories will want to argue that Europe needs a Constitution to stand up against the USA.

- How do we engage the business community? Currently business is not convinced the referendum will happen, or that it matters to them anyway.

3) Action after the General Election

It would be useful to get your early thoughts on post election roll-out.

Attached at Annexe A is an outline grid of how the initial period might look. As you can see, the backdrop will include French, Dutch, Portugese and perhaps Danish referendums, the 30th anniversary of our 1975 referendum, your speech to the European Parliament and the start of our EU Presidency.

Options for handling this period include:

i) Straight in: early in May, using vehicle of BiE rebrand to 'Vote Yes' possibly in period just after VE day (8th May). The attraction of this is that you have the momentum while the opposition are in disarray. You can shape the argument early and on your terms. It is where the media will instinctively be moving post election (way into 'TB/GB, 'TB future' stories, reshuffle fall-out). They will also characterise any lack of action as dither/delay.

The negatives are principally the risk of drowning out other 3rd term priorities, Queen's Speech etc. Also, will the British public be ready to listen to another political campaign, with no pause for breath? There would need to be major and

consistent follow-through. And it is ambitious in view of the current level of organisation and funding in the Yes campaign.

ii) Referendum Minister first. You could use May to appoint a Referendum Minister, establish a Referendum Unit. A major speech by the Referendum Minister, him/her getting out and about, the Bill being reintroduced, launch of a government information campaign would all lay groundwork. It would need sustained follow-up. We could also rebrand Britain in Europe to 'Vote Yes' or equivalent. Other Yes groups (Business Yes, Trade Union Yes, Tory Yes, Youth Yes etc) could be rolled out over the course of the year. From a 6th June speech you might have a number of events through to Labour Conference giving a feel for the type of campaign you want to run – eg. a listening phase; using the period May-September to explain the facts.

This approach has the advantage of pacing. It allows you to establish your 3rd term priorities before entering the fray full-on, and gives a Referendum Minister time to make a mark. It depends heavily on whether you want a high-profile Referendum Minister – and would put a lot of weight on that person. The risks of this approach are linking the campaign too closely to the government from the start, and accusations that you personally are not sufficiently engaged.

iii) Gentle start, Autumn push. Get the structures right. Allow Minister to make impression. Engage in low-key way. Avoid set-pieces but neutralise attacks of non-engagement. This risks disappointing the expectations of pro-Europeans for Government action, failing to generate sufficient momentum or to galvanise resources for the 'Yes' campaign. Most of all, we have huge ground to make up and can't afford to let the No campaign to set the agenda for another 6 months.

You may want to reflect on this before discussing in detail with KC and CK. But it would be useful to know their views and get them geared up to play their part.

An early steer from you would help us to get in shape.

Steve Morris

STEVEN MORRIS

MARTIN SHEEHAN

ANNEXE A – POTENTIAL REFERENDUM ROLL-OUT

MAY

1 EU enlargement + 1 year

5 Possible General Election

6 Referendum Minister appointed / Unit established

8 VE Day 60th anniversary (Sunday)

16 First speech / tour by Referendum Minister, launch government information pamphlets, website etc

22 French referendum (?)

23 Cross-party newspaper ad

26 Referendum Bill re-introduced with cross-party backers.

JUNE

5 Dutch, Portugese, Danish referendums?

6 TB speech – 30th anniversary of 1975 referendum

13 BiE rebrand as 'Vote Yes'

15 'Tory Yes' launch – Ken Clarke speech

16 'Lib Dems Yes' launch – Charles Kennedy speech

16 European Council

27 European Parliament visit London. Party leaders.

30 Publication of White Paper on Presidency

JULY

1 British EU Presidency begins

6 TB Speech to European Parliament, Strasbourg

6-8 G8 (Gleneagles)

10 Commemorations of end WWII

11 Commission visit London/
Visit of Brussels press corps to London

AUGUST

15 VJ Day

SEPTEMBER

12 Other 'Yes' launches – Business, Trade Union, Youth, Sport, North West, South East etc

25 Labour Party Conference

OCTOBER

Climax of "factual" phase – government information campaign.

NOVEMBER

Shift to Phase 2: attacking the 'No' position

CROSS-PARTY REFERENDUM STRATEGY GROUP
AGENDA

1) Campaign organisation

- What kind of campaign? Roles for Lib Dems & Tories? What leadership?
- When should the Yes campaign re-brand / re-launch?
- How will pro-Europe Tories organise?
- Who can Lib Dems provide? Can Chris Rennard help?
- Funding. Can Ken Clarke help?

2) *Campaign strategy and message*

- Language: Treaty not Constitution
- Timing and phasing.
- Does this amount to IN / OUT?
- What happens if we vote No? Marginalisation? Associate status?
- Is this "limiting the powers of the EU"? Or a positive message?
- How do we engage the business community?

3) *Action after the General Election*

- What pace and intensity? Phasing?
- New approach to 'Yes' campaign, new style for re-launch?
- What roles for Tories and Lib Dems?

CONFIDENTIAL

(F)

10 DOWNING STREET
LONDON SW1A 2AA
020 7930 4433

10 February 2005

Dear Caroline,

STRUCTURES FOR RUNNING THE REFERENDUM

The Prime Minister was grateful for the Foreign Secretary's minute of 24 January, containing ideas about organisation and strategy in the approach to the referendum on the EU Constitutional Treaty. He agreed with much of the analysis, and the thoughts on the way ahead.

The work already done by the Foreign Office in preparing for the referendum campaign, and launching the EU Bill in Parliament, has been important and valuable. The FCO's knowledge and experience of EU institutional issues will be central to the government's efforts in the remaining period to the referendum.

On the offer to prepare some proposals on referendum organisation and structures, some work is already underway on this within No 10 and the Cabinet Office. But it would be useful to add FCO expertise to this process. So we are already in touch with David Frost to invite him to participate, and will approach other FCO colleagues as necessary.

I am copying this note to Steve Morris here.

Yours ever,

Kim Darroch

KIM DARROCH

CONFIDENTIAL

(F)

From: Jonathan Powell
Date: 21 January 2005

PRIME MINISTER

EUROPEAN REFERENDUM BILL

I spoke to Ken Clarke this evening. After consulting his friends, he does not want to put his name to the Bill, although he would be happy to do so after an Election. He has not spoken to Liberals. He said he would be happy to go ahead with a limited meeting with you and with the Liberals and will be sending someone to Patricia Hewitt's meetings. He was fairly frank in saying that his colleagues thought it would be just too divisive in the Tory party before an Election to put their names to the bill.

We have to decide on Monday whether we are tabling the Bill next week. **Do you want me to call Charlie Kennedy before we decide we are going ahead? Do you want to go ahead with the Bill next week?**

C. Meyer

JONATHAN POWELL

From: **Antony Phillipson**
Date: **12 January 2005**

KIM DARROCH

cc: **Jonathan Powell**
Nigel Sheinwald
Sally Morgan
David Hill
Steve Morris
Ivan Rogers

EUROPE: PRIME MINISTER'S MEETING

Key points from yesterday's meeting:

- The referendum on the Constitutional Treaty wll be the big political story in the second half of 2005, so all eyes will be on our Presidency. There needs to be a detailed gameplan of events and initiatives to back up the key message that Britain leading from the heart of Europe is good for Britain as a nation and Britons as individuals;

- The key issues for the Presidency will be:

  - Future Financing
  - Services Directive
  - The WTO Ministerial in December
  - Better Regulation: we need to consider a big initiative on this
  - Implementation of the anti-terrorism action plan

- We need to develop a detailed strategy to set out the economic benefits of EU membership. To include: successful reforms that we have delivered (inc CAP, although there is clearly more to be done); UK/EU trade and investment flows; jobs dependent on investment from the EU; potential benefits of further reform that will not happen without us pushing hard from within. This needs to be done sector by sector, with proper economic research and statistics to back it up;

- We need to develop an initiative that continues the work we have done on EU defence. The Prime Minister favoured the notion of looking at a CivMil cell to handle future humanitarian crises building on lessons learned from the response to the Indian Ocean Tsunami;

- We should add an initiative on people trafficking/borders to the items outlined in your note of 22 December;

- When it came to the referendum campaign we would need to be clear on the consequences of a no vote. And we should consider the role that other EU leaders might play in terms of what they said about our vote. And we should arrange an event to highlight why other countries such as Turkey are so keen to join the EU, and the benefits they perceive;

- The Prime Minister had already agreed to see Ken Clarke and Charles Kennedy to ask them to cosponsor the Treaty Bill. He would also ask them to join a small strategy group, that he would chair, to plan the campaign. He would be prepared to do 2 or 3 such meetings between now and May. Patricia Hewitt would act as his Sherpa and coordinate the more detailed work;

- On other meetings, the Prime Minister agreed to see Juncker (current Presidency), Barroso and Verheugen. The last two will be crucial to ensuring support from the Commission for an agenda that focuses on economic reform and better regulation.

ANTONY PHILLIPSON

10 DOWNING STREET

PM

European Referendum Minister

I think we need to appoint a Cabinet Minister for the European Referendum responsible for the build up to the campaign. We need to make sure we are not too constrained by propriety rules which the Civil Service are applying.

Of course if the French & Dutch love their referendums then the Minister won't have much to do!

From: Steven Morris
Date: 12 January 2005

PRIME MINISTER

cc: Jonathan Powell
Ivan Rogers
Baroness Sally Morgan
David Hill
Pat McFadden
Matthew Taylor
Andrew Adonis
Kim Darroch
Godric Smith
Antony Phillipson

It is interesting that these people aren't that smart. Only 12% (?) v. 40% are totally backed. But their enthusiasm is why we not only have to be the underdogs to fight this as a people's campaign not a grandees one.

REFERENDUM: NO CAMPAIGN BRIEFING ON COMPLACENCY

The attached 'No' campaign briefing is interesting:

It shows their usual thoroughness / obsessiveness. They warn of complacency, though there is no sign of it in their camp. On the contrary, anti-EU campaigners are mobilising with great excitement.

It shows their concern to get a resounding victory, like the North East referendum, not a narrow win. This is partly to motivate their people, but also about getting an irresistible mandate for their post 'No' vote agenda.

Perhaps most interesting is its scenario for how we can win. Over-imaginative in parts, but quite smart.

Steve Morris

STEVEN MORRIS

Research note

Complacency is our biggest threat

The referendum on the proposed EU Constitution is expected in just fifteen months' time. Many euro-critics – and even campaigners on the 'yes' side – now believe a 'no' vote is inevitable. In part this is due to the Government's retreat from a euro referendum and the poor performance of the eurozone. This confidence is also the product of current high levels of opposition to the Constitution[1], and the absence of an effective 'yes' campaign.

We believe that there is a danger that this confidence could lead to complacency, posing a real threat to the 'no' campaign. We also believe that 'no' campaigners must set their sights very high. We should not be satisfied with a simple majority at a referendum; we want a resounding victory – on a similar scale to the 'no' vote in the North East – which will settle this debate for good. Achieving a win on this scale will require an enormous effort by all of us.

The Government could still win

With most businesses against the Constitution, a divided trade union movement, cross-party opposition and growing public unease with the direction of the EU, it is difficult to imagine how a re-elected Labour Government could win a referendum on the EU Constitution.

However, it is sensible for 'no' campaigners to plan against a worst-case scenario. Despite our lead in the opinion polls, it could still be possible for the Government to win a referendum.

It would be a mistake, for example, to under-estimate the potential impact on the UK of 'yes' votes in other EU countries; by the time we hold our referendum seven other countries, including France, are likely to have already voted in referendums to ratify the Constitution. Because the more sceptical countries are likely to vote after the UK, this sequence will appear to reinforce the Government's claims that a 'no' vote will leave the UK dangerously isolated in the EU.

[1] 69% of voters oppose the EU Constitution (ICM September 2004).

Nor should we underestimate the determination of our opponents. Tony Blair, Alistair Campbell, Gordon Brown and Philip Gould are used to winning, not losing. They will run a ruthless campaign, backed by taxpayers' money, the full machinery of government and the European Commission. Number 10 will use all its influence on the BBC to ensure that the Corporation's (hugely influential) broadcast coverage helps the 'yes' campaign.

The nightmare scenario

This is a sequence of imagined events which might lead to the UK voting 'yes' in a March 2006 referendum:

Feb 05 Spain votes 'yes' (latest CIS poll: 'yes' leads 57 – 8).

Mar 05 Netherlands votes 'yes' (latest Eurobarometer poll: 'yes' leads 73 – 20).

Opinion polling is published in other referendum countries, including 'sceptical' Poland and Denmark, suggesting that they too will vote 'yes'. The UK becomes the only country where the 'no' campaign is in the lead.

Apr 05 Portugal votes 'yes' (latest Eurobarometer poll: 'yes' leads 61 – 11).

May 05 France votes 'yes' (latest CSA poll: 'yes' leads 69 – 31).

Labour wins the General Election[2]. The new Government immediately begins to spend millions of pounds of taxpayers' money on a "pro-European" advertising campaign across the UK. Prime Minister Tony Blair declares that the UK is a cross-roads in its history, and argues that voters must choose between the future and the past. The Government attacks "anti-Europeans" in the 'no' campaign, and argues that a 'no' vote will isolate the UK and damage our economy. Public opinion begins to shift towards a 'yes' vote.

Jun 05 Another heavy defeat for the Conservative Party triggers a leadership contest which runs through June and July. Internal divisions and instability at the heart of the largest political party on the 'no' side are exploited by the Government.

Jul 05 Luxembourg votes 'yes' (latest Eurobarometer poll: 'yes' leads 77 – 14).

The Government launches the UK Presidency of the EU[3], announcing that it will use its six month Presidency to achieve three things: (1) make real progress towards economic reform as spelt out in the Lisbon Agenda; (2) reform the CAP and put the EU at the forefront of a global campaign to eradicate poverty in Africa; (3)

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[2] The polling agency Populus has estimated that because of electoral geography the Conservatives need to be 11 points ahead of Labour to win a 1 seat majority – but the most recent poll shows the Conservatives 8 points *behind* Labour.

[3] The UK will also hold the Presidency of the G8.

demonstrate that the UK is now ready to take its natural place as one of the EU's leaders.

As President of the EU, the UK begins accession talks with Turkey. The consequences of Turkish membership (a necessarily looser union of members states etc), which is supported by the US but opposed by much of the French and German establishments, is presented as another example of how the EU is moving in a 'British' direction.

UK public opinion continues to shift towards a 'yes' vote.

Sep 05 Ireland votes 'yes' (latest Eurobarometer poll: 'yes' leads 61 – 13)

Belgium votes 'yes' (latest Eurobarometer poll: 'yes' leads 81 – 13).

After heated debate the Trade Union Congress votes to support the 'yes' campaign. Trade union opponents of the Constitution are dismissed by the TUC leadership as "outside the mainstream of Labour opinion".

At the Labour Party Conference Gordon Brown warns that a UK 'no' vote would leave the UK isolated and damage our economy, at a time when Europe's economies are at last beginning to reform. Multinational leaders[4], inward investors and senior ministers from other EU governments immediately support this assertion.

Oct 05 With 6 months to go until the UK referendum, the Electoral Commission designates the official 'yes' and 'no' campaigns. Tight spending limits now apply to the official 'yes' and 'no' campaigns. By now, the Government is spending millions of pounds of taxpayers' money on "information campaigns", and has mobilised the Civil Service nationwide to promote a 'yes' vote. Spending limits will only apply to the Government 28 days before the referendum date[5].

Nov 05 While the 'no' campaign appears split between 'reformers' and 'withdrawalists', there is blanket coverage for the 'yes' campaign up and down the country. The Scottish Parliament, Welsh Assembly and Northern Ireland Assembly vote to support a 'yes' vote. For the first time the 'yes' campaign moves ahead in the polls. The majority of young people are now in favour of the Constitution, fearing

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[4] The Head of Government Relations for one large FTSE 100 company recently told 'no' campaigners: "We aren't in favour of the Constitution. But if they [the Government] ask us for support in a referendum, or a donation, then we'll do it".

[5] In April 2004 Europe Minister Denis MacShane promised that the Government will spend "serious money" on the referendum campaign. During the 2003 Swedish euro referendum the 'no' side was outspent 7:1 by the Government-backed 'yes' campaign. In the second Irish referendum on Nice (October 2002) the Government-backed 'yes' campaign outspent the 'no' side by an estimated 20:1.

a 'no' vote will mean the UK will have to leave the EU.

At its annual conference the CBI announces that it is on balance in favour of a 'yes' vote as the potential consequences of a 'no' are too dangerous to risk.

Dec 05 The UK Presidency ends. It is hailed as a success across the EU. All eyes are now on our referendum result. Jose Barroso and other EU leaders declare that "the future of Europe" is at stake.

In a Christmas message Tony Blair announces he will resign after the referendum, whatever the result, and endorse a Gordon Brown leadership bid. The Chancellor immediately assumes de facto leadership of the 'yes' campaign.

Jan 06 Gordon Brown travels to Brussels on behalf of the UK Government and negotiates new concessions from the European Commission, including a guarantee to protect the UK budget rebate.

Feb 06 Following private negotiations with Number 10, several well-known multinationals with close ties to the Government threaten to re-consider their investment in the UK in the event of a 'no' vote[6].

Mar 06 UK votes 'yes'.

[6] Multinationals, particularly those working in highly regulated industries, must now maintain very close links to the Government in order to influence their legislative environment. In the past, car companies like Nissan also exploited the debate about euro entry, and the euro's impact on inward investment, to extract extra subsidies from the Government.

Conclusion

If we are to win the referendum, we must be realistic about the difficulties we face.

Our opponents are just as determined to win as we are. They will do everything they can to beat us, and they have massive advantages: the unlimited financial and administrative resources of the Government, unparalleled media access and influence, and the goodwill of other EU governments anxious to do anything necessary to persuade British voters that they have nothing to fear from the Constitution.

Many point to the North East referendum as evidence that the Government doesn't have a hope of winning on the Constitution. But the North East referendum was, in comparison to the Constitution referendum, a sideshow. It received relatively little Government attention, and it had none of the international significance of the Constitution referendum. The North East referendum occurred in isolation – imagine if it had followed 'yes' votes for assemblies in Yorkshire, South West, Midlands, North West ...

The North East referendum was won by a determined campaign which stuck ruthlessly to simple messages and demonstrated impressive discipline and focus. We can win a Constitution referendum by a similar margin, but only if we build a cross-party, UK-wide campaign which is able to (i) focus on attacking the Constitution and explaining why it is not the answer to Europe's problems and (ii) prevent the Government from turning the referendum into a debate about whether or not the UK should leave the EU.

Losing in the North East was an embarrassment for the Government. Losing on the Constitution would be a catastrophe which would destabilise its third term. The first step towards winning the referendum comprehensively is to recognise that this is a fight we could lose.

December 2004

File

From: **Kim Darroch**
Date: **23 December 2004**

PRIME MINISTER

cc: **Jonathan Powell**
Sally Morgan
Ivan Rogers
David Hill
Antony Phillipson
Steve Morris
Godric Smith
Pat McFadden
Tom Kelly
Sir Andrew Turnbull

THE CONSEQUENCES OF A "NO" VOTE

In commenting on Steve Morris' recent note on the Referendum, you asked for some analysis of the consequences of a "no" vote.

I attach a short FCO paper on the subject. For obvious reasons, this has had a strictly limited circulation.

Some comments. I think it's a good paper, with some cogent analysis. Personally, however, I think it's still a touch complacent about the likely consequences. (It has been tweaked to reflect the Foreign Secretary's views – and Jack is at the "our partners will see us alright" end of the spectrum on this issue). My own view is:

- It's probable that everyone else will win their Referenda. That's what the opinion polls suggest.

- But whatever the results elsewhere, a second Referendum on the same Treaty here is inconceivable. We would have to go back and negotiate some kind of new deal.

- In those circumstances, we shouldn't underestimate the sense of frustration around Europe. Everyone thinks we negotiated an amazing deal on the Treaty. If, despite this, we were to lose a referendum which others think we didn't need to call, views around Europe would be fairly savage about our behaviour.

- There would be collateral damage. For example, the French government says openly "no Constitutional Treaty, no accession for Turkey".

- Moreover, there would be a strong Franco/German-led move to find ways of implementing most of the Treaty, despite the British verdict.

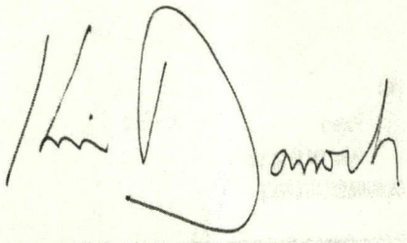
- The Germans say, comfortingly, that a new "inner core" Treaty wouldn't work. But the French are nothing like so reassuring. We know that there are thinkers in the Elysée and the French MFA who are looking at the possibility for an alternative "inner" Treaty. And surely the lesson of the last few years of Chirac/Schröder is that when the French really want something, the Germans cave in. Moreover, using enhanced cooperation to implement bits of the Treaty doesn't work when so much of it is about central structures – you can't have a President of the European Council or a European Foreign Minister for only half the EU membership – but you could have them under an inner Treaty for 23 or 24.

- I also doubt that we can draw much comfort from our good relations with the new member states, or the Nordics. The fact is that the French would see a British "no" as a golden opportunity to break up these alliances, and to put the Franco-German motor right back at the EU centre. And however much they like us, I wonder whether the Poles, the Czechs and Hungarians and the Nordics would be able to resist this invitation to be at the centre of the "new" EU. The French would argue that the British had freely chosen their own route, and one which reflected long-standing British antipathy to European integration. It would be quite a compelling argument. And we need to remember that some of your government leader colleagues would have staked much personal domestic credibility on winning their referenda. Having done so, they wouldn't want to lose the Treaty, or renegotiate and go through the process again.

- Finally, alongside all these pressures on the continent towards an inner core of some sort, excluding us, I think there would be intense pressures in the UK to move a step beyond rejection of the Constitutional Treaty. The "no" campaign and the Opposition would claim a popular mandate for far-reaching demands – on fisheries, social policy, CFSP, agriculture, perhaps more. They would say that "the people had spoken" and could not be ignored. Large parts of the British press would stoke up this "renegotiation" debate. And, as you know, this could only end two ways: failure, because our partners refused our demands, and/or an exit, and Norwegian status.

- In short, I think the more pessimistic scenario in the FCO paper is also the likeliest. And the message of what polling has been done to date is that "risk of isolation" is the most compelling argument in changing people's minds. So

I think you are absolutely right to conclude that, alongside explaining what the Treaty is and isn't, we have to explain to the British people the consequences of a "no".



KIM DARROCH

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12 October 2004

Kim Darroch
No.10 Downing Street

Dear Kim

WHAT IF THE UK VOTES "NO"?

1. I enclose below our paper on the consequences of a UK "no" vote in the referendum. It has been seen by a small cast in the FCO and Cabinet Office, by John Grant, and by a small number of selected experts in our Embassies.

2. The paper reflects the broad consensus view. It is only fair to point out, however, that there were outlying views in both directions, some arguing that the consequences would be less severe, some that they would be more. Which underlines how much this is a matter of judgement.

Yours ever,

David

David Frost
Deputy Director Europe - Internal

Cc: PS
PS/PUS
Nicola Brewer
Stephen Cave
Priya Guha
Iain MacLeod Legal Adv
John Grant UKRep

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CONSEQUENCES OF A "NO" VOTE IN EU CONSTITUTION REFERENDUM: ANALYSIS

1. What would happen after a No vote in the referendum on the Constitutional Treaty?

Legal position

2. The legal position the day after a 'No' vote is clear:

- **The new Treaty would not come into force** (Article 48 TEU: a new Treaty must be ratified by all Member States in order to take effect). The new Treaty states (Article IV-8.2) that it will come into force on 1 November 2006, if all Member States have ratified it, or, if they have not done so by then, on the first day of the second month following the ratification by the last state to do so.

- **The problem will be referred to the European Council**. An IGC Declaration states that if two years after signature (so 29 October 2006, a few days before the Treaty is supposed to come into force) four fifths of the Member States have ratified it, but one or more Member States have 'encountered difficulties', then the matter will be referred to the European Council.

- **The current Treaties will remain in force**. As they have no expiry date, they will remain in force until the signatories to them – the Member States – agree to change or repeal them (as the EU Constitution would).

3. In short, the Treaty would not be in force, and could not come into force for any of the Member States until we had reversed our decision.

What then? Is a second referendum possible?

4. It is always possible that our "no" would kill the Treaty. This is only imaginable if there had already been a series of "no"s, and ours tipped the balance between the Treaty being viable and not. While possible, that looks unlikely.

5. So, assuming we were isolated or nearly so in voting no, other Member States would probably first want the UK to hold a second referendum on the same basic text, but with various political assurances or UK-specific protocols. This was the solution in the case of the Irish and Danish No votes. This would be unpalatable. It is imaginable only if a specific issue (eg fisheries) had been prominent in the campaign, influential in the result, and capable of being fixed in this way. But it's more likely that a "no" would indicate generalised antipathy to the EU, not attributable to any specific isseu. That would not be easy to fix via tinkering.

6. So we think a second referendum on the same basic text, tinkered with, is not feasible in most circumstances. (If we were nevertheless to try it, it would of course also require further primary legislation and Parliamentary process.)

The circumstances of a "no"

7. It is impossible to be sure what will happen if the UK votes "no". But something will depend on the following variables:

The UK scene

- the Government's majority and ability to control Parliament after the next Election (assuming the current Government is returned to power);

- the UK's economic prospects: whether we were still doing relatively better than Continental Europe;

The referendum itself

- the margin of the defeat, and the turnout;

- the vigour with which others think we fought the referendum campaign;

- whether any recurrent themes emerge in the UK debate, eg on the CFP, development, or social policy;

- whether we ran the campaign on the (explicit) basis that the real question was "in or out", not "the Constitution or the existing Treaties";

What has happened elsewhere

- whether other Member States have voted "no", and which they are;

- who is in Government in the other major European players, and what their attitude is to the UK;

- how the Commission (as keepers of the European flame, and definers of "Europeanness" to others) react;

- the balance between Member States which have had enough of us, or see advantage in pushing us out, and those which are more comfortable in an EU in which we are a leading player.

What then?

8. The following represents our assessment of the most likely sequence of events after a "no". It assumes that we vote late (2006) and that few if any other Member States also vote "no". In those circumstances:

(a) some Member states will argue for a radical reaction. This might be a new "inner core" Treaty containing the major elements of the Constitution, or an invitation to the UK to consider an alternative form of membership, or both. This will be partly motivated by a feeling that we should be "punished" for taking the risk of holding a referendum and then getting the wrong answer; partly by a feeling that there is no prospect with us of pulling off the trick accomplished with the Irish and the Danes in the past (ie a second referendum on a very similar text); and partly by the argument that it is, over the longer term, in Britain's own interests to be confronted with a stark choice about Europe, after all these years of having it both ways: "If the Brits are faced with In or Out, they will come to their senses". The most likely proponent of such an approach is France, who might seize their moment to create a Treaty that was more ambitious than the Constitution (and incidentally perhaps leaving Turkey as well as the UK in half-way-house status).

(b) Some other Member States will argue for a more conciliatory approach: exploring ways of muddling through. This group will probably include Scandinavians and most of the new member states. They will, at least in part, be worried about the consequences for their own interests, and for their public opinion, of the UK not being at the main table when EU decisions are taken. But some will also not necessarily be averse to seeing some reduction in British influence on the shape and progress of the Union, without wanting to force us out altogether. This will probably be particularly true of Eurozone members who may want to limit our ability to stop them working more closely together. So they will want negotiations with us about ways of minimising the consequences, *probably* without losing the main elements of the Constitutional Treaty.

(c) Which group prevails, and what then happens will depend on many things, but at least in part on what attitude we bring to the table.

(i) If we make clear that the British people had rejected the Treaty, but that we would not object to other Member States going ahead with some of its provisions, through the use of enhanced cooperation, then we would strengthen the hand of the second group, we would stand a fair chance of being met with some reasonableness, and the negotiations would be about enhanced cooperation rather than the UK per se.

As a consequence, over time there would be greater use of enhanced cooperation, partly in those few areas which correspond to new aspects of the Constitution, such as JHA, but probably more in areas which would have been possible even under the current Treaties, such as tax, social security, maybe environment, social policy, and so on. Gradually this is likely to amount to something like an

inner core, though a non-transparent and not especially effective one. We might be unable to stop the core legislating in areas which affect us, particularly if (as would be likely) we were unable to insist on a rigid interpretation of the requirement that such measures have to be compatible with the single market. There might be some reduction in our influence over time, though the EMU/Schengen experience suggests it could well be manageable, and the consequences of the various enlargements suggest that, in practice, developing intense small-group cooperation won't be at the top of anyone's list of priorities.

(ii) If however we say that we need to renegotiate areas of the existing Treaties, then patience will wear thin quickly. Whether we do say this will depend on UK domestic politics. After a "no" vote - particularly if the majority is large - there will be huge political pressure from the victorious "no" campaign for a renegotiation of the terms of our membership, going well beyond the provisions of the Constitutional Treaty, covering eg withdrawal from the CFP and even the CAP, renegotiation of our budget contributions, withdrawal from the social acquis, denunciation of the principle of legal primacy, opting out of the Charter of Fundamental Rights, and so on. If the government of the day feels politically compelled to respond to this pressure (and that will depend on how well-organised and internally coherent the "no" group is), and to seek a renegotiation of any element of our membership, then it will strengthen the hand of those amongst our partners who themselves want a radical rather than muddling through solution.

The consequences would probably be a very rapid degeneration of the situation into a negotiation between us (and maybe one or two others) and the rest. It would be hard for us to negotiate opt-outs only in the areas which suited us, so we might have to accept wider exclusion. The important dividing line would be whether we succeeded in hanging on to representation in all important institutions (even if we did not vote on everything): with it, we would remain members, albeit qualitatively different ones, but without it we would effectively have the same status as Norway.

Wider consequences

9. Within the EU, two effects are foreseeable:

(a) the EU would almost certainly revert to an extended period of introspection, which would dominate the Barroso Commission. A major opportunity to refocus the EU on a delivery agenda would be lost;

(b) the shift towards an Anglo-Saxon (liberal, reformist, Atlanticist) agenda would stop, and might even be reversed, as its leader turned away from the developments it had done so much to create.

10. As for third countries, the effects are more difficult to predict at this stage. The most important reaction will be that of the US (so important, in fact, that it may justify briefing the Administration from time to time on our handling of the campaign). US reactions may depend on who is President, but would probably favour the UK maintaining as close a relationship as possible with the European mainstream, for fear that that mainstream might become more detached from wider US priorities. Something would depend on how constructive the US thought we had been on EU/US relations, eg during our Presidency.

11. Other significant third countries' reactions would depend on their perceptions on EU policy of our reduced influence. For example, we could easily become a less important interlocutor on trade if others perceived that we could no longer corral blocking minorities on important issues.

Conclusion

12. If the UK votes "no", there are probably only two things we can do to shape the consequences towards the benign rather than malign scenario:

(i) Have run the campaign in a way which convinces other Member States that we tried our best to win, without being over-critical of the EU itself. That is in our hands now;

(ii) Do not get pushed into renegotiation of the existing *acquis*. That will depend on post-referendum political pressures.

From: Steven Morris
Date: 15 December 2004

PRIME MINISTER

cc: Jonathan Powell
Ivan Rogers
Baroness Sally Morgan
David Hill
Pat McFadden
Kim Darroch
Godric Smith
Tom Kelly
David Bradshaw
Anthony Philipson
Ian Gleeson

EUROPE - REFERENDUM CAMPAIGN

I promised an update on the EU Constitution referendum – the polling, the direction of the debate and the campaigns. This note runs through the main issues. We will also give you more reading, including on the 1975 referendum. David Bradshaw has provided political input to this note.

1. State of polling

On the face of it, the polls make grim reading (see graphs attached).

On the Constitution

- Latest polls have almost 70% against, 30% in favour
- Opinion has swung against us, especially in the second half of the year.
- The "No" argument has won over the "Don't Knows".

On Europe in general

- Support for the euro is near its all-time low: around 70% against.
- More worrying, support for EU membership is close to historic lows.
- Overall, the trend from 1991 onwards (ie. since Maastricht) has been a relentless slide in support for the EU, and a steady rise in those believing membership is either bad or indifferent *(graph 7)*.

That said, most pollsters say it is too early to despair. There are reasons to be cheerful. Opinion is very shallow. People really have not started to think about it.

Most of their fears / beliefs about the Treaty are plain wrong. Our case has not been heard at all. Other referendums happen first. So there is a long way to go.

MORI published a study on the "waverers", reprising the view they took on the euro - that it is winnable, with a big turnout and a great campaign. A copy is in your reading box. Their key point is that most opinion is soft. Winning requires firming up all the soft "Yes" vote and winning over a lot of the soft "Noes".

(Incidentally, I am always sceptical about MORI's enthusiasm for the 1975 precedent. The legend of "turning around the polls" is also the legend of Bob Worcester. Actually the polls always showed a clear majority for EEC membership if the government negotiated a "new deal". So 1974-5 was the government listening to the polls, not changing them).

There is not a great deal of private polling yet. Leslie Butterfield and Chris Powell are working on focus groups with Britain in Europe. Their latest presentation is attached in full. The key findings of the early groups were:

- There is a strong sense of British separate-ness from Europe.
- People feel we give more to Europe than we gain.
- People fear change, but they also fear isolation.
- People think Britain is on a slippery slope, going downhill, being diluted.
- Trade is seen as the most positive thing the EU has to offer.
- The word "Constitution" is a huge turn-off. It sounds permanent, imposing, dramatic. "Treaty" is much easier for people to accept.
- A No vote currently feels like a vote for no change. Yes feels like a risk.
- But suggestions of isolation or withdrawal make people nervous.
- People feel ill-informed, suspicious and distrustful. They want simple, factual, neutral information.
- They mistrust the media and politicians on Europe. But they respect "Her Majesty's Government".
- There is a sense of an on-going No campaign.
- Antis are more comfortable arguing their case. They know the arguments. These are simple and emotional; particularly on identity and immigration.
- Pro arguments are more complex and tentative. Pro's lack confidence and are easily silenced.

However, Leslie Butterfield still believes that it is – just – winnable.

2. State of the debate

After the European Elections and the IGC, Europe slipped down the political agenda. UKIP's leadership rows helped the political story to fizzle out quickly. At the same time, public opinion has become more hostile, with the anti-EU press and the No campaign waging a steady and strategic campaign.

In substance, the debate has moved on in several respects:

On the anti-European side:

- UKIP has become a joke for most commentators post-Kilroy. But it still has a powerful influence on the debate. The simple message "let's get out" is a real intellectual threat to the more nuanced (and less plausible) "Vote No, renegotiate, but stay in the EU" position.

- "What happens if we vote No?" has become a key subject of pamphlets and seminars. It divides pro-Europeans and anti-Europeans alike.

- Within eurosceptic ranks there is fierce debate about what position to advocate. Most influential eurosceptics tend to be more hardline than the official Opposition policy, or the moderate image ("Yes to Europe, No to the Constitution") which the No campaign cultivates.

- Most eurosceptic intellectuals, financial backers, media cheerleaders and activists are against the official "Vote No, renegotiate, but stay in the EU" position. They don't believe it's possible, and anyway it's not want they want. They want the Opposition and the No campaign at least to threaten withdrawal if (when) renegotiation fails.

- Many believe that in practice a No vote would mean the others going ahead, and Britain settling for some sort of associate membership. They argue that we would get "super-Norway" status – which would be the best of both worlds. Of course, the Conservative leadership denies this.

- This is a real dilemma for anti-Europeans – and a serious risk to their discipline. They want to argue "stick with what we've got", because this sounds like "no change". But the truth is they don't like what we've got. They want a major change. They can't have it both ways.

- The clever people in the No camp, including Dominic Cummings, are well aware that this lack of a coherent, workable alternative to the Constitution is their biggest weakness. As with the euro debate, their instinct is to restrain their hard-liners at all costs, for fear of scaring people.

- But they might yet be tempted to gamble – and go openly for associate membership. They want it; they are ahead in the polls; and winning a popular mandate for a major reversal of EU integration is their Holy Grail.

- Whether or not they ultimately do this depends on several factors: what happens in the Conservative party; what happens in the other countries' referendums; whether they think the public will go for it.

- I increasing think this will be a key dividing line. We will be arguing for nothing short of full membership. They will be trying to brand associate membership as the best of both worlds, a safe halfway house. If they move into this territory, we must be swift to brand it as OUT.

- Finally, a US angle to the debate is emerging, with strong links between British eurosceptics and US neo-cons. They argue the Constitution is a Franco-German attempt to rival the US, and must be stopped.

On the pro-European side:

- People are slowly coming round to the idea that this referendum is actually going to happen. The belief that France will save us by voting No is receding, but there is still a bit of wishful thinking about other No votes. And there is a widespread ostrich tendency – it's just too difficult to think about – at least this side of an election.

- There has been little focus on the detail of the Treaty itself. Just as securing the red lines made this a less fertile area for critics, pro-Europeans are more interested in the politics of the referendum than in the actual Constitution.

- "What happens if we vote No?" also divides our camp. Some (eg. Neil Kinnock, Chris Patten, Charles Clarke) have said it would put us put of the EU. Others (eg. Douglas Hurd, Jack Straw) say this is an exaggeration

which people won't believe. The truth is nobody knows for sure. We need to turn this uncertainty into an advantage.

- Otherwise the pro-Europeans are mainly interested in the politics of the referendum, GB's role in it, and the political consequences of defeat. Speculation about this, and about whether / when / how the government will start campaigning for a Yes vote, are their main themes.

3. State of the campaigns

i) The No campaign – strategy

There is a close-knit, highly motivated circle of anti-EU politicians, thinkers, business people and journalists, working closely together.

Their strategy is smart. In particular, they know their weaknesses and neutralise them effectively:

- They know extremism is a turn-off – so they pose as moderate: "Yes to Europe, No to the Constitution". They insist they don't want out of the EU.

- They fear being associated with the Conservative Party – so every single press release, event or interview is fronted by non-Tories like Frank Field, Kate Hoey or Ian Davidson. Tories are completely airbrushed from their literature, websites and platforms.

- To disguise their old, rich, right wing base, they put huge effort into cultivating a more diverse image, wooing the Left by setting up a "Centre for a Social Europe", showcasing Greens, fringe parties, trade unions etc.

- They are concerned not to appear purely negative – so they push a constructive message - "Vote No for real reform in Europe".

- They know they risk appearing as xenophobic little Englanders – so they invite Spanish and Swedish sceptics into their campaign, and cast themselves as part of an pan-European, anti-Brussels, anti-elite movement.

- They know there is hostility to the euro, and confusion about whether it is included in the referendum – so they keep campaigning on the euro too.

- They are skilled at tapping into grassroots, anti-politics, anti-establishment sentiment. They followed the North East referendum closely. They cast themselves as David vs. Goliath, the people against the politicians.

The No campaign - activity

As ever, they are campaigning very professionally. Their publications, websites and press handling are slick. They have lots of money, and they are already spending heavily, for example:

- They bought the CBI and Economist mailing lists, and mailed a glossy pamphlet "What the European Constitution means for your business".

- They have a slick cinema advert showing with the new Bridget Jones film. (They also got Hello magazine to cover the Vote No Savoy dinner).

- They organise a conference or speaker event most weeks, featuring the likes of Derek Scott and whistleblower Marta Andreasen. These always make the newspapers.

Finance for all these activities seems to be plentiful. They recently raised something like £1 million at a single fundraising dinner at the Savoy.

ii) Britain in Europe

Britain in Europe remains in a very feeble state.

Unlike the 'No' campaign, they have no network of dedicated, like-minded activists, journalists etc. working hand in hand.

They have no money for campaigning at all. Almost all of their income comes from a single source – David Sainsbury. They cannot afford to have pamphlets they have written printed or distributed. You want an internet-based campaign: their website has been out of action for six weeks. We despair of their lack of media profile: at present they have no press officer.

So their activities are limited and inward-looking. But there is progress:

- Anthony Nelson has replaced Colin Marshall on their Board. Chris Patten, Neil Kinnock, Roland Rudd and Stephen Wall are in.

- They have set up a Comms Group chaired by Chris Powell, which comprises Lance Price, Leslie Butterfield, Roland Rudd, Lucy Powell and myself. We are working on arguments and strategy (see below).

- They are shoring up supporters and stakeholders, business and unions.

If they are to make any real progress between now and the election, they need at a minimum effective cross-party leadership, more funding and a communications director of serious weight. This has to be agreed at a senior political level, above that of the BIE Board.

4. Our strategy

The putative 'Yes' campaign still lacks a governing mind. Until the cross-party coalition can be brought together at the top level, there is no agreed strategy or message which all parties have bought into. This creates the risk of incoherence and disaffection amongst pro-Europeans.

We are working with both Britain in Europe and the Foreign Office on the best arguments. Some things are clear: 50% trade with Europe is the most positive fact; isolation is the most powerful fear factor. But there is a long way to go. It is not easy to reduce the Constitution to a few simple messages. But it cannot wait until after the election – or the 'No' campaign will continue to fill the vacuum.

i) Going on the research so far, and on instinct, I think there are some critical things we must do to win this on the arguments:

1. Establish that a 'No' vote is a risk; a 'Yes' is a vote for no change.

2. Re-frame the debate with new, fresh arguments, and establish new dividing lines around 1st or 2nd class status for Britain in Europe.

3. Establish that there is a New Europe ... and that this is a new opportunity for Britain. We can shape Europe in the next 10 years.

4. Fight on eurosceptic ground – patriotism, standing up for Britain. Reverse the argument about "surrender". A 'No' vote is a vote for retreat, a quitter's vote. A 'Yes' vote is assertive, a vote for a strong Britain.

5. Make our core pitch to moderate eurosceptics – you may not love Europe, but it's better than the alternative of isolation.

6. Establish that the No campaign leadership plans a No vote as a first step to something much more extreme. They are dangerous.

7. Start our narrative where the people are: we too can be irritated by Europe. But being in is the way to stand up for Britain. Proof is that the EU has already moved the right way. It will keep moving if we stick at it.

8. Find imaginative ways to address public demand for honest, neutral, factual information – getting past the eurosceptic press, addressing people directly, neutralising issues about trust and spin. We might use the Electoral Commission or a National Forum on Europe, as in Ireland.

9. Build an "own goal" argument. Voting No would be shooting ourselves in the foot. We would regret it.

10. Get people talking about the No campaign agenda, strategy, dilemmas and unanswered questions.

ii) In many respects, I think we should steal from the successful No campaign in terms of strategy:

- Create a many-headed organisation with groups for Business Yes, Labour Yes, Tory Yes, Left Yes, Grey Vote Yes, Women's Yes etc. etc.

- Put pro-Europe Tories and moderate sceptics to the fore – not usual suspect pro-Europeans and well-known TB loyalists.

- Deploy people who are for the Constitution, but against the euro, to reach out to wavering voters.

- Be positive: 'Yes' is an opportunity to move Europe in the right direction.

- Cast ourselves as the underdogs. Refuse to be "the establishment". Run a populist campaign (the Irish had a "Yes to Nice" offshoot which had nothing to do with politicians, was wacky, internet-based, provocative).

- Do not surround ourselves with Europeans – but very British, patriotic characters (Steve Redgrave, Jonny Wilkinson, Charles Guthrie types).

- Distance ourselves from the euro – it's a separate issue. You can be against the euro and for this Treaty.

iii) We have other campaign choices to make before very long. For example:

- Is this about EU membership, or just about the new Treaty? Is it a cumulative referendum on 30 years of integration or not? Are arguments based on rejection of previous Treaties all fair game?

- Do we run a nationalistic campaign, about asserting British influence and a British vision of Europe – or a reasoned campaign on the merits of working together in an inter-dependent world?

- Do we argue that this is the end of the road for integration?

- Do we sell the need for European integration, or downplay it and argue that the Constitution boosts nation states?

- Do we build up to a choice of "In or Out", or avoid it?

- Do we raise the stakes / dramatise the decision, or play it down?

- Do we make the bias of the press an issue or not?

- On immigration, do turn the argument by explaining that the EU can help deal with it, or argue that we'll ensure the EU keeps its nose out?

5. The next six months

The challenge is how to achieve the major progress needed to have any prospect of winning the referendum, while everybody's priority is the election.

The answer must involve clearer leadership from No.10. Leaving this to Jack Straw is not proving adequate. Our routine of internal office meetings on Europe has broken down. We cannot make progress if this is seen to be a marginal issue.

Events will ensure Europe remains an issue:

- The EU Bill. Decisions on timing and handling depend on your meeting Ken Clarke and Charles Kennedy. It would be a major boost to secure cross party backing. But KC will take some convincing. Are you prepared eg. to offer him a role in planning the campaign, or to lead 2nd Reading yourself?

- Spain will hold the first referendum on the Constitution on 20 February.

- The General Election. UKIP and the 'No' campaign will make Europe an issue. It is an opportunity to start drilling down on the facts of what is and isn't in the Treaty, and exposing the flaws of "renegotiation" (a political pamphlet on this is planned).

6. Conclusion

All of this requires more research, thought and discussion.

But most of all it requires a decision making process which gets all parts of the coalition to buy in to a single strategy.

I am convinced that a high level cross party group involving you personally is the only way to achieve this. And that it needs to start meeting before the election.

Steve Morris

STEVEN MORRIS

10 DOWNING STREET
LONDON SW1A 2AA

From the Prime Minister's Chief of Staff

9 December 2004

Dear Keith,

Many thanks for your note of 29 November.

I agree with your thoughts on the referendum campaign. The Constitutional Treaty Bill will be published in January. It will contain the question. Though I am not sure that it will conform precisely to your draft, I am certain that it will be simple and straightforward. You're also right to warn against allowing the EU and G8 Presidencies to distract us from referendum planning. We are in no doubt here about which is the bigger priority.

As for avoiding the "yes" campaign being synonymous with the government, I completely agree. We shall put together a broad-based, cross-party, campaign team in which members of the government are prominent, but visibly in partnership with others from the Opposition, the business community and the trade unions.

Finally, on your interesting ideas about an "EU of many cultures" and Presidency branding for the September 2005 Conference in Leicester, you need to talk to the FCO team preparing the Presidency. The contact points are either Nicola Brewer, Director-General of the EU Directorate (020-7008 2260), or Chris Sainty, Head of the Presidency Unit (020-7008 8201). I have warned them that you will be in touch.

Yours ever

JONATHAN POWELL

Mr Keith Vaz MP

File

To: KD
cc: AP
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SECRETARY OF STATE

MST 2/2C

6 December 2004

EU CONSTITUTION COMPARATIVE ANALYSIS

Denis's letter of 23 November asked for comments and clearance from EP colleagues on the draft EU Constitution Analysis.

I have a number of minor but substantive comments, which are being handled at official level. I am content to clear the document subject to satisfactory resolution of those concerns.

I am copying this letter to members of EP, Sir Andrew Turnbull and Kim Darroch.

GEOFFREY HOON

The Rt Hon Jack Straw MP
Secretary of State for Foreign and Commonwealth Affairs

EU-Cabinet file TQM

dca

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COMMITTEE MEMBERS ONLY

The Rt. Hon. Jack Straw MP
Foreign Secretary
Foreign & Commonwealth Office
King Charles Street
London SW1A 2AH

29th November 2004

Dear Jack,

COUNCIL DECISION PROVIDING FOR CERTAIN AREAS COVERED BY TITLE IV OF PART THREE OF THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY TO BE GOVERNED BY THE PROCEDURE REFERRED TO IN ARTICLE 251 OF THAT TREATY

I have seen a copy of the Home Secretary's letter to you of 15 November seeking support for opting in to the Draft Decision of the Council proposing a move to QMV and co-decision for a range of immigration and border measures.

I support that proposal as consistent with Government thinking on the new decision-making arrangements.

This letter is copied to the Prime Minister, EP colleagues and Sir Andrew Turnbull.

Yours,

Charles

LORD FALCONER OF THOROTON

To: Jonathan Powell
From: Keith Vaz MP

29 November 2004

I am writing a note to you about two matters; Firstly reflections on the EU Constitution referendum which I picked up on a visit to the Netherlands last week. I met with Senior Officials from the Dutch Foreign Office. They raised the following interesting points.

EU Constitution referendum

1. How the question on the ballot is put; Portugal has chosen a very difficult wording including discussions about QMV. A simple and straight forward question is better such as "On the 29th of October 2004 the Constitutional treaty of the European Union was signed by all member states, do you therefore agree that it should be ratified in the United Kingdom."
2. In the Netherlands there has not been enough focus on the campaign because the presidency has taken up all the time. The UK need to plan carefully with regard to presidency of the EU and G8 next year so that we do not get distracted.
3. **Avoid the campaign to be synonymous with the Government**. The Netherlands has an independent steering group to make the case for the constitution. However, meetings are also held monthly between the Prime Minister and senior Ministers to prepare for the referendum.
4. The Dutch Parliament forced through the decision to have a referendum, the first ever in Dutch history, so they will have to respond to the outcome. The interpretation of the outcome is likely to bounce between the Government and Parliament, especially as the referendum is only consultative.

UK - EU Presidency, Race and Racism

Secondly I want to raise an idea with you for the UK - EU presidency 2005. After discussions with Parliamentarians, leaders of the Asian and Muslim communities and representatives from the ethnic community in the Netherlands it is clear that one of the major challenges ahead for Europe is race, diversity and multiculturalism. We can continue to have a tough message on non-genuine asylum seekers but the Prime Minister should be at the fore front of the **EU of Many Cultures**. The recent enlargement to the East, the future joining of Turkey and the fact that most populations of the EU countries are made up by substantial representation form ethnic minorities gives a clearer indication than ever that the EU is truly multicultural.

I am the Patron of the Next Steps Foundation and they are holding a conference/all day event called *'Europe as one nation'* in Leicester in September 2005. As this conference coincides with the UK presidency it would be great to brand it as a Presidency conference. I enclose a copy of last year's brochure to give you an idea of the scale and remit of the event. I would be grateful for a meeting with one of your officials to discuss this further. I have already initiated this idea with Jack Straw but my visit to the Netherlands re-inspired me.

Keith Vaz MP

DRAFT REPLY TO KEITH VAZ

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