

Final Communiqué of the extraordinary session of the Council (Luxembourg, 29 January 1966)

Caption: The Luxembourg Accords of January 1966 provide for several practical methods of cooperation between the Council and the Commission (see ‘Second part of the meeting (28 and 29 January 1966): (a) Relations between the Commission and the Council’).

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In the course of the two parts of its extraordinary session in Luxembourg on 17-18 and 28-29 January 1966, the EEC Council reached agreement on questions concerning the application of the majority rule and on relations with the Commission — questions raised by France following the crisis which began on 30 June 1965.

The texts of these Council agreements are given on later pages.

It will be remembered that the Council, meeting on 30 November 1965 in the absence of the French member, examined the political aspects of the crisis and instructed its President, M. Colombo, Italian Minister of the Treasury, to inform the French Government of the joint position of the Five. At the same time the five delegations reiterated the appeal they had already made on 27 October 1965 that the French Government should take part in an extraordinary meeting, without the Commission, in order to resume its place within the Community institutions. A further meeting of the Council on 20 December 1965 afforded an opportunity to clarify various preliminary questions.

In a *note verbale* handed to the Italian Ambassador in Paris on 23 December 1965 by M. Couve de Murville, French Minister of Foreign Affairs, France made known her readiness to take part in a meeting of the Foreign Affairs Ministers in Luxembourg.

M. Werner, Prime Minister of Luxembourg and the new President of the Council, then convened the extraordinary Council session for 17 and 18 January in Luxembourg.

First part of the session (17 and 18 January 1966)

The Council first heard the French requests concerning the application of the majority rule and the role of the Commission.

In conformity with earlier French statements, M. Couve de Murville said that in questions of vital interest only unanimous agreement was politically conceivable. Without pressing for amendment of the Treaty the French Government suggested a sort of political agreement among the Six whereby the Council would abstain from deciding by majority vote if any member should so request because of the vital importance of the question for his country.

Discussion of this point revealed profound differences of opinion between the French and the other delegations. Various compromise proposals were however submitted (particularly by M. Colombo and M. Spaak). They aimed at giving the assurance that in such cases persistent efforts would be made to arrive at unanimous decisions without, however, excluding the ultimate possibility of a majority decision.

As regards the role of the Commission and its relations with the Council, M. Couve de Murville submitted the following *aide-mémoire* (later made public) as a suggestion to assist in subsequent discussions:

1. "Co-operation between the Council and the Commission is the driving force of the Community and should be manifest at every stage. Consequently, before finally adopting a proposal of particular importance for all the States, the Commission should consult the Governments at an appropriate level. Such consultation would not impair the power of initiative and preparation with which the Commission is invested by the Treaty; it would simply oblige this institution to make judicious use of it.
2. It should be a rule that in no case may the Commission reveal the tenor of its proposals to the Parliament or to public opinion before they have been officially referred to the Council. *A fortiori*, the Commission may not take the initiative of publishing its proposals in the official gazette of the Communities.
3. a) The Commission often proposes to the Council decisions which, instead of dealing with the substance

of the problems posed, merely give the Commission powers to act later but without specifying the measures which it will take if such powers are conferred upon it (1963 proposal of trade; certain commercial policy proposals).

b) In certain cases the Commission can obtain authority from the Council to put into effect the rules which the latter lays down. This delegation of powers must not imply that the tasks entrusted to the Commission will then be outside the purview of the Council. True, in certain sectors such as agriculture, the Council can intervene at executive level through its representatives on the Management Committees. However, it must be noted that far from being content with this system the Commission is endeavouring to replace the Management Committees by simple advisory committees which have no hold over it (the case of Regulation 19/65 on cartels; Commission proposal of 1965 on transport).

c) It is important that the executive powers thus vested in the Commission should be precisely circumscribed and leave no room for discretion or autonomous responsibility, failing which the balance of powers, which is a feature of the institutional structure of the Community and a basic guarantee provided by the Treaty, would not be respected.

4. The Treaty lays down that “directives shall bind any Member State to which they are addressed as to the result to be achieved while leaving to domestic agencies competence as to the form and means”. But we cannot escape the fact that in practice the Commission very often proposes directives which set out in detail the rules to be applied. The only freedom then left to the States is to choose the form in which the contents will be clothed and to take the necessary implementing measures.

It is evident that such practices constitute an attempt on the part of the Commission to cause the matters dealt with by such directives to slip out of national hands into the Community sphere of competence.

Such methods should be avoided in future.

5. In 1959 the Council laid down the rules which, provisionally, were to govern the recognition of diplomatic missions accredited to the Community (letter of 25 July 1959 from M. G. Pella, President of the Council, to the President of the Commission). These rules amount to a sharing of prerogatives between the Council and the Commission. In particular, letters of credence are presented to the President of the Commission, who has instituted for these occasions a ceremony modelled on that used between states, whereas the Treaty of Rome lays down that the Council alone may commit the Community vis-à-vis non-member countries.

A stop must therefore be put to the present practices and all the prerogatives of the Council restored.

6. Consequently, any approaches by foreign representatives to the Commission must be reported with all despatch to the Council or to the representative of the State in the chair.

7. The Treaty lays down in terms appropriate to each particular case the procedure by which the Community maintains relations with other international organizations.

This situation seems to have been lost sight of by the Commission, which appears to think that it has truly discretionary powers in this field.

The Council should judge, case by case, and purely in the light of Community interests, the form and nature of the links to be established.

Members of the Commission must in their public statements be required to maintain a fitting neutrality with regard to the policy followed by the Governments of the Member States.

9. Information policy should not be planned and implemented by the Commission alone but jointly by the Council and the Commission. The Council should exercise effective, and not only budgetary, control over

the Joint Information Service of the Communities.

10. Procedures for control of the commitment and expenditure of Community funds should be revised in order to give this control the effectiveness which, as is well known, it lacks at present.”

On discussion of the French *aide-mémoire* it was found that there were possibilities of agreement on certain points, subject to amendment.

Finally, at the last sitting M. Couve de Murville tabled a tentative programme of work comprising, on the one hand, certain outstanding problems (budget, agricultural finance regulation, second alignment towards the common customs tariff) and, on the other, the entry into force of the Treaty on the merger of the Executives and decisions on the composition of the new single Commission.

Discussion of this last point was brief, pointed reservations having been expressed as to the very principle of such a timetable.

On the first two points the Council instructed the Committee of Permanent Representatives to prepare the ground for its next deliberations. It then suspended the session until 28 and 29 January 1966 in Luxembourg.

At a press conference held after the meeting on 19 January, M. Werner stressed the positive aspects which had emerged in these two-day debates. Not only was the fact that the Six had met together for the first time in seven months a success in itself, but the common determination to arrive at a solution and return to the normal and harmonious functioning of the institutions, and the even tenor of the discussions, gave reasons for optimism.

Joint meeting of the European Parliament, the Council and the Executives

On 20 January 1966, the day after the Luxembourg meeting, the annual joint meeting of the Institutions was held in Strasbourg, the subject being the situation of the Community after the crisis of 30 June 1965.

M. Werner for the Council, followed by individual members, explained the positions of the Governments and of the Council. The spokesmen for the political groups and numerous members said that the Parliament was deeply attached to the letter and spirit of the Treaties. President Hallstein and a member of the Euratom Commission spoke on behalf of the Executives.

A full account of the meeting is given in Chapter I of this Bulletin.

Second part of the session (28 and 29 January 1966)

At the meeting of 28 and 29 January the Six reached agreement and the following statements were issued:

a) Relations between the Commission and the Council

Close co-operation between the Council and the Commission is essential for the functioning and development of the Community.

In order to improve and strengthen this co-operation at every level, the Council considers that the following practical methods of co-operation should be applied, these methods to be adopted by joint agreement, on the basis of Article 162 of the EEC Treaty, without compromising the respective competences and powers of the two Institutions.

1. Before adopting any particularly important proposal, it is desirable that the Commission should take up the appropriate contacts with the Governments of the Member States, through the Permanent Representatives, without this procedure compromising the right of initiative which the Commission derives from the Treaty.

2. Proposals and any other official acts which the Commission submits to the Council and to the Member States are not to be made public until the recipients have had formal notice of them and are in possession of the texts.

The “Journal Officiel” (official gazette) should be arranged so as to show clearly which acts are of binding force. The methods to be employed for publishing those texts whose publication is required will be adopted in the context of the current work on the re-organization of the “Journal Officiel”.

3. The credentials of Heads of Missions of non-member states accredited to the Community will be submitted jointly to the President of the Council and to the President of the Commission, meeting together for this purpose.

4. The Council and the Commission will inform each other rapidly and fully of any approaches relating to fundamental questions made to either institution by the representatives of non-member states.

5. Within the scope of application of Article 162, the Council and the Commission will consult together on the advisability of, the procedure for, and the nature of any links which the Commission might establish with international organizations pursuant to Article 229 of the Treaty.

6. Co-operation between the Council and the Commission on the Community’s information policy, which was the subject of the Council’s discussions on 24 September 1963, will be strengthened in such a way that the programme of the Joint Information Service will be drawn up and carried out in accordance with procedures which are to be decided upon at a later date, and which may include the establishment of an *ad hoc* body.

7. Within the framework of the financial regulations relating to the drawing up and execution of the Communities’ budgets, the Council and the Commission will decide on means for more effective control over the commitment and expenditure of Community funds.

b) Majority voting procedure

I. Where, in the case of decisions which may be taken by majority vote on a proposal of the Commission, very important interests of one or more partners are at stake, the Members of the Council will endeavour, within a reasonable time, to reach solutions which can be adopted by all the Members of the Council while respecting their mutual interests and those of the Community, in accordance with Article 2 of the Treaty.

II. With regard to the preceding paragraph, the French delegation considers that where very important interests are at stake the discussion must be continued until unanimous agreement is reached.

III. The six delegations note that there is a divergence of views on what should be done in the event of a failure to reach complete agreement.

IV. The six delegations nevertheless consider that this divergence does not prevent the Community’s work being resumed in accordance with the normal procedure.

The members of the Council agreed that decisions on the following should be by common consent:

- a) The financial regulation for agriculture;
- b) Extensions to the market organization for fruit and vegetables;
- c) The regulation on the organization of sugar markets;
- d) The regulation on the organization of markets for oils and fats;

e) The fixing of common prices for milk, beef and veal, rice, sugar, olive oil and oil seeds.

Finally the Council drew up the following programme of work:

- (1) The draft EEC and Euratom budgets will be approved by written procedure before 15 February 1966.
- (2) The EEC Council will meet as soon as possible to settle as a matter of priority the problem of financing the common agricultural policy. Concurrently, discussions will be resumed on the other questions, particularly the trade negotiations in GATT and the problems of adjusting national duties on imports from non-member countries.
- (3) The Representatives of the Member States' Governments will meet on the day fixed for the next Council meeting and will begin discussions on the composition of the new single Commission and on the election of the President and Vice-Presidents.

They will also agree on the date — in the first half of 1966 — when instruments of ratification of the Treaty on the merger of the institutions are to be deposited, on condition that the required parliamentary ratifications have been obtained and agreement has been reached on the composition and on the presidency and vice-presidency of the Commission.

M. Werner's press conference

At the end of the second part of the extraordinary Council session on 30 January at 0.45 hours, M. Werner held a press conference. He first remarked that two countries, Italy and France had approved the statements referred to above *ad referendum* but that this purely formal requirement was a common occurrence. The French and Italian Governments later confirmed their agreement.

The statements, M. Werner said, were “declarations of intent of a political nature”.

In answer to questions M. Werner explained that the Kennedy round would involve important decisions which would come under the general rule the Council had just agreed concerning voting.

As regards the merger of the Executives, this would not become effective unless there had been agreement on the appointments of the members, Vice-Presidents and President of the single Commission.

After the session the members of the Council expressed their general satisfaction with the agreement reached.

The Commission press release

On 2 February 1966 the Commission issued the following press communiqué:

“The Commission is pleased that, after the Council meeting in Luxembourg, the Community can now resume its normal activities, both internal and external.

There is a great deal of work to be done in the coming months, and many decisions must be taken, to make real progress towards economic union.

The Commission is ready to hold consultations with the Council, in due course, in a spirit of co-operation and in accordance with Article 162 of the Treaty, in order to make even closer collaboration possible between itself and the Council.”