

## Juliet Lodge and Valentine Herman The Economic and Social Committee in EEC decision making

**Caption:** These authors examine the role of the European Economic and Social Committee in the decision-making process and consider the evolution of the Committee. Their analysis particularly focuses on the reasons for the negligible impact of Committee opinions on Community legislation.

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Juliet Lodge and Valentine Herman

### The Theoretical context

Neo-functionalism ascribes a dynamic role to interest groups in the process of integrating pluralist communities.<sup>1</sup> By participating in the policy-making process, interest groups are expected to develop a stake in promoting further information in order to acquire economic payoffs and additional benefits from maintaining and stimulating the organization through which certain demands can be articulated and goals attained.<sup>2</sup> This implies that in the integration process interest groups have an instrumental role to play in the maintenance of the system; and that by virtue of their participation in the policy-making process of an integrating community they will "learn" about the rewards of such involvement and undergo attitudinal changes inclining them favorably towards the system.<sup>3</sup> Thus, they acquire an interest in seeing the system's perpetuation, and the policy and decision makers acquire an interest in being responsive to interest groups' demands. What is implied overall is that actor's loyalties will shift towards those decision makers in the system best able to reward them.<sup>4</sup>

Ernst Haas argues in *The Uniting of Europe* that political integration is "the process whereby actors in several distinct national settings are persuaded to shift their loyalties, expectations, and political activities toward a new center, whose institutions possess or demand jurisdiction over preexisting national states."<sup>5</sup> The attitudinal change experienced by actors in an integration process need not involve a transfer of loyalty on a zero-sum basis so that the functionalist notion of the withering away of the state is realized.<sup>6</sup> Instead, as Haas has argued subsequently, what transpires is not a transfer of elite loyalties per se but a transfer of authority and legitimacy.<sup>7</sup> What is necessary is that actors reorient their expectations as to the authorities regarded as legitimate and effective, and that, as Lindberg suggests, economic groups come to define their interests in terms of an integration process that they perceive to be irreversible.<sup>8</sup>

Given the importance neo-functionalists attach to the role of interest groups in promoting integration, the example of the EEC illuminates an apparent paradox. While interest groups have changed their political orientation and tactics, since the inception of the EEC, from attention to national decision makers alone in favor of supplementary attention to supranational authorities, the focus of their attention has not been the body established as the forum for interest groups: the Economic and Social Committee (ESC).

This suggests that interest groups have not only failed to perceive or develop the ESC as an institutional resource for mobilizing opinion at the supranational level to respond to interest groups' demands, but that neo-functionalist premises have been realized despite, rather than because of, the ESC. Interest groups have pressurized supranational policy and decision makers through alternative mechanisms found to have been more effective than the ESC. While it is true that the ESC that emerged was in reality an emasculated version of the consultative economic and social forum envisaged by its protagonists,<sup>9</sup> its *raison d'être* - as an institution that promotes and maintains integration, or is an effective influence in the EEC - has yet to be demonstrated.

The role of the ESC in EEC decision making appears to be invisible. As a result, since its inception the incongruous nature of its position in the EEC and its relevance and role in the promotion of European integration have been open to scrutiny. Suggestions to remedy its apparent negligible impact on either have resulted in contradictory views being advanced as to what its appropriate role would be. The clarification of the role of the European Parliament in view of direct elections has made this both easier and more urgent, since the ESC's minimal significance in promoting integration suggests that it is in danger of becoming obsolete.

This paper, therefore, has three aims. First, to scrutinize the evolution of the ESC's role in EEC decision making; second, to examine the two conflicting conceptions of its proper role held by ESC members; and third, to appraise the apparent contradictions.

## ESC origins and purposes

Before discussing the ESC's part in EEC decision making, it will be helpful to note that its evolution has been circumscribed by continuing contradictory aspirations. The confusion inheres in two problems. On the one hand, the ESC has been regarded as an incipient parliamentary-legislative assembly - the third organ in a tricameral legislature alongside the Council of Ministers and a European Parliament linked with the Commission.<sup>10</sup> On the other hand, the ESC's role is ill-defined by the Rome Treaty, and its members' expectations of it have been conditioned by the majority's perceptions of the role and influence of economic and social committees in five of the EEC's six founding member states. Only the Federal Republic of Germany (FRG) did not have such an institution. Moreover, the ESC's role has not been particularly visible to the EEC's publics: it has not been an institution through which interest groups could bridge, as neo-functionalists suggested, the elite-mass gap.<sup>11</sup> Neither does it receive more than cursory attention in the literature on the EEC.<sup>12</sup> It is not even the institution to which interest groups direct their attention during times of crisis or emergency. How, then, has its role evolved?

Three principal reasons for the ESC's creation can be suggested. First, at the EEC's inception, those original member states whose own constitutions provided for formal interest group representation at the national level, within a formal and official committee, attached significance to interest groups being similarly organized at the supranational level. Second, the sector-by-sector approach to integration adopted by the Six ascribed interest groups an important place in fulfilling integration goals. Third, the provision for interest groups to be represented at the supranational level in a body of their own was deemed necessary given the composition of the European Parliament. The indirect selection of its representatives meant that interest groups were unable to sponsor politicians to represent them vis-à-vis the Commission. In addition, MEPs, being parliamentarians, regarded themselves as the representatives of the "general will."

Discussions leading up to the establishment of the EEC considered the formal involvement of economic and social groups in the policy-making process. Drawing inspiration from the example of the Consultative Committee of the European Coal and Steel Community,<sup>13</sup> the participation of economic and social groups via the medium of a consultative body was advocated at the meeting of the Heads of Delegations' Committee in 1956.<sup>14</sup> However, the Dutch, drawing on the experience of their own Social-Economische Raad (SER), suggested investing a supranational economic and social committee with advisory and initiative powers. Agreement was reached on the former but not the latter.

Whereas trade unions, which had pressed vigorously for the creation of the ESC, had hoped that its membership would be restricted to employers and employees, it was decided that its composition should be broader and include other interests. From its inception, the ESC organized itself on tripartite lines. Group 1, the employers' group, comprised representatives of private and public enterprises, commerce, transport, banks, and insurance; Group 2, the workers' group, included representatives of the most important national trade union organizations; and Group 3, the various interests' group, contained two loose subgroups: one representing farming, professional, and craft interests, and the other "the general public."

The Rome Treaty assigns to the ESC the task of representing neither interest group's views alone, nor those of the general public alone. Instead, Article 193 states that the ESC "shall consist of representatives of the various categories of economic and social activity, in particular, representatives of producers, farmers, carriers, workers, dealers, craftsmen, professional occupations and representatives of the general public. Yet while the diffuseness of the ESC's membership does not explain why its role has been open to a variety of interpretations, it partly accounts for discrepant views as to its appropriate role in EEC decision making. To some extent, the lack of clarity about the ESC's role has inhibited it from evolving either along the lines of existing national economic and social committees or of truly representative institutions of a parliamentary nature.

From the outset, contradictory and incompatible views over its role have been advanced. At its first meeting, Commission President Walter Hallstein argued that the ESC would both inform the Commission of the views of "factory managers, farmers, workers, professional people [and] public opinion," and transmit to it "the experience, the technical points of view and the concerns of the public." Qualifying this, and stressing

that the ESC was less than a parliament but more than a panel of experts, Hallstein pointed out that the Commission was obliged to listen to the ESC's views.<sup>15</sup> By contrast, Mr. Motz, EURATOM President-in-Office, predicted that the ESC would establish a "two-way flow of advice and information" which would both "contribute to a closer cooperation between the institutions of the EEC and the various economic sectors" of the Six,<sup>16</sup> and enable the ESC to act as mediator on behalf of national economic and social interests vis-à-vis the Commission and the Council of Ministers. However, ESC members' terms of appointment ruled this out. Nevertheless, both Hallstein and Motz appear to have expected the ESC to perform a representative function on behalf of interest groups.

Such expectations were unrealistic. ESC's terms of reference, rules of procedure, and the Rome Treaty circumscribed its ability to influence decision making effectively. Not only did the Council of Ministers draft its rules of procedure but it made their amendment subject to its approval, thereby curtailing autonomous action by the ESC. Moreover, the Council of Ministers prohibited the ESC from issuing political statements and from engaging in deliberations except upon its own request or that of the Commission. In addition, the ESC's room for maneuvering was limited by the restricted areas on which it could emit opinions, and by the rules governing the actual emission of its views. Even so, the ESC initially took an optimistic view as to its ability to develop into something more than an advisory body to the Commission and Council of Ministers. It confidently expected that its accumulated expertise would be valued and exploited by the EC's institutions. However, the hopes expressed in the Committee soon turned out to be optimistic. To begin with, the ESC had little to do while the EEC and Euratom Commissions worked on their initial proposals, and when at last a draft regulation was sent to the ESC, it related to a highly technical subject concerning the establishment of basic norms for the protection of workers in the nuclear industry. The ESC urged the Commissions and Councils to provide it with more work, and although they eventually complied with this request, in its first fifteen years the ESC failed to insert itself into EC decision making effectively or to perform a role analogous to either economic and social committees in some EEC member states, or a chamber within a multicameral parliamentary system in the EEC.

### **The ESC's role in EC decision making**

The ESC's role has been less restrictively interpreted than implied by the Rome Treaty,<sup>17</sup> yet it is not the forum through which interest groups articulate their views, nor the forum on which public attention is focused. Why?

In the first instance, the terms of ESC's members' appointment have not been favorable to the ESC becoming independent and respected, by either national governments, the Council, or Commission.

Appointed on four-year renewable terms, ESC members serve in a personal capacity and not as delegates or appointees of organized bodies at the national level. While some, by virtue of the offices they hold at the national level, may be regarded by ESC colleagues as spokespersons for those groups, they lack the authority to commit any national groups to support or oppose ESC opinions on Commission proposals. Moreover, those holding influential positions at the national level of politics have not tried to exploit their position in the ESC during the tenure of their national offices to good effect. Yet, when the ESC first met on 19 May 1958, of its 101 members some 75 percent were leading officials (presidents or general secretaries) of major economic and social organizations in the Six.<sup>18</sup> Since then, prominent members of the latter have continued to serve on the ESC. However, even when prominent figures hold office contemporaneously at the national level and in the ESC, they do not appear to use their membership of the latter in pressurizing national governments on policy issues.<sup>19</sup> The ESC's standing vis-à-vis national governments and the EEC's institutions has suffered accordingly. Yet the problems that it has faced in this respect have been no more acute than those of the European Parliament.

A second reason for the ESC's failure to become an influential force in EC decision making lies with the restrictions surrounding its exercise of those powers assigned it by the Rome Treaty. Its most important power, the right to be consulted by the Commission or Council on EC legislation and to issue opinions upon their request, is severely circumscribed by the rules governing the actual emission of those opinions. The ability and opportunity for the ESC to exercise its powers, to exploit its consultative role in EC decision

making, has for many years depended on the Council or Commission seeking its views.

The Rome Treaty distinguishes between mandatory and optional consultation. Article 198(1) of the EEC Treaty (and Article 170[1] of the Euratom Treaty) states that "The ESC must be consulted by the Council or the Commission where the Treaty so provides." Consultation of the ESC is mandatory in certain areas including the Common Agricultural Policy (Article 43), social policy (Articles 118 and 121), and the freedom of movement for workers (Article 49). Article 100 states that consultation is mandatory "in the case of directives the implementation of which would involve amending legislation in one or more Member States." The Treaties also make provision for the optional consultation of the ESC "in all cases where they consider it appropriate."

In practice, the distinction between the two types of consultation was reduced to a difference between consultations of a general nature and consultations of a more technical type. In the EEC's early days, regulations tended to cover individual policy sectors or technical fields; this was mainly due to the need to adopt a gradual approach to the harmonization and coordination of national policies, and, subsequently, an alignment of laws. The effect of this on the ESC was one other than that intended by the authors of the Treaties, as the ESC was increasingly asked to give its opinion on matters of a technical or sectoral nature, rather than giving priority to the discussion of general topics which were of the greatest concern to its members. Furthermore, consultation in these cases was usually optional. This made it difficult for ESC members to express their views on matters of greatest importance to them, but ruled out the adoption of an overall attitude towards the EEC's economic and social policies. The nature of EEC legislation, quite apart from the operation of the legislative process, initially militated against the ESC - as a corporate body - effectively and visibly intervening in EEC decision making. While members may have hoped to be consulted, like parallel institutions in other member states, on matters of "grand" economic policy, EEC legislation is restricted to technical matters, to the consideration of often technical proposals, and alignment of national regulations. More recently, aspects of "grand" economic policy - unemployment and inflation - have been discussed often within the confines of the Tripartite conferences.<sup>20</sup> But, with the exception of the Economics and Monetary System (which became operational, without Britain, on 13 March 1979), few common "grand" economic policies have been accepted. A "conspiracy" on the part of the Commission and the Council of Ministers cannot be imputed to explain the ESC's limited role. Rather the nature of the EEC, and the fact that the drafting of "grand" economic policies was and is not for the most part within the ambit of the EEC's authority must be taken into account. In addition, it must be remembered that the ESC was not - during the 1958-1972 period - consulted prior to the actual drafting of Commission proposals. It could not, therefore, influence the guidelines or policy choices underlying the draft proposals on which it was then invited to give its opinion. While in practice the Commission did take ESC views into account when amending draft proposals prior to their submission to the Council of Ministers, the latter was not obliged to do more than elicit ESC views. Indeed, it could generally ignore them and was not required to request the further amendment of Commission proposals if ESC opinions diverged from or conflicted with Commission proposals. While this was due also to the rules governing the ability of the Council of Ministers to secure the amendment of Commission proposals, the absence of a mechanism to ensure respect for ESC opinions undermined their effectiveness.

The limitations placed on the ESC's moment of intervention clearly restricted its effectiveness. In order to perform its advisory role satisfactorily, the ESC would need to be consulted before decisions were to be taken and to be given adequate time for the preparation of its studies and deliberations. However, in practice the Council tended to consult the ESC shortly before it wanted to take a decision on a text and this restricted the amount of consideration the ESC could give to it.<sup>21</sup> On the other hand, when the Commission was the consulting institution, and had not yet submitted the text of a proposal to the Council, it was able to alter proposals to take account of any ESC suggestions. In general, however, neither the Commission nor the Council sought the ESC's opinion at the draft outline stage. Instead, the ESC was mainly consulted on draft proposals, when policy choices and guidelines had already been established. Indeed the consulting institutions were frequently criticized for denying the ESC any right of initiative, while at the same time encouraging the proliferation of expert committees which brought representatives of economic and social forces into the formative stages of the policy-making process. This had the effect of making the EEC's consultative machinery more complicated, while reducing the effectiveness of its institutionalized

consultative body. Under these circumstances the ESC's "...intervention became more formal than real and [its] participation was an illusion."<sup>22</sup>

On occasions the ESC as a part-time body was unable to consider proposals within the deadlines set by either the Commission or the Council of Ministers. Instead, the ESC's plenaries approved opinions for submission to the Commission and Council of Ministers after the latter had already determined the outcome. The ESC's opinions in those instances were, thus, effectively irrelevant. Moreover, both the negligible impact of the ESC's opinions on the content of EEC legislation, and the Council of Ministers' disinterest towards these opinions cast doubts on the need for consultation with the ESC for two reasons. First, the ESC's views could be seen as those of individuals rather than national bodies, although some ESC members did seek advice first from their national body; and second, ESC members and their groups could more effectively exert influence at the predecisional and decisional stages of EEC decision making by making direct representations to supranational "umbrella" pressure groups such as COPA, as well as to the Commission and to national ministers and bureaucracies.

Dissatisfaction with its moment of intervention in EC decision making led the ESC to concentrate upon acquiring a right to intervene. It, therefore, attempted to acquire "the right of initiative" and to secure its incorporation into its Rules of Procedure. Why?

Under the terms of Articles 193 and 198 of the Rome Treaty, the ESC's status was strictly limited to that of a consultative body. It simply had the right, until the 1970s, to be consulted by the Commission and Council of Ministers and to transmit its opinions to them within a time limit fixed by them of not less than ten days. In the event of the ESC being unable to issue its opinion within that time limit, the Commission and Council of Ministers were free to proceed without it. Nowhere does the Rome Treaty accord the ESC a more active role in EEC decision making, and nowhere does it oblige the EEC's legislature - the Commission and Council of Ministers - to either heed or act upon any ESC advice which it may have sought. In practice, the ESC's inability to commit either the Commission or Council of Ministers in any respect concerned it less than the restrictions governing the ability to issue advice on its own initiative. In order to enhance its advisory role and to define a clear and effective role for itself, the ESC sought this right.

### **The right of initiative in the ESC's attempts to find a role**

During the period 1961-1968, the ESC made unsuccessful attempts to improve its position in the decision-making process. Prominent among these attempts was that to give the ESC a right to initiate EEC legislation - something otherwise invested, with few exceptions, in the Commission alone. In fact, what the ESC sought was the right to make suggestions to the Commission as to areas in which EEC action, and hence Commission proposals, should be taken. Strictly speaking, this would contravene the Commission's independence and autonomy in that the Commission is required to desist from seeking or acting upon the instructions of other bodies. However, the ESC's view was that it was, by virtue of its composition, well-placed to identify areas where EEC action would be useful.

Two attempts to have the right of initiative incorporated in the ESC's rules of procedure were made. The first failed, mainly because some member states feared that the provisions of the Treaties would be exceeded. The Council of Ministers dismissed the ESC's proposed revisions to the rules, recording in the minutes that "... the Council notes the ESC's intention to submit to them, where appropriate, requests to be considered on specific issues. The Council will continue to examine favorably any suggestions submitted to them"<sup>23</sup>. Not until October 1972 did the EEC's Heads of Government approve the principle of the ESC having the right to advise on its own initiative on *all* matters affecting the EEC:<sup>24</sup> a right eventually incorporated into the ESC's Rules of Procedure in 1974.<sup>25</sup> From then on, all its opinions - including those issued on its own initiative - were published in the *Official Journal of the European Communities*. With a view to strengthening this right of initiative, the ESC urged incoming Presidents of the Council of Ministers to submit to it drafts of the Council's work schedule and probable agendas for the following six months.

The ESC did not acquire the right to issue opinions on its own initiative until 1974 for a number of reasons. First, mindful of the specter of corporatism à la Weimar Republic, the Federal German Government doubted

the desirability of a supranational economic and social committee.<sup>26</sup> Second, it was considered expedient to limit the ESC to an advisory role in order to maintain an institutional balance within the EEC: the need to ensure that the ESC was not granted powers exceeding those of the European Parliament (Assembly) militated against its acquisition of a right of initiative. Since this right was denied the EEC's institution possessing pretensions to being the EEC's "representative house" and legislature,<sup>27</sup> it would have been difficult to persuade either parliamentarians or governments that the ESC should be granted the very power - the right to initiate legislation - that was more usually associated with parliamentary chambers than with economic and social committees in the Six. Moreover, given the very limited roles, for the most part, of parallel economic and social committees, problems would have arisen had the supranational ESC been granted wider powers than its counterparts in the member states, given that it was modelled on them in terms of its powers and composition.

That the ESC was eventually given the right of initiative in 1974, however, was due to a number of factors. Notable among these was the Germans' appreciation of the fact that the ESC did not function like the Reichswirtschaftsrat and that corporatism of the type experienced under the Weimar Republic had not materialized in the EEC, the existence of the ESC notwithstanding. Moreover, whereas during Ludwig Erhard's period as Economics Minister (1949-63) and as Federal Chancellor (1963-66), the German governments had been wary of interest groups' involvement in decision making, earlier fears were dissipated under the Grand Coalition (1966-69) in the wake of its experience with its Law to Promote Stability and Economic Growth by encouraging collective bargaining between the Federal government, the Länder governments, the unions, and employers. In addition, following union pressure, there was, by the time of the first Brandt-Scheel government (1969-72) acceptance of wider-scale interest group and union participation in decision making. In 1972 Chancellor Brandt, in a memorandum prepared for the Paris EEC summit conference in October, included a call for recognition both of the legitimacy of the ESC's demand for a right to issue opinions on its own initiative rather than simply at the behest of the Commission and Council of Ministers, and of the ESC's aspirations towards becoming a forum for dialogue, concertation, and consultation between the Council, Commission, and interest groups which he felt could benefit the EEC.

How important is the ESC's acquisition of the right to issue opinions on its own initiative? It is important in that, although not normally invested in national economic and social committees in the Nine, this right is one possessed by one of the most influential economic and social committees in the EEC, namely, the Dutch SER. The Dutch cabinet is required to seek its opinion on all proposals concerning economic and social matters. This normally means that the SER is consulted on all important matters of domestic legislation. More important, its right to emit opinions on its own initiative has given it significant influence vis-à-vis the initiation of policy, since ministers tend both to accord its opinion particular attention and to act on it when there was a sizeable majority supporting a given opinion.<sup>28</sup> In default of a formal right to determine and initiate policy, the Dutch SER has, therefore, been able to exercise a form of psychological pressure on the Cabinet: ministers have responded constructively to it when majorities have been substantial. Not surprisingly, the ESC hoped that its acquisition of the right to initiate opinions would afford it similar influence vis-à-vis the Commission. However, this has not happened.

To what extent, then, has the ESC's right to issue opinions on its own initiative (a right used twenty-two times between 1975 and 1977) improved its ability to influence EEC decision making? First, the ESC can issue opinions on its own volition at any stage of the decision making and legislative processes. Therefore, it is in a position to influence draft regulations, decisions, or directives. However, neither the Commission nor the Council of Ministers is required to modify them accordingly. Second, the ESC may express opinions on matters outside the scope of the Rome Treaty and on those which it deems action desirable, or on which EEC action is envisaged or has been taken. Whereas before the Commission and the Council of Ministers had the option to decide whether or not to consult the ESC, now the latter may step in if they omit to do so. Third, the ESC may now advocate action in economic and social matters whenever it perceives a need for it. Has this made the ESC's activities and opinions more relevant? Has its influence increased?

Of 162 opinions delivered between 1972 and 1976 on proposals submitted to the Council of Ministers, the ESC condoned sixty-five of the Commission's drafts. Of ninety-seven dissenting opinions, seventy were taken into account in the final texts. The ESC itself believes that of those opinions it issued on the request of

either the Council of Ministers or the Commission between 1972 and 1976, its opinions were taken into account "in some respects" and "to a large extent" on fifty and twenty-four occasions respectively, and its opinions disregarded twenty-seven times.<sup>29</sup> Since the ESC's influence over the final text may have been slight, and the impact of the directive or regulation narrow, much significance should not be attached to these figures. It is difficult to find hard evidence to support the ESC's own view that its influence has increased. The limited nature of published data and the inaccessibility of detailed data collected by the ESC concerning the whole gamut of EEC legislation on which it has had some impact - no matter how marginal or insignificant - make it impossible to determine whether the ESC's actual influence over the content and final format of Commission proposals has altered appreciably.

Moreover, most ESC amendments relate to highly technical directives and regulations. In 1976-1977, they ranged from regulations covering hops (Regulation [EEC] 1969/71) and tariffs on the carriage of goods (Regulation [EEC] 3330/75) to items covering food additives, dangerous substances, and competition in transport by rail, road, and inland waterways. By contrast, opinions issued on the ESC's own initiative are more salient: in 1976 they covered measures to help young and elderly workers and women to resume gainful employment, coordination of employment policy, the situation of women, regional policy, the liberalization of public purchasing, and the development of advanced technology sectors. In 1977, such initiatives related to transport problems in relation with East bloc countries, multilateral trade negotiations, the Common Agricultural Policy in an international context, regional development in relation to unemployment and inflation. The ESC also carried out studies on EEC policy towards the South and East Mediterranean, combatting poverty, the EEC and Portugal, and a nuclear safety code.<sup>30</sup>

This notwithstanding, the ESC's role remains minimal and the ESC recognizes that the internal procedures facilitating the emission of own initiative opinions are convoluted and need refining.<sup>31</sup> Furthermore, even if it could be shown that the ESC's influence over Commission proposals had increased since 1974, the Commission and the Council of Ministers still retain the right to disregard ESC views entirely. It is known that Commission officials regard it as unimportant, and "at times an irritating source of work because papers must be routed to it, and [because it is] another body whose voice insists on being heard."<sup>32</sup> ESC opinions rarely confront the major issues of contemporary economic and social policy in the EEC. This is not surprising in view of the lack of either a common or coherent EEC strategy.

A further weakness lies in the ESC's ambiguous position vis-à-vis supranational institutions. On the one hand, the ESC has a supranational identity: it is an EEC body. On the other hand, its members do not represent supranational interests. Rather, they articulate *national* considerations individually, and upon a consensus, at a high level of generality, emit opinions on Commission policy and latterly, on matters they regard as suitable for EEC action. Like the Council of Ministers, the ESC is by virtue of its composition an international rather than a supranational body. However, unlike the Council of Ministers, the ESC is associated with a constructive rather than defensive attitude towards Commission proposals. This is probably as much a matter of conviction as it is a consequence of its vast fragmentation, making a constructive attitude towards the Commission, paradoxically, more practicable than interminable defense of a single national interest. In the ESC's constructive attitude lies the rationale behind the suggestion that it should become a legislative body. Like the European Parliament, it is seen to be on the "Commission's side" and against the national interests represented in the Council of Ministers.

A tendency to be associated with the emission of opinions in favor of the Commission may have led the Council of Ministers, during its negative phase in the second half of the 1960s, to neglect taking action upon the ESC's opinions. However, by deliberately thwarting the ESC's ambitions, it could be argued that the Council of Ministers admitted the ESC's opinions to be of potential interest, even if of little practical consequence. Over and above this, however, the ESC's constructive attitude towards the Commission cannot be claimed as sufficient reason for improving the ESC's status and authority. While it may have improved the ESC's standing vis-à-vis the Commission and the European Parliament, it is significant that it was not until the ESC came to be associated both with the articulation of the interests of the working populations in general throughout the EEC in the wake of the economic recession of the 1970s, and with stimulating the creation of the Tripartite Conference, did it appear that the ESC had either useful or relevant functions. The specificity of its task in this respect helped it to project itself as the representative of given groups of people,



and enhanced its standing. Nevertheless, because it is largely a part-time institution, just as the effectiveness of the European Parliament is expected to increase upon the election of full-time, largely non-dual mandated MEPS,<sup>33</sup> so the effectiveness of the ESC must, by comparison, appear slighter.

With the exception of its part and interest in the establishment of the Tripartite Conference, the ESC's role in the pre-decisional phase of EEC decision making has not become significantly more influential. Four explanations can be offered. First, the ESC continues largely to support the Commission against the Council of Ministers: to endorse integrative proposals. Second, it has failed so far to become an effective channel for the articulation of interest group demands and has demonstrated an incapacity to intervene effectively on behalf of interest groups, or to be the chief target for their attention. Third, the ESC's standing remains unchanged insofar as its members cannot formally commit or represent national bodies. Fourth uncertainty, confusion, and ambiguity persist over which role in EEC decision making would be appropriate.

### **An appropriate role for the ESC**

There are two main views as to the ESC's appropriate role in EEC decision making. The first derives from experience with economic and social bodies charged with assisting government in some of the EEC's member states. The second is predicated on an extension of the ESC's present role and the ESC's transformation into a third chamber of a reformed parliamentary system for the EEC.

In all EEC member states, except Britain, Eire, and the FRG,<sup>34</sup> comparable institutions to the ESC exist. Their roles are defined clearly in constitutions. Under Title X of the Constitution of the Fifth French Republic, for example, the role, powers, and functions of the *Conseil Economique et Social* (CES) are rigidly prescribed. Its powers and functions appear, under Articles 69 and 70, to be akin to those of the ESC. It lacks a power of initiative either where the initiation of legislation is concerned or where the generalized issuing of opinions on its own initiative is concerned. Instead, the CES is required to respond, as necessary, to invitations from the government to emit opinions on government bills, ordinances, decrees, and parliamentary bills submitted to it. Like the ESC, it is seen as a *consultative* organ of the government, and not as an innovative policymaking body. Both the ESC and the French CES must be consulted by the Commission and the French government respectively when decisions in the economic and social fields are being made, but neither are bound by their views.

Indeed, Ehrmann argues that the CES' advice is neglected by both the French government and parliament, and that its contribution to policymaking is "negligible if not nil"<sup>35</sup>. Compared to the ESC, the CES' role is circumscribed further by the fact that certain areas of economic policy (those relating to fiscal and budgetary matters in particular) are the preserve of the French parliament.<sup>36</sup> Both the CES and the ESC suffer from the fact that neither the French government nor the Commission respectively are obliged to act upon their initiatives and opinions. That this weakness patently cannot be remedied by the acquisition of an extensive independent right to initiate opinions is evinced by the experience of the Italian *Consiglio nazionale delle corporazioni* which even has a qualified power to initiate legislation in economic and social matters.<sup>37</sup>

Theoretically, all economic and social committees are designed to involve formally representatives of employers and employees in decision making; and all, therefore, reflect considerations associated with corporatism. However, not until the development of the Tripartite Conference did this become manifest in the ESC's case. The ESC succeeded in forging the kind of trilateral dialogue between employers, employees, and the Commission that member governments recognized as important and potentially valuable. Even so, this did not lead ESC members in their individual capacities, or collectively as the ESC, to become involved in the formative stages of policy formulation. Moreover, the limited nature of the Commission's powers vis-à-vis economic and social matters such as combatting unemployment and inflation, and the primary role of the Council of Ministers, coupled with the fact that the EEC neither is, nor has pretensions to becoming, a state, militates against the ESC becoming an instrumental force in developing a corporate supranational Community. Nevertheless, this need not mean that the ESC's aspirations in the development of its role should be restricted to it evolving along parallel lines to weak economic and social committees in the member states.<sup>38</sup> Neither does it mean that the concept of corporatism is irrelevant to the ESC and the EEC. On the contrary, in the past and before direct elections, some saw the ESC as potentially more influential

than the European Parliament in EEC decision making.<sup>39</sup>

Advocates of transforming the ESC into a third chamber of a tricameral parliament, in which each chamber would possess identical rights regarding the initiation of legislative proposals, not only presuppose that a form of European federation is attainable, but also that the "economic and social partners" in the EEC should be afforded roles associated with corporatism and a right coveted by the European Parliament, and one, moreover, known to be unacceptable to the Council of Ministers. Apart from the impossibility of realizing federalism within the foreseeable future,<sup>40</sup> the notion of a tricameral parliamentary system has several weaknesses.

First, it would make the EEC's decision making and parliamentary deliberation processes unnecessarily complicated. Second, if both the European Parliament and the ESC possessed a right of initiative then competition, rather than cooperation, might develop. Competition can be productive, but if rivalry ensued, the effect might prove dysfunctional. If the remaining chamber - the upper chamber, the chamber of states - also possessed a right to initiate legislation, not only would the policy-formulation process become protracted, and competition between the chambers become possible, but also the likelihood of contradictory and incompatible proposals being advanced would increase. Third, the conferral of limited powers on the ESC rests on the assumption that the ESC would be a more appropriate institution than either the Commission or the European Parliament to initiate legislation in spheres of particular interest to its members. It assumes also that those interests will not gain adequate representation except through the ESC. This may have been a reasonable assumption so long as the European Parliament was expected to lack either real powers or status. However, the latter's direct election, and acquisition of greater influence, makes the development of links between MEPs and social groups and their representatives at the supranational as well as national level a more attractive proposition than hitherto. It is likely that the more influential the European Parliament's committees become, and the more publicity their work attracts, the more interest groups will be likely to direct their attention to the European Parliament,<sup>41</sup> rather than the ESC.

Furthermore, in default of a major reorganization of the distribution of authority among the EEC's institutions, the ESC's position vis-à-vis the other institutions in general, and vis-à-vis the European Parliament in particular, is likely to decline. This is because following direct elections, the European Parliament is likely to become more visible, and its predominantly non-dual mandated members are likely to attempt to demonstrate their effectiveness as the representatives of those who elected them.<sup>42</sup> Time constraints alone militate in favor of the greater effectiveness of MEPs and against part-time members of the ESC. Certainly, ESC pretensions to being the representative of "ordinary" citizens in the EEC will become increasingly questionable.

If the ESC is expected to speak up "for the views, needs, and wishes of the ordinary men and women of the Community,"<sup>43</sup> then it must to some extent become a "voice of the people." To arrogate to itself such a role would not only be difficult, but numerous considerations make this unfeasible. It has no means of determining what the interests of the "general public" are. Given the heterogeneity of public opinion, a homogeneous view cannot be distilled. Since the elected European Parliament perceives itself as the representative of "the people," it is unlikely that it will tolerate the encroachment of the ESC into this area.

The ESC's other function, where the articulation of views is concerned, is to permit the expression of interest, farming, and business groups' opinions. Insofar as diverse interest organizations must gain representation in the EEC and through the ESC, the ESC's membership is highly fragmented.<sup>44</sup> Moreover, representatives of "ordinary men and women" of the general public, are a minority in the ESC. They do not even form a readily identifiable group. They certainly are not formally elected to speak on behalf of the "general public." But neither are ESC members entitled to represent individual interest group organizations. Article 194 expressly provides that they "be appointed in their personal capacity." It precludes their being bound by any mandatory instructions. The implications of this affect the status and authority of the ESC's members.

A problem inheres in ESC members being required by the Rome Treaty to be appointed in their personal capacities. It negates the notion of their being *the* representatives of a given organization, even though they

may be associated with the expression of views relating to a specific organization's interests, and even though governments may have appointed them because of their organizational position. It certainly militates against other EEC institutions regarding ESC opinions as important indices of interest group organizations' views on a given Commission proposal or EEC issue, and may well foster the impression - especially in Council of Ministers circles - that the ESC opinions are of little consequence.

The ESC's composition militates against it either assuming a homogeneous identity at the supranational or national level, or becoming the third quasi-legislative chamber in a tricameral system. This is due to its ambiguous place within the EEC. Not accorded the status of one of the EEC's official "institutions," the ESC is an appendage of the Euro-polity: an appendage, moreover, that has neither a conspicuous nor a vital role to play in EEC decision making. Thus, quite apart from the lack of power invested in either the ESC itself or its individual members, interest groups have no incentive for turning the ESC into their instrument.<sup>45</sup>

In an appendix to its opinion on "European Union,"<sup>46</sup> the ESC advanced a number of suggestions through which its place and role in the institutional context of the EEC could be strengthened.<sup>47</sup> These included: increasing its budgetary autonomy; granting it full institutional status and changing its name to the "Economic and Social Council"; coordinating its activities with those of other committees and bodies involved in the policy process; inviting leading figures from outside the Committee to address it on occasions;<sup>48</sup> ascertaining what action was taken on its opinions by proposing and decision-making bodies; and establishing regular contacts and exchanging information with national consultative bodies in the member states.

Also, the ESC articulated fears over the development of other bodies in the EEC which interfered with or abrogated its responsibilities. It expressed fears about the establishment of joint committees for individual sectors of the social program which were encouraged by the Paris Summit *communiqué*; and argued that the increasing EEC tendency to establish specialized consultative bodies was "detrimental" to the proper functioning of the institutions and damaging both to the overall representation of socioeconomic interests which the Committee was set up to provide, and to the value of fragmented views which can be gathered elsewhere.<sup>49</sup> The ESC also urged the Commission and the Council of Ministers to consult it before establishing further bodies with similar membership or terms of reference to that of the ESC.

However, both the ESC's own recommendations for enhancing its role and those of others offer no more than cosmetic changes. The suggestion, for example, that the ESC's status could be improved by ensuring that there were among its members fewer executive officers from national bodies and more junior officials able to devote a greater proportion of their time to EEC activities is naive. While it is true that it may make for greater efficiency and esprit de corps and that the ESC would remain a useful forum for exchanging information and making contacts, it would do little to remove the major obstacles to the ESC assuming a relevant and influential role in EEC decision making.

Unless the work of a body is visible to and seen by the public as effective, prestige will not accrue to it. Experience in France has shown that even where there is a tradition of formally involving interest groups in policymaking, unless the body is visible, unless its views are heeded by the government, the public is unlikely either to appreciate its role,<sup>50</sup> or accord it much respect. More important, it can be suggested that if the articulation of interest groups' interests is deliberately channeled into a forum devoid of effective power, the incentive for locating and exploiting alternative channels of influence will increase.

Interest groups can enhance the position of responsive institutions. In the EEC, they have achieved this despite the ESC and in spite of its tendency to endorse Commission proposals: a tendency which, it could be argued, may have induced complacency on the part of the Commission and the Council of Ministers. If the ESC's approval is usually *de rigueur*, it will cease to be of interest. But the converse does not apply: the ESC's opposition to proposals is not correspondingly accorded greater attention; whereas since 1975 the opposition of even the non-elected European Parliament was. Does the ESC then have a future?

It is patent from the foregoing that the ESC plays a negligible role in EEC decision making and that it does not perform a credible watchdog function for the Commission. It is even doubtful that, if it ceased

purporting to expound the interests of both interest groups and the public and espoused those of the former alone, it could play a more influential role in EEC decision making.

If it is true that the ESC has failed to become a target of interest group pressure because of the existence of competing structures and channels of influence,<sup>51</sup> then its role in European integration must be challenged. Given the Commission's stated intention to heed the views of the European Parliament,<sup>52</sup> exploiting the European Parliament's potential as a channel of influence and as a forum to which the Commission and Council of Ministers are likely to be increasingly responsive, appears to be a viable proposition for interest groups.

Implicit in this is the recognition that with the impetus given to integration and to institutional reform in the EEC by direct elections to the European Parliament, the continued existence of the ESC may require justification. The development of *clientela-parentela* relations between interest groups, MEPs, and the party groups and transnational parties could very well weaken the ESC's position if representations made to the European Parliament prove more effective. Any ESC pretensions to becoming a parliamentary chamber clearly lack credibility. In default of it playing a conspicuously vital role, it may well have to reappraise and improve its performance in order to be able to claim, with any justification, that it plays a useful role.

We would like to thank Robert O. Keohane for helpful comments on an earlier draft of this manuscript.

<sup>1</sup> See E. B. Haas, *The Uniting of Europe: Political, Social and Economic Forces, 1950-57* (Stanford, Ca.: Stanford University Press, 1958); L. N. Lindberg, *The Political Dynamics of European Economic Integration* (Stanford, Ca.: Stanford University Press, 1963); and L. N. Lindberg and S. A. Scheingold, *Europe's Would-Be polity* (Englewood Cliffs, N.J.: Prentice Hall, 1970). On the limitations of neo-functionalism see J. S. Nye, "Comparing Common Markets: A Revised Neofunctionalist Model," in *Regional Integration: Theory and research*, L. N. Lindberg and S. A. Scheingold, eds. (Cambridge, Mass.: Harvard University Press, 1971), and E. B. Haas, *The Obsolescence of Regional Integration Theory* (Berkeley: University of California, 1975).

<sup>2</sup> C. Pentland, *International Theory and European Integration* (London: Faber & Faber, 1973)

<sup>3</sup> E. B. Haas, "The Study of Regional Integration: Reflections on the Joy and Anguish of Pretheorizing," in *Regional Integration: Theory and Research*, p. 19. For a critique of the notion of "learning process" see J. Lodge, "Towards a Human Union: EEC Social Policy and European Integration," *British Journal of International Studies* 4 (1978): 107-34.

<sup>4</sup> L. N. Lindberg, *The Political Dynamics of European Economic Integration*, p. 9.

<sup>5</sup> E. B. Haas, *The Uniting of Europe*, p. 10.

<sup>6</sup> J. Lodge, "Loyalty and the EEC: *The Limitations of the Functionalist Approach*," *Political Studies* 26 (1978): 232-48.

<sup>7</sup> E. B. Haas, "The Study of Regional Integration," p. 29.

<sup>8</sup> L. N. Lindberg, *The Political Dynamics of European Economic Integration*, p. 63, and his "Integration as a source of stress on the European Community System," in *International Regionalism: Readings*, J. S. Nye, ed. (Boston: Little, Brown and Co., 1968), p. 243.

<sup>9</sup> R. Pryce, *The Politics of the European Community* (London: Butterworths, 1973), p. 84.

<sup>10</sup> H. Thomas, *Europe: The Radical Challenge* (London: Quartet, 1973), p. 23.

<sup>11</sup> See L. N. Lindberg, *The Political Dynamics of European Economic Integration*, p. 10.

<sup>12</sup> The ESC admits as much. See ESC *Annual Report* (1976), p. 27. Also see M. Palmer and J. Lambert, et al., *European Unity* (London: Allen & Unwin, 1969), pp. 185-87, A. H. Robertson, *European Institutions* (London: Stevens & Sons Ltd., 1973), pp. 195-96; and one of the only studies of the ESC (a mimeo) by N. Bernard, C. Laval, and A. Nys, *Le Comité Economique et Social* (Brussels: Brussels University Press, 1972).

<sup>13</sup> The forerunner of the ESC was the 51-member Consultative Committee of the European Coal and Steel Community set up to represent the interests of producers, consumers, and dealers within the coal and steel industry. In 1976 the Consultative Committee held seven meetings and passed seven resolutions.

<sup>14</sup> We have drawn on several reports and documents of the ESC in the preparation of this paper, especially the *Annual Reports* of the Committee 1973-77, the *Twentieth Anniversary* of the ESC (May 1978), and *The Right of Initiative of the ESC* (October 1977).

<sup>15</sup> Document CES:4F/58 Appendix 4.

<sup>16</sup> Ibid.

<sup>17</sup> See V. Merman and J. Lodge, *The European Parliament and the European Community* (London and New York: Macmillan and St. Martin's Press, 1978), pp. 1-69.

<sup>18</sup> The ESC now has 144 members: twenty-four from each of the four largest member states, twelve from both the Netherlands and Belgium, nine from both Ireland and Denmark, and six from Luxembourg.

<sup>19</sup> Somewhat paradoxically perhaps in view of British Labour Party boycotts of the European Parliament and ESC until the 1975 referendum, in recent years Britain has appointed well-known union leaders to the ESC. Even so, their work in the ESC is not well publicized.

<sup>20</sup> The Tripartite Conference, which has met regularly since 1975, is a forum for exchanging views between the economic partners. Representatives of the key supranational employer, employee, and social interest groups attend. The Commission and Council are represented by one of their number and the Tripartite Conference is attended by a member of the ESC's Secretariat, although the ESC has no formal corporate representation as such. The interest groups report back to the ESC, however.

<sup>21</sup> Article 198 (2) of the EEC Treaty reads: "The Council or the Commission shall, if it considers it necessary, set the Committee, for the submission of its opinion, a time limit which may not be less than ten days from the date which the chairman receives notice to

this effect. Upon expiry of the time limit, the absence of an opinion shall not prevent further action.

<sup>22</sup> J. Genton, *Représentation et influence des opérateurs économiques dans la Communauté Européenne* (Brussels: Free University press, 1965), p. 34.

<sup>23</sup> See memo from the Council of Ministers' Secretary-General to the ESC, 28 April 1965.

<sup>24</sup> On the importance of the October 1972 EEC summit of Heads of Government and State, see J. Lodge, "Toward the European Political Community: EEC Summits and European Integration," *Orbis* 19 (1975): 626-51.

<sup>25</sup> Paragraph 4 of Article 20 of the ESC's Rules of Procedure empowers the Committee "to deliver, on its own initiative, opinions on any questions pertaining to the tasks assigned to the Communities."

<sup>26</sup> G. Zellentin, *Formen der Willensbildung in den Europäischen Organisationen* (Cologne: Athenaum Verlag, 1965), p. 105.

<sup>27</sup> Until 1967, there were three Communities: the European Coal and Steel Community, the European Economic Community, and the European Atomic Energy Community. For the sake of clarity we refer to the EEC.

<sup>28</sup> G. L. Weil, *The Benelux Nations: The Politics of Small-Country Democracies* (New York: Holt, Rinehart, and Winston, 1970), p. 119.

<sup>29</sup> ESC *Annual Report 1976*, Annex C and p. 27.

<sup>30</sup> *Ibid.*, 1976 and 1977, pp. 42-47 and 48-53 respectively.

<sup>31</sup> ESC Document R/CES 628/77, pp. 69-72.

<sup>32</sup> H. J. Michelman, *Organizational Effectiveness in a Multinational Bureaucracy*, (Farnborough: Saxon House, 1978), p. 35.

<sup>33</sup> See J. Lodge, "Members of the House of Commons and the European Parliament," *The Parliamentarian* 59 (1978): 239-246.

<sup>34</sup> In Eire the composition of the Seanad Eireaan is similar to that of other economic and social committees insofar as candidates for election are members of five panels nominated by bodies representing (i) education and culture, (ii) agriculture, (iii) industry and commerce, (iv) labor, and (v) public administration and the social services. While the Seanad gives a form of vocational representation, political considerations predominate, and analogies with economic and social committees are misleading. (We are indebted to Arthur Aughey for pointing out parallels). Similarly, Britain, despite the National Economic and Development Committee, and specialized committees, lacks a parallel economic and social body. In the Federal Republic of Germany, even the Länder have disbanded their analogous bodies.

<sup>35</sup> H. W. Ehrmann, *Politics in France* (Boston: Little, Brown and Co., 1971), p. 297.

<sup>36</sup> N. Bernard, C. Laval and A. Nys, *Le Comité Economique et Social*, p. 13.

<sup>37</sup> C. Mortati, *Instituzioni di Diritto Pubblico*, Vol. II (Padova: Cedam, 1969), pp. 551 ff.

<sup>38</sup> See J. E. S. Hayward, *Private Interests and Public Policy: The Experience of the French Economic Council* (New York: Barnes & Noble, 1966), pp. 36-50.

<sup>39</sup> H. Thomas, *op. cit.*, p. 26.

<sup>40</sup> See J. Lodge, "Direct Elections to the European Parliament: Toward a Federal Community?," *Co-operation and Conflict* 13 (1978): 215-30.

<sup>41</sup> W. Averyt, *Agropolitics in the European Community* (New York: Praeger, 1977); H. H. Kerr Jr., "Changing Attitudes through International Participation: European Parliamentarians and Integration," *International Organization* 27 (1973): 45-83; B. Mennis and K. P. Sauvart, "Describing and Explaining Support for Regional Integration: An Investigation of German Business Elite Attitudes toward the European Community," *International Organization* 29 (1975): 973-96; and W. Averyt, "Eurogroups, Clientela and the European Community," *International Organization* 29 (1975): 949-72.

<sup>42</sup> See J. Lodge, "Citizens and the EEC: The Role of the European Parliament," *The Parliamentarian* 58 (1977): 176-81.

<sup>43</sup> See Ferranti, Preface to the ESC *Annual Report 1976*, *op. cit.*, p. 6.

<sup>44</sup> For a listing of the non-governmental associations set up at the EEC level concerning agriculture, industry, crafts, trade, services, the liberal professions, trade unions and consumer groups, see *Economic Communities Yearbook 1977*, pp. 361-403. There are approximately 1200 committees, subcommittees, and working parties within the institutions of the EEC. See *Comités et groupes de travail fonctionnant au sein des Communautés Européennes* (IX/ 1563/75, updated to 1977).

<sup>45</sup> For example, the Commission consults COPA at the preparatory stage of the annual price review. The Commission has also always insisted that supranationally organized groups shall have ready access to its officials. See also J. A. Caporaso, *The Structure and Function of European Integration* (Pacific Palisades, Ca.: Goodyear Publishing Co., 1974), p. 41-42.

<sup>46</sup> See too, *European Union*, Report by Mr. Tindemans (Brussels, 1975); and *Report on European Union*, Commission of the EC, in *Bulletin of the European Communities*, Supplement 5/75.

<sup>47</sup> ESC, "European Union" (Brussels, 1975), Appendix 1, "Opinion of the ESC on the place and role of the ESC in the institutional machinery of the Communities in the context of a possible evolution thereof."

<sup>48</sup> Although the sessions of the ESC are not public - unless declared so by a special decision of the Committee - observers can be admitted at the request of workers' and employers' organizations.

<sup>49</sup> ESC, "European Union," *op. cit.*

<sup>50</sup> See Ehrmann, *op. cit.*, and J. E. S. Hayward, *op. cit.*

<sup>51</sup> Caporaso, *op. cit.*, p. 41.

<sup>52</sup> See the statement by Commission President Roy Jenkins to the European Parliament, *Debates of the European Parliament*, 11 January 1977.