

Note from Pierre Pescatore on the empty chair crisis (Luxembourg, 29 September 1965)

Caption: On 29 September 1965, Pierre Pescatore, Secretary-General of the Luxembourg Ministry of Foreign Affairs, sends a confidential note to the Luxembourg diplomatic missions in Europe and to some international organisations in which he sets out Luxembourg's position in the ongoing diplomatic negotiations being held to resolve the empty chair crisis, especially given the joint position of Belgium and the Netherlands and the scope of the 'Spaak Plan'.

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Luxembourg, 29 September 1965

Confidential

Memorandum for information

Re: Common Market crisis – discussions between Belgium and the Netherlands, the ‘Spaak Plan’ and Luxembourg’s attitude thereto

Distribution:

Internal – the Minister, Deputy Minister, Director and Deputy Director;

Abroad – the Permanent Representatives to the Communities, NATO and the United Nations; the Embassies in Bonn, Brussels, The Hague, London, Paris and Rome

It is useful at this stage to summarize the latest developments in the European crisis, given that the Government has found it necessary, in the circumstances described below, to define its position. The problem is addressed under three headings: the discussions between Belgium and the Netherlands; the ‘plan’ attributed to Mr Spaak; and the position formulated by Mr Werner.

I. The position of Belgium and the Netherlands. The European crisis was on the agenda during discussions which Belgium’s new Prime Minister, Mr Harmel, and its Foreign Minister, Mr Spaak, conducted with their counterparts on their recent visit to the Netherlands. On 17 September 1965, Luxembourg’s Ambassador to Brussels was called to see Mr Spaak, who briefed him on the outcome of the visit. The Ministers of Belgium and the Netherlands had used the discussions to agree a procedure which, they believed, would help to resolve the Common Market crisis.

Finding that the French Government’s stance was unlawful, they agreed that they would not participate in any intergovernmental meeting of the six Member States or in any bilateral negotiations with the French Government on the matter in question. They took the view that a solution to the crisis should be sought within the framework of the European treaties, and they therefore envisaged a meeting of the Council of Ministers from which the Commission might, at least initially, be excluded – a possibility provided for in the Council’s Rules of Procedure. The only item on the agenda to the meeting would be the current situation in the Community, and the discussion could thus embrace any practical proposals that the Member States might wish to put to the Council. Such a meeting could be held in late November.

The Governments of Belgium and the Netherlands believe that France’s five partners should demonstrate their determination not to amend the Treaty of Rome, with the proviso that possible procedural modifications might be considered in order to address the problems encountered by France in the matter of majority voting. In the event of the French absence being prolonged, the five should find a formula that would allow them to administer the Common Market pending France’s resumption of its rightful place.

The Governments of Belgium and the Netherlands are calling on the Luxembourg Government to cooperate in the policy outlined above. They have apparently envisaged a sharing of tasks, and would ask Luxembourg to draw up the legal arguments on which to base the proposed procedure and the administration of the Community.

Similar discussions were held with the German and Italian Ambassadors.

II. The ‘Spaak Plan’. In the days that followed, there was much talk in the press of a plan, attributed to Mr Spaak, for resolving the Common Market crisis. This ‘plan’ is well summarised in the 25 September 1965 issue of *Le Monde*. According to the Belgian Ministry of Foreign Affairs, the coverage is based partly on leaks (initially to Agence Europe) and partly on journalistic invention.

Nonetheless, the intentions ascribed to Mr Spaak in the press do in fact reflect certain elements of what was

notified to the German, Italian and Luxembourg Governments after the discussions with the Government of the Netherlands.

Meanwhile, now that the thrust of his ideas is already in the public domain, Mr Spaak took the opportunity, when addressing the Junior Bar in Brussels with Maurice Schumann on 28 September 1965, of outlining them himself. Mr Spaak believes that we need to act quickly and that we must therefore try to get France back to the table without delay. He points out that there is provision under the Treaty of Rome for the Ministers to meet in the Commission's absence on the invitation of its President. In Mr Spaak's view, such a meeting would allow us to form a more accurate and detailed impression of the French Government's actual intentions. While fighting shy of any revision of the rules laid down in the Treaty of Rome, Mr Spaak is apparently prepared to consider possible adjustments and interpretations.

The Department has taken a very cautious position with regard to the views outlined above, whether they are actually those of Mr Spaak or merely ascribed to him. Bearing in mind the insight into the problem provided by General de Gaulle's press conference, it would probably be risky to confront the French unless agreement had first been reached among the other five Member States, or at least among the Benelux countries, on the nub of the problems before us. There must be a concern that to proceed as proposed by Mr Spaak could lead us to accept in advance the essence of the French views on the role of the Commission and the need to address the problem again at intergovernmental level, i.e. on the premise that unanimity is necessary. The Department believes that the Luxembourg Government should distance itself from any such 'plan' until we are sure of what we want to achieve in relation to the fundamental problems posed.

III. The position of the Luxembourg Government. The foregoing considerations explain the nature of the reply that we conveyed to the Belgian Government at Mr Spaak's request. Mr Werner set out the terms of the reply which was forwarded to Mr Spaak via Luxembourg's Ambassador to Brussels. What follows is the text of the instruction given to Mr Dumont:

1. The Luxembourg Government can fully support the principles informing the stance of the Governments of Belgium and the Netherlands inasmuch as a solution to the crisis must be sought within the framework of the treaties and the Community institutions; any revision of the treaties must be opposed; and there is a need to administer the Common Market and provide continuity in the institutions until such time as France resumes its rightful place.

2. In the interests of overcoming the crisis, the Luxembourg Government would seek to give priority to problems of substance over those of method and procedure. It actually believes that there is a risk in opening negotiations with the French Government before the five, or at least the three Benelux countries, have agreed a common position on the substantive issues.

a) The first task is to outline a solution to the practical problems that caused the breakdown on 30 June. In other words, the top priority is to resolve the problem of agricultural policy financing by regularising the situation created through the failure – of which France complained – to comply with the timetable. In this regard, the Luxembourg Government sees value in the Italian suggestion of making the provisions retroactive to 1 July 1965. At the same time, resolving the agriculture problems must be part of a systematic process of developing the Common Market generally so that we can establish the customs union and move ahead in an orderly fashion towards full economic union.

b) Secondly, we need to formulate our attitude in response to the French positions, outlined in General de Gaulle's press conference, on the role of the Commission and the principle of majority voting. The Luxembourg Government queries whether we can accept discussion – with the possibility of concessions – on these fundamentally important issues and also whether such discussion would be compatible with the intention of keeping the treaties intact. Might it not be preferable to include these problems in discussions on the merger of the European Communities, in which connection we can counter the French positions with other demands aimed at developing European integration, so that France's partners do not find themselves in a purely defensive position?

c) Finally, we have to consider in greater depth the possibility of five-way management of the Common Market, should the crisis continue or should an attempt at negotiation fail. In order to determine where the Five stand in the forthcoming discussions, we must know whether that possibility is a genuine alternative – which means that we ought to address the political, legal, economic and financial difficulties that it raises.

3. With regard to problems of method and procedure, the Luxembourg Government is open to all the suggestions made to date and to any that may be made. It reserves the right to assess them in the light of the substantive positions that it hopes to see emerging with regard to the issues outlined above. In the meantime it would make the following comments.

a) It seems obvious to the Government that we should seek to restore contact with the French in the framework of the Community institutions and, specifically, within the Council of Ministers. It would not, however, wish the exclusion of the Commission to appear like a form of ostracism. It can agree to a meeting without the Commission, provided that the discussion is undertaken in circumstances that will warrant hope of genuine progress towards a resolution of the crisis within the framework of the treaties.

b) With regard to the conclusion that the French Government's stance is unlawful, this obviously needs to be supported by legal argument, if only to reinforce the case for a five-way administration. At the same time, however, we should try not to subject the French Government to public trial if it is not absolutely necessary to do so.

IV. Action to be taken on this memorandum by the Embassies in The Hague, Bonn and Rome. It would seem appropriate to convey Mr Werner's position firstly, and as a matter of urgency, to the Government of the Netherlands, and then to the German and Italian Governments. This memorandum and, in particular, Part III, can form the basis of the communication.

Pierre Pescatore