

Note on the first meeting of the Luxembourg Extraordinary Council (Strasbourg, 20 January 1966)

Caption: On 20 January 1966, the Commission of the European Economic Community (EEC) draws up a note which gives an account of the course and the substance of the debates between the Foreign Ministers of the Six during the first meeting of the Luxembourg Extraordinary Council, held on 17 and 18 January in order to find a political compromise which could bring the empty chair crisis to a positive conclusion.

Source: Archives historiques de l'Union européenne, Florence, Villa Il Poggiolo. Dépôts, DEP. Émile Noël, EN. 343.

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Last updated: 05/07/2016

Strasbourg, 20 January 1966

Note on the proceedings of the extraordinary meeting of the Council held on 17 and 18 January 1966 in Luxembourg

I. Given the floor by the President of the Council, Mr Couve de Murville set out his concerns and sounded a warning note, as well as offering some words of praise for the Commission's activities, as he had already done in the French National Assembly on 20 October 1965.

He said that the French proposals related to two institutions: the Council and the Commission.

Regarding the Council, the introduction of the principle of majority voting should be deferred for the time being; in areas where that principle was applied before 1 January 1966, it could be maintained. The precondition for majority decisions would be the existence of a common and uniform political approach in areas in respect of which decisions needed to be taken; while a common policy of that kind did not exist, a political right of veto must be retained.

Regarding the future conduct of the Commission, Mr Couve de Murville presented a memorandum. He also called for the rapid merger of the institutions.

II. Principle of majority decisions

Ambassador Borschette believed that the course of the discussion hitherto did not preclude an agreement, although the risk of open opposition remained. The Six seemed virtually to have agreed not to call into question, by introducing a qualified majority decision, the important decisions that been taken by unanimity in the past. In this regard, the five Delegations were aware that, by showing good will in this matter, they were weakening their legal position. At all events, such a commitment would conflict with the provisions of the Treaty.

They also broadly agreed that decisions held over as a result of the crisis could be taken only by unanimity. The question whether decisions seeking to supplement the mandate of the Commission with a view to the Kennedy Round formed part of these deferred decisions had not yet been resolved. The threat of open opposition remained because of the French position that a majority decision would not be acceptable if a minority country invoked its vital interest. The Five, however, considered that it should be possible to settle an issue by majority decision in the event that unanimity still had not been achieved after three successive readings of a proposal.

Mr Borschette thought that France's five partners could manage to ensure that majority decision-making was suspended only during the transitional period.

III. Cooperation between the Commission and the Council

No agreement has been reached between the French delegation and the Five on how to organise future cooperation between the Commission and the Council and what role the French memorandum should play in that regard. Mr Schröder, the German Foreign Minister, repeatedly called for these rules on future cooperation to be discussed by the Commission and the Council, as provided for in Article 162 of the Treaty. Mr Werner was in favour of talks between the President of the Council and the President of the Commission. Mr Couve de Murville, for his part, preferred members of the Council to start by agreeing among themselves on the proposals to be addressed to the Commission; these proposals should then be discussed, in due time, only with the future single Commission. Finally, in the hope of imposing his views and in response to the urgent requests from the other Delegations, Mr Couve de Murville presented the timetable proposed by France.

The memorandum did not immediately produce any unfavourable reaction from France's five partners. After the dinner of 17 January, the Permanent Representatives raised the various points of the memorandum with Ambassador Boegner and put questions to the French delegation. During the Council meeting and these consultations, it emerged that the French delegation was willing to discuss the wording of certain points.

It is worth noting that Points 3 and 4 were not raised. The Delegations made the following comments on the other points:

Point 1:

Mr Schröder and Mr Luns preferred the word 'contact' to 'consult'. The five Delegations were prepared to seek means of improving cooperation during the preparation of Commission proposals. For instance, the Presidency would countenance a system of meetings like those held between the Council and the Commission in 1960.

Point 2:

The delegations all accepted as well-founded the principle whereby the Council may demand that it be the first to be informed of Commission proposals. The question whether the Commission may publish its proposals in the *Official Journal of the Communities* (Mr Couve de Murville referred to 'our' *official gazette*) was merely raised. It was recognised that agreement must be reached on the moment when the Commission could publish its proposals. Mr Colombo considered that the *Official Journal* should contain only the texts of decisions. Mr Fayat suggested that the Council should consider proposals in rather more detail before referring them to Parliament for consultation.

Point 5:

Mr Couve de Murville clarified the French proposal: the Council should have at least the same powers as the Commission. Furthermore, the entire procedure the presentation of credentials needed to be simplified.

Mr Spaak showed some understanding for that French proposal and described the ceremony as antiquated. Perhaps a written note would suffice in which the Ambassadors would indicate that they had been accredited to the Community. At all events, the Ambassadors could present their credentials to the President of the Council and the President of the Commission at the same time. Mr Colombo believed that the President of the Council should be involved in that procedure. Mr Schröder pointed out that, at present, some 60 Ambassadors were accredited to the Community and that the change that France wished to see would place further burdens on the President of the Council.

Mr Couve de Murville repeated his proposal, taking the view that the Presidents of the Council and of the Commission should jointly receive the Ambassadors; that would preserve the balance between the two heads of the Community executive body.

Point 6:

This point did not give rise to lengthy debate. It was agreed that the Commission should inform the Council of any important official approaches that it made; it was for the Permanent Representatives to define the procedures. Mr Spaak met with approval from his colleagues when he pointed out that he informed his Prime Minister only of approaches that he regarded as genuinely important. The French delegation proved prepared to accept an appropriate in response to its proposal.

Point 7:

The Delegations agreed to consider the matters raised by France. They felt that the wording of the third subparagraph was too rigid. Mr Couve de Murville said that he was prepared to seek a compromise. The

Council members seemed to agree that the Council and the Commission should act jointly at the time when relations were established, but on the other hand – as Mr Luns pointed out – Article 129 must not become meaningless. In support of its arguments, the French delegation pointed to precedents drawn from the application of Articles 229 to 231. Some Delegations feared that the French Government might also refer to Article 116 if its proposals were not accepted.

Point 8:

This point gave rise to fairly lengthy discussion. Endorsing a German comment, the Belgian and Italian Ministers also declared that imposing a requirement of that kind on members of the Commission would be acceptable only if the governments also demonstrated a degree of reticence in their assessment of the Commission's activities; a degree of reciprocity would, therefore, be appropriate. Mr Werner emphasised that the Council should take account of the political responsibility assumed by its twin institution. Mr Schröder called for this issue to be approached with due tact and with consideration for the eminent persons who served on the Commission. Of course, the Commission must impose certain limits, in the view of Mr Luns. It had no right to deliver an opinion on political questions such as policy towards China; on the other hand, the Treaty conferred political powers on it. Mr Spaak said that he was against that kind of code of conduct. The question should be debated with reference to Article 162. Responding to his colleagues' reactions, Mr Couve de Murville raised the tenor of the debate. He explained that the French proposal concerned all the staff of the Commission, which was an institution in the service of the Member States' governments. The Commission must not uphold views contrary to Member States' policy, and, all too often, the Commission only opposes one of them. If Commission members wanted to carry out political activities and play a role in their respective country's political parties, they must return to their national governments.

Mr Schröder noted that the Commission was not in the service of the governments and that relations between the Commission and the Council must be regulated in accordance with Article 162.

The Five seemed to be in a position to endorse a wording more or less to the effect that members of the Commission should endeavour to demonstrate reticence and discretion in their public statements on the policies of the Member States. At all events, he thought that it was possible for them to dispense altogether with a written provision on this point.

Point 9:

Mr Couve de Murville justified his proposal by pointing out that the Community's information policy should not operate only for the benefit of the Commission. He drew attention to certain excesses: caricatures in the Bulletin of The Hague and in Professor Lerner's questionnaire. The five partners showed some sympathy for this French request. The discussion focussed more on how to ensure that in practice, the Council could share in the management of this area. The Permanent Representatives were instructed to seek a solution. The Presidency was envisaging participation on an equal footing in the Management Board of the Joint Press and Information Service and the drawing up of annual programmes.

Point 10:

Mr Boegner explained during the working meeting with his colleagues that the French Government was thinking of an institution that already existed in the Euratom Commission and that an 'Authorising Officer' should also be appointed to the EEC Commission with the task of participating in the authorisation of expenditure. Mr Fayat pointed to the precedent of the report on the High Authority's expenditure. Mr Schröder felt that this issue should also be discussed with the Commission and that talks between the Presidents of the Council and of the Commission would be an appropriate method. The Permanent Representatives were instructed to consider the issue in further depth. There was little clarity on this point.

The Permanent Representatives were instructed, with a view to preparations for the work of the Council on 28 January, to draft a document setting out in writing the Council's position with regard to future cooperation with the Commission, a document which would serve as a basis for the talks that would be held,

at the appropriate time, with the single Commission, in the event that French demands regarding the timetable were met.

IV. Timetable of work proposed by the French delegation

During the meeting held on the afternoon of 18 January, Mr Couve de Murville submitted a draft timetable of work with the aim of ending, by 30 April 1966, the crisis that had arisen on 30 June 1965.

The timetable of work should be agreed as follows:

1. Before 1 February, the Council should reach agreement on matters relating to the introduction of the system of majority decisions and lay down the principles on which, on the basis of the French memorandum, cooperation between the Council and the Commission should be organised. The Member States should also agree on a deadline for depositing the instruments of ratification of the Merger Treaty. In the French view, the Treaty should enter into force not later than 1 April. That meant that the instruments of ratification must be deposited during March.
2. As from 1 February 1966, talks would begin between the Member States on the appointment of the members of the single Commission and the application of the principle of rotating Presidencies and Vice-Presidencies. Those talks must end not later than 1 March. Immediately after Easter, on 18 April, the governments should appoint the members, President and Vice-President of the single Commission.
3. Before 7 February, the French Government would give its agreement to the introduction of a written procedure for the EEC and Euratom budgets.
4. The French Government was prepared to resume participation in discussions in Brussels, at normal Council meetings, in order to:
 - a. approve the financial regulation not later than 31 March 1966;
 - b. agree on a system for an approach to the common customs tariff, suspended until 30 April.

The presentation of that timetable of work darkened the mood in the Council considerably, with France's partners disappointed in their hope that the French Government would resume normal cooperation in the Community institutions once the two main issues raised by France had been resolved. The meeting was adjourned for more than an hour, and the five Ministers consulted among themselves on their reaction to the French timetable of work. Even after the meeting had resumed, the mood remained tense.

Mr Couve de Murville rejected the Netherlands proposal that other items be included in the timetable, while Mr Luns regretted that the budgetary question had been included. Mr Couve de Murville said that he was prepared to delete the budgetary question.

No decision was taken on the French draft timetable. At the request of Mr Luns, it was agreed that the meeting should be adjourned and resumed in Luxembourg on 28 and, where necessary, also on 29 January. The Permanent Representatives were instructed to seek solutions to the two issues raised by France during the preparatory meetings scheduled for 26 and 27 January in Luxembourg. The French delegation would take part in those discussions.