

Memorandum from the French Government (Luxembourg, 17 and 18 January 1966)

Caption: On 17 and 18 January 1966, during the extraordinary meeting of the Council of Ministers of the Six in Luxembourg, Maurice Couve de Murville, French Foreign Minister, submits to his European partners a document including 10 suggestions, known as the 'decalogue', concerning the role of the European Commission and its relations with the Council.

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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 dispatch 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.

8. 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.

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