

## The Andriessen Report, Relations between the Institutions of the Community

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## Relations between the Institutions of the Community

### I. Introduction

1. During Parliament's debate on the Programme Address last February, the Commission undertook to produce a comprehensive paper on interinstitutional relations.

The paper, which the Commission is now presenting as promised, must be read in the broader context of the further political and institutional development of the Community.

There are three reasons for this.

The first is implementation of the May Mandate. In the report which the Commission produced at the end of June we put forward an overall strategy to preserve the common market, adapt and amplify existing policies and develop new ones.

Further development of European policy calls not only for a political willingness on the part of the Member States to embark on new policies, but also for institutions capable of taking the necessary decisions.

It is essential, therefore, that the Community be given the institutional machinery it needs.

The Commission regards this paper as a logical addition to its report on the May Mandate.

Secondly, the Commission feels that this paper echoes the institutional debate held in Parliament last July. That debate was not confined to institutional relations as they now stand. Speakers went beyond these to consider how the Community should develop institutionally in the years ahead, with an eye in particular to the European elections due in 1984. The Commission wants to be involved in this debate. It believes that the time is ripe for it to present its view of possible developments outside the framework of the present Treaties.

Thirdly and lastly, the Commission welcomes the re-opening of the political debate on European Union. Ten years have gone by since the idea was launched at the first Paris Summit, making it all the more urgent to encourage new initiatives now. The Commission has every intention of playing its part and making a constructive contribution to the discussion.

For these various reasons the Commission has expanded this paper beyond what it promised Parliament in February 1981.

2. The continued development of common policies - the main objective of the Mandate Report - will be a dead letter unless the Community's institutions can rediscover their powers of decision. The Commission has no wish to re-hash all the reports which have been produced on the Community's decision-making mechanism, to vanish without trace. We would simply make the point that the mechanism must recover its true Community form and work effectively again. Even now, with the present decision-making process, the Community is unable to deal with the problems facing it, a state of affairs which will grow only worse when the Community is enlarged to include two new Member States. Yet the institutions' credibility will always depend on their effectiveness. It is therefore of paramount importance for the Community to restore the institutional balance that the authors of the Treaties had in mind. This means that the Council must increase its efficiency by resorting, if need be, to majority voting. Section II of the paper goes into this in more detail.

3. The Commission believes that, if the Community is to develop, Parliament must be given a bigger role to play. Indeed, any strengthening of Parliament's position widens the Community's democratic base. As the Community's only directly-elected institution, Parliament constitutes a unique public rostrum for the citizens of Europe.

If we are to revitalize European policy, it must be given more citizen-appeal. Parliament could serve as a platform for this, but to do so it must become the scene of major political events. Parliament itself must have

a hand in political events. Section III of the paper considers ways and means of strengthening Parliament's role within the framework of the present Treaties.

The Commission has no wish to interfere in any way with Parliament's role and responsibilities; its suggestions merely point to ways in which Parliament could extend its influence rapidly to an area where it is noticeably absent, namely legislation. Section IV of the paper looks at the role Parliament might play at a later stage of the Community's institutional development.

4. European integration is initially a wholly political concept, whose implementation proceeds by the formulation of economic policies and decisions.

Accordingly, if new policies are to be launched and successfully implemented, a broadening of the political consensus which underpins the Community is more important than ever. Our 25-year experiment has forced us to admit that the pursuit of the objectives laid down in the Treaties will not, by itself, lead to genuine European integration and full Commission participation therein. The Community must go further and the Commission welcomes recent moves to strengthen political cooperation and full Commission participation therein. It regards this as a precondition for progress, especially progress towards European Union. Section IV of the paper also discusses this aspect of European cooperation.

5. At all events the Commission would stress that care must be taken to ensure that closer political cooperation does not reinforce the intergovernmental nature of the Community's decision-making mechanism. That would weaken rather than strengthen the Community. Economic integration calls for a different mechanism to political cooperation.

Any new internal development presupposes stronger institutions. But this would not preclude the further development of European cooperation in fields where it has always been purely intergovernmental. As soon as convergence of political ideas is achieved Member States should find it easier to bow to a truly Community decision-making mechanism.

The institutions' powers of decision must be increased as the Community grows in political maturity. It would be as well to bear this in mind as we embark on our political and institutional debate.

Development of Community policy, strengthening of the institutions and broadening of the political consensus underpinning cooperation are the three prongs of future action. As guardian of the Treaties, the Commission, fully aware of the original responsibilities it shoulders in the Community's institutional set up, intends to be and stay in the foreground of the debate.

This paper, which constitutes the Commission's contribution to Parliament's discussion, sets out the guidelines on which the Commission proposes to base its consultations with the other institutions.

### **The inter-institutional balance.**

6. There is no doubt that the decline in Member States' political commitment has strengthened intergovernmental factors within the Community. A prime example of this is the decision-making process within the Council. Reference has been made on a number of occasions - in the Vedel Report for instance - to the unhealthy consequences of the "Luxembourg compromise" for decision making. Its influence has been threefold: it is resorted to by all Member States, it is used on virtually all issues and it is invoked at all levels of decision making. The Three Wise Men in their report suggested, quite logically, that in cases where the Treaty did not call for unanimity and where no Member State's vital interests were at stake, a vote should be taken after a certain amount of time had been devoted to the search for a generally acceptable solution. Any Member State which wanted to avert a vote because of an important national interest would have to say so clearly and explicitly and take responsibility for the consequences on behalf of its Government. The Commission had already suggested a similar approach in the section of its communication on enlargement (the "Fresco") dealing with the transitional period and the institutional consequences.

7. The Commission would like to make two further comments. Firstly, it would like to clarify the intrinsic nature of majority voting. Majority voting does not mean that a vote is taken in every case where majority voting is possible, for the simple reason that it is always preferable for Council decisions to be acceptable to all Council members. However, even if unanimity is out of the question, it should be possible to avoid deadlock. Majority decisions should therefore be seen as a last resort, but one which cannot be abandoned without seriously jeopardizing the workings of the Community.

Secondly, routine insistence on unanimity has eroded the Commission's status in relation to the first paragraph of Article 149 EEG, in that it has made it easier for the Council to depart from its proposals: the most it can do is withdraw its proposal. The practice has also upset arrangements for Parliamentary responsibility as envisaged by the Treaty.

8. Another spin off from the strengthening of intergovernmental factors within the Community is the Council's refusal to delegate important administrative and managerial functions unconditionally to the Commission, even when the Treaties explicitly state that the Commission is to perform such functions, as, for example, under Article 205 of the EEC Treaty with reference to the budget.

The fourth indent of Article 155 EEC specifies that the Commission "exercises the powers conferred on it by the Council for the implementation of the rules laid down by the latter", confirming that the Commission is the Community's supreme executive body. At the Paris Summit in December 1974, the Heads of State or Government agreed "on the advantage of making use of the provisions of the Treaty of Rome whereby the powers of implementation and management arising out of Community rules may be conferred on the Commission". The Council, however, has consistently acted otherwise. The Three Wise Men in their report and the Commission in its communication on the problems posed by enlargement ("Fresco") made a number of useful suggestions for lightening the Council's perpetual burden and restoring one of its key functions to the Commission.

9. The developments discussed above have led to a shift in the balance of powers from the Commission to the Council. As early as 1972 the Vedel Report pointed out that this shift had led to Council predominance growing "to such a point that the Council, acting in some instances as a Community body and in some others as the States in concert, has become the sole effective centre of power in the system". The Commission's political function has been heavily compromised, both as regards its involvement in the legislative process and its executive and management functions. The Council must, of course, play the leading role in decision-making. But the Commission cannot be excluded from this "political" function. The Commission for its part is anxious to preserve its political function, by both its power to propose and its power to mediate.

10. The Commission is absolutely convinced that the first step towards strengthening Parliament's position must be the restoration of mutual trust between Member States and a return to observance of the letter and spirit of the Treaties. Restoration of mutual trust would automatically mean that the Community's political institutions were once again in a position to exercise their integrating function. In the case of the Council, the view expressed by Heads of State or Government at the first Paris Summit, viz. that "it is necessary to renounce the practice which consists of making agreement on all questions conditional on the unanimous consent of the Member States" (point 6 of the final communiqué), must be put into practice. Besides it is the piling of delay on delay between the time the Commission makes its proposal and the time the Council debates it that is in part responsible for the Commission's playing a less effective role. Only in this way will the Commission be able to play its rightful role in the legislative process. But it must also be allowed to exercise its management powers to the full. If this is done, Parliament will win back the responsibilities conferred on it by the Treaties, namely to keep a watch on the Commission and provide a democratic base for the Community's legislative process.

11. The Commission is aware that there are other shortcomings in the workings of all the institutions - the Commission itself included. It is not going into them in detail, but simply referring back to the various reports mentioned above and to the many institutional resolutions passed by Parliament.

In this paper the Commission's only intention is to highlight the two most essential aspects for all

interinstitutional relations. As soon as substantial improvements are made there, solutions to the other problems could be found more easily.

12. The European Council would then no longer have to take the decisions that the various Councils had failed to take and could fully concentrate on its prime role as the political dynamo.

### **III. Parliament's role in the decision-making process**

13. The Commission has stressed the importance of Parliament's role in the Community's decision-making process on numerous occasions. Clearly, Parliament's full potential as a democratic power can only be realized in a climate of open cooperation between the three institutions.

If it is to be truly productive three-way cooperation - and cooperation between Commission and Parliament in particular - must not be allowed to interfere with the responsibilities assigned specifically to the Commission by the Treaties. The Commission's right to initiate Community legislation is one of the original and cardinal features of the Community structure. The Commission recognizes and supports Parliament's aspirations but it is also anxious to discharge the function assigned it by the Treaties to the test of its ability. It goes without saying that it is politically accountable to Parliament for the way in which it performs this task.

While it is accordingly keen that Parliament should engage in moves of its own, and fully intends to give these every possible support (see para 18), the Commission feels it must also state forthrightly that Parliamentary participation in the actual decision-making process cannot be other than at the expense of the Council's quasimonopoly of this. Parliament's very right and proper aspirations could initially materialize through, in particular, extension of the conciliation procedure (see para 19).

This said, the Commission is determined to do all it can to facilitate interinstitutional cooperation, making full use of existing procedures and proposing ways of strengthening them, so as to create a genuine political platform to serve the Community.

On this point the Commission is really taking up Parliament's debate on institutional relations last July. Many of the ideas on the functions of Parliament discussed below are, in fact, simply a recording of suggestions it has made earlier.

14. For the Community's decision-making machinery to operation efficiently each of the three institutions involved must be in good running order. The Commission would like to stress here that it could only play a greater part in Parliament's political debates if certain improvements were made in the way in which parliamentary proceedings are organized.

15. It is not for the Commission to tell Parliament how to perform its watchdog role. Parliament has the means and knows how to use them. The Commission for its part recognizes this role and is prepared to ensure that Parliament is able to perform it fully.

The Commission feels that it is essential that Parliament should vet action taken on its amendments, resolutions and so forth. Parliament's committees provide an ideal forum for this and the Commission hopes that the agreements reached in this matter can be extended. The present procedure for informing the full House of follow-up to Parliament's opinions must be improved too. Similarly, better preparation for debates, either in writing or at committee level, could well give them more political bite.

16. Against this background, it is hardly surprising that Parliament's main interest in the institutional debate is to put its case for a say in legislative matters. As things now stand, Parliament's powers in this area are very limited. It is therefore perfectly understandable that it is trying to expand and exploit its consultative function.

The Commission feels that, on the whole, existing procedures provide Parliament with the means of

acquiring a fair measure of influence, provided that they are consistently and vigorously applied in a spirit of mutual cooperation.

This is why the Commission understands the real significance of the recent changes to Parliament's Rules of Procedure. It is aware that they make provision for conciliation between the Commission and Parliament and is ready to act accordingly without, moreover, jeopardizing its own institutional responsibilities or needlessly blocking the decisions which are needed for the development of the Community.

19. In the Commission's view the conciliation procedure, introduced on its initiative and enshrined in the Joint Declaration of 4 March 1975, was designed to give Parliament an opportunity, in specific cases, to add weight to its opinions and play an effective role in the decision-making process by means of direct dialogue with the Council. Had things gone as planned, the conciliation procedure might have been a first step towards genuine powers of co-decision for Parliament.

It must be admitted, however, that the procedure failed to satisfy Parliament for a variety of reasons. Parliament never felt that it was involved in real dialogue with Council members, although this was the *raison d'être* of the declaration in the Commission's view.

The Commission therefore proposes that the other parties to the declaration should review the procedure with a view to making it really effective.

Conciliation should take place at an early stage before national positions have become entrenched, and all Council members should be free to participate, as originally intended. Better preparation in the form of preliminary contacts between institutions (which the Commission would actively assist) could increase the chances of agreement being reached.

If the conciliation procedure is to produce results, three way discussions must be initiated in which the Commission would do all in its power to promote political entente between the institutions. The Commission for its part advocates extension of the conciliation procedure and intends to raise this in connection with review of the Joint Declaration. It feels, however, that there is little point in extending the procedure until the content is brought into line with the objective.

20. Legislative conciliation covers a very broad field already, namely "Community acts of general application which have appreciable financial implications, and of which the adoption is not required by virtue of acts in existence". Very often, decisions to implement new policies or develop existing ones have substantial budgetary and financial repercussions. There is therefore no apparent reason why the legislative conciliation procedure could not be used extensively. For instance, the Commission considers that most of the decisions following on from the Mandate Report would qualify, the object being to ensure that they are consistent with any action which Parliament takes later under its budgetary powers, when the financial consequences of the mandate are incorporated into the budget.

It should be borne in mind that so far legislative conciliation has run up against a series of general problems in which Parliament's budgetary powers have been at stake. They include the classification of expenditure as compulsory or non compulsory (which determines the respective powers of the institutions with regard to the budget), the indication of figures, whether binding or for purposes of evaluation, to restrict the budgetary implications of the action proposed, the question of whether or not the budget by itself is an adequate legal basis for expenditure and the part to be played by the committees in taking individual financing decisions.

It is therefore essential - and this would also serve to revitalize legislative conciliation - that the interinstitutional dialogue on budgetary matters should produce a genuine convergence of the views of the institutions.

21. It is in the budgetary field above all others that Parliament possesses real powers, although recent years have shown that using them can lead to confrontations between the two arms of the budgetary authority, both when the budget is being established and when it is being implemented. On a number of occasions the

Commission has called for a real interinstitutional dialogue and Parliament has fought for this for a number of years. Although some initial progress has been made, now is the time for it to begin in earnest. It is true that agreement has been reached on some budgetary principles, but Parliament has expressed the desire to go further along this road and deal with all the points listed in its resolution of 10 April 1981 as well as any other matters which the Council might wish to raise. The Commission fully supports this approach by Parliament.

On these points, as on others where the positions of the institutions are still far apart, the interinstitutional dialogue must lead to solutions which are acceptable to all the parties concerned and in conformity with the Treaties.

With respect to the content of the budget, where Parliament's most extensive powers concern non-compulsory expenditure, the Commission, together with Parliament, will continue to seek a better balance between compulsory and non-compulsory expenditures. Tangible evidence of this determination could be seen in recent budgets, but more will be possible in the restructuring exercise under the Mandate. The Commission's objective approach to the classification of expenditure is not far removed from that of Parliament.

22. The Treaty of 22 July 1975 gives Parliament the power to grant the Commission a discharge in respect of the implementation of the Community budget. Parliament has interpreted this right extensively and has made political use of its power of control by examining both the utilization of appropriations and the implementation of the various policies. The Commission can confirm that it accepts this form of Parliamentary control.

23. The Commission is aware that the conclusion of international agreements is a Community activity of major political importance and understands Parliament's growing, legitimate interest. It is also aware that Parliament considers its powers in this respect less than satisfactory - when compared with those of some national parliaments - despite the fact that the Luns and Westerterp procedures, which have not always been exploited to the full, represent an improvement on the legal situation deriving from the Treaties.

The Commission is prepared to collaborate with Parliament and the Council in the search for an agreement on practical improvements to existing procedures so that Parliament can be more closely involved in the preparation of international agreements, without eroding the competences of the individual institutions.

In practice the Luns and Westerterp procedures apply to association agreements and bilateral trade agreements only. The Commission feels that they could readily be extended to other Community agreements, in other words, to multilateral trade agreements (such as commodity agreements on cereals, sugar, cocoa, etc.) and agreements in other fields (such as the environment). This has indeed already been done, as witness for instance Parliament's action in holding a debate on the Multifibres Agreement.

Moreover, the content of the procedures could be improved to provide Parliament with more information, thereby strengthening its advisory and supervisory roles.

There is nothing to prevent Parliament from organizing a policy debate in plenary session before major negotiations begin. If Parliament were to do so, the Commission would be only too pleased to take part.

As far as negotiating mandates are concerned, it is hard to see how the matter could be debated in public without jeopardizing Community interests. However, the Commission has no objection to briefing the appropriate parliamentary committee on the general political and economic factors on which the negotiating mandate is based.

The Commission is already in the habit of briefing parliamentary committees on the progress of negotiations. It is quite prepared to do more in this respect on the understanding that contacts remain unofficial and confidential.

Taken together these improvements should enable Parliament to achieve the desired objective, namely to play a larger part in negotiations with non-member countries.

24. Finally the Commission considers that, even in the short term, Parliament has the means to extend its influence.

The Commission feels that the proposals and suggestions made in this section of the paper could make for better and more balanced relations between Parliament and the Commission. It is aware that relations between Parliament and the Council have also tended increasingly towards a direct and sometimes profitable dialogue and considers that such relations help to enhance Parliament's political standing in the Community. It is pleased to note in this respect that the President-in-office of the European Council has announced that she will address the House on the work of the European Council.

Some of the suggestions regarding relations between the three institutions made in this document will have to be given shape in interinstitutional agreements. The Commission will take the necessary steps in this regard.

#### **IV. Beyond the treaties**

25. Our suggestions for strengthening Parliament's position, although significant, must be seen in the current context of the Community. With European Union in prospect, Parliament's powers should perhaps be extended further. European Union is, after all, a dynamic process and, as the Three Wise Men so rightly said, it must lead to a Community prepared to display increasing solidarity. The basis for this could be a new treaty, which would respect the fundamental principles of the existing Treaties and supplement them to establish a European Union.

26. The idea of a Treaty on European Union is not new, since it was launched some years ago by Mr Tindemans in his report on European Union. It has been taken up more recently by Mr Genscher; now, in addition, the German Federal Government has proposed to its partners the adoption by solemn declaration of a 'European act' covering the European Community, Political Cooperation and the European Council. In other words, it would confirm the role of the Community as the cornerstone of European integration and the role of the European Council as the political body responsible for laying down guidelines for European cooperation. An act along these lines would not create European Union but would provide a framework for achieving it.

The Commission considers that this suggestion merits reflection. As the dividing line between the Community and political cooperation becomes increasingly blurred, the time is ripe for putting forward concrete ideas. The major issues facing the Community (the economic crisis, energy problems and relations with developing countries) can no longer be solved without reference to foreign policy decisions. The Commission believes that the subject should be pursued further. It intends to make an active contribution by submitting its own suggestions to Parliament and the Member States in the near future.

27. Parliament's views on this cannot be ignored. It has endorsed the idea of a new treaty and would like to draft it itself. The Commission feels that any new treaty should define the direction in which Parliament's powers should be extended, providing in particular for Parliament to be given certain legislative powers in line with the undertaking given at the first Paris Summit in 1972. It considers it quite natural therefore that Parliament should be involved in drafting the text and welcomes Parliament's decision to set up an ad hoc committee.

The Commission is well aware that these ideas, including the suggestion for Parliament to be given a say in the appointment and investiture of the Commission, cannot be put into practice overnight, that it will take time and, above all, political will.

28. European Union is not a matter for the Member States' governments alone. On the contrary, its success depends on the support of the people of Europe. In the Declaration on European identity issued on 15



December 1973, the Heads of State or Government recognized that the European identity is one of the fundamental ingredients for a united Europe. The Commission feels sure that Parliament, as the voice of the spirit of Europe, will do all in its power to help create a comprehensive and effective institutional structure for the Community.