

Memorandum from the British Government (17 April 1952)

Caption: On 17 April 1952, the British Government submits to the Committee of Ministers of the Council of Europe a memorandum on the means whereby the European Coal and Steel Community (ECSC), the future European Defence Community (EDC) and any other specialised European institutions which might be established might operate under the aegis of the Council of Europe.

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MEMORANDUM by Her Majesty's Government in the United Kingdom (17 April 1952)

1. At the meeting of Ministers' Deputies on 21st March, the United Kingdom Representative undertook to circulate a memorandum explaining in detail how practical effect might be given to the proposals put forward by the Secretary of State for Foreign Affairs at the Tenth Session of the Committee of Ministers.

2. It will be recalled that the essence of Mr. Eden's proposals was that the Council of Europe should be remodelled so that its organs could serve as the ministerial and parliamentary institutions of the Schuman Plan, the European Defence Community and any future organisations of the same structure. At the same time, the Council of Europe would continue to serve as a consultative body and as a forum for intergovernmental and parliamentary cooperation in Western Europe.

3. If these proposals are acceptable, it will be necessary to work out a "two-tier" system on the following basis:

(a) On occasions, the Committee of Ministers and the Assembly would meet on a 6-power basis to transact business connected with the Schuman Plan and the European Defence Community; and on a similarly restricted basis in the case of future supranational organisations with the same structure. Countries not participating in these organisations would not be represented at these restricted meetings unless invited to attend as observers (or in some other capacity) by the Governments concerned.

(b) The Committee of Ministers and the Assembly would continue to meet, as at present, on a 15-power basis for the purposes set out in Article 1 of the Statute.

Method of giving legal effect to the United Kingdom proposals

4. The Statute of the Council of Europe in its present form would remain the framework within which the Committee of Ministers and the Assembly would operate, on a 15-power basis. In particular, Article 1 (d) of the Statute, which excludes questions of national defence from the competence of the Council of Europe, would continue to apply to meetings of the Committee of Ministers and the Assembly as a whole, except in so far as the Ministers have agreed that the Assembly can discuss the political aspects of defence (see also paragraph 7 below).

5. Provision for restricted meetings of the Committee of Ministers and the Assembly, to enable these organs to serve as the institutions of existing and future supranational organisations, would be made in a Protocol to the Statute. This Protocol would be purely permissive. It would therefore be left to the Governments participating in the Schuman Plan and the European Defence Community to decide whether and at what stage the ministerial and parliamentary institutions of the European Community should be brought under the aegis of the Council of Europe. These Governments would make whatever arrangements were necessary among themselves — either by administrative dispositions or by the conclusion of a separate legal instrument — to take advantage of the facilities provided for in the Protocol. This, in the view of Her Majesty's Government, would not necessarily involve at this stage an amendment to the Treaty constituting the Coal and Steel Community or to the draft E.D.C. Treaty in its present form. The United Kingdom proposals need not therefore delay the ratification of the former nor the conclusion of the latter.

6. The Protocol to the Statute of the Council of Europe might be based on existing texts dealing with specialised authorities and the conclusion of partial agreements. These texts are not, however, sufficiently precise or comprehensive to give effect to the United Kingdom proposals. Moreover, before a Protocol can usefully be drafted, it will be necessary for member Governments to reach agreement on the following points:

(a) Membership and functions of the Assembly.

(i) In order to conform to the representation laid down for the Assemblies of the E.D.C. and the Schuman

Plan some adjustment in the membership of the Assembly of the Council of Europe seems desirable in order to permit the same representatives to sit in both the 6-power Assembly and the 15-power Assembly. This would provide continuity and a close link between the work of the two bodies. As the draft E.D.C. Treaty stands at present, the E.D.C. Assembly will, in the first instance, be the same as the Assembly of the Schuman Plan, except that, for E.D.C. purposes, France, the German Federal Republic and Italy will each have three additional seats. Taking the E.D.C. Assembly as a basis, this would mean an increase in representation as follows (the figures in brackets indicate present membership):

| | | |
|-------------------------|----|------|
| France | 21 | (18) |
| German Federal Republic | 21 | (18) |
| Italy | 21 | (18) |
| Belgium | 10 | (6) |
| Netherlands | 10 | (6) |
| Luxembourg | 4 | (3) |

Governments not participating in the work of the 6-power Assembly may wish to consider whether their representation in the 15-power Assembly should also be increased in order to preserve the present balance.

(ii) The report of the Paris Conference submitted to the North Atlantic Council at Lisbon states that the First Assembly of the European Defence Community will, as soon as the Treaty comes into force, examine the constitution of a Defence Community Assembly which will be specially elected on a democratic basis. It therefore appears that the Protocol to the Statute of the Council of Europe should include provisions modifying Article 25 (a) of the Statute to enable Assembly representatives from the countries participating in the European Defence Community to be appointed in due course by direct election. Representatives from other countries would continue to be elected by national parliaments or appointed in such manner as these parliaments may decide.

(iii) Provision might be made for representatives of countries not participating in the Schuman Plan and the E.D.C. to be invited to attend restricted sessions of the Assembly as observers or in some other capacity.

(iv) The Assembly when it meets on a 6-power basis would exercise those functions allotted to the Schuman Plan and E.D.C. Assemblies under the relevant Treaties, and would not be bound by the rules of procedure of the Assembly as a whole.

(b) Committee of Ministers.

(i) Article 14 of the Statute of the Council of Europe provides that representatives of the Committee of Ministers shall be Ministers for Foreign Affairs or their alternates. Members of the ministerial bodies of the Coal and Steel Community and the E.D.C. will not necessarily be Foreign Ministers. It therefore seems desirable to include in the Protocol provisions enabling each of the six Governments concerned to be represented at restricted meetings of the Committee of Ministers by any representative they choose to appoint. This representative would attend in his own right and not as an alternate of the Minister for Foreign Affairs.

(ii) Provision might also be made for the six Governments concerned to invite representatives of other member Governments to attend restricted meetings of the Committee of Ministers as observers or in some other capacity.

(iii) The Committee of Ministers when it meets on a 6-power basis would exercise the powers and functions of the ministerial bodies of the Schuman Plan and the E.D.C. and would not be bound by the rules of procedure of the Committee of Ministers as a whole.

(c) Organisation of the Secretariat.

The United Kingdom proposals involve more work and increased responsibilities for the Secretariat General

which, in addition to its present functions, would be required to provide the Secretariat for the Council of Ministers and Assembly of both the Schuman Plan and the E.D.C. The Secretariat General in its present form should be able to provide certain common services for the Committee of Ministers and the Assembly whether they meet in restricted session or on a 15-power basis. This arrangement should prove more economical than the establishment of the ministerial and parliamentary institutions of the Schuman Plan and the E.D.C. outside the framework of the Council of Europe. So far as the institutions of the Schuman Plan are concerned, it might be possible for the Secretariat General to undertake the additional work with only a small increase in its present staff.

The work connected with the E.D.C. presents a special problem. In view of the secret nature of E.D.C. questions, special security arrangements will be required to ensure that E.D.C. documents are not dealt with by unauthorised persons and that European Defence Community matters do not come within the competence of the Secretariat General as a whole. This points to the creation of a separate, self-contained Secretariat for E.D.C. questions, the head of which would be directly responsible to the Secretary-General. This Secretariat would not be concerned with the other work of the Council of Europe, although, for economy reasons, it would make use of the general administrative services of the Secretariat General for such matters as accommodation, payment of salaries, etc.

(d) Finance.

It is suggested that the additional cost to the Council of Europe of undertaking functions connected with the Schuman Plan, the E.D.C., and any similar organisations created in the future, should be borne by the Governments concerned. If it should prove impracticable to secure this object by identifying the proportions of the total expenditure of the Council attributable to the performance of such functions and charging them to the powers directly concerned, some alternative means of securing it would have to be devised, for example by re-assessing the percentage contributions of all member countries on a basis which took due account of the degree of participation of each member country in the activities of the Council as a whole.

The E.D.C. defence questions and the Council of Europe.

7. The United Kingdom proposals, in so far as they relate to the Council of Ministers and the Assembly of the E.D.C., must be regarded as an exception to Article 1 (d) of the Statute, which excludes questions of national defence from the competence of the Council of Europe. Article 1 (d) will still apply to the work of the Committee of Ministers and the Assembly as a whole. Thus, those countries not participating in the E.D.C. will not necessarily come into contact with this aspect of the Council of Europe's work. In any case the United Kingdom proposals do no more than enable the Council of Europe to provide the political institutions of the E.D.C., leaving military questions to be dealt with outside the Council of Europe by the Board of Commissioners of the E.D.C. and by N.A.T.O.

CONCLUSION.

8. The more detailed proposals set out above take into account the views expressed at the tenth session of the Committee of Ministers. They are intended as a basis for discussion at the meeting of Deputies on 28th April. While, in the view of Her Majesty's Government, they represent the most satisfactory way of giving practical effect to the United Kingdom proposals, Her Majesty's Government will, of course, give careful and sympathetic consideration to any alternative suggestions put forward by other Member Governments.