

Deliberations of the Luxembourg Extraordinary Council (Luxembourg, 25 January 1966)

Caption: On 25 January 1966, Pierre Pescatore, Secretary-General of the Luxembourg Ministry of Foreign Affairs, assesses the deliberations of the Extraordinary Council of the European Communities, held on 17 and 18 January 1966, during which the Foreign Ministers of the Six, meeting in Luxembourg, considered the possibilities of reaching a political compromise which might put an end to the empty chair crisis.

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Summary record of the meeting of the extraordinary Council of the Communities (17 and 18 January 1966 in Luxembourg)

I. On 17 and 18 January 1966, the ministerial representatives of the six Member States of the EEC and Euratom met as a select Council, which they termed an 'extraordinary Council' because, as had been agreed between the five other Member States and France, it was held in the absence of the European Commissions and not in the regular venue for Council meetings, the Palais des Congrès in Brussels. The meeting took place in the Hôtel de Ville in Luxembourg with Mr Pierre Werner, President-in-Office of the Councils of the EEC and Euratom, in the chair. A list of the ministerial representatives present is attached. The participants met for supper on 17 January in the Ministry for Foreign Affairs as guests of the President.

The sole item on the agenda was 'Consideration of the general situation of the Communities'.

II. Opening the meeting, Mr Werner stressed the extraordinary nature of this Council meeting. He hoped that all the participants were prepared to engage in frank and direct discussion so that a decisive step might be taken towards resumption of normal relations within the Communities.

On behalf of the French delegation, Mr Couve de Murville then outlined the French position. The crisis had begun with the breakdown of discussions on the Financial Regulation in late June 1965. He attributed the breakdown to the fact that the Communities' current institutional machinery was ill-suited to addressing the problems faced. Those problems had been compounded, in particular by the Commission when it had presented unexpected proposals that went well beyond what had been envisaged. This had made it impossible to agree on an objective basis for discussions among the six Member States, and they had 'gone their separate ways'. It was now time to look objectively at the situation and to see where reform was needed. This process had to be a political one: hence the current meeting.

The French delegation highlighted two problems for consideration, namely majority voting and cooperation between the Council and the Commission. It then set out its ideas on how to organise the work required if a solution to the crisis was to be found. For the purposes of this summary records, each of these three issues is addressed separately.

1. Problems in relation to voting

Outline of the French position: it was only to be expected that conflicts of interest among the partners should surface during Council deliberations. The common aim, in working as a Community, must, however, be to reach agreement, in other words to find a compromise between the various positions, without imposing solutions on any of the partners. In the third transitional stage under the Treaty of Rome, majority voting would be used more frequently, particularly on important questions concerning, for example, commercial policy and agricultural policy, whereas it had previously been used only in relation to problems of 'application'. Since our Community was not ideal, the current system of majority voting was becoming a source of conflict, and, indeed, it was a tortuous system. It had apparently been invented to afford better guarantees to the small countries likely to find themselves most often in a minority in the Council. The system was based on the notion that the Commission — which took its own decisions by majority vote — was objective and that it protected the small countries which were well represented there. In fact, this was mere wishful thinking, for, in most cases, the majority in the Commission simply reflected that in the Council.

How could the current system be adjusted and improved?

A. By amending the Rome treaties. This was not a revolutionary idea, as the treaties were already in the process of being amended by the Merger Treaty. On the other hand, it should be remembered that the Commission's proposals on the role of the Assembly themselves envisaged amendment of the treaties. The French Government was aware, however, of the objection raised by some Member States that their parliaments would not approve amendment of the treaties' provisions on the voting system. This was a view that the French Government accepted. An alternative solution therefore had to be found.

B. It was possible to seek a political arrangement whereby it would be agreed that the voting rules laid down in the treaties would not actually be invoked. Use of majority voting was, in the spirit of the treaty, an option rather than a requirement (an assertion which drew fierce objections from the other Delegations). Mr Couve de Murville had no preconceived idea about the form that such a political arrangement might take. It was not, in his view, feasible to go so far as enumerating those instances in which a majority vote should be ruled out. On the other hand, the French delegation could accept only a formula that guaranteed that majority decision-making would be ruled out in certain cases. He therefore proposed the following wording: ‘The Council will not avail itself of the possibility of taking a majority decision if one of the Member States so requests.’

Council deliberations: The ‘Five’ (the FRG, Italy and the Benelux countries) said that it would be not only inappropriate but actually impossible to alter the treaties with regard to the voting procedure. The German and Netherlands Delegations simply indicated that they took a negative view of the French position and pointed out that all decisions taken in the Community institutions to date had been informed by mutual regard. Mr Luns restated his opposition to a right of veto, since that would have the effect of paralysing the Community. He could, however, agree to affording a guarantee against abuse of the majority position.

The President said there was general acknowledgement by all the Delegations that problems arose with the move to the third transitional stage. The issue had to be addressed in a positive manner, working from the idea that the treaties envisaged the common interest as an expression of the Member States’ interests, an idea conveyed particularly by Articles 2 and 6 of the EEC Treaty. Might this not be the starting point in seeking an acceptable formula?

Mr Colombo (Italy) dismissed the French formula as entirely negative, because its sole effect was to prevent application of the majority system and, ultimately, to change the terms of the treaties without recourse to the requisite parliamentary procedures, and that rendered it unacceptable. Moreover, such a formula would pose a threat to the smooth functioning of the Community, because a unilateral and subjective declaration, concerning even a minor matter, could be used as a blocking mechanism. What might be envisaged, on the other hand, was a temporary arrangement that would no later than the end of the transitional period. Echoing Mr Schröder, Mr Colombo took the view that, where a country declared a vital interest to be at stake, a joint effort should be made to find a unanimous solution. There should, however, be no question of putting majority voting ‘on ice’.

Currently, Mr Colombo could envisage two cases where a commitment to unanimous decision-making might be appropriate:

- A. amendment of decisions that had been taken by the Council unanimously during stages one and two;
- B. on issues that ought to have been adopted unanimously during stages one and two but were still pending.

Mr Spaak (Belgium) supported the views expressed by Mr Colombo. He deplored the idea that the treaties could be changed by interministerial agreement, for this would raise issues of principle that the national parliaments could not accept. Everything should be done, however, to ensure that the treaties were applied ‘sensibly’ within the Council, in other words with the aim of arriving at a unanimous decision on important matters wherever possible. Mr Spaak regarded the majority vote as an ultimate tool for use in the event of deadlock. Moreover, experience showed that it had always been possible to achieve unanimity on important questions (for example, in discussions on merging the Communities, on the seats of the institutions and on cereals prices). With regard to the guarantees sought by France, Mr Spaak could envisage the following arrangement:

- A. acceptance of Mr Colombo’s suggestions in his points (a) and (b);
- B. for matters not covered by Mr Colombo’s proposal, to draw up a protocol laying down a stage-by-stage procedure: in other words the Council should proceed — as national parliaments did — through a number of

readings of any Commission proposals that affected a specific or vital interest of one or two Member States. If unanimity (i.e. compromise) could not be achieved after three readings, the decision would be taken by majority. The protocol would begin with a number of recitals, and Mr Spaak submitted a provisional draft of these to the heads of delegation. His text referred to Article 2 of the Treaty of Rome, referred to a situation where 'an essential interest was at stake' and expressed the idea that the 'interests of the minority' had to be protected.

All the Delegations appeared to find Mr Colombo's proposal (b) acceptable, although Mr Schröder added the proviso that it required further study and Mr Luns said that he could not give his agreement until all the elements under discussion were clear. By contrast, both Mr Schröder and Mr Luns considered that Mr Colombo's proposal (a) would prove seriously difficult to apply, although the Luxembourg delegation voiced no objections to it. The French delegation, for its part, considered that the need for unanimity was implicit in the situation envisaged here. It could not imagine that a decision taken unanimously might be amended by a majority, for this would jeopardize the whole spirit of trust within the Community.

The Five did not voice any fundamental objections to the conciliation procedure proposed by Mr Spaak, although the German delegation said that it was very complicated. In Mr Couve de Murville's view, it did not resolve the problem, because it was ultimately based on majority voting, and the French delegation could not accept that. Mr Werner said that the issue could be summed up as a fundamental difference of opinion, with one side seeking to prevent abusive use of a majority and the other seeking to counter abuse of the minority position and the right of veto. Efforts therefore be made to produce a formula that would address these two apparently contradictory concerns.

2. Cooperation between the Council and the Commission

Outline of the French position: it was not the French Government's intention to put the Commission on trial; indeed, it recognised the Commission's merits. Nor did it seek to alter the Commission's status as laid down in the treaties. There was, however, a need for the Commission to confine itself to the role that the treaties defined for it and for it to show some political judgment. Mr Couve de Murville went on to comment on a 10-point memorandum that the French delegation had distributed setting out criticisms of the way the Commission worked. A detailed analysis of the memorandum and of the Delegations' comments thereon appears in a separate report.

The problems raised concerned, in particular, the Commission's activities in the field of external relations (diplomatic relations, public relations and information), control of the Commissions' expenditure, delegation of powers by the Council to the Commission and the drafting of proposals.

Establishment of the single Commission would present an opportunity for a smooth transition between the arrangements applying to the existing Commission and the new system. It would, therefore, be useful if ratification procedures for the Merger Treaty could be completed at an early date so that the Single Commission could be established as soon as possible. Of course, such establishment would depend upon prior agreement with regard to its composition and the system of rotating its Presidency and Vice-Presidencies. In this way, insurmountable legal problems could be avoided, and the Community could resume its work as quickly as possible.

Deliberations:

The Delegations of the Five paid tribute to the work of the European Commissions. The German delegation, echoed by the representatives of Italy and of the Benelux countries, pointed out that the organisation of the Commissions' activities was covered by Article 162 of the EEC Treaty and Article 131 of the Euratom Treaty which stipulated that the Council and Commission should settle their methods of cooperation 'by common accord'. Any change in the current arrangements — which were based partly on a communication from Mr Pella, President of the Council in 1959, and partly on tradition — ought therefore to be determined together with the Commissions by common accord, and the Commission should be contacted as soon as possible. It was not acceptable for the Council to draft instructions that would be imposed upon the

Commissions. The role of the Commission as an institution should not be diminished, and it should continue to function as the engine of the Community.

Mr Couve de Murville agreed that the matter was covered by the provisions cited. The sole purpose of the current discussion was to determine the Council's position in its subsequent meetings with the Commission. The Commissions as they existed would not continue to function for much longer; so the new methods, or guidelines, would apply to the single Commission and would thus form part of the overall settlement of the current dispute. There was, however, no question of weakening the Commission's position as laid down by the treaties.

The Council then proceeded to consider the ten points in the French memorandum. A proposal from Mr Werner that the discussion should not include the problems listed under 3) and 4) in the memorandum — concerning powers delegated by the Council to the Commission and, therefore, relating primarily to the Council's exercise of its own responsibilities — was agreed.

The other points drew no insuperable objections from the Delegations of the Five. They agreed that the current arrangements did not properly convey the twin-headed image that the Community ought to present in its external relations. They would be prepared to accept reorganisation of certain aspects of external relations and information policy so that they would, in future, reflect cooperation, on an equal footing, between the Council and the Commission. A lengthy discussion then ensued with regard to the 'reasonable neutrality' that France requested members of the Commissions to observe in any public statements concerning the policies followed by the Member States' governments. In order to be acceptable to the Five, the request would have to be couched in much more flexible terms. Mr Spaak added to the French memorandum the suggestion that cooperation between the Commission and the Permanent Representatives' Committee should also be reconsidered with a view to improvement.

3. Timetable for further work

Outline of the French position: Mr Couve de Murville went on to outline how his Delegation envisaged the organisation of the further work required to resolve the crisis.

The proposed timetable included a series of stage-by-stage agreements to be concluded around the date upon which the Merger Treaty entered into force. The stages were as follows:

A. Before 1 February: agreement on majority voting; on cooperation between the Council and the Commission; and on the date on which instruments of ratification for the Merger Treaty would have to be deposited (if possible before 31 March 1966 so that the treaty could enter into force on 1 April 1966). These agreements would be followed no later than 7 February by approval, via the written procedure, of the draft budgets of the EEC and Euratom. In addition, between 1 February and 1 March, the Six would negotiate an agreement on the composition of the Single Commission and on the rotation of its Presidency and Vice-Presidencies. Ratifications of the Merger Treaty would be deposited no later than 31 March 1966; the members of the single Commission would then be formally appointed on 10 April 1966.

B. If this timetable were accepted, the French Delegation would agree to resume discussions, at a normal Council meeting in Brussels and in the presence of the current Commission, on two important issues that also had to be resolved within a short time, namely a) the Financial Regulation which should, where possible, be adopted before 31 March, and b) the level of the Communities' external customs tariff, to be used as a basis for the second harmonisation of the common external tariff (to be determined by 30 April 1966).

Deliberations: The other Delegations objected more or less strenuously to the timetable and to the brisk manner in which the French Minister had presented it: the President therefore adjourned the meeting so that consultations might take place. These were held initially on a bilateral basis and then among the Five, in Mr Werner's office.

When the meeting resumed, the five Delegations made the following points:

- a. the issues raised by the timetable lay outside the agenda for the current meeting which was concerned with just two matters, majority voting and the role of the Commission;
- b. the Delegations expected normal work in Brussels to resume as soon as these two basic questions had been settled.

The French programme, however, included fresh proposals. It was currently unacceptable in its entirety. Mr Luns added that it was quite impossible to set a date for the ratification of the Merger Treaty without prior agreement on the composition of the future single Commission.

Mr Spaak and Mr Colombo then drew attention to the incomplete nature of the French document, which, in relation to agricultural policy, dealt only with the problem of financing. That problem would, however, have to be settled within the framework set out in the Commission memorandum dated of late July 1965 and in the light of the deliberations that had taken place, in France's absence, at the Councils held in the second half of 1965: the French timetable would, therefore, have to be extended to cover the smooth development of the Community in all economic areas (including, for example, industrial and commercial policy), and questions including that of own resources.

In conclusion, Mr Spaak said that he was concerned about Euratom's financial situation, as it was close to bankruptcy. It was essential, in his view, to settle the problem of the adoption of the budgets as soon as possible.

In reply, Mr Couve de Murville said that he was surprised by the reactions to an initiative from the French delegation which had merely aimed to concentrate minds and facilitate the discussion by outlining the problems to be settled so that a swift overall solution to the European crisis might be found.

The key objective was to reach agreement on the political problems (concerning the voting system and the Commission). The matter of the Commission had to be considered in two parts: firstly, cooperation between the Commissions and the Council and, secondly, establishment of the single Commission. These questions had to be addressed first. They would be followed by those of the merger and the establishment of the new institutions. The French Government shared the wish of its counterparts in Belgium and the Netherlands to avoid a vacuum and a situation where the Community was unable to act, and it therefore agreed that ratification could take place only when it was certain that there would be a new Commission. In reply to a question from Mr Spaak, Mr Couve de Murville said that normal French participation in the Brussels institutions would be confined initially to discussion of the Financial Regulation. Only when that problem had been settled could the institutions resume full normal activity. It was important not to reopen the 'Pandora's box' of 30 June by linking other problems to the issue of agriculture financing. This was the only problem that he could see in the Commission memorandum of 30 July 1965, an observation which drew objections from the other five Delegations.

Mr Werner concluded that the French explanations offered reassurance on certain points and that the timetable was, in essence, no more than an inventory of the most important decisions to be tackled. At the same time, it had to be recognised that, until agreement was reached on the political questions, it would be difficult to commit to a fixed timetable. The French document would, therefore, be regarded simply as a working hypothesis.

III. So that certain governments would not have to agree to a further 'extraordinary' Council meeting without the Commission and away from the regular venue, it was decided that the current session would not be closed but would remain adjourned until 27 January 1966 at 3 p.m., when the six Delegations would reconvene in extraordinary Council in the Hôtel de Ville in Luxembourg for a series of meetings that might last until the morning of Sunday 29 January.

In the interim, the six Delegations agreed that they would instruct their Permanent Representatives to

consider the following two questions:

- a. majority voting (the French formula, Mr Colombo's proposal and Mr Spaak's proposal);
- b. the French delegation's memorandum on guidelines for the Commission.

These meetings would be held in Luxembourg on Wednesday 25 and Thursday 26 January 1966.

IV. The holding of the Council in the Hôtel de Ville had been a success, reflecting cooperation between the municipal authorities, the staff of the Communities (and particularly the General Secretariat of the Councils) and the government departments. Press facilities (a Press Centre in the Cercle Municipal Building and a lounge area in part of the Hôtel de Ville's peristyle) had been provided on the basis of cooperation between the Councils' General Secretariat and the Press and Information Service of the Ministry of State.

Luxembourg, 24 January 1966

Annex

Extraordinary Council meeting of 17 and 18 January 1966

Record of attendance of members of governments

1. Luxembourg

– Mr Pierre Werner
Prime Minister and Minister for Foreign Affairs

– Mr Marcel Fischbach
Deputy Minister for Foreign Affairs

2. Netherlands

– Mr Joseph Luns
Minister for Foreign Affairs

– Mr Leo de Block
Secretary of State for Foreign Affairs

3. Belgium

– Mr Paul-Henri Spaak
Minister for Foreign Affairs

– Mr Henri Fayat
Secretary of State for Foreign Affairs

4. Federal Republic of Germany

– Mr Gerhard Schröder
Minister for Foreign Affairs

– Mr Kurt Schmücker
Minister for Economic Affairs

– Mr Rolf Lahr
Secretary of State in the Ministry for Foreign Affairs

– Mr Fritz Neef
Secretary of State in the Ministry for Economic Affairs

5. France

– Mr Maurice Couve de Murville
Minister for Foreign Affairs

6. Italy

– Mr Emilio Colombo
Minister for Finance

– Mr Mario Zagari
Deputy State Secretary for Foreign Affairs