

APPENDIX 1

Ratification Procedures in Member States

(as at 3 December, 1986)

1. Denmark: Instruments of Ratification deposited on 13 June, 1986.
2. Belgium: Instruments of Ratification deposited on 25 August, 1986.
3. United Kingdom: Instruments of Ratification were deposited on 19 November, 1986.
4. Luxembourg: Ratification approved on 22 October, 1986.
5. Spain: Ratified by Parliament.
6. Italy: Ratification was approved by Senate on 1 October, 1986. Chamber of Deputies will consider the SEA as soon as possible.
7. France: The French National Assembly approved ratification on 21 November, 1986. The Senate is due to consider the SEA on 10 December, 1986.
8. Germany: Ratification was approved in the Bundestag. The Bundesrat had its first reading on 13 November, 1986. Completion of ratification procedures is envisaged for 20 December, 1986.
9. Netherlands: The Lower House approved ratification on 18 November, 1986. The Upper House will debate the SEA 16 December, 1986.
10. Portugal: On course for ratification before end of 1986. The debate could follow the Budget debate which ends 4 December, 1986.
11. Greece: The Single Act is due to be submitted this week to Parliament.

REACTIONS IN MEMBER STATES

DENMARK

After much internal disagreement settled by the Referendum on 27 February, 1986, Denmark decided to join the EEC Member States. In supporting the terms of the SEA. Ironically although it was last to agree the Single Act, it was the first Member State to complete internal ratification procedures and its instruments of ratification were deposited on 13 June, 1986.

The Folketing approved an amendment to the legislation permitting its accession to the Community to the effect that keeping the "right to veto" as laid out in the so-called "Luxembourg Compromise" remains as in 1973 a sine qua non for Denmark's continued membership.

SPAIN

The Spanish Parliament unanimously approved a bill authorising the ratification of the SEA on 2 October, 1986. The Foreign Minister Mr. Ordóñez stated that Spain was aware of the need for an "ever-growing policy of cohesion and solidarity which protects the common interests (of the EEC) and its independence."

FRANCE

The French National Assembly ratified the SEA on 21 November, 1986.

[498 for (Socialist Majority of RPR UDF)

35 against (Communists)

33 abstentions]

A proposal by the Centrists that a unilateral declaration on the interpretation of the "Luxembourg Compromise" according to which the use of the veto would be reserved uniquely for Heads of State was defeated.

The French Government was in favour of more progress. President Mitterand stated before the Council of Ministers that the Single Act is a "Compromise of Progress".

Giscard d'Estaing stated that the "act was necessary but insufficient".

Some spoke of the Single Act as though it would lead to a "profound mutation" and others felt it was of no importance.

The question of whether the SEA could be amended also arose as did the definition of the use of the Luxembourg Compromise.

Michel Debré - (RPR) attacked idea of a Europe without frontiers and stated that he believed the new treaty to be unconstitutional because it questioned the competence of the French Parliament

ITALY

All political groups except the radicals voted for a resolution saying that the Act was far from achieving the desired progress towards European Union, and criticising its failings. The Senate invited the Government to support

European Parliament efforts to accelerate unification and to grant the European Parliament to be elected in 1989 an explicit mandate to draw up a Community Constitution. European citizens could be invited to choose the basic provisions of this constitution through a referendum.

The radical group justified its rejection of the SEA because it felt that it lacked practical content. Only by rejecting the Act, according to them, could enough confrontation be ensured between Member States to bring about real progress towards European unification.

GREECE

In May, 1986 Greece submitted a memorandum to the Council on the provisions of the SEA relating to economic and social cohesion. The Memorandum pointed out that the objective set out in the SEA is that of "reducing

the differences between the various regions and the delay in the development of the less-favoured regions".

The Greek Government believes that the setting up of the large internal market is likely to make these imbalance still worse. In particular Greece believes that it will be necessary to make fuller and more imaginative use of the structural funds, and the importance of these resources must be enhanced. It believes that if the objective is to be attained it is essential to establish a consistent multi-annual programme to promote social and economic cohesion. Such a programme could come into effect by 1992.

GERMANY

The German Federal Government introduced a compromise on the ratification of the Single European Act in the hope of winning over opposition from the Lander (regional governments).

German ratification of the Single Act has been blocked by the Bundesrat (Regional Government Chamber), which would like to have some say in the EEC decision-making process. Under the compromise submitted to the Bundesrat, it would be obligatory for the Federal Government to provide the Bundesrat with details on certain EEC questions. Matters falling entirely under the competence of the Federal Government, such as foreign policy, would, of course, be excluded. It would also provide for Lander participation in Germany's permanent representation to the EEC.

NETHERLANDS

On Tuesday, 18 November, 1986 M. Bosson, Minister with responsibility for European Affairs stated his view that most of the provisions of the Single European Act with the exception of those dealing with the internal market have only a limited range. He referred to the SEA as "a step forward, of modest importance, a signal" and reviewed the following problems with Dutch Parliamentarians:-

- decision mechanisms: the Single Act touches them only with "a rather light hand".
- political cooperation: by creating a "neutral" secretariat, the Single Act should prevent the risks attached to the use by a Member

State of the means on which it has a monopoly because of its presidency. M. Bosson mentioned the example of the first meeting of the Twelve on Syria, during which, he recalled, the British presidency had substituted at the last minute a new text to that on which the delegations had worked.

- possible unconstitutionality of certain articles of the Single Act (in particular in tax matters):

M. Bosson indicated that the prime minister is entitled to solicit the opinion of the constitutional Council, but that he would not do this. According to him, if there were unconstitutionality, it would rather affect the Treaty of Rome itself, since, in many fields, it leaves a choice between utilising regulations or directives.

PORTUGAL

The Portuguese Communist Party which completely opposed to the EEC considered taking the matter to the constitutional court.

GREAT BRITAIN

Two Reports were adopted in relation to the SEA by the House of Lords Select Committee on the European Communities. The first Report, published on 6 May, 1986 entitled "Single European Act and Parliamentary Scrutiny"⁽¹⁾ concluded as follows:-

1. "The powers of the United Kingdom Parliament will be weakened by the Single European Act."
2. "The erosion of some of the power of national Parliaments was an inevitable consequence of membership of the Community. It is liable to be accelerated by measures which make the Community more effective politically and economically and enhance the status of a directly - elected Parliament."
3. "In previous Reports the Committee had referred to the gradual replacement of national competence by Community competence sometimes without any opportunity for parliamentary approval. The Committee suggested that the House of Lords may wish to consider this question in tandem with the SEA."
4. "The SEA would affect the scrutiny procedures of the House of Lords slightly and could make the Select Committee's task more difficult. Suggestions are made for adjustments."

The Second relevant Report was published on 15 July, 1986. and is entitled "Delegation of powers to the Commission".⁽¹⁾

The Select Committee's conclusions were as follows:-

1. "As a general principle, powers to implement in detail the broad rules laid down by the Council should be delegated to the Commission but there must be adequate safeguards (paragraph 38)."
2. "Safeguards are needed to protect the interests of persons or bodies directly affected by Commission proposals and major national interests and, in the tradition of democracy, to ensure that legislative

acts are not delegated to the executive without reference to a legislative body responsible to the electorate (paragraph 39)."

3. "The Council should retain the power to reserve to itself the enactment of implementing legislation but should do so only in particularly sensitive areas (paragraph 40)".

4. "There is advantage in limiting the choice of procedures which the Council can require the Commission to adopt for enacting implementing legislation to a few clear-cut and familiar procedures. The three procedures suggested by the Commission ("Advisory", "Management" and "Regulatory" Committees) are appropriate ones. The procedures should be prescribed by a binding instrument but subject to review in three years' time (paragraphs 41, 42 and 58)."

5. "It would be desirable for the Council, in the not too distant future, to specify the areas of Community activity for which each of the procedures should normally be adopted (paragraph 43)."

6. "While the Advisory Committee procedure could often be used for the adoption of rules harmonising national laws affecting the internal market the Management or Regulatory Committee procedures should be used where important national or democratic interests need to be protected (paragraph 45)".

7. "Where the Management or Regulatory Committee procedures (but not the Advisory Committee procedure) are applied there should be added, where the Council considers it appropriate, a provision enabling single Member States whose vital national interest is at stake to have the Commission proposal referred to the Council for determination. For proposals subject to the Regulatory Committee procedure such a reference should always delay the introduction of the measure (paragraphs 46-48)".

8. "Council instruments conferring delegated powers on the Commission will come before the United Kingdom Parliament under the established scrutiny procedures, but Parliament should also be able to exercise some scrutiny of the delegated legislation while in draft. Proposals placed before the Regulatory Committees should always be shown to Parliament. So should all proposals referred to the Council under either the Management or the Regulatory Committee procedure, whether in consequence of a vote of the Committee consulted or of an appeal by a single Member State. Copies of the proposal should be deposited with Parliament together with explanatory memoranda and an indication of the likely timetable for adoption (paragraphs 49-56)."

9. "Ministers should not be required to give any undertaking to Parliament that, pending scrutiny of such proposals by the House, agreement to them in the Council or a Committee would be withheld (paragraph 57)."

10. "The Select Committee have not finished taking evidence on the need for consultation of the European Parliament on implementing legislation proposed by the Commission. They also wish to examine the adequacy of consultation with interested bodies and persons generally, to which reference was made in two of the Select Committee's recent reports. They intend to cover these matters in their final report in the light of further enquiries."

11. "The Committee consider that the proposal for a Regulation laying down the procedures for the exercise of implementing powers conferred on the Commission raises important questions to which the attention of the House should be drawn and they make this report to the House to assist consideration of the European Communities (Amendment) Bill."

The Report from the House of Commons Foreign Affairs Committee on the Single European Act was published on 9 June, 1986.⁽¹⁾

Its conclusions were as follows:-

(i) "The institutional and procedural changes embodied in the Single European Act go further than HM Government had initially proposed (paragraph 7); they will have potentially significant effects on the operation of most of the Community institutions (paragraph 57)."

(ii) "The changes embodied in the Treaty represent significant but not radical changes in the balance of power within the Community; although they encourage progress in directions already accepted as desirable by HM Government they nonetheless signify a movement towards greater collective action in the Community and to that extent the powers of the United Kingdom Parliament will be weakened (paragraph 58)."

(iii) "Some confusion has been created by the description of this Treaty as an "Act", and we would have wished that the more normal term had been adhered to (paragraph 10); further confusion has resulted from the inclusion in the Treaty of some provisions which do amend Community law and some which do not: this would have been avoided if the agreement on European Political Co-operation had been embodied in a separate treaty (paragraphs 12 and 22)".

(iv) "The references to European Union in the Preamble are perhaps unfortunate, given the wide divergence of opinion about what that term - and, indeed, the Stuttgart Declaration of June 1983 - is supposed to mean (paragraph 14)."

(v) "We continue to believe that the role of the European Council should be better defined, and this Treaty is seriously deficient in this respect (paragraph 16)."

(vi) "The additions to Part 111 of the EEC Treaty (Policy of the Community) represent a not insignificant extension of the legal competence of the Community, and provisions in relation to the protection of the environment and health and safety at work are likely to provoke considerable argument between the Member States (paragraph 19)."

(vii) "The effect of Article 19 of the Single European Act requires a full explanation by Ministers (paragraph 29); the target for the completion of the internal market by the end of 1992 will require a remarkable and uncharacteristic accord between the Community institutions and the Member States (paragraph 32), and we are bound to have reservations about the prospects of achieving that target on time (paragraph 33)."

(viii) "The ability of Member States to invoke the Luxembourg Compromise must be further limited by their agreement to extend the area of majority voting in the Council (paragraph 40), and it is politically unrealistic to assume that other member governments would accept what amounted to a United Kingdom veto in areas in which the UK Government has expressed the desire to see the Community's decision-making systems unblocked (paragraph 42)."

(ix) "Although the new "co-operation procedure" leaves the final decision-taking power with the Council, there is, in our view, little doubt that if the Commission and the Assembly are in accord in respect of any particular item of legislation, the freedom of the Council to adopt a different position will be inevitably circumscribed as a result (paragraph 47); the new procedures will therefore undoubtedly reduce the ability of individual Member States to pursue their national interests to the point of actually obstructing the progress of new legislation regarded as acceptable by the majority (paragraph 48)."

(x) "We greatly welcome the evidence of practical co-operation and co-ordination in foreign policy-making within the Community in recent years, and would hope to see it enhanced. But we are not altogether happy that commitments should be entered upon which could provide grounds for recriminations between Member States (paragraph 54); and we draw the attention of the House to the much greater political commitment to foreign policy co-ordination and co-operation represented by Article 111 of the Single European Act (paragraph 53). We intend closely to monitor this process after the Treaty comes into force (paragraph 55)".

BELGIUM

During the debate on the adoption of a resolution ratifying the SEA the Belgian House of Representatives rejected a proposal to insert a point asking the Belgian Government to propose that "this project of European Union be submitted to a consultative referendum in all the Member States of the European Community". The justification for the proposed amendment was that "it is necessary to associate the citizens of the EC as rapidly as possible with the process of European democratisation and integration".

Belgium was the second Member State to ratify the SEA and deposited its instruments of ratification on 25 August, 1986. The Belgian Parliament approved of the SEA by a unanimous vote on 10 July, 1986.

Foreign Affairs Minister Leo Tindemans stated that the SEA was "a partial and unsatisfactory response" to the Community's problems and the present constraints on the decision making process.

RESOLUTIONS ADOPTED BY THE BELGIAN CHAMBER OF REPRESENTATIVES ON 10 JULY 1986 AND BY THE BELGIAN SENATE ON 24 JULY 1986

The Chamber/The Senate,

Having regard to the Single European Act of 27 January 1986 amending the European Treaties,

Having regard to the report of its Advisory Committee on European Affairs No. 500-I (EUR) (1985-1986),¹

Whereas the governments of all the Member States of the European Community have signed the draft Single Act,

Whereas the approval thereof by all the national parliaments is desirable in view of the agreement reached by the governments and the opportunities for progress, however modest, embodied in the Single Act,

Whereas these opportunities for progress (ie essentially in the area of creation of the internal market, the establishment of a common technology policy, recognition of the principle of environment policy as an area for Community action and the inclusion of the European Monetary System and the ECU in the Treaties,

Whereas it is also important to codify the practice of European political cooperation (EPC) at international Level in correlation with the Community Treaties, particularly since EPC also includes political and economic aspects,

Believing, however, that the scope of this Act is insufficient to meet the needs of further European integration and that on the occasion of its ratification the Chamber /The Senate intends to express its opinion on the Single European Act, bearing in mind the need for further progress towards European Union,

I. The Single European Act

Whereas

(a) despite the fact that it contains a number of improvements, the Single European Act nonetheless still fails to achieve European Union, although this was announced at the European Summit in The Hague in 1969 and subsequently on numerous occasions by the European Council of Heads of State or Government,

(b) more specifically, the fact that it is impossible for the directly-elected Parliament to exercise democratic control and to participate in decision-making is a cause for concern in a Community of free peoples for whom parliamentary democracy is a vital part of their heritage,

Considers:

that the Single European Act cannot be a source of progress unless it is implemented in accordance with the following requirements:

(1) the exceptions and derogations provided for therein shall in no case undermine the Community patrimony or the case Law to which it has given rise;

(2) the declarations of intention contained in the Single European Act must be translated into practical policy as soon as possible;

(3) the use of the veto for decision-making within the Council of Ministers must be terminated since this practice is not only

contrary to the initial Treaties but also to the spirit of the Single European Act, which seeks to increase the number of cases in which decisions are taken by a majority;

(4) the Limited cooperation provided for in the Legislative field between the Parliament, Council and Commission must be applied in a constructive manner from the outset so as effectively to promote the democratization of the Community;

(5) the executive powers of the Commission, which are provided for in principle in the initial Treaty, may not be reduced by restrictive measures adopted by the Council, nor undermine the rights of Parliament by excessive delegation of powers to the Commission;

Calls on the Government:

to ensure that the Treaties amended by the Single European Act are applied in a constructive manner and in a spirit compatible with the views expressed above.

Decides:

to instruct its Advisory Committee on European Affairs to assess, at regular intervals the results of application of the Single European Act and to report to the Chamber.²

II. European Union

Whereas:

(a) the rapid achievement of European Union remains a necessary and urgent objective to guarantee the future of the peoples of Europe, and in particular to overcome the economic recession and unemployment, to close the technology gap, to ensure protection of the environment, to safeguard Liberty and peace and to promote cooperation and development at international Level;

(b) a significant majority of the population of the European Community now wish to see a strengthening of European integration and this sentiment must be promoted in all the Member States by providing the general public with more information and by closer cooperation between the national parliaments and between the latter and the European Parliament;

Considers:

(1) that efforts to achieve European Union must be pursued with determination, in a spirit of constructive cooperation between national and European institutions, guided by the draft treaty drawn up by the European Parliament;

(2) the European Parliament, which is the legitimate representative of the people at European level, must also play a specific role in the achievement of the Union;

(3) the Community and the Member States must ensure that the third direct European elections in 1989 are of real significance as regards the achievement of European Union and, to this effect, the

new Parliament should be instructed to prepare, in agreement with the other Community institutions, a draft treaty for the Union to be submitted to the national parliaments for ratification;

(4) it is necessary to draw up a uniform European electoral law prior to these elections, as provided for under the initial Treaties, such a law shall provide that all Community citizens may participate fully in the elections, irrespective of the Member State in which they are resident;

Calls on the Government:

to do everything in its power to defend these opinions and objectives within the framework of the European Council, the Council of Ministers and European political cooperation;

to report annually to the Chamber/Senate on the policy pursued in this area.

Decides:

- to instruct its Advisory Committee on European Affairs to monitor systematically progress towards European Union and to report to the House³;
- to promote cooperation with the European Parliament and with the national parliaments by appropriate means, in order to promote the achievement of European Union as far as possible;
- to forward this resolution to the Senate/Chamber, the European Parliament and the national parliaments of the European Community and to the European Council, the Council of Ministers and the Commission.

(1) House of Lords Session 1985-1986 12th Report HL 149.

(1) House of Lords Session 1985-1986 19th Report HL 228.

(1) House of Commons Third Report from Foreign Affairs Committee Session 1985-1986 442 69-iii and iv.

1,2,3 These points appear only in the resolution adopted by the Chamber of Representatives