

EDITORIAL COMMENTS

The British application for membership of the European Communities has been made. On 2 May the Prime Minister announced the decision of the Cabinet to the House of Commons. At the moment of writing the text of the application has not yet been made public and it is consequently not yet known whether it will mention in what way and under what conditions the United Kingdom will apply for membership. At the E.F.T.A. conference in London at the end of April the British intentions met with no major objections, but the need for ample transitional periods was emphasized and it was stated that the Governments of all the E.F.T.A. countries had an interest in the maintenance of the free market that now exists between themselves. It seems that Eire, Denmark and Norway will follow the British example; Austria is already negotiating an association agreement, and Sweden might think in the same direction, while Switzerland and Portugal take the most negative position.

The British step has undoubtedly been welcomed in most of the member States of the European Communities. The cautious and reserved attitude of France is not only to be accounted for by historical reasons and is certainly a cause for alarm. An extension of the Common Market with its characteristic institutional structure to the United Kingdom and other democratic countries in Europe would give a new and strong impulse to economic growth, as well as to the greater political cohesion of these countries.

Nor is there any doubt that a great many people in the European Communities are strongly in favour of Mr. Harold Wilson's view that a greater Europe has an important role to play in the world, and that, while maintaining its alliance with the U.S.A., it should contribute to the breaking down of the tension between "East and West" and between "North and South", i.e. between the Western and the communistic countries, and between the rich and the poor countries of the world. For the attainment of these objectives, too, the maintenance and the strengthening of the European institutions is essential. An intergovernmental organisation of twelve European countries would lack the coherence and the power to take the joint decisions necessary for the attainment of these objectives and to ensure the implementation of such decisions. For this reason, the statement by the Prime Minister in the House of Commons that the E.E.C. Treaty would not constitute an impediment to the entrance of Britain if the British demands could be met by supplementary provisions or in some other way, should not be considered an attempt to obtain a protocol that would further weaken the Community in the same way as the Luxembourg agreement of January 1966, which was arrived at under French pressure (see, for the text thereof, 3 C.M.L.Rev. 1965-66, pp. 469-470; and for a commentary 3 C.M.L.Rev. 1965-66, pp. 281-283).

Is it to be expected that the negotiations will be carried on with the U.K.

alone, negotiations on other applications starting only when British entry has been decided upon? An affirmative answer seems radicated by the reactions of the Dutch Minister of Foreign Affairs. And it is clear that simultaneous negotiations with three or four countries involve complications of all kinds. On the other hand, the prospect of the Community being kept for some years in a state of transition, through a number of consecutive negotiations, is not a very attractive one. A middle course must be found, with the assistance of the governments concerned. Much depends in any case on the time that will be required for the talks with the United Kingdom. If Mr. Wilson has understood the views in the capitals of the Six correctly, no problems exist which the U.K. requires should be solved before its entry and which are considered within the Community to be insoluble. And the number of these problems is limited. It would be an important step in the right direction if the negotiations could be confined to a few essential questions, and if the more technical matters could be solved within the Community organs after Great Britain's entry. The great advantages of such a procedure would not only lie in the shorter period that other applications would have to wait for decision but also in its stimulating effect on the progress of matters within the Community (the merger of the executives, and, subsequently, the merger of the Communities). In particular, those matters that will require dynamic decision making once the U.K. has become a member, will benefit therefrom. Technical development is one obvious example, which was rightly emphasized by the Prime Minister and different aspects of which at present fall under the competence of all three Communities. The results reached in the Kennedy round negotiations make it the more desirable that the United Kingdom is to become a member. Now that the high expectations of the success of the G.A.T.T. negotiations are of the main part fulfilled, there is no more reason to fear that the British step will lead to postponement and even to dangerous delays in taking the necessary decisions in Geneva.

Finally, a third group of interests that would benefit from short negotiations relate to the Atlantic alliance, the questions arising out of which must be dealt with before 1969. In the next few decades the Western world is faced with fundamental decisions on its political cohesion. These decisions must not be delayed longer than is absolutely inevitable.

Even in the most favourable circumstances it will be many months before the Community institutions are able to work with the larger number of members that would result from the new admissions. It might be advisable to hold preliminary discussions on procedural questions this Spring. After that, the negotiations might start in October and would continue during the greater part of 1968. In the meantime, the E.E.C. will become a complete customs union on July 1, 1968. Even if the final test of the Treaty on the British membership is drafted in the autumn of 1968 it will still have to be approved by the parliaments of all the parties to it. So it is not to take too pessimistic a view to conclude that great speed will be needed if results are to be obtained within two years. At the end of May a summit conference of the

member States of the E.E.C. will take place in Rome. The time-table for the negotiations will certainly be discussed there. It is to be hoped that caution and circumspection will not reign alone but that the threat of stagnation and the need for a new European élan will also be borne in mind.

After the military coup in Greece the European Parliament in Strasbourg discussed the situation in that country. The parliamentary committee for the Treaty of Association with Greece has declared that the joint parliamentary committee between the E.E.C. and Greece, which was established as a result of a decision of the Association Council on the basis of Article 71 of the Treaty, is paralysed and cannot function so long as the functioning of parliamentary institutions in Greece are suspended. The Parliamentary Committee has asked the Council and the Commission of the E.E.C. to take no more decisions in implementation of the Association Treaty for so long as the political situation in Greece is not normalised. Leaving aside the legal possibility of complying with this request, an important question arises: do the democratic principles laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms govern the functioning of the European Community internally and in its relations with associated countries? Two years ago Michel Waelbroeck adopted this position in his report to the 1965 Bruges Week. It is an established fact that the Convention confers upon every member State the right to lodge a complaint for violation of the Convention by another member State with the European Commission of Human Rights. Accordingly, one of the five member States participating in the European Community and at the same time parties to the Convention on Human Rights might—should the situation not take a turn for the better—avail itself of this remedy.

When the merger of the High Authority of the E.C.S.C. and the E.E.C. and Euratom Commissions is achieved in the next few months Professor Dr. W. Hallstein will not become a member of the new Commission. Apparently, consultations between the French and the German governments resulted in an agreement that Dr. Hallstein would become president of the new Commission but that he would remain in this office for only a few months and would then submit his resignation. Dr. Hallstein refused to accept this "solution" and informed Chancellor Kiesinger in a letter that he was no longer interested in appointment to the new Commission. This means the somewhat bitter end to ten years discharge of the onerous task of Chairman of the most important of the three executive organs of the Communities. Dr. Hallstein has fulfilled the duties of this unique position with great talent, tenacity and conviction. Besides being an extremely able lawyer he is a very gifted administrator and in his best moments an impressive orator. Moreover, he is strongly attached to the European idea and has for that reason been one of its most devoted defenders, even in difficult circumstances. It is with this especially that he is now reproached. Within a few months homage will

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be paid him on the occasion of his leaving the post he has occupied for so long. He should take with him the knowledge that many people have admired the sure touch of his guiding hand during the decisive years of the construction of the Communities and that they would have wished to see him Chairman of the new Commission.

The Publishers and Editors are pleased to announce that Professor Dr. Walther Hug, of St. Gallen, Switzerland, Director of the „Institut für Europäisches und Internationales Wirtschafts- und Sozialrecht” has agreed to become a member of the Editorial Board.

Corrigendum

In the December issue the name of the author of the report on the Second International Arbitration Congress (pp. 365–371) was omitted. The report was written by *Maitre* Jean Robert.