

EDITORIAL COMMENTS

The Hague summit conference on December 2 and 3, 1969, certainly did not satisfy everyone, but nevertheless fared better than most had expected. Stemming from an initiative of the French President, M. Pompidou, soon after his election six months earlier, the idea of a meeting of heads of state and prime ministers first met with suspicion in governmental circles in most member States. It was seen as an attempt to rally once more support for certain French policy objectives, especially the common financing of an already lame agricultural policy, and an emphasis on the intergovernmental character of the Community—rather than as an incentive for a new *relance* of European solidarity. It was believed to be more an expression of the *continuité* of French foreign policy than its *ouverture* which the new President had professed at his first press conference as his two basic aims. This suspicion of French motives most strongly appeared in the reaction of the Dutch Foreign Minister—Mr. Luns—when he stated that such a meeting should be convened without a formal agenda and as an *ad hoc* affair. This and similar reactions were a sign of a serious divergence of views between the Six.

As time went on, the climate changed and hope was strengthened that a summit meeting could nevertheless be a useful test to see whether a new climate of trust could be created, or at least could serve to lift the Community out of the political inertia of the past. In particular, when the new German coalition of Socialists and Free-Democrats had expressed its desire to break through the deadlock of existing disputes, and both Chancellor Brandt and Foreign Minister Scheel had made it clear that they saw no future for a Community in its present shape and size, the idea of a summit conference gained momentum. A further factor, which increased the political significance of the meeting, was that it coincided with the ending of the transitional period as foreseen in the EEC Treaty. On all sides, it became clear that a failure to achieve agreement—or at least the beginnings of agreement—on some of the most critical disputes would plunge the Community into greater stagnation than had ever existed, forcing the partners to rethink the whole concept of “an ever closer union among the European peoples” as envisaged in the preamble of the EEC Treaty.

Against this background, in which deeprooted distrust and the realization that the economic and political consequences of failure were too dangerous went hand in hand, the conference succeeded in at last creating the possibilities of a new phase of development.

Quite obviously, a two-day meeting could not manage to dispel all *arrières pensées*, nor to chase all the clouds from the sky, but nevertheless important decisions were taken. In essence the character of the sixteen-point communiqué (to be published in a later issue)—can best be described as a *pactum de contrahendo*—an agreement to find solutions for some of the questions most vital for a dynamic Community. These include

the completion of the common market, a definite regulation of the financial consequences of the agricultural policy, the development of the customs union into an economic union with all its monetary implications, the enlargement of the Communities through adherence of the four candidates—Great Britain, Denmark, Norway and Ireland—with whom negotiations should be initiated before June 30, 1970.

During the following weeks of December, the Council convened several times in various forms and appeared really to be inspired by the Hague conference. Ministers of foreign affairs and of finance, Ministers of economic affairs and technology, and last but not least, their colleagues in Ministries of agriculture put their best foot forward. Thus a new spark of hope for Euratom emerged. A reasonably short list of questions was drawn up for discussion by the Six in preparation for the negotiations on enlargement. The basic principles of common responsibility for the financial consequences of the common agricultural policy were renewed and finally general rules for the gradual replacement of the contributions of the member States by the Community's own resources were established.

These last-mentioned general rules provide for an interim period (1971–1974), during which all levies and a growing part of the national proceeds of customs duties will go to the Community. After that—*i.e.*, as from January 1, 1975—the resources of the Community will consist of the total proceeds of all levies and customs duties and of other proceeds up to a maximum of one point based on the assessment of the uniform TVA. The Community will, from 1971 on, reimburse the costs of collection, fixed at 10 per cent. of the total amount paid over as levies and customs duties, to every member State. A special rule limits the annual increase or decrease of the total contributions of any member State. This safeguard will be applicable even in 1976 and 1977 when there are no longer “contributions” in the proper sense.

Linked with these general rules on the Community's financing system, the Council adopted a resolution on a new set of applications from 1975. According to this resolution, the European Parliament would not only be able to amend the draft up by the Council, but also to overrule, in a second reading, the Council's version of the budget—provided that the decision of the Parliament shall not affect the balance as to revenues and expenditures, and will respect the maximum of the Community's resources as described above. This resolution however could only be adopted by the Council subject to a reservation by France. Similarly the general rules on Community resources were accepted with a German reservation. Such reservations have already been made on several occasions in the past, but they were always withdrawn without a request for an amendment of the act concerned.

In this case however, the French Government made use of their reservation; they declared that the new budget procedure could only be accepted provided that the European Parliament, when subjecting the

adoption of the budget to an amendment, should not be entitled to increase the total amount of expenditure fixed by the Council. Indeed, such a condition is not unknown in the public law of several member States; *vide* Article 113 of the German Constitution and Article 40 of the Constitution of the Fifth Republic. Nevertheless, it would limit the new powers of the European Parliament considerably, permitting only the transfer of expenditure from one heading of the draft budget to another. One might argue that such a limitation might not be of great practical importance, as the European Parliament, by deciding upon new expenditure, would never be competent to open, in that way, new fields of activity to the Community; according to the Treaty of Rome, it is the Council itself that would have to establish new regulations to that effect. However, the volume of administrative expenditure is of considerable importance for the task performed by the Institutions, notably for the administration of the Commission. From that point of view, the condition imposed by France is far from harmless. At this moment it is not clear whether the Council will be able to find a solution for this problem, capable of satisfying both France and the Netherlands, the latter having long urged that the European Parliament should have more real powers. As at least a part of the new rules on financing the Community will have to be ratified by the member States, a failure to solve this question might endanger the fragile balance embodied in the *pactum de contrahendo* of the Hague.

Greece and the Council of Europe

The long and bitter dispute over the continued membership of Greece in the Council of Europe came to an end on December 13 when, at the Paris meeting of the Council, Greece renounced her membership by formally withdrawing under the terms of Art. 7 of the Statute. The withdrawal was not a surprise; it became almost inevitable when the Greek delegation saw that a majority of the eighteen member States of the Council were prepared to vote for the suspension of Greece from membership under Art. 8 of the Statute. This provides a procedure for the suspension of a member which has seriously violated the terms of Art. 3:

“Every Member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realisation of the aim of the Council as specified in Chapter 1.”

The States associated with the move to suspend Greece from membership had earlier hoped to secure from the Greek Government a realistic timetable to meet the demands of the European Commission of Human Rights for the democratization of the régime. The timetable offered by the Greek Government was not acceptable to them; this provided for three phases—the final stage to be completed by mid-December 1970, by way of which preventive

press censorship would have been lifted, a new press law promulgated, the arbitrary powers of military arrest limited, constitutional guarantees restored, and new institutional laws established. The withdrawal of Greece from the Council, which was accepted to be effective immediately, is of course tragic; she acceded to the Statute on August 9, 1949, and has played an active part in the varied activities of the Council over the years. The work of the Council in the field of the international protection of human rights is undoubtedly the most striking example of regional co-operation in this field yet to emerge; against this background the absence of democratic freedoms in Greece at the present time could hardly pass unnoticed or uncensured. The obligations of membership of the Council are beyond doubt; in the present case there was no alternative to an insistence by the Council upon the observance of those obligations. Yet the Council of Europe—and Europe itself—needs Greece just as Greece needs the society and support of her neighbours. When the rule of law is re-established, and the parliamentary institutions in Greece can again co-operate with those of the Council, the present critics must be in the forefront of the movement to restore Greece to her rightful place in the counsels of Europe.