

EDITORIAL COMMENTS

The European Summit (I): Preparing for a European Union

The second Summit meeting of Heads of State or of Government, held in Paris from October 19–21, 1972, has neither brought the spectacular new beginning for the enlarged Community which some had hoped for, nor the dismal failure others had feared. Rather a few more steps have been set on the long road towards the formation of a European political system. Once more it was confirmed that the uniting of Europe remains an essential goal for the governments of the Community old and new. But at the same time one cannot escape from the fact that the structures and contents of this united Europe continue to mean different things to different people.

This was most clearly demonstrated in the final paragraph of the declaration issued at the end of the conference, where the will was expressed to transform “the whole complex of the relations” of the Nine into a European Union. As this concept is nowhere defined, it remains extremely vague and subject to varying interpretations. In the words of Dr. Mansholt, the President of the Commission, they may mean all or nothing. It has rightly been observed that this term can be applied equally to highly structured federations such as the USSR, alliances such as the Western European Union, or purely contractual arrangements such as the former European Payments Union.¹ Looking back to the discussion on Europe in the early post-war years, one is reminded of the resolution of the political commission adopted by the European congress at The Hague on May 10, 1948, which called for the creation of a Union or Federation . . . open to all European nations.² At the time this text reflected the controversy between the “unionists” and the “federalists”, which was later continued in the Council of Europe. Within that context the use of the term “union” had a restrictive meaning which excluded any transfer of powers to supranational institutions. Seen in this historical perspective it can hardly be argued that the term “European Union” is devoid of any dogmatic content. As opposed to the keyword “European federation”—implying a new reorganization of Europe—it is the expression of a minimalist attitude. One can only guess about the motivation behind the words. . . .

Be that as it may, it has been recognized in the preamble that the European Community remains “the driving force of European construction”. The institutions have been specifically charged with the drawing-up of a report on this topic before 1976. This report should fully respect the

¹ Schumacher, “A Lexicographer’s Guide to Political Europe” *Journ. Comm. Market Studies*, June 1972, 305.

² Text reprinted in *Landmarks in European Unity*, European Aspects E No. 10 (Leyden, 1970), 39.

present Community Treaties, a reference to the earlier experience with the Fouchet-plans.

Without doubt, the report will have to deal with the questions of a European view on defence matters. This is a subject of key importance which the government leaders were understandably hesitant even to touch upon at this occasion. Yet, as co-operation and integration grow in other fields, it is inevitable that sooner or later the divergent member States' views on security matters will have to be brought into the discussion about the European Union. The coming talks in Helsinki in preparation for the European Security Conference and those on M.B.F.R. will show whether any common guidelines can be developed. This would seem to be an essential feature if one is serious about "the whole complex of relations".

The theme "European Union" also includes that of a political union. At the Summit meeting the existing machinery for co-operation on foreign policy matters was strengthened. A concrete decision was taken, namely to hold meetings at the ministerial level four times a year instead of only twice (para. 14). This in turn will also imply increasing the pace of meetings of the Political Committee in preparation for the ministerial meetings. Close contact will be maintained with the Community institutions to the extent that the subjects discussed have a direct bearing on activities of the Community. Two "hot potatoes", the questions of the political secretariat and its seat, were not touched upon. These are apparently reserved for the second report on the improvement of political co-operation, to be submitted by the Foreign Ministers, not later than June 30, 1973 (a date already agreed in the First Davignon Report of 1970). It will be of interest to see whether this Report will also reach any conclusions as to the contents of a European foreign policy in specific fields. So far the results of the political co-operation cannot be considered to be spectacular.

The European Summit (II): Programme for the Seventies

There is a large measure of agreement that the Summit has at least had the positive result of fixing a programme of work for the Community for the next two years. The institutions have been allotted the task of preparing the various chapters of this ambitious programme. In this respect the Summit meeting has become nothing less than a new Community institution. It is symptomatic of the state of erosion of the Community structure that the broad guidelines for common action are no longer formulated by the official institutions but by a political body operating outside the framework of the Treaties. The Vedel Report on the enlargement of the powers of the European Parliament, although welcoming the fact that Summit meetings could "break the log jams which occur through the faulty working of the institutions", indicated at the same time its reserve as to their regular use. Lest they lose their

value they should only be called to settle very important problems. The present Summit has, in fact, acted in a number of areas as a "constituent assembly", a term coined by Commission member Spinelli.

Apart from the confirmation of the deadlines concerning the economic and monetary union and the creation of the European Monetary Cooperation Fund (see below), programmes have been laid down in the following spheres: regional policy, social policy, industrial, scientific and technological policy, the environment and energy. In each of these fields the institutions must establish reports or programmes of action, accompanied by time-tables. Deadlines are given in each case for the reports to be established. Two of these areas deserve a special comment.

Regional policy. In its resolution of March 21, 1972, on the economic and monetary union the Council had already, in principle, agreed that the European Agricultural Fund could be called in for action on regional development and that a fund for regional development or another system fed by common resources would be set up. In order to implement this undertaking, the Summit invited the institutions to create a Regional Development Fund before December 31, 1973, to be financed from the Community's own resources. This commitment was accepted upon the initiative of Mr. Heath, the British Prime Minister, who has thereby achieved his first success for the peripheral regions, such as Wales and Scotland.

On the other hand, it should be noted that the declaration no longer speaks of a common regional policy—as the Report of the Ad Hoc Preparatory Committee had done—but limits itself to the undertaking by the member States "to co-ordinate their regional policies".

Social policy. This paragraph reflects the concern of those who had for a long time insisted that the Community should receive "a more human face" and felt that the Community should be much more concerned with men. In fact, the Treaty provisions, by and large, lack any impetus in the social field. Stress is laid now in the declaration on "the increasing involvement of labour and management in the economic and social decisions of the Community". The institutions shall draw up an action programme before January 1, 1974, providing for concrete measures and the corresponding resources, particularly in the framework of the Social Fund. Special attention should be paid in this programme *inter alia* to employment and vocational training, workers' participation in the management of firms, collective wage agreements on the European level (of specific importance for the multinational enterprises) and to consumer protection.

In summing up the main items, paragraphs 10–13 on external relations—the second major item on the agenda of the Summit—should not be forgotten. Many commentators have voiced their disappointment that the quantitative proposals submitted to it concerning imports from the developing countries (15 per cent. yearly increase) and the expansion of

financial flows to these countries (to reach the threshold of 0.7 per cent. of the GNP of the donor country in two years) were not adopted. The lack of precise undertakings contrasts sharply with the ringing phrases on "the growing world responsibilities incumbent on Europe". Most certainly a chance has been missed to undo the negative picture which the Community presented at the UNCTAD conference earlier this year in Santiago de Chile. As for the relations with the industrial countries, no mention was made of the institutionalized dialogue with the United States, to which several countries attached great importance in view of the unsolved problems of the Atlantic world, especially in the monetary and commercial fields. Rather the formula is used that the dialogue with the United States, Japan, Canada and "the other industrialized trade partners" will be conducted in a forthcoming spirit, and "by using the most appropriate methods", which leaves open a large number of possibilities.

A novelty in the Community approach is that the institutions are requested to decide on a "global approach" to the multilateral negotiations within GATT before July 1, 1973. It is for the first time that the Community has taken the initiative in matters of commercial policy. Finally it should be mentioned in connection with Eastern Europe that the determination to follow a common commercial policy as of January 1, 1973, was reaffirmed. Furthermore a policy of co-operation with these countries is announced, which is closely linked with the preparations and progress of the Conference on Security and Co-operation in Europe. As to this conference the "common attitude" of the member States foreseen in the preparatory report, has been watered down to a "concerted effort".

The European Summit (III): Economic and monetary questions

In December 1969 the Heads of State and of Government of the Six proclaimed in The Hague the creation of an economic and monetary union as a new and important goal of the European Community. According to the declarations of that Summit conference, a plan for the establishment in stages of such a union was worked out during 1970 and formally adopted on March 22, 1971. The text of the relevant resolution was published in 8 C.M.L.Rev. 1971, 206. The implementation of that programme was, however, seriously jeopardized by the events that occurred in the following months: first an ever-increasing flow of dollars into the Federal Republic, followed by the floating of the D-mark, then the temporary suspension of full convertibility of dollars into gold which brought about a world monetary crisis. It was only after the provisional solution of this crisis by the so-called Smithsonian accord in December 1971 that the Six resumed their efforts. On March 21, 1972, the Council of the Communities and the representatives of the governments of the member States adopted a further resolution.³ It called for a strengthening

³ See J.O. 1972, C 38/3.

of the co-ordination procedures with regard to short-term economic policies of the member States, for the execution of the decisions, taken already a year before, to keep fluctuations in the rates between Community currencies within margins narrower than those which were admitted by the rules of IMF and, in addition to that, for setting up a system of interventions in Community currencies and of intra-Community settlements to be applied on a bilateral basis amongst the member States. Moreover, the Monetary Committee and the Committee of Governors of Central Banks were invited to submit a report on the tasks, the organization and the statutes of a European Monetary Co-operation Fund before June 30, 1972.

Having in mind the previous history, one might observe that the Summit conference in Paris has not brought about spectacular developments with regard to this first main subject. Perhaps the most important feature in this part of the published Declaration is that the Heads of State or of Government have reaffirmed⁴ the determination of the member States of the enlarged Community irreversibly to achieve the economic and monetary union, which is called "the guarantee of stability and growth, the foundation of their solidarity and the indispensable basis for social progress". The duration of the first stage is maintained to be three years; the second stage should be reached on January 1, 1974, and the union should be completed not later than seven years after, *i.e.* not later than December 31, 1980.

Besides, the participants to the conference decided to institute before April 1, 1973, "by solemn instrument, based on the EEC treaty"⁵ a European Monetary Co-operation Fund which will be administered by the Committee of Governors of Central Banks within the context of general guidelines on economic policy laid down by the Council of Ministers. It is memorable that the vague indication of the 1971-resolution ("in the first phase") has been replaced by a fixed date. It is important, too, that the Fund will obviously be incorporated in the Community institutional set-up. But it is deplorable that the role of the Commission of the Communities within the administering body has not been reinforced. As it is, the Commission is only "as a rule" invited to be represented at the Committee's sessions.⁶ This omission fits in what has been described as "the minimalist wind which was blowing at the Summit with regard to institutional reinforcement in general".

For the rest, all elements of the decisions and resolutions of March 22, 1971, and of March 21, 1972, have been confirmed, including the notorious so-called "guillotine clause" of March 1971.⁷ This clause was at that

⁴ "Reaffirm" is correct even for the three acceding member States; see Art. 3, para. 3, of the Act concerning the conditions of accession, etc.

⁵ This is a baffling phrase, pointing to a fully-fledged Treaty and to a Community act at the same time.

⁶ See J.O. 1964, 1206.

⁷ See 8 C.M.L.Rev. 1971, 211.

time inserted on the insistence of the German Government, in order to promote the harmonious execution of the plan and, above all, in order to provide the required parallelism between economic measures and monetary measures. However, any member State will be able to make use of this clause and urge its partners to comply with his demands at the transition of the first to the second stage. Recently there have been some indications that the Netherlands Government could be tempted to invoke this clause at the end of 1973 in order to exert pressure in favour of an extension of the powers of the European Parliament which it has again advocated in vain.

One further paragraph in the Summit declaration may be stressed. The Heads of State or Government considered that, in the field of economic policies, priority should be given to the fight against inflation and to a return to price stability. They instructed their competent ministers to adopt, on the occasion of the enlarged Council meeting, "precise measures in various fields which lend themselves to effective and realistic short term action towards those objectives". Following these instructions the Council, convened in Luxembourg on October 30 and 31, approved of a resolution which could be considered as the first anti-inflation programme for the enlarged Community. The fundamental aim is to reduce the rate of increase of consumer prices to 4 per cent. during the year 1973. Moreover, the resolution indicates in some detail the means to be used to that effect: they concern monetary policy, budget policy, "supervision" of the expansion of incomes, commercial policy, agricultural policy and competition policy. The joint action affects national policies, co-ordinated at Community level, as well as common policies, and it will obviously be continued beyond 1973. Sad to relate, however, the programme does not go far in making certain measures obligatory. Even in the field of common policies the Council could hardly come to concrete decisions. It appeared once again to be easier for the Heads of State or of Government to declare and reaffirm common principles than for the competent Ministers to act accordingly.

The European Summit (IV): Reinforcing the Institutions

The most disappointing part of the Summit was certainly the one on the institutional reinforcement, the third and last point on the agenda. For years the need for institutional reforms has been expressed from many sides. The main problem is that the institutions are operating less and less in a way foreseen by the original Treaties, a fact very lucidly and clearly described in the Vedel Report. One can legitimately ask how the growing tasks of the Community can be fulfilled if the efficacy of the institutions and their democratic nature are increasingly endangered. This is not the place to analyse the institutional problems in detail. Let it suffice to state that the enlargement of the Community and the

extension of its functions as envisaged at the Summits of 1969 and 1972 are bringing new pressures on the institutions as well as intensifying some of the old. Therefore bold and imaginative action by the Summit in the two areas where institutional reform is most needed—the performance of the executive functions and better representation of the interests and ideas of the people—would have made the substantive plans for further integration not only more acceptable but also more credible. Yet one is forced to conclude that the Summit has singularly failed in this task. All references in the Report by the *ad hoc* committee to the “reinforcement of structures”, to the establishment of a “solid foundation in public opinion” and to a “larger and wider democracy” have disappeared. It is true that democracy and liberty are mentioned in the preamble, but it is not evident that these notions relate to the Communities’ institutional structure. One can draw little consolation from the fact that no negative decisions were taken and that the institutions themselves will have the opportunity in 1973 to further insist on these issues.

Two sets of decisions must be mentioned in this respect. First, the institutions are “to decide before the end of the first stage in the achievement of the economic and monetary union”, on the basis of a report by the Commission to be submitted before May 1, 1973, on the institutional measures “which are necessary to the proper functioning of an economic and monetary union”.

The Dutch Government declared at the Summit that a real improvement in the decision-making procedure and in the powers of the European Parliament would be a prerequisite to an acceptance by the Dutch of a progression to a second stage.

In the second place, the Summit confined itself to certain measures of a practical nature: (a) the standardization of the dates on which national cabinets meet; (b) the granting to the Economic and Social Committee of the right to give opinions on its own initiative on all questions affecting the Community; (c) the suggestion that the Council should take practical steps before June 30, 1973, to improve its own functioning and the cohesion of Community action; and (d) the improvement of the relations of the Council and of the Commission with the Assembly. Useful as these steps may be, they are of limited significance.

As expected, the future position and role of the European Parliament was most in dispute and even caused an eight-hour delay of the Summit. The final outcome is again not very spectacular. No concrete agreement was reached on direct elections by universal suffrage. Even a last-minute compromise text proposed by the Dutch, according to which the European Parliament would only be directly elected towards the end of this decade, failed to get the unanimous consent of the participants. The declaration expressly severs the link between direct elections and the increase in parliamentary powers, a tactic long used to avoid any progress on either

of the two issues. But again the allusion to the reinforcement of the powers of control is limited by the reference to the decisions of April 22, 1970, concerning budgetary control powers. Any "plan for the gradual extension of the powers of the Assembly in the budgetary and legislative field", as the report of the *ad hoc* committee had proposed, was ruled out.

Finally, reference must be made to the commitment that "the widest possible use of all the provisions of the Treaties, including Article 235 of the EEC Treaty" would be made. This was an important decision, as the Summit thereby recognized that the fields in which programmes of action are to be drawn up now fall in principle within the general objectives and overall competence of the Community, and that Article 235 can be applied, if necessary. The Summit has thereby expressed its preference for using the existing Community structures, procedures and institutions rather than for creating new organizations or *ad hoc* bodies. Welcome though this view may be, it underlines even more the need for both *effective* and *democratic* institutions.

The Norwegian Referendum

The result of the Norwegian referendum on entry to the EEC, although widely anticipated, should serve as a warning to all who are concerned with the pace and the direction of the "*rélançe Européenne*" in the seventies. In a 75 per cent. poll of the eligible population on September 25, approximately 54 per cent. said "no" to Norwegian membership. It seems clear that there was a massive rejection of membership amongst the rural population of the country and little widespread enthusiasm for entry except in some sections of the urban population and of the Norwegian Parliament (the Storting). The inevitable resignation of Mr. Trygve Bratteli's minority Labour Government after the referendum, and its succession by a coalition of three centre parties headed by Mr. Lars Korvald raises a number of questions about the form and future development of Norwegian political and economic policies toward an enlarged Community, and about the possible revival of plans for Nordic co-operation. The result of the referendum was undoubtedly a great disappointment both for the "Six" and for the other applicant countries. As Dr. Mansholt said, it was "a step back for European unity" and also a reminder that intense regional and national feeling may still—and not only in Norway—be sufficiently strong to underline the limitations of the present political appeal of the new Europe.

Naturally, the result of the Norwegian referendum encouraged the opponents of Danish entry. It seems, however, to have had little effect on the Danish referendum, which was held on October 2 and which produced a resounding majority of 63.5 per cent. in favour of Denmark taking her place as a full member of the EEC on January 1, 1973. It will be of the utmost importance in the immediate future for all members

of the enlarged Community to refrain from recriminations, to endeavour to understand better the varied and conflicting strands of Nordic sentiment toward the integration of Europe, and to ensure, through their efforts, that the political image of the Community is less remote and more attractive to popular opinion than it has often been in the recent past.