EDITORIAL COMMENTS

The European Council of March 1984: Two Scenarios

The failure of the Athens European Council in December 1983 has brought the European Community to the brink of the worst crisis it has experienced in its short but crisis-ridden history. You know by now whether the Brussels European Council of March 1984 succeeded in averting this crisis or not. We have no way of knowing at the time of writing. All we can see is the enormous risk inherent in renewed failure and its tragic repercussions for the future. It is this which has prompted us to abandon editorial reserve and speculate on the weeks and months ahead. We hope to show that the Brussels European Council did not only have to come to an agreement on the "Stuttgart Package" (Reform of the CAP; creation of new own resources; settlement of the British budget problem; working out new common policies). It will not be possible to consider the meeting in Brussels to have been a success unless the Heads of State and Government succeeded in cracking another hard nut: they will have had to find a solution to the probable deficit in the Community Budget for 1984. If the European Council was not able to agree on how to plug this particular gap, 1984 threatens to be a turbulent year. No one can say what the consequences for the second direct elections of the European Parliament and the further development of the Community will be.

What sets the present situation apart from that of previous years? The answer lies in the budget. The 1984 Budget, like the 1983 Budget, exhausts available own resources. The 1983 Budget was realistic; it covered all the Community's commitments and, in particular, met the Community's full liability for the cost of the common market organizations. The 1984 budget is far less realistic; without an immediate and drastic reform of the CAP or without additional financial resources, it will not enable the Community to meet its obligation to fund agricultural market support to the full.

Let us restate the facts: the 1984 Budget provides 16.5 thousand million Units of Account for EAGGF Guarantee Section expenditure. This estimate was based on the assumption that the Commission's July 1983 proposals for reform of the common agricultural policy would be adopted by the end of 1983. Failure at Athens negated this assumption. In its price proposals for 1984/85 the Commission puts the probable shortfall for the EAGGF Guarantee Section at 900 million ECU – a shortfall that can only be made up if the reforms put forward in July 1983 and the unmodified 1984/85 price proposals are adopted immediately. Whether this 900 million shortfall will in fact remain if the reform and price proposals are not adopted depends of course not only on the decisions of the Council, but also upon economic factors such as the development of production and world market prices.

In this connection we need only think of the uncertainties, for instance, of the exchange rate of the dollar: if the rate falls export refunds will have to be increased and the budget deficit will become correspondingly larger.

Scenario 1

If the European Council has been able to agree on the reform of the CAP, the resolution of the British budget problem and a system of new own resources, it should also be possible to plug any gap remaining in the 1984 Budget to cover EAGGF Guarantee expenditure. An acceptable legal method would be via Article 235 of the EEC Treaty; and it should be politically possible to make available to the Community additional financial means from the national budgets. As regards the scale of contributions, it could be taken from that which emerges, *de facto*, from the future application of the new own resources rules. Such "interim" application of the decision on the new own resources, not yet approved by the national parliaments, would not be without precedent: we need only look at the Community's external relations field and, in particular, mixed agreements.

But what will happen if the March European Council fails to reach agreement on the reform of the common agricultural policy?

We would refer to what the President of the Commission said on this point in his programme to Parliament in February 1984:

> "Now let us be clear on this matter. You know very well that there will be few, or in fact only two, ways of balancing the 1984 Budget:
> – either the Member States declare their agreement to make up, in one way or another, any excess of agricultural expenditure over the amounts contained in the 1984 Budget – which of course would require a unanimous decision,
> – or there is a risk that the agricultural appropriations will have to be increased at the expense of other appropriations such as those – let us not be afraid of calling a spade a spade – for the Social or the Regional Funds."

Mr. Thorn's first option could take a number of forms. The Member States could provide fresh funds for the Community similar to anticipatory payment under the new own resources system. Or they could decide to forego payments from the Community to which they are normally entitled. For instance, the Community's obligation under Council Regulation (EEC) No. 729/70 to assume full liability for the cost of the common market organizations could be suspended. But will all the Member States be prepared to accept an additional financial commitment prior to agreement being reached on agricultural reform and the new financing system? Will they manage to work out a scale for these exceptional payments?

Will they accept suspension of full Community liability for the EAGGF Guarantee Section despite the fact that earlier Commission attempts to move in this direction failed? And is the scale – effectively based on agricultural expenditure – an acceptable one?

This brings us to Mr. Thorn's second option, namely to adapt the budget to altered circumstances. The basis for this is the correct assumption that, as long as the Community is fully liable for the cost of the common market organizations, the budget *must be adapted.*

Scenario 2

Without a suspension of full Community liability for the guarantee expenditure of the CAP or without additional resources, in the form of *ad hoc* payments by the Member States, the EAGGF deficit can only be made good by a massive transfer from other parts of the budget. The victims of this operation would be all the appropriations not required to meet existing commitments.

The first to be hit would be the structural Funds, that is to say the Social and Regional Funds, as Mr. Thorn mentioned, plus appropriations earmarked for industrial and development aid policies.

The Commission will no doubt leave no stone unturned in order to avoid these politically unacceptable consequences. It will probably propose to the Council that it require the Member States to make an extraordinary *ad hoc* financial contribution or suspend, for a transitional period, the obligation to meet in full the common market organization expenditure, even if such proposals are hardly likely to be accepted. It is equally likely – and politically understandable – that the Commission will hesitate to recognize that its initiative has definitely failed and will wait until the last minute before presenting the Council with an amending budget or a series of transfers of appropriations.

If, finally, this is the outcome, will the Council be able to muster the qualified majority required for adoption of a draft supplementary and amending budget? And will Parliament be prepared to channel what it regards as meagre funds from the social, regional, industrial and development aid policies into the common agricultural policy? Is it not more likely to oppose the amending budget or the transfers of appropriations and reject them both?

If Parliament were to react in this way it would no doubt be in breach of the Treaty. But its breach would merely be a response to the Council's more serious breach. The Council is in breach of the Treaty by virtue of its failure to act: it has a duty to pursue the various objectives set by the Treaty in a balanced manner. It should not allow a single policy, the agricultural policy in this case, to absorb all the Community resources and render the implementation of other policies impossible. This infringement is not merely a political matter. It is rather for the Court of Justice to decide whether an action can be brought for failure to act. The same would apply if the Council were to refuse to adapt the budget to altered circumstances or to make good the EAGGF Guarantee Section shortfall by means of transfers.

But whatever the Commission may think about the way the Council and Parliament act, its convictions as to the legalities do not give it the right to usurp the budgetary authority. This means that the Commission would have to implement the budget as it stands and remain within the upper limit of 16.5 thousand million ECU for the EAGGF Guarantee Section. Inevitably, it would have to suspend advance payments to Member States for expenditure on farm price support some time in the final weeks or months of this year. Export refunds, intervention buying and aids would have to be financed – temporarily at least – by the Member States from their own funds.

It is far from certain that all Member States would be in a position to provide this bridging finance. Even if their budgets presented no obstacle, they might well ask whether they ought to be financing their neighbours' agricultural surpluses. The rules on the free movement of goods compel them to do so. But these rules are very closely linked in political terms to the basic principle that the Community is fully liable for the cost of agricultural market support.

The next issue that springs to mind is the relationship between agriculture and industry which has hitherto determined the history of the Community.

But enough of speculation. We have seen that the governments of the Member States will be playing for high stakes at the March European Council. We have seen that the Community has much to lose if the meeting ends in failure. And we have not even considered the probable reaction of the British Government if its rebate for 1983 does not reach London by 31 March as promised.

Our final observation is this: the time for brinkmanship is past.

Anyone who continues gambling now is in danger of fuelling a crisis leading we know not where.