



010

PM/83/16

PRIME MINISTER

Genscher/Colombo Proposals

1. Consideration of the Genscher/Colombo proposals is now in its final stages. The last meeting of the ad hoc group of officials which has been examining the text took place on 8 February. The German Presidency propose that the remaining outstanding points should be considered by Foreign Ministers on 1 March. I shall be in the United States accompanying The Queen on Her State Visit, and therefore unable to attend this meeting. Douglas Hurd will go in my place.
- / 2. We need to decide what line he should take. I attach a copy of the latest complete text of the proposals, circulated by the Presidency at the start of the ad hoc Group meeting on 8 February. The text has been annotated to take account of developments at that meeting. The German Presidency are likely to put the agreed text for formal approval and signature by Heads of State and Government at the European Council in Brussels on 21/22 March.
3. In the examination of the proposals, which were first presented by the German and Italian Foreign Ministers in November 1981, we have achieved our main objectives of ensuring that no Treaty amendment or increase in the powers of the Community Institutions as laid down in the Treaties would be involved. We have cut out a number of the more ambitious and unacceptable suggestions in the original proposals. The text as it now stands has little real substance. While it is not the sort of thing we should have put forward ourselves, it contains nothing which should cause us substantive difficulty in the House of Commons, which has already held a scrutiny debate on the proposals in June last year. The changes which have taken place in the text since then have made it even more anodyne. Nevertheless, the authors of the proposals still attach importance to them and the Germans, in particular, will be anxious to see the early adoption of a final text.



4. There are relatively few outstanding points which Ministers will have to consider on 1 March. I recommend that our line on these should be as follows:-

(i) The Title

The Germans and Italians gave their proposals the title 'Act'. While there is no dispute that these proposals are not designed to create legal obligations, we have resisted this title on the grounds that the term 'Act' has been used in the past to describe a document creating legal obligations, eg the Act of 1976 'concerning the Election of the Representatives of the Assembly by Direct Universal Suffrage'. It is also, of course, the term used in the UK to denote legislation. Its use in the present context could therefore give rise to ambiguity. Of the alternatives which have been suggested, we favour 'Declaration'. We are supported by France, Denmark, Greece and Ireland. The latest Presidency suggestion, on which Ministers will be asked to decide, is a two-line title 'European Act/Declaration on European Union'. I recommend that we should continue to insist on 'Declaration' alone.

(ii) Majority Voting (section 2.2.2)

This is the most sensitive of the outstanding points. You will recall from our discussion of this in OD in June last year that there were four alternative texts of the passage dealing with increased use of the Treaty provisions on majority voting and the safeguarding of important national interests (page 10 of the text). It has become clear from the discussions in the ad hoc group that there is no prospect of reaching agreement on any of these. While we do not oppose increased use of majority voting, we will not accept any weakening of a member state's ability to insist on unanimity when an important national interest is at stake; nor will the French, Danes or Greeks. The other member states will not accept any formalisation of the existing agreement to disagree. The only possibility, in my view, is a text which allows member states to maintain their existing positions regarding the Luxembourg Compromise. Such a text is now on the table:



Text
on Luxembourg
Compromise.

'The Presidency will bear particular responsibility for speedy decision-making procedures. Recourse to voting should become the normal practice where the Treaties so provide. This does not affect the respective positions of member states regarding the conclusions reached in Luxembourg on 28 January 1966'.

This text received a good deal of support in the ad hoc Group on 8 February and, while not yet agreed, will be submitted to Ministers as the basis for discussion. I think we should accept it provided there is no attempt to remove or amend the last sentence on the Luxembourg Compromise.

(iii) The European Parliament

As a result of further watering-down of this section of the proposals, the only point now in dispute is the provision for the Parliament to hold a 'confidence' debate on the programme drawn up by the new Commission following its appointment. France, Denmark, Greece, Ireland and Luxembourg are, like us, opposed to the use of this term, and I see no reason to change our position.

4. There remains the question of the formal adoption of the document. Assuming agreement can be reached by Ministers on 1 March on the outstanding points in dispute (and this is by no means certain since the Danes still have a large number of reserves), the Presidency will propose that Heads of Government should sign the document at the European Council on 21/22 March. I expect Kohl will attach a good deal of importance to this. I hope therefore that you would be prepared to sign the document at the European Council, if it has been agreed by then.

5. As I said in my minute of 13 January, I see this as a case where it would be worth while to swallow a certain amount of Continental rhetoric in order to reinforce our European

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credentials and thus improve the chances of securing our own European objectives.

6. I am copying this to other members of OD and to Sir Robert Armstrong.

A handwritten signature in dark ink, appearing to be 'F.P.', written in a cursive style.

(FRANCIS PYM)

Foreign and Commonwealth Office

16 February, 1983

CONFIDENTIAL

26 January 1983

DRAFT [EUROPEAN ACT
DECLARATION ON EUROPEAN UNION] ⁽¹⁾

P R É A M B L E

The Heads of State or Government of the Member States
of the European Communities, meeting within the European Council:

- resolved to continue the work begun on the basis of the Treaties of Paris and Rome and to create a united Europe, which is more than ever necessary in order to meet the dangers of the world situation, capable of assuming the responsibilities incumbent on it by virtue of its political role, its economic potential and its manifold links with other peoples;
- considering that the European idea, the results achieved in the fields of economic integration and political co-operation, and the need for new developments correspond to the wishes of the democratic peoples of Europe, for whom the European Parliament, elected by universal suffrage, is an indispensable means of expression;
- determined to work together to promote democracy on the basis of the fundamental rights recognized in the constitutions and laws of the Member States, in the European Convention for the Protection of Human Rights and the European Social Charter notably freedom, equality and social justice;

⁽¹⁾ Reservation by the United Kingdom
Provisional reservation by Belgium
(Pages 2 and 25 will have to be modified accordingly)

- convinced that, in order to resolve the serious economic problems facing the Member States, the Community must strengthen its cohesion, regain its dynamism and intensify its action in areas hitherto insufficiently explored;
- resolved to accord a high priority to the Community's social policy and in particular to the problem of employment, thus progressively developing the social policy of the European Community;
- convinced that, by speaking with a single voice in foreign policy, including political aspects of security, Europe can contribute to the preservation of peace;
- recalling their decisions taken in Paris on 21 October 1972 and 10 October 1974, the Document on the European Identity of 14 December 1973 and the statement made by the European Council in The Hague on 30 November 1976 concerning the progressive construction of European Union;
- determined to achieve a comprehensive and coherent common political approach and reaffirming their will to transform the whole complex of relations between their States into a European Union,

THE FOLLOWING:
HAVE ADOPTED THIS ~~ACT~~:

1. OBJECTIVES

- 1.1. The Heads of State or Government, on the basis of an awareness of a common destiny and the wish to affirm the European identity, confirm their commitment to progress towards an ever closer union among the peoples and Member States of the European Community.
- 1.2. The Heads of State or Government reaffirm the Declaration on Democracy adopted by the European Council on 8 April 1978 which stated that respect for and maintenance of representative democracy and human rights in each Member State are essential elements of membership of the European Communities.
- 1.3. In order to achieve ever increasing solidarity and joint action the construction of Europe must be more clearly oriented towards its general political objectives, more efficient decision-making procedures, greater coherence and close co-ordination between the different branches of activity, and the search for common policies in all areas of common interest, both within the Community and in relation to third countries.

1.4. Desiring to consolidate the progress already made towards European Union in both the economic and political fields, the Heads of State or Government reaffirm the following objectives:

1.4.1. to strengthen and continue the development of the Communities, which are the nucleus of European Union, by reinforcing existing policies and elaborating new policies within the framework of the Treaties of Paris and Rome;

1.4.2. to strengthen and develop European political co-operation through the elaboration and adoption of joint positions and joint action on the basis of intensified consultations in the area of foreign policy, including the co-ordination of the positions of Member States on the political aspects ^{of security,} ~~and certain economic aspects of security~~ so as to promote and facilitate the progressive development of ^{common European} ~~foreign policy~~ ^{policies} in a growing number of ^{fields.}¹

(2)

Reservation

by France and Denmark

1.4.3. to promote, to the extent that these activities cannot be carried out within the framework of the Treaties:

- closer co-operation on cultural matters, in order to affirm the awareness of a common cultural heritage as an element in the European identity;
- approximation of certain areas of the legislation of the Member States in order to facilitate relationships between their nationals;
- a common analysis and concerted action to deal with international problems of law and order, serious acts of violence, organized international crime and international lawlessness generally.

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2. INSTITUTIONS

The Heads of State or Government emphasize the importance of greater coherence and close co-ordination between the existing structures of the European Communities and European political co-operation at all levels so that comprehensive and consistent action can be taken to achieve European Union.

Matters within the scope of the European Communities are governed by provisions and procedures laid down in or pursuant to the Treaties of Paris and Rome and in agreements supplementing them. In matters of political co-operation, procedures apply which were agreed on in the Luxembourg (1970), Copenhagen (1973) and London (1981) reports, and other procedures to be agreed on if necessary.

1. THE EUROPEAN COUNCIL

1.1. The European Council brings together the Heads of State or Government and the Ministers for Foreign Affairs of the Member States, as well as the President and a member of the Commission.

1.2. In the perspective of European Union, the European Council:

- provides a general political impetus to the construction of Europe;
- defines approaches to further the construction of Europe and issues general political guidelines for the European Communities and European political co-operation;

- deliberates upon matters concerning European Union in its different aspects with due regard to consistency among them;
- initiates co-operation in new areas of activity;
- solemnly expresses the common position in questions of external relations.

2.1.3. When the European Council acts in matters within the scope of the European Communities, it does so in its capacity as the Council within the meaning of the Treaties.

2.1.4. The European Council will address a report to the European Parliament after each of its meetings. This report will be presented at least once during each Presidency by the President of the European Council.

The European Council will also address a written annual report to the European Parliament on progress towards European Union.

In the debates to which these reports give rise the European Council will normally be represented by its President or one of its members.

2.2. THE COUNCIL AND ITS MEMBERS

- 2.2.1. The consistency and continuity of the work needed for the further construction of European Union as well as the preparation of meetings of the European Council are the responsibility of the Council (General Affairs) and its members.

With a view to bringing the institutional apparatus of the Community and that of political co-operation closer together, the Council deals with matters for which it is competent under the Treaties in accordance with the procedures laid down by the latter, and its members will deal also, in accordance with the appropriate procedures, with all other areas of European Union, particularly matters coming within the scope of political co-operation.

The Member States will arrange their representation as provided for in their respective constitutions.

2.2.2. The application of the decision-making procedures laid down in the Treaties of Paris and Rome is of vital importance in order to improve the European Communities' capacity to act.

Within the Council every possible means of facilitating the decision-making process will be used, including, in cases where unanimity is required, the possibility of abstaining from voting.

- * either ⁽¹⁾ [The Presidency will have recourse to voting where the Treaties so provide, it being accepted that voting will be postponed if one or more Member States so request in order to defend a very important national interest.]
- or ⁽²⁾ [The Presidency will have recourse to voting where the Treaties so provide, it being accepted that voting will be postponed if one or more Member States so request in order to defend an essential national interest directly related to the subject under discussion, which they confirm in writing.]
- or ⁽³⁾ [The Presidency will have recourse to voting where the Treaties so provide, it being accepted that voting may be postponed exceptionally if one or more Member States so request in order to defend an essential national interest, giving reasons in writing. In such cases, the question is placed on the agenda for the next Council meeting, which then decides.]
- or ⁽⁴⁾ [The Presidency will have recourse to voting where the Treaties so provide.]

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- (1) Text preferred by three delegations.
(2) Text preferred by two delegations.
(3) Text preferred by three delegations.
(4) Text preferred by two delegations.

* It was agreed at the 8 February ad hoc Group meeting that the four texts in square brackets should not be further considered and that the text in paragraph 3(ii) of the Foreign and Commonwealth Secretary's minute should be submitted to Ministers as the basis for discussion.

2.2.3. To attain the objective of a Europe speaking with a single voice and acting in common in the field of foreign policy, the Member States will make a constant effort to increase the effectiveness of political co-operation and will seek, in particular, to facilitate the decision-making process, in order to reach common positions more rapidly.

They recently adopted new arrangements in the London report of 13 October 1981. In the light of experience they will continue in this direction, in particular by:

- strengthening the Presidency's powers of initiative, of co-ordination and of representation in relations with third countries;
- appropriately strengthening operational support for successive Presidencies, corresponding to the increasing tasks which they have to perform.

2.3. THE PARLIAMENT:

2.3.1. The European Parliament has an essential role to play in the development of European Union.

2.3.2. The European Parliament debates all matters relating to European Union, including European Political Co-operation. In matters relating to the European Communities, it deliberates in accordance with the provisions and procedures laid down in the Treaties establishing the European Communities and in agreements supplementing them.

2.3.3. In addition to the procedures of consultation provided for in the Treaties, the Council, its members and the Commission will, in keeping with their respective powers, respond to

- oral or written questions from Parliament,
- resolutions concerning matters of major importance and general concern, on which Parliament seeks their comments.

- 2.3.4. The Presidency will address the European Parliament at the beginning of its term of office and present its programme. It will report to the European Parliament at the end of its term on the progress achieved.

The Presidency keeps the European Parliament regularly informed through the Political Affairs Committee of the subjects of foreign policy examined in the context of European political co-operation.

Once a year the Presidency reports to the European Parliament in plenary session on progress in the field of political co-operation.

- 2.3.5. [Before the appointment of the President of the Commission the President of the Representatives of the Governments of the Member States seeks the Opinion of the enlarged Bureau of the European Parliament.] ⁽¹⁾

After the appointment of the members of the Commission by the Governments of the Member States a ~~[a]~~ ~~(investiture)~~⁽²⁾ (confidence)⁽³⁾ debate will be held on the Commission's programme.

⁽¹⁾ Reservation by Denmark.

~~⁽²⁾ Not acceptable to Denmark, France, United Kingdom, Ireland, Belgium, Luxembourg, the Netherlands, Greece.~~

⁽³⁾ Reservation by Denmark, Ireland, United Kingdom, France; acceptable to Germany, Greece, Italy and Luxembourg if a consensus can be reached on the compromise package.

2.3.6. ["The Council will enter into talks with the European Parliament and the Commission with the aim of improving the conciliation procedure provided for in the Joint Declaration of 4 March 1975 within the framework of a new agreement and of extending it on that basis"] (1)

2.3.7. [In addition to the consultations provided for in the Treaties with respect to certain international agreements, the European Parliament is [consulted](2) heard before

- the conclusion of other significant international agreements by the Community,
- the accession of a State to the European Community.

The existing procedures for providing the European Parliament with confidential and unofficial information on progress in negotiations will be extended, taking into account the requirements of urgency, to all significant international agreements concluded by the Communities.] (3)

(1) Reservation by Denmark, provisional reservation by France.

(2) Belgium, Germany, Italy, the Netherlands prefer "consulted" but would accept "heard" as part of the compromise package.

(3) Reservation by Denmark

4. THE COMMISSION

The Heads of State or Government underline the particular importance of the Commission as guardian of the Treaties of Paris and Rome and as a driving force in the process of European integration. They confirm the value of making more frequent use of the possibility of delegating powers to the Commission within the framework of the Treaties. In addition to the tasks and powers laid down in those Treaties, the Commission is fully associated with European political co-operation and, where appropriate, with other activities within the framework of European Union.

5. THE COURT OF JUSTICE

The Court of Justice of the European Communities has an essential role to play in progress towards European Union, by securing compliance with and development of Community law. Taking account of the respective constitutional provisions in their States, the Heads of State or Government agree to consider, on a case-by-case basis, the inclusion ^{as appropriate} in international conventions between Member States [~~provided for in the Treaty of Rome~~] ⁽¹⁾ of a clause conferring on the Court of Justice appropriate jurisdiction with regard to the interpretation of the texts.

⁽¹⁾ ~~Addition requested by France.~~

SCOPE

3.1. European Communities

The Heads of State or Government emphasize, in order to give renewed impetus to the development of Community policies on a broad front, the importance of the following policies:

- 3.1.1. An overall economic strategy in the Community to combat unemployment and inflation and to promote convergence. Priority should be given to encouraging productive investment and raising competitiveness as a basis for creating durable jobs, bringing about sustained economic growth and reducing unemployment. In this context, effective action in the social field to alleviate unemployment should be taken at both the Community and the national levels;
- 3.1.2. Stronger economic disciplines and more effective co-ordination of the national economic policies, which are required for the achievement of the Community's overall objectives, in order to ensure that the main economic and sectoral objectives of the Member States are consistent with the maintenance and strengthening of the Community and with the object of consolidating the European Monetary System.

- 3.1.3. Strengthening of the European Monetary System, which is helping to consolidate an area of monetary stability in Europe and to create a more stable international economic environment, as a key element in progress towards Economic and Monetary Union and the creation of a European Monetary Fund.
- 3.1.4. Definition of Community instruments and mechanisms which will permit action geared to the situation and specific needs of the least prosperous Member States in an effort to tackle their structural problems and thereby to ensure the harmonious development of the Community.
- 3.1.5. Given the importance of the Community's external relations, strengthening of the common commercial policy and development of its external economic policy on the basis of common positions, the Community will, in this way, give effect to its special responsibility as the principal world trader and to its commitment to the open trading system.

In this context, improvement and co-ordination of national and Community development co-operation policies are needed in order to reflect more fully the needs of the developing countries and the interdependence between them and Europe, and so that Europe plays a stronger and more stimulating role in relations between the industrialized and developing countries.

- 3.1.6. Completion of the internal market in accordance with the Treaties, in particular the removal of the remaining obstacles to the free movement of goods, capital and services, as well as the further development of a common transport policy.
- 3.1.7. Continued development of the common agricultural policy in harmony with other policies, respecting its objectives as defined in the Treaty and the principles of unity of the market, Community preference and financial solidarity, and taking into account the need to ensure a fair standard of living for the agricultural community and the need to achieve a better market equilibrium in some sectors. The problems of less favoured agricultural regions, including Mediterranean areas, which are heavily dependent on rural occupations for employment, merit special attention.
- 3.1.8. The development of an industrial strategy at Community level in order to strengthen industry, make it competitive and create productive jobs in Europe, in particular by encouraging investment and innovation.

Efforts made by industry and Governments in the areas of energy and research will be complemented by co-ordination and appropriate actions at Community level.

- 3.1.9. Development of the regional and social policies of the Communities, which implies in particular the transfer of resources to less prosperous regions, so that all Community policies and instruments can play their full role and promote convergence and balanced development.

3.2.

FOREIGN POLICY

In order to cope with the increasing problems of international politics, the necessary reinforcement of European political co-operation must be ensured, in particular by the following measures:

- intensified consultations with a view to permitting timely joint action on all major foreign policy questions of interest to the Ten as a whole;
- prior consultation with the other Member States in advance of the adoption of final positions on these questions. The Heads of State or Government underline their undertaking that each Member State will take full account of the positions of its partners and give due weight to the adoption and implementation of common European positions when working out national positions and taking national action;
- development and extension of the practice by which the views of the Ten are defined and consolidated in the form of common positions which then constitute a central point of reference for Member States' policies;

- progressive development and definition of common principles and objectives as well as the identification of common interests in order to strengthen the possibilities of joint action in the field of foreign policy;
- co-ordination of positions of Member States on the political aspects of security ; *including economic security;*
- increased contacts with third countries in order to give the Ten greater-weight as an interlocutor in the foreign policy field;
- closer co-operation in diplomatic and administrative matters between the missions of the Ten in non-member countries;
- the search for common positions at major international conferences attended by one or more of the Ten and covering questions dealt with in political co-operation;
- increasing recognition of the contribution which the European Parliament makes to the development of a co-ordinated foreign policy of the Ten.

~~(1) Provisional reservation by several delegations~~

~~Alternative texts:~~

~~" - co-ordination of positions of Member States on the political aspects of security, including economic security"; (Denmark)~~

~~" - co-ordination of positions of Member States on the political aspects and certain economic aspects of security"; (original text)~~

3.

CULTURAL CO-OPERATION

With a view to complementing Community action and stressing that, as members of the Council of Europe, they maintain their firm support for and involvement in its cultural activities, the Heads of State or Government agree to promote, encourage or facilitate the following, taking account of respective constitutional provisions:

- development of the activities of the European Foundation and the European University Institute in Florence;
- closer co-operation between establishments of higher education including exchanges of teachers and students;
- intensified exchanges of experience, particularly among young people, and development of the teaching of the languages of the Member States of the Community;
- improving the level of knowledge about other Member States of the Community and of information on Europe's history and culture so as to promote a European awareness;
- examination of the advisability of undertaking joint action to protect, promote and safeguard the cultural heritage;
- examination of the possibility of promoting joint activities in the dissemination of culture, in particular as regards audio-visual methods;

- more extensive contacts between writers of the Member States and wider dissemination of their works both inside and outside the Community;

- closer co-ordination of cultural activities in third countries, within the framework of political co-operation.

3.4. APPROXIMATION OF LAWS

- 3.4.1. Approximation of laws in areas within the competence of the European Communities will be pursued and intensified through effective use of the measures provided for in the Treaties. In this context special attention should be given to further approximation in the field of the protection of industrial and commercial property, consumer protection and, whenever necessary, in the field of the law relating to companies.
- 3.4.2. With a view to complementing the approximation of laws within the European Communities, and having full regard, in particular, to the work of the Council of Europe, the Member States will endeavour to approximate their laws in other areas by having recourse to the appropriate instruments, including international conventions. A special effort will be made to implement or supplement without delay international conventions already negotiated between Member States in the Community framework, and notably those provided for by the Treaties.
- 3.4.3. Among new activities which can be conducive to the attainment of European Union, the following deserve special attention:
- the introduction of legal instruments which can strengthen co-operation among the judicial authorities of the Member States, notably in civil and commercial matters, and which can thereby make the administration of justice more efficient and less cumbersome;
 - [co-operation in the area of the suppression of infringements of Community law]; ⁽¹⁾
 - [co-operation in matters of criminal and procedural law.] ⁽²⁾*

⁽¹⁾ Reservation by Denmark.

⁽²⁾ Addition requested by France, Italy and Germany.

* Now replaced by:

- [identification of areas of criminal and procedural law in which cooperation between member states might be desirable especially in order to facilitate free movement of persons, services and capital between Member States]

4. FINAL PROVISIONS

4.1. The Heads of State or Government stress the link between membership of the European Communities and participation in the activities described in this text.

4.2. European Union is being achieved by deepening and broadening the scope of European activities so that they coherently cover, albeit on a variety of legal bases, a growing proportion of Member States' mutual relations and of their external relations.

4.3. Five years from its [signature] [adoption] ⁽¹⁾, the Heads of State or Government will subject the present provisions to a general review in order to take stock of the progress achieved towards European unification. In the light of this review they will decide whether the progress should be achieved should be incorporated in a Treaty on European Union.

(2)

The Opinion of the European Parliament will be sought on this subject.

(1) Still to be decided.

(2) General reservation by one delegation.

(3) Text supported by several delegations.

(4) Text supported by several delegations.