

COMMISSION OF THE EUROPEAN COMMUNITIES

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THE ROLE OF THE EUROPEAN PARLIAMENT IN THE PREPARATION AND CONCLUSION OF INTERNATIONAL AGREEMENTS AND ACCESSION TREATIES

(Communication from the Commission to Parliament and
the Council)

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Communication to PARLIAMENT and the COUNCIL

THE ROLE OF THE EUROPEAN PARLIAMENT IN THE PREPARATION AND CONCLUSION
OF INTERNATIONAL AGREEMENTS AND ACCESSION TREATIES

I. INTRODUCTION

1. For a considerable time, the European Parliament has been demanding a greater say in the negotiation and conclusion of international agreements to which the Community is to be a party and of treaties on the accession of new Member States. These demands, which carry added weight now that Parliament is directly elected, were most recently and most comprehensively spelt out in the Blumenfeld resolution adopted on 18 February 1982.

2. The Commission has always considered increased involvement of Parliament in these procedures both desirable and feasible without upsetting the division of powers between the institutions laid on in the Treaty.

Within the bounds of its own responsibilities, the Commission in fact already works in close liaison with Parliament and maintains a constant interchange of information with it.

However, the Commission has recently undertaken, in its Communication of 7 October 1981 entitled "Relations between the institutions of the Community" :

" to collaborate with Parliament and the Council in the search for an agreement on practical improvements to existing procedures so that Parliament can be more closely involved in the preparation of international agreements, without eroding the competences of the individual institutions. "

The following ideas and suggestions are submitted to Parliament and the Council, with the aim of fulfilling that undertaking.

II. ALLOWING PARLIAMENT A GREATER SAY IN THE PREPARATION AND CONCLUSION OF INTERNATIONAL AGREEMENTS.

1. Present situation. Differences from role of national parliaments

Under the Treaties, Parliament is consulted on agreements in cases where consultation of it is required by the article which forms the legal basis for the agreement. The Commission proposes that negotiations be held and conducts the negotiations. The Council authorizes the opening of negotiations, gives the Commission any instructions which might be required, and concludes the agreement.

In February 1964 and November 1973 the Council adopted two procedures known as the "Luns" and "Westerterp" procedures (or "Luns I" and "Luns II") for association and trade agreements respectively. The text of the two procedures is given in the Annex. Their main purpose is to ensure that Parliament is kept fully informed throughout the negotiation of such agreements.

The role of the European Parliament in the system set up by the Treaties is thus different from that played by national parliaments in Member States. The national parliaments, although unable to amend agreements negotiated and signed by their governments, have the power, in important cases at least, to approve or reject the agreement in toto. Under some constitutions however, certain types of agreement escape parliamentary scrutiny, such as those of an administrative or technical nature, those concluded under existing legislation or for a limited period, and those with only minor financial implications.

2. Measures proposed.

a) Objective.

(i) The objective of the suggestions the Commission has to make cannot be to introduce into the Community legal order a system similar to those in force in the Member States. That would require amendment of the Treaties. It is desirable, however, as Parliament recognizes, that a practice should be adopted that is as close as possible to those systems.

(ii) The Commission believes that to attain this objective it is necessary to increase Parliament's say in the preparation and conclusion of treaties and agreements that are of significance for the formulation and application of Community policies.

It is in relation to instruments of this type that the proposed measures are intended to apply.

It is not proposed that Parliament should have to consider agreements or arrangements of an administrative or technical nature or which are adopted within the framework of earlier agreements.

(iii) Adoption of the above objective also means that, although Parliament would certainly not be left out of the negotiation stage (it would in fact be kept regularly informed throughout), its involvement would be greatest at the stage of the conclusion of the agreement.

It appears from the Blumenfeld resolution that Parliament agrees with this approach.

b) Preparation and negotiation stage.

(i) The Commission is prepared to inform Parliament (for reasons of confidentiality, through the appropriate parliamentary committees) of projected negotiations as early as the stage of preparation of a draft negotiating brief for submission to the Council. The information given would cover the main points of the negotiations. Parliament would thus be informed of the basis of the negotiations before they were actually opened.

ii) The Luns/Westerterp procedures should be extended to all treaties and agreements which the Community proposes to conclude and which are important for the formulation or application of Community policies.

This would mean that, in addition to the information provided by the Commission on a routine basis through the parliamentary committees and the attendance of Council representatives at any debates Parliament might hold, the appropriate committees of Parliament would also be acquainted by the Council, on a confidential and unofficial basis, of the substance of agreements before they are signed. This would apply not only to agreements based on Articles 238 and 113 but also to those based on other articles.

In this way Parliament would keep in close touch - much closer than is possible for national parliaments - with the progress of important international agreements at all stages in their preparation.

By judicious use of the information it received, Parliament would be able to exert an increased influence on the direction of the negotiations.

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- 1) The formal notification of Parliament after signing which is provided for in respect of trade agreements under the Westerterp procedure, would become unnecessary, consultation of Parliament became the rule, as is suggested below (see para. c). The notification would be replaced by consultation.

c) Conclusion stage.

As regards Parliament's involvement in the conclusion of agreements, the Commission considers that the following two practical measures would, without altering the existing legal framework, allow Parliament to play a greater role.

(i) First, the Council would, except in emergencies, consult Parliament after signing an agreement not only, as at present, in cases where consultation is required by the Treaties, but also even where it is not bound to do so, in relation to all treaties and agreements of importance for the formulation and application of Community policies.

This extension of consultation of Parliament would chiefly concern important agreements concluded under Article 113 (with Article 238, which provides for mandatory consultation, the most frequent legal basis for agreements), but it would also cover important agreements based on other articles of the Treaties which do not provide for consultation of Parliament.

It would, of course, be necessary for Parliament to deliver its opinion within the time limit dictated by the urgency of the case.

(ii) Secondly, it would be agreed that if Parliament voted by a large majority against the conclusion of an agreement on which it was consulted, there would be a political debate between the three institutions concerned before the agreement was concluded.

The Commission firmly believes that through such a debate, conducted in an open and frank atmosphere at an appropriate political level, Parliament would be able to exert a definite influence on the decision concerning the conclusion of treaties and agreements which were important for the formulation and application of Community policies.

III. ACCESSION TREATIES.

1. Unlike agreements concluded by the Community, treaties of accession to the EEC or Euratom are negotiated and concluded by the Member States and not by the Community institutions.

The Community institutions have a say only inasmuch as the decision on the principle of accession⁽¹⁾ is taken by the Council, after consulting the Commission.

It is true, however, that the negotiations are held under Council auspices and that the Commission is involved in them and in practice does a large part of the preparatory work.

2. This being so, the involvement of Parliament in accession procedures is really possible only inasmuch as the Community itself plays a role in such procedures, and within the limits imposed on that role.

It is suggested, therefore, that before taking a decision on the principle of an accession the Council, as well as obtaining the opinion of the Commission, should also encourage a political debate in Parliament.

3. Secondly, the Commission is prepared to keep Parliament informed of the progress of negotiations insofar as it is free to disclose such information.

4. Finally, of course, there is no reason why Parliament should not bring influence to bear on the various national governments and parliaments by drawing their attention to the results of the debates it holds before the opening of negotiations and after the signing of an accession treaty.

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(1) In the case of the ECSC, terms of accession are determined by the Council, acting unanimously.

The suggestions outlined above represent, in the Commission's opinion, the rudiments of a pragmatic and effective procedure which would increase Parliament's say to the greatest possible extent, in the interests of wider democratic control, without upsetting the division of powers between the institutions laid down in the Treaty.

When these suggestions have been considered by Parliament and the Council, detailed arrangements could, if necessary, be worked out for implementing the procedure.

AGREEMENTS WITH THIRD COUNTRIESAssociation Agreements (LUNS procedure)

"A debate may take place in the Parliament before negotiations with a view to the association of a third country with the Community are started. During the negotiations close contacts shall be maintained between the Commission and the appropriate committees of the Parliament. When the negotiations are concluded, but before the agreement is signed, the Council or its representative shall confidentially and unofficially inform the appropriate committees of the substance of the agreement".

(Minutes of the Council 24 and 25 February 1964, page 26)
[S/861/63 (ASS 5), page 7]

Trade agreements (WESTERTERP procedure)

Paragraph I: Procedure adopted by the Council

"Further to the Resolution adopted by the European Parliament on 13 February 1973, fuller participation by the European Parliament in the field of trade agreements could be envisaged along the following lines:

• prior to the opening of negotiations concerning a trade agreement with a third country and in the light of the information supplied by the Council to the competent committees of the

.../...

Parliament, a debate could, where appropriate, be held in the European Parliament ⁽¹⁾;

- when negotiations are completed, but before the signing of the agreement, the President of the Council or his representative would confidentially and unofficially acquaint the competent committees with the substance of the agreement;
- bearing in mind the European Parliament's interest in trade agreements concluded by the Community, the Council would acquaint the European Parliament with the content of such agreements, after their signing and before their conclusion.

[R/2641/73]

⁽¹⁾ The Council noted that the Commission had - on its own initiative and responsibility - stated in paragraph 9 of its communication on practical measures to strengthen the powers of control of the European Parliament and to improve relations between the European Parliament and the Commission that it would "keep the competent committees of the Parliament informed of the progress of negotiations on trade agreements".

In view of the Commission's Declaration of Intent, the Netherlands delegation did not request a stipulation that, during negotiations, close contacts would be maintained between the Commission and the competent committees of the Parliament, as provided under the LUNS I procedure.