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Report

drawn up on behalf of the Committee on
Economic and Monetary Affairs

on the common position of the Council of the
European Communities (Doc. 1-652/81) on the
proposal from the Commission of the
European Communities to the Council
(Doc. 1-581/80) for a decision empowering
the Commission to contract loans for the
purpose of promoting investment within the
Community

Rapporteur: Mr J. MOREAU

1.2.1.1

On 27 November 1981 the European Parliament asked the Council to open the conciliation procedure, which was introduced on 4 March 1975 under the Joint Declaration of the European Parliament, the Council and the Commission, on the decision empowering the Commission to contract loans for the purpose of promoting investment within the Community.

The conciliation meeting between the European Parliament and the Council was held on 15 March 1982. At its meeting of 18/19 March the Committee on Economic and Monetary Affairs appointed Mr J. Moreau rapporteur on the outcome of the conciliation meeting pursuant to Rule 38(4) of the Rules of Procedure.

On 31 March 1982 it considered the report and adopted it unanimously.

The following took part in the vote: Mr J. Moreau, chairman and rapporteur; Mr Deleau, vice-chairman; Mr Albers (deputizing for Mr Caborn), Mr Beumer, Mr Delorozoy, Mr Friedrich, Mr Giavazzi, Mr Herman, Mr Leonardi, Mr Moreland (deputizing for Mr Forster, Mrs Nielsen (deputizing for Mr Combe), Mr Notenboom (deputizing for Mr Schnitker), Mr Purvis, Mr Rogers, Mr Turner (deputizing for Mr Hopper) Mr Van Rompuy and Mr von Wogau.

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Pursuant to Rule 38(4) of the Rules of Procedure, the Committee on Economic and Monetary Affairs hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the outcome of the conciliation meeting on the decision empowering the Commission to contract loans for the purpose of promoting investment within the Community

The European Parliament,

- having regard to the initial proposal from the Commission to the Council (Doc. 1-581/80),
- having regard to the opinion of the European Parliament¹,
- having regard to the common position of the Council (Doc. 1-652/81),
- having regard to the conciliation meeting of 15 March 1982 ,
- having regard to the Council decision of 15 March 1982 ,
- having regard to the report of the Committee on Economic and Monetary Affairs (Doc. 1-89/82),

1. Reiterates the requests made by Parliament, namely:
 - that the NCI should be a permanent borrowing and lending mechanism;
 - that the tranches should be authorized by the Council by a majority vote, not a unanimous vote;
 - that Parliament should be consulted on the policies for which loans may be contracted and should be able to invoke the conciliation procedure also in respect of the implementing decision concerning NCI tranches;
 - that there should be a clearer distinction between the Commission's decision-making powers and the EIB's management powers;
 - that the borrowing and lending mechanism should be budgetized;
2. Condemns the attitude of the Council, which at no point during the conciliation procedure entered into a genuine dialogue with Parliament and took virtually no account of its requests, even when these were limited by Parliament to a few priority issues;

¹Resolution adopted on 15 April 1981, OJ C 101 of 1981

3. Stresses that the decision adopted for reasons of urgency on the sole responsibility of the Council is identical to the Council's common position of 20.10.81;
4. Considers, in these circumstances, that respect has been shown neither for the spirit nor for the letter of the interinstitutional agreement of 1975 establishing a conciliation procedure for Community acts having appreciable financial implications, point 6 of which specifies that the aim shall be to seek an agreement between Parliament and the Council; in consequence, the Council is preventing Parliament from fulfilling its control function as one of the budgetary authorities of the Community;
5. Points out that only the imperative needs of economic and social policy, which are recognized by all, make a rapid decision essential; hereby takes note, in order not to delay the projects selected, of the Council's decision concerning the request for urgent procedure to be applied to the proposal for a decision applying NIC II for the first time and does not oppose its implementation; points out that this position should not be interpreted as an acceptance of any kind of the basic decision adopted by the Council; takes note of the Commission's intention to submit at the earliest opportunity a new proposal aimed at ensuring the continuity and improved operation of the borrowing and lending mechanism in question.

EXPLANATORY STATEMENTI. INTRODUCTION

1. Following the adoption by Parliament on 10 April 1981 of the opinion¹ on the proposal from the Commission to the Council for a decision empowering the Commission to contract loans for the purpose of promoting investment within the Community², the Council forwarded, by letter of 30 October 1981, the text of its common position³ on this proposal, which it had adopted on 20 October 1981.

Parliament requested that the conciliation procedure be initiated in a telegram to the Council dated 27 November 1981. The conciliation meeting was finally fixed by the Council for 15 March 1982.

II. COMPARISON BETWEEN PARLIAMENT'S OPINION AND THE COUNCIL'S COMMON POSITION

2. The points on which Parliament and the Council differ may be summarized as follows:

- in line with the Commission's initial proposal, Parliament wished the NCI to be made into a permanent instrument. Ignoring this, the Council imposes, in Article 1, an overall ceiling of 1,000 million ECU for the loans in question;
- as regards the procedure for authorizing the tranches (Article 2), the Council provides for the decision to be taken unanimously, contrary to the wishes of Parliament which, again in line with the Commission's initial proposal, recommended that the Council should act by a qualified majority;

¹OJ C 101 of 4.5.1981

²Doc. 1-581/80

³Doc. 1-652/81

- Parliament also wished to be consulted, when the tranches were authorized, on the policies for which loans may be contracted and on the size and objectives for the operations envisaged. An amendment to this effect was tabled by Parliament. This, however, is ignored by the Council in its common position;
- Parliament felt that the Commission should assert its responsibility for determining the investment policy to be pursued by the new financial instrument. It took the view that the division of tasks between the Commission and the European Investment Bank, as proposed by the Commission and followed by the Council in its common position in no way guaranteed that the Commission would have prime responsibility for deciding on eligibility and monitoring the use made of loans. It therefore tabled amendments to Articles 4 and 5 with a view to reducing the responsibilities of the EIB and increasing those of the Commission. These amendments are not taken up by the Council in its common position.
- since responsibility for a borrowing and lending policy should rest with the budgetary authority as a whole and not with the Council alone, Parliament has for a long time been demanding that borrowing and lending operations should be budgetized. The amendments tabled by Parliament - one concerning the title ('Decision of the Budgetary Authority' instead of 'Council Decision') and one relating to the body of the Decision - are totally ignored by the Council.

III. RECORD OF THE CONCILIATION MEETING OF 15 MARCH 1982

3. The conciliation meeting of 15 March 1982 opened with a statement by the Council, in which, apart from vague references to a few matters of mutual concern to the Council and Parliament, it was impossible to detect any willingness to accommodate Parliament's demands or any commitment on the part of the Council. On the contrary, it fully upheld the common position of 20 October 1981.

The Council reaffirmed its determination to ensure the continuity of the NCI. Even if the Council felt that a limit had to be placed on the resources earmarked for NCI operations in the basic decision, this would not detract from the instrument's continuity. Once the new resources allocated to the NCI had been used up, consideration would be given to the desirability of prolonging its operations in the light of the economic and social conditions prevailing in the Community at the time.

As far as the implementing decisions were concerned, the Council wished to apply the same voting rules as those prescribed for the basic decision; in other words, the Council would act unanimously after consulting Parliament and not, as Parliament had proposed, by a qualified majority.

The Council would consult Parliament on the relevant proposals and Parliament could deliver an opinion on all aspects involved: the amount of the tranches, the criteria of eligibility and the sectors chosen for assistance. This failed to meet Parliament's demands, since it wished also to be consulted on the size and the objectives of the operations for which loans would be contracted. The lack of precise information about the sectors mentioned in Article 1 - which had also been a feature for the tranches of NCI I - was, in this respect, entirely unsatisfactory to Parliament.

The Council took the view that these particular matters did not come within the purview of the conciliation procedure. They should be considered in connection with the basic decision, which was the proper subject of conciliation with Parliament. Parliament

nevertheless insisted on the need for conciliation on the implementing decisions.

4. In the Council's opinion, Parliament's request that the decision should be a Decision of the Budgetary Authority and not a Council Decision met with legal difficulties since it was based on Article 235 of the EEC Treaty, which clearly defined the responsibilities of the respective institutions.

The Council felt that Parliament's request that borrowing and lending operations should be budgetized raised a problem that had no connection with the decision under consideration; the problem was a 'horizontal' one, the solution to which had to be found in the context of the budget regulations.

As regards the division of responsibilities between the Commission and the European Investment Bank, the Council pointed out that both parties were satisfied with the way in which they had managed to cooperate so far; unlike Parliament it took the view that this cooperation had not diminished the Commission's responsibility for guiding NCI activities.

Lastly, the Council reaffirmed the determination of all concerned to ensure continuity, which meant that a decision had to be taken rapidly, as otherwise the lack of available resources would quickly lead to a suspension of NCI operations. In stressing the imperative need for continuity, the Council appealed to Parliament to show understanding, accept the common position and abandon for the time being the discussion of institutional problems, which could be resumed after the conclusion of the negotiations on the 30 May mandate and on the basis of new proposals from the Commission.

5. Parliament's delegation expressed the institution's views.

- Parliament was disappointed by the Council's rigid adherence to its common position,
- Parliament was aware of the need to make rapid progress and wished to play its part, but not under just any conditions,

- the matters which Parliament now wished to discuss were:
 - the continuity and permanence of the NCI,
 - an agreement with the Council to reach a decision on the common position under the conciliation procedure within eight months. If such an agreement was forthcoming, Parliament could consent to the release of 1,000 million ECU.

The Council stated that it wished to adopt the decision empowering the Commission to contract loans for the purpose of promoting investment within the Community, given the urgency of establishing NCI II.

The Commission explained its position. It was essential for the instrument to continue to operate. Resources were virtually exhausted and the Commission had for some time been unable to enter into commitments in the absence of a decision authorizing it to contract new loans. Consequently, the release of 1,000 million ECU was essential. A decision to release this sum would not affect the conciliation procedure since the Commission intended in due course to submit new proposals, irrespective of the outcome of the negotiations on the 30 May mandate. The Commission endorsed the need for continuity. Once the Commission had drawn up new proposals, the discussions could be resumed.

Parliament's delegation suggested that a joint decision should be taken to authorize borrowing and suspend lending until the conciliation procedure had been concluded. He then proposed that the Presidents of the three Community institutions concerned should jointly decide to release 1,000 million ECU and that, in the meantime, the conciliation procedure should continue on the same legal basis.

The President of Parliament noted that there had been no attempt to accommodate Parliament's requests and that Parliament could in no way associate itself with a decision of the kind proposed by the Council. This being so, a joint decision was

out of the question. Such a decision could not be adopted unilaterally and on the sole responsibility of the Council. It could only be adopted on the basis of point 6 of the Joint Declaration on the conciliation procedure. The President then asked the Commission for details of the new proposals that had been mentioned. Would there be an NCI III or would they take some other form.

In reply, the Commission said that it was thinking of proposing a new tranche rather than a permanent instrument, which would be a way of circumventing problems of an ideological nature.

6. The Council announced the following conclusions:

- there was a disagreement between the European Parliament and the Council,
- the Council would apply urgent procedure and adopt the decision,
- the Council was awaiting Parliament's opinion on the proposal for a decision applying the decision for the first time (Doc. 1-928/81),
- the Council noted the Commission's intention of drawing up a proposal on the basis of which the discussion with the European Parliament could be resumed.

IV. CONCLUSIONS

7. All that can be said is that at no point in the conciliation procedure did the Council show any desire to enter into a dialogue with Parliament, even when the latter indicated its wish to narrow the scope of the discussion to a few priority matters.

Furthermore, it has to be asked whether the decision was so urgent as to justify recourse to point 6 of the Joint Declaration on the conciliation procedure. In this connection

it needs to be pointed out that, in its request of 27 November 1981 for the initiation of the conciliation procedure, Parliament, realizing the urgency of the matter, had expressed the hope that the procedure could be started as early as December 1981. In the event, Parliament had to wait until 15 March 1982 before the Council invited it to a conciliation meeting. On the same date, the Council claimed that the decision had become so urgent that it would not enter into a dialogue with Parliament and invoked urgent procedure.

8. In these circumstances, it has to be asked whether the rules of the conciliation procedure were really respected. The answer is that while the Council may have respected the letter, it certainly did respect the spirit of these rules. Clearly, if Parliament is to be treated in this fashion by the Council, it cannot fulfil the role assigned to it as one arm of the budgetary authority.

9. A further point to be noted is that by acceding to the Council's request for a prompt opinion on the proposal for a decision concerning the first application of NIC II (Doc. 1-928/81), Parliament was by no means endorsing the Council's basic decision. It was nonetheless aware that the economic and social requirements were such as to make the rapid release of the tranche in question essential.

Anxious to fulfil with due dispatch the expectations of the peoples of Europe and to find a swift solution to the pressing problems of the day, looking to an effective revitalization of Europe, and refusing to put further obstacles in the way of this process, the European Parliament agrees to the opening of the new tranche and notes the Commission's undertaking to supply as soon as possible the wherewithal to guarantee continuity in, and parliamentary control of, this Community borrowing and lending instrument.

