



*European Communities
Commission
Background Report*

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WHEN THE COMMUNITY SPEAKS AS ONE

The role of the EEC in international negotiations

Summary

Whether it is trade negotiations with China and Japan, political issues such as southern Africa and the Middle East, negotiations with developing countries over textile imports or views expressed in the General Assembly of the United Nations, the Nine member countries are increasingly adopting a common Community voice. Some of these international negotiations, such as those concerning textiles, steel, tariffs or raw materials supply, have direct implications for people in the European Community, both as producers and consumers. So there are big advantages to be gained from a united Community stance in defending the interests of individuals and industries in the member countries.

Whatever the differences within the Community, to the outside world it is broadly accepted as an entity in its own right. This is so even where, in international organisations the Community does not have the status of a member but only that of observer.

Legal basis for external action

In 1970 the Luxembourg Report, adopted by the Six, cautiously stated the guidelines for political cooperation. These were (i) to ensure greater mutual understanding with respect to the major issues of international politics, by exchanging information and consulting regularly, and (ii) increasing solidarity by working for the harmonisation of views, concertation of attitudes and joint action when it appeared feasible and desirable.

The Copenhagen Summit in October 1972 went further, and spelled out the commitment to consult on all important questions in order to seek common policies on practical problems, subject to the reservation that the subjects dealt with must concern European interests where the adoption of a common position was 'necessary or desirable'. Since then political cooperation meetings have been taking place far more frequently than was recommended in the Copenhagen Report, and Ministers are increasingly discussing matters of political cooperation at Council meetings apart from the normal agenda.

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The Rome Treaty, under different articles depending on the nature of the negotiations, empowers the Community to negotiate with third countries. For example, the Lomé Convention was concluded under Article 238; recent fisheries negotiations on the Community's 200 mile limit, under Article 43; agreements in the environment sector under Article 235.

On April 26, 1977 the Court of Justice gave an Opinion which stated that:

"Whenever Community law has created for the institutions of the Community powers within its internal system for the purpose of attaining a specific objective, the Community has authority to enter into the international commitments necessary for the attainment of that objective even in the absence of an express provision in that connection".

The Court ruled that this was a necessary conclusion, in particular in those cases in which an internal Community power "has already been used in order to adopt measures which come within the attainment of common policies". It added that the existence, by implication, of an external power of the Community "is not limited to that eventuality". Indeed, the Court made it clear that the adoption of common rules that are applicable within the Community may also flow from the conclusion of an international agreement. The Court thus affirmed, in a completely general way, that the internal and external powers of the Community are parallel and it is entitled to undertake external action if it chooses "in so far", in the words used by the Court, as "the participation of the Community in the international agreement is necessary for the attainment of one of the objectives of the Community".

In reply to a written question put by Mr Maignard in the European Parliament*, the Commission makes clear that, regarding the powers of the Community in the field of external relations, the Community alone under Article 113 of the Treaty is competent to negotiate and conclude international agreements relating to areas which come within the scope of commercial policy. In the other areas in which the Community has authority to conclude agreements with third countries or international organisations, this authority becomes exclusive only from the time at which it is exercised. Until then member States retain the right to conclude agreements in the areas in question, but they must, according to various Court of Justice interpretations, refrain from entering into commitments, in connection with such agreements, which could hinder the conclusion by the Community of agreements in the same area at a later date.

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Economic and related agreements

The signing in Brussels of a non-preferential trade agreement between the EC and the People's Republic of China on April 3, 1978 is a recent example of the European Commission negotiating, with the approval of the Council of Ministers, for the Community on behalf of the Nine. The agreement which lasts for 5 years, includes a most-favoured nation clause; an agreement to try to promote a balanced level of trade; agreement by China to give favourable consideration to imports from the Community and by the Community to make efforts to liberalise imports from China, and the establishment of a joint committee to meet alternately in Peking and Brussels from time to time.

The Community has also entered into or is currently negotiating a variety of agreements under the following heads:

(a) of global significance

- GATT: apart from current negotiations in Geneva* the Community negotiated new agreements under the Multifibre Arrangement (MFA) designed to limit and control the import of textiles into the Community. (See ISEC/B33/78)
- UNESCO: the additional Protocol to the Florence Agreement on the importation of educational, scientific or cultural articles.

(b) of regional significance

- The Customs Cooperation Council: the Convention on the Simplification and Harmonisation of Customs Procedures and the Convention on international transit of goods.
- The United Nations Environment Programme (UNEP): The Convention for the protection of the Mediterranean Sea against pollution.
- The United Nations Economic Commission for Europe: Customs Convention on the International Transport of Goods under cover of TIR Carnets.
- The Council of Europe: European Convention for the Protection of Farm Animals, European Agreement on the Exchange of Tissue-Typing Reagents, in addition to various Conventions relating to the protection of the environment: the Convention on the Prevention of Marine Pollution from Land-based Sources, the Convention for the Protection of the Rhine against Chemical Pollution.

(c) Commodity agreements to be negotiated by the Community or to which the Community is a signatory:

- International Wheat Agreement (accession)
- International Sugar Agreement (negotiations)

* See BR ISEC/B23/78 - New Efforts to Liberalise Trade

- International Cocoa Agreement (accession)
- International Coffee Agreement (accession)
- International Olive Oil Agreement (negotiations)
- International Tin Agreement (accession)

The Community is also taking part in negotiations relating to several products in connection with the UNCTAD commodities programme: bananas, bauxite, cocoa, coffee, copper, cotton and cotton thread, hard fibres, phosphates, rubber, sugar, tea, tropical wood, tin, vegetable oil including olive oil, and oilseeds.

Political Cooperation

The following are fora where the Community has been represented by one delegation or tended to speak with one voice:

- Conference on International Economic Cooperation (CIEC), or the North/South dialogue as it is known. Here the Community was represented by a single delegation, including the Presidents of the Council and Commission. Despite certain important disagreements the 27 participants (19 from developing and 8, including the Community, from industrialised countries) managed to reach a consensus on the adoption of a final report at the meeting last June. While admitting the areas of agreement and disagreement they noted, inter alia, that the CIEC formed a stage in the dialogue between the developing and industrialised countries.
- Conference on Security and Cooperation in Europe (CSCE): the meeting for the Final Act began in Belgrade last October and came to an unsatisfactory conclusion in mid-March 1978. Although in session member States differed in their approach, Commission representatives spoke on behalf of the Community on any questions covered by the Rome Treaty.
- Law of the Sea Conference: A Community delegation with observer status attended the sixth session of the Third UN Conference on the Law of the Sea last summer.
- United Nations: The Community participated actively in the work of UNCTAD, and spoke with one voice when the 31st session of the General Assembly was resumed from 13 - 19 September 1977 to discuss what the CIEC had achieved. At the general debate which opened the 32nd session later, Mr Simonet, the President of the Council, gave a general outline of the position of the Community and its member States on the major political and economic issues of current concern. Southern Africa was a major topic, and although the Nine did not always adopt the same stance, it became clear, as the debate went on, that they were in basic agreement on the main objectives regarding independence for Namibia, rejection of South Africa's policy of apartheid, and support for the right of self-determination in Rhodesia.

For the first time a Member of the Commission, Mr Cheysson, addressed a key committee of the General Assembly (Economic and Financial Committee) where he outlined the Community's policy towards the Third World.

The Commission also participated as an observer in a variety of other UN bodies, including the World Food Council.

Common view on South Africa

The Community reinforced the views expressed on southern Africa at the General Assembly when Mr Simonet, President of the Council, declared on behalf of the Nine at the World Conference for Action against Apartheid in Lagos last August that they "condemn and utterly reject the concept of separate communities for the different races and deplore the South African Government's refusal to work towards a truly non-racial society in which all would be equal by right".

As further evidence of political cooperation in this sector the Nine adopted on September 20, a Code of Conduct for the treatment of black employees of European companies with investments in South Africa.

Asking for More

Community external activity as outlined above - and the list is not exhaustive - would not have been taken or be taking place unless the Member States found it in their national interest to permit it.

Speaking in London on April 6, Mr Tugendhat, Commissioner responsible for the Budget, noted that the benefits of collective action, particularly in the commercial field, had been "so conspicuous and so substantial" that member States were now actively pressing for the transfer to the Community of further responsibilities in a number of external policy areas.

He suggested that this was a development in the history of the Community that was worth a good deal more attention than it has so far received. There was no difference, he noted, on this score in the enthusiasm shown by governments who want to see the Community develop towards a united Federal state and those who do not. Whatever the differences in their vision of the Europe of tomorrow, he said, all the member countries were equally willing to allot new tasks to the Community today, if and when they perceive it is in their national interest to do so.

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