

EUROPEAN ECONOMIC COMMUNITY
COMMISSION

FIRST MEMORANDUM
from the Commission of the
EUROPEAN ECONOMIC COMMUNITY
to the Council of Ministers of the Community

(pursuant to the decision of the Council of 3.12.58), concerning the problems
raised by the establishment of a European Economic Association

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Brüssels, 26. february 1959

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INTRODUCTION

1. The negotiations on the establishment of a free trade area begun in the Council of Ministers of OEEC and later continued in the Inter-governmental Committee, were broken off on 15 November 1958.

On 3 December 1958 the Council of Ministers of the European Economic Community, meeting in Brussels, adopted the following resolution:

" THE COUNCIL

" Anxious to continue the efforts to establish a multilateral
" association between the European Economic Community and the other
" states of the Organization for European Economic Co-operation,
" Recognizing that the difficulties which have come to light during
" the negotiations call for fresh studies and fresh contacts,
" Requests the Commission to undertake, in the light of the work
" already done or now in hand, a detailed examination of the pro-
" blems and of the possibilities of resolving them. In accomplishing
" this duty the Commission will maintain constant contact with the
" six Governments Members of the European Economic Community.
" The Council requests the Commission to submit a report by 1 March
" 1959 on the joint position which could be taken up by the Member
" States.
" The Council, when it has approved this report, will decide on the
" procedure to be followed. One possibility that may be considered
" is that the Commission should make official contact with other
" Governments in order to discuss the problem with these Governments".

A. ANALYSIS OF THE SITUATION

2. In the view of the Community the first requirements, if an early relapse into the same difficulties is to be avoided, is careful analysis of the reasons for the failure of the previous negotiations.

On a number of occasions since it began its work in January 1958 the Commission has expressed serious doubts on the chances of success for a conference bringing to one table states so heterogeneous and with such varied interests as the seventeen states of OEEC.

But this observation is of subsidiary importance when com-

pared with the basic differences which led the Paris negotiations into a cul de sac.

In fact these were based on a number of misunderstandings, at first perhaps not clearly perceived and only gradually noticed by the Community itself as it came into being; these misunderstandings however became more evident as the discussions progressed.

3. Among the Six the view has been widely expressed that the total abolition of obstacles to trade was possible only through a certain degree of harmonisation of economic policy, both external and internal. Among the Eleven, on the other hand, it is widely held that the Free Trade Area could be established without such precise undertakings.

4. The very concept of the work to be accomplished rested on widely differing points of view. For some the main objective of the Free Trade Area was to be the extension to all Europe of the fuller co-operation established by the Treaty of Rome; but for others the extension to the Seventeen of the economic advantages which the Six had accorded to each other, could be looked on primarily as a first move toward liberalisation on a world scale.

5. For the eleven European states outside the Community there should be no difference of treatment between the Member States and the other members of OEEC. No difference can be made between the seventeen members either in the field of tariffs or in the field of quotas. Any measure that can lead to such differences is called "discrimination" and condemned out of hand.

For their part the Member States of the Community consider that by establishing their Community, by agreeing to certain efforts and certain sacrifices in order to bring this community into being, by accepting new disciplines and specific burdens, they have constituted an association which gives them the right to treat each other in a manner which is different from that adopted towards non-member states. At the same time, however, they recognize that their action may raise problems for one or other of the remaining members of OEEC, and they are prepared to join with these countries in seeking practical means of co-operation.

Thus, on the one side, any discrimination between the seventeen members of OEEC is condemned, while on the other there is insistence on the legitimacy of the Common Market, combined with readiness to give the Common Market a liberal policy.

6. It is not surprising that such fundamental differences in conception should have led the negotiations into an impasse. Nor is

it surprising that throughout Europe, among governments, in parliaments, in the press and between individuals these difficulties have led to lively and sometimes heated discussions which for more than a year have been agitating public opinion more than was to be desired.

7. There is in addition a difficulty which is inherent in the Community: it springs from the fact that the question of close association of the eleven European countries with the Community has arisen very early in the latter's history. The Community is only at the very start of its existence, the transitional period has only just begun. The common external tariff, which is the basis of the Community's commercial relations with the outside world, has not yet been fully settled. The common commercial policy of the Six is still in its infancy. It is therefore more difficult for the Community to act than if it had behind it years of life as a Community. It is also difficult for the Community not to be concerned over anything which might harm its development, which might even prove to be a threat to its existence. These worries will no doubt disappear once the Community is fully developed; it will then be in a position to take greater risks. What is difficult to manage today will perhaps be easier tomorrow.

B. THE POINT OF VIEW OF THE SIX

In seeking the elements of an agreement the first requirement is clarity on the positions of the two sides.

The action of the Member States of the Community rests on considerations which are at once juridical, economic and political.

Juridical considerations

8. In the discussion on "discrimination" caused by the implementation of the Treaty of Rome, the Community has always found it hard to accept the idea it had established something which did not conform with existing undertakings.

Looked at from the angle of undertakings at world level the Community conforms with the rules of GATT, in particular with Article XXIV, which expressly authorises the formation of a Customs Union.

From the European angle, the Member States of the Community cannot accept that the Common Market involves a "discrimination", i.e. an unjustifiable difference in the treatment of other OEEC countries. The juridical situation is quite clear on this point. It is defined by article 5 of the Paris Convention of 1948 and by Article 8 of the OEEC Code of Liberalisation in the following terms:

Article 5 of the Convention

" The Contracting Parties agree to strengthen their economic
" links by all methods which they may determine will further the ob-
" jectives of the present Convention. They will continue the study
" of Customs Unions or analogous arrangements such as free trade
" areas, the formation of which might constitute one of the methods
" of achieving these objectives. Those Contracting Parties which
" have already agreed in principle to the creation of Customs Unions
" will further the establishment of such Unions as rapidly as con-
" ditions permit."

Article 8 of the Code of Liberalisation

" Two or more Member countries forming part of a special
" customs or monetary system may apply to one another, in addition
" to measures of liberalisation of trade taken in accordance with
" Article 2, other measures of liberalisation of trade without ex-
" tending them to the other Member countries. Member countries for-
" ming part of such systems shall inform the Organization thereof."

It is moreover difficult to understand why the Common Mar-
ket should be considered to be illegitimate when the Benelux Union,
which also constitutes a Customs Union, has been accepted without
difficulty and the idea of a Nordic common market does not appear to
raise any objections of principle.

Economic considerations

9. The purpose of the Common Market is not simply to reduce
the obstacles to international trade or to establish a large market.
It is to build in Western Europe a vast economic unit with really
creative drive.

In reality the abolition of customs barriers and quota re-
strictions, the drawing up of rules of competition, the inauguration
of a joint commercial policy are only means to an end, and this end
is the establishment of a dynamic whole capable of rapidly increasing
the economic potential of Europe and the level of its social well-
being, of placing Europe once more in a position to exert its full
influence, of allowing it to be once again one of the pillars suppor-
ting the free world, one of the essential elements supplying aid to
states in the course of development. It is for these reasons, and
not merely to safeguard its first steps, that the Community must pre-
serve its original character and its drive and that, in the words of
the resolution adopted on 27 June last by the European Parliamentary
Association, it cannot consent to be dissolved in an entity where it
would be deprived of the advantages of the economic and political in-
tegration which it has undertaken.

It would seem difficult to understand how OEEC could for one moment have been treated, in the name of a mistaken principle of non-discrimination, as an obstacle to this development. If this were ever to be the case, it would mean that OEEC, which up till now has served as an element of progress in that it replaced the old bilateral procedures by methods of multilateral co-operation, had been turned into an element of inertia, a brake on any progressive tendencies in Europe. This cannot have been the intention of its founders, and it certainly cannot be the intention of its present leaders.

Political considerations

10. The Community of the Six is founded on an political idea. It tends, in the words of the preamble to the Treaty of Rome, to "establish the foundations of an ever closer union among the European peoples". With this end in view the Treaty has created a whole complex of institutions and machinery which attain a nice balance between national elements and community elements. The Community has left the door open for later political extensions. The action taken by the Six does not then rest exclusively on a commercial or even economic idea; it is also without any question both the instrument and the expression of a basic political idea.

This means that the Six cannot consider giving up the Community.

C. THE POINT OF VIEW OF THE ELEVEN

11. The Commission does not claim to be the best interpreter of the economic or political thinking of the eleven European partners of the Community. It has none the less attempted to take their arguments into account, giving them all the weight they deserve.

No doubt the Community has the law on its side, some spokesmen of the Eleven have argued; its action may well be legal but there are things which, although legal, are politically unwise. Europe is just building its unity, and this it must have if it is to play its part in the world, a part which at present is essential. Consequently anything which divides Europe is bad; if the Community by its action should divide Europe into two separate economic blocs and if it were not to seek forms which make it possible to avoid this breach, it would quickly move forward to destruction of European solidarity, at first on the economic plane, but inevitably on the political plane later.

This point of view deserves the most serious attention and should determine the efforts of all concerned, including the Community, to avoid such unhappy consequences. But that in no way means that

the formulae which have been put forward in the past to bridge the gap between the Community and the other members of OEEC are fair in their ideas or sound in their economics, nor does it mean that they give due weight to the essential contribution which the development of the Community also makes to the strength of Europe.

12. The Eleven say next - and not without at least some show of reason - that the hopes held out for them have not been fulfilled. When the Treaty of Rome was being negotiated, they did not fail to see what would result from the action being taken. They had therefore asked that it should be completed by the establishment of a free trade area. As early as July 1956 attempts were made to attain this. Subsequently when, after the signature of the Treaty, they returned to the charge, they were asked to show patience in order not to create difficulties for the ratification procedure. Their worries were calmed when, at OEEC in October 1957, the earlier intentions were reaffirmed and the procedure to be followed was laid down. This did not produce results. It is not surprising if the Eleven have a feeling that dilatory methods had been deliberately employed.

These events must be kept in mind if we are really to understand the hopes entertained by the Community's European partners and the consequent sharpness of certain reactions when it appeared that the negotiations which had been undertaken might fail.

13. The Eleven show genuine disquiet over the possible effect on their economies of the implementation of the Treaty of Rome.

The establishment of the Community, its considerable weight, the very fact that in the heart of Europe there is a new and powerful group of States bound together by special bonds is, in their eyes, liable to raise difficult problems for all those on the periphery.

These complaints are somewhat exaggerated, as they look ahead to events which have not yet occurred. But they reflect an already very real concern which must be treated as a fact relevant to the issue.

The Community must pay close attention to these reactions; it must understand them and endeavour to meet them by an appropriate policy. It is perfectly possible that certain of today's anxieties may tomorrow prove to have been justified. The Community must be ready to meet them and to take such measures as circumstances may require.

D. THE POINT OF VIEW OF THE COMMISSION

The conclusions reached by the Commission at the end of its first studies and consultations are set out below; but it may be useful, at this point, to put forward certain general considerations which have guided their work.

The solution should be multilateral

14. Although bilateral discussions or even negotiations may prove necessary, possibly even indispensable, if views on general questions are to be brought closer together or certain specific problems to be settled, the general agreement to be worked out must as far as possible, be multilateral. That this is the intention of the Member States of the Community has quite recently been stated in Rome, in Brussels and in Bad Kreuznach; this intention is repeated in the resolution of the Council of Ministers of the Community of 3 December, to which reference has already been made. There can be no doubt, no ambiguity, on this point.

The activities of OEEC must be maintained and if possible intensified

15. The Organization for European Economic Co-operation has for 10 years provided the forum in which the seventeen member states meet and collaborate. It has to its credit considerable achievements in the field of the liberalization of trade. It is quite natural that the Eleven should be attached to this form of co-operation, which is suited to their diversity and to the courses of action open to them. There is no reason why the Community should seek any other setting for its relations with its European partners. If the coming of the Community has provided the signal and the motive power for a new effort towards the liberalization of trade in Europe, there appears to be no reason why this should not be made in OEEC. New tasks may be given to the Organization. The implementation of the Common Market does not involve the weakening of the Organization of the Seventeen; on the contrary, it must lead to its expansion.

World aspects must be considered

16. The Community is a power with responsibilities on a world scale. The problems raised by the introduction of the EEC cannot be confined to the boundaries of Europe. They have sprung up in all parts of the world. It would be useless to construct a solution in Europe if on the world level in GATT the elements of this solution were next day to come under fire. This point will be expanded below.

The solution must be liberal

17. More than once within the last year the Commission, in statements made on its behalf by its President, especially before the European Assembly, has expressed its intention of following a liberal economic policy. Everything in the Treaty, from the Preamble to the Declaration relating to co-operation with States Members of International Organizations which is appended to the Final Act, shows that this was certainly the intention of the authors of the Treaty and the basis on which they reached agreement. The Commission cannot conceive that the Community could develop a protectionist or autarkic philosophy and it believes that the Community must show in its deeds that it intends to follow a broad liberal policy vis-à-vis its partners in Europe and in the world.

It must be evolutionary

18. The Commission does not believe that it is possible to fix from the outset final and perfect forms of co-operation; it would appear rather that the desired results can only be attained gradually, that action on these lines would make it easier to reach agreement and that it is therefore necessary to find solutions capable of developing in the direction of an ever better organization of Europe's economy and of the economy of the world.

The solutions must be practical

19. The Commission finds that the great ideological battle on discrimination has assumed a quasi-theological character, with each party clinging to its views for such fundamental reasons that it has become almost impervious to the arguments of the other.

Consequently the Commission considers that in present circumstances it would be wise to seek some terrain other than that of doctrinal quarrels. In a perhaps less ambitious but more pragmatic manner, a practical compromise must be found which will allow the two parties to live together. If it is not at once possible to reach a full compromise, temporary solutions must be worked out which will allow time to seek, coolly and unhurriedly, the foundations of a final solution. The search for this solution will be helped forward by the large amount of work already accomplished.

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I - THE FACTS OF THE PROBLEM

A. POSITION OF THE EUROPEAN STATES WHICH ARE NOT MEMBERS OF THE E E C

20. The authors of the Treaty of Rome have always thought that the economic expansion resulting from the establishment and development of the Community would be such as to constitute for the neighbours of the latter a source of increased trade far outweighing any diminution which might result for them from the preference which the Member States have granted each other. The example of the Benelux customs union, which has very appreciably increased trade within its frontiers without reducing external trade, is encouraging in this respect. The European Economic Community is above all a great enterprise of economic expansion intended to benefit not only its members but all its partners, and, first and foremost, its European partners.

However, there is always a possibility that, in certain regions or certain sectors, these optimistic forecasts may not be entirely confirmed by the facts. Furthermore, the chronological order in which the results in question may make themselves felt should not be overlooked: it is now that the Eleven fear that the flow of their trade may be disturbed by the development of trade within the Community; it is only in the future that the expected expansion will become manifest.

21. In addition, the increase of productivity in the Common Market, which is one of the essential aims of the organization, may affect the possibilities of competition not only within the Community itself - as in the eventuality mentioned above - but in third markets, particularly outside Europe. Certain countries may be specially sensitive to long-term developments of this nature.

Varied situations among the Eleven

If the causes of concern vary, this is not only because of the dissimilar effects that will be produced by the Common Market. It must always be remembered that there are very appreciable shades of difference in the situation of the individual European countries in their relations with the Community.

22. In the first place, the special problem of European countries in process of development, such as Greece, Ireland, Turkey and - to some extent - Portugal and Iceland, should be recalled. The necessity of special arrangements for these countries is generally recognized. But the diversity of situations is not only a matter of the degree of economic development.

23. The countries of the Eleven depend on their foreign trade to very unequal extent. Norway, Ireland, Iceland, Denmark and Switzerland export 20 to 25% of their gross national product, Great Britain 16.2%, Portugal 15.5%, Greece 7.8%, and Turkey only 3.4%. (See Table I annexed)

The countries most involved in international trade are also those which have the highest proportion of their external outlets in the Common Market (see Table II annexed). Certain countries on the borders of the Common Market are very largely dependent on it as an export market. Austria sends 50% of its exports to Community countries, Switzerland nearly 40%, Denmark more than 30%, whereas the share of the Community in Great Britain's markets is only about 14%.

24. If account be taken of these two elements, it appears that the countries most interested by far in economic integration with the Common Market are Austria and Switzerland, which are geographical enclaves in the territory of the Community. They are followed by Denmark and the other Scandinavian countries, Iceland and Greece, which are exporters of agricultural products. Then come Great Britain, Portugal and Turkey.

25. The situation of the countries forming the Eleven is also different from the point of view of the items which they export.

Denmark, Iceland, and the least developed countries - Ireland, Portugal, Greece and Turkey - sell mainly agricultural products.

On the other hand the exports of the industrial countries of the group, with the exception of Great Britain, are highly specialized. Paper pulp and metals make up the essential part of Austrian exports, while the industrial exports of Sweden and Norway consist of these same products and ships.

Great Britain's exports, on the contrary, are very diversified and Switzerland occupies an intermediate position (see Table III annexed).

26. Finally, among the countries of the Eleven, Great Britain is in a very special position because of the fact that its tariff policy is linked with the Commonwealth preference system.

27. The facts outlined above call for the following remarks:

- When account is taken of the diversity of economic relations in Europe itself, the anxieties of the Eleven differ to some extent in scope and nature.

- Furthermore, sector studies carried out up to the present have shown that, when a certain point is reached in the reduction of trade barriers, the problem of the total elimination of these barriers is linked with the harmonization commitments which the States are prepared to undertake. The diversities recalled above cannot fail to influence the positions which might be acceptable to the different countries of the Eleven in the matters of harmonization of commercial and economic policy or tariff alignment. It is understandable that Great Britain should show no great readiness to alienate its freedom in this field for a market which represents no more than 14.6% of its exports and 2.3% of its G.N.P. (as against 45% of its exports which go to the sterling area and 16% to the dollar area).
- More generally, it is impossible to leave out of account, in any attempt to strengthen economic co-operation in Europe, the extra-European aspect of the tariff and trade policy of the European States themselves. Certain states do a great part of their trade with Europe. Others may consider the non-European aspects of overriding importance.

B. EXTRA-EUROPEAN ELEMENTS OF THE PROBLEM

28. The Six are no more isolated than the Seventeen.

Any analysis of the commercial and economic consequences of the setting up of the Common Market must take account of the fact that neither the Community of the Six nor a possible larger association embracing the seventeen European states is cut off from the world.

The negotiations on the Free Trade Area have already shown how delicate is the problem of the external relations of an European association of seventeen members.

In addition, it is certain that any convention between the EEC and the other members of the OEEC would need to be examined on the world level, in particular by GATT, as is the case for EEC itself. It may even be thought that the alteration in the traditional balance of customs systems brought about by the establishment of the Common Market would become still more farreaching if a treaty were concluded between the Seventeen. The normal outcome would be a general round of tariff negotiations. And the European states must expect to receive, in the framework of GATT, demands which will be all the larger, all the more exacting because of the fact that they have granted each other wider tariff and quota facilities.

This being so, it is important for the Community, if it wishes to avoid being drawn into dispersed but cumulative negotiations, haphazard in their development, and incalculable in their overall results, which would take no account of the particular requirements of the Common Market, to undertake simultaneously the

