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FROM THE EUROPEAN COMMUNITY TO THE EUROPEAN UNION

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The prospects of a European Union:
analysis for a negotiating strategy

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During its meeting at the end of June in Milan, the European Council is expected to pronounce on the substance of a political and institutional "relaunching" of the European Communities. The Council's deliberations will take place in the light of the work of the European Parliament (the so-called "Spinelli Treaty" - Draft Treaty establishing the European Union), the second "Spaak Committee" (or "Dooge Committee") and the Adonino Committee for a "Citizens' Europe".

Notwithstanding the reservations of certain Member States - principally Greece and Denmark - the Dooge Committee report appears to have achieved consensus and convergence in several substantial areas, and also with regard to institutional affairs.

1. Areas of substantial convergence

- Complete realisation of the internal market
- Reinforcement of the political processes and procedures leading to the convergence of economies and living standards.
- The creation of a technological community
- Reinforcement of the European Monetary System.
- The creation of new "own resources".
- The promotion of common values (the environment, culture, society and law).
- The search for a common external identity.

2. Institutional Affairs

- An amelioration of the Council's decision-making procedures (with dissenting opinions from Denmark, Greece, and the United Kingdom, who would prefer to retain the veto where vital national interests are perceived to be at stake).
- A reinforcement of the Commission, chiefly through changing the way in which its members are appointed (with British and Greek reservations).
- An enlargement of the Parliament's role, extending to legislative co-decision (British and Greek reservations).
- A consolidation of the powers of the Court of Justice.

The Committee's proposal for a conference charged with negotiating a European Union Treaty failed to gain the approval of the British, Danish, and Greek representatives.

Given this, the decision to convoke such a conference could be envisaged under one of the two following hypotheses:

- withdrawal of the British, Danish, and Greek reservations;
- a decision by the other Member States to negotiate a new Treaty to which not all Member States of the present Community need necessarily adhere.

Neither hypothesis seems probable, although it is worthwhile remarking that a change of heart on the part of the United Kingdom with regard to the Dooge Committee's proposals would probably lead to a reassessment of the Danish and Greek positions. In any case, it would be much easier, politically, to formulate a new Union in the absence of these two countries than in the absence of the United Kingdom.

It should be pointed out that the convocation of such a conference could only be justified if a large majority of Member States, at least including the six Founding States, were truly decided, not only to accomplish the institutional reforms proposed by the Dooqe Committee, but also to approve substantial progress in the areas outlined above.

TEPSA does not foresee a crisis leading to the "leaving aside" (or behind) of certain States. Too many doubts exist about the will and the capacity of the six Founding States to achieve decisive progress towards European federation (especially in the fields of defence and external relations) to risk perhaps fatal damage to the existing European construction.

Rather, TEPSA's proposals for the Milan Council rest on two important principles:

- no State should be constrained to leave the Community against its will;
- no State should forcibly oppose the will of a large majority (half the Member States, two thirds of the population) to go ahead, conforming to the spirit and the method of the Draft Treaty approved by the Parliament.

These two principles should not be considered as anything other than the introduction, into the Community system, of the possibility for one or more Member States to leave aside certain policies on areas of common action either on a temporary or permanent basis without ceasing to be a part of the Community (or Union).

On reviewing possible substantial and institutional progress some practical consequences of this admission become discernible. In this paper it is proposed that a distinction be made between these decisions which are immediately possible and those which would require either a new Treaty or amendments to the existing Treaties.

I. Possible substantial progress

The following analysis is based on a recognition of the interests and positions of the various Member States, and on previous TEPSA contributions in this field.

1) Complete realisation of the internal market

The Dooqe Committee's proposals for the achievement objective are possible under the current Treaties. The necessary modification of Article 100, in order to harmonise technical legislation, should be possible through a Council decision by a qualified majority.

The European Council could provide a programme and a timetable on each point, the most important being:

- suppression of frontier formalities for travellers;
- mutual recognition of current national laws as an interim measure before the elaboration of European norms;
- opening up public markets;
- a common market for financial services.

Greek reservations on the last three points could be stilled by the introduction of a safeguard clause regarding least-developed areas of the Community (temporary exemption under Commission surveillance and compensation through regional policy).

2) Economic Convergence Policy

This is a point to which Germany attaches great interest, and should be considered as part of an economic and monetary "package". Greek reservations once again recall the solution suggested under 1) above.

But before enacting such economic convergence policies it would be advisable to define the procedures involved, most notably in the area of conditional financial intervention.

The suggestion favouring direct transfers rather than payments through Community policies to poorer countries should be taken into consideration, but any Community aid should not be unconditional; rather, it should be an instrument designed to encourage the convergence of policies and standards of living.

3) A technological Community

In this area, the Dooge Committee's proposals being too general, it would be well to define the exact nature of the links between envisaged projects and the Community - a question raised by the EUREKA project.

Any general Community research and development strategy should be compatible with the concrete realisation, notwithstanding varying modes of participation, finance, and management, of projects more or less close to the market place, as well as fundamental research.

Here it would be worthwhile recalling the material objectives and operational norms of public markets, especially in the light of the Commission's call for a substantial enlargement of research credits in the Community budget.

Cooperation with Third countries should at least take the form of regular exchanges of views and, if possible, Community directives - notably in the field of European investment in third-countries and third country-investment in Europe. This important point was ignored by the Dooge Committee.

4) A European Monetary System

In the first place, the long-term objective of monetary union and the creation of a European monetary fund should be reaffirmed. No intermediate strategy can make sense unless it is firmly placed in this perspective.

In the shorter-term, on the other hand, agreement seems possible on a "package" incorporating the following measures:

- a liberalisation of capital movements and the elimination of exchange controls (incorporating safeguard clauses);

- greater use of the public ECU in transactions between central banks;
- recognition by the German Federal Republic of a statute of device for the ECU with an end to developing its use in private transactions;
- abandonment, by Ireland and Italy, of the special 6% margin of fluctuation.

The Monetary Committee and the Committee of Central Bank Governors could be invited to prepare for the enactment of these measures with the shortest possible delay.

The creation of a Committee of Special Experts - like the 1970 Werner Committee - could also be aimed for; such a Committee would have as its brief the preparation of such shorter-term measures as:

- 1) identification and definition of the conditions necessary for the creation of a European Monetary Fund;
- 2) the establishment of a flexible mechanism for participation in the European Monetary System.

Once full participants in such a System, Member States would not be able to withdraw except within the terms of safeguard clauses monitored and controlled by the relevant institutions.

Adhesion of the United Kingdom to the exchange mechanism should be one of the chief aims of the coming months, and, at most, before the end of 1985. Such adhesion could be guaranteed by the introduction of a safeguard clause allowing, in the case of necessity and for all Member States, a temporary extension of the fluctuation margin, for example, or even temporary withdrawal from the mechanism.

For other countries (Greece, Ireland, Spain, Portugal), participation in the exchange mechanism could be encouraged by conditional Community financial incentives, as previously explained under 1.2 above.

Similarly, a safeguard clause - always under the control of the relevant institutions - would have to be introduced in the case of capital movements. Such a clause would facilitate the rapid elimination of the controls which still exist in general Member States.

5) Creation of new own resources

If the current blockage is to be resolved then one particular point should be emphasised; in effect, the decision taken in May assures indispensable finance only for a short period.

Any "package deal" in this area should be formulated around three objectives:

- reform of the Common Agricultural Policy, comprising a policy of price moderation (depending on the Federal German Republic which, at the present moment, appears to be pursuing two contradictory aims);

- new resources for technological policy and, either through direct transfer or under a regional policy heading, to the less well-off countries (though always on a conditional basis);
- the attribution to the European Parliament of powers in the revenue field which should, within certain limits, avoid ratification by national parliaments. Such revenues would be calculated on the basis of that part of Value-Added Tax allocated as Community resources.

6) The promotion of common values

- Environment: reaffirm, define, and extend existing action - for example, with regard to the effects of acid rain on European forests;
- social policy: give priority to the social dialogue and to the coordination of employment policies;
- law: beyond the rather vague proposals of the Dooge Committee, the creation of a European Court could be proposed. Such a Court could eventually become a Criminal Chamber alongside the Court of Justice, charged with jurisdiction in the case of, for example, terrorist offences on grand larceny, where these effect more than one Member State, and the trial of people arrested in a State other than the one where the crime was committed;
- the promotion of common cultural values: two important decisions could arise from the Dooge Committee's proposals in this area. First, the creation of a European radio and or television chain, with cultural content and total or partial public finance. Second, the elaboration of a large university exchange scheme, accompanied by the principle of mutual recognition of academic qualifications (under the control - without exception - of the relevant institutions). (See below, II., "Citizens' Europe".)

7) The search for a common external identity

The creation of a permanent secretariat for European Political Cooperation would seem to be generally acceptable, albeit with Danish and Greek reservations. The creation of such a secretariat could be decided at Milan and immediately acted upon, without waiting for a new Treaty and, if necessary, without the Danes and the Greeks. It would be desirable for the new secretariat to maintain the closest possible links with the Secretariat of the Council, as well as with the Commission and the Parliament.

Reinforcement of political cooperation was the object of - almost general - reservations on the part of Denmark and Greece, but not on the part of the United Kingdom. Under these conditions would it not be best to agree that the two reluctant countries could continue to participate in political cooperation, but that they would not be tied - without their express declaration - by common decisions or resolutions. In this way their opposition would cease to be an obstacle to the arrival at common positions.

The same solution, extended to include Ireland, could be applied concerning debates and decisions in the field of armaments and defence. Indeed, the

largest obstacles to agreement in these areas are Denmark, Greece, and Ireland. In brief, either they accept the policy objectives of the Community and participate in political cooperation, or they do not accept these objectives and cease to participate except as observers. The same attitude should be adopted - should the need arise - in the case of Spain and Portugal.

The proposal for common representation in certain international institutions and in certain countries should be given high priority, if only because of its great symbolic value, though such common representation would have to be limited to the countries participating in political cooperation.

On defence matters priority should be given to the rationalisation of the armaments industry and research, and to discussion of strategic doctrine. The European Council should carefully clarify the respective roles of the Community and the Western European Union, and institute close links between the two (Commission representation in the W.E.U., common sessions of the W.E.U. Assembly and the European Parliament, for example).

II. A Citizen's Europe

A principal obstruction to efforts aimed at relaunching the European construct where, even if there is disagreement over contents and methods, the necessity is generally recognised by governments, arises from the lassitude and skepticism of public opinion. Widespread feelings of "Europeaness" and of belonging to the Community throughout the general population are still far away. This is a source of great weakness for Europe, and can be contrasted most unfavourably with the confidence and sense of national attachment exhibited by the American and Japanese populations - our two principle partners of the free industrialised world.

For this reason, in TEPSA's opinion, actions designed to promote a feeling of identification with the Community can no longer be considered as being of secondary importance.

Without waiting for the results of the Adonino Committee's work, the Milan Council could adopt several significant decisions, where the practicalities of promulgating these measures could be followed up by the Adonino Committee or the Commission, or any other competent body.

1. Symbols: - a Community flag, hymn, passport (recognised by third countries), driving license, and Community postage stamps. Eventually notes and coins denominated in ECUs (issued jointly by national institutions), a European honorary order, a European holiday (for example, 9th May, the anniversary of the end of the war and of the Schuman Declaration) - if only for schools.

2. Free circulation of travellers: - the suppression of all internal frontier controls - ultimately of all commercial controls - would have a most important psychological and symbolic effect. Such a measure is perfectly feasible, and need not hinder police controls and the fight against drugs.

3. The right to vote in local and European elections should be granted to all Community individuals, no matter where they choose to settle. Such a principle, once accepted, could be gradually put into practice.

4. Education is another important area where the following measures could be instituted:

- development of secondary language teaching in primary schools, if not nursery schools, where age makes language acquirement far easier;
- mutual recognition of academic qualifications, decided without exception by Community institutions (the Commission, for example - perhaps under Council supervision);
- a general exchange programme for students and teaching staff, perhaps, starting in the traditional fields of language and literature, at secondary and tertiary level;
- a programme aimed at harmonising teaching and qualifications, giving due place to the European dimension.

5. Sport offers a further opportunity for expanding a sense of European identity, perhaps through intra-European competitions, but above all through the composition of European teams for international sporting events such as the Olympics.

6. Action at the level of the mass media, as pointed out above, is of primary importance.

Beyond the recognition of the right of free communications, the Commission should be called upon to propose measures encouraging activity in the cinematographic and audiovisual spheres, as well as in the publishing field.

A decision of great symbolic value and of fundamental importance, referred to above, would be the creation of a European radio and television chain, primarily of cultural content.

III. Institutional reform

It is on this subject that the Dooge Committee's opinion was split between, on the one hand, the six Founding States together with Ireland and, on the other, all the other States - including the United Kingdom. The difficulty cannot be overcome by the introduction of safeguard or abstention mechanisms - with the possible exception of the Council's decision-making procedure.

On this subject TEPSA has limited itself to proposing several formulas for compromise agreements, whilst recognising that the continued refusal of some governments to countenance any form of evolution could ultimately lead the majority of states to consider the creation of a European Union as a substitute for the present Community (the Spinelli hypothesis). All the same, such an eventuality will appear highly unlikely as long as the six Founding states are unready to establish a Federation of the United States of Europe, with full competence in monetary, defence, and external relations matters. Such a vision is still distant, as is the European Parliament's own project.

Before turning to the possible compromise solutions a preliminary remark is in order. An express recognition, through a declaration of the European Council, of the possibility for a Member State to demur on certain matters. Where an amendment to the Treaties is ultimately envisaged would greatly enhance the possibilities for progress. The possibility for a Member State to be "counted on" on a particular issue - whether permanently (defence, external relations), temporarily, or by way of a safeguard mechanism (the exchange mechanism of the E.M.S., the removal of restrictions on capital movements, public markets, etc.) - would make it possible for the Council to adopt decisions with the abstention - rather than opposition - of the minority States. Such abstentions would have to be taken into account at the budgetary level, perhaps, for example, by way of reimbursements.

1) Council Decision-making

The rule of a vote with a delay of thirty days is essential. This should be approved by the Milan Council notwithstanding the reservations of Senator Dooge, linked with the defence of vital interests.

It is this defence which is causing all the difficulties. But is it not possible, following the inspiration of the Parliament's project, to accept during a period of ten years exceptionally important interests justified in writing, with one fundamental reservation: - the possibility for a majority of States to invoke, with the agreement of the Commission, the existence of an overriding vital interest for the Community, and hence for each of the Member States? In such a case a minority State would have the choice of either agreeing with the majority decision or of refusing to apply it - in which case, the Commission could pursue the legal consequences under the control of the Court of Justice, justifying its case by reference to the safeguarding of other States' interests. For example, the fixing of agricultural prices is of great importance to the Community and to its Member States. A minority State, feeling, say, that the prices agreed are unacceptable, could refuse to apply them. At this stage the Commission would pursue the consequences in such a way that the minority State could not benefit from its refusal to accept the common decision - for example, by the levying penalties on compensatory amounts.

2) Reinforcing the Commission

The bone of contention is whether the President nominated by the European Council should be able to choose his colleagues. Is it not possible to envisage a procedure whereby the President-designate may oppose certain nominations with which he disagrees? In cases of conflict the Council would be the ultimate arbitrator.

One of the more contentions of the Dooge Committee's proposals is that the number of members of the Commission should be linked to the number of Member States. Even if the present system is retained in practice for the moment, the possibility for a more communautaire solution must be preserved: ultimately, members should be nominated because of their personal qualifications and not because of their nationality. The absence of rules to the contrary is the best interim solution. The idea of investiture by Parliament met only with Greek reservations, which ought to be overcome.

3) Parliament's role

Here the main sticking point is the proposed legislative co-decision making power for the Parliament. One solution could be to limit such power during a first stage whilst laws are still being harmonised. Still, it is to be regretted that the Dooge Committee did not avail itself of Parliament's potential as an instrument for unblocking legislative deadlocks. Would it not at least be possible for the European Council to recognise Parliament as a last resort when decision-making has reached an impasse in the Council?

4) The Court of Justice

It is vital that the often-contested role of the Court should be expressly recognised. The Dooge Committee's proposals in this field were made without reservation and should therefore be approved and enacted.

The possibility of creating a Criminal Court (see 1.6) alongside the Court of Justice should also be examined.

IV. Enactment of proposals

A majority on the Dooge Committee proposed the establishment of a conference of government representatives which would be charged with negotiating a new Treaty of European Union. Three States, including the United Kingdom, opposed this recommendation.

TEPSA's recommendation is both to avoid a breakaway and yet to accelerate the relaunching process, whilst retaining, as an instrument of political pressure, the idea of ultimately negotiating a new Treaty.

Thus, the following action should be taken:

- immediate adoption by the European Council of all the programmes and projects realisable on the basis of the current Treaties - especially art. 235 - without forgetting all relevant action in the field of a "Citizens' Europe";
- the decision to convoke - as soon as possible, and certainly not later than the end of this year - an intergovernmental conference based on art. 236. The conference would bring together the Member States in order to prepare, after proper consultation with Parliament and Commission, those amendments to the Treaties (where agreement in principle has at last been reached - see above) which would ameliorate the functioning of the Community.
- Where unanimous agreement for such a conference cannot be reached, the Italian Presidency will be invited to take up contact with the majority of States in favour of fresh development in order to prepare, on a conventional basis, a new Treaty for European Union.

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