

The Reality of the Common Market - as seen by a Member of the
European Parliament

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Mr. Chairman, Ladies and Gentlemen

It is a very great honor for me, as a Member of the European Parliament, to speak to you today, and I should like to thank you most warmly, Mr. Chairman, for inviting me. The invitation is particularly timely because within the European Economic Community today there are signs of certain internal developments which may not be wholly visible from the outside but which could well be decisive for the destiny of the Community and Europe. In the General Report on the Activities of the Community in the year 1961-1962, which ~~as Rapporteur~~ *has just been* I presented to the European Parliament - it was discussed in open session at Strasbourg only a few days ago, on 17th and 18th October - I endeavored to throw some light on these developments.

1. Generally speaking, people from Europe, as well as from other continents, primarily think of the Economic Community as a customs union whose aim is to set up a large Common Market within which there are no longer any frontiers to impede the traffic in goods and services. Now, it is of course true that in the first four years of the Community's existence the chief preoccupation was the "opening of the markets", and it is an impressive achievement

that, after the second "acceleration" of the procedure, the internal customs duties between the member States of the Community now stand, in the case of industrial goods, at only 50% of the rates prevailing on the base date, 1st January 1958, and that even in the case of agricultural products the figure is now only 60 or 70%. Moreover, quantitative restrictions on imports and exports have, save for a few remnants, been eliminated. The programs envisaged in the Treaty for freedom of establishment and free traffic in services for individuals and enterprises have now been agreed upon and the first proposals for their execution have been laid before the Council of Ministers and Parliament. Thus the time is already in sight when, within the Common Market, not only trade in goods will be free, but all individuals and corporate undertakings will be able to exercise their activities where they ^{want to} ~~will~~. What this piece of progress alone means can be fully understood only by those who have some idea of the magnitude of the obstacles that formerly existed between the member States.

2. There is, however, also widespread recognition of the fact that the Community is not only a customs union but an economic union, in which a common economic policy is gradually to be fashioned for the various fields concerned. The first important decisions on these lines were the resolutions of the Council of Ministers, early this year, concerning the common agricultural policy, and the ^{first} ~~initial~~ regulations on competition. Other joint decisions, for instance on transport policy, should, in

accordance with the Treaty, soon follow.

3. All who are interested in the trend of affairs in Europe must surely realize, too, that sooner or later it is bound to end in political union. Hence the talks on the latter subject between European statesmen are being followed everywhere with close attention, and to a great extent also with the hope that they may lead to tangible results as early as possible. But not very many people, even in the member States of the Community, are aware that the political integration of Europe, at any rate in the six Common Market countries, is already much farther advanced than outward appearances suggest. We naturally hope that the conversations on political union will be successful, but quite apart from their outcome we are bound to recognize that the political unification of Europe is already in full swing today.

II. An example is seen in the fact that essential decisions in important spheres of everyday life, especially economic life, are now taken only on a Community basis and not by the individual States; and that over and beyond this the decisions of the Community must inevitably lead to some degree of harmonization in many other fields. It is simple fact that the integration of Europe cannot be restricted to individual sectors of the economy, or even to individual aspects of economic policy. What began with the European Coal and Steel Community and was continued by the Rome Treaties, irresistibly and automatically leads to the result that the member States become intertwined one with the other and to an ever-increasing degree can decide and act only in common.

1. In many fields the obligation to devise a common policy is already laid down in the Rome Treaty. This is especially true, for example, of the common agricultural policy, the first regulations in pursuance of which have already begun to supersede the national laws of the six member States. There may still be considerable differences between the agricultural policy followed by France, Italy, Holland and the Federal Republic of Germany; but step by step they are being removed and are giving way to a common and uniform line of action.

Another field where the Treaty prescribes a common policy is that of transport. It is obvious that in the long run there can be no free movement of goods and persons between the six member countries if the latter pursue six wholly different transport policies. One of the first measures taken was the regulation that the fares or freight applicable to trans-frontier transport shall be the same as those applied in internal traffic.

Finally, a third field in which the Treaty prescribes a common policy is that of the rules governing competition or agreements between undertakings. In the spring of this year the Council adopted the first regulation issued under Articles 85 and 86 of the Treaty and thus began to give practical effect to these provisions, designed to eliminate cartels and monopolies. (Since I as a practicing lawyer have been dealing with these questions for the past ten years, and have also as Rapporteur had to prepare the opinion of Parliament on this regulation, I am, of course, particularly interested in the subject of the rules governing competition.)

2. But outside their immediate province the common policy decisions called for by the Treaty necessarily entail greater uniformity in fields other than those, for example, of agriculture, transport or competition. Already today under the regulations on the cereals market, the Commission of the European Economic Community has the right, without consulting the Council of Ministers ^{of} the European Parliament or the national Parliaments, simply to ^{issue an order} ~~make an order~~ that, shall we say, the member States' current price lists for cereals shall be amended - and, what is more, with immediate effect, or, in other words, without ratification by the national Parliaments. Let us suppose that one day a dispute about the application of such an order arises between the Commission and one of the enterprises affected. It will then be for the European Court of Justice in Luxembourg to develop a European Code of Judicial Procedure, a European Administrative Law; for in trying to settle a dispute of this kind it is clearly unable to use a whole series of different procedures or systems of administrative law, depending upon whether the enterprise concerned has its registered office in this or that member State. Although the Treaty ^{does not} contains ^{any} no express provision on the matter, what is here taking shape, by means of the jurisprudence stemming from the Treaty and regulations issued in pursuance of the Treaty, is a uniform body of European law.

The same applies to a field such as the rules governing

competition. Perhaps the Court may one day have to decide whether a certain ^{Restrictive} ~~competition-limiting~~ ^(a license) clause in an agreement ~~to manufacture a patented article under licence is covered by~~ ^{is within the scope of the patent} ~~the laws on the protection of industrial property,~~ and hence permissible -- to mention a case that frequently arises under Anti-Trust legislation --, or whether it is outside the scope of those laws and hence ^{illegal} ~~inadmissible~~. The Court will in the long run have to give a uniform ruling on the scope of patent protection for all six member States, ^{even} (in the absence of any unification of the laws themselves.

3. But matters go even further than this, Ladies and Gentlemen. The Treaty provision that every worker shall be able to seek employment ^{wherever he chooses within the Community} can, on the long view, be implemented only by harmonizing in one way or another the social legislation of the six member States. So long as social insurance in one State is substantially different from that in another, so long as the worker cannot be sure that if he changes his place of work he will at least keep the rights he has already acquired, his freedom of movement will remain purely theoretical.

To take another example: if the Community is to promote the economic development of all member States equally, as the Treaty stipulates, then it must see to it that the backward regions within its own boundaries are especially assisted. Even less than any of its Members can it afford to leave to their

fate such areas as Sicily, the Belgian coalfields or the German territories close to the Iron Curtain. But neither can it expect the member States to look after these regions themselves; it must institute a common and uniform regional policy to give such peripheral or underdeveloped areas a new lease of life.

Even today the differences between the tax laws of the member States, especially in regard to turnover tax, are so great that they hamper competition between firms or, as the Treaty says, "distort" competition. The Treaty therefore provides for harmonization of the tax laws, which, however, in its turn is bound to have effects on the States' currencies and on their budget policies. No free flow of capital between the States is possible if the currencies of the Six have totally different values and the Ministers of Finance pursue divergent budget policies.

Thus you may see, Ladies and Gentlemen, how a common decision in one field inevitably entails common decisions in others. Such decisions are then no longer purely economic; they are decisions of economic policy and in many cases genuinely political decisions, with a direct impact on the policy of the individual member States. The shaping of the national budget, business cycle policy, or the attitude to be adopted towards the associated territories in Africa are examples of fields in which genuine political decisions are involved.

III. Whereas during the Community's first four years the emphasis was all on the opening of the markets, that is to say on the

reduction of customs tariffs and quota restrictions, during the second stage and to an ever-increasing degree in future other subjects will come into the limelight. Clearly this means that a growing number of powers possessed by the individual States, and decisions that formerly lay with them, will be transferred to the Community, not only in economic matters but also in the sphere of general policy. But the more the weight is transferred from the Members to the whole, the greater the importance attaching to the question whether the Community is only a loose combination of States or a living unit capable of independent action. It is the view of the overwhelming majority of constitutional lawyers that the Community today is more than a confederation of States, but not yet a true federation. The nations, as the units formed by history, are still the strongest element; they are still the real political units: yet step by step more and more sovereign rights are being taken over by the Community, and it is even fascinating to watch at close quarters how the Community's rights of intervention grow constantly stronger. But the more these develop, the greater the urgency of ascertaining whether the Community's internal structure already reflects the concepts of a modern democratic State.

1. Under the Rome Treaty it is still, temporarily, the case that all important decisions lie with the Council of Ministers, i.e. with the organ that consists of representatives of the member States. The Council is the legislature, since it passes the laws;

the Council has the last word on the budget, because the Community levies no taxes of its own, but lives on the member States' contributions. Finally, - more's the pity, it must often be said - the Council of Ministers has hitherto taken the essential political decisions, both internal and external.

The Commission, as the executive of the Community, has, by contrast, primarily a right of initiative and proposal. Its appointed task, but also its right, is to submit proposals to the Council of Ministers concerning orders to be issued, as well as about major decisions of economic policy. From the legal viewpoint the interesting feature here is that the Council can take no important decision unless it has received a proposal from the Commission, and that it cannot amend the Commission's proposals except by a unanimous vote. This arrangement at least ensures that the initiative rests with the Commission, against whose wishes the Council of Ministers can take no decisions of any consequence.

In its turn, the Commission is responsible to the European Parliament, which consists of 142 representatives of the peoples of the Community. At present they are still appointed by the national Parliaments, but one day - let us hope it will be soon - they are to be elected by direct suffrage. Admittedly the only decisive weapon in the hands of this Parliament is the right to overthrow the Commission by a qualified majority vote, with no power to elect a new one. Nor does Parliament have any right

to enact laws, approve taxes or adopt the Budget. ^{But} ~~It~~ must also, in certain cases provided for under the Treaty, be asked by the Council of Ministers for its views on the Commission's proposals and it has, for its part, the right to put oral and written questions to both Council and Commission.

2. No doubt you will be justified in asking me what sort of a role this body has managed to play with such limited powers as these, which are very far from resembling those of a true Parliament. In Europe, and especially in Germany, persons or institutions are often judged according to the rights they enjoy under some written statute or constitution. You, as Anglo-Saxons, know that what matters is not merely the fact of having such written rules. What really matters is the use that you make of them. And here we can say with a good conscience, after four or five years of the Community, that the European Parliament has gained an influence that goes far beyond the bounds set by the Treaty.

(a) Parliament has become a strong factor in European integration if only because it does not represent the European Economic Community alone but also the Coal and Steel Community and EURATOM. In addition, its members no longer work in national delegations, but in political groups - Christian Democrats, Socialists and Liberals within-which co-operation between parliamentarians of all the nations of the Community is constantly growing.

(b) What is more, especially during the last year, the European Parliament has exerted a not inconsiderable influence on the decisions of the Council of Ministers in the course of consultations on such matters as agricultural policy and the rules of competition - not only because of its technical knowledge but also because it possesses the requisite political will. It is true that in taking the final decisions on many points, some of them quite important, the Council of Ministers did not abide by the proposals of the Commission or the opinion of Parliament. But that was precisely one of the topics we particularly stressed last ^{year} in the plenary debate on the previous year's activities of the Community: we said that Parliament would have to reserve its position whenever the Ministers rode roughshod over essential features of its opinions. It is, of course, obvious that Parliament will be able to exert an influence only as long as those opinions are founded on full knowledge of the facts and are backed by political determination.

(c) Finally, over the years there has grown up a very lively practice of putting questions to the Commission and the Council of Ministers. As Anglo-Saxons you are well aware of the importance of Question Time to individual members vis-à-vis the Government. Handled with skill and determination, this method allows the ordinary back-bencher to exert considerable pressure on the Government - even where strictly he can lay no claim to such pressure.

(d) One field in which action initiated by the European Parliament has had a particular effect on developments is the renewal of the Association Agreements with the African States. Here, as you know, it took the initiative as much as two years ago, and in a joint session with the representatives of the Parliaments of those States hammered out a program for renewing the association. It is to be hoped that this program will soon be put into effect by the responsible Governments of the member States.

3. So, although Parliament, with the meager powers assigned to it, has won much more influence than was originally envisaged in the Rome Treaty, the existing division of powers between Council of Ministers, Commission and Parliament cannot be preserved in the long term. For, when they ratified the Treaty, the national Parliaments gave up in favor of the Community a large proportion of the rights they enjoyed vis-à-vis the latter. The decisive organ of the Community, the Council of Ministers is no longer subject to the control of the national Parliaments, as its sessions are secret. Moreover, since the transition to the second stage it is possible in many cases for majority decisions to be taken, and the individual Minister may even be outvoted, without any possibility of his being called to account for his action.

On the other hand, anyone acquainted with the historical development of all the great States of the free Western world knows that such large-scale political communities can preserve

their strength in the long run only if they are deeply rooted in the conscience of their individual citizens, whose voluntary support they enjoy. The prerequisite for this, however, is that the citizens can also play their part in the decisions taken, which in the last analysis determine their own fate too. Hence the more the rights of the member States are transferred to the Community and its organs as the Common Market develops, the more important it becomes to strengthen those organs. The demand is consequently raised, particularly by the European Parliament, for the EEC Commission to be transformed into a genuine executive, able to act on the Community's behalf, but in turn politically responsible for its actions, and for Parliament to be composed of directly elected representatives and gradually invested with all the prerogatives of a full-scale Parliament.

I know that these demands are still only a pointer to the future; there are still forces in the member States that put a brake on this process, for which they are not yet ready. But even without any amendment of the Treaty the power of actual facts is great, so great that it must constantly tend to transfer the political weight more and more to the organs of the Community, namely, the Commission and Parliament. If one day, in addition, we reach what I consider to be the very necessary arrangement whereby the three Executives of the Coal and Steel Community, the EEC and EURATOM are merged, we shall then have taken a decisive step closer to the ultimate aim of a United States of Europe.