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NOTE D'INFORMATION • INFORMATISCHE AUFZEICHNUNG
NOTA D'INFORMAZIONE • TER DOCUMENTATIE • INFORMATION MEMO

Brussels, January 1972

WHAT WILL HAPPEN IN 1972?

From Signature to Membership (January 1, 1973)

This note is intended as a brief "working instrument" (in addition to P-8) destined for journalists who, between now and January 22, need concrete information for their articles and commentaries. It is not therefore a legal document and does not pretend to be exhaustive. This note cannot, however, entirely "ignore" matters of law because membership amounts to a combination of specifically Community elements and elements of classical international treaty-making.

I. MEMBERSHIP

The following framework may be envisaged: membership entails four stages of procedure:

- a) conclusion of negotiations
- b) signature
- c) ratification
- d) deposit of the instruments of membership.

a) Conclusions of the negotiations and b) signature on January 22, 1972

The results of the negotiations for membership are authenticated in a final act of the Conference. This act amounts to a sort of inventory enumerating all the texts agreed upon during these negotiations (act of membership with Protocols, annexes, declarations, exchanges of letters etc.). To avoid convening the participants twice during the day, this final act will take place together with the signing ceremony foreseen for 16.00 hours.

Beforehand at 12.00 hours the Council of Ministers will have met and will have to take account of the differences between the Treaties of Rome and Paris.

- For the Treaties of Rome, the Council decides in accordance with Article 237 (EEC) and article 205 (Euratom) that the Six member States may conclude the Treaty for membership. This is done on the basis of the opinion of the Commission which the latter discussed at its meeting of January 19 and immediately despatched to the Council.

- For the Treaties of Paris the Council, in accordance with Article 98, takes a decision which enables membership to take place and lays down the conditions. This too is done on the basis of a opinion from the Commission (High Authority). As distinct from EEC and Euratom case there is no treaty in the proper sense of the word; it is enough for the candidate countries to make it known subsequently what they accept.

During the official ceremony at the Palais Egmont the Plenipotentiaries of the ten States of the future enlarged Community sign the membership treaty. The four candidate States take cognizance of the decision of the Council concerning membership of the ECSC.

Beforehand the final act of the Conference will be signed.

It is worth recalling briefly (a more thoroughgoing legal examination would be rather complex) that it was the Community as such which was recipient of the membership requests and which negotiated the conditions of entry and the adaptations to the Treaties and that therefore by definition it is not with one or several of the member States that the candidate countries wish to forge new links, but with the Community, and that it is therefore a Community legal order into which the new members will come.

In the Commission's opinion it is stressed that "at the end of these negotiations it appears that the arrangements agreed upon are equitable and appropriate; that in these conditions enlargement, while persevering with the internal cohesion and dynamism of the Community, will allow the Community to strengthen its participation of the development of international relations.

c) Ratification Procedures in 1972

The ratification procedures confirming the act of January 22, 1972 are different for each of the countries concerned.

The accession treaty (based on Euratom and EEC) must be ratified by each of the ten countries. The decision of the Council on the ECSC must only be accepted by the four candidate countries.

Generally speaking, it can be said that the constitutional rules of each of the signatory countries envisage the intervention of the national parliament. However, the field of application of the legislative power varies considerably from one country to another. In addition, in three countries, Denmark, Ireland and Norway, there is a referendum procedure..

d. Deposit

Arrangements for deposit are laid down in the final provisions of the accession treaty (EEC and Euratom) and the Council decision (ECSC).

- The ten States deposit after ratification a signed copy of the accession treaty (EEC and Euratom) with annexes with the Italian government in Rome at the latest by December 31, 1972.
- The governments of the four candidate countries deposit after ratification a signed copy of agreement with the Council decision with the French government in Paris at the latest by January 1, 1973.

II. INFORMATION AND CONSULTATION

Mutual information and consultations during 1972 can be required in three cases:

- A. Before a Council decision
- B. Before an autonomous decision of the Commission
- C. Before a legal act by a government of a candidate country.

A. The most frequent likely case of a demand for information and consultation concerns the activity of the Council of the European Communities. At the end of negotiations (although in practice this has operated since November 10, 1971) and until membership on January 1, 1973, the candidates will enjoy a wide-ranging right of information. Where they can show that they have a direct interest in Council decisions they have the possibility to introduce a consultation procedure at virtually all preliminary stages of the Council's decision making process. The Council has the same right.

After Community concertation, consultations take place in a joint committee at ambassador level. If found necessary in a very important matter, a ministerial conference may also be convened.

B. In certain fields the Commission can, within the framework of its attributions, take decisions. In these cases the Commission will inform and consult the candidate countries beforehand insofar as their

interests are affected by such decisions.

- C. In the case where during 1972 the candidate countries settle questions which have an effect on the functioning of the Common Market or are of significance for the further development of the Community, the European Community can request clarification and consultation from the government concerned.
