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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 143
21 November 1950

Amendment of the Statute of the Council of Europe

Motion for a resolution
tabled by Mr R.W.G. MACKAY and other members of the Assembly

Explanatory Memorandum

INTRODUCTION - THE TERMS OF REFERENCE

1. On the 28th August 1950, the Assembly adopted the following Resolution (Doc. 124) relating to the draft of a protocol for the amendment of the Statute of the Council of Europe :

" The Assembly, having declared that the aim of the Council of Europe is the creation of a European Political Authority with limited functions but real powers, instructs the Committee on General Affairs :

1. To submit to the next meeting of the Assembly a plan for the reform of the Statute of the Council of Europe which, among other things, would aim at the suppression of the right of veto of the Committee of Ministers.
2. To define the kind of European authority which might be endowed with limited functions but real powers. "

2. Your Committee is instructed to do two things :

1. to submit a plan for a protocol amend - ding the Statute; and
2. to define the type of European authority.

In considering any plan for the reform of the Statute, your Committee must be guided by the Recommendations which have already been passed by the Assembly at its Second Session in August 1950. Any plan for the reform of the Statute must take these Recommendations into account. Furthermore, the Treaty of Economic, Social and Cultural Collaboration and Collective Self-Defence, signed at Brussels in March 1948, and the Convention for European Economic Co-operation signed in Paris in April 1948, cover a large number of matters which, it has been suggested from time to time, should be brought within the scope of the Council of Europe. Moreover, Recommendations to that effect were made by the Assembly at its last meeting.

Any plan for the reform of the Statute must therefore consider at least three questions :

1. the form of the authority which it has been asked to define, and the changes in the Statute which any such form of authority may require
2. the recommendations already passed by the Assembly on the amendment of the Statute, and,
3. the amendments which arise if the Treaties already referred to are brought within the scope of the Council of Europe.

3. In these circumstances your Committee has found it convenient to consider the second question referred to it first, as until your Committee has defined the kind of European authority which is to be endowed with limited functions but real powers, it will not have properly considered the major changes, if any, which are to be made in the Statute. Thus, the order of treatment in this report is as follows : Part I —the introduction—examines the terms of reference and discusses a method of dealing with the instructions which the committee has received.

Part II considers the definition of the political authority with limited functions but real powers and arrives at a definition. Part III contains the plan for the reform of the Statute of the Council of Europe in the form of a draft protocol to amend the Statute.

4. As the Committee have drafted their plan in the form of a protocol for the amendment of the Statute it becomes important to point out that in the present circumstances, in the view of the Committee, proposals for the amendment of the Statute may be made in the Consultative Assembly. Article 41 of the Statute provides among other things :

" (a) Proposals for the amendment of this Statute may be made in the Committee of Ministers or, in the conditions provided for in Article 23, in the Consultative Assembly.

" Under Article 23 the Assembly shall discuss and may make recommendations upon any matter which is referred to it by the Committee of Ministers or has been approved by the Committee of Ministers for inclusion in the agenda of the Assembly on the proposal of the latter. Thus, it is clear that the Assembly may make proposals for the amendment of the Statute provided the proposals arise in the course of the discussion on an item which is in its agenda.either because that item has been referred to it by the Committee of Ministers or has been approved by the Committee of Ministers for inclusion in the agenda.

5. Your Committee considers it right to point out that the resolution which was passed by the Assembly in August last and which contains thé ternis of reference to this Committee is one which arose out of a matter which had been approved by the Committee of Ministers for inclusion in the agenda of the Assembly on the proposal of the Assembly. One of the items referred to the Assembly by the Committee of Ministers at its first session in 1949 was the :

". Consideration of any necessary changes in the political structure of Europe to achieve a greater unity between the Members of the Council of Europe and to make an effective European co-operation in the various spheres specified in Article 1 of the Statute. "

The Assembly considered this item both at its First Session in 1949 and at its Second Session in August 1950 and adopted a number of Resolutions relating to it. For example, most of the Recommendations which were adopted by the Assembly in August last were part of a report of the General Affairs Committee made under this item on the agenda. Moreover, Resolution relating to the draft of a protocol for the amendment of the Statute of the Council of Europe which was passed as part of tho Report of the General Affairs Committee at the same session of the Assembly came under this item on the agenda.

DEFINITION OF THE KIND OF EUROPEAN AUTHORITY WHICH MIGHT BE ENDOWED WITH LIMITED FUNCTIONS BUT REAL POWERS

A. The formula required

6. Any definition of the kind of European authority must be realistic and not theoretical. In other words your Committee has decided that it must take into account the views expressed by the Assembly at its last session, and consider a form of authority which might be acceptable to all members of the Assembly. Its task is not to work out an ideal form of political authority which, however perfect it may be in theory, will not be acceptable to all the governments of the Member States. The task of the Committee is not to define what may be the best type of authority for Europe, but the best possible authority which all Member States will accept. The reason for this will become apparent after consideration of the views expressed at the last Assembly, for the conflicting issues were more clearly defined when the Assembly adjourned at the end of August, than they were when it met at the beginning. The points which have been clarified are as follows :

a. The creation of a political authority with limited functions but real powers is still the avowed aim of the Assembly;

b. The British and the Scandinavians want European unity to develop by co-operation at Government level. That means an inter-governmental body, not a supra-national body at all. 0. E. E. C. is an inter-governmental body on which the governments concerned can instruct their representatives;

c. Most of the other Member States want, if not federation, at least the creation of a supranational European authority;

d. However, when pressed to form a federation amongst themselves, those continental countries, who desire a federation of Europe, made it clear that they were not prepared to federate so long as there was a hope of seeing that Great Britain and the Scandinavian countries would participate equally and effectively with the other Member States in any European political authority;

e. Thus, if the Committee is to define the type of European authority and the functions which it is to perform, the only solution that can be of any value must be one which is acceptable to all fifteen Member States; and this means that your Committee must find a formula which provides something more than co-operation at government level as it exists in Europe at present, and something less than a supra-national authority.

Your Committee has therefore considered that its task of definition is to find a formula of this kind, and to work out the kind of European authority, the kind of limited functions and the kind of real powers, not in a way which will be acceptable only to the minority or only to the majority, but in a way which will be acceptable to all fifteen Member States. Moreover, in doing this it will consider first the limited functions of the authority, secondly the nature of the European authority, thirdly the legislative powers, and fourthly the executive powers.

B. Limited functions

7. Much confusion has arisen in the past because in the discussion of the limited functions which a European authority should have, the term " limited " has been lost sight of. Too often those taking part in the discussion have proceeded on the assumption that a European government must exercise all the functions of government from defence and currency on the one hand, to social and cultural questions on the other. The proper starting point for any work of definition of functions is to consider not so much the form of the authority, which is going to exercise the functions, as the specific needs which have to be met. No European authority will have to concern itself with such questions as education, local government, health, and the other social services of the modern state. Its terms of reference must be very rigidly confined only to those few matters, which, if they are to be handled with effect in the Europe of to-day, must be treated as affairs of common concern. In the political field these include defence. In the economic field they mean the integration of Europe by such methods as a common currency, the elimination of trade barriers, the increase of production, and the development of inter-State and external trade.

8. Furthermore, we will also avoid confusion if we consider how these " matters of common concern " are being tackled by those different European authorities which the policy of Western Union has already created. Defence is covered by the Brussels Treaty and the Atlantic Pact. The unification of customs is being worked out by a committee under the Brussels Treaty. 0. E. E. C. has already created a Payments Union for the countries of Western Europe and has recently made proposals to the governments of its Member States with respect to their financial stability, the increase in their capital investment, the development of their economic resources, the methods of overcoming their raw material shortages, the expansion in electrical generating capacity, the mobility of labour and the improvement of their trade. Thus, most of the " matters of common concern " are being covered by one or other of the councils of ministers created under those treaties ; although no one would classify any one of these councils as a political authority with limited functions and real powers.

9. Careful examination of the decisions made by both Councils under the Brussels Treaty and under 0. E. E. C, particularly those, passed at the Council of 0. E. E. C. on the 7th October 1950, will reveal that most of the work in the economic and social field which has been considered by the committees of the Assembly is already being dealt with by expert committees under the direction of these two Councils; and that in point of fact the decisions which, these two Councils have taken in many, fields of European activity cover questions which the committees of the Assembly of the Council of Europe have riot even considered So long as the organisations created by the Brussels Treaty and 0. E. E. C. work separately from the Council of Europe, the most serious doubts arise as to what functions are left for the Council of Europe to perform. Evidence that these doubts exist is already shown by the Recommendations passed by the Assembly both with regard to the association of the work of these committees with the Council of Europe, and with regard to the Recommendation for the appointment of a Minister for European Affairs. Obviously, the Foreign Secretary who is the representative of each Member State on the Committee of Ministers, is primarily concerned with the foreign affairs of his own country, and not with the economic and social questions which arise under the Brussels Treaty and the 0. E. E. C. Convention.

10. The Assembly could under the present Statute have some value as a sounding-board of European opinion, but its value is considerably reduced so long as it is not associated in any way with the only organisations which are working on important European economic and social questions at a government level. If the organisations under the Brussels Treaty and O. E. E. C. made reports to the Assembly which it could criticise and discuss, then the Assembly might have some real value in crystallizing European opinion. It seems difficult to realise how it can do this when the real work of European importance which is being done at government level is not in any way associated with the Council of Europe. Moreover, there are even graver doubts as to what steps the Committee of Ministers can usefully take towards the unity of Europe, unless it duplicates the work already being clone by the organisations created by the other treaties.

The fact that the " matters of common concern " which the Council of Europe should be dealing with have really never come within its scope because of the existence of the other treaties, and the operations of the organisations created by them, is one which members of the Assembly have not squarely faced. Moreover, so long as governments of Europe prefer to work under these treaties and to use the organisations created by them, they will not give much serious attention to the Council of Europe. In the view of your Committee this position must be faced by the Assembly, by the Committee of Ministers, and by the governments of the Member States, and dealt with before any proper functions will ever be allocated to the Council of Europe. How can the functions of the Council of Europe be realistically defined when all the matters which it should deal with are already the preserve of other political authorities, and when the governments of the Member States are seeing to it that those other political authorities retain them?

11. If the creation of European unity is to proceed by co-operation at government level and the Council of Europe is to develop as a European authority, steps should be taken to merge the functions and the work of all these bodies. If the functions covered by articles 1-4 of the Brussels Treaty, articles 1-9 of the 0. E. E. C. Convention, and article 1 of the Statute of the Council of Europe all came within the scope of the Council of Europe, and the organisations, created by the first two treaties, were made responsible to the Council of Europe, the Committee of Ministers could become a real European council with proper functions to perform. The Assembly could become an effective sounding- board of public opinion. It could discuss reports from the Committee of Ministers dealing with matters of European importance and while it would be without any powers of legislation, it could make recommendations to the Committee on matters of common concern. The co-ordination of the existing European authorities by such a merger will at least bring order out of the present chaos and confer useful functions on the Council of Europe.

12. To a certain extent the need for co-operation between the organisations created under the Brussels Treaty and the 0. E. E. C. Convention and the Council of Europe has already been obvious to the members of the Committee of General Affairs, and to the members of the Assembly as is shown by the Recommendations adopted by the Assembly. What is proposed now, however, goes further than the previous resolutions. Your Committee recommends that :

a. The functions covered by articles 1-4 of the Treaty of Economic, Social and Cultural Collaboration and Collective Self-Defence signed at Brussels on the 17th March 1948, and articles 1-9 of the Convention for European Economic Co-operation signed at Paris on the 16th April 1948, be brought within the scope of the Council of Europe by an amendment to Article 1 of the Statute of the Council of Europe, and

b. The organisations created by the Treaty of Economic, Social and Cultural Collaboration and Collective Self-Defence and the Convention for European Economic Co-operation be made part of the organisations of the Council of Europe and responsible to it.

If the scope of the work of the Council of Europe were enlarged to the extent that it was charged with considering any of the questions referred to in paragraph (a) as well as the matters which it already has to consider under Article 1 of the Statute, then without any doubt the Council of Europe would have functions, necessarily of a limited character, but adequate for the purposes of a European authority.

C. The kind of European authority

13. If the recommendation of your Committee set out in the previous paragraph is accepted, the functions of the Council of Europe would be greatly enlarged, but dissatisfaction would still exist as to the organs of the Council of Europe to the extent to which they fall short of what is understood by the phrase " a political authority ". The Committee of Ministers can only act if it is unanimous. The Assembly is consultative only, and is not even a representative body. Thus, while the incorporation of the functions of the organisation of the Brussels Treaty and the 0. E. E. C. Convention within the Council of Europe is necessary, such a step would do little to end the present deadlock between those who want unity only by Government action, and those who want some kind of a supra-national authority.

The continental members want a European Parliament representative of people and not an Assembly like the United Nations where delegates are nominated by governments. The British and Scandinavians are opposed to any European Parliament in the accepted sense, i.e., one with power to legislate and to act. This arises partly because they distrust the instability of European parliamentary democracy and think a European Parliament will be equally unstable; partly because they would be in a minority in a European Parliament and would be bound by decisions of the majority; partly because they are unwilling to surrender to it powers in advance; and partly because they want their own national Parliament to retain full control over the' economic and political life of their people. How can these conflicting views be reconciled?

14. The solution lies in converting the Council of Europe into a proper Parliament, which it is not at present, but a Parliament in which, through one of the houses, the Governments will have the final say. Such a conception meets the British contention of action at government level, but it also meets the continental desire for the creation of a proper parliamentary authority. Your Committee proposes that the Council of Europe should become a Parliament of two Houses : the Committee of Ministers as the Upper House representing governments; and the Assembly as the Lower House representing at first the Parliaments of the Member States. It has already been proposed that the Committee of Ministers should be composed of Ministers of European Affairs rather than the Foreign Secretaries, so that in each Cabinet there will be one person charged with looking after the affairs of the Government of the Member State, so far as they relate to those matters which are the common concern of Europe. It is assumed that this recommendation will be accepted, and that the Committee of Ministers will become a body of Ministers of European Affairs and that each one of the members of the Committee will act specifically on behalf of his own government. The Committee will be a body on which the governments of the Member States can instruct their representatives. The Assembly will not be such a body for in the Assembly no such instruction by governments will be possible.

Legislation in the form of a treaty or a bill could be introduced in the Assembly, and when it had passed the Assembly (the Lower House) it would go for approval to the Committee of Ministers (the Upper House). Each member of the Committee of Ministers could, and should, refer the measure to his own government for criticisms and suggestions. It might be discussed by any one of the governments of the Member States for as long as six months. It would come back to a meeting of the Committee of Ministers at which the amendments of the different governments would be discussed, and if agreement was reached, it would, after amendment, go back to the Assembly. Finally, after discussions between the two Houses, the measure would be accepted or rejected. However, once it was accepted by both Houses it would become an Act of the Council of Europe enforceable in all the Member States and conferring executive powers on the Council of Europe.

15. If the European authority is defined in this way it will be a parliamentary authority, but the position of governments would be protected. In other words, it should be an authority which is acceptable to both groups in the Assembly. The proposal would, of course, involve certain consequential alterations in the Statute of the Council of Europe. Both organs of the Council of Europe would become legislative bodies. The Assembly would have to become representative, which it is not at present. Already a Recommendation has been passed by the Assembly which provides that each Member State should take appropriate action to ensure that its representatives to the Assembly are elected by its Parliament, or according to a procedure fixed by the parliament of the Member State. This change should be made forthwith. Nevertheless, in time further changes should be made if the Assembly is to become a truly representative body. The method of election by the Parliaments of the Member States should ultimately be the same in each parliament. Over a period of five or seven years it should be possible for the Assembly and the Committee of Ministers to agree upon a treaty whereby the members of the Assembly are directly elected. Finally, provision should be made whereby both organs of the Council of Europe, the Committee of Ministers and the Assembly, should meet at regular periods every year so as to enable proper legislation to be initiated by the Assembly, and ultimately carried through both Houses, as happens in every parliamentary system.

D. Real powers - legislative

16. On the assumption that the authority to be defined is a parliamentary authority with the limitations expressed in the preceding paragraphs, your Committee has given consideration to the question of the real powers, which the European authority is to have. If- the deadlock between the British and the Scandinavians on the one hand, and the continental countries on the other, is to be ended, the granting of legislative power to the Council of Europe probably provides the greatest obstacle to be overcome. Your Committee recommend that the Council of Europe should be given no legislative powers in advance at all. It has no powers under the present Statute. If the Council of Europe, however, is given wide functions, as has already been suggested, the problem becomes one of deciding how the Council of Europe can perform those functions properly for Europe as a whole.

17. There are two questions on which a decision is to be made. First, how the Council of Europe should be given power to legislate (if any) on matters of common concern. Secondly, if it is given any power to legislate, the extent to which the two Houses of Parliament can exercise any such power. In a federal constitution the authority would have power to legislate in respect of certain defined matters and, within the limits of the powers given to it, it would be completely free to legislate as it liked. The proposal of your Committee is that the Council of Europe should not be given exclusive power to legislate with respect to any matters at all, be they defence, customs, or currency, as is the case in most federal constitutions. The proposal which it has to make is a different one and it applies to the powers with which the Council of Europe will be endowed and to the way in which those powers are to be exercised. What the Committee proposes, however, is that the Council of Europe should be left in the performance of its functions to develop and acquire such power to

legislate in respect of the different matters of common concern as it may think necessary; and that the powers shall be conferred on the Council of Europe by individual treaties for each matter, which individual treaties will be agreed to by both houses of parliament. Moreover, the Committee proposes that in exercising its power to legislate in respect of any matter (once it has got the power to do so) the same procedure will apply, so that any piece of legislation passed by the Assembly will have to be passed by the Committee of Ministers as well. In this way, the Governments, through the Committee of Ministers, will always have the final say in determining what treaties or what legislation passed by the Assembly is also passed by the Committee of Ministers, and so they will have the final say in determining what legislation is passed by the Council of Europe. This means that the Governments will have the final say in determining what powers of legislation are given to the Council of Europe and also they will have an opportunity to approve the detailed way in which the Council is exercising those powers. By agreeing to this proposal the Governments of Member States will not be signing a blank cheque or giving up individual powers in advance. They will have to approve in detail the proposals outlining the way in which each of the matters of common concern is to be dealt with before it is effective.

18. The European Payments Union is an illustration outside the Council of Europe of the way in which this method would work. It is not suggested that the Convention for a European Payments Union gives legislative or executive powers to any body. The Governments were not prepared to agree to a European Payments Union in advance, or to any council creating it. When the method of dealing with the Payments Union, its functions, and its powers, the obligations on members which it created, and the whole detailed way in which it was to operate, were defined in a treaty, the different Governments finally accepted the proposals after long discussions and many amendments. As the method of dealing with the Payments Union goes to the root of the difference between the majority and the minority in the Assembly, the following passage from a speech by the former Chancellor of the Exchequer in Great Britain, Sir Stafford Cripps, in the Debate on the Schuman Plan in the House of Commons, dated 26th June 1950, is not without significance. Referring to the method of negotiating the European Payments Union, he said :

" This negotiation is, I think, typical of what can be accomplished by a freely negotiated arrangement between Governments. I am perfectly certain that if in this case some supranational body had attempted to impose upon us by a majority vote some payments scheme without any prior discussion between Governments, it could only have resulted in a complete failure, and in our having to leave the organisation. It was the necessity for compromise on all sides with the alternative of failure that made it possible to reach an agreement freely arrived at. "

In the view of your Committee, the most practical way in which the Council of Europe can develop is for the Assembly to initiate legislation covering both the powers it should have and the way they are to be exercised and for the Committee of Ministers to be able to determine whether or not such legislation is acceptable. Moreover, your Committee considers that if the legislative power is developed in this way, the method should be acceptable to both the majority and the minority group in the Assembly.

E. Real powers - executive

19. If the Council of Europe is to be a political authority it must exercise some kind of executive power. This at present is limited under the Statute, and is carried out by the Secretariat. The Council of Europe has developed, therefore, more as an association of nations like the United Nations than as a government or political authority like that of any of the Member States, or of the United States. If the proposal in the preceding paragraph is accepted, any legislation passed by both Houses of Parliament may confer executive powers on the Council of Europe. The conferring of these powers follows from the grant of legislative powers. If any of the affairs of common concern such as customs and currency are going to be dealt with by legislation in the manner proposed, part of the treaty will concern itself with giving executive authority to the Council of Europe to see that the terms of the treaty are carried out.

Thus, if there is to be a European authority with real powers, provision will have to be made for the creation of an Executive Council—small m numbers—responsible to both Houses, which would take the place of the present Standing Committee of the Assembly, but which would become, in time, a European cabinet, or a European government. . Such an Executive Council would meet regularly; it would organise, the agenda of the Assembly, and prepare its legislation; it would also control the administrative organisations of the Council, including those brought within the scope of the Council of Europe by the incorporation of the organisations already created under the Brussels Treaty and the 0. E. E. C. Convention. The Committee recommends that the first Executive Council should be chosen by the President of the Assembly, and be confirmed both by the Assembly, and by the Committee of Ministers. In time, departments could be created for individual members of the Committee, such as defence, customs, finance, trade, agriculture, production, social services, transport

and legal questions. Once a treaty or bill had been passed by both Houses of the Council of Europe the Executive Council would, of course, be entrusted with the duty of giving effect to the treaty. In this way, in a sort of functional sense, a European Government could grow up over a period of years.

F. Definition

20. The proposals in the preceding paragraphs contain the definition of the kind of European authority which might be endowed with limited functions but real powers. Its functions should be wide enough to cover all matters which' are of common concern to Europe. It should be an authority of a parliamentary nature, but in which the governments have the final say. It should have no legislative or executive powers in advance, but it should operate in such a way that legislation can be passed by its two organs in the same way as it is passed in any of the parliaments of the Member States, with a proviso that before any powers are granted, and before any powers are exercised (be they legislative or executive), the consent of the governments of the Member States will have been obtained through their representatives in the Committee of Ministers. This kind of European authority can be created by a protocol for the amendment of the Statute of Europe. A draft of this protocol is set out in Part III of this report, and it contains, as well as these proposals, the other recommendations already made by the Assembly for the amendment of the Statute. In the view of your Committee if the representatives of the Member States, be they British and Scandinavians on the one hand, or be they from the continental countries on the other, are all prepared to go some way to meet one another in order to agree a formula for a European Authority, the kind of European authority defined in this part of the report, and set out in detail in the third part of the report, should be acceptable to them all. The adoption of the proposals should end the present deadlock in the Assembly, and create an effective European authority endowed with limited functions but real powers, which should, in time, bring about the unity of Europe.

Draft Protocol

The Assembly of the Council of Europe recommends, and has caused its recommendations to be embodied in this Protocol, that the Statute of the Council of the Europe be amended so that the aims and functions of the Council of Europe be enlarged to include all the functions and powers of the Councils created by the Brussels Treaty and the Convention for European Economic Co-operation; so that the organisations established underthose treaties be transferred to the Council of Europe; so that executive authority and legislative power be vested in the Council of Europe; and so that the Council of Europe be converted into a European political authority with a Parliament of two Houses and for other purposes connected therewith.

Part 1 - Aims and Functions

ARTICLE I

1. Article 1 of the Statute shall be omitted and the following article inserted in its place :

(i) The aim of the Council of Europe shall be to achieve a greater political and economic unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their political, economic and social progress. For this purpose the Council shall formulate and carry into effect a common policy for the defence of the member states and take steps to bring about the economic integration of the economies of the member states by securing a common currency and financial system, by abolishing all barriers to trade between the member states and by securing throughout the whole of the territory of the member states an area in which the movement of goods, services and peoples shall be quite free.

2. Without in any way limiting the generality of the provisions of the previous sub-paragraph, the Council of Europe :

shall dedicate the economic resources of the member states and their powers of reconstruction to the common good and to the development of a common civilization based on the best attainable standards of living for all citizens;

shall integrate the industrial and agricultural production of the member states taken as a whole so as to provide sufficient food, raw materials and manufactures for the internal and external trade of the member states;

shall use the raw materials, basic industries and essential services of the member states -for the purposes herein set out and in such cases as may be appropriate under public ownership or public control, and

shall prevent by such economic and social re-organisation as may be necessary in any of the member states the exploitation for private gain of the labour of any citizen by any other citizen.

3. The Council of Europe shall perform all the functions set out in Articles 1, 2, 3 and 4 of the Treaty of Economic, Social and Cultural Collaboration and Collective Self-Defence, signed at Brussels on the 17th March, 1948, as if the whole of such articles were set out in this subparagraph, and the Council shall exercise such functions as if it were the high contracting parties referred to in the different articles, acting both individually and collectively, and the member states shall comply with all the requirements of the. Council of Europe which may be necessary to give effect to this paragraph.

4. The Council of Europe shall in addition perform all the functions set out in Articles 1, 2, 3, 4, 5, 6, 7, 8 and 9 of the Convention for European Economic Co-operation signed at Paris on 16th April 1948, as if the whole of such articles were set out in this sub-paragraph, and the Council shall exercise such functions as if it were the high contracting parties referred to in the different articles, acting both individually and collectively and the member states shall comply with all the requirements of the Council of Europe which may be necessary to give effect to this paragraph.

5. So soon as the parties to the treaties referred to in paragraphs 3 and 4 above shall agree, the Council of Europe shall take over the organisations created under the two treaties and incorporate such organisations as part of the executive and administrative services of the Council of Europe.

Part 2 - European Political Authority

ARTICLE II

1. The political authority of Europe shall be the Council of Europe which shall consist of the Committee of Ministers and the Consultative Assembly which is hereinafter to be called the Legislative Assembly.

2. Each member of the Council of Europe shall nominate a Minister, Secretary or Under-Secretary of State who, without prejudice to the responsibility of the Minister for Foreign Affairs, should be charged with the supervision of European Affairs.

The special task of the holder of this post should be :

to co-ordinate the activities of his Government in the field of European co-operation;

to ensure the diffusion of decisions or suggestions made by the various organs of the Council of Europe amongst members of Parliament and the public in the participating countries ;

to act, in place of the Minister for Foreign Affairs, as the representative of the Member State to the Committee of Ministers.

3. The representatives of each Member State in the Legislative Assembly shall be elected in the first instance by the parliament of the Member State until a protocol has been agreed to by the Legislative Assembly and the Committee of Ministers providing for the direct election of members of the Legislative Assembly.

Part 3 - The Legislative Powers

ARTICLE III

All legislative powers herein granted shall be vested in the Council of Europe, which shall consist of the Committee of Ministers and the Legislative Assembly.

ARTICLE IV

The Legislative Assembly shall debate matters within its competence under the Statute and upon any matter within the aim and scope as defined in Chapter I of the Statute as amended or which is referred to it by the Committee of .Ministers or presented by the Executive Council and shall make and present recommendations to the Committee of Ministers in the form of a Bill.

ARTICLE V

In any Bill presented by the Legislative Assembly to the Committee of Ministers or by the Executive Council to the Legislative Assembly after the title there shall be written : Be it enacted by the Council of Europe, the Committee of Ministers and the Legislative Assembly of the Council, as follows.

ARTICLE VI

Every Bill so presented shall be placed on the agenda of the Committee, who may, after debate, reject or receive the Bill. A resolution to pass a Bill shall require the unanimous vote, of the Representatives casting a vote, and of a majority of the Representatives entitled to sit on the Committee.

ARTICLE VII

Any Bill which has been received by the Committee shall, before it be finally approved by them, be submitted with or without amendment, at a date to be determined by the Committee to each member Government for its consideration.

The Bill shall after submission to each Member be re-placed on the agenda of the Committee, and shall be debated by them not later than six months after the date of submission to each Member.

Each Member Government shall at the expiry of the six months as aforesaid be deemed to have considered the Bill.

ARTICLE VIII

Any Bill which has been re-placed on the agenda and reconsidered by the Committee, shall, if different from the Bill as first presented to them by the Legislative Assembly, be returned to and placed upon the agenda of the Assembly.

The Legislative Assembly shall with all due expedition debate and present the Bill with or without amendment or recommendation to the Committee.

ARTICLE IX

The Committee shall then have absolute power to pass the Bill with or without amendment or reject the Bill.

ARTICLE X

Any Bill passed by the Committee shall be signed by each approving member, sealed by the Great Seal of the Council of Europe, and upon a date so specified in the Bill become law, and thereafter it shall be styled : An Act of the Council of Europe.

ARTICLE XI

It shall be within the competence of the Council of Europe to pass any Act to give effect to any matter within the aim and scope of Chapter I of the Statute as amended. Any Act may vest the sole and exclusive legislative and executive power or authority in the Council, and may enact that any Member shall thereafter have no concurrent legislative or executive power or authority in that matter unless such power and authority be specifically provided for in the Act. Any Act shall state whether the measures or provisions therein contained are to confer exclusive legislative or executive power or authority on the Council of Europe, or are to run concurrent with such laws of a Member as may be held to cover the matter legislated upon.

ARTICLE XII

Any Act of the Council of Europe shall repeal the whole part or parts of any Statute Act or other provision of whatever nature forming part of the law of any Member if such law were opposed to or were in conflict with any Act of the Council of Europe.

ARTICLE XIII

Any Act of the Council of Europe shall, upon the date specified in the Act, become in its entirety part of the law of each and every Member and shall have legal and binding effect upon the members and upon all their subjects or other persons oyer whom they have jurisdiction or sway.

ARTICLE XIV

The Assembly shall meet in ordinary session at least twice a year, the dates of which shall be determined by the Assembly and shall avoid as far as possible overlapping with parliamentary sessions of Members and with sessions of the General Assembly of the United Nations.

Part 4 - The Executive

ARTICLE XV

The Legislative Assembly shall dissolve the Standing Committee of the Assembly, and shall elect an Executive Council. The Executive Authority shall be vested in the Executive Council which shall be responsible to the Legislative Assembly and Committee of Ministers.

ARTICLE XVI

The Executive Council shall consist of Councillors and each Councillor shall be assigned to and shall become the head of a Department, namely :

a. Finance ;

b. Customs and Excise;

c. Defence;

d. Internal and External Trade;

e. Industry;

f. Agriculture and Food;

g. Labour and Social Services;

h. Transport;

i. Culture ;

j. Legal Questions.

The Legislative Assembly may increase or decrease the number of Departments and Councillors accordingly, but the Executive Council shall not exceed 15. The expenses of the Executive Council, the Councillors and their departments shall be a common expense within the meaning of Article 38 of the Statute. The first Executive Council shall be nominated by the President of the Assembly and shall be confirmed by the Assembly and the Committee of Ministers.

ARTICLE XVII

Each Councillor shall be a member of the Legislative Assembly and shall be responsible for the creation and supervision of his Department and shall be responsible to give effect to any Act of the Council of Europe.

ARTICLE XVIII

Any Councillor shall have the right to present any measure in the form of a Bill to the Legislative Assembly the provisions of which shall have relation to the scope and sphere of his Department, and he shall do all such other things which lie within his power which are incidental or conducive to the attainment of the Chapter I of the Statute as amended.

ARTICLE XIX

1. Each Councillor of the Executive Council shall take the oath in the manner and in the form as that of the Secretary-General as specified in Article 36 (e) of the Statute. 2. No Councillor shall hold any salaried office from any Government or of any national legislature or engage in any occupation incompatible with his duties.

3. Each Councillor shall have the power to appoint the officials of his Department, but if the appointments relate to the creation of a new Department he shall consult the Secretary-General as to the number of officials and staff which is to form the establishment of the new Department, and such establishment shall be approved by the Legislative Assembly and Committee of Ministers.

4. Any Councillor shall be entitled to attend any meeting of the Committee of Ministers, unless the Committee direct otherwise, and shall attend if requested to do so by the Committee.

Part 5 - General

ARTICLE XX

Article 7 of the Statute shall be expunged. A Member desiring to withdraw its membership from the Council of Europe shall submit to the Committee of Ministers a proposal to amend the Statute to give effect to such withdrawal in the form of a Protocol. The Protocol shall come into force when it has been signed and ratified on behalf of a majority of the representatives entitled to sit on the Committee. Such withdrawal will take effect at the end of the financial year in which the Protocol has been approved.

ARTICLE XXI

The Committee of Ministers shall cause an official report to be printed and published of all debates and resolutions of the Committee and Assembly save that the Committee shall determine what information shall be published regarding the conclusions and discussions of a private meeting of the Committee.

ARTICLE XXII

1. That, within the framework of the Council of Europe, specialised authorities should be instituted which would be competent, respectively, in the political, economic, social, legal and cultural fields;

2. Although the existence of the Council of Europe essentially depends upon the presence within its organisation of all the democratic Nations of Europe, each of them shall nevertheless be free to accede to the specialised authorities, or to one or several of them;

3. These specialised authorities which it is thus intended to create and to maintain, within the framework of the Council of Europe, shall remain open to any Member State which may subsequently wish to accede to them. Their organs of administration and control should be integrated with those of the Council of Europe;

4. Those States which desire from the outset to form closer organic links shall be free to establish them between themselves. The form these links should assume will be settled by them after discussions in which all Member States of the Council of Europe shall take part. The organs of administration and control shall be instituted according to the methods set forth at the end of paragraph 3. The same opportunities as above for the subsequent accession of other Member States shall be maintained.

ARTICLE XXIII

1. By special Conventions concluded between the Member States or between some of them, powers not provided for by the Statute of the Council may be conferred both on special Committees of the Committee of Ministers and on Committees of the Consultative Assembly, composed of Representatives of the States which are signatories of these special Conventions, without thereby binding either the States which are not signatories of these Conventions or their Representatives in the Consultative Assembly.

2. The special Committees of the Committee of Ministers and the Committees of the Consultative Assembly indicated above shall regularly submit reports on their activities together with the necessary documentation, the aforesaid Committees to the Committee of Ministers, the Committees to the Consultative Assembly.

3. The Secretariat-General of the Council of Europe may be called upon, by the special Conventions mentioned above, to render assistance to new organs established between the Member States, or between some of them. Any additional expenses of the Secretariat-General which might result from these new duties shall be borne by the Council of Europe, on condition that at least two-thirds of the Member States are parties to the said Conventions. When less than two-thirds of the Member States of the Council are parties to the said Conventions, the possible additional expenses of the Secretariat shall be borne by the signatory States under conditions fixed by the Convention.

ARTICLE XXIV

Leave out Article 23 and insert the following new Article :

The Consultative Assembly may discuss and make Recommendations upon any matter within the aim and scope of the Council of Europe as defined in Chapter I; it shall discuss and may make Recommendations upon any matter referred to it by the Committee of Ministers with a request for its opinion.

ARTICLE XXV

In Article 4, after " may insert : " with the approval of the Consultative Assembly, such approval to be by a simple majority ".

ARTICLE XXVI

In Article 5, after " may insert : " with the approval of the Consultative Assembly, such approval to be by a simple majority".

ARTICLE XXVII

The Statute is amended by the provisions of this Protocol and if any part of the Statute is in conflict with any part of this Protocol, the Protocol shall prevail and the part of the Statute to the extent of the conflict is hereby repealed.

ARTICLE XXVIII

Where the Statute of the Council of Europe is amended by the clauses of this Protocol, in order that the provisions in this Protocol shall have full effect over the provisions of the Statute all consequential alterations that are necessary to give effect to the clauses of this Protocol shall be deemed to have been incorporated in this Protocol, and the provisions of the Statute shall to the extent of such consequential alterations so be deemed to be repealed.

Signed (see overleaf)

Signed[1]*:*

MACKAY R.W.G., United Kingdom, SOC

1. SOC: Socialist Group