



Doc. 224

10 February 1954

Establishment of a procedure for consultation among the European delegations to international organisations

Report¹

Committee on Political Affairs and Democracy

Rapporteur: Mr Georges PERNOT, France

1. 1954 - 6th Session - First part



A. Explanatory Memorandum

1. The setting-up of a procedure for consultation among European delegations to international organisations raises four series of questions :

- 1.1. The advantages of such a method of consultation;
- 1.2. Its compatibility with the Statute of the Council of Europe;
- 1.3. Its implementation;
- 1.4. Interim system.

1. The advantages of such a method of consultation

1.1. Advantages

2. There is no need to emphasise the advantages that the European delegations gain by knowing one another's point of view and by consulting among themselves in order to avoid as far as possible a clash of opinion. Nor is it necessary to dwell on the value of a joint or harmonious contribution by the Members of the Council of Europe to the European ideals set forth in the Statute of the Council. This fact appears to be implicitly recognised by the Statute of the Council of Europe, Article 1 (c) which states that "participation in the Council of Europe shall not affect the collaboration ' of its Members in the work of the United Nations and of other international organisations to which they are parties." There are clearly advantages in arranging consultations among the European delegations on the spot in order to avoid duplication, rivalry or contradictions between the deliberations of the Council of Europe and those of the world organisations in which Member States are also represented.

3. M. Guy Mollet, in a Report which he submitted to the Committee on General Affairs in June 1950, stated: - "In the course of his speech during the General Debate in the First Session of the Assembly, M. Montini expressed a wish to see ' European branches ' set up within the major international organisations (UNESCO, I.L.O. and other specialised agencies of the United Nations). M. Bardoux expressed a similar wish in his draft of a "Pact for European Union". What is more, the Report communicated by M. Star Busmann on social co-operation within the framework of the Brussels Treaty, described the course of concerted action which the Five Powers had decided to follow within I.L.O. - Our Committee may well draw inspiration from these various suggestions. Doubtless the procedure proposed by M. Montini, if taken literally, would risk coming up against statutory impossibilities or absolute vetoes within the organisations where it is designed to operate. But in its general attitude it is very close to that employed by the Five Powers — and their procedure does not meet with such obstacles. - The suggestion, therefore, is that the Assembly recommend to the Committee of Ministers that, before every session or plenary conference of certain international organisations, the Members, within the framework of the Council of Europe, hold preparatory meetings or organise some suitable system of consultation, so as to bring together their points of view and see if there is a certain degree of common ground. It seems that I.L.O., UNESCO and the Economic Commission for Europe are at the present moment — subject to the opinions of our "technical" Committees — the organisations to which this recommendation would particularly apply. - We may add that one of the Members of the Council of Europe, Ireland, is at present prevented from joining organisations depending on the United Nations, owing to Soviet obstruction. The procedure suggested would give to Ireland the possibility of presenting its point of view indirectly." - It was as a result of this Report of M. Guy Mollet that the Assembly adopted Recommendation 11 (see the purport of this Recommendation in footnote to paragraph 5).

4. In order to provide concrete examples of the advantages of such consultation, we should like to describe two cases expressly taken from a technical or legal field and thus without specific political implications. - The first case relates to Human Rights. The right of individuals to education and that of parents vis-à-vis the State in respect of their children's education have formed the subject of a clause (Article 2) in the Protocol to the European Convention for the protection of Human Rights and Fundamental Freedoms, and in the draft International Pact relating to economic, social and cultural rights drawn up by the Commission on Human Rights of the United Nations Economic and Social Council (Article 14 XV). The new definition given to these two rights in the United Nations Convention, which will doubtless influence the interpretation placed on the European Convention, might perhaps have differed less from the definition given in the European Convention if consultation had first taken place between the European delegations represented at the United Nations Commission to enable them to assess in common the obligations imposed on them by the European Convention. - The second case relates to the Universal Copyright Convention signed in Paris on 6th September, 1952, under the auspices of UNESCO, the first Protocol of which entitles international

organisations to claim copyright for their works whether, published or not. Nearly all international organisations have been mentioned in the list, including the Organisation of American States (O.A.S.) which is a regional institution. The Council of Europe, however, is not mentioned. There is reason to suppose that if a procedure for consultation between the delegations of Member States of the Council of Europe participating in the above-mentioned UNESCO Conference, had been in operation the Council would not, as things are, have had to suffer the consequences of this omission or oversight.

1.2. Precedents

5. Three precedents may be noted:

5.1. Under the terms of its Charter (30th April, 1948) the Council of the Organisation of American States was given the essential task of "promoting and facilitating co-operation between the Organisation of American States and the United Nations," and between the inter-American specialised agencies and similar international agencies" (Art. 53, para e). Such cooperation is undoubtedly best promoted and facilitated by frequent consultation among the American delegations intended to ensure a constant adjustment of conditions which are prone to constant variation according to the deliberations and the work of the organisation in question. The many matters discussed and the varied problems that emerge, as well as the changing opinions revealed by the debates of an international organisation, are such that consultation a priori far removed both in time and space from the scene of the actual debates would clearly be inadequate.

5.2. The Brussels Treaty contains a more specific provision based precisely on the considerations which led to the proposal forming the subject of this Report. Article 2 of the Treaty stipulates that "the High Contracting Parties will make every effort in common, both by direct consultation and withing the Specialised Agencies, to raise the standard of living of their peoples and to develop on corresponding lines the social and other related services of their countries". The only difference between the Brussels Treaty text and the present proposal is that the first refers only to Specialised Agencies, and not to the United Nations, and can, moreover, be adopted by the Council only if the latter's different composition consisting of a Committee of Ministers and a Consultative Assembly is borne in mind. Frequent consultation takes place within the United Nations Specialised Agencies between the delegations of countries of the same group or area.

5.3. Furthermore, the Scandinavian Ministers hold periodical meetings prior to sessions of international organisations, though not concurrently, as is suggested in this proposal. The object of such meetings is to define a common attitude, and this, obviously, goes beyond the present purpose, which is to limit consultation to an exchange of views in order to ascertain the opinions of the different delegations without thereby precluding the adoption of joint conclusions if such is the unanimous desire of the delegations²

6. The European countries taken as a whole are almost alone in their lack of such consultation, although its advantages have often been stressed, particularly at the Naples Conference in October, 1951, which was devoted to the problem of refugees and over-population. In its Final Report on this question the Committee of

2. Two European precedents have not been mentioned owing to their peculiar character, which makes them inapplicable to the present case. The first is to be found in Recommendation 21 adopted by the Consultative Assembly in August, 1950, and the second in Article 70 of the draft Treaty embodying the Statute of a European Community. Recommendation 21 of the Assembly proposed to the Committee of Ministers that before each Session or Plenary Conference of certain international organisations whose activities are specially related to the aims of the Council of Europe "preparatory conferences be organised within the framework of the Council of Europe, with a view to holding prior discussions on questions contained in the Agenda of those meetings". The Committee of Ministers has not yet seen fit either to study or implement this Recommendation, which, however, differs from the present proposal in that it envisages official consultation leading to formal conclusions reached prior to the conference, whereas the present proposal aims at semiofficial consultation without the adoption of joint conclusions, such consultation often being held concurrently with the conference. - Then, Article 70 of the draft Treaty embodying the Statute of a European Community provides for the establishment of a procedure for mutual and permanent consultation between the representatives to the Council of National Ministers on all questions affecting the interests of the Community. This form of consultation differs radically from that suggested in the present proposal. It is, first of all, more general, in that it is not limited to matters handled by the international organisations; secondly, it may lead to the adoption of a resolution by the Council of National Ministers; lastly, its aim is to ensure "that the foreign policies of Member States are co-ordinated" and to enable the European Executive Council to act as common representative of Member States of the Community (Art. 69). No such aims are envisaged in these present proposals for consultation among European delegations.

Governmental Experts appointed by the Committee of Ministers of the Council of Europe urgently recommended the latter to take a common line of action, to adopt a concerted attitude and to pursue a clearly defined objective at the Conference³

1.3. Future prospects

7. Consultation among the delegations of Member States of the Council is equally desirable in connection with the Eden Plan, whose final aim is. to make the Council the general framework of the whole institutional re-organisation of Europe; Now, the draft Treaty instituting the European Community provides for the co-ordination of the foreign policy of the Six in all questions affecting the interests of the Community (Article 2). This competence in such important matters clearly corresponds to the considerable degree of integration represented by the Commiuiity, and neither could nor should be extended to the Council, which constitutes only a close association of Member States, far removed from integration. Nevertheless, the Council can never become the general framework of the European institutions unless it possesses certain means of action which, though more limited in scope, are similar in character to those of the six-Power Community. Thus the co-ordination of the foreign policy of the Six should at least be paralleled by consultation among the European delegations to leading international organisations. This consultation will thus serve to maintain cohesion as between the Fifteen and help to create a solid framework within which the six-Power Commiunities could be set up. Such consultation as between the Fifteen, moreover, would merely extend a procedure already in force as between the five Brussels Treaty Powers. The establishment of such procedure would, therefore, reinforce the view often advanced that the Council of Europe (except in the military field) constitutes an extension of the Brussels Treaty to the Fifteen Powers, particularly in the social, cultural and administrative fields.

2. Compatibility with the Statute of the Council of Europe

8. The legality of such consultations should be studied, inasmuch as they will take place outside the Council of Europe and within world organisations to which the Members of the Council do not all belong. - The problem of the legal framework has therefore two aspects. In the first place not all the Members of the Council are members of the world organisations. Germany, Italy, Ireland and the Saar are members of several of the Specialised Agencies, but they do not in fact belong to the United Nations Organisation. The question therefore arises of how consultation can take place under the aegis of the Council when some of its Members are of necessity excluded. The answer presents no serious difficulty. There is nothing to prevent Member States of the Council not represented in the U.N. from instructing their permanent observers at the U.N. to attend any meetings of EiU'opean delegations (such as those proposed in this report) in which they are interested. Or, on those rare occasions when it might happen that no such regular observers were available, special ad hoc observera might be nominated to follow specific questions which are of interest to them.

9. The second aspect¹ of the problem is connected with Article 1, para. (&), of the Statute of the Council, which requires that the aim of the Council " shall be pursued through the organs of the Council...". As this text reads, the objection might well be raised that such consultation would take place outside the Council, and it is therefore questionable whether it conforms with the terms of the Statute. Without embarking on a discussion of the precise meaning of the terms used, it should suffice to allay any legal qualms that the practice adopted by the Council of requesting other international bodies or Communities, by liaison agreements or special arrangements, to carry out some specific task, has already sanctioned activities of the Council outside its immediate ambit. The organs of the Council, after presentation of a brief report, will still be authorised to consult other authorities, subject to appropriate restrictions. Such activities can therefore be regarded as taking place, if not within the actual framework of, at least under the aegis, of, the Council, of Europe.

3. The Report in question states : " I t would, therefore, be very desirable for European countries to reach agreement at the Naples Conference with countries overseas for some kind of really efficient international action. The Experts considered that the delegates of member countries of the Council of Europe, with this objective in mind, should consult with one another, both immediately before and during the Conference, in order to define and maintain, as far as possible, co-ordinated action and thus achieve the most positive and practical results. The Experts expressed the hope that the delegations of member countries of the Council of Europe to the Conference in question would devote very special attention to the humanitarian aspect of the problems with a view to the adoption of special measures on behalf of refugees' who, at present residing in over-populated countries and without the benefit of any Government's protection, will not have been able to be resettled in a satisfactory manner. "

3. Implementation of these proposals : consultation in practice

10. The application of procedure for consultation raises a number of problems, such as the following :
 - a. the international organisations in which this procedure should be introduced ;
 - b. the subject of discussions;
 - c. representation at the meeting;
 - d. the outcome of the meeting;
 - e. the scope of the meeting;
 - f. the organisation of the meeting.

3.1. International organisations

11. Consultation among delegations would be limited to the international inter-governmental organisations in whose proceedings they are required to take part. The term " international " thus implies a world organisation, or at any rate, one whose scope extends beyond Western Europe, thus excluding regional organisations or the Specialised Communities. It is, however, essential, in any case, to rule out one group of international organisations, namely those wielding military powers, such as the North Atlantic Treaty Organisation and the Security Council⁴

3.2. Subjects for consultation

12. Subjects for consultation must be such as fall within the competence of the Council. Consultation on questions of national defence must be excluded, since this subject does not fall within the sphere of activity of the Council as defined in Article 1 (d) of the Statute.

13. It can be taken for granted that, in order to avoid all possibility of the two organisations working at cross-purposes, and to ensure a reasonable delimitation of their respective fields of activity, the questions discussed will be, first, those which are being or have at one time been considered by the Council of Europe, and, secondly, those requiring a solution in conformity with the aims of the Council. Finally, whenever there is a question of strengthening or maintaining in a universal context the underlying ideals of the Council of Europe, an exchange of views between delegations would be in full accordance with the aims of the proposed consultative procedure.

3.3. Representation at the meeting

14. Consultation should be subject to certain formal or organic restrictions, designed to ensure compliance with the general principles of the statutory provisions of the Council.

15. First, consultation should be implicitly or explicitly agreed upon by the delegations of all Members of the Council of Europe. Some of these may be stationed at New York or some other international centre and yet be unwilling to take part themselves in such a meeting, without, however, opposing it, thus adopting an attitude similar to that sanctioned by the Committee of Ministers in its Resolution on partial agreements. Others, because not members of the international organisation in question, may not be able to participate. In such cases only the declared opposition of the non-attending or unrepresented Member would prevent the implementation of this procedure.

3.4. Outcome of the meeting

16. Secondly, consultations would not necessarily lead to the adoption of resolutions or recommendations. The meeting could not draw up resolutions and recommendations valid for the Governments of Member States of the Council of Europe, even if these embodied the wishes of the Ministers' Deputies or the Ministers themselves, for only the Committee of Ministers or the Ministers' Deputies, meeting, as such, have the power to adopt Recommendations binding upon Governments, even though these may simply advocate the adoption of a common policy in specific matters. Although the joint conclusions drawn up at the end of consultation might sometimes lead to the adoption of a common line of policy, this would not follow necessarily or obligatorily, and any Government would always be free to change the course of action proposed in these conclusions, in so far as its own country was concerned.

4. See Article 42 of the United Nations Charter.

17. The purpose of the meetings of European delegations will therefore be to exchange views, to compare their respective attitudes and to reach mutual understanding. They will not result in the determination of a common attitude to be championed by the European delegations at meetings with other delegations.

3.5. Scope of the meeting

18. The meetings proposed would, as described, be comparatively modest in scope and would approximate closely to the meetings of the Commonwealth or Scandinavian countries. The following brief comparison with such meetings may be made.

18.1. The Commonwealth form of consultation constitutes a link in a complex and closely knit chain of co-operation. The daily exchange of telegrams and information in London between the High Commissioners and the Commonwealth Relations Office prepares the way for consultation among the Commonwealth delegates themselves, which from time to time culminate in the Conference of Prime Ministers. Under the proposed European system, on the other hand, the consultation envisaged would be of a sporadic and isolated nature and would be neither necessarily preceded nor followed by other consultation of a similar character.

18.2. Most important of all, such preliminary consultation between the Commonwealth Governments is customary with regard to any question of foreign policy which may affect the interests of the Commonwealth and it is intended to lead to a general co-ordination of the views expressed [See statement by the British Prime Minister in the House of Commons on the 24th May, 1946, ⁵]. The form of consultation envisaged by the authors of this proposal would, on the contrary, be sporadic and optional and not entail any formal obligation fully to consider the views expressed by others. It would, moreover, be confined to the questions actually handled by the international organisation concerned. The Commonwealth system may thus be seen as reflecting the character of that political association of "integrated" but sovereign States, whereas the proposed European system corresponds to a new and limited experiment in association, within the more restricted field of action of the Council of Europe.

19. A comparison with the meetings of the Scandinavian Foreign Ministers, either with or without the participation of Members of Parliament, reveals the following facts : the Scandinavian meetings are intended to provide the opportunity for regular discussion of problems of common interest and the definition of a joint policy to be adopted at sessions of international organisations such as the United Nations, Council of Europe, etc., for each item of the agenda. In the proposed European system, meetings would not necessarily reach any joint conclusions. They would be irregular and limited to the specific fields of the powers and activities of the Council of Europe. A further important difference in comparison with the Scandinavian Council, which first met at Copenhagen from 13th to 21st February, 1952, is that it would not be possible for recommendations to be addressed to the Governments as a result of the European consultation outlined in these proposals.

3.6. Organisation of the meeting

20. Such meetings would naturally give rise to a number of procedural problems, such as the preparation of the Agenda, the method of notifying delegates, Committees of Ministers or Assembly, etc., all of which must be settled with due regard to the nature of such consultation. These rules would no doubt require to be highly flexible, at the same time imposing the necessary restrictions. At all events, the rules of procedure should not be drawn up ab initio but as time goes on, in the light of practical experience. Any delegation should be entitled to convene others for consultation on a specific question. The preparation of the agenda should also be flexible, and confined to one or two points raised either just before or on the actual day of the debate on them in the organisation concerned.

21. It is nevertheless possible even at this stage to indicate certain general rules for the working of this consultative procedure.

22. First, the initiative for convening the meeting might devolve upon the delegation most closely affected by the questions discussed in the international organisation, or the most well-informed about those activities of the Council in respect of which it is desirable to avoid contradiction or duplication. It might also happen that the Secretary-General of the Council of Europe, having perceived that a connection exists between the work of the international organisation and that of the Council, might bring the fact to the notice of the most appropriate delegation — generally that of the country whose Foreign Minister is Chairman of the Committee of Ministers — so that that delegation might convene the meeting.

5. Official Report Vol. 423, Cols. 780-790.

23. Secondly, it would be for the Secretariat-General to follow, through the existing network of liaison agreements, such work of other international organisations as might concern the aims or activities of the Council with a view to stimulating useful proposals. It often happens that European delegations sent to New York or elsewhere are not closely acquainted with the work done at Strasbourg⁶, and may even be entirely ignorant of certain current activities of the Council of Europe.

24. Thirdly, European delegations should be able to consult one another at any time on questions of common interest without each time requiring a special authority to do so or particular instructions. They should be in a position to arrange, or participate in, consultative meetings by virtue of their standing instructions. Only if a Government, for particular reasons, is unable or unwilling to take part in such consultation should its delegation have need of special instructions to refrain from attending.

25. Fourthly, for the constitutional reasons indicated above, the results of the meeting should be communicated, fully or briefly according to the case, to the Committee of Ministers, which might record them in its reports to the Consultative Assembly on the occasion of each session or part of a session. This communication might be drawn up by the delegations responsible for convening the meeting, with or without the assistance of the Secretariat-General, and submitted, with the approval of the other delegations, to the Committee of Ministers of the Council.

26. In view of the complexity of the constitutional rules on the subject and the national traditions involved, it is proposed that this Explanatory Memorandum submitted to the Committee of General Affairs should be transmitted to the Governments for the purpose of information at the same time as the Assembly's Recommendation. To this end it might even be desirable to institute a procedure recently proposed by Mr. de Freitas, M.P. for Lincoln and Representative to the Consultative Assembly, during the House of Commons debate on the Council of Europe⁶, and to instruct the Secretary-General, who will be fully informed on the subject from having attended the discussions of the Committee on General Affairs, to explain to the Committees of Ministers in detail the original reasons for the Recommendation, to supply any necessary explanations and to amplify any points not fully developed in the Report.

4. Interim System

27. A certain lapse of time is to be expected before the Recommendation adopted by the Assembly is studied by the Ministers and in its turn adopted by the Governments. An interim system should meanwhile be established which could, if only partially, take the place of consultations between the European delegations. The Assembly has clearly no speedy and active means at its disposal for influencing the Governments. It can only approach such Members of Parliament as combine the dual rôle of Representative to the Consultative Assembly and member of the delegation of their country to the United Nations or other international organisations⁷. Under the terms of a Resolution adopted by the Assembly concerning these Representatives, the latter might be invited to consult unofficially and privately among themselves for the same purpose and subject to the same conditions as those proposed in respect of meetings between governmental delegations. - It is true that such consultation can be arranged only subject to the approval of the Governments or heads of delegations of which these Members of Parliament form part, whether as delegates, advisers or experts, and can lead to an alignment of views only if those Governments give them approval and support. Such meetings between parliamentarians could, nevertheless, pave the way for meetings (which are not forbidden by any existing text) among the respective governmental delegations. Even were no such result to be achieved, these private meetings between parliamentarians could at all events facilitate understanding and constitute an unofficial form of liaison between the European delegations. Assembly Representatives, being acquainted with one another and with the work of the Council, can thus establish valuable links as between the European delegations and secure contacts which, pending the organisation of some more regular form of consultation, would help to realise the aims laid down in the Recommendation proposed to the Ministers. - Such is the purpose of the draft Resolution submitted to the Assembly.

6. Parliamentary Debates — Hansard, Vol. G1S, No. 167, Cols. 2388-2389.

7. Of the 15 Member States of the Council of Europe, the 11 which are also Members of the United Nations Organisation sent a total of 45 parliamentarians as members of their delegations to the Eighth Session of the United Nations General Assembly (September, 1953). Among these were a number of Representatives to the Consultative Assembly of the Council of Europe: MM. Lannung, Amby (Denmark), Plaisant (France), Beaufort (Netherlands), Finn Moe (Norway), Edberg, Bengtsson (Sweden).

B. Draft Recommendation

The Assembly,

Considering that consultation among European delegations to the United Nations, its Specialised Agencies and Administrative Unions would help to foster closer unity between the Members of the Council of Europe and promote their ideals and the principles underlying the Statute of the Council;

Considering that such consultation among European delegations could not but serve to reinforce the contribution made by Members of the Council of Europe to the work of the international organisations in question by the avoidance of conflict or duplication between the work of such organisations and that of the Council;

Considering that such consultation will provide Members of the Council who do not participate in any given international organisation with a multilateral and institutional means of acquainting the other Members of the Council with their views, thus avoiding the need to approach each of the individual chancelleries concerned,

Recommends that the Committee of Ministers should adopt a statutory Resolution establishing the procedure for consultation defined below:

- a. On the initiative of the head of the delegation of a Member State of the Council of Europe to an international organisation, or of his representative, the delegations of the Member States of the Council may meet at any time in order to discuss an item on the agenda of such an organisation which falls within the competence of the Council of Europe. To this end the Member Governments of the Council of Europe shall communicate the necessary authorisation to their delegations, which shall be part of the standing instructions of such delegations.
- b. Whenever the work of an international organisation is likely to be of interest to the Council, the Secretary-General shall submit any suitable proposal to the Chairman of the Committee of Ministers for the convocation of such a meeting through the medium of the delegation ' of the Chairman's own country.
- c. Observers or ad hoc delegates of such Member States of the Council of Europe as are not members of the international organisations in respect of whose activities meetings are to be held as proposed in the preceding paragraphs, shall be invited to such meetings at the instance of the delegation convening the meeting, or the delegation of that Member of the Council of Europe whose Foreign Minister is Chairman-in-office of the Committee of Ministers.
- d. The meeting may either be confined to , a simple discussion or, by the unanimous consent of the delegations, may lead to the adoption of joint conclusions. The Governments shall retain sole power to take such action as they deem fit on the conclusions submitted to them.
- e. The delegation convening the meeting shall be responsible for its organisation and, with the consent of the other delegations, shall in appropriate cases, draw up a summary report of the meeting for submission to the Committee of Ministers. The Secretary-General of the Council of Europe may be asked to lend his assistance for specific purposes.

C. Draft Resolution

The Assembly,

Considering that it is necessary to arrange without delay for such contacts or consultations among the European delegations to international organisations as may promote the aims of the Council of Europe, and to this end to establish a provisional system of consultation among those members of the European delegations who can be approached immediately on the subject by the Assembly;

Considering Recommendation ... with regard to the establishment of a procedure for consultation among the European delegations to international organisations,

1. Calls the attention of those of its Representatives who participate in the work of these international organisations, whether as delegates, assistant delegates or experts of their respective Governments, to the desirability of holding unofficial consultations, with the consent of their Governments, and within the limits of their powers, pending the acceptance and implementation of the Recommendation referred to;
2. Regards it as desirable that a summary report by the Representative convening the meeting, duly approved, should, in appropriate cases, be submitted to the Bureau of the Assembly, which may propose that it be included in the Agenda of the Assembly.