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## Report of the Ministers' Deputies to the Committee of Ministers on the rôle of the Council of Europe

### Communication

Committee of Ministers

#### 1. Letter from the Secretary-General to the President of the Assembly dated 13th October, 1955

Sir,

At its Fifteenth Session held at Paris on 19th December, 1954, the Committee of Ministers instructed the Deputies to draft a report on the rôle of the Council of Europe.

In its Resolution (55) 11, adopted on 5th July, 1955, the Committee of Ministers resolved to transmit to the Assembly a report drawn up by the Ministers' Deputies on the rôle of the Council of Europe.

This Report is enclosed herewith; it is in the nature of a working paper and calls for the following observations :

1. With a view to developing the consultative function of the Assembly, the Committee of Ministers resolved, in December, 1954, to invite Member Governments to put forward their suggestions for the establishment of a list of questions which might usefully be submitted for opinion to the Assembly. In Chapter III of the Report, will be found a certain number of questions put forward by Member Governments<sup>a</sup> for consideration, in due course, by the Assembly. As is made clear in paragraph 12 of the Report, these questions are submitted to the Assembly for information. They have also been referred for examination to the competent committees of Government experts. Only when the Committee of Ministers has given them further study will the Assembly be asked to give its opinion; it will then receive whatever documentary material it may require.
2. The Report on the rôle of the Council was drawn up before the Committee of Ministers had received Opinion No. 13 on the rôle of the Council of Europe in the political field, adopted by the Assembly on 7th July, 1955. The Committee has therefore been unable to take into account in the Report the proposals contained in this Opinion. The latter will be thoroughly examined by the Committee, which will not fail to inform the Assembly as soon as possible of its conclusions.

I am, Sir,

Your obedient Servant,

Signed : L. MARCHAL



## 2. Rôle of the Council of Europe Report of the Ministers' Deputies to the Committee of Ministers

### 2.1. PART I

1. At its Fifteenth Session, held in Paris on 19th December, 1954 the Committee of Ministers held an exchange of views on the rôle of the Council of Europe, as a result of a statement by its Chairman, M. S. Stephano-poulos. At the conclusion of this discussion, the Ministers adopted Resolution (54) 26, in which they decided to refer to the Ministers' Deputies the speech of the Chairman together with the remarks made by the other members of the Committee and to instruct them to submit a study on :

- a. improvement of the methods of work of the Committee of Ministers;
- b. the establishment of closer relations with the Consultative Assembly;
- c. the position of the Council of Europe in relation to other European organisations.

In this same Resolution the Committee of Ministers invited Member Governments to put forward their suggestions for the establishment of a list of questions which might usefully be submitted to the Consultative Assembly for its opinion.

2. In accordance with these instructions the Ministers' Deputies studied the problems raised by Resolution (54) 26 at their 28th, 29th and 30th meetings held on 8th March, 19th April, and 17th May; 1955, under the chairmanship of M. Hadji Vassiliou, Representing of the Minister for Foreign Affairs of Greece.

3. The Chairman recalled the main problems mentioned by M. S. Stephanopoulos, Chairman-in-office of the Committee of Ministers, in his speech of 19th December, 1954, namely :

- 3.1. the fear of States on the periphery of Europe lest the new Western European Organisation monopolise all European activities;
- 3.2. the attempt to form a common front of Members of the Council of Europe at international conferences in order to face up to extra-European blocs;
- 3.3. the future of European integration and, in particular, action to be taken on the work of the Ad Hoc Assembly.

These questions all turn on one central question : namely, whether the Governments are, prepared to use the Council of Europe as a means of giving new impetus to the European idea.

4. M. Hadji Vassiliou emphasized that the Minister for Foreign Affairs of Greece had put forward no definite proposals for a solution of these important problems but hoped to have the views of his colleagues in these matters. Since the rôle of the Council of Europe depends on the political intentions of each Member Government, it is in the various national Councils of Ministers that attitudes come to be adopted which eventually dictate the action taken by the Committee of Ministers of the Council of Europe.

### 2.2. PART II

The discussion which took place led the Deputies to make the following suggestions :

#### 2.2.1. *Implementation of the Programme of Work*

5. With regard to the problem raised in paragraph 3 (1) above, one of the delegations said that his Government saw no reason to suppose that Western European Union would monopolise activities aimed at promoting European unity. There was plenty of work for the Council as well. In May, 1954 the Committee of Ministers had approved the Special Message, a long document, suggesting a programme of work for the Council. The Assembly's opinion had already been given on parts of it<sup>1</sup>. The Deputies agreed that they should at that stage determine what action should be taken to carry out the programme of work. A real drive to take the programme off the drawing-board and translate it into a series of practical achievements would be the best answer to any doubts about the continued usefulness of the Council.

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1. After this report was drafted, the Assembly adopted Opinions Nos. 13 and 14 concerning Chapters I and IV respectively of the Special Message.

### 2.2.2. Consultation among European delegations to international organisations

6. With regard to the problem mentioned in paragraph 3 (2) above, it was recalled that the question of consultation among European delegations to other international organisations had been exhaustively treated during the discussions which had led up to the approval by the Committee of Ministers of the Special Message transmitting the programme of work to the Assembly. On that occasion, A'ery conflicting views had been expressed by member countries. But they had eventually been reconciled, and the agreed compromise had been set out in paragraphs 16 to 21 of the Special Message. Subsequently, these paragraphs had been supplemented by the adoption of Resolution (54) 16 of the Committee of Ministers. The Deputies considered that it would be impractical to try to agree on a formula concerning co-operation between European delegations which went any further than these two documents<sup>2</sup>.

### 2.2.3. Co-ordinating Committee

7. With regard to the problem raised in paragraph 3 (3) above, the Deputies studied a proposal by the Secretary-General that he should be authorised to propose to the other European inter-governmental organisations the creation of a Co-ordinating Committee, on which he would sit with their Secretaries-General. Several delegations expressed their agreement in principle with this suggestion, which will be examined by the Deputies in greater detail at a future meeting.

### 2.2.4. Report of the Ad Hoc Assembly

8. As regards the question of the future of the Ad Hoc Assembly's report, also raised in paragraph 3 (3) above, the Deputies agreed to leave this to the Committee of Ministers.

## 2.3. PART III

### Questions to be addressed to the Assembly

9. The Deputies felt that the best way of infusing new vigour into the Council of Europe was to place before it concrete and well-defined problems within the fields of activity laid down in the Statute. This was precisely the aim of the Special Message of the Committee of Ministers to the Consultative Assembly of May, 1954. The Committee of Ministers is entitled to place items on the Agenda of the Assembly and to require the latter to debate any question falling within the competence of the Council. The more specific the question and the better prepared and authoritative its material presentation, the more real and useful will be the Assembly's debates and opinion. In selecting such matters Governments will doubtless be guided by their relevance to the promotion of European unity; by the likelihood of the Assembly's being able to express a useful opinion on them; and by the willingness of Governments themselves to take that opinion into consideration and to persevere until a useful measure of agreement is achieved, embodied in an appropriate instrument and translated into practice.

10. Accordingly, several Member Governments, in response to the invitation extended to them in paragraph 2 of Resolution (54) 26 of the Committee of Ministers, suggested certain subjects with regard to which they considered the Council of Europe specifically qualified to promote co-ordination or co-operation between Member States and thus to contribute to the gradual achievement of closer unity between them. The subjects, which are listed below, are submitted to the Committee of Ministers for its approval, with a view to their subsequent transmission to the Consultative Assembly for examination and opinion.

#### 10.1. Proposals by the German Delegation :

- a. Fuller discussion between the technical organisations of Member States on the introduction of international standards in technical matters;

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2. One Deputy drew attention to the fuel, which he had observed in attending the meetings of international organisations at Geneva, that very few of the delegations of member countries of the Council to other international organisations had been instructed to put Resolution (54) 16 into effect. Three delegations proposed that the attention of the Governments should again be drawn to this Resolution, and one of them expressed the concern he felt over the lack of consultation between the European delegations to international organisations such as UNESCO. He felt it necessary to call the Committee's attention to the possibility of reaching common European attitudes on cultural matters. Another Deputy stated that the standing instructions of the delegations of his country to all important international organisations left them free to set in motion the procedure for consultation laid down in Resolution (54) 16, which had been transmitted to them, whenever they thought that this would lead to useful results. He pointed out that the procedure was optional and not mandatory. It did not therefore seem that any further instructions should be sent to the delegations of his Government.

- b. Introduction of duty-free quotas for goods carried by long-distance travellers;
  - c. Establishment of principles for agreements on double taxation;
  - d. Uniform regulations for the organisation of fairs and exhibitions;
  - e. Standardisation of rules governing conflicts of penal law;
  - f. Restrictive business practices.
- 10.2. Proposals of the Swedish Delegation :
- a. Harmonisation of European tariff levels for the primary purposes of lowering those customs barriers which are most detrimental to intra-European trade;
  - b. Standardisation of rules governing the application of penal codes and the competence of courts in respect of offences committed outside national territory, in particular on board ship;
  - c. Standardisation of the rules of domestic law concerning penalties and damages in the event of collisions between ships belonging to different countries;
  - d. Establishment of rules by which the appraisal of international experts can be sought in suits arising out of collisions between ships belonging to different countries;
  - e. Co-ordination of the laws of Member States of the Council of Europe relating to hours of work and the strength of ships' crews ;
  - f. Establishment of a permanent body, on the pattern of the Commission for Scandinavian co-operation in legislative matters, which would advise Member Governments of the Council on subjects for legislation which would lend themselves to co-operation and co-ordination between member countries;
  - g. Strengthening of the rôle of the Council of Europe in the settlement of disputes between member countries.
- 10.3. Proposals of the Belgian Delegation :
- a. Study of the whole problem of European economic integration on the basis of the various plans which have been put forward;
  - b. Preparation of a European Social Charter laying down social objectives which Member States will attempt to achieve.

11. Certain considerations which have led the different Governments to make these proposals are explained in an Appendix to this Report.

12. The questions proposed by various Governments should be regarded as a supplement to the programme of work adopted by the Committee of Ministers in May, 1954, which, moreover, already contains several of these questions. It is clear that before they are submitted to the Consultative Assembly for an opinion it may be necessary to study them in greater detail, so that they may be presented to the Assembly accompanied by suitable documentation. It also remains to be decided at what moment this presentation should take place, a matter which depends among other things on the further discussion of the programme of work. The Committee of Ministers and the Deputies should accordingly make preparations for the submission of these questions to the Assembly while at the same time retaining them on their Agenda.

## **2.4. PART IV**

### *Methods of work of the Committee of Ministers*

13. In order to render more effective the work of the Council certain changes seem desirable in the working methods of its governmental organs and in the relations between them and the Assembly.

14. Article 20 of the Statute states that in the Committee of Ministers unanimity is required for certain important decisions, but that other questions may be decided by a majority of two-thirds. In practice, however, the Committee has almost always behaved as if the rule of unanimity was applicable to all its decisions. This has often prevented a majority, even when it was substantial, from giving effect to its views.

15. The majority of the Deputies considered that the business of the Committee of Ministers would be conducted more efficiently if its members would, in accordance with the provisions of the Statute, allow questions other than those mentioned under Article 20 (o) to be settled by vote<sup>3</sup>.

16. Certain Deputies, on the other hand, considered that the method of applying Article 20 of the Statute should be left to the discretion of the Committee of Ministers.

17. The system of voting at meetings of the Deputies is dealt with in the draft Rules of Procedure for the Ministers' Deputies<sup>4</sup>.

18. With regard to meetings of the Committee of Ministers, the Deputies noted that it was not normally feasible to hold more than two sessions each year. However, they recognised the necessity of holding such meetings in more satisfactory circumstances, particularly as regards their date, duration and preparation. On this last point, the Deputies considered it necessary that the meeting which they held to prepare the work of the Committee of Ministers should be concluded at least a week before the opening of the session.

## **2.5. PART V**

### *Permanent representation of the Governments at Strasbourg*

19. The Deputies considered the proposal by the Secretary-General, to which the latter attached great importance, that all member countries should appoint permanent representatives, actually resident at Strasbourg, as soon as possible.

20. The majority of the Deputies favoured the Secretary-General's proposal. They held that, if the permanent representatives were resident in Strasbourg, they would have opportunities for consulting one another and meeting, apart from Sessions of the plenary Committee, in order to exchange views on questions on its Agenda. This would greatly facilitate discussions at the Sessions of the Committee, as it would obviate the necessity of deferring questions from one meeting to another for lack of instructions, and would allow of more thorough preparation of questions on which a decision had to be taken.

21. Four delegations did not think that the establishment of permanent delegations at Strasbourg would in itself intensify or render more efficient the work of the Council of Europe, which depended essentially on the importance attached by Member Governments to the Council and the kind of tasks they entrusted to it. The pace of its work was determined by the national administrations, and the effects of an intensification of the Council's activities would be felt elsewhere rather than in the Committee of Ministers' Deputies. These delegations pointed out, furthermore, that their foreign services were burdened by constantly increasing tasks and that for practical reasons it was difficult for small countries such as theirs to meet all these responsibilities. Finally, certain Deputies said that their Governments could send their Permanent Representatives to Strasbourg at any moment and without delay, and that this could be regarded as having almost the same advantages as actual residence at Strasbourg.

22. The majority of the other Deputies, while readily admitting that the establishment of permanent delegations was not in itself enough to achieve the desired result, considered that it was, nevertheless, an essential preliminary without which no improvement could take place.

23. The Deputies suggested that, if it should prove impossible to give effect to the Secretary-General's proposals, those of their number who were permanently resident in Strasbourg or within easy reach should meet informally, at frequent intervals, in order to make joint proposals to the Deputies.

## **2.6. PART VI**

### *Relations with the Consultative Assembly*

24. The partnership between the Committee of Ministers and the Consultative Assembly could be demonstrated for all the world to see by increased participation of Ministers in the debates of the Assembly. Thus, the annual report might be regularly presented by the Chairman of the Committee of Ministers, who should, if possible, remain to hear the discussion and to reply, at the end of the debate, to the various points made. Specific technical subjects upon which Governments sought an opinion could, in appropriate cases, be introduced into the Assembly by one or more Ministers of Member Governments, technically versed in the subject. It would be valuable, incidentally, if and when a Member Government submitted the same matter to

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3. Whereas important decisions (i. e. recommendations to Governments) would still require unanimity, a number of matters of lesser importance could thus be settled by a two-thirds majority (e. g. the setting up of expert committees and the drawing up of their terms of reference or the transmission of proposals to other organisations for their advice.

4. These Rules were adopted by the Committee of Ministers at its session on 5th July, 1955.

its national Parliament, that any documents accompanying that submission should state, for the information of Parliament, the opinion of the Consultative Assembly. Finally, a certain number of the Foreign Ministers themselves should speak in the general debates of the Assembly. For this purpose the Deputies recommended that the Committee of Ministers should adopt the following resolution<sup>5</sup> : " The Committee of Ministers, Being desirous of facilitating relations ! between Member Governments and the Consultative Assembly, Decides to amend Article 18 of the Holes of Procedure of the Committee of Ministers as follows: Article 18 Any representative on the Committee, being a member of the Government which he represents, or any other Minister of a Member Government, may speak in the Consultative Assembly, as an individual and in his own name, on any items on the Agenda of the Assembly, after- obtaining the agreement of the President of the Assembly as to the date on which he shall be heard. "

25. The Deputies also decided to submit to the Committee of Ministers the following draft resolution: " The Committee of Ministers, Recalling paragraph 9 of its Special Message to the Consultative Assembly of the 20th May, 1954; Having considered paragraph 1 of Resolution 61 (1954) adopted by the Consultative Assembly on 24th September, 1954, Resolves to recommend Member Governments to take such action as is open to them to secure an adequate measure of discussion of Council of Europe affairs in their respective Parliaments. "

26. The Deputies considered that personal contact could be more varied and frequent. In the ease of Ministers, the obvious forum is the Joint Committee. The majority of the Deputies considered, however, that the structure and practice of this Committee would seem to need some modification before it could successfully discharge such broader duties. In the first place, the Joint Committee might meet more frequently and not be automatically dependent upon a previous meeting of the Committee of Ministers. Secondly, the Ministerial side consisting of Ministers representing the Committee as a whole might be supplemented, ad hoc, by other Ministers, who had decided views on a given matter and who would attend and speak in a " national " capacity. The Joint Committee would thus serve not only the negative purpose of enabling Ministers to explain why a given initiative of the Assembly was unacceptable, but also the positive purpose of allowing the former to seek a preliminary opinion upon an initiative which the Ministers are thinking of taking themselves.

27. Seven of the Deputies stated that, in the opinion of their Governments, the function of the Joint Committee in maintaining good relations between the Committee of Ministers and the Assembly, by discussing and working-out compromise proposals on matters in dispute, would be prejudiced if the meetings of the Joint Committee were not preceded by meetings of the Committee of Ministers at which the Ministers' representatives on the Joint Committee could be fully informed of the views of their colleagues. Two Deputies expressed objections to the idea that Ministers who were not members of the Joint Committee might speak in a " national " capacity.

28. In paragraph 6 of its Opinion No. 12, adopted in September, 1954, the Assembly made a number of suggestions concerning co-operation between itself and the Committee of Ministers. On behalf of the Committee of Ministers the Deputies adopted a reply which is contained in the statutory report to the Consultative Assembly. The main points of this reply are as follows:

- a. Having noted with pleasure the Assembly's decision to authorise its Committees I to hear the Chairman of the Deputies or any other Deputy on specific points under consideration, the Committee of Ministers has in the same way authorised the Deputies to hear the Chairman and Rapporteur of any Assembly Committee.
- b. The Committee of Ministers continues to abide by the already existing arrangements whereby, with the consent of the Committee of Ministers, or alternatively the Deputies meetings may take place between delegations from Assembly Committees, on the one hand, and from Committees of Experts on the other. The Ministers have, however, agreed to the establishment in the cultural field of a standing joint committee composed of Assembly Representatives and Government Experts.
- c. The Committee of Ministers has authorised Committees of Experts, when they unanimously agree to do so, to transmit any of their documents to the corresponding Assembly Committee.

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5. This Resolution was adopted by the Committee ut Ministers on 51 h July, 1955.

## Appendix 1

### Supplementary remarks by the Federal Republic on the Questions to be submitted to the Consultative Assembly

#### International technical standardisation

Further exchanges of views among the technical organisations of the Member States on the question of international technical standardisation.

In view of the importance of standardisation and specification for expanding general productivity and increasing the exchange of goods among the economies of the Member States the question should be examined, in collaboration with the international organisations for standardisation, as to what extent further practical progress could be achieved in the sphere of technical standardisation and specification at the international level and, particularly, by what methods exchanges of views among the specialised organisations of the Member States could be stimulated. The Federal Government points out that several OEEC Committees have repeatedly dealt with the question of promoting international technical standardisation and specification. In the course of these discussions it became clear that the efforts of the business circles concerned would register further progress if the Council of Europe were to recommend Member Governments to develop further the exchange of views on questions of standardisation and specification. The Consultative Assembly should, therefore, be requested to state its views as to whether it considers such a recommendation to the Member Governments desirable.

#### Drafting of principles for agreements on the question of double taxation

When going into this question earlier the Committee of Ministers took the view that, as regards double taxation, bilateral agreements offered the greatest chance of success because of the technical character of this question. In view, however, of the fact that the problem of double taxation is again being considered by the O. E. E. C., the Consultative Assembly should be requested to state whether, in the light of more recent appraisal, it would not be desirable for the O. E. E. C. to extend its studies to the possibility of at least laying-down principles and general standards for such multilateral agreements on double taxation.

In this connection it is pointed out that the Executive Committee of the International Chamber of Commerce in a resolution of the year 1954 [contained in OEEC [Document C \(54\) 294](#)] has made several remarkable proposals for the avoidance of double taxation. The O. E. E. C. has considered these proposals but intends, as far as is known, only to transmit these to Member Governments, without implementing them within the scope of O. E. E. C. It would be desirable if the Consultative Assembly were to address both to the O. E. E. C. and to the Member Governments of the Council of Europe a recommendation to the effect that the O. E. E. C. and the various Member Governments should concern themselves with the establishment of principles and standards for the conclusion of agreements on the avoidance of double taxation and, in this connection, take into account the aforementioned proposals of the Executive Committee of the International Chamber of Commerce.

#### Uniform regulation concerning the organisation of fairs and exhibitions

The Committee of Ministers might examine to what extent a unified arrangement could be attained among Member States with regard to the holding of agricultural exhibitions, i.e. with regard to the drawing up of an annual time-table for fixing, in conjunction with the International Union of Trade Fairs, the most favourable dates for such fairs. The aim should be to arrive at an agreement among Member States on the annual number of agricultural fairs and exhibitions of more than regional importance. Furthermore, it would be desirable to adopt uniform protective regulations for sending livestock, seeds and plants to international agricultural fairs. Similarly, efforts should be made to secure a uniform regulation in respect of exhibition material in transit to agricultural exhibitions. Finally, the question of a uniform regulation of customs treatment of agricultural exhibition material should be studied.

The absence of such uniform provisions renders more difficult the representation of the various countries at agricultural fairs and exhibitions. The Consultative Assembly should be requested to state its views as to whether it deems it desirable for the Council of Europe to take action in this sphere and what methods it considers suitable in order to achieve, in conjunction with the Union des foires internationales, an improvement in conditions for participation in international agricultural fairs and exhibitions. In addition, the question should be examined whether a desire is evident among Member States to achieve uniform

arrangements not only in respect of agricultural fairs but also of other fairs and exhibitions of economic, technical and cultural character similar to the arrangements suggested above for agricultural fairs and exhibitions.

### **European Convention on norms in respect of conflicts in Penal Law**

The proposal to unify the norms in respect of conflicts in Penal Law in the Member States of the Council of Europe is based on the idea of closing those gaps at the international level which have become apparent in the combating of crime, owing to the divergent regulation of the local jurisdiction of national Penal Law in the various States, and of ensuring that no criminal escapes his just punishment. The same considerations which arose in the conclusion of a European Convention on Extradition apply here likewise. Since this convention, naturally, does not in all cases ensure a prosecution under Penal Law, nor, above all, an execution of sentence, it appears necessary to supplement the Convention on Extradition by a Convention on the norms of conflicts in Penal Law. It should be possible, in view of the common objective of all member States of the Council of Europe to fight crime ceaselessly, to adjust and harmonise the views—some of which differ markedly—on the jurisdiction of national courts, in spite of all the difficulties to be expected. Another advantage of such an adjustment would be that encroachments upon the national sovereign rights of one State by the judicial authorities of another State will be, to a great extent, avoided.

In view of the fact that the norms in respect of conflicts in the European countries on many and material points differ—based, as they are, on the opposite principles of territory or person—and thereby lead to considerable practical difficulties it would, likewise, be important for the citizen concerned that there should obtain some generally applicable arrangement, leaving no doubt as to the norms applying abroad.

### **Restrictive Business Practices**

The Federal Government feels that the Assembly and the Committee of Ministers of the Council of Europe should devote some serious study to the problem of restrictive business practices. The Federal Government fully shares the anxiety expressed in Opinion No. 10 of the Consultative Assembly of the Council of Europe concerning concrete measures to limit such practices, and it has therefore sent to Ecosoc its comments on the question through the medium of the Secretary-General of the Council of Europe. Like the Consultative Assembly, the Federal Government believes it would be preferable to conclude an agreement at world level for the control of international cartels and the abolition of restrictive business practices. But, since it is unlikely that a world agreement will be adopted within the framework either of G. A. T. T., or the United Nations, the Federal Government considers it proper, and indeed necessary, to deal with the problem from the European angle with a view to the preparation of a partial and regional settlement.

The Federal Government believes therefore that the Consultative Assembly should first consider whether, in view of the ever-closer trade relations between the European States, the elaboration of a European convention for the abolition of restrictive business practices and, more especially, for the control of international cartels, is not becoming extremely urgent. If necessary, the Assembly could set up a working party which, in continuation of the work already accomplished in this field, would indicate the broad outline of a European agreement of this sort. The results of the work of the Consultative Assembly could then be transmitted to the Committee of Ministers for its opinion on the question, which is still on its Agenda.

## Appendix 2

### **Comments of the Swedish delegation on questions proposed by the Swedish Government for submission to the Consultative Assembly for its opinion, in accordance with Resolution 26 (1954) of the Committee of Ministers**

#### **Harmonisation of European tariff levels for the primary purpose of lowering those customs barriers which are most detrimental to European trade**

A few years ago the Assembly examined the problem of lowering customs barriers in Europe, and this initiative was put into concrete form in 1951, with the proposal for the creation of a Low Tariff Club. This scheme was referred to G. A. T. T., which examined both it and the Pflimlin Plan in connection with its preparation of a tariff reduction plan.

In May, 1954 the Committee of Ministers raised the tariff question in its Special Message to the Assembly, explaining that, since negotiations in G. A. T. T. were impending, it would be best to await their outcome before the Council of Europe returned to the problem.

However, the recent GATT negotiations have yielded no practical results from the standpoint of tariff reduction, for G. A. T. T. was content to set up a special working party to study the question. Thus, the recent session of G. A. T. T., which ended last March, gave a somewhat discouraging picture of practical co-operation among the European Governments with a view to even a modest lowering of custom barriers.

So far, therefore, effective progress towards the liberalisation of intra-European trade has been concentrated upon trade barriers in the form of quantitative restrictions. The low-tariff European countries have made it clear, however,—particularly during discussions within O. E. E. C.— that their ability to maintain, let alone to extend, their policy of freeing imports depends on whether they can secure more complete reciprocity in the reduction of other obstacles to free trade, such as customs barriers. The greater the progress made in abolishing quantitative restrictions, the more difficult it becomes to go further in this direction, owing to the existence of high tariffs.

This seems to indicate that the question of the reduction and harmonisation of European tariffs is even more important today than when the Assembly considered it a few years ago. Moreover, it is easier to reduce tariffs when the economic situation is favourable than in a period of falling markets.

In view of these considerations, the Swedish Government thinks that the time has come for the Assembly to reconsider the question of tariffs, as an important aspect of European economic co-operation.

#### **Standardisation of rules governing the application of penal codes and the competence of Courts in respect of offences committed outside national territory, in particular on board ship**

In the field of penal law, the conflicts quite frequently arise from the fact that a deed may be punishable under the penal code of the country in which it was perpetrated as well as under the penal code of another country. This applies particularly to deeds perpetrated on board ship in the territorial waters of a State other than that to which the ship belongs. Such situations may easily result in clashes of competence between the judicial authorities of the two States concerned. To some extent, questions of this type have been settled by consular agreement, but, in the view of the Swedish Government, the problem is worth studying as a whole, with the aim of standardising the relevant domestic regulations.

#### **Standardisation of the rules of municipal law concerning penalties and damages in the event of collisions between ships belonging to different countries**

Collisions between ships sailing under different flags resulting in lawsuits in the domestic courts have often revealed considerable divergences between municipal legislation as regards both civil and criminal liability and the penalties and damages which may be applicable. The Swedish Government thinks it would be of the greatest value to harmonise and, if possible, standardise the rules of municipal law in this matter.

**Establishment of rules by which the advice of international experts can be sought in suits arising out of collisions between ships belonging to different countries**

In lawsuits of the type mentioned under point (c), where a domestic court is required to settle a dispute concerning a collision between a vessel sailing under the home flag and a foreign vessel, the Swedish Government thinks it desirable that each party to the dispute should be able to seek the advice of an international expert, if he so wishes. The Swedish Government therefore believes that it would also be worth exploring ways and means of providing such opportunities.

**Co-ordination of the laws of Member States of the Council of Europe relating to hours of work and ships' complements**

It seems unsatisfactory that present differences in the social conditions of seamen should be an important factor in international maritime competition. There would appear to be a great advantage in removing such anomalies by improving the social conditions of seamen in countries particularly backward in this respect. Even when it is borne in mind that this problem comes within the special competence of I. L. O. and is already under examination by this organisation, its importance seems to merit the attention of the Council of Europe also.

**Establishment of a permanent body, on the pattern of the Commission for Scandinavian co-operation in legislative matters, which would advise Member Governments of the Council on subjects for legislation met as might lend themselves to co-operation and co-ordination between member countries**

The Swedish Government has repeatedly expressed the view that the establishment of a body with the above functions would be invaluable.

**Strengthening of the rôle of the Council of Europe in the settlement of disputes between member countries**

The Statute of the Council of Europe contains no reference to the competence of the Council to settle disputes between Member States. In this respect, therefore, the statutory functions of the Council of Europe differ from those of the United Nations.

However, the Assembly of the Council of Europe has examined one important dispute without relying upon a statutory provision, namely the question of the Saar, in which it sought to help towards a freely agreed settlement. The success of these efforts was by no means negligible.

When the draft Convention for the Peaceful Settlement of Disputes was under consideration, the Swedish Government submitted a plan, whereby the Committee of Ministers would assume certain functions in regard to the settlement of non-legal disputes. Although this plan has not yet gained the assent of the Committee of Ministers, its basic concept was received with a certain measure of sympathy. Moreover, it was approved by the Assembly Committee to which it was referred.

Although the Swedish Government considers that the closest consideration should be given to the possibilities of extending the competence of the Council of Europe to the settlement of disputes between Member States, this by no means implies that it proposes to side-track the United Nations and its procedure for dealing with disputes between its Members. The United Nations Security Council would preserve its rôle as a forum for such disputes. There are various reasons for believing, however, that it would be useful for the Member States of the Council of Europe to try in the first instance to settle their disputes without the intervention of large regional groups such as the Eastern bloc or Latin America, which sometimes have very little interest in the question at issue.

It is also well to remember certain proposals put forward by the United States Administration during the drafting of the United Nations Charter, which would have empowered the United Nations Assembly to recommend, by a qualified majority, that the Governments concerned institute measures to settle disputes brought before the United Nations. According to the authors of these proposals, such a procedure could be applied to such matters as the revision of an obsolete agreement or a clash of interests in which one of the Parties challenges the competence of the United Nations on the ground that the question is one of purely domestic concern.

It is also worth pointing out that certain Members of the Council of Europe are not Members of the United Nations and could not therefore be expected to appeal to the United Nations Security Council as a means of settling disputes.