Parliamentary Assembly
Assemblée parlementaire
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 845
05 September 1958

Institutional reform of the Council of Europe presented, on behalf of the Bureau of the Assembly

Report[1]
Bureau of the Assembly
Rapporteur: Mr Jacques BICHET, France

1. 1958 - 10th Session - Second part

A. Draft Resolution relating to the merger of the Council of Europe and O.E.E.C.

The Assembly,

Convinced that the rationalisation European institutions is essential;

Convinced of the necessity of strengthening t h e institutions of 0. E. E. C , in particular by the addition to its intergovernmental machinery of a parliamentary assembly;

Believing t h a t both these objectives will be served by the merger of the Council of Europe and 0. E. E. C,

Resolves:

1. to approve the plan for the merger of the two organisations set out in the draft Basic Agreement attached hereto;
2. to request the Bureau of the Assembly and the Secretary-General to take such action as they deem appropriate at the most suitable time in order to obtain the support of t he Member Governments for this plan.

Draft Basic Agreement[2] for the merger of the Council of Europe and O.E.E.C.

The Governments of...,

Desirous of simplifying and making more effective the machinery of European co operation;

Having regard to the Convention on European Economic Co-operation of 16th April 1948 (hereinafter referred to as " the Convention ") , and, in particular, to its preamble, paragraph 2;

Having regard to the Statute of the Council of Europe of 5th May 1949 (hereinafter referred to as " the Statute ") and, in particular, to its preamble, paragraph 3;

Considering t h a t the process of European integration would be facilitated by the merger of the two Organisations,

Have agreed as follows:

ARTICLE 1

The Contracting Parties hereby set up an organisation, which shall be known as " European Union " (hereinafter referred to as " the Union "). It shall exercise the functions conferred hitherto on the Organisation for European Economic Co-operation and on the Council of Europe.

ARTICLE 2

Aims

1. The aims of the Union shall be:

a. to achieve greater unity between i t s Members for the purpose of realising the ideals and principles which are their common heritage;

b. to achieve a sound European economy and facilitate economic and social progress.

2. Matters relating to national defence shall not fall within the competence of the Union.

ARTICLE 3

General obligations

The Contracting Parties undertake to co-operate in pursuing the aims set forth in Article 2 above.

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2. This draft " Basic Agreement" is only intended to •set out the general lines on which the proposed merger of the Council of Europe and O.E.E.C. should be realised. It does not cover all the aspects of the matter, and a more detailed and complete legal instrument will probably be necessary once the principles of the merger have been agreed. This text has been prepared in order to facilitate discussion of the principles, and the detailed drafting has been deliberately left to a later stage. Nevertheless, the provisions of Article 1 1 will make it possible for many points of detail to be referred to the provisional Joint Committee set up under the Agreement.

(Here follows the substance of the obligations deriving from Articles 2-9 of the Convention and Article 3 of the Statute)

ARTICLE 4

Membership

1. The Members of the Union shall be the Parties to this Agreement.

2. The Council may, after consulting the Assembly, invite other European States to become Members of the Union. Resolutions with this purpose in view shall be taken by a two-thirds majority of the Members.

3. Any European or non-European State may become an associate Member of the Union or take part in certain of its activities on the basis of an Agreement concluded between the Union and the State concerned in accordance with Article 5 (b) below.

4. (Withdrawal and suspension)[3]

ARTICLE 5

Powers

In order to achieve the aims set out in Article 2 the Union may:

a. take decisions for implementation by Members;

b. enter into agreements with one or more of its Members, non-Member States and international organisations. Such agreements with non-Member States may provide inter alia for their association with the Union or their participation in some of its activities;

c. make recommendations to Member Governments, to other Governments, or to international organisations;

d. conclude agreements and conventions between its Members, or between some of them, for the purpose, among others, of harmonising their legislation.

ARTICLE 6

Decisions

The decisions provided for in Article 5 (a) shall, unless the Union otherwise agrees in special cases, be taken by mutual agreement of all the Members. The abstention of any Members declaring themselves not to be interested in the subject under discussion shall not invalidate decisions, which shall be binding for the other Members.

ARTICLE 7

Structure

The organs of European Union shall be:

1. The Council,

2. The European Assembly,

3. The Secretariat.

ARTICLE 8

The Council

1. The Council, on which all Members shall be represented, shall be the body competent to act on the Union's behalf.

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3. These provisions would be based on Articles 7-9 of the Statute and Article 27 of the Convention

2. The functions hitherto devolving on t h e Council of 0. E. E. C. and on the Committee of Ministers of the Council of Europe shall be assumed by the Council.

The Council shall request the opinion of the Assembly. Subject to the provisions of Article 6 above, decisions of the Council shall normally be taken by a two-thirds majority.

Subject to the provisions of Article 6 above, decisions of the Council shall normally be taken by a two-thirds majority.

3. The various subordinate bodies and technical committees already set up in the framework of the- two organisations shall continue in existence unless the Council decides to the contrary.

ARTICLE 9

The European Assembly

1. The deliberative organ of the Union shall be the European Assembly. It may debate any matter within the competence of the Union and make recommendations thereon to the Council, t o Governments and to international organisations.

2. The Assembly shall receive reports from the Council on its activities at least once a year and may make recommendations thereon to the latter.

3. The Assembly shall be composed... (in the manner provided for in Articles 25 and 26 of the Statute).

4. The President of the Assembly shall be responsible for authorising expenditure on behalf of the Assembly within the limits of the credits specified in the budget, once the latter has been approved by the Council after it has heard the Assembly's opinion.

5. The Clerk shall be appointed by the Assembly on the proposal of the Bureau. He shall provide the Assembly and its Committees with such assistance as they may require.

6. Without prejudice to the preceding paragraphs of this Article, the Assembly shall adopt its own rules of procedure.

ARTICLE 10

The Secretarial

1. The Secretariat shall consist of a Secretary- General, one or more Deputy Secretaries- General, a Clerk of the Assembly having the rank of Deputy Secretary-General, and such staff as may be required. The Secretariat shall provide the organs of the Union with any assistance necessary to their proper functioning.

2.The Secretary-General shall be appointed by the Assembly on the recommendation of the Council. The Deputy Secretaries-General shall be appointed by the Council.

3. Without prejudice to the Ministers' right, in important circumstances, to assume the Chairmanship of the Council in rotation, the Secretary-General or his representative shall normally preside over meetings of the Union's governmental bodies. The Secretary-General shall at all times have the right to take part in proceedings in an advisory capacity.

4. The Staff of the Secretariat shall be appointed by the Secretary-General in accordance with the administrative regulations.

ARTICLE 11

Transitional provisions

1. The merger of the two Organisations shall be effected by stages over a period of [3] years.

2. A provisional Joint Committee of six members (three being appointed by the President of the Consultative Assembly of the Council of Europe and three by the Chairman of the Council of 0. E. E. C.) shall be responsible for taking all decisions necessary to implement the present Agreement.

The provisional Joint Committee shall, in particular, determine the date or dates at which it will assume the present functions of the Council of 0. E. E. C. and of the Committee of Ministers of the Council of Europe and at which the Secretariats of the two organisations shall be merged in a single Secretariat.

3. In discharging this task the provisional Joint Committee shall avoid taking any steps which will hamper the normal operation of the organs concerned. In particular, it shall ensure to the various bodies set up in the framework of 0. E. E. C. the continuity and independence necessary for the successful discharge of their functions.

B. Draft Recommendation relating to the functioning of the Council of Europe

The Assembly,

Having undertaken a study of t h e problem of the institutional reform of the Council of Europe;

Considering that the rule of secrecy in the deliberations of the Committee of Ministers is calculated to facilitate intergovernmental negotiation, but that the principle of the responsibility of the executive is thwarted if the position taken by Member Governments at the conclusion of their debates remains shrouded in secrecy;

Considering, moreover, that greater continuity would be achieved in the work of the Committee of Ministers if it had a permanent chairman and that better liaison would be maintained between the Committee and the Assembly if that Chairman were the Secretary-General— an arrangement which would follow the precedents of N. A. T. 0. and W. E. U.,

Recommends to the Committee of Ministers that it should:

1. make a practice of informing the Assembly— as permitted by Article 21 (b) of the Statute— of the votes of each Member Government on the Assembly's recommendations, provided, however, that such information may be withheld or refused when special circumstances so require;

2. appoint the Secretary-General of the Council of Europe as permanent Chairman of the Committee of Ministers, whether meeting at ministerial or official level—as permitted by Article 18 of the Statute— without prejudice to the right of the Ministers to retain the chairmanship on particularly important occasions

C. Explanatory Memorandum

1.

1. In adopting Order 115[4], following the debate on institutional reform of the Council of Europe, the Assembly approved the general policy set forth in the Bureau's Report (Doc. 763). The Bureau, with the assistance of the Working Party, therefore considered that its task was confined to preparing precise texts on the main terms of an agreement for the amalgamation of the Council of Europe and 0. E. E. C. and on certain immediate changes in the machinery of the Council of Europe. These two questions are dealt with in the two parts of the present Report.

1.1. PART I - Merger of the Council of Europe and O.E.E.C.

General observations

2. The Working Party held a preliminary discussion on the basic principle of setting up a single European organisation by amalgamating the Council of Europe and 0. E. E. C. It found that Order 115 of the Assembly suggested an entirely fresh approach to the problem of relations between the Council of Europe and 0. E. E. C. Hitherto, apart from isolated action by the Assembly, the Council of Europe has bent most of its efforts to developing co-operation between the two organisations on a bilateral basis, each retaining its own special characteristics. The "liaison committees" set up for this purpose have probably not yet exhausted all possibilities in this direction. In particular, as certain Representatives have suggested in t h e Assembly, such co-operation might conceivably culminate in the Consultative Assembly becoming the Assembly of the Free Trade Area, or even of 0. E. E. C; and this would appear to raise fewer difficulties than a merger of the two Organisations. The Working Party nevertheless realised that it was faced with a determination on the part of the great majority of the Assembly and a general desire on the part of the Governments to rationalise the European activities of " the Fifteen ". From this standpoint a merger between the Council of Europe and 0. E. E. C. has a considerable political import and becomes a governmental problem. In adopting this approach, the Assembly is acting in accordance with its best traditions, by concentrating on what is in the common interests of Europe and should be the common political will of the Governments.

3. The Working Party's conclusions, later those of the Bureau, have been drawn up in the form of a draft " Basic Agreement ", in other words an Agreement whose content is deliberately limited to problems of primary importance raised by the merger, these being problems on which the Assembly may be able to give useful guidance. It will be for the governmental experts to work out the more detailed arrangements once the Governments have defined their attitude to the principle of the merger. The " Basic Agreement" ought to be negotiated between the seventeen signatory countries of the Convention for Economie Cooperation of 16th April 1948 and (in t h e case of fifteen of them) of the Statute of the Council of Europe. It is not intended to abrogate the terms of these instruments, but to make such adjustments or additions to them as will enable the combined texts to determine the competence, powers and structure of a single Organisation.

4. The Working Party has taken account of various studies and Assembly debates on relations between the Council and 0. E. E. C. and, in particular, of Recommendation 25 adopted in 1952 as the result of a report by M. Bohy, of the Report by the Acting Secretary-General (Doc. 682) and of Assembly Opinion No. 26. It considers that the following guiding principles emerge:

a. the combined Organisation should, as a minimum, take over the whole of the present competence and powers of 0. E. E. C. and the Council of Europe;

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4. Order 115, adopted by the Assembly on 16th January 1958: " The Assembly Instructs the Bureau to set up a working party composed of a small number of Representatives and qualified experts, t o work out: (a) the detailed basis of an agreement for a merger between the Council of Europe and O.E.E.C., taking inter alia, as its point of departure, Opinion No. 26, the suggestions made during the debates in the Assembly, the Report of the Acting Secretary-General (Doc. 682) and the work of the Council of Europe/O.E.E.C. Liaison Committees; and
(б) proposals for amending the Statute of the Council of Europe, taking as its point of departure the Report of the Bureau (Doc. 763) and bearing in mind the views expressed during the Assembly's debate thereon. The Working Party will lay its findings before the Bureau which, after consulting the appropriate Committees, must submit proposals to the Assembly at the first part of the Tenth Session. " In accordance with Order 115, the Bureau appointed as Members of the Working Party eight Representatives of the Consultative Assembly: MM. Dehousse (President of the Assembly, Chairman); Teitgen (Rapporteur); Aktas, Badini Confalonierl, Edwards, Federspiel, Kopf and de Menthon; and four experts: AIM. Argod, Beloff, Colonna and von Schmieden. The Working Party held two meetings, on 10th February and 3rd March 1958.

b. the founder Members of the combined Organisation would be the States at present Members of both 0. E. E. C. and the Council of Europe. Other European or non-European States would, however, be free to participate in some of the organs or institutions operating within the framework of the Organisation, so that existing possibilities of " association " or " partial membership " in 0. E. E. C. might be maintained;

c. within the combined Organisation, and subject to such measures of rationalisation as might be required, the various organs or institutions previously part of the Council of Europe or 0. E. E. C, would preserve their original character and the degree of independence necessary for their efficient operation;

d. the merger would take place in gradual stages, under the responsibility of a transitional joint body appointed by the two Organisations to be merged.

Name

5. The Working Party suggested that the combined Organisation be known as " European Union " (cf. Basic Agreement, Article 1).

Competence

6. Article 11 of the Convention for European Economic Co-operation of 1948, assigns a twofold aim to 0. E. E. C: first, as an immediate task, " to ensure the success of the European Recovery Programme >", with the assistance of the United States and, second, a general aim, namely the achievement of a " sound European economy through the economic cooperation " of Member States. Article 1 (a) of the Statute of the Council of Europe says that the aim of the Council is to " achieve greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress ", a more general aim which also embraces that assigned to 0. E. E. C. The general meaning of these provisions is made more explicit in the preambles to the two treaties. The competence of the proposed Organisation, which would combine the general competence of the Council of Europe and the special economic competence of 0. E. E. C, will therefore be defined by reference to Article 1 of the Statute of the Council, Article 11 of the OEEC Convention and the two preambles (cf. Basic Agreement, Article 2, para. 1). As specified in Article 1 (d) of the Statute of the Council, questions relating to national defence would not be within the competence of the combined Organisation (cf. Basic Agreement, Article 2, para. 2).

7. The activities of 0. E. E. C. have been concerned more with economic and financial than with social problems. Certain members of the Working Party observed in this connection that the establishment of a common social policy for Member States would probably involve recourse to institutions of a supranational character. The merger proposed here would clearly not result in conferring such a character on the combined Organisation, for, so far as social matters are concerned, in addition to t h e present functions of 0. E. E. C, it would take over those now exercised by the Council of Europe, which are purely intergovernmental in character.

Membership

8. The provisions in the 1948 Convention which relate to the aims and functions of 0. E. E. C. include a detailed enumeration of the obligations which the Members of 0. E. E. C. undertake to fulfil in the economic, financial and social fields (Articles 2 to 9). There are no equivalent clauses in the Statute of the Council of Europe. On the other hand, the latter, in its Articles 3 and 4, says that every Member of the Council must accept the " principle of the rule of law " and that of " the enjoyment by all persons' within its jurisdiction, of human rights and fundamental freedoms. " The provisions of Articles 2 - 9 of the OEEC Convention and of Article 3 of the Statute of the Council of Europe should be included in the Statute of the combined Organisation (cf. Basic Agreement, Article 3).

9. The " Founder " Members of the combined Organisation would be those States which are at present Members of both Organisations. In this connection the Working Party held an exchange of views on the special situation of Portugal and Switzerland, which are Members of 0. E. E. C. but not at present of the Council of Europe. It suggested that contact should be made in due course with the Swiss and Portuguese authorities in order to ascertain their views on a possible merger of the Council and 0. E. E. C.

10. The Member States of the combined Organisation would be entitled to participate in all the organs or institutions operating within its framework, subject to the special rules attached to each of them. Nevertheless, to make allowance for any possible difficulties raised by States not at present Members of the Council of

Europe, the Working Party considered that such States should remain free to participate only partially in the Union. In particular, such States might, if they so preferred, refrain from all participation in the Assembly, limit their participation to the sending of observers, or only participate during certain debates—for instance, economic debates or, if the occasion arose, debates on the operation of the Free Trade Area (cf. Basic Agreement, Article 9, para. 3). Similarly, whenever Assembly recommendations came before the Council for consideration, States not represented during the Assembly debate would have t h e option of not attending the Council's deliberations or of attending only as observers, so as to be in no way committed by the conclusions reached.

11. The European Conventions of the Council of Europe would also be open to accession, as of right, by OEEC States not Members of the Council of Europe. The articles governing accession to such Conventions would be suitably modified where necessary.

12. The Statute of the Council of Europe (Article 5) provides for a category of " Associate Members " which may be represented only in the Consultative Assembly. The Working Party considered that this Article was included in the Statute to take account of special circumstances that no longer exist. It was not satisfied with the idea of a State participating fully in the Assembly's work without being represented in the governmental institutions and therefore proposes that the concept of " Associate Member " as found in Article 5 of the Statute should be omitted from the Basic Agreement.

13. The 1948 Convention (Article 13, b) enables 0. E. E. C. to " enter into agreements... with non-member countries". Thus close relations, tantamount to " association", have been established by 0. E. E. C. not only with the United States and Canada, which played a special part in its foundation, but also with other non-Member States (Spain and Yugoslavia). Spain, in particular, is a sort of " partial Member " of 0. E. E. C. The scope and nature of these relations are governed by " agreements " the term being used in its widest sense—concluded in each case, there being no hard-and-fast rule. The relations may involve full participation in some of the activities of the Organisation or participation as an observer in some or all of those activities etc. I t is desirable that the combined Organisation, or some of its dependent bodies, should be in a position to conclude future agreements on the same lines with other European or non- European States. The Basic Agreement should therefore lay down very flexible rules in this respect. The relevant provisions of Article 5 (b) are based on Article 13 (b) of the OEEC Convention, as well as on the association clauses of the Rome Treaties (Article 238, Common Market, Article 206, Euratom). The special position of the Assembly has been covered by the stipulation that any participation in its work shall be subject to its prior consent.

14. With regard to accession by other States, the Treaty and the Statute provide for different procedures. Article 25 of the 1948 Convention provides for accession by notification and with the (unanimous) assent of the Council of 0. E. E. C. The Statute of the Council of Europe, in its Articles 4, 20 (c) and its Statutory Resolution, provides that a State may be invited to become a Member by the Committee of Ministers on the decision of a " two-thirds majority of all the Representatives entitled to sit on the Committee ", after consultation with the Assembly. The combined Organisation might adopt the provisions of the Statute of the Council of Europe with regard to invitations by the Committee of Ministers (c/. Basic Agreement, Article 4, para. 2).

15. As regards withdrawal, the OEEC Convention (Article 27) and the Statute of the Council (Article 7) contain similar provisions. Suspension of a Member of 0. E. E. C. may be decided by mutual agreement among the other Members in the event of the non-fulfilment of the obligations laid down in the Convention (Article 26). The Statute of the Council (Articles 8 and 9) provides for suspension from rights of representation in the Consultative Assembly in the event of the non-fulfilment of its financial obligations, and for a request for withdrawal (after a prior suspension) in the event of a serious violation of Article 3 (the respect of Human Rights). These decisions are taken, after consulting the Assembly, by the Committee of Ministers by a two-thirds majority vote of the representatives casting a vote and a majority of the representatives entitled to sit on the Committee (Article 20 (rf) and Statutory Resolution). As regards grounds for suspension, the combined Organisation should retain the relevant provisions of both the OEEC Convention and the Statute of the Council. On the other hand, as regards suspension procedure, preference should be given to the Statute of the Council of Europe whose provisions are more flexible.

Powers

16. The powers of the new Organisation would be determined by combining Articles 13 and 14 of the OEEC Convention and Article 15 of the Council of Europe Statute, together with the Statutory Resolutions (cf. Basic Agreement, Articles 5 and 6). On all matters which now come within the competence of the Council of Europe or of O.E.E.C., the combined Organisation could thus, by mutual agreement of its Members, take decisions which Members would haue to implement (Article 13 (a), 0. E. E. C). The abstention of which would

still be binding on the other Members (Article 14, 0. E. E. C). The Organisation could also negotiate conventions and agreements between its Members, or between some of them, adopt non-binding recommendations and resolutions in accordance with Council of Europe practice (cf. para. 18 below), and conclude agreements with international organisations or third States (Article 13 (b) 0. E. E. C). Such agreements might, for instance, be a means of establishing the ties of association referred to in para. 13 above.

Internal structure

(a) Intergovernmental organs

17. The 1948 Convention (Article 15) stipulates that " a Council composed of all the Members should be the body from which all decisions derive ". At the Council of Europe (Article 13) the Committee of Ministers is " the organ which acts on behalf of the Council of Europe ". The OEEC Convention does not lay down any rule as to the composition of the Council, but the Statute of the Council of Europe stipulates that the representatives on the Committee of Ministers shall be the Ministers for Foreign Affairs (Article 14). The Assembly has, generally speaking, deplored the rigidity of this last clause[5] The combined Organisation should adopt the relevant provisions of the OEEC Convention and set up on this basis a single intergovernmental Council consisting of representatives of Member States chosen on each occasion according to the matters to be dealt with: sometimes senior officials, sometimes Finance Ministers, technical ministers, Ministers for Foreign Affairs or Prime Ministers (cf. Basic Agreement, Article 8, para. 1).

18. The Council, as the executive of the combined Organisation, would exercise the powers transferred to the latter (cf. para. 16 above) and would be responsible inter alia for taking decisions unanimously. It could also adapt recommendations unanimously and, by a simple or qualified majority, adopt .the less important resolutions enumerated in Article 20 (b), (c) and (d) of the Council of Europe Statute. More generally, it would exercise the powers vested in the Committee of Ministers of the Council of Europe and the Council of 0. E. E. C. by agreements or conventions concluded in the framework of the two Organisations (e.g. the Agreement for the Establishment of a European Payments Union or the European Convention on Human Rights) or by decisions (cf. Basic Agreement, Article 8, para. 2). The Working Party felt that, if the provisions of Article 14 of the OEEC Convention were extended to cover the combined Organisation, the procedure for partial agreements now in force in the Council of Europe would become redundant. By a combination of Article 15 (a) of the Council of Europe Statute and Article 17 and the Annex of the OEEC Convention, the Council of the combined Organisation could consider the action required to further the aims of the Organisation, on the recommendation of the Assembly, on its own initiative or on the proposal of the Secretariat-General or another competent organ of the Organisation.

19. As for the technical committees and other bodies which have already been set up by the OEEC Council and the Committee of Ministers of t h e Council of Europe by virtue of Articles 15 (c) and 19 of the OEEC Convention and Article 17 of the Council of Europe Statute (which are much the same), the merger would not entail any alteration in their structure or operation, except that there might be some reorganisation of committees with similar functions. In particular, there would be no change in the rules of the Steering Board for Trade, the Managing Board of the European Payments Union or the other ancillary bodies of 0. E. E. C. (cf. Basic Agreement, Article 8, para. 3). Similarly, the merger would not affect the structure or operation of any bodies which may be set up in connection with the Free Trade Area. It would not, of course, prevent t h e Council from adopting a special procedure for discussing or taking decisions on matters concerning the Area (cf. also para. 10 above and para. 20 below

(b) The parliamentary organ

20. The Consultative Assembly, which the Working Party proposes to call " the European Assembly ", would become the " deliberative organ" of the combined Organisation. The Statute of the latter should incorporate the provisions of Articles 22 to 35 of the Council of Europe Statute (cf. Basic Agreement, Article 9, paras. 1, 3 and 6). The Assembly, however, should enjoy greater financial and administrative independence, on the model of the Assembly of Western European Union (cf. Basic Agreement, Article 9, paras. 4 and 5). Relations between the European Assembly and the Council would thus be governed by the same rules as now govern relations between the Committee of Ministers and the Consultative Assembly. In particular, the Assembly would regularly receive reports from the Council on all the latter's activities and would transmit to the Council recommendations on any matters which i t considered at the Council's request or on i t s own initiative (cf. Basic Agreement, Article 9, paras. 1 and 2). Representatives of the Council could participate in

5. Cf. in particular, Recommendation 147 (1957).

the debates of the Assembly. If a Free Trade Area is set up, these arrangements would enable the Consultative Assembly to act as the Assembly of the Free Trade Area with the functions conferred upon i t by the Agreement creating the Area, due regard being paid to the remarks in para. 10 above on the participation of certain Member States in the work of the Assembly. Thus the Assembly would not interfere an the strictly intergovernmental work of the Council of the combined Organisation and its organs. Conversely, the Assembly's right to jhold periodical general debates on important lissues of world policy would be unaffected.

(c) The Secretariat

1.1.1. The Secretariat

21. The Secretariats-General of the Council of Europe and 0. E. E. C. would be merged by stages in a single Secretariat, subject to the adoption of measures giving greater independence to the Office of the Clerk of the Assembly (cf. Basic Agreement, Article 10). The provisions of Articles 15 (c) and 17 (c) of the OEEC Convention and of the Annex thereto on the functions of the Secretary-General would be extended to the combined Organisation. As requested by the Assembly, the combined Secretariat should be regarded as one of the organs of European Union. As regards the appointment of the Secretary-General of the combined Organisation, the provisions of Article 36 (b) of the Council of Europe Statute (appointment by the Consultative Assembly on the recommendation of the Committee of Ministers, which should present at least two candidates), would be retained in preference to those of Article 17 (b) of the OEEC Convention (appointment by the Council). The Secretary-General " invested " by the two organs, intergovernmental and parliamentary, of European Union, and thus enjoying their confidence, would be able to act as a permanent link between them. On the other hand, just as the Clerk of the Assembly would be appointed by t h e Assembly alone (para. 20 above and Basic Agreement, Article 9, para. 5), so the Deputy Secretaries- General whose responsibility would be confined to the functioning of the intergovernmental bodies would be appointed by the Council alone (cf. Basic Agreement, Article 10, para. 2).

Implementation of the Basic Agreement

22. The Working Party thought that the merger of the Council and 0. E. E. C. should be effected by gradual stages. The Agreement setting up the combined Organisation should nevertheless fix a time-limit for the completion of the merger (cf. Basic Agreement, Article 11, para. 1). The Working Party suggests that this should be done over a period of three years after the entry into force of the Agreement. Such an Agreement, even if it goes into greater detail than the Basic Agreement proposed here, should be limited as far as possible to general questions and should leave the practical arrangements for the merger to a provisional Joint Committee of six members appointed in equal numbers by the two Organisations to be merged. This Joint Committee would thus decide when the Council would begin to assume all or part of the functions of the Committee of Ministers and the Council of 0. E. E. C, determine how the Secretariats were to be combined and, in general, make any adjustments necessitated by the merger (cf. Basic Agreement, Article 11, para. 2). The normal operation of the two Organisations ought not, of course, to be impeded. In particular, the Working Party thinks it desirable that the various bodies now functioning tinder the auspices of 0 . E. E. C. should preserve their special connections and their cohesion within the combined Organisation (cf. Basic Agreement, Article 11, para. 3).

23. The Bureau suggests that the Assemblyshould adopt a Resolution rather than a Recommendation to the Committee of Ministers. The object of this procedure would be to put on record the Assembly's desiderata for the merger of the Council of Europe and 0. E. E. C. and to ask t he President of the Assembly and the Secretary-General to discuss these proposals with Member Governments. This would seem more likely to produce useful results at the present stage than a formal Recommendation calling for action by the Committee of Ministers collectively, since the time is probably not yet ripe for a formal decision by that body. This procedure moreover would correspond to the suggestion made by the Bureau to the Assembly in January (Doc. 763).

1.2. PART II - Immediate ch anges in the machinery of the Council of Europe

24. The Bureau considered that certain changes in the machinery of the Council of Europe should be introduced forthwith, without awaiting the merger of the Council and 0. E. E. C, l y amending the Statute and the Rules of Procedure of the Assembly and of the Committee of Ministers. It agreed on the following proposals

1.2.1. Publication of details of votes in the Committee of Ministers

25. Here the majority of the Working Party endorsed the findings of the Bureau as submitted in its Report to the Assembly (Doc. 763, para. .14). If voting in the Committee of Ministers were publicised, not only would each Government be obliged to assume its full responsibilities in regard to Assembly Recommendations, but the way would be opened for parliamentary control in each country and the holding of a watching brief by the Consultative Assembly itself. In this way the work of the Committee of Ministers and of the Council of Europe, as a whole would gain in decisiveness and authority. Some members of the Working Party maintained, however, that there were serious drawbacks to such publicity. They pointed out, in particular, that publication of details of votes in the United Nations did not enhance the effectiveness of that organisation. In certain delicate matters too much publicity could embarrass Governments, in that they would be subjected to pressure by an uninformed public opinion. In order to meet these objections the Working Party proposes that publication should only be the rule where the voting comes at the conclusion of deliberations on Assembly Recommendations. Even then, the course of the preceding discussions would remain secret. Furthermore, the Committee of Ministers might decide (unanimously or by the required majority) that the results of a given vote should not be made public, owing to special circumstances.

1.2.2. The Secretary-General as Chairman of the Commitleee of Ministers

26. The Working Party endorsed the conclusions of the Bureau on this point (Doc. 763, para. 12). It felt that, if the Secretary-General were Chairman of the Committee of Ministers and the Ministers' Deputies, this would ensure greater continuity in the Avork of those bodies and facilitate liaison with the Assembly. It would also strengthen the power of initiative and authority of the Secretary-General, which the Working Party considers desirable whatever the circumstances. Nevertheless the Working Party proposes that, as at N. A.T. 0., each of the Ministers should act as " Honorary Chairman" of the Council in rotation (cf. Report of the " Three Wise Men " dated 13th December 1956, paras. 100 and 101). In t h a t capacity, a Minister would have specially close relations with the Secretary- General and would remain the spokesman of the Council when the most important statements had to be made (for example, presentation of the Council's progress reports to the Assembly). The Working Party proposes that the Assembly should recommend the Committee of Ministers to amend its Rules of Procedure in that sense

1.2.3. M. Sanlero's suggestion

27. M. Santero, in his speech to the Assembly, proposed that the Consultative Assembly, like the Assembly of Western European Union, should be able to reject the Report of the Committee of Ministers in part or as a whole by means of a " motion to disagree ". The Working Party saw no statutory impediment to the introduction of such a provision into the Assembly's Rules of Procedure. The Assembly of W. E. U. did so onits own authority, in Article V (h), of its " Chart e " . The Bureau considers appropriate to refer the matter to the Committee on Rules of Procedure.