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EUROPEAN COUNCIL, BRUSSELS

29/30 MARCH 1982

EUROPEAN UNION: GERMAN/ITALIAN DRAFT ACT
Brief by Foreign and Commonwealth Office

OBJECTIVE

1. To reaffirm willingness to examine proposals constructively but to avoid discussion of the detailed proposals, which is best left to the ad hoc group.

POINTS TO MAKE

2. Welcome the initiative. Important not to allow Community to stagnate.
3. Willing to examine proposals constructively, as we have shown in discussions so far.
4. Hope exercise can be brought to a successful conclusion.

BACKGROUND

References

- A The German/Italian draft Act on European Union and draft Statement on economic integration.
- B Commentary on the draft Act prepared by UK officials.

5. The Genscher/Colombo proposals for an Act on European Union were submitted to the European Council meeting in London on 26/27 November 1981. In its conclusions, the European Council invited the Foreign Ministers, in cooperation with the Commission, to examine and clarify the proposals and to report back to a future meeting of the European Council.

6. The Belgian Presidency has set up an ad hoc group of officials to examine the proposals. The UK representative is Mr Bullard. Discussions in the group have revealed that a number of Member States had difficulties with some of the proposals, while others needed clarification. In February the group prepared an interim report requesting guidelines for its future work. Foreign Ministers agreed on 23 February that the political will to continue the exercise existed; they instructed the ad hoc group to produce a revised draft Act for consideration by Foreign Ministers probably at their meeting on 24 May. Lord Carrington supported the view that action was needed to strengthen Community unity, especially in the face of the dangers of the world situation. The group resumed its work on 16 March, and will meet again on 2 and 21/22 April.

7. Although the proposals do not amount to a great deal in substance, it is important that we continue to appear constructive on this exercise since we rely on Genscher and Colombo to be helpful to us in the Mandate negotiations. Tindemans has also suggested (in conversation with our Ambassador in Brussels on 9 March) that progress on the Genscher/Colombo proposals is among the factors which could contribute to a favourable atmosphere for finding a compromise on the Mandate.

/8.

8. In discussion in the ad hoc group, and at the Foreign Ministers meeting, we have expressed willingness to examine the Genscher/Colombo proposals constructively, while resisting those likely to cause us difficulty and seeking clarification where necessary. We have secured acceptance of our basic requirements that there should be no provisions requiring Treaty amendment or Parliamentary ratification and no changes in the existing powers of the institutions. We have put forward some positive suggestions of our own; that the link between Community membership and parliamentary democracy be emphasised; that the Economic and Social Committee should concentrate its work more closely on the tasks entrusted to it by the Treaties, and that the European Council should meet only twice a year (though we have so far received no support for this last). We have also floated the idea that the final document might be called something other than an Act, which has legal overtones in the UK.

Foreign and Commonwealth Office
17 March 1982

Translation

Stand: 20. Oktober 1981

Draft statement on questions of economic integration

1. The achievement of the European Union requires further progress as regards the economic integration of Europe. Therefore the Heads of State and Government reaffirm in the European Act the primary goal of strengthening and developing the European Communities in accordance with the Treaties of Paris and Rome.
2. The solution of the problems currently being dealt with in the European Communities is essential if the solidarity of the Community is to be strengthened.
3. This implies, in the interest of all member States and the standard of living of their citizens, a functioning internal market, an adjustment of the common agricultural policy and an improvement in the budgetary structure. The Common Market must not only be maintained but brought to completion.
4. The European Monetary System, which has led to the creation of a major zone of monetary stability, is a positive element. Beyond the monetary stability guaranteed by the EMS, the member States should strive to achieve an increasing convergence of their economies. In the perspective of Economic and Monetary Union which, as a part of the European Union, is to consolidate the economic and financial solidarity of the Community, they should aim at a closer coordination of their economic policies, not least in view of the further development of the EMS.

The member States should examine how, within the framework of the means available, Community policies suitable for achieving the goal of integration might be developed.

5. The accession of Spain and Portugal to the European Community should become reality in the interest of consolidating democracy in Europe, expanding the European economic area and strengthening Europe's position in the world.

6. A European Community completed and strengthened in this way will be in a position to utilize the potential of the European economic area, increase its competitiveness, improve possibilities for investments and thus reduce the level of unemployment.

Stand: 4. November 1981

Draft.

EUROPEAN ACT

The Heads of State and Government of the ten member States of the European Communities, meeting within the European Council,

- resolved to continue the work begun with the Treaties of Paris and Rome and to create a united Europe capable of assuming its responsibilities in the world and of rendering the international contribution commensurate with its traditions and its mission,
- considering what has been achieved in the construction of Europe in the spheres of economic integration and political co-operation, as well as the political objectives of the Community, which enjoy the broad support of the democratic forces in Europe,
- convinced that the unification of Europe in freedom and respect for its diversity will enable it to make progress and develop its culture and thus contribute to the maintenance of equilibrium in the world and to the preservation of peace,
- proceeding from the foundation of respect for basic rights as expressed in the laws of the Community and its member States as well as in the European Convention for the Protection of Human Rights and Fundamental Freedoms,
- determined to work together for democracy, the human and basic rights and notably for the dignity, freedom and equality of man, as well as for social justice,

- aware of the international responsibility devolving upon Europe by virtue of its level of civilization, its economic strength, and its manifold links with the States and nations of other continents,
- convinced that the security of Europe must also be guaranteed by joint action in the field of security policy which at the same time helps to maintain the common security of the partners in the Atlantic Alliance,
- in accord with the decisions taken by the Heads of State and Government of the member States of the European Communities in Paris on 21 October 1972 and the Document on the European Identity published by the Foreign Ministers on 14 December 1973,
- mindful of the statement made by the European Council in The Hague on 29/30 November 1976 concerning the progressive construction of European Union, and in particular the goal, set by the Heads of State and Government, of establishing a comprehensive and coherent common political approach,

reaffirm their political will to develop the whole complex of the relations of their States and create a EUROPEAN UNION. To this end they have formulated the following principles of a EUROPEAN ACT as a further contribution to the establishment of the EUROPEAN UNION:

Part One: Principles

1. Our peoples expect the process of European unification to continue and to bring increasing solidarity and joint action. To this end the construction of a united Europe needs a firmer orientation to its political objective, more effective decision-making structures, as well as a comprehensive political and legal framework capable of development. The EUROPEAN UNION to be created step by step will be an ever closer union of the European people and States based on genuine, effective solidarity and common interests, and on the equality of the rights and obligations of its members.

2. Desiring to consolidate the political and economic progress already achieved towards the EUROPEAN UNION, the Heads of State and Government endorse the following aims:

- to strengthen and further develop the European Communities as the foundation of European unification, in accordance with the Treaties of Paris and Rome,
- to enable member States, through a common foreign policy, to assume joint positions and take joint action in world affairs so that Europe will be increasingly able to assume the international role devolving upon it by virtue of its economic and political importance,
- the co-ordination of security policy and the adoption of common European positions in this sphere in order to safeguard Europe's independence, protect its vital interests and strengthen its security,
- close cultural co-operation among the member States, in order to promote an awareness of common cultural origins as a facet of the European identity, while at the same time drawing on the existing variety of individual traditions and intensifying the mutual exchange of experiences, particularly among young people,
- the harmonization and standardization of further areas of the legislation of the member States in order to strengthen the common European legal consciousness and create a legal union,
- the strengthening and expansion of joint activities by the member States to cope, through co-ordinated action, with the international problems of the public order, major acts of violence, terrorism and transnational criminality in general.

3. The European Communities, which continue to be based on the Treaties of Paris and Rome, European Political Co-operation, the rules and procedures of which are governed by the Reports of Luxembourg (1970), Copenhagen (1973), and London (1981), and the European Parliament shall co-operate in the pursuit of the above aims.

4. The following shall serve in particular to further the development of European Political Co-operation:
 - intensified regular and timely consultations among the Ten with a view to united action on all international questions of common interest,

 - the adoption of final positions only after consultation with the other member States,

 - acceptance of statements by the Ten as a binding common basis,

 - strengthened worldwide contacts with third countries of particular interest to the Ten,

 - increased consideration of resolutions of the European Parliament in reaching decisions by the Ten.

Part Two: Institutions

The following measures shall serve to amalgamate the existing structures of the European Communities (EC), European Political Co-operation (EPC) and the European Parliament and to strengthen the political orientation of the work of European unification:

1. The structures for decision-making in the European Communities and European Political Co-operation shall be merged under the responsibility of the European Council. The European Council is

the organ of political guidance of the European Community and of European Political Co-operation. It is composed of the Heads of State and Government and the Foreign Ministers of the member States.

2. The European Council shall deliberate upon all matters concerning the European Community and European Political Co-operation. Its meetings shall be prepared on the special responsibility of the Foreign Ministers. The European Council may take decisions and lay down guidelines.

Matters concerning the European Communities shall continue to be governed by the provisions and procedures laid down in the Treaties of Paris and Rome and the supplementary agreements thereto.

3. The Heads of State and Government reaffirm that central importance attaches to the European Parliament in the development of the European Union, an importance which must be reflected in its participatory rights and control functions. They therefore envisage the following improvements for the Community within the scope of the Treaties of Paris and Rome:

- (1) The European Parliament shall debate all matters relating to the European Community and European Political Co-operation.

- (2) The European Council shall report at half-yearly intervals to the Parliament. It shall further submit an annual report to the Parliament on the progress towards the EUROPEAN UNION. In the debate on these reports the European Council shall be represented by its President (by one of its members).

- (3) The European Parliament may submit oral or written questions concerning all aspects of European Union to the Councils of Ministers and the Commission. It may make

recommendations to the European Council, the Councils of Ministers, and the Commission. The resolutions of the European Parliament shall be forwarded to the Council of Foreign Ministers for discussion by it. If the Parliament asks for the Council's comments in this respect, the Council shall comply with the request. The President of the Council shall keep the European Parliament informed through the latter's Political Committee of the subjects of international policy dealt with in the scope of European Political Co-operation.

- (4) Before the appointment of the President of the Commission, the President of the Council shall consult the President of the European Parliament. After the appointment of the members of the Commission by the Governments of the member States, an investiture debate should be held in which the Parliament shall discuss the programme of the Commission.
- (5) The Parliament is associated with legal acts of the Community, which are of general importance and have significant financial implications, on the basis of the joint declaration of 4 March 1975 of the European Parliament, the Council and the Commission on the conciliation procedure. The conciliation procedure shall be applied mutatis mutandis in a way suited to practical requirements in normative decisions by the Councils of Ministers pursuant to the Treaties of Paris and Rome if in its comments the Parliament requests the initiation of the conciliation procedure because of the particular significance of such decisions.
- (6) Before the accession or association of further States and before the conclusion of international treaties by the European Communities the European Parliament shall be heard;

its appropriate committees shall be informed on a continuous basis. In formulating the expanded hearing procedure, due regard shall be given to the requirements of confidentiality and urgency.

- (7) In the further development of basic and human rights, special legitimacy attaches to the deliberations and decisions of the European Parliament.
- (8) Continuous reciprocal contacts and consultations between the European Parliament and the national Parliaments should be developed further, with the latter defining the relevant procedures, with a view to enhancing public awareness of European unification and making the debates on aspects of European Union more fruitful.

- 4. (1) The Council of Foreign Ministers shall be responsible for European Political Co-operation.

This shall not affect the powers of the Council of the European Communities pursuant to the Treaties of Paris and Rome.

The co-ordination in matters of security should promote common action with a view to safeguarding the independence of Europe, protecting its vital interests and strengthening its security. For these discussions the Council may convene in a different composition if there is a need to deal with matters of common interest in more detail.

- (2) In addition, a Council of Ministers responsible for cultural co-operation and a Council of Ministers of Justice shall be established.
- (3) The European Council may decide on the establishment of further Councils of Ministers to co-ordinate the policy of the member States in areas not covered by the Treaties of Paris and Rome.

- (4) The Council of Foreign Ministers may appoint committees to deal with specific questions; they shall report to the Council. Both the Council and the committees may avail themselves of the services of experts.
- (5) The role of the Presidency in European Political Co-operation will be strengthened by both expanding its powers as regards initiatives and co-ordination and enhancing its operative capabilities.
5. The Council of Ministers responsible for cultural co-operation shall hold regular exchanges of views on close co-operation in the cultural sphere in order to harmonize their positions on cultural matters as far as possible. For these deliberations the member States may be represented by their respective competent Ministers in accordance with constitutional provisions.
6. The Council of Ministers of Justice shall hold regular exchanges of views on aspects of co-operation in matters of legal policy in order to promote the EUROPEAN UNION in this sphere too.
7. The European Council and the Councils of Ministers shall, where matters pertaining to the European Communities are concerned, be assisted by the Secretariat of the Council and, in the fields of foreign policy, security policy and cultural co-operation, by an expandable Secretariat of European Political Co-operation.
8. (1) In view of the need to improve the decision-making processes and hence the European Communities' capacity for action, decisive importance attaches to the voting proce-

dures provided in the Treaties of Paris and Rome. The member States will utilize every opportunity to facilitate decision-making.

- (2) To this end greater use should be made of the possibility of abstaining from voting so as not to obstruct decisions. A member State which considers it necessary to prevent a decision by invoking its "vital interests" in exceptional circumstances will be required to state in writing its specific reasons for doing so.
 - (3) The Council will take note of the stated reasons and defer its decision until its next meeting. If on that occasion the member State concerned once more invokes its "vital interests" by the same procedure a decision will again not be taken.
 - (4) Within the scope of European Political Co-operation as well, the member States shall utilize every opportunity to facilitate decision-making, in order to arrive more quickly at a common position.
9. The Heads of State and Government stress the particular importance attaching to the COMMISSION as guardian of the Treaties of Paris and Rome and as a driving force in the process of European integration. In addition to its tasks and powers under the Treaties of Paris and Rome, the Commission advises and supports the European Council, whose meetings it attends, with proposals and comments. It is to be associated closely with European Political Co-operation.
 10. The COURT OF JUSTICE of the European Communities has an important role to play in the process leading to the EUROPEAN UNION. In ensuring the observance and further development of Community law, it acts in accordance with the Treaties of Paris and Rome. It should be granted appropriate powers of interpretation and possibly of arbitration under international treaties concluded between member States.

Part Three: Perspectives

1. All other European States which share the values and aims embodied in this Act and become members of the European Communities may accede to the "European Act" to participate in the realization of the EUROPEAN UNION.

On acceding to the European Communities they undertake to accede to this "European Act".

2. The Heads of State and Government shall subject this "European Act" to a general review five years after its signing with a view to incorporating the progress achieved in European unification in a Treaty on the EUROPEAN UNION. To this end a draft shall be submitted to the European Council by the Foreign Ministers before the end of such period and presented to the European Parliament for comment.
3. IN WITNESS WHEREOF, the undersigned High Representatives of the member States, conscious of the great political importance which they attach to this Common Declaration, and resolved to act in accordance with their will as expressed above, have appended their signatures to this EUROPEAN ACT.

DONE at this

ON BEHALF OF

The Kingdom of Belgium:

.....
Prime Minister

The Kingdom of Denmark:

.....

Prime Minister

The Federal Republic of Germany:

.....

Federal Chancellor

The Hellenic Republic:

.....

Prime Minister

The French Republic:

.....

President of the Republic

The Irish Republic:

.....

Prime Minister

The Italian Republic:

.....

President of the Council of Ministers

The Grand Duchy of Luxembourg:

.....
Prime Minister

The Kingdom of the Netherlands:

.....
Prime Minister

The United Kingdom of Great Britain
and Northern Ireland:

.....
Prime Minister

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EUROPEAN UNION: DRAFT GERMAN/ITALIAN ACT

ESSENTIAL FACTS/COMMENTARY

PREAMBLE

Sub-paragraphs 1-3

General scene-setting. No problem

Sub-paragraphs 4-5

Democracy and basic human rights. No problem with text, but we would like to explore possibility of spelling out in main text presumption of democracy as a condition of EC membership.

Sub-paragraph 6

Europe's international role. No problem

Sub-paragraph 7

Joint action in field of security policy. It is not clear whether it is intended to go further than the London Report. Support joint political action in this field where possible - it was agreed in the London Report that the political aspects of security questions could be discussed.

Sub-paragraphs 8-9 and concluding paragraph

European Union. These paragraphs reaffirm the commitment to European Union in language based on the Paris Summit Communiqué 19/20 October 1972 and the "European Identity" document of 14 December 1973. Much of the language has already been used in past declarations and would be difficult to challenge.

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PART I: PRINCIPLES

1. Objective of European Unification. Hallowed language. No problem.

2. Introduction and first sub-paragraph
Reaffirmation of objectives of Paris and Rome Treaties. No problem.

Second Sub-paragraph

Common foreign policy, leading to enhanced European role. Slight element of cart-before-horse in drafting. We can accept "common foreign policy" as aim - albeit distant. A possible redrafting might be ". . . to enable member states to assume joint positions and take joint action in world affairs, and so to work towards a common foreign policy so that Europe will be . . ."

Third Sub-paragraph

Coordination of security policy. Again not clear what "security policy" actually means in this context. Political Cooperation should not discuss defence. Needs clarifying.

Fourth Sub-paragraph

Closer cultural cooperation. No problem with this text.

Fifth Sub-paragraph

Harmonisation of legislation and creation of "legal union". Not clear what "legal union" means. Do not like the term. This may be a reference to a common judicial area to which the Dutch were the main objectors and we have important reservations. On the Community side, little real advantage to be gained by harmonising laws, except where there are real economic reasons for doing so, and the proposal would probably cause us particular difficulty, given the wide differences between our legal systems and those of most other member states. Article 100 of the Treaty already provides for harmonisation of laws in main areas where action might be needed: there is no need to add any gloss to this Article.

at this stage.

Sixth Sub-paragraph

Coordination of action on public order, terrorism, and "transnational criminality". Assume this includes strengthening existing TREVI arrangements and working in the framework of the European Convention on the Suppression of Terrorism, which we support. But not clear what else is envisaged - eg, on public order and "transnational criminality". We should seek clarification.

3. Endorsement of the Treaties of Paris and Rome and the agreements establishing Political Cooperation. We can accept, but are puzzled by the separate reference to the European Parliament, which appears to imply that it is more than just one of the institutions of the Community. Are they to be parties to the Act? Does this imply an expanded role for the Parliament in Political Cooperation? Redrafting needed.

4. Further development of Political Cooperation. Rather too compressed - need to add some qualification, eg "on all questions of concern to the Ten as a whole" after "adoption of final positions" in 2nd Sub-para (in line with London Report). What does "binding common basis" mean in practice (3rd Sub-para)? It is difficult to see how positions reached in Political Cooperation could be made "binding".

PART II: INSTITUTIONS

Introduction and 1

"Amalgamation" of the structures of the Communities and Political Cooperation. We accept, as do the other member states, that the Foreign Ministers should be able to do Political Cooperation business whenever they meet in the Council. We see no reason to go further however and speak of merger or amalgamation, or to suggest that the Council of Foreign Ministers should become responsible for Political Cooperation. This would reopen the debate about Community competence and would also raise the

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question of how the meetings were to be prepared.

2. Role of the European Council

This is largely a reaffirmation of the existing position. The European Council already deliberates on both Community and Political Cooperation matters and it was firmly laid down when the European Council was established that if it took formal decisions on Community matters it would do so in accordance with Community procedures. In practice no such decisions have so far been taken. We can accept this text.

3. Parliament

Introduction

Importance of the Parliament in development of European Union. Major objections though "central" is too strong. We should note that no formal increase in the Parliament's powers is proposed. This is important.

3(1) European Parliament to debate all Community and Political Cooperation matters. This should be slightly redrafted by deleting "shall" and inserting "may". Otherwise acceptable.

3(2) European Council reporting to the Parliament. It has already been agreed in the context of the Three Wise Men's Report that the President of the European Council (not "one of its members") should report to the Parliament once during each Presidency. So we could accept the first sentence and the third with the necessary amendments. On the second sentence, no objection to submitting a report to the Parliament on progress towards European Union provided that this amounts merely to submitting to the Parliament the reports which the Foreign Ministers and the Commission already prepare for the European Council each year and which are subsequently published. We see no need for any additional report.

3(3) Parliamentary Questions, Council response to Parliament's Resolutions, informing Parliament about Political Cooperation.

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This paragraph not very clear. Most of the text amounts merely to a codification of existing practice. We should clarify whether references to Parliamentary Resolutions etc only refer to subject of European Union or go wider. Do not like proposed requirement to comment on Parliament's Resolutions.

3(4) Consultation of Parliament about appointment of President of Commission. We could consider informal arrangements for consulting the President of the Parliament before the final and decisive discussion among the Member Governments, but any formal arrangement would require Treaty amendment and would be unacceptable.

3(5) Improvements in the conciliation procedure. Some improvements were recommended by the Three Wise Men and discussions are currently envisaged in the next few weeks as a result of the meeting between the Foreign Ministers and the Parliament on 17 November. The outcome of these discussions should be assessed before any further changes are considered. We would not be keen on a widening of the scope of conciliation - which will delay Community business - if this is what is intended.

3(6) Parliament to debate Treaties of Accession and other international treaties before conclusion. We see no objection to the European Parliament being allowed to debate new accessions before the conclusion of Treaties of Accession (provided this does not give it the right to unreasonably delay conclusion), but on international Treaties generally we would not want to agree to anything going beyond the existing Luns and Westerterp procedures. To do so would establish for the European Parliament a practice which our Parliament does not enjoy.

3(7) Further development of basic and human rights. We welcome the commitment to the development of basic and human rights but do not understand the reference to "special legitimacy" of the European Parliament. The legitimacy of the Parliament's debates and decisions derives from the Treaties.

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3(8) Relations between the European and the national Parliaments. This is not a matter for Governments to lay down in an Act but for the Parliaments themselves.

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4. The Councils

4(1) Council of Foreign Ministers to be responsible for Political Cooperation; coordination of security matters. Not at all clear. Since Political Cooperation is outside institutional framework of Treaty of Rome, it is difficult to see how the Council could be made formally responsible for it. Making the Council responsible for Political Cooperation might well re-open debates about Community competence. On security discussions, it is not clear what is meant by "in a different composition", which Ministers would be involved, or what issues would be discussed.

4(2) Setting up Culture and Justice Councils. There is formally only one Council, although different Ministers attend for differing purposes: hence Agriculture Council, Social Affairs Council etc. There can therefore be no question of setting up another. If it is intended that the Council should meet as a Council of Ministers of Justice, like other specialist Councils, it is not clear what it could do that the General Affairs Council cannot do. In our view there are already more than enough formations of the Council. Need to define precise purposes of new bodies and there would need to be some clear advantage deriving from their establishment, not just harmonisation for harmonisation's sake. What would Cultural Ministers discuss? Just Culture? Or Education too? What does "culture" actually mean (Surely not appropriate to include sport, recreation, environment or information)? No British Minister of Culture (split between Arts, Education, and Environment) - or of Justice (split between Home Office, Lord Chancellor, Law Officers and Scottish Departments). So some difficulty for us. How would expanded cultural activities fit in with those of the EC Education Committee and the Council of Europe? Important to avoid overlaps. But could consider setting up a PoCo Working Group to consider cultural activities of the Ten (as a group or

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individually) in third countries.

4(3) Establishment of further Councils in areas not covered by Treaties. Not clear what is envisaged.

4(4) Council appointment of Committees to deal with specific questions. No problem. (They already do, eg Mandate Group.)

4(5) Strengthening the Presidency in Political Cooperation. Support principle. But "Act" as presently drafted does nothing to bring this about.

5. Culture

Regular meetings of Culture Ministers to harmonise positions on cultural matters. Favour cooperation. But does this mean concertation in presenting Europe to the outside world, or purely internal "harmonisation"? Not sure how far it would be possible to harmonise cultural policies within EC. But closer coordination of policies and activities concerned with cultural relations between the Ten (as a group or individually) and the rest of the world would be welcome. Are "regular" (ie frequent) meetings really necessary? Would have thought it sufficient to hold meetings periodically, with the aim of improving cooperation on cultural matters and stimulating cultural development across European boundaries. In between such meetings it might be possible for cultural questions to be considered in a new PoCo Working Group.

6. Justice

Regular meetings of Justice Ministers to promote European Union in legal sphere. Again, have doubts, given major differences between UK legal system and those of many EC countries. Question also raises issues of Community competence. Also, are "regular" meetings really needed? Currently, Ministers concerned with justice meet infrequently and there seems little practical need for them to meet often in present circumstances. If aim of this proposal is to revive common judicial area, danger of undermining

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7. Secretariat

European Council and Council of Ministers to be assisted by Secretariat of Political Cooperation. The text draws a distinction between foreign policy and security policy. Once again, need to be clear that we are not talking about defence. Do not much care for "expandable Secretariat", which was not agreed in London Report; better say something like "a staff consisting of officials from member countries". We might try to open up the possibility that the Council Secretariat might take this on.

8. Decision Making

Greater use of majority voting; invocation of "vital interests" to be justified in writing; no decision if "vital interests" invoked. These paragraphs as drafted would greatly strengthen the Luxembourg Compromise by providing a more formal basis for the Anglo-French interpretation than has hitherto existed. The Benelux countries may well, however, be reluctant to subscribe so openly to this interpretation. We are willing to make further progress towards the use of majority voting where important national interests are not at stake. We could give general support to these proposals subject to the omission of the words "in writing" in 8(2). It will however be necessary to clarify the procedure to be followed after the second Council meeting at which "vital interests" have been invoked to prevent a decision.

9. Commission

No objection. This is merely the reaffirmation of the present position.

10. Court of Justice

Further development of Community law; powers of interpretation and arbitration. No objection to the first sentence. In the second sentence we would need to clarify what was meant by the "further development of Community law". It should not be left entirely to the Court to develop Community law. The third

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sentence is probably intended to ensure that the Court becomes the ultimate court of appeal on disputes arising from new Treaties agreed by the "Council of Justice Ministers". This idea was pressed by the Dutch in negotiations on the extradition treaty during the 'Common Judicial Area' initiative. Its reintroduction may be an attempt to get them back on board. Any proposal involving an increase in the powers of the Court would need to be examined very carefully, and its functions should not be allowed to impede the efficient course of justice.

PART III: PERSPECTIVES

1. Accession of other European states to the Act. The unorthodox drafting of this section tends to obscure the status of the document as a whole. Under Article 3(1) of existing (and presumably future) Acts of Accession the acceding states accede to all agreements previously adopted by the original members. Separate accession to the European Act (assuming it constitutes an agreement) would therefore be unnecessary. (If it were not regarded as an agreement it would anyway be inappropriate to talk of accession.)
2. Review after five years with view to Treaty on European Union. There is no reason to expect that the UK Government could accept a Treaty in five years' time. The second sentence should therefore be omitted.
3. Signature of the Act. No problem in principle.

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