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TO IMMEDIATE FCO
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INFO IMMEDIATE UKREP BRUSSELS
INFO PRIORITY BRUSSELS COPENHAGEN THE HAGUE ROME DUBLIN PARIS
BONN ATHENS

FROM UKREP BRUSSELS

FOREIGN AFFAIRS COUNCIL 20 JUNE

MAJORITY VOTING AND THE LUXEMBOURG COMPROMISE

SUMMARY

1. IN A FIRST DISCUSSION FIVE MEMBER STATES (UK, DENMARK, GREECE: FRANCE AND IRELAND WITH QUALIFICATIONS) TOOK THE LINE THAT IF AN IMPORTANT NATIONAL INTEREST WAS AT STAKE VOTING SHOULD BE DEFERRED. THE OTHERS WITH VARYING EMPHASIS SUPPORTED THE LEGAL INTERPRETATION OF THE TREATY BUT DID NOT SEEK TO REOPEN THE LUXEMBOURG COMPROMISE. TINDEMANS REFUSED TO DRAW CONCLUSIONS. A LATER DISCUSSION AMONG MINISTERS ALONE CONFIRMED THE DIFFERENCES OF VIEW AND LED TINDEMANS TO CONCLUDE THAT EXISTING ARRANGEMENTS HAD BEEN NEITHER APPROVED NOR REJECTED. AN INTERIM REPORT ON THE GENSCHER-COLOMBO PROPOSALS WILL BE MADE TO THE EUROPEAN COUNCIL.

DETAIL

2. YOU OPENED THE DISCUSSION BY SAYING THAT YOU HAD EXPRESSED YOUR VIEW OF THE SITUATION ON 24 MAY: THE DECISION ON 18 MAY TO TAKE A VOTE WHEN THE BRITISH DELEGATION HAD MADE CLEAR THAT IMPORTANT NATIONAL INTERESTS WERE INVOLVED HAD CREATED DOUBT AND CONFUSION ABOUT THE COMMUNITY'S DECISION TAKING PROCEDURES.
3. THE KEY QUESTION TO BE ANSWERED WAS WHETHER THE PRACTICE OF CONTINUING DISCUSSION UNTIL UNANIMOUS AGREEMENT WAS REACHED WHERE A MEMBER STATE CONSIDERED ITS IMPORTANT INTERESTS TO BE AT STAKE REMAINED THE BASIS ON WHICH COMMUNITY BUSINESS WAS TRANSACTED. YOU ASKED FOR A CLEAR STATEMENT OF EACH MEMBER STATE'S POSITION ON THIS QUESTION.
4. YOU SAID THAT YOUR GOVERNMENT'S POSITION WAS QUITE CLEAR. THE UK HAD ALWAYS ACCEPTED THE USE OF MAJORITY VOTING IN ACCORDANCE WITH THE TREATIES, SUBJECT TO THE QUALIFICATION THAT, WHERE VERY IMPORTANT INTERESTS WERE AT STAKE, THE DISCUSSION MUST BE CONTINUED

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UNTIL UNANIMOUS AGREEMENT WAS REACHED. WHEN THE UK JOINED THE COMMUNITY WE HAD CLEARLY UNDERSTOOD THAT THE ESTABLISHED PRACTICE IN THE COMMUNITY SINCE 1966, WAS THAT WHERE A MEMBER STATE CONSIDERED ITS IMPORTANT NATIONAL INTERESTS WERE INVOLVED, NO VOTE WAS OR WOULD BE TAKEN AND THE DISCUSSION WAS CONTINUED UNTIL UNANIMOUS AGREEMENT WAS REACHED: AND THAT EACH MEMBER STATE WAS THE JUDGE OF WHAT CONSTITUTED ITS IMPORTANT NATIONAL INTERESTS. AT THE TIME OF ACCESSION THE WHITE PAPER PUBLISHED BY THE GOVERNMENT OF THE DAY TO EXPLAIN THE TERMS OF ENTRY TO THE BRITISH PEOPLE SET OUT THIS PRACTICE - THIS IMPORTANT SAFEGUARD OF A MEMBER STATE'S IMPORTANT INTERESTS. THE LUXEMBOURG COMPROMISE WAS THUS FOR US A FUNDAMENTAL PART OF THE BASIS ON WHICH WE JOINED THE COMMUNITY. IT CONTAINED AN INHERENT SAFEGUARD WHICH MANY MEMBER STATES HAD USED. YOU WANTED TO KNOW WHETHER THE PRACTICE FOLLOWED SINCE 1966 REMAINED THE BASIS ON WHICH COMMUNITY BUSINESS WAS CONDUCTED. YOU HOPED TO RE-ESTABLISH THAT THE POSITION REMAINED AS IT HAD BEEN BEFORE 18 MAY.

5. OLESEN (DENMARK) ENDORSED YOUR VIEWS. IN THE FOLKETING HE HAD BEEN ASKED AFTER THE EVENTS OF 18 MAY WHETHER THE COMPROMISE STILL EXISTED. HE HAD ANSWERED THAT IT DID, FULLY. IT MUST BE RIGHT FOR EACH MEMBER STATE TO ASSESS WHAT WAS FOR IT A VITAL NATIONAL INTEREST, THOUGH IT TOOK A RESPONSIBILITY IN DOING SO.

6. VAN AGT (NETHERLANDS) STRESSED THAT IN 1966 NO CHANGE HAD BEEN MADE TO THE TREATIES: IT HAD MERELY BEEN NOTED THAT THERE WERE DIFFERENT INTERPRETATIONS OF THEM. IT HAD BEEN AN AGREEMENT TO DISAGREE. AS FAR AS THE NETHERLANDS WERE CONCERNED THE TREATIES WERE THE BASIS OF THE COMMUNITY'S WORK. BUT THEY HAD TO BE USED IN A REASONABLE WAY. DISCUSSION SHOULD CONTINUE IN AN EFFORT TO REACH FULL AGREEMENT AS LONG AS THE ISSUE IN QUESTION ALLOWED. BUT IT WAS NOT RIGHT TO POSTPONE DECISION SO THAT PARALYSIS RESULTED. ON SOME ISSUES THE POINT COULD BE REACHED QUITE SOON WHEN THE TREATIES MUST BE APPLIED.

7. THORN SPOKE FOR THE TRADITIONAL VIEW THAT THE COMMUNITY SHOULD OPERATE ON THE TREATIES AND NOTHING BUT THE TREATIES. HE ADDED THAT THIS ISSUE HAD NEVER BEEN RAISED IN ALL THE NEGOTIATIONS FOR UK ACCESSION, WHATEVER BILATERAL DISCUSSIONS MIGHT HAVE TAKEN PLACE.

8. GENSCHER (FRG) SAID THAT VAN AGT HAD DESCRIBED THE SITUATION CORRECTLY. HE TOOK IT THAT NOONE WANTED TO CHANGE THE SITUATION WHICH HAD EXISTED 3, 6 OR 9 MONTHS AGO. VARFIS (GREECE) AGREED WITH YOU AND OLESEN. COLOMBO (ITALY) AGREED WITH VAN AGT. HE HAD PARTICIPATED IN THE FORMULATION OF THE LUXEMBOURG COMPROMISE, AND ACCEPTED HIS SHARE OF RESPONSIBILITY FOR IT. IT HAD SOLVED THE PROBLEM OF

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THE EMPTY CHAIR BUT HAD NOT BEEN INTENDED TO CHANGE THE TREATIES OR INTRODUCE A RIGHT OF VETO. FRANCE HAD INSISTED THAT DISCUSSION MUST CONTINUE BUT HAD NOT DEMANDED A VETO. FURTHERMORE IT WAS IMPORTANT THAT THE SEARCH FOR UNANIMITY SHOULD BE CONFINED TO THE ITEM UNDER DISCUSSION WITHOUT REFERENCE TO OTHER UNRELATED SUBJECTS.

9. CHEYSSON (FRANCE) SAID THAT THE FRENCH POSITION WAS UNCHANGED. WE WERE ALL BOUND BY THE TREATIES: BUT IT HAD BEEN NOTED IN 1966 THAT THERE WERE OCCASIONS WHERE A VOTE SHOULD BE DEFERRED. AS INDICATED IN THE FRENCH PROPOSAL FOR INSERTION IN THE GENSCHER-COLOMBO TEXT, THE IMPORTANT INTEREST AT STAKE SHOULD RELATE DIRECTLY TO THE ITEM UNDER DISCUSSION. THE WORK OF THE COMMUNITY MUST NOT BE PARALYSED, NOR SHOULD THE EXECUTION OF AN AGREED COMMUNITY POLICY BE PREVENTED. ON 18 MAY, HAD THE VOTE BEEN DEFERRED, THE COMMUNITY WOULD HAVE FOUND ITSELF WITH NATIONAL AGRICULTURAL POLICIES OUTSIDE THE SCOPE OF THE TREATIES.

10. COLLINS (IRELAND) SAID THAT THE COMPROMISE SHOULD BE MAINTAINED BUT RESORTED TO ONLY IN EXCEPTIONAL CIRCUMSTANCES. FLESCH (LUXEMBOURG) SHARED VIEWS EXPRESSED BY VAN AGT AND COLOMBO. THE LUXEMBOURG "CONCLUSION" WAS PART OF COMMUNITY HISTORY. THERE WAS NO NEED TO DISCUSS IT. A FORM OF WORDS WOULD BE DISCUSSED IN THE CONTEXT OF THE GENSCHER COLOMBO PROPOSALS, FOR IMPROVING THE COMMUNITY'S DECISION MAKING MECHANISM. DE KEERSMAEKER (BELGIUM) ADOPTED A LEGAL VIEW. THE TREATY RULES HAD TO APPLY. THE LUXEMBOURG COMPROMISE HAD MERELY RECORDED DIFFERING INTERPRETATIONS OF THE TREATIES. HE ALSO NOTED THAT MAJORITY VOTING COULD ONLY TAKE PLACE ON A COMMISSION PROPOSAL, AND IT WAS FAIR TO ASSUME THAT IN MAKING ITS PROPOSAL THE COMMISSION HAD TAKEN ACCOUNT OF THE INTERESTS OF ALL MEMBER STATES.

11. TINDEMANS NOTED THAT AS IN 1966 THERE WAS DISAGREEMENT AND SUGGESTED FURTHER DISCUSSION IN THE CONTEXT OF THE GENSCHER COLOMBO PROPOSALS. YOU ACCEPTED THAT THERE WAS DISAGREEMENT, BUT IT WAS ALSO TRUE THAT FIVE MEMBER STATES HAD SUPPORTED THE VIEW SET OUT IN THE LUXEMBOURG COMPROMISE THAT "WHERE VERY IMPORTANT INTERESTS ARE AT STAKE, THE DISCUSSION MUST BE CONTINUED UNTIL UNANIMOUS AGREEMENT IS REACHED". (YOU ACKNOWLEDGED THAT CHEYSSON AND COLLINS HAD EACH ADDED QUALIFICATIONS.) YOU THOUGHT IT IMPORTANT THAT TINDEMANS SHOULD RECORD THIS IN HIS SUMMING UP: THE POSITION WAS DIFFERENT FROM THAT IN JANUARY IN 1966. THE CRITICALLY IMPORTANT THING FOR THE UK WAS THAT BUSINESS WOULD CONTINUE TO BE CONDUCTED ON THE SAME BASIS AS DURING THE 16 YEARS AFTER 1966. TINDEMANS CONTINUED

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TO RESIST, AND GENSCHER INSISTED THAT THERE SHOULD BE NO DECISION ON THE MATTER. YOU NOTED THAT GENSCHER HAD ALSO SAID THAT IN HIS VIEW NOTHING HAD CHANGED. TINDEMANS THEN TURNED TO DISCUSSION OF THE GENSCHER COLOMBO PROPOSALS.

12. WHEN DISCUSSION OF THE GENSCHER/COLOMBO TEXT REACHED THE PASSAGE ON MAJORITY VOTING A MINISTERS ONLY SESSION WAS ARRANGED. EXISTING DIVISIONS OF OPINION WERE CONFIRMED. IT BECAME CLEAR AFTER SOME DISCUSSION THAT NO AGREEMENT WOULD BE POSSIBLE. CHEYSSON SAID SO AND VAN AGT SEEMED TO START FROM THAT ASSUMPTION. GENSCHER STATED THAT HE COULD ACCEPT NO MAJOR DEPARTURE FROM HIS DRAFT. OLESON AND VARFIS SUPPORTED ME IN EXPRESSING RESERVATIONS ABOUT THE IDEA THAT THE NATIONAL INTERESTS INVOKED SHOULD BE DIRECTLY RELATED TO THE ITEM UNDER DISCUSSION, ASKING WHO WOULD BE THE JUDGE.

13. THE QUESTION WAS POSED WHETHER THE DOCUMENT AS A WHOLE MIGHT BE AGREED WITHOUT ANY PASSAGE ON VOTING. MINISTERS WOULD RETURN TO THE QUESTION.

14. GENSCHER THOUGHT THAT THERE SHOULD BE AN INTERIM REPORT TO THE EUROPEAN COUNCIL. THIS WAS AGREED.

15. GENSCHER ALSO SAID THAT WHEN THE ISSUE WAS DEBATED BY THE EUROPEAN PARLIAMENT AT ITS JULY SESSION - HE WOULD ATTEND. COLOMBO THOUGHT THE IDEA USEFUL. OLESON AND CHEYSSON OPPOSED. YOU TOO HAD RESERVATIONS. IT WAS HARD TO SEE HOW IT WOULD BE ORGANISED: MOST MEMBER STATES WOULD WANT THEIR VIEWS REPRESENTED. YOU THOUGHT IT WOULD BE BETTER TO REFLECT AFTER THE EUROPEAN COUNCIL BEFORE PURSUING THE THOUGHT.

16. IN A FINAL DISCUSSION OF WHAT ARRANGEMENTS WOULD APPLY IN THE COMMUNITY IF THE SECTION ON VOTING IN THE GENSCHER/COLOMBO TEXT WAS OMITTED, GENSCHER NOTED AGAIN THAT THERE HAD BEEN NO DECISION AND NO CONCLUSION IN THE EARLIER DISCUSSION ON THE LUXEMBOURG COMPROMISE. TINDEMANS SUMMED UP THAT THE EXISTING ARRANGEMENTS HAD BEEN NEITHER APPROVED NOR REJECTED.

FCO ADVANCE TO:-

FCO - PS, PS/MR HURD, PS/PUS BRIDGES, SPRECKLEY
CAB - HANCOCK, STAPLETON, LAMBERT

UKREP DISTRIBUTE TO:-

MARSDEN, CLARKE, DENZA HDS OF SECTION - FULL

THOMAS

[ADVANCED AS REQUESTED]

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