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BELGIUM AND THE DRAFT TREATY
ESTABLISHING THE EUROPEAN UNION
by
Jan De Meyer

Badia Fiesolana, San Domenico di Fiesole (FI)

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European University Institute

Badia Fiesolana

50016 S. Domenico di Fiesole (FI)

Italy

The European Policy Unit

The European Policy Unit, at the European University Institute, was created to further three main goals. First, to continue the development of the European University Institute as a forum for critical discussion of key items on the Community agenda. Second, to enhance the documentation available to scholars of European affairs. Third, to sponsor individual research projects on topics of current interest to the European Communities. Both as in-depth background studies and as policy analyses in their own right, these projects should prove valuable to Community policy-making.

In October 1984, the EPU, in collaboration with the University of Strasbourg and TEPSA, organised a conference to examine in detail the Draft Treaty Establishing the European Union. This Working Paper, presented at the conference and revised in light of the discussion, will appear in book form later in 1985 along with other studies of the Draft Treaty.

Further information about the work of the European Policy Unit can be obtained from the Director, at the European University Institute in Florence.

I.

Constitutional Aspects.

A.

Compatibility of the Draft Treaty with the Belgian Constitution.

1.

Until 1970 there were no provisions in the Belgian Constitution explicitly concerning international or supranational organizations.

There was just one Article concerning treaties. It still exists at this time, and it has not been amended since its adoption in 1831.

Article 68 of the Belgian Constitution provides that the King concludes "treaties of peace, alliance and commerce", and that He gives notice of them, with proper information, to Parliament, as soon as that may be permitted by the state's interest and security. It also provides that "commerce treaties", "treaties which can burden the state or oblige Belgians individually" and treaties modifying the boundaries of the state's territory require the consent of Parliament, and that the secret clauses of a treaty never can be destructive of the patent ones (1).

(1) Full French text of Article 68 : "Le Roi commande les forces de terre et de mer, déclare la guerre, fait les traités de paix, d'alliance et de commerce. Il en donne connaissance aux Chambres aussitôt que l'intérêt et la sûreté de l'Etat le permettent, en y joignant les communications convenables. Les traités de commerce et ceux qui pourraient grever l'Etat ou lier individuellement des Belges, n'ont d'effet qu'après avoir reçu l'assentiment des Chambres. Nulle cession, nul échange, nulle adjonction de territoire ne peut avoir lieu qu'en vertu d'une loi. Dans aucun cas, les articles secrets d'un traité ne peuvent être destructifs des articles patents".

The existing European Community Treaties were concluded by the King's Government and approved by Parliament according to that Article.

2.

At the time of the conclusion of the ECSC Treaty, and, somewhat later, of the ill-fated EDC Treaty, constitutional objections were raised in Belgium against those treaties, on the one hand by people who did not favour them and who were, of course, eager to fight them with legal arguments as well as with other ones, and on the other hand by jurists of the old school who believed that the participation of Belgium in supranational organizations was incompatible with the Belgian Constitution as it then stood and that Belgium could not enter into such organizations without first amending its Constitution (1).

The Belgian Council of State (2) and also four of the six professors then in charge of Constitutional

(1) See, for a good summary of that controversy : W.J. GANSHOF VAN DER MEERSCH, "La constitution belge et l'évolution de l'ordre juridique international", in Annales de droit et de sciences politiques, vol. XII, N° 49 (1952). See also the extended relation of the consideration by the Belgian Parliament of each of both treaties, in P.F. SMETS, Les traités internationaux devant le parlement (1945-1955), Brussels 1978, pp. 285-489.

(2) See Doc. Ch., 1952-1953, N° 163.

Law at the Belgian Universities (1) appeared to be of that opinion, which was, however, strongly opposed (2).

The views of those who thought that the treaties concerned were incompatible with the Belgian Constitution may be summarized as follows. They deduced from its Article 25, according to which "all powers stem from the Nation" and "have to be exercised in the manner prescribed by the Constitution" (3), and also from a rather absolute interpretation of state sovereignty and national independence, that Belgians could only be subject, in their own country, to Belgian authorities established by, or according to, the Belgian Constitution. They found that any transfer of sovereignty to authorities not so established, and in particular to authorities like those of the ECSC and of the EDC, was an unconstitutional delegation of state power and an infringement upon national independence. Looking in detail at the powers actually transferred by the treaties concerned to those European authorities, which were even described in certain comments as "foreign", they pointed out that many of these powers had to be exercised, according to the Belgian Constitution, by

(1) See Doc. Ch., 1952-1953, N° 696.

(2) See, inter alia, my article "La constitution belge et l'Europe", in Synthèses, N° 69 (February 1952), and J. DABIN's "Note complémentaire sur le problème de l'intégration des souverainetés", in Annales de droit et de sciences politiques, vol. XIII, N° 51 (1953).

(3) Full French text of Article 25 : "Tous les pouvoirs émanent de la nation. Ils sont exercés de la manière établie par la constitution".

the authorities established by, or according to, it and that they could not, without violating the Constitution, be exercised by any other authority : they referred, in particular, to the legislative, executive and judicial powers of the ECSC and of the EDC, to the fiscal powers of the ECSC, and also, of course, to the military powers of the EDC, and of NATO as well (1).

Against those views it was observed that Article 25 of the Belgian Constitution does only concern the exercise of powers within the sphere of national public law and that it is only valid within the internal legal order of Belgium. It was also observed that nothing in that Article, which has a democratic, and not a nationalistic, meaning, nor in any other provision of the Belgian Constitution, and also nothing in the general spirit of that Constitution, forbade the Belgian Government and the Belgian Parliament, being the legitimate representatives of the will of the Belgian nation, to conclude and to approve, in the manner prescribed by Article 68 of the Constitution, treaties establishing international or supranational organizations. It was further observed that the conclusion and the approval of such treaties did not infringe upon national independence, since Belgium thereby integrated itself into a larger Community and did not subject itself to a foreign power (2).

(1) W.J. GANSHOF VAN DER MEERSCH, op.cit.

(2) J. DABIN, op.cit.

I, for my part, stressed at that time the relativity of state constitutions and state sovereignties and the superiority of international law and supranational law, even in statu nascendi, over national law. I held that a problem of "constitutionality", with respect to a national constitution, cannot even arise as to the contents of a treaty between states, since the constitution of a state can only be the highest norm within the legal order of that state and cannot, as such, govern relations between states : I felt that a state constitution can just be relevant to determine the formal competence of those representing that state in such relations. I pointed out that this was the more true as to treaties like the European Community Treaties, which established a higher legal order than the legal orders of the states and which were to be seen as creating themselves Constitutional Law for that higher legal order (1).

Other arguments, for or against, and more or less convincing, were expounded as well.

Notwithstanding any constitutional objections, the ECSC Treaty and the EDC Treaty were approved by the Belgian Parliament, respectively in 1952 and in 1954. So were also approved, in 1957, the treaties establishing the EEC and Euratom and, later, all further treaties concerning the European Communities.

(1) See my article in Synthèses referred to above.

3.

In 1970 an Article 25bis was inserted into the Belgian Constitution.

It provides that "the exercise of stated powers can be attributed by a treaty or by a law to institutions of public international law" (1).

It was a belated result of the constitutional controversy about the European Communities.

Mainly in order to appease that dispute, the introduction of constitutional provisions concerning international or supranational organizations was initiated already at the time of the approval of the EDC Treaty (2).

It was however delayed by internal political difficulties (3), and also by the Congo problem (4),

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- (1) Full French text of Article 25bis : "L'exercice de pouvoirs déterminés peut être attribué par un traité ou par une loi à des institutions de droit international public".
 - (2) The procedure to amend the Constitution on that subject was initiated by the Government on October 6, 1953, i.e. before the approval of the EDC Treaty by the House of Representatives, on November 26, 1953, and by the Senate on March 12, 1954.
 - (3) The Christian Democrats blocked the procedure in 1955, as a protest against the education policy of the then ruling Coalition of Socialists and Liberals. The Socialists blocked it in 1959, as a protest against the economic and social policy of the then ruling Coalition of Christian Democrats and Liberals.
 - (4) Invoking that problem, the Government, at the beginning of 1960, asked Parliament to suspend further consideration of the matter.

then forgotten for some time (1), and later taken up again, together with the internal institutional reforms which were considered since 1965 (2).

Article 25bis might, of course, have been better phrased than it actually is. It contains wordings which might be interpreted narrowly (3). So might be in particular the adjective "stated" which qualifies the substantive "powers" : that adjective was indeed used with a rather restrictive purpose, so as not to include indeterminate transfers of power (4).

4.

This possibility of a restrictive interpretation of Article 25bis should however not entail major difficulties in the case of the Draft Treaty establishing the European Union. The Union, as

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- (1) The procedure to amend the Constitution which was initiated in 1953, was prolonged in 1958. It was not continued in 1961.
 - (2) A new procedure to amend the Constitution was initiated in 1965. Its principal purpose was to adopt provisions concerning the relations between the Belgian linguistic communities.
 - (3) This was already feared when the idea of such an Article was put forward. DABIN pointedly observed, in his "Note complémentaire" referred to above : "le danger est que les précisions ne soient par trop limitatives et qu'elles n'apportent trop d'entraves aux processus d'intégration nécessaire".
 - (4) Those who wrote the Article also wanted to make a difference between the attribution of the "exercise" of stated powers and the attribution of those powers themselves. Such a difference can, of course, be made in theory : it appears however to be meaningless in practice.

proposed in the Draft Treaty, certainly has the character of an "institution of public international law", within the meaning of Article 25bis (1), and the competences conferred to the Union by the Draft Treaty do not appear to exceed the "attribution of the exercise of stated powers", as envisaged in that Article.

The Draft Union Treaty does not go much further than the existing Community Treaties, which are certainly covered by Article 25bis : there is only a difference in degree, not in essence, between the powers to be exercised by the Union under the Draft Treaty and those to be exercised by the Communities under the existing Treaties.

It thus appears that Article 25bis cannot be of much help to those who would like to oppose the Draft Treaty on the basis of constitutional arguments. That would not, of course, prevent them from arguing that, in their view, the powers to be exercised by the Union under the Draft Treaty are too indeterminate to be covered by that Article.

5.

If however any incompatibility might be deemed to exist between Article 25bis, or any other provision, of the Belgian Constitution, and the Draft Treaty

(1) Whatever they may exactly mean, the terms "institutions of public international law" were definitely not intended to exclude supranational organizations (see P. WIGNY, La troisième révision de la Constitution, Brussels 1972, p. 349).

establishing the European Union, I would personally feel, in the line of my earlier writings, that even restrictively phrased or restrictively interpreted provisions of a national constitution cannot prohibit supranational integration, which is, in my view, governed by general principles transcending national law : I feel that supranational integration has to be seen as an aspect of "the right of self-determination", which "all peoples have" (1) and which cannot be denied to the people of Europe, "anything in the constitution or laws of any state to the contrary notwithstanding" (2).

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- (1) See Article 1, 1, of the International Covenant on Civil and Political Rights and Article 1, 1, of the International Covenant on Economic, Social and Cultural Rights.
- (2) See Article VI, Section 2, of the Constitution of the United States of America.

B.

Procedure to be followed for Belgium to be a Party
to the Draft Treaty.

1.

The procedure to be followed for Belgium to be a Party to the Treaty establishing the European Union, as proposed by the European Parliament, would be governed by the already mentioned Article 68 of the Belgian Constitution (1), as traditionally interpreted and applied : the King's Government would conclude the Treaty, or accede to it, and would then have to obtain its approval by Parliament, before ratifying it.

2.

In so far as Article 68 concerns the King's power to conclude treaties, one might observe that it only mentions explicitly "treaties of peace, alliance and commerce" and that it does not clearly cover treaties establishing international or supranational organizations, except, of course, to the extent that such treaties might somehow belong to one of the three categories so mentioned.

(1) See p. 1 above.

The wording thus used in Article 68 may seem to be rather narrow, but it has always been understood so as to imply the King's general and exclusive power to conduct relations with other states or with other subjects of international law and so as to embrace all treaties and agreements with such states and subjects : the conduct of external relations has indeed to be seen as one of the essential and exclusive duties of the King as Head of the State, one which of course He performs, like any other of His duties, on the advice of His Ministers, who are responsible to Parliament (1).

If the European Union, as proposed by the European Parliament, is to be established by a treaty between states, such a treaty must, as far as Belgium is concerned, be concluded, or acceded to, by the King's Government.

3.

Also in so far as it requires the consent of Parliament for certain categories of treaties, Article 68 does not clearly cover treaties establishing international or supranational organizations.

It may however certainly be held that, if perhaps not as to its explicit wording, it does, as to its spirit, require such consent for such treaties.

(1) See also the Decree of November 22, 1830, on the Form of Government and Articles 63 and 64 of the Belgian Constitution.

On the one hand, one may feel that treaties establishing international organizations and, still more, treaties establishing supranational organizations, are, by their very nature, likely to "burden the state" and to "oblige Belgians individually" and that, in many cases, they have that effect indeed. On the other hand, some of those treaties, in particular the now existing European Community Treaties, may be considered as "commerce treaties". It may, moreover, be held that treaties transferring powers to international or supranational entities are important enough to deserve a formal approval of Parliament, even if such approval is not explicitly required, as it is for treaties involving a modification of the state's boundaries.

The treaties establishing the Council of Europe (1), the ECSC (2), the EEC and Euratom (3), and also the European Convention on Human Rights (4) were all submitted to the approval of Parliament. So were also the treaties and protocols additional to, or modifying them.

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- (1) The Statute of the Council of Europe was approved by an Act of February 11, 1950.
 - (2) The ECSC Treaty was approved by an Act of June 25, 1952.
 - (3) The EEC Treaty and the Euratom Treaty were approved by an Act of December 2, 1957.
 - (4) The European Convention on Human Rights was approved by an Act of May 13, 1955.

Likewise, the approval of Parliament was sought, inter alia, for the Charter of the United Nations (1) and for the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights (2).

In practice, it uses to be sought for all treaties of some importance, including those concerning matters which in the domestic legal order would have to be, or usually are, decided by Parliament.

Any treaty creating something like the European Union proposed by the European Parliament would thus need, as far as Belgium is concerned, the consent of Parliament.

4.

The consent of Parliament to a treaty has to be obtained from both Houses : the House of Representatives and the Senate. It uses to be given in the form of an Act of Parliament, according to the procedure followed for domestic legislation (3).

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- (1) The Charter of the United Nations was approved by an Act of December 14, 1945.
 - (2) The International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights were approved by an Act of May 15, 1981.
 - (3) Strictly speaking, an Act of Parliament (in French : "loi") is formally required only for treaties involving modifications of the state's boundaries (see Article 68 of the Belgian Constitution). The consent of Parliament to any other treaty, might, in theory, be given in any other form, e.g. by Resolutions adopted to that effect in each of both Houses, but it is, also, in practice, always given in the form of an Act of Parliament.

In general, an Act of Parliament approving a treaty only contains one Article, according to which the treaty concerned shall "have full effect" (1). It may however also contain other provisions.

No qualified majority is required for the approval of any particular kind of treaties. Such a majority is specifically not required as to treaties transferring powers to international or supranational organizations (2).

5.

The approval of a treaty by Parliament does not oblige the King to ratify that treaty. It only authorizes Him to do so : the King's Government freely decide whether to ratify, or not to ratify, the treaty, even if it is approved by Parliament.

Likewise, the approval of a treaty by Parliament does not preclude the King's Government from later denouncing the treaty, or withdrawing from it. They would not need the approval of Parliament for such a denunciation or withdrawal.

(1) In French : "Le traité... sortira son plein et entier effet".

(2) Already since a number of years, in fact since the time of the controversy about the ECSC Treaty and the EDC Treaty, it has been proposed to insert into the Belgian Constitution a provision requiring a qualified majority for the approval of treaties transferring powers to international or supranational organizations : it was intended to amend to that effect the existing Article 68. However, no provision of that kind has been adopted so far.

Of course, the King's Ministers are responsible to Parliament for the Government's policy as to the ratification of treaties, and also as to the denunciation of, or withdrawal from, them : parliamentary control applies to such matters, as well as to all other matters of Government policy.

6.

Complications might arise from certain provisions of the Special Act of August 8, 1980, concerning the institutions of the Flemish Community, the Flemish Region, the French Community and the Walloon Region, and of the Act of December 31, 1983, concerning the institutions of the German-speaking Community.

(a)

For treaties and agreements concerning educational, cultural, health or welfare matters belonging to the domestic competence of the Flemish Community, of the French Community and of the German-speaking Community, Article 16 of the Special Act of August 8, 1980 (1) and Article 5 of the Act of December 31, 1983 (2) require the consent of the Community Councils concerned.

(1) French text of that Article : "§ 1. L'assentiment à tout traité ou accord relatif à la coopération dans les matières visées à l'article 59bis, § 2, 1° et 2°, et § 2bis, de la constitution et aux articles 4 et 5 de la présente loi est donné soit par le conseil de la communauté française, soit par le conseil flamand, soit par les deux conseils s'ils sont l'un et l'autre concernés. § 2. Les traités visés au § 1er sont présentés au conseil compétent par l'exécutif de la communauté".

(2) French text of that Article : "Les articles 5, § 2 et 8 à 16 de la loi spéciale sont applicables à la communauté germanophone".

Both Articles are hardly compatible with the Belgian Constitution, in so far as they submit the conclusion of certain treaties with other states or other subjects of international law to the consent of other bodies than Parliament and so infringe upon the constitutional powers of the King and of Parliament.

They nevertheless exist and might be considered to apply to the Treaty establishing the European Union, as drafted by the European Parliament, since that treaty would indeed contain provisions on educational, cultural, health and welfare matters belonging, within the Belgian legal order, to the competence of the three Communities concerned.

It would then be necessary to obtain not only the consent of both Houses of Parliament, but also that of the three Community Councils.

That would, of course, be rather cumbersome and perhaps not very reasonable, but it would not be something new. The International Covenant on Economic, Social and Cultural Rights was indeed, before being ratified by the King's Government, submitted to the approval of the Council of the French Community and to the approval of the Flemish Council, as well as to the approval of both Houses of Parliament (1).

(1) The International Covenant on Economic, Social and Cultural Rights, which was approved, together with the International Covenant on Civil and Political Rights, by an Act of May 15, 1981, as already mentioned above, was also approved separately by a Decree of the Council of the French Community on June 6, 1982, and by a Decree of the Flemish Council on January 25, 1983. It was not submitted to the approval of the Council of the German-speaking Community, since Article 5 of the Act of December 31, 1983 concerning that Community did not yet exist at that time.

(b)

For treaties and agreements concerning, more generally, matters belonging to the domestic competence of the Flemish Community, of the Flemish Region, of the French Community, of the Walloon Region and of the German-speaking Community, Article 81 of the Special Act of August 8, 1980 (1) and Article 51 of the Act of December 31, 1983 (2) provide that the Executives of the Communities and Regions concerned have to be "associated" with the negotiations as to these matters.

These Articles would apply to the Treaty establishing the European Union, as drafted by the European Parliament, since that treaty would indeed contain provisions on matters belonging, within the Belgian legal order, to the competence of the three Communities and of the two Regions concerned.

The Executives of these Communities and Regions should therefore have to be informed of, and have to be consulted on, the negotiations concerning these provisions, and they should, as to these provisions, have the opportunity to put forward their remarks, their wishes and their proposals.

(1) French text of that Article : "Dans les matières qui relèvent de la compétence du conseil, son exécutif est associé aux négociations des accords internationaux, le roi restant le seul interlocuteur sur le plan international, dans le respect de l'article 68 de la Constitution".

(2) French text of that Article : "Les articles 62, 68 à 73, 78, 79, §§ 1 en 3, 81 et 82 de la loi spéciale sont applicables à la communauté germanophone".

7.

Quite naturally, the approval of a treaty by Parliament is sought by the Government : they initiate the procedure with a Government Bill, which they introduce to that effect in one of both Houses, in the same way as they do when promoting domestic legislation.

As far as the three Belgian Communities, or any of them, may be concerned, the already mentioned Article 16 of the Special Act of December 31, 1983 explicitly provides that the consent of their Councils to a treaty is sought by their Executives.

Thus, if a treaty establishing a European Union would be signed by the Belgian Government, the normal way of seeking the approval of Parliament for such a treaty, would be the introduction of a Government Bill to that effect. Likewise, the normal way of seeking its approval by the Community Councils would be the introduction of Government Bills to that effect by their respective Executives.

8.

Private Member's Bills to the effect of approving international treaties were hardly conceivable until recently.

Such Bills were however already tabled, but none of them ever proceeded much further.

They appear to be a form of pressure on the Government to urge the putting into effect of the treaty concerned. That was tried, without success, as to the European Social Charter, which Belgium signed in 1961 but which it has not yet ratified (1).

A Private Member's Bill to approve a treaty may also be a means to make some other point. Such was the avowed purpose of a Private Member's Bill to approve the International Covenant on Economic, Social and Cultural Rights, which was introduced in the Council of the French Community, precisely in order to assert that Council's competence to approve treaties concerning matters within its domestic competence (2). Sometime later, the Executive of the French Community introduced themselves a Bill to seek the approval of their Council for that Covenant and had it passed (3).

There may be some doubt as to the admissibility of Private Member's Bills proposing the approval of treaties, since such Bills interfere with the King's power to conduct relations with other states or with other subjects of international law.

(1) See Doc. Sénat, 724 (1980-1981) - N° 1.

(2) Doc. Cons. Comm. fr., 33 (1979-1980) - N° 1.

(3) See pp. 15-16 above.

That difficulty should however not be taken too seriously, since, even if passed and sanctioned, such a Bill would not have the effect to oblige the Government to ratify the treaty concerned (1).

Of course, a Private Member's Bill to approve a draft treaty or a treaty not yet concluded or not yet acceded to, by the Government, would be senseless.

(1) See pp. 14-15 above.

II

Political Aspects.

A.

General Remarks.

The European Union, in particular as proposed in the Draft Treaty adopted by the European Parliament on February 14, 1984, seems not to be a major issue in Belgium.

There is neither serious opposition against, nor much enthusiasm for the Draft Treaty, which even appears not to be known very much outside a rather narrow circle of people interested in European affairs. The Draft Treaty has hardly, or not at all, been mentioned, or discussed by the mass media : neither the press, nor radio or television have given it any special attention. Parties and other similar groups are generally in favour of it, at least verbally, but mostly without much zeal : some of them uttered criticism as to certain aspects of the Draft Treaty.

B.

The Belgian Political Parties and the Draft Treaty.

1.

In the European Parliament all Belgian Members (1) present at the final vote on the Draft Treaty on February 14, 1984 voted in favour of the Draft and of the Resolution concerning it. They included representatives of all Belgian Parties represented in the Assembly except the PRL (2) : the two Members belonging to that Party (3) and also one Flemish Liberal (4) and one Francophone Socialist (5) were not present at the vote (6).

2.

On May 24, 1984 the Belgian House of Representa-

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- (1) At the time of the vote on the Draft Treaty establishing the European Union, Belgium was represented in the European Parliament by 10 Christian Democrats (7 of the CVP, 3 of the PSC), 7 Socialists (4 of the PS, 3 of the SP), 4 Liberals (2 of the PVV, 2 of the PRL) and 3 Members belonging to "linguistic" Parties (1 of the VU, 1 of the FDF and 1 of the RW).
 - (2) Chanterie, Croux, Marck, Phlix, Van Rompuy, Vandewiele and Verroken, of the CVP; Deschamps, Herman and Vankerhoven, of the PSC; Van Hemeldonck, Van Miert and Vernimmen, of the SP; Glinne, Lizin and Radoux, of the PS; De Gucht, of the PVV; Vandemeulebroucke, of the VU; Spaak, of the FDF; and Gendebien, of the RW.
 - (3) Beyer de Ryke and Damseaux.
 - (4) Pauweleyn, of the PVV.
 - (5) Dury, of the PS.
 - (6) Those four Members had however signed the presence list for the sitting of February 14, 1984.

tives (1) adopted a Resolution in which the Belgian Government was requested, on the one hand, "to take immediately the initiatives necessary in order to negotiate with the other Member States on the Draft Treaty establishing the European Union" and, on the other hand, "to start as quickly as possible the ratification procedure, as soon as an agreement is reached between Member States on the Treaty, and to urge the Governments of the other Member States to do the same" (2).

The Resolution, which was drafted in its final form by the External Relations Committee of the House, resulted from the amalgamation of two Motions. The first of them was moved on March 22, 1984 by Mr Dierickx, a leader of the Belgian Greens (3). The other one was moved, also on March 22, 1984, by a Christian Democrat, Mrs Demeester-De Meyer (4); it was also signed by the

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- (1) In the Belgian House of Representatives, as sitting in May 1984, there were 61 Christian Democrats (43 of the CVP, 18 of the PSC), 60 Socialists (34 of the PS, 26 of the SP), 52 Liberals (28 of the PVV, 24 of the PRL) 2 Communists, 29 Members belonging to "linguistic" Parties (20 of the VU, 1 of the Vlaams Blok, 5 of the FDF, 2 of the RW, 1 of the RPW), 4 Greens (2 of Agalev and 2 of Ecolo), 2 Members belonging to the UDRT-RAD and 2 independent Members.
- (2) In French : "La Chambre, ... demande au Gouvernement : de prendre immédiatement les initiatives nécessaires en vue de négocier le projet de traité instituant l'Union européenne avec les autres Etats membres; d'entamer le plus rapidement possible la procédure de ratification des que le traité aura fait l'objet d'un accord entre Etats membres et d'insister auprès des gouvernements des autres Etats membres pour qu'ils fassent de même". Doc. Ch., 893 (1983-1984) - N° 2, p. 6, and Ann. Ch. 1983-1984, pp. 2929-2935 and 2975-2976.
- (3) Doc. Ch., 892 (1983-1984) - N° 1.
- (4) Doc. Ch., 893 (1983-1984) - N° 1.

floor leaders of the four Majority Parties (1) and by those of two of the Opposition Parties as well (2).

As first drafted in the External Relations Committee, the Resolution referred to "an agreement between the Member States", but the word "the" was subsequently left out, so as not to exclude the conclusion of the Treaty between some of the Members States if not all Member States would be prepared to accept it (3).

Of the 212 Members of the House, 176, including Members of all but one of the Parties represented in the House (4), and also the two independent Members, took part in the vote on the Resolution. They adopted it unanimously (5).

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- (1) Blanckaert, of the CVP, De Winter, of the PVV, Henrion, of the PRL, and Wauthy, of the PSC.
 - (2) Baert, of the VU, and Van der Biest, of the PS.
 - (3) See Doc. Ch., 893 (1983-1984) - N° 2, pp. 2 and 4-5, and Ann. Ch., 1983-1984, p. 2929.
 - (4) The one Member representing the Vlaams Blok did not participate.
 - (5) Ann. Ch., 1983-1984, pp. 2975-2976.

They included 55 Christian Democrats (41 of the CVP, 14 of the PSC), 42 Socialists (22 of the PS, 20 of the SP), 47 Liberals (25 of the PVV, 22 of the PRL), the two Communists, 24 Members belonging to "linguistic" Parties (18 of the VU, 3 of the FDF, the two Members of the RW and the one Member of the RPW), 2 Greens, the two Members belonging to the UDRT-RAD and the two independent Members.

The debate on the Resolution, which was held on May 23, was rather short. Only Mr Dierickx, Mrs Demeester-De Meyer, the rapporteur (Mr Grootjans, a Liberal), the Minister of External Relations (Mr Tindemans), one Flemish Socialist (Mr Van Velthoven), and one Francophone Christian Democrat (Mr Thys), took the floor. They all expressed their support for the Draft Treaty.

Two of them showed however some skepticism.

On the one hand, Mr Dierickx uttered his fear as to what the Governments might do with the Draft Treaty, if they would negotiate on it in the usual manner. He strongly insisted that Amendments to the Draft, which was already a compromise, should not be dealt with by diplomats but by the European Parliament itself (1).

On the other hand, the Minister of External Relations welcomed the Resolution but expressed some doubts as to what might happen to the Draft Treaty. He found it a paradox that it was put forward at a moment of crisis in

(1) He made that point again on May 24, just before the vote on the Resolution.

the European Communities : he mentioned the problem of the accession of Spain and Portugal and the financial difficulties, in particular those concerning the British contribution. He also said that he already knew that some Member States of the Communities would never accept the Draft Treaty as adopted by the European Parliament. He nevertheless expressed the wish that the House would pass the Resolution, as unanimously as possible. He declared that the Belgian Government would accept it and that they would negotiate with the other Member States in order to have a text which could be adopted by a certain number of Member States without incidents.

Before the vote on the Resolution, on May 24, some reservations were expressed by one of the two Communist Members of the House, Mr. Fedrigo. He criticized what he found to be the capitalistic and antidemocratic action of the existing European Institutions and their policy of industrial dismantlement, growing unemployment, impoverishment of the working people and social regression.

3.

A Motion concerning the Draft Treaty was also introduced in the Belgian Senate (1) on March 20, 1984 by Mrs De Backer-Van Ocken, a Christian Democrat and former Minister (2); it was also signed by the floor leaders of the four Majority Parties (3) and by those of the three principal

(1) In the Belgian Senate, as sitting in March 1984, there were 56 Christian Democrats (40 of the CVP, 16 of the PSC), 50 Socialists (29 of the PS, 21 of the SP), 43 Liberals (23 of the PVV, 20 of the PRL), 1 Communist, 25 Members belonging to "linguistic" Parties (17 of the VU, 6 of the FDF, 2 of the RPW), 5 Greens (1 of Agalev and 4 of Ecolo) and 1 Member belonging to the UDRT-RAD.

(2) Doc. Sén., 658 (1983-1984) - N° 1.

(3) André, of the PSC, Gijs, of the CVP, Herman-Michielsens, of the PVV, and Wathelet, of the PRL.

Opposition Parties (1).

Its wording was practically the same as that of the Motion which was introduced two days later in the House of Representatives by Mrs Demeester-De Meyer.

The Motion of Mrs De Backer-Van Ocken is still under consideration in the External Relations Committee of the Senate.

4.

It may be interesting to have a look at the votes of the Belgian Parliament on the existing Community Treaties, and on the EDC Treaty as well. It so appears that in those previous occasions the Belgian Parties did not show the unanimity which they presently display in their votes for the Draft Union Treaty.

The ECSC Treaty was approved by the Belgian Senate on February 5, 1952 and by the Belgian House of Representatives on June 12, 1952. In the Senate 102 Senators voted for, 4 voted against, and 58 abstained. In the House of Representatives 165 Members voted for, 13 voted against and 13 abstained.

The EDC Treaty was approved by the Belgian House of Representatives on November 26, 1953 and by the Belgian Senate on March 12, 1954. In the House of Representatives 148 Members voted for, 49 voted against and 3 abstained. In the Senate 125 Members voted for, 40 voted against and 2 abstained.

The EEC Treaty and the Euratom Treaty were approved by the Belgian House of Representatives on November 19, 1957 and by the Belgian Senate on November 28, 1957. In the House of Representatives 174 Members voted for, 4 voted against and 2 abstained. In the Senate 134 Senators voted for, 2 voted against and 2 abstained.

(1) Delmotte, of the PS, Wyninckx, of the SP, and Van der Elst, of the VU.

The votes on the ECSC and on the EDC were held under a Christian Democrat Government (1), the vote on the EEC and Euratom under a Coalition Government of Socialists and Liberals (2).

The voting behaviour of each of the Parties then represented in Parliament is shown in the Table on page 29. It may be summarized as follows.

The Communists voted against each of the three Bills of Approval, in both Houses.

The Socialists massively abstained in the Senate on the Bill concerning the ECSC Treaty, but a very large majority of them approved it in the House of Representatives, with only a few others voting against or abstaining. They were rather sharply divided, in both Houses, on the Bill concerning the EDC Treaty, which small majorities of them approved but which large minorities of them voted against. Later they massively voted in favour of the Bill approving the EEC Treaty and the Euratom Treaty.

The bulk of the Christian Democrats each time voted in favour of the Treaties in both Houses. Some of them however voted against, or abstained on, the Bills concerning the ECSC and the EDC. Later, the Christian Democrats were practically unanimous in voting for the Bill concerning the EEC and Euratom.

-
- (1) At that time, there were, in the Belgian House of Representatives, 108 Christian Democrats, 77 Socialists, 20 Liberals and 7 Communists, and, in the Belgian Senate, 90 Christian Democrats, including one Independent Catholic, 62 Socialists, 20 Liberals and 3 Communists.
 - (2) At that time, there were, in the Belgian House of Representatives, 96 Christian Democrats, 86 Socialists, 25 Liberals, 4 Communists, 1 Flemish Nationalist, and, in the Belgian Senate, 79 Christian Democrats, including one Independent Catholic, 72 Socialists, 22 Liberals and 2 Communists.

The voting behaviour of the Liberals was very similar to that of the Christian Democrats. They even more massively supported the ECSC Treaty, and they were absolutely unanimous in voting for the EEC and Euratom Treaties. Practically all of their Senators supported the EDC, but in the House of Representatives relatively more Liberals than Christian Democrats voted against it, or abstained.

"Linguistic" Parties were not represented in Parliament at the time of the votes on the ECSC and on the EDC. There was only one Flemish Nationalist in the House of Representatives at the time of the vote on the EEC and on Euratom : he abstained.

Votes in the Belgian Parliament on the Community Treaties.

		<u>House of Representatives</u>					
		<u>For</u>		<u>Against</u>		<u>Abstaining</u>	
Christian Democrats	ECSC	89		2		7	
	EDC		97		9		1
	EEC and Euratom			82	-		1
Socialists	ECSC	59		5		6	
	EDC		39		30		1
	EEC and Euratom			73	-		-
Liberals	ECSC	17		1		-	
	EDC		12		4		1
	EEC and Euratom			19	-		-
Communists	ECSC	-		5		-	
	EDC		-		6		-
	EEC and Euratom			-	4		-
Flemish Nationalists (1)	ECSC	-		-		-	
	EDC		-		-		-
	EEC and Euratom			-	-		1
Total	ECSC	165		13		13	
	EDC		148		49		3
	EEC and Euratom			174	4		2
		<u>Senate</u>					
		<u>For</u>		<u>Against</u>		<u>Abstaining</u>	
Christian Democrats (2)	ECSC	84		1		2	(2)
	EDC		75		10		1
	EEC and Euratom			64	-		1 (2)
Socialists	ECSC	-		-		56	
	EDC		31		26		1
	EEC and Euratom			54	-		1
Liberals	ECSC	18		-		-	
	EDC		19		1		-
	EEC and Euratom			16	-		-
Communists	ECSC	-		3		-	
	EDC		-		3		-
	EEC and Euratom			-	2		-
Total	ECSC	102		4		58	
	EDC		125		40		2
	EEC and Euratom			134	2		2

(1) Not represented in the House in 1950-1954.

(2) Including one Independent Catholic.

5.

It appears from the voting behaviour of their representatives in the European Parliament (1) and in the Belgian Parliament (2) that the Belgian Parties are generally in favour of the Draft Union Treaty.

However, on other occasions, in particular when recently campaigning for the European Election of June 1984, which, in fact, all Belgian Parties mainly used to show their strength on the national level, some of them have hardly referred to the Draft Union Treaty; other ones explicitly mentioned it in their Programmes for that Election or expressed their views on it otherwise, sometimes with some criticism.

The present attitude of each of them may be summarized as follows (3).

In their Programmes for the European Election of June 1984, both Belgian Socialist Parties, the Francophone PS (3) and the Flemish SP (4), have explicitly supported the Draft Union Treaty. At the same time they have, in terms slightly different in form, but to a large extent equivalent in substance, asked for reforms within the framework of the existing Community system. They both want the role of the

(1) See p. 22 above.

(2) See pp. 22-26 above.

(3) For this section of my report, I asked the Leaders of all Parties represented in the Belgian Parliament for information on the matter. Mr Ansiaux, of the VU, Mr Deprez of the PSC, Mr de Wasseige and Mr Humblet, of the RPW, Mr Dierickx, for Agalev and Ecolo, Mr Hendrick, of the UDRT-RAD, Mr Massart, of the RW, Mr Michel, of the PRL, Mrs Spaak, of the FDF, Mr Spitaels, of the PS, Mr Swaelen, of the CVP, Mr Van Geyt, of the PCB-KPB, Mr Van Miert, of the SP, and Mr Verhofstadt, of the PVV, were kind enough to provide such information. Mr Dillen, of the Vlaams Blok, did not reply.

(4) See : Le programme européen du parti socialiste pour les élections du 17 juin 1984, pp. 4-5 and 18-21.

(5) See : SP - programma voor de Europese verkiezingen van 17 juni 1984, Chapter VII.

European Parliament to be strengthened and extended in the fields of legislation and of finance and as to the control of policy : they want it in particular to be closely associated with the appointment of the Commission. They both insist that the Council should cease to serve only national interests and that it should properly apply the majority principle.

The SP have also insisted that the Commission should again be the driving force of the Community and that they should be fully independent of the national Governments : they have also advocated an extended right of access of individuals to the Court of Justice and more freedom of action for the Court of Auditors.

On their part, the PS have asked for a direct participation of the regions and of the communities, as presently existing within Belgium, in the determination of policy at the European level.

In the Programme of the Francophone Liberals (the PRL) for the European Election of June 1984 (1), two brief mentions were made of the Draft Union Treaty : at one point to propose its adoption by a referendum in each Member State and, at another one, to propose that it should explicitly guarantee human rights and democracy. They have also proposed a strengthening of the existing Community Institutions. They have insisted that the European Council should only determine general issues of policy, and that the Council should implement by majority decisions the policy so decided. They have asked for an extension of the powers of the European Parliament and they have proposed that a general mandate

(1) See : Une même foi : l'Europe, la liberté, pp. 10-11, 13, 16-17, 19-20.

be given to the Commission to conduct sectorial policies. They have advocated financial solidarity within the Community and the effective creation of a European currency, with ECU notes and coins. They also have asked that the regions be represented in the European Parliament.

In their Programmes for the European Election both Green Parties, Agalev and Ecolo (1), have welcomed the Draft Union Treaty as a first step towards a democratic Europe, but they have found it to meet their demands only in part. They want full constituent and legislative powers for the European Parliament, and a real European Government responsible to that Parliament. They have strongly insisted that the present nationalistic and bureaucratic tendencies should be eliminated and that the existing states should be decentralized so as to give real powers to the regional and local communities : the Francophone Greens have specifically asked for a Chamber of Regions to be established in addition to the existing European Parliament. The Greens have also expressed some fear for a possible European centralism and they have required more attention for their own ecologist and pacifist views.

(1) See : Agalev 8, Europees licht op groen, programma voor de Europese verkiezingen van 17 juni 1984, pp. 28-29; L'Europe des écologistes, programme Ecolo pour les élections européennes du 17 juin 1984, p. 18; and a Press Communiqué of Ecolo of February 3, 1984, Ecolo, priorité à l'Europe des régions et des citoyens.

The Francophone Christian Democrats (the PSC), when campaigning for the European Election, described the Draft Union Treaty as an essential and important document, and pointed out that the Christian Democrat Members of the European Parliament had unanimously voted for it (1).

The VU (Flemish Nationalists) are not very enthusiastic about the Draft Union Treaty. They criticize it in so far as it appears to maintain and to confirm the veto power of the Member States and also in so far as it allows the European Council to restore common action fields not only to cooperation but even to the competence of the Member States. They mainly regret the Draft Treaty to be founded on the existing states and not on the regions and they would like to have the Council replaced by a Senate of the Regions. As to the role of the European Parliament they have views similar to those of the Socialists and of the Liberals (2).

The RPW (Walloon Nationalists) criticize the Draft in so far as it still appears to conceive the European Union as a Confederation of States and not as a really federal system with a real Government and a real Parliament, and in so far as it ignores the regions which they want to be the basic elements of such a system, rather than the now existing national states (3).

(1) See : Temps nouveaux, N° 44, June 1, 1984, p. 2.

(2) Information provided by Mr Anciaux, President of the VU.

(3) Information provided by Mr Humblet, Senator for the RPW.

Both other francophone Parties, the FDF (1) and the RW (2), fully support the Draft Treaty and want Belgium to approve it as soon as possible.

The UDRT-RAD (a right wing middle class Party) are in favour of the Draft Treaty, at least as to its spirit. They would however have it examined more closely by one of their committees, which would report on the matter by the end of this year (3).

The other Belgian Parties do not seem to have shown much interest for the Draft Union Treaty since its adoption by the European Parliament, apart from their participation in the introduction of, and in the further work on, the Motions proposed on the matter in the Belgian Parliament (4).

C.

The Belgian Social and Economic Organizations and the Draft Treaty (5).

1.

In a joint plenary session on June 7, 1984 the Central Council of the Economy and the National Labour Council unanimously adopted an Opinion on European Integration, which included a section dealing with institutional aspects.

-
- (1) Information provided by Mrs Spaak, MP for the FDF.
 - (2) Information provided by Mr Massart, President of the RW.
 - (3) Information provided by Mr Hendrick, President of the UDRT-RAD.
 - (4) See pp. 22-27 above.
 - (5) For this section of my report, I asked the Leaders of the main Social and Economic Organizations existing in Belgium for information on the views of their organizations concerning the Draft Union Treaty. Such information was kindly provided by Mr Hinnekens, of the Boerenbond, by Mr Vanden Broucke, of the ABVV-FGTB, and, with some more detail, by Mr Leysen, of the VBO-FEB, and by Mr Houthuys, of the ACV-CSC.

In that section of their Opinion, they insisted that the existing treaty rules concerning the decision making process in the Communities should be properly observed, and they also said that further inspiration should be sought in the Draft Union Treaty proposed by the European Parliament : they noted with pleasure that the Belgian House of Representatives had recently resolved to support it.

Those Councils include representatives of all major Economic and Social Organizations existing in Belgium, among them the Federation of Belgian Enterprises (VBO-FEB), the Socialist, Christian Democrat and Liberal Confederations of Workers Unions (ABVV-FGTB, ACV-CSC, ACLVB-CGSLB), and the Farmers Union (Boerenbond).

The Opinion of both Councils thus appears to express, at least in general and guarded terms, the common approval, by all those Organizations, of the idea of the Union proposed by the European Parliament.

2.

In particular, the Federation of Belgian Enterprises (VBO-FBE), which have already for a certain time supported the idea of strengthening the European Institutions, in the line of the Tindemans Report of 1976, now also appear to be very much in favour of the Draft Union Treaty.

Being particularly in favour of the idea of differentiated application of common actions and policies within the existing Communities, they now appear to be specifically interested by Article 35 of the Draft Union Treaty : since that provision permits a differentiated application of Union Laws, it might, according to their views, lift the obstacle which Article 235 of the EEC Treaty seems to have been so far for the development of new policies.

3.

The ABVV-FGTB, the ACV-CSC, and the Boerenbond have not, as such, taken a particular position as to the Draft Union Treaty.

They respectively support the favourable attitude adopted towards it by the European Trade Union Confederation, by the European Union of Christian Democrat Workers, and by the European People's Party.

The first part of the paper is devoted to a general
 introduction of the problem. In the second part
 we shall consider the case of a homogeneous
 medium. In the third part we shall consider
 the case of an inhomogeneous medium. In the
 fourth part we shall consider the case of a
 medium with a variable refractive index. In the
 fifth part we shall consider the case of a
 medium with a variable permittivity. In the
 sixth part we shall consider the case of a
 medium with a variable permeability. In the
 seventh part we shall consider the case of a
 medium with a variable conductivity. In the
 eighth part we shall consider the case of a
 medium with a variable resistivity. In the
 ninth part we shall consider the case of a
 medium with a variable dielectric constant. In the
 tenth part we shall consider the case of a
 medium with a variable magnetic permeability.

D.

The Opinion Survey of March 1984.

An opinion survey was organized in Belgium for the Commission of the European Communities by Dimarso in March 1984 (1).

In one of its questions, the general idea of a European Union was submitted to the respondents in the following terms : "Some people say : 'The members of the European Parliament who will be elected in 1984 should, as a main aim, work towards a political union of the member countries of the Community with an European Government responsible to the European Parliament'. Do you have an opinion on that point and if yes are you for (very much or to some extent) or against (to some extent or very much)?"

24 % of the respondents did not have an opinion on the question. 14 % of them were very much for, 31 % to some extent for, 25 % neither for nor against, 5 % to some extent against, and 1 % very much against the idea formulated in the question (2).

Thus, about one half of the respondents had no opinion or were neither for nor against, and most of the other half were for, but rather "to some extent" than "very much", with very few people against, also rather "to some extent" than "very much".

Those results of the survey might confirm the general trends which I have tried to summarize briefly at the beginning of this part of my report.

(1) See Euro-Barometre N° 21, May 1984.

(2) See ibid., Table 4.

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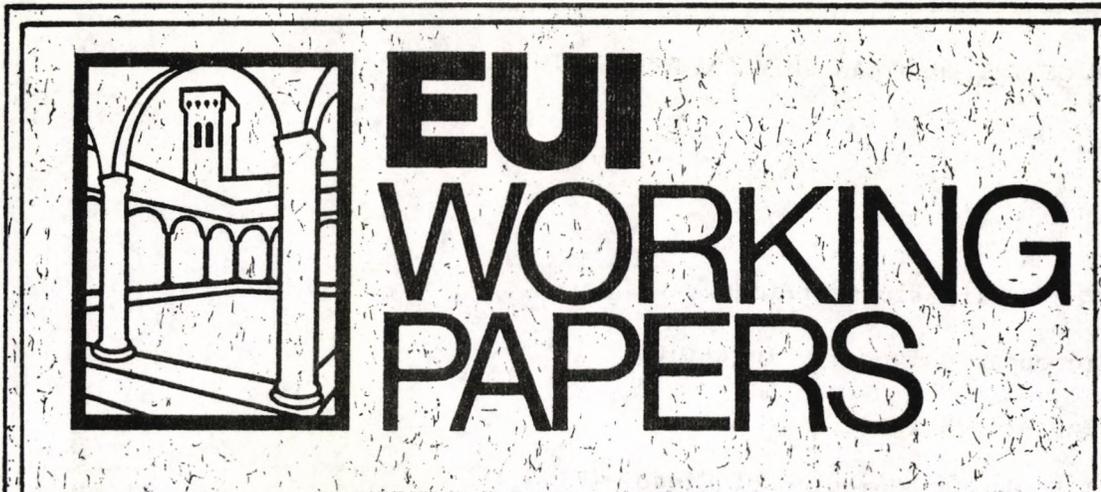
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