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CABINET

CONCLUSIONS of a Meeting of the Cabinet  
held at 10 Downing Street on

TUESDAY 18 MARCH 1975

at 9.30 am

PRESENT

The Rt Hon Harold Wilson MP  
Prime Minister

The Rt Hon Edward Short MP  
Lord President of the Council  
(Items 1 and 2)

The Rt Hon James Callaghan MP  
Secretary of State for Foreign and  
Commonwealth Affairs

The Rt Hon Lord Elwyn-Jones  
Lord Chancellor

The Rt Hon Roy Jenkins MP  
Secretary of State for the Home Department

The Rt Hon Denis Healey MP  
Chancellor of the Exchequer

The Rt Hon Anthony Crosland MP  
Secretary of State for the Environment

The Rt Hon Michael Foot MP  
Secretary of State for Employment

The Rt Hon Eric Varley MP  
Secretary of State for Energy

The Rt Hon Shirley Williams MP  
Secretary of State for Prices and  
Consumer Protection

The Rt Hon Barbara Castle MP  
Secretary of State for Social Services

The Rt Hon Anthony Wedgwood Benn MP  
Secretary of State for Industry

The Rt Hon Peter Shore MP  
Secretary of State for Trade

The Rt Hon Roy Mason MP  
Secretary of State for Defence

The Rt Hon Reginald Prentice MP  
Secretary of State for Education and Science

The Rt Hon William Ross MP  
Secretary of State for Scotland

The Rt Hon John Morris QC MP  
Secretary of State for Wales

The Rt Hon Merlyn Rees MP  
Secretary of State for Northern Ireland

The Rt Hon Fred Peart MP  
Minister of Agriculture, Fisheries and Food

The Rt Hon Harold Lever MP  
Chancellor of the Duchy of Lancaster

The Rt Hon Lord Shepherd  
Lord Privy Seal

SECRET

The Rt Hon Robert Mellish MP  
Parliamentary Secretary, Treasury  
(Items 1 and 2)

The Rt Hon John Silkin MP  
Minister for Planning and Local  
Government

SECRETARIAT

Sir John Hunt  
Mr P D Nairne (Items 1-3)  
Mr B C Cubbon (Items 1-3)  
Mr E J G Smith (Item 2)  
Mr J S Scott-Whyte (Item 1)

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1. The Cabinet had before them a memorandum by the Lord President of the Council (C(75) 32) reporting on the consideration given by the Legislation Committee to the role of Parliament in the context of the renegotiation objectives.

THE LORD PRESIDENT OF THE COUNCIL said that the Legislation Committee had thoroughly considered this matter at a series of meetings over the past 12 months. The essential question was the extent to which membership of the Community entailed limitations on the sovereignty of Parliament and how far any such limitations could be removed or lessened consistently with continued membership. This issue arose from the unique character of the Treaties of Rome and Paris, which involved the acceptance of certain types of Community instrument as directly applicable law in the member states. Parliament could undoubtedly exercise its ultimate sovereignty by repealing the European Communities Act 1972, thereby taking us out of the Community. Indeed the commitment to the referendum demonstrated this. The continuance of the direct applicability of Community law in the United Kingdom depended ultimately, therefore, on the continuing assent of Parliament to our membership of the Community. The Luxembourg Communiqué, on unanimity within the Council of Ministers in matters of vital national interest, provided a safeguard for the United Kingdom; and it was for the Government to decide how far to allow its exercise of the veto to be subject to Parliament's instructions. The Legislation Committee were agreed that it was essential not to obscure the fact that Parliament's control of day-to-day legislation in some areas had been diminished by accession to the Community. This situation could be dealt with in one of two main ways. The first was to eliminate directly applicable Community legislation for the future by amendment of or derogation from the relevant Treaty provisions or by agreement within the Community that the use of these provisions should be renounced. A minority in the Committee had felt that this objective should be pursued as a condition of continued membership. The majority did not favour this course since it would represent a major departure for the Community from its established methods of working; and it would hinder the rapid and effective implementation of agreements arrived at in the Council, jeopardising in certain cases the continuance of common policies. Moreover, to embark on this course at this stage would amount to a new renegotiation demand which was likely to be considered by other member states as inconsistent with membership. The fact of directly applicable law as an essential part of the Community's operation should be made clear to the electorate before the referendum, thus in effect enabling a decision on this issue to be taken through the medium of the referendum. The Committee were agreed that, whatever the outcome on the main issue, the Government should strengthen the arrangements for Parliamentary scrutiny and debate of legislative proposals before their adoption by the Council.

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The Legislation Committee were divided on the desirability of enacting a statutory declaration of the ultimate sovereignty of Parliament. The majority considered that such a declaration would be a misleading nullity which would be contrary to normal constitutional practice and would give rise to suspicion in the Community and to misconception at home. Another supplementary option was to tighten the conditions in Schedule 2 to the European Communities Act for the use of subordinate legislation to implement non-directly applicable obligations, though Parliamentary time would then have to be found for additional primary legislation. A limited amendment of this kind would be peripheral to the main debate on sovereignty and would not provide an amending Bill of any substance. Finally, there was the suggestion that the scrutiny procedures should be put into a statutory form. In his view it would be unsound to attempt to frame Parliamentary procedures in a statutory form.

In the circumstances he had come to the view that the right course was to concentrate on improving the arrangements for Parliamentary scrutiny of Community proposals and the arrangements for debates in Parliament before the Government entered into decisions or commitments in the Council of Ministers. Work could be urgently pursued to this end, though it would be necessary to have regard to the recommendations of the Select Committee on Procedure.

In discussion it was argued that consideration of the issue of Parliamentary sovereignty should not have been separated from the handling of other renegotiation issues; the Cabinet was only now considering fundamental questions which might otherwise have been raised with the Community at an early stage in the process. The right of the Community to impose directly applicable legislation and to impose taxes under the "own resources" formula were the most serious of all the changes involved for the United Kingdom in Community membership. Directly applicable regulations were an obsolete feature of the Community related to a period when it was regarded as potentially a supranational organisation; the directive, which allowed more scope for Parliamentary initiative, was the form of legislation more suited to the Community's modified aspirations. The system of directly applicable law, made by the Community, was a gross infringement of sovereignty in the sense that political sovereignty rested in the power of a nation to make its own laws. The application of the veto was not relevant to the role of the Commission; and we had had to accept the existing laws of the Community on entering into membership. The transfer of Parliament's legislative powers to the Council of Ministers, and even more so to the Commission which was not elected and not accountable to the people of the United Kingdom, represented the most serious attack on Parliamentary democracy with which this country was faced. The relationship between Parliament and the Government in relation to

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European Community business would result in a dismemberment of the authority of the House of Commons. Moreover the threat to Parliament from Community membership was compounded by the prospect of a directly elected European Assembly; and it would be aggravated by the establishment of directly elected Assemblies in Scotland and Wales.

On the other hand, it was pointed out that the issue of sovereignty had been considered by the Labour Cabinet in 1967 and that the implications of Community membership had been spelt out in detail in the White Paper "Legal and Constitutional Implications of United Kingdom Membership of the European Communities" (Cmd 3301). The renegotiation process had been conducted in full knowledge of these implications. It had been essentially concerned with the revision of the terms on which we should be able to display our national sovereignty within the Community in dealing with the policy issues which concerned us. Many of the changes secured were directly related to the protection of United Kingdom sovereignty in regional and industrial matters. The Commission had no power to impose direct taxes outside the limits already laid down in the "own resources" system. Despite the Treaties of Rome and Paris our power to make our own laws remained; Parliament could, if at any time it so wished, repudiate all our obligations under the Treaties and recall the powers which it had delegated to the Community institutions. The exercise of sovereignty was a political rather than a juridical issue; and, if Parliament was dissatisfied with the performance of the Government within the Community framework, it could exercise its powers to criticise Ministers or even to enforce a change of Government. It was desirable to allow the Parliamentary procedures for Community business to continue to be developed with a view to achieving a balance between the power of Ministers to act and the power of Parliament to hold them to account. This meant developing arrangements which would enable Parliament to express its view on the right issues, in the right form at the right time. For this reason, and on wider grounds, it might be desirable to initiate a major review of the conduct of Parliamentary business in the early future.

In further discussion there was criticism of the way in which the Commission had promoted unnecessary harmonisation in comparatively minor matters (though the Commission had recently behaved more sensibly in this respect). These were not matters suitable for the exercise of veto powers. If we remained members of the Community, it was desirable to direct Community energies away from these channels. We could also seek a number of other changes in the role and structure of the Commission, including a reduction in the number of Commissioners (and consequently in the activities of Commission staff) and in the scale of Commission expenditure. Certain other member states had similar ideas.

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THE LORD PRESIDENT OF THE COUNCIL, invited to reply to the discussion, said it was clear that Parliament could not divest itself ultimately of its sovereignty and was in a position to bring the United Kingdom out of the Community at any time by repealing the European Communities Act 1972. His own view remained that, while we remained members, any proposal we might contemplate making in order to change the concept of directly applicable Community law could not be expected to succeed since it would alter the essential character of the Community. None of the other possible amendments of the European Communities Act would be satisfactory. A statutory declaration of the sovereignty of Parliament would be seen to be purely cosmetic. To restrict the power to implement Community directives by subordinate legislation would not meet the real concern which had been expressed and would unnecessarily involve the Government in finding time for additional primary legislation. To embody the scrutiny procedures in statute would import an unsound and unnecessary rigidity into Parliamentary arrangements. If the referendum decision were to remain in the Community the Government should however continue to strengthen the scrutiny procedures, and it might shortly be desirable to give a reconstituted Procedure Committee of the House of Commons a wide-ranging remit which would cover the European Community field in the context of examining the whole of the arrangements for conducting Parliamentary business.

**The Cabinet -**

Took note, and agreed to take this discussion into account in their consideration of the outcome of renegotiation as a whole.

2. THE PRIME MINISTER said that the Cabinet must now reach a decision on the outcome of renegotiation. His own recommendation, in which he was joined by the Foreign and Commonwealth Secretary, was that the United Kingdom should remain a member of the European Economic Community (EEC). In their view the objectives for renegotiation of the terms of British accession to the EEC as set out in the Labour Party's Manifesto for the General Election of February 1974 had substantially been met. The decision whether or not to remain members of the EEC should however take into account not only the renegotiated terms, but changes which had occurred - and for which we could claim some of the credit - in the working practice of the Community. It was now operating much more under the political direction of the Governments of member states. It was also very relevant that the Commonwealth countries, some of whom were diversifying their trading pattern in the light both of British entry to the EEC and of other political factors, almost unanimously believed that their interests were best served by the United Kingdom remaining a member of the EEC. If we were to leave the Community we would obviously seek to negotiate a free trade arrangement with it but the experience of Sweden showed that onerous conditions would be attached to it. In our case, given the nature of our trade, the conditions might be more onerous and we should of course be in no position to influence them from within. We had great power to continue to change the Community, and in all the circumstances he had come to the decision that it would be best for Britain, for Europe, for the third world and indeed for the whole world for the United Kingdom to remain a member of the EEC.

In discussion it became evident that a large majority of the Cabinet agreed that they should recommend that the United Kingdom should remain a member of the EEC. They agreed that the Ministers concerned had succeeded in securing marked improvements in the terms of our membership of the EEC. While it was not claimed that the objectives set out in the Manifesto of February 1974 had been fully met, there had been considerable and unexpected success in many fields and further improvements could be pursued in the course of continuing EEC business. The improvements were in marked contrast to the terms obtained by the previous Administration. The fundamental principles of the Common Agricultural Policy (CAP) had not been changed, but many improvements had been made in the way it operated and the new arrangements for beef, though instituted only for the current year in accordance with Community practice, represented a considerable breakthrough. The Government's objectives on the import of sugar from the developing Commonwealth had been met in full, and the improvement in the EEC's attitude to the Commonwealth and the developing world had been one of the principal successes of renegotiation. Similarly the position was now much improved in relation to the Community budget, capital movements,

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and Value Added Tax. The Government's regional, industrial and fiscal policies were in general well safeguarded, but the marker we had put down on the control of private steel investment would need to be followed up.

The following reasons were also advanced in support of this view:-

- a. Although we wanted to strengthen the "one world" framework, we had to recognise that regional groupings existed. We should use our membership of the EEC, and our influence on its policies, to move away from the sterile confrontation which had been taking place in United Nations bodies between the blocs of the developing and the developed world. Under our influence the EEC had already become more outward looking, particularly towards North America and the developing world.
- b. The cohesion of Western Europe might well be disrupted if we were to leave the EEC; and the British people might be misled into taking the view - which had bedevilled British policies for decades after the Second World War - that we remained a major world power in our own right. The Union of Soviet Socialist Republics, though it would not say so publicly, did not consider our membership of the EEC a hindrance to detente and probably judged that it would help to restrain any aggressive tendencies in West Germany.
- c. The Community was not now developing in a federalist direction; as long as we remained members we could prevent it developing in that way. The written texts of the Community had not kept pace with developments in practice. Although the texts might indicate that the Community was based on free market concepts, this did not reflect reality. A number of the member states had mixed economies and progressive social policies which were at least as advanced as the United Kingdom's. We were only now at the beginning of our own relationship with the Community and we could bring important influence to bear in its development.
- d. A decision to withdraw from the EEC would be very different from a decision not to join in the first place. While membership of the Community could not be expected to solve our economic problems and it would not necessarily be disastrous if we were to leave, this would be a risky economic course. Indeed it was argued that we might only survive in such a situation by adopting policies for a siege economy. There was no alternative economic grouping available: previous suggestions that a Commonwealth economic bloc or



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a North Atlantic free trade area could be formed would not now be practicable. Great uncertainty would be caused during the protracted negotiations for withdrawal from, and determination of a new relationship with, the Community; this would have particularly serious implications for investment.

e. The concept of directly applicable Community law, which was novel to the British constitution, had to be accepted as essential for the operation of the Common Market. It would have been easier to have ensured that its structure and political philosophy were more consistent with the British political character and constitutional practice if we had been involved in the Community from the beginning. But the powers of national Governments to restrain the Commission, and of national Parliaments to influence the Community, should not be underestimated. For example, British and German objections to unwise proposals by the Commission on the harmonisation of standards had prevented those proposals from making progress and the Commission had had to adopt a different and more acceptable approach. Parliament retained considerable powers in these fields by its general political control of Ministers. Nevertheless improvements in procedures, as had been proposed, to enable Parliament to exert more influence on Community legislation should be pursued urgently. It would also be necessary to consider, if we remained members, how best to curtail the unnecessary powers and enthusiasm of the Commission.

A number of Ministers said that they would wish to dissent from a Cabinet decision to recommend that the United Kingdom remain a member of the EEC.

THE SECRETARY OF STATE FOR INDUSTRY said that he would not repeat all the arguments which had been put forward in the discussion of individual items in the package. The Cabinet could however be on the verge of a tragic decision. The objectives set out in the February 1974 Manifesto had not been achieved; all the difficult points had been deferred until after renegotiation. It was wrong to think that Britain's economic problems could be solved within the EEC; too pessimistic a view had been taken of Britain's prospects, and we would be better placed to solve our problems outside the Community. The EEC would inevitably develop in a federalist direction (though this was for the present being disguised) and the power of the British Parliament and electorate had already been reduced. He feared that continued membership of the EEC would lead to the break-up of the United Kingdom. Moreover the Labour Party would be placed under considerable strain if the Cabinet were to go against the view of most of the rest of the Labour and trade union movements.

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THE SECRETARY OF STATE FOR EMPLOYMENT said that he too did not consider that the Manifesto objectives had been achieved in several important respects. The consequences of withdrawal from the EEC had been exaggerated; he did not accept that Britain's problems could be solved only by our accepting an alien system, whose legislative basis - the European Communities Act 1972 - it was not proposed to change. Policies which had stood Britain in good stead, for example on agriculture and the Commonwealth, had already been destroyed by attempts over the last decade to join the EEC. Continued membership would lead to the dismembering of the United Kingdom, and of the authority of Parliament which had already lost much of its power in EEC affairs. If we remained in the Community the seat of power would lie in future in a permanent coalition in Brussels.

THE SECRETARY OF STATE FOR ENERGY said that he was not inflexibly opposed to Britain's membership of the EEC; he acknowledged the improvement in our terms of membership, in particular as regards the Commonwealth. Nevertheless too much had to be taken on trust, since the fundamental changes in the Community which we required had not been achieved in renegotiation. He was particularly concerned about the situation on energy. North Sea oil would be an asset of great value to us and would be a considerable help to our survival outside the Community; but there were already moves to apply the EEC Treaty to the Continental Shelf. If we remained a member, we should be exposed to pressure for Community policies, for example on depletion. While he would vote in the referendum against continued membership, and believed that Britain could survive outside the Community, he would work for the success of Community membership if that proved to be the referendum result.

THE SECRETARY OF STATE FOR TRADE said that he was opposed to continued membership of the EEC because it was disadvantageous to us materially, to the powers of Parliament and the unity of the United Kingdom, and in relation to the kind of world we wished to see. The EEC was not an effective regional grouping, as their failure in the energy crisis and the current French attitude towards the International Energy Agency had shown. The British people did not have the community of feeling with Continental Europe which would be required to make a genuine Community, and our membership of it did not assist the "one world" concept. If we withdrew, there would be problems though they should not be exaggerated; we could still prosper and make a better contribution to the world as a whole from outside the Community.

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THE MINISTER FOR PLANNING AND LOCAL GOVERNMENT said that the present occasion was the country's final opportunity for settling the issue of membership, and he would accept the outcome of the referendum. But the logic of the EEC pointed it towards the destination of a federal structure for a United Europe. The February Manifesto set out only the minimum objectives in the renegotiation; a significant element in them had not been met and had been left over for the continuing business of the Community if we remained members. He felt therefore that the country should decide to withdraw.

THE SECRETARY OF STATE FOR SOCIAL SERVICES said that the Labour movement did not believe in the basic principles of the EEC. These could not be dismissed as mere theology. We had accepted that we could not challenge these principles, for instance in relation to the CAP, and the Commissioner responsible had made it clear at a recent meeting of the Council of Ministers that national agricultural regimes were outside the Treaty and could not be allowed. The veto was not something which could be exercised simply on the basis of the Government's dislike of a particular proposal. Experience had shown that our whole bargaining position on current Council issues had to be taken into account. The Council of Ministers was in effect an institutionalised system of coalition government, and the Labour Party had always been united in its opposition to the notion of coalition government. Our virility as a nation would be weakened if we remained a member of the Community.

THE SECRETARY OF STATE FOR SCOTLAND said that although certain changes, some of which were temporary, had been agreed in the operation of the CAP, it was clear that the basic principles of the CAP had not been changed; and the common fisheries policy would mean that other EEC countries could eventually fish in our waters, notwithstanding the extension of fishing limits which it was expected would shortly be agreed internationally. The renegotiation of our budgetary contributions had only been partially successful. Although active progress was not immediately being made towards economic and monetary union, the idea remained a long-term Community goal. The Community's regional policies involved some Community oversight of our regional plans. The position on steel was admitted to be unsatisfactory. On the issue of sovereignty, the Government would be accepting the permanent curtailment of the powers of Parliament if the European Communities Act were not amended, and the powers of the Commission could not be radically attacked within the present Treaty framework. This transfer of power from Parliament to Brussels would strengthen the internal pressures towards the break-up of the unity of the United Kingdom. Thus we had failed to achieve the fundamental renegotiation to which the Government were committed.

THE PRIME MINISTER then asked those members of the Cabinet who had expressed views against the United Kingdom remaining a member of the EEC whether they would be ready to support the majority view or if they wished to exercise their right - which had previously been agreed in the unique circumstances of the referendum - to differ from the Government recommendation. All the Ministers concerned said that they wished to exercise this right.

THE PRIME MINISTER, summing up the discussion, said that by a significant majority the Cabinet agreed that the United Kingdom should remain a member of the EEC. This would therefore be the Government recommendation and he proposed to make a statement to this effect in the House of Commons that afternoon.

The Cabinet -

Took note, with approval, of the Prime Minister's summing up of their discussion.

3. THE PRIME MINISTER said that it would now be necessary for the Cabinet to consider the guidelines within which those members of the Government who could not support the recommendation that the United Kingdom should remain in the EEC should exercise their right to differ from it. Draft guidelines had been prepared for handing round, and they would be circulated for fuller consideration at the next meeting of the Cabinet.

In the course of a brief discussion it was suggested that particular difficulty would arise in connection with the proposals about Ministers appearing on platforms either with Members of Parliament of a different political Party or with Labour Party supporters who took a different view on this issue. It would be impossible to avoid an active debate: what mattered was that members of the Government should conduct it in a comradely spirit with each other.

THE PRIME MINISTER, summing up this brief discussion, said that the Cabinet could not reach conclusions on the proposed guidelines in the time remaining. They would be circulated for fuller consideration at their next meeting. In the meantime members of the Government should abide by the draft guidelines.

The Cabinet -

Took note, with approval, of the Prime Minister's summing up of their discussion.

Cabinet Office  
18 March 1975

EEC  
REFERENDUM  
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Guidance on  
procedure  
between  
announcement  
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