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TO IMMEDIATE F C O
TELEGRAM NUMBER 1177 OF 23 MARCH 1982
INFO IMMEDIATE MADRID ROUTINE PARIS BONN
INFO SAVING BRUSSELS COPENHAGEN THE HAGUE ROME DUBLIN LUXEMBOURG ATHENS LISBON

FOREIGN AFFAIRS COUNCIL: 22 MARCH 1982

SPANISH ACCESSION: MINI-PACKAGE: PREPARATION OF COMMUNITY POSITION

SUMMARY

1. AGREEMENT TO OFFER SPANIARDS SIX YEARS ON ALL THREE BANKING POINTS AND FIVE YEARS ON CO-INSURANCE. PATENTS DROPPED FROM MINI-PACKAGE AT UK AND FRENCH INSISTENCE.

DETAIL

2. TINDEMANS (CHAIRMAN OF COUNCIL) GAVE FOLLOWING ASSESSMENT FOLLOWING CONTACTS WITH SPANIARDS EARLIER THAT MORNING.

(I) CAPITAL MOVEMENTS: SPANIARDS WOULD STICK TO FIVE YEAR DEROGATION ON ALL THREE POINTS.

(II) TRANSPORT: SPANIARDS WOULD ACCEPT COMMUNITY POSITION ON BOTH POINTS.

(III) REGIONAL POLICY: SPANIARDS WOULD HAVE DRAFTING POINTS, BUT THERE SHOULD BE NO FUNDAMENTAL PROBLEM.

(IV) RIGHT OF ESTABLISHMENT: SPANIARDS WOULD NOT PRESS REQUESTS ON MOTOR INSURANCE OR DENTISTS. THEIR ATTITUDE ON CHEMICALS AND ELECTRONICS WOULD DEPEND ON THE COMMUNITY'S ON PATENTS.

(V) APPROXIMATION OF LAWS: ON PATENTS, THE SPANIARDS MIGHT ACCEPT THE LINE PROPOSED BY THE COMMISSION, BUT WOULD NOT ACCEPT LESS THAN A THREE YEAR DELAY FOR THE REVERSAL OF BURDEN OF PROOF. ON THE THREE OTHER POINTS (LEAD IN PETROL, JAM AND CHOCOLATE) THE SPANIARDS WOULD ACCEPT THE COMMUNITY POSITION.

(VI) ECONOMIC AND FINANCIAL QUESTIONS: SPANIARDS WERE RESIGNED TO DEFERMENT.

BANKING

3. TINDEMANS ASKED UK WHETHER WE COULD LIFT OUR RESERVE ON THE COMMISSION PROPOSAL FOR A SEVEN YEAR DEROGATION ON EACH OF THE THREE AREAS. THE LORD PRIVY SEAL SAID THAT IT WAS IN EVERYONE'S INTEREST, INCLUDING THE SPANIARDS' OWN, THAT THEY SHOULD LIBERALISE THEIR BANKING SYSTEM QUICKLY. THE IMF STAFF REPORT MADE THIS POINT. THERE WERE NO RESTRICTIONS ON SPANISH BANKS IN MOST MEMBER STATES. NEVERTHELESS, WE WERE PREPARED TO AGREE TO DEROGATIONS OF SIX YEARS ON ECONOMIC NEED (WHICH THE SPANIARDS WOULD HAVE ANY WAY IF THEY JOINED IN 1984) AND FIVE YEARS EACH FOR ACCESS TO DEPOSITS

AND THE OPENING OF NEW BRANCHES. NATALI (COMMISSION) SAID THAT THE THREE ELEMENTS WERE PART OF A COHERENT PACKAGE AND THE PERIOD SHOULD BE THE SAME FOR EACH. MR ATKINS SUGGESTED SIX YEARS FOR EACH, AND TINDEMANS CONCLUDED THAT THIS POSITION SHOULD BE PUT TO THE SPANIARDS.

CO-INSURANCE

4. ON THE LOCATION OF THE LEADING INSURER, THE FORMULA SUGGESTED IN COREPER (PARAGRAPH 6 OF MY TELEGRAM NO 1110) WAS AGREED WITHOUT DISCUSSION.

5. ON THE TRANSITIONAL PERIOD FOR PHASING OUT THE REQUIREMENT THAT RISKS IN SPAIN SHOULD BE COVERED BY SPANISH INSURERS, MR ATKINS BEGAN BY ARGUING FOR THREE YEARS. HE WAS SUPPORTED BY VAN DEN BROEK (NETHERLANDS). NATALI (COMMISSION) ARGUED VIGOROUSLY THAT THIS WAS QUITE INADEQUATE GIVEN THE WEAK STATE OF THE SPANISH INDUSTRY. THE SPANIARDS ATTACHED PARTICULAR IMPORTANCE TO A PERIOD OF GRACE AFTER ACCESSION BEFORE PHASING OUT STARTED. TINDEMANS THEN SUGGESTED SIX YEARS WITH A TWO YEAR GRACE PERIOD. MR ATKINS COUNTERED WITH FOUR YEARS WITH A TWO YEAR GRACE PERIOD, WHICH WAS ALSO SUPPORTED BY VAN DEN BROEK. NATALI MADE A FURTHER EFFORT WITH FIVE YEARS - A TWO YEAR GRACE PERIOD, 75 PER CENT IN YEAR THREE, 40 PER CENT IN YEAR FOUR AND 20 PER CENT IN YEAR FIVE WITH NO RESTRICTIONS AFTER FIVE YEARS. VAN DEN BROEK AND MR ATKINS SAID THEY ONLY COULD ACCEPT THIS AS A FINAL POSITION, AND QUESTIONED THE WISDOM OF PUTTING IT TO THE SPANIARDS AT THE BEGINNING. TINDEMANS HOWEVER UNDERTOOK TO DEFEND THIS AS A FINAL POSITION AND THIS WAS AGREED.

PATENTS

6. THE PRESIDENCY CIRCULATED A MEETING DOCUMENT CONTAINING A SLIGHTLY REVISED VERSION OF THEIR PROPOSAL IN WORKING DOCUMENT 79. THIS TEXT WAS AT ONCE ACCEPTED BY ALL DELEGATIONS EXCEPT UK AND FRANCE.

7. CHANDERNAGOR (FRANCE) COULD NOT AT THIS STAGE ACCEPT THE ADVANCE COMMITMENT TO SUPPORT SPANISH REQUESTS FOR DEROGATIONS FROM THE MUNICH CONVENTION. HE WAS NOT NECESSARILY HOSTILE. BUT IT HAD SIMPLY NOT BEEN POSSIBLE TO THINK THROUGH ALL THE IMPLICATIONS. FURTHER TIME WAS NEEDED FOR EXPERT STUDY.

8. MR ATKINS SUPPORTED THIS. WE TOO DID NOT NECESSARILY OPPOSE THE COMMISSION PROPOSALS, BUT WE HAD A NUMBER OF TECHNICAL QUESTIONS TO WHICH WE NEEDED ANSWERS. HE GAVE EXAMPLES FROM THE BRIEF. THE POINT WAS IMPORTANT BUT WAS SIMPLY NOT RIPE FOR DECISION. IT SHOULD GO BACK TO COREPER FOR FURTHER URGENT WORK. THIS NEED NOT BE A DISASTER. THE DELAY NEED NOT BE LONG AND THERE WAS PLENTY OF SUBSTANCE IN THE MINI-PACKAGE WITHOUT THIS.

9. FOR THE COMMISSION NATALI SET OUT THE CASE FOR AN IMMEDIATE SETTLEMENT. THIS WOULD PROBABLY ENABLE THE SPANIARDS TO WITHDRAW THEIR REQUESTS ON CHEMICALS AND ELECTRONICS UNDER RIGHT OF ESTABLISHMENT. IT WOULD ALSO BE IN THE COMMUNITY'S INTEREST. THE MUNICH CONVENTION WAS NOT PART OF THE ACQUIS. NOR WAS THE LUXEMBOURG CONVENTION IN AN OPERATIONAL SENSE. NO-ONE KNEW WHEN IT WOULD BE RATIFIED BY ALL MEMBER STATES. EVEN IF THE LUXEMBOURG CONVENTION DID COME INTO FORCE, THE DURATION AND OUTCOME OF NEGOTIATIONS WITH SPAIN UNDER ARTICLE 95(4) WERE UNCLEAR. THE PROPOSAL BEFORE THE COUNCIL WAS A TOUGH ONE PARTICULARLY ON THE BURDEN OF PROOF, WHERE SPAIN WOULD BE ASKED TO GO BEYOND THE (NEXT WORD UNDERLINED) ACQUIS. THERE WAS A REAL DANGER THAT IF THE PRESENT OPPORTUNITY WAS NOT SEIZED, SPAIN WOULD WITHDRAW HER REQUEST AND THE COMMUNITY WOULD BE LEFT WITH NOTHING.

10. RUGGIERO (ITALY) SUGGESTED AN AMENDMENT TO THE PRESIDENCY TEXT WHICH WOULD WEAKEN THE COMMITMENT TO HELP SPAIN OBTAIN DEROGATIONS FROM THE MUNICH CONVENTION. TINDEMANS RECOMMENDED THIS, DESPITE NATALI'S DOUBTS WHETHER THE SPANIARDS COULD ACCEPT IT. BUT CHANDERNAGOR AND MR ATKINS REMAINED UNMOVED.

11. TINDEMANS CONCLUDED THAT HE SHOULD TELL THE SPANIARDS THAT BECAUSE OF ITS TECHNICAL COMPLEXITY THE COMMUNITY WOULD NOT BE ABLE TO TAKE A POSITION ON PATENTS FOR A FEW WEEKS. BUT THEY WOULD WORK ON THE PROBLEM IN A POSITIVE SPIRIT TO FIND A SOLUTION. THIS WAS AGREED.

FCO ADVANCE TO:-
FCO - PS/S OF S, PS/LPS, PS/PUS, BRIDGES, BULLARD, HANNAY, CROWE, WILSON (SED), MS LAMBERT, PIRNIE, MISS EVANS
CAB - ELLIOTT, GOODENOUGH, JOHNSTON
DOI - RHODES, THORNHALL
DOT - PS/SECRETARY OF STATE, PS/SECRETARY, GRAY, WELLS, MRS DRAGE, SUGDEN (IPCD) BIRCH (IMS)
TSY - MISS COURT, PEET
DOE - JACKSON
DTR - WORSKETT

FCO PASS SAVING COPENHAGEN THE HAGUE ROME DUBLIN LUXEMBOURG ATHENS LISBON

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