Middle Articles

CONTEMPORARY THEMES

European Common Market and British Medicine

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Historical Note

Long-term plans for the expansion of world trade were made during the later years of the second world war. In Europe the promise of substantial assistance by the United States (Marshall Aid) was followed by the establishment of an European Recovery Programme (E.R.P.). In 1947 14 nations of Western Europe accepted a general invitation by the United Kingdom and France to discuss joint economic action at Paris, and in 1948 16 countries signed a convention setting up an Organization for European Economic Co-operation (O.E.E.C.). The immediate task of O.E.E.C. was to administer the European Recovery Programme and to allocate Marshall Aid.

In 1951 six European states (Belgium, France, Italy, Luxembourg, the Netherlands, and West Germany) established the European Coal and Steel Community (E.C.S.C.). In 1955 discussions were held at Messina, Sicily, between the foreign ministers of the six member states of E.C.S.C. on proposals for further advances towards economic integration in Europe, and after intensive study of these proposals a treaty was signed at Rome on 25 March 1957, setting up the European Economic Community (E.E.C.).

The Treaty aimed to lay the foundations of an enduring and closer union between the European peoples by gradually removing the economic effects of their political frontiers. The Treaty provides (*inter alia*) for the elimination of customs duties and quotas in trade between member states; the establishment of a common customs tariff and a common trade policy towards third countries; the abolition of the obstacles to free movement of persons, services, and capital between member states; the inauguration of common policies for agriculture and transport; the harmonization of social and economic legislation to the extent necessary in order to enable the Common Market to work; and the creation of an European Social Fund in order to improve the possibilities of employment for workers and to contribute to the raising of their standard of living.

In 1959 seven European states, not included in the E.E.C., namely, Austria, Denmark, Norway, Portugal, Sweden, Switzerland, and the United Kingdom, came together to form the European Free Trade Association (E.F.T.A.).

In 1961 the British Government requested the opening of negotiations with a view to the United Kingdom becoming a member of the E.E.C.

Institutions of the Community

These are the Assembly (or European Parliament) which exercises a degree of democratic control; the Council (of Ministers), which takes major policy decisions; the Commission, which both initiates and implements policy; and the Court of

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Justice, which is the final arbiter in all matters arising from the Treaty of Rome and other Community treaties.

The Assembly consists of 142 members appointed on a proportionate basis by the six national parliaments. It has little power.

The Council of Ministers consists of one minister from each member-government, the ministers concerned depending on the subject under discussion. Though the Council is the Community's ultimate decision-taking body, in almost all cases it can act only on proposals submitted by the Commission. The meetings of the Council are prepared by a Committee of Permanent Representatives of the member states.

The Commission consists of nine members, who are appointed by agreement among the six member-governments for a four-year renewable term. Their decisions are taken by a majority vote. The members of the Commission are theoretically pledged to independence of the governments and of national or other particular interests. Article 157(2) of the Treaty of Rome states†:

"The members of the Commission shall act completely independently in the performance of their duties, in the general interest of the Community.

In the performance of their duties, they shall neither seek nor take instructions from any Government or other body. They shall refrain from any action incompatible with the nature of their duties. Each Member State undertakes to respect this principle and not to seek to influence the members of the Commission in the performance of their duties."

The Council and the Commission are assisted by a consultative committee called the Economic and Social Committee. This consists of 101 members appointed by the Council as "representatives of the various categories of economic and social activity, in particular, representatives of producers, farmers, transport operators, workers, merchants, artisans, the professions and representatives of the general interest" (Article 193 of the Treaty of Rome). The Committee at present includes only one doctor. The staff of the Commission comprises about 5,000 international civil servants. Its headquarters is the huge new Bâtiment de Berlaymont in Brussels.

Treaty of Rome

The Articles of the Treaty of Rome which are of particular interest to the medical profession are these:

Article 48.—"(1) The free movement of labour shall be secured within the Community not later than by the end of the transitional period."

† Quotations from the Treaty of Rome in this article are taken from the publication *Treaty Establishing The European Economic Community, Rome, 25 March 1957* (London, H.M.S.O., 1962). This carries a note: "This translation has been prepared for the convenience of Parliament and the public. It must not be treated as an official or an authentic text. Readers are reminded that the official and authentic text of the Treaty exists in only the French, German, Italian and Dutch languages. Copies of these languages can be obtained through H.M. Stationery Office Bookshops."

"(2) Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other labour conditions."

"(4) The provisions of this article shall not apply to employment in the public service."

Article 57.—"(1) In order to facilitate access to and engagement in non-wage-earning activities, the Council shall issue directives for the mutual recognition of diplomas, certificates and other evidence of qualifications . . ."

"(2) With the same object, the Council, on a proposal of the Commission and after consulting the Assembly, shall, before the transitional period ends, issue directives for the co-ordination of the legislation, regulations and administrative rules of Member States as regards persons taking up non-wage-earning activities. Voting must be unanimous on the following matters: i.e. those which are the subject of legislation in at least one Member State; those concerned with the protection of savings, in particular the granting of credit and the carrying on of the banking profession; and the conditions governing the carrying on of the medical, para-medical and pharmaceutical professions in the various Member States . . ."

"(3) In the case of the medical, para-medical and pharmaceutical professions, the progressive removal of restrictions shall be dependent upon the conditions for exercising them being co-ordinated in the various Member States."

Article 118.—"Without prejudice to the other provisions of this Treaty and in conformity with its general objectives, the Commission shall have as its task the promotion of close collaboration between Member States in the social field, particularly in matters relating to: Employment; labour legislation and working conditions; elementary and advanced vocational training; social security; protection against occupational accidents and diseases; industrial hygiene; trade union legislation and collective negotiations between employers and workers . . ."

Medical Advice

In 1958 the European Union of Specialist Doctors (U.E.M.S.) was formed in order to co-ordinate the attitudes of specialists in the six countries towards the effects of the Treaty of Rome. In 1959 the Standing (or Permanent) Committee of the Doctors of the E.E.C. was formed. In 1967 the European Union of General Practitioners (U.E.M.O.) was founded. Since 1961, when the British Government first applied to join the E.E.C., the B.M.A. has been an observer-member of the Standing Committee of the Doctors of the E.E.C. and since 1967 of the Council of the U.E.M.S.*

These bodies are not officially recognized as advisory bodies by the European Commission but their existence is acknowledged and they make frequent representations, both written and oral, to the officials of the Commission and to the Economic and Social Committee. On some occasions there have been joint committees of the Commission and the Standing Committee of the Doctors of the E.E.C.

The Standing Committee, the U.E.M.S., and the U.E.M.O. have spent a great deal of time and energy in the past 10 years on (a) preparing the ground for the mutual recognition of basic medical qualifications, (b) the mutual recognition of postgraduate training programmes (including those for general practice), (c) the mutual recognition of specialist status, (d) the position of the supplementary and auxiliary medical professions in the E.E.C., (e) the harmonization of social security systems in the six countries of the E.E.C. Their views on all these subjects have been conveyed to the European Commission and to the Economic and Social Committee, and in March 1969 the Commission published three draft directives. (The directives issued by the Commission are "orders" to the governments of the countries of the E.E.C., which are bound by the Treaty of Rome to imple-

ment such directives in their own countries by means of national legislation or otherwise.)

Draft Directives

The three draft directives relate primarily to setting up in practice, rather than to salaried service, and deal respectively with (1) freedom to establish oneself in practice in a member state other than one's own, and to offer services in a non-salaried (or "non-wage-earning," or self-employed) capacity; (2) mutual recognition of doctors' diplomas, certificates, and other qualifications, both primary and postgraduate; and (3) co-ordination of legislative and administrative procedures to facilitate action under the second directive. The drafts are complicated. The following is a brief summary of their contents.

First Draft Directive.—This provides that where membership of, or registration with, a professional organization is compulsory it must be open on equal terms to nationals of the other member states. The directive also grants rights of affiliation to private professional organizations on the same conditions as apply to the nationals of the receiving member state. It lays upon the person desiring to set up in practice the obligation to produce to a competent authority such documents as are specified which are necessary to establish his standing in relation to this directive. It confers a right to use the professional title appropriate to the receiving member state, as not to be able to do so would be prejudicial to the professional man in practice.

Second Draft Directive.—This directs each member state to recognize the diplomas, certificates and other qualifications of doctors granted by the other member states. As a preliminary, member states will be required to bring, or undertake to bring, their legislative and administrative provisions relating to the granting of diplomas into conformity with minimum requirements of training to be laid down by the Council.

The directive lists the qualifying diplomas of the six member states to which the directive refers. It goes on to list the specialist diplomas (in 13 named specialties, see below) which are to be mutually recognized by the six states, and those (in 13 other named specialties) which are to be mutually recognized by fewer than all six member states. It must be emphasized that the same specializations do not exist in all the member states and for certain of them the content is different from state to state. (These differences will be accentuated if Britain joins the Common Market, where, for example, neurology and psychiatry are treated as a single specialty.)

This directive applies to salaried doctors as well as non-salaried.

Third Draft Directive.—This lays down a framework of minimum requirements which will be a pre-condition of mutual recognition of diplomas under the second draft directive. For a qualifying diploma, the minimum requirement is six years of university training including 5,500 hours of theoretical and practical teaching. For a specialist diploma the minimum requirements are:

- (i) Possession of a recognized qualifying diploma.
- (ii) Theoretical and practical training in suitable centres or institutions, on the scale set out below.
- (iii) Personal participation of the intending specialist in the "activity and responsibilities of the services concerned."

The draft directive goes on to provide minimum periods of postgraduate training for various specialties. There is a saving clause for specialists in member states who, at the time of application of the directive, were qualified in accordance with requirements falling below those set out in the directive. The 13 specialties which are to be mutually recognized in all six member states are divided into four

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groups, requiring different lengths of postgraduate training, as follows:

- 1st group—5 years: General surgery
Neurosurgery
Internal medicine
- 2nd group—4 years: Gynaecology and obstetrics
Neuropsychiatry
Paediatrics
Radiology
Pneumophthisiology
- 3rd group—3 years: Anaesthesiology
Dermatology and venereology
Ophthalmology
Otorhinolaryngology
- 4th group—1 year: Industrial medicine

The other 13 specialties, which are to be mutually recognized in fewer than all the six member states, are divided into three groups, as follows:

- 1st group—5 years: Clinical biology (recognized in Belgium, Italy, Netherlands)
Plastic surgery (recognized in Belgium, Italy, Netherlands)
Thoracic surgery (recognized in Belgium, Italy)
Vascular surgery (recognized in Belgium, Italy)
Urology† (recognized in all except France)
Orthopaedics† (recognized in all except France)
- 2nd group—4 years: Cardiology (recognized in all except Germany)
Gastroenterology (recognized in all except Germany)
Rheumatology (recognized in all except Germany)
- 3rd group—3 years: Haematology (recognized in Italy, Luxembourg)
Endocrinology (recognized in Italy, Luxembourg)
Physiotherapy (i.e. physical medicine) (recognized in Belgium, Italy)
Stomatology (recognized in Belgium, France, Italy)

An explanatory memorandum to the third draft directive includes the following paragraphs:

"Article 57, para 3, of the Treaty requires, particularly for the medical professions, the co-ordination of conditions of practice before their liberation is undertaken. As the conditions of practice referred to are manifold their co-ordination presents a very complex problem. It is particularly necessary to emphasize that an important part of the conditions of practice of the medical professions is determined by the organization of the schemes of insurance against sickness and disability, which are very different

in the several Member States both in ways of application and in principles. The co-ordination of conditions of practice of the medical professions will therefore remain extremely complex until the schemes of social security have been brought into harmony."

"Further, in conformity with Article 57 para 3 of the Treaty, the present Directive has as its aim realization of the degree of co-ordination which appears necessary and sufficient as a preliminary to the liberation of the doctor's activities; it should not, however, exclude a subsequent co-ordination, either in one of the fields covered by the present Directive or in another field such as, for example, professional ethics, which should lead to greater harmonizing of the medical profession within the Community."

The three draft directives are now before the European Parliament, having already received the endorsement of the Economic and Social Committee, which has, however, recommended that migrant doctors should be required to undergo a "period of adaptation" in the receiving member state. The Council of Ministers is expected to give its final approval to the draft directives in the latter part of 1970 or early in 1971, so that free movement of doctors within the Community is likely to become effective within a year or two.

General Observations

The members of the Council of Ministers can no doubt obtain advice on medical questions from their own Government medical advisers, but it is noteworthy that the European Commission has no medical department or official medical advisers of its own. This is an unsatisfactory state of affairs and it is somewhat surprising that the Standing Committee of the Doctors of the E.E.C. has not yet been recognized as an official advisory body to the Commission. The Standing Committee has applied for such recognition, and perhaps it will come. It must be remembered that the European Common Market is primarily an economic union and that its secondary goal is political union. The concerns of medicine and the medical profession are of relatively minor importance in the institutions of the E.E.C.

It must also be observed that most of the agreements which are being hammered out in Brussels will affect only migrant doctors, that is, those doctors who wish to migrate from one country within the Community to another. The agreements about specialist recognition, etc. will have no direct effect upon the rules and standards that apply to medicine within each member state. In the long run, however, the agreements reached within the E.E.C. are bound to have indirect effects upon medical education, both undergraduate and postgraduate, in the member states and also upon the standards and procedures of the practice of medicine. In a generation or so there may well be very considerable movement of doctors within the countries of the E.E.C. There may also be a degree of harmonization of social security systems within the Community, and this might have a considerable impact upon our National Health Service if Britain were to become a member state. But such changes are not likely to occur quickly.

† The Economic and Social Committee has subsequently recommended that urology and orthopaedics should be mutually recognized in all six member states.