

Transatlantic policy networks and the formation of core Europe

Brigitte Leucht

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Abstract

This is an original study assessing the role of transatlantic policy networks in the formation of core Europe at the Schuman Plan conference. Based on extensive archival research in governmental records and private papers in twelve archives in five countries and informed by the innovative combination of the methodological tools of the network and cultural transfer concepts, the thesis sheds new light on how the process of European integration was triggered in 1950-51. The thesis reconceptualizes the negotiations on the treaty establishing the European Coal and Steel Community in a long-term historical perspective as the outcome of the co-operation of transatlantic policy networks reflecting the interaction of American and European thought and politico-legal concepts. It therefore advances the history of early European integration and post-World War II transatlantic relations.

Against the backdrop of Franco-German rapprochement and the emerging Cold War, transatlantic policy networks of a variety of academic and other experts, civil servants and state and non-state actors, assumed a vital function in determining the negotiation tactics of various stakeholders at the Schuman Plan conference. Mediating between American and European thought and politico-legal concepts, these transatlantic policy networks crucially contributed to shaping the first supranational European institutional framework and anti-trust law. The institutions that transatlantic policy networks helped to establish in 1950-51 can be regarded as the precursors of the institutions of the contemporary European Union. The anti-trust provisions, in turn, provided one important model for the competition rules of the European Economic Community, which ultimately came to play a crucial role in the European integration process and in the construction of a common market. It is demonstrated therefore that transatlantic policy networks thus helped to create important path dependencies for the process of European integration.

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Declaration

Whilst registered as a candidate for the above degree, I have not been registered for any other research award. The results and conclusions embodied in this thesis are the work of the named candidate and have not been submitted for any other academic award.

Abbreviations

| | |
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| AAA | Agricultural Adjustment Administration |
| ACUE | American Committee on a United Europe |
| CDU | Christian Democratic Union |
| CFRS | Council of Foreign Relations |
| CPRB | Combined Production and Resources Board |
| DGB | Deutscher Gewerkschaftsbund |
| DKV | Deutscher Kohlenverkauf |
| ECA | Economic Cooperation Administration |
| ECSC | European Coal and Steel Community |
| EDC | European Defence Community |
| EEC | European Economic Community |
| ERP | European Recovery Program, or Marshall Plan |
| EU | European Union |
| Euratom | European Atomic Energy Commission |
| FTC | Federal Trade Commission |
| GATT | General Agreement on Tariffs and Trade |
| HICOG | Allied High Commission for Germany |
| IAR | International Authority on the Ruhr |
| IR | International Relations |
| ISC | International Steel Cartel |
| MIT | Massachusetts Institute of Technology |
| MRP | Mouvement Républicain Populaire |
| NATO | North Atlantic Treaty Organization |
| NEI | Nouvelles Equipes Internationales |
| NIRA | National Industrial Recovery Act |
| NRA | National Recovery Administration |
| OEEC | Organization for European Economic Cooperation |
| OSR | Office of the Special Representative to Europe |
| SEA | Single European Act |
| TVA | Tennessee Valley Authority |
| UK | United Kingdom |
| UN | United Nations |
| US | United States (of America) |
| USHICOG | US High Commission for Germany |

Conventions

Throughout this thesis the term Germany is used for the western zones of occupation and the Federal Republic of Germany from 1949 onwards.

Dissemination

Publications

‘Tracing European Mentalities: Free Competition in Post-WW II Transatlantic Europe’, in: Marie-Therèse Bitsch, Wilfried Loth, Charles Barthel (eds.), *Cultures politiques, opinions publiques et construction européenne*, Brussels: Bruylant, 2007, pp. 337-53.

‘Transatlantische Politiknetzwerke: Kulturtransfer und Schuman-Plan 1950/51’, in: *Comparativ*, vol. 16, no. 4 (2006), pp. 200-18.

‘Die Gründung des „Neuen Europa“, 1950/51. Die Bedeutung einer transatlantisch-rechtlichen Perspektive für die Erforschung der europäischen Integration’, in: *Wiener Zeitschrift zur Geschichte der Neuzeit*, vol. 3, no. 2 (2003), pp. 53-66.

Presentations

‘Transatlantic Expert Networks and the Negotiation of the ECSC Treaty 1949-51’, Conference *European Network Governance 1945-2007. Netzwerke in der informellen Politik der europäischen Integration*, Salzburg, Austria, 23 June 2007.

‘A basis for the Treaties of Rome? Transatlantic policy network formation at the Schuman Plan conference’, Conference *Fiftieth Anniversary of the Treaties of Rome*, University of Hildesheim, Germany, 25 May 2007.

‘Transatlantic policy networks in the creation of a European antitrust law, 1950-1’, *European Integration History Seminar*, University of Reading, 26 February 2007.

‘Unfulfilled Expectations? Utilizing the Network Approach to Assess the Role of Transatlantic Policy Networks at the Schuman Plan conference, 1950-51’,

Workshop *Interdisciplinarity in EU Studies*, University of Bristol, 3 November 2006.

‘Transatlantic policy networks and the creation of a European antitrust law, 1950-51’, Workshop *Integrating Europe 1945-72: Transnational and supranational perspectives*, Trondheim, Norway, 9 September 2006.

‘Tracing European mentalities: Free competition and cartels in transatlantic Europe 1950-51’, Colloque *Culture politiques, opinions publiques et construction européenne*, Luxembourg, Luxembourg, 16 June 2005.

‘Towards a guideline for successful archival research’, Conference *History of European Integration Society*, Cambridge, UK, 6 November 2004.

‘Reconstructing transatlantic policy networks: The Schuman Plan conference (1950/51) revisited’, Conference *Transatlantischer Kulturtransfer im „Kalten Krieg“*, Leipzig, Germany, 1 October 2004.

‘Transatlantic policy networks and the formation of the ECSC (1950/51)’, *University Association for European Studies* Annual Conference, Birmingham, UK, 6-8 September 2004.

‘Transatlantic policy networks and the formation of the ECSC (1950/51)’, *University Association for European Studies* Student Forum Regional Conference, Cambridge, UK, 8 May 2004.

1 The formation of core Europe at the Schuman Plan conference, 1950-51: literature, approaches, and concepts

1.1 Introduction

Seldom have we seen any international negotiations going so far and progressing so rapidly come to such a happy conclusion. We let the experts discuss among themselves. The governments did not give them instructions. We wanted the best possible men to find out what the difficulties are and what kind of solutions can be found for them.

Robert Schuman, 20 September 1950¹

Given the exceptional importance American legal thought, in particular, has gained for the development of law in Europe, it will be necessary on the European continent, too, to obtain a comprehensive understanding of American law.

Walter Hallstein, 22 May 1945²

When French Foreign Minister Robert Schuman gave his statement at a luncheon of the American Committee on a United Europe (ACUE) in New York, he did not fully anticipate the difficulties that still lay ahead for the delegations of France, the Federal Republic of Germany, Italy and the Benelux countries before the successful conclusion of the treaty establishing the European Coal and Steel Community (ECSC) on 18 April 1951. For almost a year, these six states were negotiating a treaty on the basis of a short policy document issued by the French government, which had quickly become known as the Schuman Plan declaration. Announced by the French foreign minister in a press conference at the Quai d'Orsay on 9 May 1950, the declaration proposed to pool the coal and steel industries of France and Germany under a supranational 'joint high

¹ Schuman Luncheon, Archives of the American Committee on United Europe, Lauinger Library, Georgetown University, Box 1, Folder 5.

² Letter Hallstein to the Dean of the Faculty of Law, University of Chicago, Deutsches Bundesarchiv Koblenz (BA), Personal papers Walter Hallstein (N 1266), 1620.

authority'.³ The significance of the Schuman Plan declaration was twofold. Firstly, given the importance of coal and steel to the war effort and the production of weaponry, the choice of this policy sector to improve the formerly acrimonious Franco-German relationship only five years after the end of World War II and against the backdrop of three major wars within less than a century, represented a highly symbolic gesture. Secondly, its originators expected the Schuman Plan declaration to establish a basis and framework for what eventually was to extend beyond economic co-operation and become a European political union. An initiative by the French government, the declaration was primarily directed at the newly established Federal Republic of Germany, but was open to other states that wished to participate. But why did Schuman draw special attention to the leading role of experts, allegedly acting independently of governmental instructions in the multilateral negotiations on the ECSC treaty? Did the French government in fact 'let the experts talk among themselves'? To what extent was policy-making an expert affair at the Schuman Plan conference? Who were the actors involved in the negotiations and how did experts, civil servants and politicians interact?

Walter Hallstein, the head of the German delegation, certainly did not anticipate his involvement in the inter-state conference. As a prisoner of war in the United States (US) and on the evening of his return to Germany, he reflected on the significance of American law for the future development of European law. However, impressed with American legal thought, Hallstein expected it to interact with European law. But did,

³ Déclaration officielle du gouvernement français, corrigée de la main de Robert Schuman, 9 May 1950, Grégoire Eldin, Pierre Fournié, Agnès Moinet-Le Menn, Georges-Henri Soutou, *L'Europe de Robert Schuman*, Paris: Presse de l'Université de Paris Sorbonne, 2001, pp. XI-XIV. For the contemporary English translation see Bonbright to Acheson, 9 May 1950, 740.00/5-950, *Foreign Relations of the United States* (FRUS) 1950 III, pp. 692-4.

broadly speaking, American politico-legal concepts influence the evolution of the ECSC treaty? These considerations raise the question of the nature of the involvement of US actors in the inter-state conference. During the incipient Cold War, the government of Harry S. Truman favoured the supranational integration of western Europe and supported the Schuman Plan. While US state actors did not formally or officially participate directly in the inter-state negotiations, a variety of US actors were involved in and alongside the negotiations.

Against this backdrop, the thesis will for the first time explore systematically the role of the informal co-operation of individual and collective and state and non-state actors from both sides of the North Atlantic in the complex negotiation process at the Schuman Plan conference. Specifically, it will investigate the co-operation of these networks and the interaction of American and European thought and politico-legal concepts in the creation of the supranational institutional framework and in the economic development, specifically, the anti-trust provisions. The reconstruction of the networks and the analysis of their impact on the formation of the ECSC are based on the innovative combination of the methodological tools of the 'network' and 'cultural transfer' concepts and on multi-lateral archival research. This is a refined historical account of the formation of the first supranational 'core Europe' organization by the six founding member-states of what eventually developed into the expanded European Union (EU), currently of twenty-seven member-states. In this context, the thesis will shed new light on how the process of European integration was triggered in 1950-51 and advance our knowledge about a phenomenon, which, to this date, no social science theory has explored or explained satisfactorily.

1.2 Transnational and state-centred approaches: interpretations of core Europe formation

This literature review will discuss the main trends in the historiography of European integration with a twofold goal: firstly, it aims to point out those deficiencies or gaps in literature that provide the basis for the research questions of the thesis. Secondly, theories of European integration and interaction of theory and historiography⁴ will be addressed where they are relevant to further shaping these research questions.

The historiography of European integration has been characterized by the national paradigm. Literature on the Schuman Plan conference has predominantly portrayed the formation of the ECSC from a state-centred perspective. Accordingly, the ECSC treaty is the result of inter-state bargaining of ‘national interests’ by governments that functioned as cohesive and purposeful actors.⁵ The negotiations on the Schuman Plan can be divided into two main periods, in which different parts of the treaty were negotiated. Historiographies have previously adopted this frame with regard to both chronology and contents. Correspondingly, a number of publications deal with the

⁴ On the relationship between the history and theory of European integration see Wolfram Kaiser, ‘Transnational Europe Since 1945: Integration as Political Society Formation’, in: Wolfram Kaiser, Peter Starie (eds.), *Transnational European Union: Toward a Political Space*, London: Routledge, 2005, pp. 17-35, esp. pp. 19-28; cf. also idem., ‘History Meets Politics: Overcoming Interdisciplinary Volapük Research on the EU’, in: *Journal of European Public Policy*, vol. 15, no. 2 (2008), pp. 300-13; and Alex Warleigh-Lack, ‘Interdisciplinarity in Research on the EU: Politics, History and Prospects for Collaboration’, in: Wolfram Kaiser, Brigitte Leucht, Morten Rasmussen (eds.), *The History of the European Union. Origins of a Supranational Polity 1950-72*, London: Routledge (forthcoming 2008).

⁵ See for example, the official history of the High Authority: Dirk Spierenburg, Raymond Poidevin, *The History of the High Authority of the European Coal and Steel Community: Supranationality in Operation*, London: Weidenfeld & Nicholson, 1994, esp. part 1, pp. 9-40.

negotiations of the institutional framework on the one hand,⁶ and the deliberations on the economic provisions on the other.⁷ Other authors have accentuated the link between the discussion of the economic provisions and the post-World War II reorganization of the German heavy industries.⁸ At the same time, Françoise Berger⁹ and Andreas Wilkens¹⁰ have demonstrated that non-state business actors, whose interests were clearly at stake in the conference, namely French and German industrialists, played only a very limited role in the negotiation process. On the whole, however, historiography has given little attention to the role of non-state actors in the period of agenda setting and at the conference. Moreover, the contribution of US actors and the informal co-operation of

⁶ Hanns-Jürgen Küsters, 'Die Verhandlungen über das institutionelle System zur Gründung der Europäischen Gemeinschaft für Kohle und Stahl', in: Klaus Schwabe (ed.), *Die Anfänge des Schuman Plans 1950/51*, Baden-Baden: Nomos, 1988, pp. 73-102; Hermann Mosler, 'Die Entstehung des Modells supranationaler und gewaltenteilender Staatenverbindungen in den Verhandlungen über den Schuman-Plan', in: Ernst von Caemmerer, Hans-Jürgen Schlochauer, Ernst Steindorff (eds.), *Probleme des europäischen Rechts. Festschrift für Walter Hallstein zu seinem 65. Geburtstag*, Frankfurt am Main: Klostermann, 1966, pp. 355-86; Carl Friedrich Ophüls, 'Zur ideengeschichtlichen Herkunft der Gemeinschaftsverfassung', *ibid.*, pp. 387-413.

⁷ Matthias Kipping, 'Concurrence et compétitivité, les origines de la législation anti-trust française après 1945', *Comité pour l'histoire économique et financière: Extrait de Études et documents*, vol. VI, 1994, pp. 429-55.

⁸ Volker Berghahn, *The Americanization of West German Industry 1945-73*, Lemington Spa, New York: Berg, 1986 [German 1985]; John Gillingham, *Coal, Steel, and the Rebirth of Europe, 1945-55. The Germans and the French from Ruhr Conflict to Economic Community*, New York et.al.: Cambridge University Press, 1991; A.W. Lovett, 'The United States and the Schuman Plan. A Study in French Diplomacy', in: *Historical Journal*, vol. 39, no. 2 (1996), pp. 425-55.

⁹ Françoise Berger, 'Les sidérurgistes français et allemands face à l'Europe: convergences et divergences de conception et d'intérêts (1932-1952)', in: *Journal of European Integration History*, vol. 3, no. 2 (1997), pp. 35-52.

¹⁰ Andreas Wilkens, 'L'Europe des ententes ou l'Europe de l'intégration? Les industries française et allemande et les débuts de la construction européenne (1948-1952)', in: Eric Bussière, Michel Dumoulin (eds.), *Milieux économiques et intégration européenne en Europe occidentale au XXe siècle*, Arras: Artois presses université, 1998, pp. 267-84.

European and US actors in the formation of the ECSC have not been analyzed adequately and the significance of their roles highlighted and acknowledged.

Initially, European integration historiography was not based on the national paradigm, however.¹¹ German historian Walter Lipgens, who first developed the study of European integration as a historical discipline in its own right in the 1960s,¹² assigned a key role to transnational social and political actors. Specifically, Lipgens regarded the transnationally networked elites among the European resistance movements during World War II as the driving forces for post-war European integration. As a historian of ideas, Lipgens explored the concepts and plans for post-war integration that these elites developed, promoted and circulated during the war.¹³

The unification of post-war Europe represented the solution to a threefold problem for Lipgens: the political and economic decline of Europe during the inter-war period and the accompanying rise of the Soviet Union and the USA; the devastating effects of nationalism and the fascist/National Socialist regimes; and the perceived anachronism of the nation-state.¹⁴ Together these developments caused a profound change in the political consciousness of European leaders. As a result, European states

¹¹ For a concise overview of the shifting trends in European integration historiography see Wolfram Kaiser, 'From State to Society? The Historiography of European Integration', in: Michelle Cini, Angela Bourne (eds.), *Palgrave Advances in European Union Studies*, Basingstoke: Palgrave, 2006, pp.190-208.

¹² Wolfram Kaiser, "Überzeugter Katholik und CDU-Wähler": Zur Historiographie der Integrationsgeschichte am Beispiel Walter Lipgens', in: *Journal of European Integration History*, vol. 8, no. 2 (2002), pp. 119-128.

¹³ Walter Lipgens, *Europa-Föderationspläne der Widerstandsbewegungen, 1940-1945: eine Dokumentation*, Munich: Oldenbourg, 1968; idem., *Die Anfänge der europäischen Einigungspolitik 1945-1950, Erster Teil: 1945-1947*, Stuttgart: Ernst Klett, 1977.

¹⁴ Cf. Clemens Wurm, 'Early European Integration as a Research Field: Perspectives, Debates, Problems', in: idem. (ed.), *Western Europe and Germany: the Beginnings of European Integration, 1945-1960*, Oxford: Berg, 1995, pp. 9-26, here p. 14.

agreed to surrender sovereignty to a supranational European union. From the point of view of contemporary methodology, Lipgens' transnational approach is problematic in that there is no effort to link ideas and concepts to governmental policy and preference formation. By focusing on the ideational motivations of transnational elites, Lipgens has failed to show how their ideas were translated into actual post-war policies of national governments in initiating European integration. Lipgens' early transnational approach therefore leaves open crucial questions including which actors were involved in policy and preference formation at the Schuman Plan conference; in which way these actors were related to the earlier transnational elites promoting European integration; how US actors come into the picture; why the six governments jointly adopted certain ideas, concepts or policy proposals and rejected others; and more generally, how to conceptualize the conditions under which certain ideas, concepts or policy proposals materialized or failed in 1950-51.

In their theory of supranational governance, Alec Stone Sweet and Wayne Sandholtz have claimed that 'transnational activity has been the catalyst of European integration'.¹⁵ The authors accredit early theorists of neo-functionalism with devising the conception of a transnational European society.¹⁶ Neo-functionalist theory shares with Lipgens the anticipation that the nation-state will slowly disappear. According to neo-functionalism, however, European integration is not conceptualized as an outcome such as a federation, for instance, but as a gradual process in which the notion of 'spill-

¹⁵ Wayne Sandholtz, Alec Stone Sweet, 'Integration, Supranational Governance, and the Institutionalization of the European Polity, in: idem. (eds.), *European Integration and Supranational Governance*, Oxford, New York: Oxford University Press, 1998, pp. 1-26, here p. 4.

¹⁶ Ibid. pp. 5-6.

over' represents an important element. Integration in one policy sector – a 'low politics' sector such as trade rules, for example – therefore creates pressures for integration in other, related sectors. As the functional areas of government become more integrated, it could be expected that crucially, the political and bureaucratic or technocratic elites who administer these policies would increasingly switch their loyalties, expectations and goals from the national government arena to the overall aims of the integration agencies. Driven by an elite socialized into the integration project, spill-over of integration from one sector to others would therefore ultimately lead to some kind of political community.¹⁷ Ernst Haas, in particular, highlighted the role of non-state actors including economic actors, technocratic elites and political parties in transferring the solution of problems from the national to the supranational level.¹⁸ However, transnationalism within the neo-functionalist model – and this also refers to the spin-off by Sandholtz and Stone Sweet – is limited in that it ties the importance and influence of transnational actors exclusively to supranational European integration. Since political scientists only developed the idea of neo-functionalism after the institutionalization of the ECSC, any transnational dimension of the negotiations of the ECSC treaty pre-dates significant developments in theory. According to Bastiaan van Apeldoorn, '[n]eo-functionalism in

¹⁷ Cf. for an introduction Ben Rosamond, *Theories of European Integration*, Basingstoke: Macmillan, 2000, chapter 3, pp. 50-73; see also Dimitris Chrysochoou, *Theorizing European Integration*, London: Sage Politics Texts, 2001, chapters 2, 3.

¹⁸ Ernst B. Haas, *The Uniting of Europe. Political, Social and Economic Forces, 1950-57*, Notre Dame/IN: University of Notre Dame Press 2004 [1958]; cf. also idem., *Beyond the Nation-State. Functionalism and International Organization*, Stanford: Stanford University Press, 1968 [1964].

the end tends to equate transnationalism with European supranationalism'.¹⁹ It can be argued therefore, that while neo-functionalism rightly draws attention to the role of non-state and transnationally networked actors, it is unsuitable to offer an explanation for the actual formation of the ECSC.

Two sub-fields within European integration historiography began to challenge key assumptions of Lipgens' appraisal of the origins of European integration. Both diplomatic history and economic revisionist accounts have introduced material interests into the explanation of core Europe formation. At the same time such accounts downplay ideational interests and disregard transnational influences on policy-making. Diplomatic history accounts have explored how allegedly autonomous foreign policy-making elites determined governmental policy and preference formation and ultimately, the outcome of the Schuman Plan negotiations.²⁰ These accounts implicitly accept 'realist' assumptions of International Relations (IR) theory about the dominance of material power and the resilience of the state.²¹ Accordingly, foreign policy-making elites consider national political and security concerns while paying little attention to domestic politics underlying these preferences. From such a perspective, for France, the inclusion of Germany into the supranational European framework of the Schuman Plan was a choice motivated by a dual objective: to control the Federal Republic while

¹⁹ Bastiaan van Apeldoorn, 'Transnational Business: Power Structures in Europe's Political Economy, in: Kaiser, Starie (eds.), *Transnational European Union*, pp. 83-106, here p. 88.

²⁰ Cf. select contributions in Anne Deighton (ed.), *Building Postwar Europe National Decision Makers and European Institutions, 1948-63*, New York: St. Martin's Press, 1995; Gilbert Trausch (ed.), *Die Europäische Integration vom Schuman-Plan bis zu den Verträgen von Rom*, Brussels: Bruylant, 1993.

²¹ See Mark A. Pollack, 'International Relations Theory and European Integration', in: *Journal of Common Market Studies*, vol. 39, no. 2 (2001), pp. 221-44, here pp. 222-5.

utilizing its economic resources and to assume political leadership in western Europe. Germany, in turn, allegedly pursued European integration to regain national sovereignty on the basis of equality and to secure the Federal Republic a firm position within the US-led western Alliance.²²

In contrast, revisionist economic history accounts have paid emphasized attention to how domestically derived economic necessities influence governmental policy-making. Almost exclusively relying on state-based sources and focusing on inter-state bargaining, the British economic historian Alan S. Milward has proposed that national governments triggered and have been the driving force behind European integration. Like Lipgens, Milward has emphasized the significance of the experiences of World War II and the weakness of the post-war nation-state to explain the formation of core Europe. However, Lipgens and Milward differ radically in assessing the consequences of these developments: whereas World War II represented the beginning of the end of the nation-state for Lipgens, for Milward, it launched its post-war restoration.²³ In his seminal *The Reconstruction of Western Europe*²⁴, Milward argued on the basis of then newly accessible governmental records that the French government proposed the Schuman Plan to defend the national post-war programme for the

²² See for example Ulrich Lappenküper, 'Der Schuman Plan. Mühsamer Durchbruch zur deutsch-französischen Verständigung', in: *Vierteljahreshefte für Zeitgeschichte*, vol. 42, no. 3, 1994, pp. 403-45; and idem., *Die deutsch-französischen Beziehungen 1949-1963. Von der "Erbfeindschaft" zur "Entente élémentaire"*, Quellen und Darstellungen zur Zeitgeschichte 49, 2 vols., Munich: Oldenbourg, 2001.

²³ Cf. Kaiser, 'From State to Society?', p. 195; Wilfried Loth, 'Die Beiträge der Geschichtswissenschaft zur Deutung der Europäischen Integration', in: idem., Wolfgang Wessels (eds.), *Theorien europäischer Integration*, Opladen: Leske & Budrich 2001, pp. 87-106, here pp. 91-6.

²⁴ Alan S. Milward, *The Reconstruction of Western Europe*, London: Routledge, 1992 [1984].

reconstruction and modernization of France; a motive, which he developed further in *The European Rescue of the Nation-State*.²⁵ Accordingly, nation-states transferred competencies to the European level for economic motives, to ensure the continued existence of national welfare systems and for political motives, to resolve the German problem.²⁶ That economic state interests – even if their formation in the domestic context is considered – sufficiently account for the transfer of competences to the supranational level remains doubtful, however. In the end, Milward's account is not convincing since he fails to integrate key aspects of core Europe formation including a variety of non-material interests, such as ideas, beliefs and values, which motivate actors as well as any informal transnational and transatlantic patterns of co-operation.

In emphasizing the economic focus of state interests Milward has advanced ideas that are shared by the theory of liberal intergovernmentalism. Intergovernmentalism rejects neo-functionalist theory. Its liberal variant, developed by political scientist Andrew Moravcsik during the first half of the 1990s against the backdrop of the 're-launch' of the integration process in the mid-1980s,²⁷ highlights the economic focus of state interests and explores two stages of preference formation: within the domestic context, and at inter-state conferences, where national delegations bargain over domestically derived preferences.²⁸ Focusing on preference formation in a purely

²⁵ Alan Milward, *The European Rescue of the Nation-State*, London: Routledge, 2nd ed. 2000 [1992].

²⁶ Milward, *The European Rescue*, chapter 2, pp. 21-45.

²⁷ Most relevant is Andrew Moravcsik, *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht*, London: UCL Press, 1998, in which Moravcsik also addresses the differences between his own work and that of Milward: pp. 4, 81.

²⁸ For an introduction into liberal intergovernmentalism see Pollack, 'International Relations Theory', pp. 225-7, here p. 225.

national context, however, liberal intergovernmentalism falls short of integrating the role of transnational actors in initiating European integration in 1950-51.

Moreover, Moravcsik only starts his controversial *Choice for Europe*²⁹ with the negotiations on the European Economic Community (EEC) in 1956-57, which represents the first of five chronological case studies that he uses to test his hypotheses on the causes of integration. Moravcsik's approach of testing hypotheses with historical case studies does not lend itself to conceptualizing long-term historical developments, however. By sidelining the formation of the ECSC of the six-founding member-states – the same states that signed the EEC treaty – Moravcsik moreover neglects any possible 'path dependencies' for European integration that may have been created at the Schuman Plan conference or even before. Paul Pierson has emphasized the path dependence of institutional change and policy developments and has argued that initial institutional or policy decisions have the potential to become self-reinforcing over time.³⁰ With regard to core Europe formation, path dependence therefore highlights the question of how informal transatlantic policy-making preceded, shaped and perhaps

²⁹ While historians have criticized Moravcsik's selective use of archival sources, which is motivated by theory testing, political scientists have attacked the assumptions underlying liberal intergovernmentalism and *The Choice for Europe*. Cf. for example Thomas Diez, 'Riding the AM-Track through Europe, Or: The Pitfalls of a Rationalist Journey through European Integration', in: *Millennium: Journal of International Studies*, vol. 28, no. 2 (1999), pp. 355-69; and Moravcsik's rebuttal: Andrew Moravcsik, 'The future of European Integration Studies: Social Science or Social Theory?', in: *ibid.* pp. 371-91.

³⁰ Paul Pierson, 'The Path to European Integration: A Historical-Institutionalist Analysis', in: Sandholtz, Sweet (eds.), *European Integration*, pp. 27-58, esp. pp. 34-43, 46.

'locked in'³¹ the European integration process even *before* supranational institutions started to operate in 1952.

The concept of path dependence is representative of more recent approaches within European integration theory, which tend to focus on understanding policy-making and decision-making processes within the EU rather than providing an overall framework for European integration. This shift in the research focus was partly fuelled by the desire within the theory of European integration, following the coming into force of the Single European Act (SEA) in 1987, to overcome the dichotomy of neo-functionalism and intergovernmentalism.³² Partly, the new research focus reflected the disillusionment with 'grand theory' after the end of the Cold War – an event, which no previous theories of IR had predicted. Constructivist approaches have highlighted the importance of social interaction within EU institutions and have focused on cultural influences that only change slowly over time. Further, constructivist literature has emphasized the desirability of providing empirical confirmation of theoretical claims.³³ Similarly, institutionalism has emphasized the role of EU institutions in the convergence of ideas and policies.³⁴ Sociological institutionalism treats institutions broadly as instances of formal and informal interaction and systems of norms, such as conventions and codes of behaviour. Historical institutionalism, in turn, stresses the significance of

³¹ Ibid.; Rosamond, *Theories*, p. 117.

³² Rosamond, *Theories*, p. 99.

³³ On the new dichotomy of constructivism and rationalism, the latter of which embraces elements of the originally competing realist, liberal, and institutional approaches and portrays the EU as the product of conscious member-state design, see also Pollack, 'International Relations'. For the applicability of institutional theory to historical research see Morten Rasmussen, 'Supranational Governance in the Making: Towards a European Political System', in: Kaiser, Leucht, Rasmussen (eds.), *The History* (2008 forthcoming).

³⁴ Chrysochoou, *European Integration*, pp. 115-18.

the temporal dimension of politics. Generally, these approaches have pointed to the significance of examining political processes over time and have therefore provided the basis for the fruitful interdisciplinary co-operation of historians and political scientists.³⁵ However, as with neo-functionalist and intergovernmental theories, these approaches focus on the institutionalized system of the EU, not its origins in the formation of the ECSC.

At the same time, the transnational approach has been revived within European integration historiography but with major alterations to its original conception. The new transnational historiography has attempted to take into account political science approaches to studying the EU. While Lipgens did not regard interdisciplinary exchange important enough to engage in it, Milward for a long time was the only historian of European integration who discussed European integration theory and presented a broad approach to conceptualize the integration process.³⁶ More recently, Wolfram Kaiser has offered an alternative to Milward's state-centric approach by arguing for the importance of studying transnational actors and their shared ideas and values, while at the same time acknowledging the significance of material interests and economic motives in domestic policy and preference formation.³⁷ For example, Kaiser has demonstrated the influence of the Christian democrats and the importance of their transnationally co-ordinated activities in the formation of core Europe even before the Schuman Plan conference.³⁸ In

³⁵ See for example Kaiser, Starie (eds.), *Transnational European Union*.

³⁶ Milward, *The European Rescue*, chapter 1, pp. 1-20; Alan Milward, Frances Lynch, Frederico Romero, Ruggero Ranieri, Vibeke Sørensen (eds.), *The Frontier of National Sovereignty. History and Theory 1945-1992*, London and New York: Routledge 1993.

³⁷ Kaiser, 'From State to Society', pp. 195-208.

³⁸ Wolfram Kaiser, *Christian Democracy and the Origins of European Union*, Cambridge: Cambridge University Press, 2007.

brief, recent transnational EU historiography presents perspectives to qualify or counter the national paradigm.

To this date no transnational perspective has been applied to the inter-state negotiations on the ECSC treaty. More specifically, the role of US actors and transatlantic policy-making has not been analyzed adequately. To overcome the limitations of Milward's and Moravcsik's approach without falling victim to the shortcomings of Lipgens' early transnational historiography, a twofold strategy shall be pursued in this thesis. Firstly, in addition to governmental sources, select private papers of actors in the US and Europe and state and non-state actors will be scrutinized to provide a multilateral as well as a multi-archival basis for the analysis. Secondly, governmental sources will be re-investigated with a new, refined set of research questions, which will be informed by the network and the cultural transfer concepts. Before discussing these concepts, however, it is necessary to review the historiography of transatlantic relations.

1.3 The American 'empire': a transatlantic perspective on the formation of core Europe

The literature of post-World War II transatlantic relations has interpreted the Schuman Plan conference in terms of intergovernmental bargaining, but has also acknowledged 'American influence' on the negotiations.³⁹ This historiography is based on the notion of

³⁹ Paul Mélandri, *Les Etats-Unis face à l'Unification de l'Europe 1945-1954*, Paris: Pendone, 1980; Gillingham, *Coal, Steel*; Lovett, 'The United States and the Schuman Plan'; Klaus Schwabe, "Ein Akt konstruktiver Staatskunst" – die USA und die Anfänge des Schuman Plans', in: Schwabe (ed.), *Die Anfänge des Schuman Plans*, pp. 211-39.

the 'American empire', particularly associated with the work of Geir Lundestad.⁴⁰ According to such approaches, the US government supported efforts at European integration and the formation of a democratic and capitalist western Europe within an Atlantic framework in their opposition to Soviet Communism.⁴¹ For Lundestad 'empire' represents a hierarchical political system with a centre, namely the US, which had no formal control over western Europe, but established informal control based on their unique strength after 1945. Indeed the US had come out of World War II undamaged and the economically strongest state of the victorious Allies. The emerging strength of the US coincided with the declining power of the traditional European empires, Great Britain and France. Lundestad provides a stimulating overall interpretation of US-European relations during and beyond the Cold War. At the least, this places US foreign post-war policy in a wider chronological framework and helps to account for the presence of US officials in a variety of newly established agencies administering policies in western Europe after 1945. At the same time Lundestad's approach is entirely state-centred and fails to capture the important more informal patterns of transatlantic co-operation at the Schuman Plan conference.

Lundestad's point of departure shares affinities with the IR hegemonic stability theory, which is based on two premises: firstly, hegemony is the exercise of power or influence of a dominant polity, here the US, over other polities or regions. Secondly, in a state-centred and anarchic world it is desirable to have a dominant polity assert

⁴⁰ Geir Lundestad, *The United States and Western Europe since 1945. From 'Empire by Invitation' to 'Transatlantic Drift'*, Oxford: Oxford University Press, 2003.

⁴¹ Cf. also Francis Heller, John Gillingham (eds.), *N.A.T.O. The Founding of the Atlantic Alliance and the Integration of Europe*, New York: St. Martin's Press, 1992; and idem., *The United States and the Integration of Europe. Legacies of the Postwar Era*, New York: St. Martin's Press, 1996.

stability by getting less powerful states to accede to its policy prescriptions. Hegemony therefore is a means to control the political, economic and cultural spheres of a world region.⁴² In contrast to this theory, however, Lundestad has stressed the notion of the US 'empire by invitation'. Western European states sought to prolong the US government's engagement in Europe for economic motives, notably to finance their national post-war reconstruction programmes; for political motives, specifically to weaken any Communist influences and strongholds in their societies; and most importantly for security motives, to position themselves vis-à-vis the Soviet Union in terms of security and military policy.⁴³ In turn, Lundestad provides five reasons to explain the US government's support for European integration: firstly, a desire to implement a federal US model in Europe based on an argument of moral superiority; secondly, the belief that an integrated Europe would be more efficient and rational; thirdly, the hope that European co-operation in the security and economic spheres would reduce America's burden; fourthly, the belief that a strong Europe would help contain the SU; and lastly, the hope that tying Germany into a federal European structure would prevent future problems with this state.⁴⁴ Notwithstanding that it was an empire by invitation, the empire thesis has resulted in a focus in literature on the one-way transfer of ideas, concepts and policies from the US to Europe, rather than on the two-way interaction of American and domestic European ideas in post-war policy-making in western Europe.

This focus in literature is reflected in the appraisal of US programmes for post-war European reconstruction as well as in the analysis of bilateral policy-making

⁴² Robert Jackson, Georg Sørensen, *Introduction to International Relations: Theories and Approaches*, Oxford: Oxford University Press, 1999, pp. 190-7.

⁴³ Lundestad, *The United States and Western Europe*, pp. 55-9.

⁴⁴ *Ibid.* pp. 86-91.

between the US government and individual European states. The most significant European-wide programme, which the US government introduced as part of a series of policies for political re-education, military alliance and economic restoration in western Europe, was the European Recovery Program (ERP) or Marshall Plan. While there is agreement in the literature that the Marshall Plan served as a decisive US foreign policy instrument, the economic impact of American aid for European recovery has been challenged.⁴⁵ On the one hand, Werner Abelshauser has proposed that the decisive input for economic recovery predated the Marshall Plan and that its economic results were only limited.⁴⁶ Similarly, Milward has argued that European recovery would have gone ahead with or without US funding.⁴⁷ Michael Hogan, on the other hand, on the basis of US sources, has stressed the significance of Marshall Plan aid for Europe's economic reconstruction.⁴⁸ For Lundestad, the Marshall Plan serves as a case in point that meets all of the five criteria he lists for the US government's support for European integration.⁴⁹ However, as regards the first motive, for example, such an approach one-sidedly privileges the significance of the federal US model over sometimes complementary or competing domestic European concepts to federate Europe, some of

⁴⁵ A good introduction into the literature is provided by Michael Cox, Caroline Kennedy-Pipe, 'Special Forum: The Marshall Plan and the Origins of the Cold War Reassessed', in: *Journal of Cold War Studies*, vol. 7, no. 1 (2005), pp. 97-134, and various articles responding to Cox and Kennedy in the same journal issue.

⁴⁶ Werner Abelshauser, 'Wiederaufbau vor dem Marshallplan. Westeuropas Wachstumschancen und die Wirtschaftsordnung der zweiten Hälfte der vierziger Jahre', in: *Vierteljahreshefte für Zeitgeschichte*, vol. 29 (1981), pp. 545-78.

⁴⁷ Milward, *The Reconstruction*, chapter 3, 90-125.

⁴⁸ Michael Hogan, *The Marshall Plan America, Britain, and the Reconstruction of Western Europe, 1947-1952*, Cambridge, New York: Cambridge University Press, 1987; see also Charles S. Maier, 'The Two Postwar Eras and the Conditions for Stability in Twentieth Century Western Europe', in: idem. (ed.), *In Search of Stability: Explorations in Historical Political Economy*, Cambridge: Cambridge University Press, 1987.

⁴⁹ Lundestad, *The United States and Western Europe*, pp. 87-9.

which Lipgens has collected.⁵⁰ In short, the empire approach leaves out the possibility of the interaction of American and European thought and politico-legal concepts in post-war Europe.

In her assessment of the role of the US government in the European integration process from 1945 to 1958, however, Beate Neuss has confirmed Lundestad's arguments, though she primarily consulted US governmental records. Neuss portrays the US government as the one decisive external federator that triggered the integration process from outside.⁵¹ Her interpretation fails to shed light on the question of why it was the ECSC treaty that provided the basis for European integration through supranational sectoral integration and not, for example, the organizations established to administer the Marshall Plan, which also were designed to unify or federate Europe. The notion of empire does not contribute to answering the question of the relationship between the promotion of the US federal model in post-war Europe and US-led initiatives to federate or integrate Europe and the actual introduction of a supranational institutional framework in the ECSC treaty. Similarly, the incorporation of economic provisions into the treaty – albeit only for the coal and steel sector – which represent the principle of free market economy that formed another cornerstone of US foreign policy, has not been accounted for satisfactorily.

Literature on bi-lateral policy-making between the US and individual European states has also predominantly adopted the frame of empire. Most research has been produced on German-American relations after 1945. Two cases in point are provided by

⁵⁰ Lipgens, *Europa-Föderationspläne*.

⁵¹ Beate Neuss, *Geburtshelfer Europas? Die Rolle der Vereinigten Staaten im europäischen Integrationsprozeß 1945-1958*, Baden-Baden: Nomos, 2000.

collective efforts investigating the entire spectrum of the bi-lateral relationship, which included politics, security, culture and society.⁵² As regards France, William Hitchcock⁵³ and Richard Kuisel⁵⁴ have qualified the notion of empire and have emphasized the role of France in actively shaping the American empire. These authors are not, however, concerned with the formation of core Europe, but tend to focus on the cultural dimension of the incipient Cold War.⁵⁵

Cultural relations, US cultural diplomacy and the transfer of American forms of production, technology and management to Europe principally have been studied within the framework of 'Americanization'.⁵⁶ Although the concept accommodates a variety of

⁵² Detlev Junker (ed.), *Die USA und Deutschland im Zeitalter des Kalten Krieges 1945-1990. Ein Handbuch, Band I, 1945-1968*, Stuttgart, Munich: Deutsche Verlags-Anstalt, 2001; and Heinz Bude, Bernd Greiner (eds.), *Westbindungen. Amerika in der Bundesrepublik*, Hamburg: Hamburger Edition, 1999; cf. also Jeffrey M. Diefendorf, Axel Frohn, Hermann-Josef Rupieper (eds.), *American Policy and the Reconstruction of Germany, 1945-1955*, Washington DC: German Historical Institute and Cambridge University Press, 1993; and within the broader framework of US foreign policy in the 20th century Klaus Schwabe, *Weltmacht und Weltordnung. Amerikanische Außenpolitik von 1898 bis zur Gegenwart. Eine Jahrhundertgeschichte*, Paderborn et.al.: Ferdinand Schöningh, 2006.

⁵³ William Hitchcock, *France Restored. Cold War Diplomacy and the Quest for Leadership in Europe*, Chapel Hill and London: University of North Carolina Press, 1998.

⁵⁴ Richard Kuisel, *Seducing the French: The Dilemma of Americanization*, Berkeley: University of California Press, 1993.

⁵⁵ Cf. also for the case of Austria Reinhold Wagnleitner, *Coca-colonization and the Cold War: The Cultural Mission of the United States in Austria After the Second World War*, Chapel Hill/NC: University of North Carolina Press, 1994.

⁵⁶ Cf. Berghahn, *The Americanization*; various contributions in Bude, Greiner (eds.), *Westbindungen*; cf. also Alexander Stephan (ed.), *Americanization and anti-Americanism: the German Encounter with American Culture After 1945*, New York: Berghahn Books, 2005; Matthias Kipping, Ove Bjarnar (eds.), *The Americanization of European Business: The Marshall Plan and the Transfer of U.S. Management Models*, London, New York: Routledge, 1998; Brian Angus McKenzie, *Remaking France: Americanization, Public Diplomacy, and the Marshall Plan*, Oxford, New York: Berghahn Books, 2005.

understandings and differentiations,⁵⁷ it tends to follow the logic of empire in that it studies the role of American influence in other societies.⁵⁸ Furthermore, Anselm Doering-Manteuffel has introduced the broader concept of ‘Westernization’ and has stressed the significance of the conditions of reception to understand American influence.⁵⁹ From the point of view of Westernization Julia Angster has argued that the German Labour movement and the Social Democratic Party went through a period of re-orientation – replacing Marxist socialist with liberal democratic values – essentially as a result of the encounters of German Socialists with the American trade union movements during World War II.⁶⁰ However, even though Angster focuses on transnational networks and together with some other authors allows for the interaction of American and European concepts,⁶¹ the notions of Americanization and Westernization tend to privilege the dominance of American ideas over European domestic ideas.

The empire approach and the concept of Americanization have also had important consequences as to the significance, which is assigned to informal policy-

⁵⁷ Cf. Philipp Gassert, ‘Amerikanismus, Antiamerikanismus, Amerikanisierung. Neue Literatur zur Sozial-, Wirtschafts- und Kulturgeschichte des amerikanischen Einflusses in Deutschland und Europa’, in: *Archiv für Sozialgeschichte*, vol. 39 (1995), pp. 531-61.

⁵⁸ See also Julia Gienow-Hecht, ‘Shame on US? Academics, Cultural Transfer and the Cold War – A critical review’, in: *Diplomatic History*, vol. 24, no. 3 (2000), pp. 465-94, who refers to ‘American cultural transfer abroad’, but essentially discusses Americanization: *ibid.* p. 465.

⁵⁹ Anselm Doering-Manteuffel, *Wie westlich sind die Deutschen? Amerikanisierung und Westernisierung im 20. Jahrhundert*, Göttingen: Vandenhoeck und Ruprecht, 1999.

⁶⁰ Julia Angster, *Konsenskapitalismus und Sozialdemokratie: Die Westernisierung von SPD und ADGB*, Studien zur Ideengeschichte der Neuzeit, vol. 13, Munich: Oldenbourg, 2003.

⁶¹ Lisa Murach-Brand, *Antitrust auf Deutsch. Der Einfluß der Amerikanischen Alliierten auf das Gesetz gegen Wettbewerbsbeschränkungen (GWB) nach 1945*, Tübingen: Mohr, 2004; Edmund Spevack, *Allied Control and German Freedom: American Political and Ideological Influences on the Framing of the West German Basic Law*, Münster: Lit; Piscataway/NJ : Transaction Publishers, 2001.

making by transatlantic networks in core Europe formation. To conceive of the framework for post-war preference and policy formation as US-dominated entails at least two assumptions. Firstly, it would mean that hierarchy would structure the co-operation of US actors and European actors and European state actors were to manoeuvre within a tightly circumscribed sphere of action. Secondly, the role of preference formation and policy-making through informal channels therefore is not regarded significant. Together these assumptions preclude the validity of investigating any links between US and European state and non-state actors. As a result, the transatlantic networks of state and non-state actors, civil servants, politicians and academic and other policy experts have not been explored with regard to the formation of the ECSC.

Literature that does go beyond the governmental level of analysis includes Pascaline Winand's *Eisenhower, Kennedy and the united States of Europe*, in which she partially reconstructs the 'Atlantic network'. However, she neither focuses on the period of the Truman administration (1945-53), nor on the Schuman Plan negotiations.⁶² Winand's Atlantic network evolves around one of two transatlantic key figures that are widely acknowledged in literature, namely high-ranking French official Jean Monnet.⁶³ Similarly, Holger Schröder and others, regard Monnet as central to informal

⁶² Pascaline Winand, *Eisenhower, Kennedy, and the united states of Europe*, New York: St. Martin's Press, 1993.

⁶³ Winand further developed the key role of Monnet in 'De l'usage de l'Amérique par Jean Monnet pour la construction européenne', in: Gérard Bossuat, Andreas Wilkens (eds.), *Jean Monnet, l'Europe et les chemins de la paix. Actes du Colloques de Paris du 29 au 31 Mai 1997*, Paris: Publications de la Sorbonne 1999, pp. 253-72; 'European Insiders Working Inside Washington: Monnet's Network, Euratom, and the Eisenhower Administration', in: Kathleen Burk, Melvyn Stokes (eds.), *The United States and the European Alliance Since 1945*, Oxford, New York: Berg 1999, pp. 207-38.

transatlantic policy-making.⁶⁴ Just like Monnet⁶⁵ the second key transatlantic figure, US High Commissioner for Germany John J. McCloy, has been the subject of various biographies.⁶⁶ In principle, works on Monnet and McCloy imply that there are two types of actors, namely transatlantic key figures and advisors or policy experts. Klaus Schwabe has introduced an alternative distinction of top rank individuals responsible for policy-making and lower-ranking officials who were implementing policies.⁶⁷ Applied to the Schuman Plan conference, affiliations with either Monnet or McCloy would be the only variable that helps explain why policy experts became involved. An example of an American advisor was Robert Bowie, the general counsel to the US High Commission for Germany (USHICOG) under McCloy. Bowie's contribution to core Europe formation, just like that of other policy experts, has not sufficiently been contextualized within the larger framework of post-World War II transatlantic co-operation, however.

The notion of the 'policy entrepreneur' confirms the desirability to contextualize different roles of actors in a wider framework. Dimitrios Christopoulos has defined policy entrepreneurs as having the ability to 'respond to exceptional challenges and rise

⁶⁴ Holger Schröder, *Jean Monnet und die amerikanische Unterstützung für die Europäische Integration 1950-1957*, Frankfurt am Main et.al.: Peter Lang 1994. Cf. further Clifford Hackett (ed.), *Monnet and the Americans. The Father of a United Europe and his U.S. Supporters*, Washington, DC: Jean Monnet Council, 1995.

⁶⁵ François Duchêne, *Jean Monnet. The First Statesman of Interdependence*, New York, London: Norton, 1994.

⁶⁶ Kai Bird, *The Chairman. John J. McCloy. The Making of the American Establishment*, New York et. al.: Simon & Schuster 1993; Thomas Schwartz, *America's Germany. John McCloy and the Federal Republic of Germany*, Cambridge/MA, London: Harvard University Press, 1991.

⁶⁷ Klaus Schwabe, 'Do Personalities Make a Difference? Washington Working with Europeans', in: Kathleen Burk, Melvyn Stokes (eds.), *The United States and the European Alliance since 1945*, Oxford, New York: Berg, 1999, pp. 239-267, here p. 243.

above their peers by means of their strategic forethought and ability to manipulate their environment'.⁶⁸ Further, he maintains that policy entrepreneurs are dependant on networks in that these networks ensure that they can put their abilities into practice. Accordingly, Monnet and McCloy shared important attributes of policy entrepreneurs when they helped to facilitate the informal co-operation of policy experts in the negotiations. However, at the same time the notion of the policy entrepreneur raises the question of the structures and wider networks in which policy experts were embedded. It is therefore necessary to assess systematically the role of actors who as part of transatlantic policy networks and with their expertise helped shape the ECSC treaty.

Another cluster of literature has approached transatlantic networks from a socio-cultural Cold War perspective without, however, focusing on core Europe formation. Volker Berghahn, for example, highlights the role of the Central Intelligence Agency in funding transnational organization in his study on the philanthropic activities of the Ford Foundation in Europe, but does not investigate potential links to actors and networks at the Schuman Plan conference.⁶⁹ However, Berghahn emphasizes the significance of exploring in greater detail transatlantic networks of bankers, other business actors, civil servants, academics and intellectuals to develop a more nuanced picture of the social-cultural foundations of the Cold War.⁷⁰ For the 1956-57 negotiations on the treaties establishing the EEC and the European Atomic Energy Commission (Euratom), Thomas

⁶⁸ Cf. Dimitrios Christopoulos, 'Relational Attributes of Political Entrepreneurs: a Network Perspective,' in: *Journal of European Public Policy*, vol. 13, no. 5 (2006), pp. 757-78, here p. 758.

⁶⁹ Volker Berghahn, *America and the Intellectual Cold Wars in Europe*, Princeton, Oxford: Oxford University Press, 2001. This observation also refers to Giuliana Gemelli (ed.), *The Ford Foundation and Europe (1950's-1970's). Cross-fertilization of Learning in Social Science and Management*, Brussels: Princeton University Press, 1998.

⁷⁰ Berghahn, *America and the Intellectual Cold Wars*, p. 284.

Gijswijt has assessed the role of the Bilderberg Group, which was founded during 1952-54 to foster the informal information exchange between transatlantic elites.⁷¹ From the perspective of the Schuman Plan conference, Berghahn's research in particular raises the question of potentially overlapping networks and of establishing where the boundaries of transatlantic co-operation were in the treaty negotiations in 1950-51. More generally, this includes investigating which existing networks and institutionalized patterns of co-operation in post-World War Europe might have facilitated the formation of networks at the conference.

In summary, the historiographies of early European integration and post-war transatlantic relations are characterized by a focus on state actors and reliance on the national paradigm to explain preference formation and policy outcomes. What is missing is the systematic assessment of the role of transatlantic policy networks of individual and collective and state and non-state actors in the Schuman Plan conference. To evaluate the role of these networks and therefore to help answer the central research question it is necessary to choose the appropriate conceptual tools.

1.4 The network concept: utilizing a social science concept

It will be demonstrated that the network approach helps to overcome the shortcomings of historical literature in at least two ways: firstly, it provides a conceptual tool, lacking

⁷¹ S. Thomas W. Gijswijt, 'The Bilderberg Group and the Rome Treaties: Transnational Elites and the Debate on European Integration in the 1950s', unpublished manuscript, presented at the Third HEIRS conference, Geneva, 16 March 2007. See also idem., *Uniting the West. The Bilderberg Group, the Cold War and European Integration, 1952-1966*, PhD, University of Heidelberg, Mikrofiche, Heidelberg 2008. For the Bilderberg Group see also Valérie Aubourg, 'Le groupe de Bilderberg et l'intégration européenne jusqu'au milieu des années 1960', in: Michel Dumoulin (ed.), *Réseaux économiques et construction européenne*, Brussels: Peter Lang, 2004, pp. 411-29.

within the historical discipline, to assess systematically the role of individual and collective actors in policy-making at the Schuman Plan conference. Secondly, the network concept has the potential to overcome the focus of historiography on European states as almost exclusive actors and the prevalence of the national paradigm to explain policy outcomes in core Europe formation. It is therefore necessary to establish that the network approach stands for something more than a 'trendy' catchphrase and to specify in which way the variants that emerged out of the social science literature on network analysis in the 1990s can in fact be utilized for a historical narrative.

Sociologist Manuel Castells regards the 'rise of the network society'⁷² as a consequence of the information technology revolution, which provided the material basis for a complete change in the social structure. Accordingly, networks '...constitute the new social morphology of our societies, and the diffusion of networking logic substantially modifies the operation and outcomes in processes of production, experience, power, and culture'.⁷³ Against the backdrop of globalization, the EU therefore can be described as a network polity. Political sociologist Chris Rumford in turn has introduced the notion of the EU as a 'space of networks'.⁷⁴ Within political science, an interest in the network approach coincided with the adoption of new approaches to the study of European integration.⁷⁵ Originally developed to re-conceptualize public policy-making in the national arena, the network concept has

⁷² Manuel Castells, *The Rise of the Network Society*, vol. 1, Oxford, Cambridge/MA: Blackwell Publishers 1996.

⁷³ Ibid. p. 469.

⁷⁴ Chris Rumford, *The European Union: a Political Sociology*, Oxford: Blackwell Publishing 2002, here p. 196.

⁷⁵ See Alex Warleigh, 'Conceptual Combinations: Multilevel Governance and Policy Networks', in: Cini, Bourne (eds.), *Palgrave Advances*, pp. 77-95.

become important for the analysis of policy- and decision-making within the EU and of the process of European transnationalization.⁷⁶ Tanja Börzel has defined a policy network as

...a set of relatively stable relationships which are of non-hierarchical and interdependent nature linking a variety of actors, who share common interests with regard to a policy and who exchange resources to pursue these shared interests acknowledging that co-operation is the best way to achieve common goals.⁷⁷

Within the policy network literature, there is a variety of understandings and applications of the concept. Firstly, policy networks are used as a metaphor signifying that policy-making involves a large number and a variety of actors; secondly, policy networks serve as an analytical tool to assess the relations between actors interacting with each other in a given policy sector; thirdly, policy networks are employed as a method of social structure analysis (quantitative or qualitative); and lastly, policy networks may entail a theoretical claim.⁷⁸

Börzel distinguishes two main trends in the policy network literature: the 'interest intermediation' or 'Anglo-Saxon school' and the 'governance' or 'German school'.⁷⁹ 'Interest intermediation' refers to the relations between the state and societal interests. Within the interest intermediation school policy networks emerged as a new typology to overcome the dichotomy between 'pluralism' and 'neo-corporatism'. Each of these theories interpreted differently the nature of access to policy-making procedures

⁷⁶ Karen Heard-Lauréote, 'Transnational Networks. Informal Governance in the European Political Space', in: Kaiser, Starie (eds.) *Transnational European Union*, pp. 36-60, here p. 37.

⁷⁷ Tanja A. Börzel, 'Organizing Babylon – On the Different Conceptions of Policy Networks', *Public Administration*, vol. 76, no. 2 (1998), pp. 253-73, here p. 254.

⁷⁸ Ibid. p. 254-5.

⁷⁹ Ibid. pp. 255-65.

and diverged with regard to the number of interest groups that were relevant to the analysis. Against this backdrop, policy networks represent a broad concept that applies to all kinds of relations between public and private actors and to different forms of relationships between interest groups and the state. Policy networks are power dependency relationships between the government and interest groups, in which resources are exchanged, and they serve as a tool to examine institutionalized exchange processes.⁸⁰ Interdependency between actors facilitates the construction of policy networks. Actors within a policy sector are dependant upon each other for resources.⁸¹

One of the network models widely used in the study of EU governance is the Rhodes model, later advanced as the Rhodes and Marsh model.⁸² The model is based on only three criteria, namely the stability or instability and fluidity of network memberships over time; the degree of integration of members into the network (how insular or permeable are networks); and the distribution of resources among actors (where are the strengths and weaknesses of resource dependencies), whereby resources include money, expertise and legitimacy. On the basis of these three criteria, the Rhodes-Marsh model introduces a continuum of policy networks, which stretches from highly integrated policy communities on one side of the spectrum to loosely integrated issue networks, on the other. Membership is constant and often hierarchical in policy communities, which means that external pressures have limited impact and actors are highly dependent on each other for resources. At the same time, some groups are consciously excluded. In issue networks, in contrast, membership is fluid and non-

⁸⁰ Ibid. pp. 255-6.

⁸¹ Cf. Heard-Lauréote, 'Transnational Networks', p. 40.

⁸² Rod Rhodes, David Marsh, 'New Directions in the Study of Policy Networks', in: *European Journal of Political Research*, vol. 21, no. 1-2 (1992), pp. 181-205.

hierarchical; the network is easily permeated by external influences; and actors are highly independent.

The understanding of policy networks according to the governance school is more ambitious since it also forwards a theoretical claim. Here, policy networks characterize a specific form of interaction between public and private actors, namely one that is based on non-hierarchical co-ordination. To describe this interaction the governance school rejects the notion of hierarchy and market as the two inherently distinct modes of governance and assumes a mechanism based on the mobilization and subsequent dispersion of political resources between public and private actors. The growth of networks finally represents a new form of governance.⁸³

To utilize rather than to apply or to advance the network concept, means it is not necessary here to engage with the political science debate on key problems relating to the network concept, such as the structure-agent debate; the relation between policy networks and policy outcomes; and the possible classifications and levels of analysis, to name only a few examples.⁸⁴ Instead a historical narrative can build on a set of categories and criteria as well as a sophisticated terminology, all of which help to analyze the formation, scope, structures, functioning and, to some degree, the impact of transatlantic policy networks. The different approaches under the policy network therefore offer a variety of criteria that can be used to fine-tune the questions for the analysis of archival sources and at the same time further differentiate the central research question about the role of transatlantic policy networks in core Europe

⁸³ Börzel, 'Organizing Babylon', p. 255

⁸⁴ David Marsh, *Comparing Policy Networks*, Buckingham: Open University Press 1998.

formation. These criteria include the level of institutionalization of a policy network (how stable or instable is a network); the scope of policy-making arrangements (are networks sectoral or cross-sectoral); the number of participants; the regulation of access to the network (is it restricted or open); the types of participants; and the major functions of the network.⁸⁵ Moreover, the network approach considers such categories as trust between actors and their common view of the world or shared policy paradigm.⁸⁶

Another notion is important with regard to linking the exploration of the formation, scope, structure and functioning of transatlantic policy networks to their impact. Policy networks stress the importance of resources, including expertise, in structuring the relationships between actors. Advocacy coalitions and epistemic communities, however, specifically focus on the notion of policy ideas. Whereas epistemic communities of actors debate common sets of ideas, advocacy coalitions of actors within the same policy domain engage in policy-oriented learning. Introduced by Peter Haas, the concept of epistemic communities or expert networks is characterized by a shared set of normative and principled beliefs; shared causal beliefs; shared notions of validity; and a common policy enterprise.⁸⁷ The epistemic community approach therefore presents additional categories to assess the transatlantic co-operation of policy experts. The advocacy coalition concept in turn accommodates multiple network affiliations of actors. Advocacy coalitions form on the basis of shared beliefs and values. The core argument is that actors and institutions that share a similar perspective, will

⁸⁵ Cf. Börzel, 'Organizing Babylon'.

⁸⁶ Heard-Lauréote, 'Transnational networks', pp. 40-1.

⁸⁷ Peter M. Haas, 'Introduction: Epistemic Communities and International Policy Coordination, in: *International Organization*, vol. 46, no. 1 (1992), pp. 1-35.

forge coalition type relationships with each other.⁸⁸ Identifying the common cause of actors in the source material therefore makes possible the identification or designation of an advocacy coalition-like types of co-operation. However, even though actors might have shared a policy paradigm, they might have differed with regard to the actual co-ordination of policies.

Crucially, the network concept has the potential to overcome the national paradigm as the sole explanation for policy outcomes and promises to advance our understanding of how transatlantic policy networks contributed to core Europe formation in 1950-51. Thomas Risse has defined networks as transnational when ‘...at least one actor is a non-state agent or does not operate on behalf of a national government or an intergovernmental organization’.⁸⁹ Networks can accordingly be considered transatlantic when they are composed of actors from both sides of the North Atlantic. Moreover, transnational networks mobilize information, knowledge and values across national boundaries.⁹⁰ The use of ‘policy networks’ rather than ‘Atlantic networks’, as suggested by Winand,⁹¹ for example, is preferable since it focuses on the

⁸⁸ Ibid. p. 41. Cf. Paul A. Sabatier, Hank C. Jenkins-Smith (eds.), *Policy Change and Learning. An Advocacy Coalition Approach*, Boulder, San Francisco, Oxford: Westview, 1993; Paul A. Sabatier, ‘The Advocacy Coalition Framework: Revisions and Relevance for Europe’, in: *Journal of European Public Policy*, vol. 5, no. 1 (1998), pp. 98-130.

⁸⁹ Thomas Risse-Kappen, ‘Bringing Transnational Relations Back in: Introduction’, in: idem. (ed.), *Bringing Transnational Relations Back in: Non-state Actors, Domestic Structures and International Institutions*, Cambridge: Cambridge University Press, 1995, pp. 3-33, here p. 3.

⁹⁰ Cf. Michele M. Betsill, Harriet Bulkeley, ‘Transnational Networks and Global Environmental Governance: The Cities for Climate Protection Program’, in: *International Studies Quarterly*, vol. 48, 2 (2004), pp. 471-93, here pp. 474-5.

⁹¹ Winand, *Eisenhower, Kennedy*.

link between actors and policy-making. This is where the network concept fits in with the concept of cultural transfer.

1.5 Cultural transfer: combining conceptual tools

To assess the impact of transatlantic policy networks the thesis will draw on the concept of cultural transfer. More specifically, cultural transfer serves as a methodological tool to investigate the collaboration of transatlantic policy networks in the policy areas of the institutional set-up and the economic (anti-trust) provisions of the treaty. Advanced since the mid-1980s by Michel Espagne and Michael Werner in the context of Franco-German relations in modern history,⁹² the concept has been adapted for cultural studies and has been used by history, literary studies, sociology and pedagogy.⁹³ Helga Mitterbauer has attempted to systematize cultural transfer and has defined the three components essential to the concept, namely an original culture, actors and networks that convey their culture and a target culture.⁹⁴ It is argued here that cultural transfer and the network concept reinforce each other, while they challenge the idea of

⁹² Cf. Michel Espagne, Michael Werner, 'Deutsch-französischer Kulturtransfer im 18. und 19. Jahrhundert. Zu einem neuen interdisziplinären Forschungsprogramm des C.N.R.S.', in: *Francia*, vol. 13 (1985), pp. 502-10; idem. (eds.), *Transferts. Les relations interculturelles dans l'ésoace franco-allemand (XVIIIe et XIXe siècle)*, Paris: éditions Recherches sur les Civilisations 1988.

⁹³ Cf. empirical contributions in Lothar Jordan, Bernd Kortländer (eds.), *Nationale Grenzen und internationaler Austausch. Studien zum Kultur- und Wissenschaftstransfer in Europa*, Communicatio. Studien zur europäischen Literatur- und Kulturgeschichte, vol. 10, Tübingen: Niemayer 1995; see also Katharina Middell, Matthias Middell, 'Forschungen zum Kulturtransfer. Frankreich und Deutschland', in: *Grenzgänge*, vol. 1, no. 2 (1994), pp. 107-22.

⁹⁴ Helga Mitterbauer, 'Kulturtransfer – ein vielschichtiges Beziehungsgeflecht?' in: *newsletter Moderne*, vol. 2., no. 1 (1999), pp. 23-5, here p. 23.

Americanization.⁹⁵ To capture the complex negotiation process at the Schuman Plan conference, cultural transfer is a more appropriate concept than Americanization.

Firstly, as with the notion of policy networks cultural transfer emphasizes the link between actors and policies. In line with Mitterbauer cultural transfer can be defined as a dynamic process in which actors mediate between different original and target cultures.⁹⁶ At the same time, the very notion of cultural transfer denies that there are original and target cultures. To describe what happened at the encounter of different cultures, recent uses of the concept privilege categories such as interchange, interaction, translation and dialogue over notions of influence or coercion. The concept therefore draws attention to how in the course of a transfer process a multiplicity of actors engages in re-defining various cultural practices and products that originated in different cultures. Accordingly, the notion of transatlantic network co-operation at the Schuman Plan conference suggests that individual and collective actors exchanged and negotiated American and European politico-legal concepts and policy preferences in the making of the treaty. Further, the link between policies and actors not only helps to identify the transatlantic transfer of politico-legal concepts, but also to show the barriers to such transfer processes.

Secondly, Matthias Middell has argued that ‘processes of cultural transfer are guided by the willingness to import rather than by the desire to export’.⁹⁷ Cultural

⁹⁵ For an outline of combining these two concepts see also Brigitte Leucht, ‘Transatlantische Politiknetzwerke: Kulturtransfer und Schuman-Plan 1950/51’, in: *Comparativ*, vol. 16, no. 4 (2006), pp. 200-18.

⁹⁶ *Ibid.*

⁹⁷ Matthias Middell, ‘Kulturtransfer und Historische Komparatistik – Thesen zu ihrem Verhältnis’, in: *Comparativ*, vol. 10, no. 1 (2000), pp. 7-41, here pp. 20-1. See further for the theoretical critique of the comparative method as an important point of departure

transfer therefore rejects an important assumption underlying Americanization namely that the in itself heterogeneous 'American' culture prevails over 'European' culture(s). Instead cultural transfer brings to the fore the process character inherent to policy-making and decision-making. Approaching the Schuman Plan conference from the point of view of Americanization one could argue that American policy experts introduced American politico-legal concepts into the multilateral negotiations and thus influenced the draft treaty and core Europe formation. Cultural transfer, in contrast, focuses on processes of non-hierarchical interaction, in which American and European policy experts mediated between politico-legal concepts of varying origins and thus arrived at policy solutions.

Thirdly, and in further contrast to Americanization, cultural transfer stresses the role of mediators in policy- and decision-making processes.⁹⁸ Therefore, to study the transatlantic co-operation on the institutional set-up and the anti-trust provisions means to explore the role of policy networks as facilitators of transatlantic transfer of politico-legal concepts. For example, to give attention to the actors in turn entails that it is insufficient to assume that American actors proposed American politico-legal concepts for the draft treaty, while French actors proposed French concepts. Such an assumption

for cultural transfer Johannes Paulmann, 'Internationaler Vergleich und interkultureller Transfer. Zwei Forschungsansätze zur europäischen Geschichte des 18. bis 20. Jahrhunderts', in: *Historische Zeitschrift*, vol. 267, no. 3 (1998), pp. 649-85; and Wolfgang Schmale, *Historische Komparatistik und Kulturtransfer. Europageschichtliche Perspektiven für die Landesgeschichte. Eine Einführung unter besonderer Berücksichtigung der sächsischen Landesgeschichte*, Herausforderungen. Historisch-politische Analysen, vol. 6, Bochum: Dieter Winkler, 1998.

⁹⁸ See for example Michel Espagne, 'Die Rolle der Mittler im Kulturtransfer', in: Hans-Jürgen Lüsebrink, Rolf Reichhardt (eds.), *Kulturtransfer im Epochenumbruch Frankreich - Deutschland 1770 bis 1815*, Deutsch-Französische Kulturbibliothek vol. 9, no. 1, Leipzig: Leipziger Universitätsverlag 1997, pp. 309-29.

is flawed for at least two reasons: firstly, it presupposes that there are preferences, which are shared by all state and non-state actors of a given nationality. Ideas, concepts and policy preferences are, however, contested in domestic politics. To give an example, even though after World War II US foreign policy planners at large were committed to the promotion of liberal democratic values abroad, they disagreed over the means of how to encourage other societies to subscribe to these values. As the US post-war flagship programme, the Marshall Plan, serves a case in point in that the economic rationale informing the policy initiative, including the emphasis on co-operation between government, business and labour actors to achieve more productivity, was highly contested within US domestic politics⁹⁹ and also within the US foreign policy apparatus. A cultural transfer perspective would therefore draw attention to the importance of investigating whether certain politico-legal concepts that actors proposed at the Schuman Plan conference were perhaps domestically contested, and why. Cultural transfer underpins the notion that sometimes actors engage in transnational or transatlantic coalition building in order to realize policy preferences they failed to realize in their respective domestic scenes. In this context, for example, it is significant to understand the development of anti-trust policy in contemporary Europe to assess the role of transatlantic policy networks at the conference in this policy area.

The assumption that actors propose concepts associated with their nationality, secondly, is deeply ahistorical in ignoring that actors have experiences that shape their ideas and preferences and develop over time. For example, actors, individually and

⁹⁹ David Ekbladh, "Mr. TVA": Grass-Roots Development, David Lilienthal, and the Rise and Fall of the Tennessee Valley Authority as a Symbol for U.S. Overseas Development, 1933-1973', in: *Diplomatic History*, vol. 26, no. 3 (2002), pp. 335-74, here p. 348; Hogan, *Marshall Plan*, pp. 5-25.

collectively, acquire knowledge of other cultures through experiences such as emigration, political imprisonment in times of war, or participation in bi-lateral exchange programmes. Such experiences lead to the partial socialization in another culture.¹⁰⁰ To explain the preferences that actors express, therefore, the logic of cultural transfer requires to some extent adopting a diachronic perspective. Crucially, this entails going back before the divide of 1945, which was not a ‘zero hour’ for Europe, but appears as such in Lundestad’s empire approach and political science approaches to explaining European integration.¹⁰¹ The question of how much emphasis should be placed on the post-1945 development and on American influence is far from resolved, which is evidenced, for example, by the debate on the understanding of the German version of capitalism.¹⁰² Finally, as a result of socialization, actors can develop a variety of patterns of identification, which are not necessarily restricted to the national pattern.

1.6 Chapter structure

The thesis first will explore the formation, scope, structures, and functioning of transatlantic policy networks at the Schuman Plan conference, while also considering the boundaries of such transatlantic co-operation (chapter 2). In two case studies the

¹⁰⁰ Drawing on socialization, while conceptually indebted to Americanization and Westernization, are Angster, *Konsenskapitalismus*; and Alfons Söllner, ‘Normative Verwestlichung. Der Einfluß der Remigranten auf die politische Kultur der frühen Bundesrepublik’, in: Bude Greiner (eds.), *Westbindungen*, pp. 72-92.

¹⁰¹ Werner Abelshauser, for example, has drawn attention to such continuities in *The Dynamics of German Industry: Germany's Path Toward the New Economy and the American Challenge*, Oxford, New York: Berghahn Books 2005 [German 2003].

¹⁰² Volker Berghahn, ‘Das “deutsche Kapitalismus-Modell” in Geschichte und Geschichtswissenschaft’, in: Volker Berghahn, Sigurt Vitols (eds.), *Gibt es einen deutschen Kapitalismus? Tradition und globale Perspektive der sozialen Marktwirtschaft*, Frankfurt a. M., New York: Campus, 2006, pp. 25-43.

thesis will then investigate the impact of transatlantic policy networks in the specific policy areas of the institutional set-up (chapter 3) and the anti-trust provisions (chapter 4). Whereas the assessment of the transatlantic policy networks draws primarily on the network concept, the two case studies are informed by the cultural transfer concept.

Two arguments in particular support the choice of the two case studies. Firstly, in a transatlantic context, the formation of supranational European institutions and a free competitive market economy formed the cornerstones of US post-war policy in Europe. Secondly, the ECSC treaty created the institutional template for European integration, although sectoral integration through the coal and steel pool did not lead directly to horizontal integration in the form of a customs union in the EEC in 1957-58. The institutions that transatlantic policy networks helped to establish in 1950-51 can be regarded as the precursors of the institutions of the contemporary EU. Transatlantic cooperation in the policy area of the institutional set-up therefore created important path dependencies for the European integration process. The same holds true for anti-trust policy. The anti-trust provisions of the ECSC treaty represented the introduction of the first supranational European anti-trust law. Even more importantly from a long-term perspective, the competition policy of the EEC contributed to facilitating the realization of the broader goal of (political) European unity. While the anti-trust provisions of the ECSC treaty provided one important model for the EEC competition rules, they also varied as a result of the different scopes of application of the two treaties. Crucially, however, EEC competition policy ultimately came to play a crucial role in the European integration process and in the construction of a common market.

1.7 Source material

To demonstrate how transatlantic policy networks contributed to the drafting of the ECSC treaty and the formation of core Europe and avoid the pitfalls of existing historiography, the thesis is based on a multinational and multi-archival approach. Sources from archives in France, Germany, the US as well as the Historical Archives of the EU and the Jean Monnet Foundation, based in Italy and Switzerland, respectively, are explored. Archival research focuses on France, Germany and the United States for two reasons: firstly, the French government initiative highlighted the significance of Franco-German rapprochement. Secondly, the instructions, which the US Department of State passed on to US foreign policy officials shortly after the opening of the Schuman Plan conference, indicated that informal arrangements with the French and German governments should be made whereby US officials in Paris and Bonn would be regularly informed about the proceedings as well as forwarded drafts of the treaty.¹⁰³

The thesis proposes to re-examine the governmental records on the Schuman Plan conference with new research questions informed by the network and cultural transfer concepts. These questions will be applied equally to select private papers of actors. In particular, the correspondence and diaries of actors have the potential to further shed light on the links between actors that are sometimes difficult to demonstrate on the basis of official records alone. Moreover, the private papers of additional actors, predominantly policy experts, whose influence has not been explored in connection with the Schuman Plan before, will be integrated, as will interviews with these actors, and

¹⁰³ Department of State to certain American diplomatic officers, 2 June 1950, National Archives and Records Administration (NARA), Central Decimal Files (RG 59), 850.33/6-250.

their autobiographical writings. An approach that focuses on the interaction between state and non-state actors has great potential to advance our understanding of the formation of core Europe. It is anticipated that the informality of contacts between actors might prove challenging with respect to written sources and where appropriate, this aspect will be discussed in the empirical chapters and will be formally evaluated in the conclusions.

2 Transatlantic policy networks at the Schuman Plan conference

2.1 Introduction

This chapter analyzes the formation, functioning and scope of transatlantic policy networks in the formation of core Europe at the Schuman Plan conference. In addition to exploring in-depth informal transatlantic co-operation, the role of intra-European transnational collaboration will be addressed. To understand the complex policy-making process at and alongside the negotiations, it is essential to go beyond the analysis of apparently cohesive entities such as 'France' and 'Germany'. It will be demonstrated that this view is insufficient from a transatlantic and a transnational perspective that focuses on individual and collective policy actors and considers the framework of institutional and previously established patterns of collaboration, which provided the framework for their operation in 1950-51. This chapter therefore contributes to deconstructing a predominantly intergovernmental explanation of the Schuman Plan negotiations as a bargaining process driven firstly by national or domestically derived (economic) interests.¹⁰⁴

To describe and analyze informal transatlantic co-operation at the Schuman Plan conference it is necessary to outline the context of formal transatlantic collaboration in post-World War II Europe. Without doubt 1945 marked a turning point in transatlantic relations between the US government and the governments of European states. Accordingly, the framework for the formation and operation of transatlantic policy

¹⁰⁴ Cf. Milward, *The Reconstruction*.

networks differed from that of previous periods. While the conditions after World War II were favourable to the formation of transatlantic policy networks at the Schuman Plan conference they did not originate in 1945. The unique circumstances of the immediate post-war period, however, gave rise to an especially increased density of contacts between American and European actors at a number of levels. Two factors accounted for this density. Firstly, and most importantly, the US government committed itself to staying involved in Europe after the end of World War II. Secondly, because of the ongoing presence of US institutions and officials in western Europe, previously existing relationships between individual American and European actors flourished. The US government's commitment to staying in Europe can be tied to its broader objective to democratize and 're-educate' European societies, in particular that of defeated Germany.¹⁰⁵ While the US government's involvement in propagating their politico-economic model abroad originated in the aftermath of World War I, in the early Cold War, growing concern with security policy was reflected in the increasing importance attached to the promotion of a democratic and capitalist society model.¹⁰⁶ Accordingly, US governmental agencies and officials in the US and Europe were engaged in promoting democratic values and a pluralistic society model in the American style. By

¹⁰⁵ See for example Tony Smith, *America's Mission. The United States and the Worldwide Struggle for Democracy in the Twentieth Century*, Princeton: Princeton University Press, 1994, pp. 146-76; cf. further Richard Aldrich, *The Hidden Hand. Britain, America and Cold War Secret Intelligence*, Woodstock, New York: The Overlook Press, 2002; Berghahn, *America and the Intellectual Cold Wars*; Michael Hochgeschwender, *Freiheit in der Offensive? Der Kongreß für kulturelle Freiheit*, Munich: Oldenbourg, 1998.

¹⁰⁶ Frank Schumacher, *Kalter Krieg und Propaganda. Die USA, der Kampf um die Weltmeinung und die ideelle Westbindung der Bundesrepublik Deutschland, 1945-1955*, Trier: Wissenschaftlicher Verlag Trier, 2000, pp. 41-49.

the same token, the US government controlled the promotion of a specific American self-image.

Two major US policies provided an important backbone for informal transatlantic co-operation during the Schuman Plan negotiations: the Marshall Plan and various policies subsumed under the US occupation policy for Germany. To administer and implement these policies, new governmental organizations were established. These organizations in turn formed the basis for transatlantic co-operation and ultimately, served as one important source for policy network formation at the Schuman Plan conference. To explore the conditions for network formation it is therefore necessary to sketch the governmental organizations that administered the Marshall Plan and US occupation policies in Germany (2.2). Against this backdrop, one transatlantic policy network that was centred at the US Embassy in Paris will be identified and analyzed (2.3). To understand the role that Monnet and McCloy played for the formation and operation for this policy network, the next sub-chapter will deal with the multiple functions of these two transatlantic policy entrepreneurs (2.4). At the same time, this sub-chapter provides the link between the policy network centred at the US Embassy and further actors handling the Schuman Plan within the larger US foreign policy system. The investigation of the US foreign policy system helps not only to identify further US governmental actors who played a role in the negotiations and transatlantic links, which have not been acknowledged in literature, but also to sketch the boundaries for transatlantic co-operation and policy network formation (2.5, 2.6). A second core policy network, composed predominantly of academic experts, was closely affiliated with the German delegation (2.7). By focusing, in turn, on the officially designated

conference working groups, the notion that specific forms of policy expertise were marginalized for specific reasons will be analyzed. What emerges is a refined picture of policy- and decision-making at the Schuman Plan conference, which lastly will be contextualized within the broader framework of societal support for the French government's initiative of 9 May 1950 (2.8).

2.2 A framework for transatlantic policy network formation: US agencies in post-war Europe

The Marshall Plan represented the US government's most visible and comprehensive attempt at promoting the political and economic integration of (western) Europe. In a speech at Harvard University on 5 June 1947, US Secretary of State George C. Marshall first publicized the idea of a US supported European recovery programme. Marshall did not present a ready-made plan, but emphasized that the Europeans needed to take the initiative: to receive American aid, Europeans were to co-operate and to formulate a joint economic programme. Marshall's call was open to all European countries. Although the Marshall Plan focused on the economic side by providing US government loans for European reconstruction, it contained a political component. Crucially, the US government's economic policy initiative reflected the idea that economic co-operation between European states would create interdependency and thus economic and political stability. At the same time, the initiative embraced restoration on the European level and with it the idea of European integration.¹⁰⁷

¹⁰⁷ For an online transcript of the Marshall speech see <http://www.america.gov/st/texttrans->

Two organizations were set up to administer the Marshall Plan in Europe and the US, respectively. One can argue that each of these organizations represented a potential source for the formation of policy networks in 1950-51. Sixteen western European states acted on Marshall's proposal for a European recovery scheme and on 16 April 1948 established the Organization for European Economic Cooperation (OEEC). The headquarters of the OEEC were set up in Paris and French official Robert Marjolin became the organization's first secretary general. The OEEC was instrumental in assessing European requirements for US aid and devising a system for regular consultation. However, as an intergovernmental organization, the OEEC did not integrate the European economies as the Truman government had hoped and fell short of fulfilling its aspirations to truly advance European integration. The government of the United Kingdom (UK), in particular, was not prepared to compromise sovereignty to create a European customs union or a federation.¹⁰⁸

The partner organization of the OEEC was the Economic Cooperation Administration (ECA). Also founded in April 1948, the ECA was based in Washington and managed the Marshall Plan on the US side. The ECA and its chief administrator (1948-50), Paul G. Hoffman, promoted the unification of European markets through the OEEC as the basis for a stable western Europe:

[I]f with the help of ECA, OEEC grows into an effective instrumentality for European economic unity during the Marshall Plan period, further integration of

english/2007/May/20070521153224MVyelwarC0.4675867.html (accessed 1 March 2008).

¹⁰⁸ Cf. Hogan, *The Marshall Plan*; Milward, *The Reconstruction*, chapter 3, pp. 90-125; cf. also the comprehensive accounts of Gérard Bossuat, *La France, l'aide américaine et la construction européenne, 1944-1954*, 2 vols, Paris: Comité pour l'Histoire Économique et Financière, 1992; and idem., *L'Europe occidentale à l'heure américaine. Le Plan Marshall et l'unité européenne 1945-52*, Paris: Editions Complexes, 1994.

the free nations along political and defense lines, as well as economic, might naturally follow.¹⁰⁹

Another institution created within the framework of the Marshall Plan, which had the potential to facilitate the formation of policy networks was the Office of the Special Representative to Europe (OSR). The OSR was at the top of the ECA administration in Europe and headed by the Special Representative to Europe (who had the rank of ambassador), a position first held by the former US Ambassador to the Soviet Union (1943-6) and the UK (1946) and former Secretary of Commerce (1946-8), Averall Harriman (1948-50).

Also belonging to the administrative framework of the ECA were the individual ECA missions in the recipient states of Marshall Plan aid. One such ECA mission came to be particularly significant as a source for network formation at the Schuman Plan conference: the ECA mission to France. Crucially, in France the implementation of the European-wide recovery programme of the Marshall Plan created institutional links with the Commissariat général du plan, the French Planning Commission. This national agency was responsible for implementing the Plan de modernisation et d'équipement de l'Union française, the French national programme for modernization and reconstruction, which is sometimes also referred to as Monnet Plan or French Plan. The programme was proposed in 1945 by Monnet and was implemented from 1947-52. An arrangement for industrial modernization, the Monnet Plan concentrated on six 'basic' sectors of the economy: coal, iron and steel, electricity, cement, agricultural machinery and

¹⁰⁹ Letter Hoffman to Edward Weeks, Editor, *Atlantic Monthly*, 25 January 1949, Personal papers Paul G. Hoffman, Harry S. Truman Presidential Library, Box 2.

transport.¹¹⁰ Starting in 1948, the Monnet Plan was financed by capital made available to the French government under the Marshall Plan. As a result, this funding arrangement required regular consultations between ECA and OEEC officials with the administrators of the French Planning Commission.

An equally important source for the formation of transatlantic policy networks was the US occupation administration in Germany. US occupation policies for the reorganization of the German heavy industries even provided a link to the Schuman Plan conference. Jointly, the reorganization of the German heavy industries and the democratization of German society formed the cornerstones of the US occupation programme in Germany. With the reorganization of the heavy industries the US government hoped to break the German potential for aggression, on the one hand, and to establish the basis for a competitive market economy, on the other. The representatives of the German heavy industries resisted these policies, however. Moreover, in early 1951, the successful conclusion of the Schuman Plan negotiations came to depend on resolving the problem of the deconcentration and de-cartelization of the German heavy industries. In other words, the Schuman Plan made the implementation of German deconcentration and de-cartelization a pre-requisite for the acceptance of the draft treaty by the negotiating parties. From the beginning on, therefore, US occupation administration officials in Germany took an interest in the proceedings on the Schuman Plan. In charge of the USHICOG was McCloy who in 1949 took over from General Lucius D. Clay. The transition from military to civilian government went parallel with

¹¹⁰ See Philippe Mioche, *Le Plan Monnet. Genèse et élaboration 1941-1947*, Paris: Publications de la Sorbonne, 1987; Irwin Wall, 'Jean Monnet, the United States and the French Economic Plan', in: Douglas Brinkley, Clifford Hackett (eds.), *Jean Monnet: The Path to European Unity*, New York: St. Martin's Press, 1991, pp. 86-113.

the establishment of the Federal Republic of Germany on 21 September 1949. The Occupation Statute and the Charter of the Allied High Commission for Germany (HICOG), which governed the relationship between the HICOG and Germany, came into force simultaneously.¹¹¹ Further, High Commissioner McCloy served as the head of the ECA mission in Germany.¹¹²

Another institution that necessitated intergovernmental consultations between US and European actors was the International Authority on the Ruhr (IAR). Created in 1949 to allocate the coal, coke and steel of the Ruhr region, the IAR just like the HICOG provided a forum for interaction between state actors on questions regarding the future economy of Germany and therefore also represented a potential source for policy network formation. In the HICOG and the IAR, US officials co-operated with the representatives of the French and the UK governments.

In sum, the agencies created in the aftermath of World War II underline that 1945 represented a turning point in transatlantic governmental relations. A network of dense and intensified formal transatlantic collaboration served as the backbone for more informal transatlantic co-operation at the Schuman Plan conference. The US government's commitment to staying in Europe, therefore, provided a framework, in which previously existing, partly informal relationships between individual American and European actors were activated. To grasp what happened at the interface of formal

¹¹¹ 1st Quarterly Report on Germany, 21 September-31 December 1949, 21 September 1949, in: Erika J. Fischer, Heinz-D. Fischer (eds.), *John McCloy. An American Architect of Postwar Germany. Profiles of a Trans-Atlantic Leader and Communicator*, Frankfurt et.al.: Peter Lang, 1994, pp. 321-324; Elmer Plischke, *History of the Allied High Commission for Germany: Its Establishment, Structure and Procedures*, Bonn: Historical Division, U.S. High Commissioner for Germany, 1951, pp. 1-28.

¹¹² Schwartz, *America's Germany*, pp. 40-2.

and informal transatlantic co-operation, the following detailed analysis of the activities of individual actors constituting a working group centred at the US Embassy in Paris is informed by three considerations. Firstly, a number of shared experiences, including the partial US socialization of European actors, the collective experience of World War II and the shared professional background of actors, provided crucial incentives for informal co-operation. Secondly, actors who had co-operated in the inter-war period and during World War II had established various forms of ‘interpersonal trust’¹¹³ and now were able to resume previous working relations. Finally, the commitment to advance European integration served as a shared policy paradigm for actors at the Schuman Plan conference.

2.3 A core policy network: the US Embassy working group

The ‘US Embassy working group’ was one of two transatlantic policy networks that contributed significantly to the treaty negotiations. An informal, but highly integrated and stable policy network, the working group was made up of individual US actors William Tomlinson, Stanley Cleveland, Robert Bowie and George Ball and French actors Pierre Uri, Etienne Hirsch and Paul Reuter. Among others, these state and non-state actors directly contributed to policy-making on the institutional framework and more importantly, the anti-trust provisions of the ECSC treaty. Accordingly, the US Embassy working group was cross-sectoral in scope, which to some extent reflected the

¹¹³ Cf. for an introduction into the varying notions of ‘trust’ and the relevant social science literature Marco Verweij, ‘Four Wrongs Can Make a Right: From Stocks of Social Capital to Competing Ways of Life’, in: *Politics & Policy*, vol. 35, no. 3 (2007), pp. 464-95, here esp. pp. 470-1.

intimate connection between political and economic objectives of contemporary US foreign policy programmes. But who were these actors and how did they become part of the policy network?

A pivotal role in the US Embassy working group was assumed by Tomlinson.¹¹⁴ Since 1948, he had represented the US Treasury in the US Embassy in Paris. At the same time, Tomlinson was the Director of Financial and Trade Affairs for the ECA mission to France and a financial advisor as well as a close collaborator of US Ambassador David E. Bruce. Bruce, previously the head of the ECA mission to France (1948-49), in a telegramme of 18 August 1950 referred to Tomlinson as the man who ‘...has been handling [the] question of [the] Schuman Plan here’.¹¹⁵ Cleveland, who had started working under Tomlinson as one of the members of a combined State Department-ECA-Treasury group in the autumn of 1949, in an interview, emphasized that Tomlinson was able to work with everyone.¹¹⁶ The involvement of Tomlinson and Cleveland in the Schuman Plan negotiations was backgrounded by the established working patterns between the ECA mission to France and the French Planning Commission. As key officials in the US administration in France, Bruce and Tomlinson collaborated with Commissioner General Monnet.

During the conference, Tomlinson was in contact with important members of the official delegations, among them Monnet who practically headed the French

¹¹⁴ For Tomlinson see Sherrill Brown Wells, ‘Monnet and “The Insiders”’: Nathan, Tomlinson, Bowie and Schaezel’, in: Clifford Hackett (ed.), *Monnet and the Americans*, pp. 198-228, here pp. 204-11.

¹¹⁵ Telegramme Bruce to Secretary of State, 18 August 1950, NARA, RG 59, 850.33/8-2450.

¹¹⁶ Interview Stanley Cleveland, Leonard Tennyson, 12 June 1981, USA, Fondation Jean Monnet pour l’Europe (FJM).

delegation;¹¹⁷ the Belgian head of delegation Max Suetens;¹¹⁸ and diplomat Ulrich von Marchtaler, the Secretary to the German delegation.¹¹⁹ In meetings with these European actors, Tomlinson stressed the significance that the US government attached to the supranational principle and the introduction of a free market economy in the area of coal and steel. In March 1951, Tomlinson prepared two memoranda regarding the High Authority's financial powers and the possibility to make available ECA funds to the Schuman Plan, respectively.¹²⁰ Once the ECSC was established in 1952, Tomlinson worked as deputy US Special Representative to the High Authority directly under Bruce.¹²¹ Contrary to Tomlinson, Cleveland had not co-operated with Monnet, when they met on 9 May 1950 following the Schuman Plan declaration that Cleveland then translated into English.¹²² At the negotiations, Cleveland functioned as the essential link to the wider US foreign policy apparatus and kept Bruce informed on the progress of the proceedings.¹²³

¹¹⁷ Note, 19 July 1950, FJM, Personal papers Jean Monnet, Le plan Schuman (AMG), 5/6/1.

¹¹⁸ Telegramme Bruce to Secretary of State, 9 December 1950, NARA, RG 59, 850.33/12-950.

¹¹⁹ Gesprächsaufzeichnung Marchtaler für Hallstein, 13 November 1950, Politisches Archiv des Auswärtigen Amtes (PA AA), Sekretariat für Fragen des Schuman Plans (B 15) 114.

¹²⁰ Memoranda, 22 and 24 March 1951, FJM, AMG 26/3/23bis and AMG 26/3/23ter. Cf. also the two memoranda AMG 15/4/4 and 15/4/6 in the source edition *Jean Monnet, Robert Schuman Correspondance 1947-1953*, Lausanne: Fondation Jean Monnet pour l'Europe, 1986, pp. 109-12.

¹²¹ Cf. Brown Wells, 'Monnet and "The Insiders"', p. 210. The title 'special representative' was chosen because US Secretary of State John Foster Dulles opposed the idea of having more 'ambassadors' to Europe.

¹²² Interview Cleveland.

¹²³ See for example Cleveland to the Ambassador, Report of the Conference of Six Working Group on Wages and Social Questions, 16 August 1950, NARA, Records of the Special Representative in Europe (RG 469), Office of the General Counsel, Subject Files 1948-53, 1950-53, Box 30.

Tomlinson and Cleveland co-operated closely with key members of the French delegation Uri and Hirsch, both of whom were top officials in the French Planning Commission. Remembering their discussions, Cleveland described Hirsch as a 'quiet, contemplative, wise man' and Uri as 'not always wise, [but] absolutely brilliant'.¹²⁴ A trained ingénieur civil des mines, or mining engineer, Hirsch had been active in the resistance against the Vichy regime and the German occupation and first met Monnet in 1943, when the latter served as the Chairman of the Anglo-French Coordinating Committee in London. Together Hirsch and Monnet contributed to preparing the organization of supplies for France after the liberation.¹²⁵ On behalf of the French Supply Council, Hirsch in April 1944 accompanied Monnet to Washington.¹²⁶ As head of the technical division in the French Planning Commission (1946-49) Hirsch coordinated the co-operation of the various committees, which were set up for modernization, and was involved in drawing up the first modernization plan for France. From 1949-52 he served as deputy commissioner general. During the inter-state conference Hirsch provided a central link to French domestic policy-making and was responsible for handling the French industry representatives. Among others, these industrialists included Jules Aubrun, President of the Chambre Syndicale de la Sidérurgie, the Coal and Steel Union, and René Damien of the Union sidérurgique du Nord de la France, the Northern chapter of the Coal and Steel Union. Hirsch also

¹²⁴ Interview Cleveland.

¹²⁵ Catherine Previti Allaire, 'Les archives d'Etienne Hirsch à Florence. Sources d'un itinéraire européen', www.eui.eu/ECArchives/pdf/HIRSCH2.pdf (accessed 1 March 2008), 1996, here pp. 3-8. See also Etienne Hirsch, *Ainsi va la vie*, Lausanne: Centre de Recherches Européennes, 1988.

¹²⁶ Visa for the US, 13-25 April 1944, Historical Archives of the European Union (HAEU), Personal papers Etienne Hirsch (EH) 65.

collaborated with Paul Gardent, a fellow delegation member as well as member of the Cabinet of the French Minister for Industry and Commerce Jean-Marie Louvel, in the Hirsch-Gardent Committee. Composed of representatives of the Ministry of Industry and Commerce, the State Secretariat for Economic Affairs and the Planning Commission the committee in a series of meetings between December 1950 and February 1951 explored the effects of the Schuman Plan on the French coal and steel industry.¹²⁷

Uri had joined the Planning Commission in 1947 as an economic and financial expert. His decision to actively contribute to the preservation of peace and prosperity after World War II reflected a growing disillusionment with the limited impact of academics on policy-making. Following a study visit to Princeton University,¹²⁸ Uri taught philosophy at school as well as at the University of Reims until 1940 when the Vichy Regime issued the Décret contre les Juifs, the decree that excluded Jews from certain professions. On losing the state permission to teach Uri took up the study of economics.¹²⁹ From 1947 to 1951 he held a professorship at the French School for Public Administration. Just like Hirsch, Uri was a valued fellow worker of Monnet at the Planning Commission. Together Hirsch and Uri were involved in drafting the original Schuman Plan declaration in April 1950, reflecting their well-established working relationship with Monnet.

¹²⁷ Procès-verbal de la réunion, 29 December 1950, Archives nationales (AN), Archives du Commissariat du Plan (81 AJ) 135, Folder 17; Rapport sur les travaux du Comité Hirsch-Gardent, 21 February 1951, *ibid.*

¹²⁸ Pierre Uri, *Penser pour l'action. Un fondateur de l'Europe*, Paris: Odile Jacob, 1991, pp. 21-2.

¹²⁹ Katja Seidel, 'Gestalten statt Verwalten: Der Beitrag von Europabeamten zur europäischen Integration', in: *Historische Mitteilungen*, vol. 18 (2005), pp. 136-49, here p. 137.

Moreover, through their work for the Planning Commission, Hirsch and Uri had their own set of external contacts. In an OEEC meeting in 1948, for example, they met with Dirk Spierenburg who at the Schuman Plan conference was the head of the Dutch delegation.¹³⁰ Both Hirsch and Uri played a vital role in the conference working groups that were set up to provide an effective structure for consultations among experts outside the meetings of national delegations.¹³¹ Hirsch chaired the working group on prices, production and investments, in which Uri also participated. Uri, moreover, was a member of the working group on commercial policy and managed the group on salaries and social questions. He also participated in meetings with German and US actors on the de-cartelization and deconcentration of the Ruhr.¹³²

Another member of the working group, Reuter, was also involved in drafting the Schuman Plan declaration with Uri and Hirsch.¹³³ Reuter participated in the negotiations on behalf of the French delegation until October 1950¹³⁴ and chaired the sub-committee of legal experts that assisted the conference working group on institutions. Reuter's most significant contribution to the draft treaty, however, occurred during the period of agenda setting before the opening of the conference on 20 June 1950.¹³⁵ A professor of international law at Aix-en-Provence and Paris and a legal advisor to the French Foreign

¹³⁰ Groupe de travail du programme à Long Terme (France), OEEC, 7 November 1948, HAEU, EH 9. Uri is spelled Uhry in the source.

¹³¹ Conversations sur le plan Schuman: Séance restreinte du mardi après-midi, 4 July 1950, AN 81, AJ 131, Folder 2.

¹³² Cf. various documents in AN 81, AJ 137, Folder 3.

¹³³ On Reuter see Antonin Cohen, 'Le plan Schuman de Paul Reuter. Entre communauté nationale et fédération européenne', in: *Revue française de science politique*, vol. 48, no. 5 (1998), pp. 645-63.

¹³⁴ Interview Paul Reuter, Antoine Marès, 7 August 1980, France, FJM.

¹³⁵ Paul Reuter, Le schema de traité, 16 May 1950, FJM, AMG 2/4/3; idem., Observations sur le schema de traité, 14 June 1950, FJM, AMG 2/4/16.

Ministry, Reuter had met Monnet in 1944 through the prominent French Christian democrat Pierre-Henri Teitgen.¹³⁶ A former Resistance member Teitgen belonged to the circles around Robert Schuman and was affiliated with the law faculty at Nantes. After World War II, Teitgen became intimately involved in the drafting and the political engineering of the European Convention of Human Rights in the Council of Europe, which he regarded the most appropriate forum for advancing European integration.¹³⁷ Later, Reuter was in touch directly with Schuman, too.¹³⁸ Whilst Reuter apparently did not leave any personal papers, in the records explored no evidence could be found to support the notion that Reuter either consulted academic colleagues or drew on previous professional contacts with regard to the Schuman Plan negotiations. Moreover, in contrast to Tomlinson, Cleveland, Uri and Hirsch, Reuter was little established in the Paris environment of intergovernmental meetings. In October 1950, Maurice Lagrange, a lawyer at the French Conseil d'Etat, took over from Reuter his function as a legal expert to the French delegation. In an interview many years later Lagrange remembered to have become involved in the Schuman Plan on 12 October 1950.¹³⁹ A document, which listed a number of documents to be composed for the French government until 23 June 1950, however, already assigned to Lagrange the institutional part.¹⁴⁰

¹³⁶ Interview Reuter.

¹³⁷ Mikael Rask Madsen, 'From Cold War Instrument to Supreme European Court: The European Court of Human Rights at the Crossroads of International and National Law and Politics', in: *Law & Social Inquiry*, vol. 32, no. 1 (2007), pp. 137-59, here pp. 141-3.

¹³⁸ Letter Reuter to Schuman, 30 August 1952, FJM, Personal papers Robert Schuman, 3/1/327.

¹³⁹ Interview Maurice Lagrange, Antoine Marès, 28 September 1980, France, FJM.

¹⁴⁰ Exposé des motifs, Documents to be written for the government until 23 June 1950, undated, FJM, AMG 2/2/3bis.

American lawyer Ball came to be introduced into the US Embassy working group through his earlier and continuous collaboration with Monnet. Ball and Monnet had first met in 1942 or 1943 when Ball was the operating head of the General Counsel's Office of the Lend Lease administration and Monnet was working with the British Supply Council.¹⁴¹ Ball's origins were in the American Midwest, in Des Moines, Iowa, and he had obtained both his bachelor and law degrees from a Midwestern institution, Northwestern University in Illinois. Following his attachment to the Farm Credit Administration and then the US Treasury, where he gained first-hand experience with the New Deal policies that he championed, Ball returned to the Midwest to practice law. However, his friend, the lawyer and future Democratic presidential candidate Adlai Stevenson convinced Ball to return to Washington during the war.¹⁴² In 1945, after an assignment as a civilian member on the board of the US Strategic Bombing Survey, whose task it was to evaluate the effectiveness of the Allied air strikes, Ball served under Monnet as general counsel of the French Supply Council. On behalf of the French government, Monnet retained Ball's law firm Cleary, Gottlieb, Steel and Hamilton.¹⁴³ In his memoirs, Ball recounts how he became involved in the Schuman Plan negotiations:

I felt relieved rather than surprised when Monnet telephoned me on June 18 with his familiar request: "Be here tomorrow." Because my plane was delayed, I did not arrive until evening at the rue de Martignac, where I found Monnet, Pierre Uri, ...Etienne Hirsch, .. and Professor Paul Reuter.¹⁴⁴

¹⁴¹ David L. DiLeo, 'Catch the Night Plane for Paris: George Ball and Jean Monnet', in: Hackett (ed.), *Monnet and the Americans*, pp. 141-169, here p. 144.

¹⁴² Cf. George Ball, *The Past has Another Pattern. Memoirs*. New York and London: W. W. Norton & Company, 1982, pp. 1-68.

¹⁴³ Ibid. pp. 69-83, esp. p. 77; cf. also Memorandum from Mr. George W. Ball, General Counsel, to the President of the French Supply Council [Leon Kaplan] concerning Export-Import Bank loan agreement, 18 Oct 1945, FJM, Personal papers Jean Monnet, Le plan de modernisation (AMF) 3/3/12.

¹⁴⁴ Ball, *The Past*, p. 84.

18, rue de Martignac was the seat of the French Planning Commission where most official meetings of the Schuman Plan conference took place. At the time of the negotiations, Ball was commuting between Paris and New York on behalf of his law firm. His correspondence and diaries indicate that Ball was involved with among others, Hirsch, Uri and Reuter, in working on the institutional framework (July 1950) and on the anti-trust articles (November-December 1950).¹⁴⁵

Ball's presence at the negotiations was not officially recognized during the earlier part of the conference. This had changed, however, by the time Ball returned to Europe in late October 1950: 'I am here officially this time as my designation as an advisor to the French Delegation was cleared with Mr. Schuman before my departure from the States'.¹⁴⁶ Contrary to Tomlinson and Cleveland, therefore, Ball was not affiliated with the US government. However, Ball attempted to use the fact that he was American to act as a broker for the French government. On 7 September 1950, Ball visited Wayne G. Jackson, the State Department official in charge for UK and Ireland Affairs, to convey the French government's concerns regarding a potential decision to rearm Germany, which was triggered by the outbreak of the Korean War on 25 June 1950. Jackson was part of the US delegation preparing the scheduled Council of Foreign Ministers' conference in New York in September 1950 in the course of which US

¹⁴⁵ Diaries 1950, Personal papers George Ball, Seeley G. Mudd Library, Princeton University, 43.

¹⁴⁶ Ball to Leo Gottlieb, 28 November 1950, *ibid.*; Diaries 1950, *ibid.*

Secretary of State Dean Acheson would indeed propose to bring a rearmed Federal Republic into the North Atlantic Treaty Organization (NATO).¹⁴⁷

Another member of the US Embassy working group was the head of the Office of the General Counsel of the US High Commissioner for Germany (1950-52), Harvard law professor Robert R. Bowie. A graduate of economics (Princeton) and law (Harvard), Bowie had decided against a Wall Street career and instead returned to his hometown Baltimore to practice law, before in 1942 he got involved with the Legal Division of the Pentagon, the US Defense Department. Serving under General Clay, Bowie for the first time visited Germany in 1945-46 and after leaving the Army joined the faculty at Harvard in 1946. He owed his appointment to the US High Commission to Ben Shute, a member of the team of High Commissioner McCloy, who had recommended him. Shute had been Bowie's classmate at Harvard Law School and a collaborator for the Harvard Law Review.¹⁴⁸ After McCloy had approached him in August 1949,¹⁴⁹ Bowie negotiated a leave of absence from his teaching duties at Harvard Law School and left for Germany in early 1950.¹⁵⁰ As head of the Office of the General Counsel, Bowie was, among others, in charge of the reorganization of the German heavy industries. As early as 30 June 1950, Bowie drafted a memorandum regarding the 24 June 1950 working

¹⁴⁷ Office memorandum Wayne G. Jackson to G.W. Perkins, 7 September 1950, NARA, RG 59, 850.33/9-750.

¹⁴⁸ Interview Robert R. Bowie, Brigitte Leucht, 13 July 1999, Baltimore, MD, USA.

¹⁴⁹ Letter Bowie to McCloy, 16 September 1949, Personal papers John McCloy, Archives and Special Collections, Amherst College Library, HICOG Correspondence/+HC5/#28.

¹⁵⁰ Dean Erwin N. Griswold to HICOG, McLain, 16 September 1949, Personal papers McCloy, 13B/+HC5/#28; Bowie's leave of absence was in fact extended to 1 December 1951. See Associate Dean David F. Cavers to John J. McCloy, 7 August 1951, *ibid.* and for the reply John J. McCloy to Associate Dean David F. Cavers, 16 August 1951, *ibid.*

document the French delegation presented to the other delegations.¹⁵¹ According to McCloy, Bowie returned from Paris 'after full discussion with Monnet in which Tomlinson participated...'¹⁵² Bowie contributed to the treaty by preparing a draft for the anti-trust articles. In a letter to McCloy, George Radin, an attorney for the Deutscher Kohlenverkauf (DKV), the agency centralizing the sales of Ruhr coal, complained about the negative consequences for Germany of Bowie's involvement in the Schuman Plan.¹⁵³ Further, Bowie together with McCloy played a vital part in the successful conclusion of the Schuman Plan through facilitating the resolution of the problem of Germany's heavy industries (January-March 1951).

In summary, in the US Embassy working group US state and non-state actors cooperated with French actors on the draft treaty. The policy network was composed predominantly of actors who, at the time of the Schuman Plan conference, were affiliated with governmental agencies engaged in the reconstruction of post-war Europe and the occupation of post-war Germany. With the exception of Ball – who functions as the group's only non-state actor – all individual actors presented here were at the time of the negotiations working for a US or French governmental agency. While Ball had previously worked for the US government, this was not the case in 1950-51. However, empirical evidence on the US Embassy working group indicates the limited usefulness of the distinction between state and non-state actors, at least for the historical analysis.

¹⁵¹ Memorandum Tomlinson to Stokes, 30 June 1950, NARA, RG 469, OSR, Box 30.

¹⁵² Telegramme McCloy to Secretary of State, 3 July 1950, NARA, RG 59, 850.33/7-350; Telegramme McCloy to Secretary of State, 9 December 1950: 'Bowie participated informally', NARA, RG 59, 850.33/12-950.

¹⁵³ Letter Radin to Geoffrey Lewis, Bureau of German Affairs, 12 January 1951, and attached copy of Letter Radin to McCloy, 11 December 1950, NARA, RG 59, 850.33/1-1251.

Actors might have been affiliated with a governmental agency but it would be oversimplifying the matter to argue that they were necessarily and always acting on behalf of these agencies. In contrast, it appears much more helpful to assert that the US Embassy working group shared important characteristics of a distinct type of a policy community, namely an epistemic or expert community.¹⁵⁴ Such an assertion underlines that individual actors became part of the policy network not only because of their affiliation with a governmental agency, but also as a result of their expertise. For example, it was Bowie's expertise that provided the basis for his appointment as head of McCloy's Office of the General Counsel. The notion of the expert community is further underscored by the fact that in 1950-51 Bowie, Reuter and Uri were affiliated with an academic institution.

Policy expertise is one key variable that helps explain the formation and operation of the US Embassy working group. Besides, the fact that French actors Hirsch, Monnet and Uri, had first-hand experience in the US, where they had been partially socialized, needs to be considered, especially with regard to the smooth operation of this transatlantic policy network. Almost certainly, these French actors were well equipped to negotiate with US actors although primary sources are silent on the actual advantage or impact of this expertise in the negotiations. Lastly, that the individual actors of the US Embassy working group collaborated and directly contributed to the draft treaty was in part the result of the initiative of Monnet and McCloy whose role in the negotiations will now be assessed.

¹⁵⁴ Cf. Haas, 'Introduction'.

2.4 Policy entrepreneurs: Monnet and McCloy

At the Schuman Plan conference, Monnet and McCloy fulfilled two distinct functions. They, firstly, acted as facilitators for the US Embassy working group by supporting the co-operation of individual actors with policy expertise. Monnet in his wartime jobs – with the Anglo-French Coordinating Committee in London, the British Supply Council in Washington and the French Supply Council – had co-operated with Hirsch, Ball and Reuter. Uri and Monnet had worked together in the French Planning Commission, which in turn provided the institutional basis for the collaboration with Tomlinson and Bruce. McCloy supported Bowie's involvement. Consequently, the informal policy network owed its existence not only to the framework of US policy-making in western Europe after 1945, but also to the leadership of Monnet and McCloy.

From a methodological perspective, it is not possible to establish the variable that was decisive for the formation of the policy network: the policy expertise of its participants, the framework of institutionalized patterns of co-operation between various governmental agencies or the facilitating role of Monnet and McCloy. If one asked the question of whether the policy network would have developed without the initiative of Monnet and McCloy, the answer would almost certainly be in the negative. However, the same would hold true if one replaced the initiative of the two policy entrepreneurs in this question with either one of the other two variables. It is argued, moreover, that even if one could identify the decisive variable or, at the least, arrive at a reliable prioritization of these variables, this would not enhance our understanding of informal transatlantic policy-making at the Schuman Plan conference. Instead the empirical reconstruction of these variables has supported that the notion that policy entrepreneurs

depend on networks to put their abilities into practice¹⁵⁵ is crucial to understanding the conditions for informal policy-making.

To comprehend why Monnet and McCloy initiated the formation and sustained the operation of the policy network one needs to consider their previous professional association. Monnet and McCloy first met at some point after December 1924 when McCloy, a graduate of Harvard Law School, had joined the Cravath law firm. At that time Monnet was affiliated with the New York investment bank firm Blair and Company and specialized in corporate reorganizations. Their professional and personal relationship intensified when McCloy represented the Cravath firm in Paris in 1930.¹⁵⁶ Also associated with the Cravath law firm since the 1920s, was Chester McLain, Bowie's predecessor as general counsel.¹⁵⁷ Links of the Cravath firm to the US foreign policy service went back to the inter-war years, however. In fact, Paul Cravath was the first director and vice-president of the New York-based think-tank Council of Foreign Relations (CFRS).¹⁵⁸ Founded in 1921 the CFRS closely collaborated with US State Department officials in the formulation of foreign policy after World War II.¹⁵⁹ McCloy, too, had become a member of the CFRS in 1939.

Like Monnet, McCloy in 1950 could look back on an outstanding career. During World War II he served as Under Secretary of War to Henry Stimson and again collaborated with Monnet. He accompanied President Truman to the Potsdam

¹⁵⁵ Cf. Christopoulos, 'Relational Attributes', p. 758.

¹⁵⁶ Schwartz, *America's Germany*, p. 172.

¹⁵⁷ Paul Hoffman to McLain, 6 April 1950, Personal papers Hoffman, Box 2.

¹⁵⁸ Bird, *The Chairman*, pp. 63, 108.

¹⁵⁹ Cf. Michael Wala, "'Ripping Holes in the Iron Curtain": The Council on Foreign Relations and Germany, 1945-1950', in: Diefendorf, Frohn, Ruhpieper (eds.), *American Policy*, pp. 1-20.

Conference in July 1945. From 1947-49, he held the position of first President of the International Bank for Reconstruction and Development, the World Bank. When McCloy transferred from the World Bank to the USHICOG in 1949, he had contacts to US law firms and banks as well as the CFRS, a non-governmental organization. Among his friends in Europe were high-ranking US foreign policy officials Bruce, Harriman and the US Ambassador to the UK, Lewis Douglas, who was married to McCloy's sister-in-law. Moreover, in 1944 McCloy had made the acquaintance of French official Hervé Alphand.¹⁶⁰ As financial attaché at the French Embassy in Washington, in 1940, Alphand had also co-operated with Monnet.¹⁶¹ From 1945-49, Alphand headed the economic division in the French Foreign Ministry. In 1950, he was the French ambassador to OEEC and NATO (until 1955) as well as a member of the French delegation to the Schuman Plan conference, at least in its early stages.¹⁶²

With his professional experience, McCloy was representative of a group of principal foreign policy actors of the Truman administration with a background in law practice and/or business. Prominent actors with a business background included Hoffman, Harriman and Under Secretary of State Robert Lovett (1947-49).¹⁶³ At the least, McCloy's earlier career influenced his style as High Commissioner, especially when contrasted with that of his predecessor General Clay: whereas Clay

¹⁶⁰ Note Hervé Alphand on a conversation with A. Harriman, 15 April 1949, Ministère des affaires étrangères (MAEF), Direction des affaires économiques et financières, Service de coopération économique 1945-1966 [DE-CE], Communauté politique européenne [CPE], 577, Dossier général: 1948-52.

¹⁶¹ Interview Hervé Alphand, Roger Massip, 17 June 1981, FJM.

¹⁶² Alphand comes up in a list dated 22 June 1950, but no longer appears in a list of September 1950. Cf. PA AA, B 15, 53 and 57, respectively.

¹⁶³ Eric Sevareid, Analysis of Hoffman's success in government on the leaving of Hoffman, CBS (transcript), 25 September 1950, Personal papers Hoffman, Box 21.

...centralized authority under himself to a great extent and personally made decisions on a multitude of subjects, McCloy [was] primarily an executive and administrator, choosing the ablest men available, delegating to them and letting them make decisions.¹⁶⁴

The minutes of the weekly USHICOG staff conferences that McCloy chaired show few references to the Schuman Plan negotiations. Although there were links between the negotiations and the occupation administration McCloy did not make the Schuman Plan a USHICOG matter. In the staff meetings on 27 February and 6 March 1951, however, McCloy reported on the problems and progress of the separate negotiations on the reorganization of the German heavy industries.¹⁶⁵ When McCloy together with Bowie helped the conclusion of these negotiations he not only acted as a facilitator. Unlike Monnet he also directly contributed to the draft treaty.

Through working together on a number of occasions Monnet and McCloy had accumulated social capital between them.¹⁶⁶ Historical literature has established that Monnet's US socialization and McCloy's European socialization were one key to their successful co-operation.¹⁶⁷ Further, social scientists have recently demonstrated that social capital and policy entrepreneurship are intimately linked.¹⁶⁸ This link certainly applies to the interpersonal relationship of Monnet and McCloy whose initiative with regard to the US Embassy working group was based on accumulated social capital.

¹⁶⁴ 'McCloy's "Cabinet"', *Newsweek*, 15 August 1949, p. 28.

¹⁶⁵ Extracts from HICOG staff conference meetings, 1949-1950, NARA, Records of the US High Commissioner for Germany (RG 466), US High Commissioner, John J. McCloy.

¹⁶⁶ Cf. Verweij, 'Four Wrongs', pp. 466-8.

¹⁶⁷ Schröder, *Jean Monnet und die amerikanische Unterstützung*; Schwartz, *America's Germany*.

¹⁶⁸ Cf. Gunnar Lind Haase Svendsen, Gert Tinggaard Svendsen, *The Creation and Destruction of Social Capital. Entrepreneurship, Co-operative Movements and Institutions*, Cheltenham, Northampton/MA: Edward Elgar 2004.

Moreover, one could argue that the relationship of the two policy entrepreneurs was shaped through ‘bonding trust’, a form of trust that is also referred to as ‘communal’ or ‘relational trust’.¹⁶⁹ In a nutshell, actors ‘bond’ social capital when they regard themselves as similar and have a shared sense of identity and community.

Besides functioning as facilitators, Monnet and McCloy also fulfilled a second function at the Schuman Plan conference. Jointly, they acted as mediators between the US Embassy working group and high-ranking officials who exercised political influence. Monnet and McCloy first acted as mediators in the crucial period preceding the announcement of the Schuman Plan declaration. More specifically, they were instrumental in establishing the favorable reaction on behalf of the US government to the Schuman Plan proposal. En route to the Foreign Ministers’ and NATO meetings in London Acheson arrived in Paris on 7 May 1950. Later that day, Schuman introduced the US Secretary of State and Bruce to the idea of pooling the German and French coal and steel industries. At first, the two Americans were not impressed with the proposal. In line with the US policy preference for supranational European integration, the scheme seemed to counter another US policy preference, namely that for a free, competitive market economy. In his memoirs, Acheson recounts that only through ‘the patient coaching of Monnet and McCloy’, could he and Bruce be won for the plan:

All sorts of questions at once arose. To begin with, was the plan cover for a gigantic European cartel? We became convinced that this was not the intention of its founders and that provisions to guard against this result would be incorporated in the charter.¹⁷⁰

¹⁶⁹ See for the following distinctions in more detail Verweij, ‘Four Wrongs’, pp. 470-1.

¹⁷⁰ Dean Acheson, *Present at the Creation. My Years in the State Department*, New York: W. W. Norton & Company, 1969, p. 383. See also Telegramme Acheson to the President and Webb, 8 May 1950, NARA, Lot files (RG 59), 396.1 LO/5-1050, FRUS 1950 III, pp. 694-5.

Bonding trust not only characterized the relationship between Monnet and McCloy, however. Acheson and McCloy, too, could now make use of social capital. When Acheson worked for the State Department and McCloy for the War Department during World War II, the two actors teamed up frequently. Like McCloy Acheson had studied law at Harvard and had been a lawyer of international corporate law in the 1920s, although he had chosen Washington rather than New York for his practice.¹⁷¹ In their collective biography *The Wise Men* political journalists Walter Isaacson and Evan Thomas have portrayed Acheson and McCloy as two of the ‘architects of the American Century’ who controlled the transformation of the isolationist US foreign policy of the inter-war period into the internationalist post-World War II policy. Other members of the group included Harriman, Lovett, George Kennan, the author of the ‘Long telegramme’¹⁷² and architect of the US foreign policy doctrine of containment, and Charles Bohlen, the brain behind the Marshall Plan. While Isaacson and Thomas have been criticized for their undifferentiated treatment of the Democrats’ foreign policy development and for their insufficient consideration of the latest diplomatic history literature,¹⁷³ they demonstrate convincingly the scope of a network ‘...connecting Wall Street, Washington, worthy foundations, and proper clubs’.¹⁷⁴ In any case, Acheson did play a significant part in shaping the positive official response of the Truman

¹⁷¹ Walter Isaacson, Evan Thomas, *The Wise Men. Six Friends and the World They Made*, New York: Simon & Schuster, 1986, p. 125.

¹⁷² For excerpts of the ‘Long Telegramme’ see George Kennan, *Memoirs 1925-1950*, Boston: Little Brown, 1967, pp. 547-59.

¹⁷³ Walter A. McDougall, ‘Our Periclean Age: The Cold War as Collective Biography’, in: *Reviews in American History*, vol. 15, no. 4 (1987), pp. 686-90, here p. 689.

¹⁷⁴ *Ibid.* p. 29.

administration to the Schuman Plan proposal. That Acheson decided to go along with the Schuman proposal was even more remarkable considering that the US Secretary of State was a known Anglophile¹⁷⁵ and the Schuman Plan proposal with its supranational design highly unlikely to attract the support of the UK government. In sum, social capital enabled McCloy and Monnet to provide the link between the US Embassy working group, here Hirsch, Reuter, and Uri who were responsible for drafting the declaration, and Acheson.

What is more, Monnet and McCloy's mediating function between political decision-makers on the one hand and actors who directly contributed to the treaty on the other suggests that there was a connection between the function of actors in the conference and their age and/or career stage. While McCloy and Monnet were born in 1895 and 1888, respectively, the actors making up the US Embassy working group were with the exception of Hirsch, who was born in 1901, all born after 1909: Ball and Bowie were born in 1909, Reuter and Uri in 1911, and Tomlinson in 1918. In contrast to Monnet and McCloy, therefore, none of these actors was old enough to have served or even to have remembered World War I, for example. World War II on the contrary may have provided a varied yet shared experience for all actors, were they facilitators or part of the working group. However, since they were born in 1909 or later, younger actors could only have progressed to a certain stage in their career development by 1950, which determined their role in the negotiations as much as their longer-standing careers shaped the role of McCloy and Monnet. In short, while actors at the early stages of their careers were likely to contribute directly to the treaty, which confirms that policy

¹⁷⁵ Ibid. pp. 133, 136.

expertise was crucial for them to get involved in the negotiations, actors at the peak of their careers were more likely to have facilitating and mediating functions, like Monnet and McCloy, or to have considerable political authority like Acheson. Essentially, the notion of the link between age, career stage and function in the Schuman Plan conference sheds further light on the relationship between policy entrepreneurs and the networks they depended on.

Whilst in the literature Monnet, McCloy and the individual actors of the US Embassy working group have not been analyzed sufficiently within the wider context of US foreign policy-making in post-World War II Europe, the significance of other actors within the US foreign policy system has remained substantially unanalyzed and their contribution to the positive response of the Truman administration little acknowledged. In addition to showing the framework accounting for the prominent role of the US Embassy working group in the conference it is necessary therefore to trace the links to US foreign policy representatives outside this policy network.

2.5 Boundaries for transatlantic policy network formation: civil servants and the US guidelines on the Schuman Plan

An analysis of the communication structures within the US foreign policy system sheds new light on the formation of transatlantic policy networks. More specifically, such an analysis promises to show how, where and by whom boundaries for the formation of transatlantic policy networks were drawn. The development of the official US guidelines on the Schuman Plan serves a significant case in point to explore which additional governmental actors were handling the Schuman Plan. In response to the Schuman Plan

declaration and the acceptance of the plan by the US government, foreign policy officials simultaneously established necessary channels of communication and responsibilities for implementation. From the very beginning, the US Embassy in Paris functioned as a vital node within the foreign policy communication system.

That US representatives were well informed during all stages of the Schuman Plan conference, including the period of agenda setting, was the result of well-established communication between Monnet and high-ranking representatives of the US foreign policy apparatus in Europe. In the initial period of the negotiations, moreover, Alphant, informed US officials on the British position on the Schuman Plan.¹⁷⁶ Alphant's role in transatlantic communication became less important when his attention shifted to the question of German rearmament and the subsequent proposal for a European Defence Community (EDC), which resulted from the onset of the Korean War.¹⁷⁷ These events also explain why Acheson, who gave the Schuman Plan ample personal attention at its inception, increasingly focused on defence matters rather than European integration. Judging from his official journal the US Secretary of State did not follow in detail the proceedings in Paris.¹⁷⁸ Throughout the period of the negotiations, however, Acheson met regularly with French and UK foreign ministers and mutually relating officials such as Alphant and Bernard Clappier, Schuman's cabinet director and member of the French delegation, in the context of the Council of Foreign Minister and

¹⁷⁶ Telegramme Bruce to Department of State, 23 June 1950, NARA, RG 59, 850.33/6-2350.

¹⁷⁷ In fact, Alphant did not remember his role in the early stages of the Schuman Plan negotiations. He recalled, however, having played a part in the EDC negotiations. Cf. interview Alphant. Alphant's diaries do not provide any additional information. See Hervé Alphant, *L'étonnement d'être, journal 1939-1973*, Paris: Fayard, 1977.

¹⁷⁸ See the Memoranda of conversation, 1949-53, here January-July 1950, Personal papers Dean G. Acheson, Harry S. Truman Presidential Library, Box 66.

NATO meetings. While at these meetings high-ranking officials had to juggle the Schuman Plan next to NATO, for US officials at large there were no overlapping portfolios between Schuman Plan and NATO.

US Embassy officials, most importantly Bruce, Cleveland and Tomlinson¹⁷⁹ regularly informed their colleagues in the State Department, the Treasury and the ECA as well as the USHICOG and other US embassies in Europe about the proceedings. The 24 June 1950 working document presented by the French delegation, for example, which Bruce forwarded to Acheson, was further distributed to State Department official Jackson (Office of British Commonwealth and Northern European Affairs), McCloy, Hoffman and the US Ambassadors to London, Rome, Brussels and The Hague.¹⁸⁰ Bohlen, who was not only the chargé in France, but also an intimate friend of Acheson and McCloy's also occasionally reported on the Schuman Plan. More importantly, however, Bohlen provided the link to French Foreign Ministry officials in military and defence affairs. Among others, Bohlen informed the State Department about the announcement of the French government's initiative to establish a EDC.¹⁸¹ Additional units within the State Department that were informed about the Paris negotiations included the Office of European Affairs (George W. Perkins, Assistant Secretary for European Affairs and Roswell H. Whitman, Officer in Charge for Economic Affairs); the Bureau of German Affairs (Director Henry Byroade); and the Office of International Trade Policy (Raymond Vernon and John Leddy).

¹⁷⁹ Telegramme Paris Embassy to Secretary of State, 30 December 1950, NARA, RG 59, 850.33/12-2950.

¹⁸⁰ French Working document, 24 June 1950, Distribution of the translated document: Telegramme [6], NARA, RG 59, 850.33/5-2450, FRUS 1950 III, pp. 728-38.

¹⁸¹ Telegramme Bohlen to Secretary of State, 15 October 1950, NARA, RG 59, 762A.5/10-1550, FRUS 1950 III, pp. 377-80.

Assigning responsibilities for handling the Schuman Plan went hand in hand with developing the US government policy. A thorough debate among US administrators at a number of levels preceded the joint release of the official instructions to all US diplomatic officers on 2 June 1950. At the London Conference of Foreign Ministers, an Advisory Committee, composed of Under Secretary of State James E. Webb, Assistant Secretary for Economic Affairs Willard Thorp, Policy Planning Staff Director Paul Nitze and others, emphasized the 'immediate need to ensure that ECA works closely with the Department'.¹⁸² In explicitly stressing the need of these two organizations to co-operate, the Advisory Committee called for the prevention of differences within the US foreign policy system. Such differences had developed, for example, with regard to the ECA plans to initiate a European payments union. As former ECA official Richard M. Bissell recalled, the policy to encourage Europeans to lower trade and foreign exchange barriers among themselves without, having at the same time, to make their currencies fully and freely convertible into dollars had led to collision with the Treasury and to some extent, the economic division in the State Department. This policy only became an agreed strategy after Hoffman gave his widely published speech on European integration to the OEEC Council on 31 October 1949.¹⁸³

¹⁸² Summary notes on the meeting, 16 May 1950, NARA, RG 59, 396.1 LO/5-1650. The 'Under Secretary of State' is the principal deputy and chief assistant to the Secretary of State. Acting Secretary of State in the Secretary of State's absence was James E. Webb, 1949-1952.

¹⁸³ Interview Richard M. Bissell, Melbourne Spector, 11 September 1990, Georgetown University Library.

After 9 May 1950, ECA officials directly discussed with State Department officials the Schuman Plan proposal.¹⁸⁴ As head of the ECA, Hoffman was informed just like the high-ranking officials in the State Department, such as Perkins.¹⁸⁵ Further, the ECA Administrator communicated the official ECA position from Washington to the OSR in Paris and expressed concerns resembling those Acheson and Bruce had voiced in the very beginning, namely that the Schuman Plan would establish an international cartel.¹⁸⁶ Contrary to Acheson and Bruce, however, Hoffman could not rely on the mediation of Monnet and McCloy for reassurance. Although Hoffman and Monnet knew each other, the personal papers of Hoffman contain no evidence of the two actors being in contact with each other during the Schuman Plan conference. The head of the Marshall Plan abroad, Harriman, in contrast, discussed the Schuman Plan with, among others, Monnet in London and Hirsch in Paris.¹⁸⁷ Additional OSR officials engaged in developing the US directives included Deputy US Special Representative in Europe Milton Katz and I.N.P. Stokes, the Special Assistant for Operations.¹⁸⁸ Also contributing to the debate was Tomlinson.¹⁸⁹ What is remarkable, however, is that the development of the US guidelines was not restricted exclusively to US administrative circles, but also encompassed individual French and British civil servants.

¹⁸⁴ Telegramme Webb to Acheson, 11 May 1950, NARA, RG 59, 396.1 LO/9-1150, FRUS 1950 III, p. 697.

¹⁸⁵ Telegramme Bruce to the Secretary of State, 24 June 1950, NARA, RG 59, 850.33/6-2450, FRUS 1950 III, pp. 727-29.

¹⁸⁶ Telegramme Hoffman to OSR, 19 May 1950, NARA, RG 469, OSR, Box 30.

¹⁸⁷ Telegramme Harriman to Acheson, 20 May 1950, NARA, RG 59, 850.33/5-2050, FRUS 1950 III, pp. 702-4, here p. 702.

¹⁸⁸ Memorandum Stokes to Bonsal et.al., 19 May 1950, NARA, RG 469, OSR, Box 30.

¹⁸⁹ Office memorandum Cleveland to Stokes, 17 May 1950, *ibid.*

In the end, the US government would not be represented at the Schuman Plan conference. The question of introducing a US observer was addressed, however, in the preparation of the instructions. Subsequent to McCloy's proposal to appoint an official in the ECA mission to Germany as informal observer and advisor,¹⁹⁰ Monnet, in a special HICOG meeting discussed the Schuman Plan with McCloy, French Deputy High Commissioner for Germany Armand Bérard and Economic Adviser to the British High Commissioner for Germany Gordon Nevil Maccready. When Maccready championed the idea of a HICOG observer to the negotiations Monnet and Bérard opposed the suggestion, arguing that finally, the HICOG would have an opportunity to approve the treaty and that it would not help creating the impression Germany was being pressured in the conference. Further, French government representatives could keep the HICOG informed,¹⁹¹ which affirmed the significance of the USHICOG as a second node, next to the Paris Embassy, within the US foreign policy communication system. The incident also demonstrates, however, that Monnet and French official Bérard contributed to shaping the guidelines of the US government. Besides, it shows that, although their proposals were not always realized, UK officials through their affiliation with the HICOG participated in the agenda setting for the conference, too. In the end, the US instructions specified that to assure maximum acceptance of the plan by the 'European peoples' the US government would restrict their public statements to reaffirming their general position. Therefore, the 'US will not be a party to [the] negot[iation]s and will

¹⁹⁰ Telegramme Harriman to Acheson, 20 May 1950, NARA, RG 59, 850.33/5-2050, FRUS 1950 III, p. 702-4, here p. 704.

¹⁹¹ Telegramme US Secretary on the Allied High Commission for Germany (HICOG) General Secretariat (Frankfurt), Joseph E. Slater to Acheson, 23 May 1950, NARA, RG 59, 850.33/5-2350, FRUS 1950 III, pp. 705-9.

have no official association or observers at present stage, either on behalf [of] US or US repr[esentative] on HICOM'.¹⁹² The guidelines further stated that it

[m]ay be useful at early stage [to] make participants aware, informally, of direction of US thinking... Also believe possible that situation will develop in which strong US influence sh[ou]ld be exerted to avoid watering down of proposal...¹⁹³

Lastly, US officials were going to make informal arrangements with the French and German governments whereby US administrators in Paris and Bonn would be regularly informed about the proceedings as well as forwarded drafts of the treaty. As late as 28 December 1950, when the negotiations on the economic provisions reached a critical stage, the option to introduce an ECA advisor to the conference came up again. However, Bruce and Katz both 'recommended strongly against it'.¹⁹⁴

In summary, the debate on the official guidelines is instructive for two reasons. Firstly, while friction or divergent policy assessment did arise within the US foreign policy system, with regard to the Schuman Plan, it did not occur between State Department and ECA. Rather divergent policy evaluation developed between US officials in the Paris Embassy on the one hand and Washington-based State Department and ECA officials, on the other. US foreign policy actors directly affiliated with the Paris Embassy either were part of the working group or, like Bruce, they relied on the mediation of Monnet and McCloy. Washington-based officials, in contrast, could not access the mediators directly and hence lacked faith in the coal and steel project. This trend, first evident in May 1950, continued when, for example, in September 1950, State

¹⁹² Telegramme Department of State to certain American diplomatic officers, 2 June 1950, NARA, RG 59, 850.33/6-250.

¹⁹³ Ibid.

¹⁹⁴ Note Miriam Camps to George Perkins, NARA, RG 59, 850.33/12-2850.

Department and ECA issued a series of telegrammes that addressed concerns regarding the departure of the delegations from the competitive principle.¹⁹⁵ Cleveland in his recollections confirmed that while the State Department remained sceptical as to the competitive basis of the Schuman Plan, the US Embassy in Paris continued to favour the plan.¹⁹⁶

Secondly, the specific debate on the question of an ECA or HICOG advisor to the conference shows that, to some extent at least, the development of the official US policy resulted from a transatlantic debate. Tracing the emergence of the guidelines therefore highlights not only the frictions within the US foreign policy system but also indicates where the system was open versus closed to transatlantic input and co-operation. One could argue that input from outside the US foreign policy system was welcomed and even encouraged if it came from a trusted actor such as Monnet who bonded with key US foreign policy officials and whose policy preferences regarding European integration were deemed to match those of the US government. At least for the post-World War II period, the emergence of the US guidelines therefore corroborates the insufficiency of the national paradigm to capture policy-making processes. To sketch further boundaries to transatlantic policy network formation, however, it is desirable to identify additional key actors within the US foreign policy organizations involved and assess their role in the negotiations.

¹⁹⁵ Telegrammes Acheson to Paris Embassy, 7 September 1950, NARA, RG 59, 850.33/9-750.

¹⁹⁶ Interview Cleveland.

2.6 Boundaries for transatlantic policy network formation: unexploited policy expertise

Mainly responsible for the Schuman Plan in the ECA administration in Washington was Bissell. Bissell had been working as an Assistant Professor of Economics at the Massachusetts Institute of Technology (MIT), when, in 1948, he was invited to join the Harriman Committee.¹⁹⁷ Chaired by Harriman, the group officially designated the President's Committee on Foreign Aid drew up the blueprint for realizing the Marshall Plan. Through collaborating on the committee Hoffman and Bissell had developed social capital, which explains why Hoffman later recruited Bissell for his ECA team.¹⁹⁸ As Assistant Deputy Administrator, Bissell was directly responsible to William Foster, Hoffman's deputy, who became the new Administrator on Hoffman's resignation from the ECA on 30 September 1950.¹⁹⁹ Bissell was in touch with Katz²⁰⁰ and dealt directly with Tomlinson²⁰¹ who he knew from co-operating on the scheme for a European payments union.²⁰² Besides reaffirming the significance of the competitive principle,²⁰³ Bissell was involved with OSR officials in considering potential US government

¹⁹⁷ Interview Bissell.

¹⁹⁸ Alan Raucher, *Paul G. Hoffman. Architect of Foreign Aid*. Lexington, KY: The University Press of Kentucky, 1985, p. 66.

¹⁹⁹ Letter Hoffman to Walter Lippman, 31 October 1950, Personal papers Hoffman, Box 3.

²⁰⁰ Telegramme for Katz from Bissell, 27 December 1950, NARA RG 469, OSR, Box 30.

²⁰¹ Handwritten note attached to telegramme Katz to Acheson, 2 June 1950, NARA RG 469, OSR, Box 30.

²⁰² Interview Bissell.

²⁰³ Telegramme Bissell to OSR, Paris, 10 October 1950, NARA RG 469, OSR, Box 30.

funding for the Schuman Plan.²⁰⁴ A member of the CFRS, Bissell participated in the monthly meetings of the Study Group on the Marshall Plan. Among other issues, the Schuman Plan was on the agenda of the meeting on 20 November 1950.²⁰⁵ Contrary to Washington-based Bissell another US official in Paris, Leon Goldenberg, did have transatlantic contacts.

ECA administrator Goldenberg in fact provided the vital link between the ECA mission to France and the French industrialists. Following consultations on 27 June 1950 of representatives of the French government and the French industry on the Schuman Plan, for example, Goldenberg participated in preliminary conversations with leading steel industrialists and officials, among them Alexis Aron, a technical consultant to the Coal and Steel Union, as such a collaborator of Aubrun, and an expert to the French delegation to the Schuman Plan negotiations; and Albert Denis, the representative of the Iron and Steel Division in the French Ministry of Industry and Commerce.²⁰⁶ Further, in a luncheon on 21 December 1950, Goldenberg, Tomlinson and Aron debated the position of the French iron and steel industry regarding competition.²⁰⁷ The French steel producers tended to be critical of the Schuman Plan. However, Matthias Kipping has emphasized that the industrialists were not unified in

²⁰⁴ Telegramme Bissell for Katz, Bruce, Parkman, McCloy, Cattier, 13 April 1951, *ibid.*

²⁰⁵ 19th meeting, 20 November 1950, Archives of the Council on Foreign Relations, Seeley G. Mudd Library, Princeton University, Box 44, Folder Volume XXXI: 1948-51, File 1.

²⁰⁶ Telegramme Bruce to Secretary of State, 3 July 1950, NARA, RG 59, 850.33/7-350. Cf. chapter 4.

²⁰⁷ Tomlinson to Department of State, NARA, RG 59, 850.33/12-2150.

their opposition to the project.²⁰⁸ A case in point was the President of the Syndicat Général des Industries Mécaniques et Transformatrices des Métaux, the Metal Manufacturing Syndicate Jean Constant who endorsed the proposal and actively sought contact with the Paris ECA mission. In July 1950, Constant informed an ECA mission representative of his support for the proposal and effort to organize a new association of steel users to assist Monnet in realizing the Schuman Plan. Allegedly Monnet had ‘...urged [the] active support on part of [the] steel users to counterbalance [the] growing opposition of [the] Steel Syndicate’. Predictably Constant’s initiative did not meet the approval of Coal and Steel Union President Aubrun who subsequently even refused to meet with him.²⁰⁹

While a special ‘Working Group on the Schuman Plan’ was established within the OSR, the organization’s officials seemed to have only few transatlantic links and a limited impact on policy development.²¹⁰ However, Katz who was in Paris at the time of the negotiations may have played a part in the negotiations. Although there is no direct evidence to support this, circumstances are highly suggestive that this was the case. In the 1930s, Katz had gathered ample experience in the New Deal administration and was intimately involved in the development and enforcement of anti-trust law. Among others, he served with the National Recovery Administration (NRA, 1933-35), and the US Department of Justice, where alongside the head of the Antitrust Division, Thurman

²⁰⁸ Matthias Kipping, *Zwischen Kartellen und Konkurrenz Der Schuman-Plan und die Ursprünge der europäischen Einigung 1944-1952*, Schriften zur Wirtschafts- und Sozialgeschichte, vol. 46, Berlin: Duncker&Humblot, 1996, pp. 203-6.

²⁰⁹ Telegramme Bruce to Secretary of State, 20 July 1950, NARA, RG 59, 850.33/7-2050.

²¹⁰ For example Memorandum Hollis B. Chenery to Stokes, 11 October 1950, NARA, RG 469, OSR, Box 30.

Arnold, he worked for the US Attorney General (1938-39).²¹¹ For instance, Katz was collaborating with Arnold and others on amending the Clayton Act,²¹² which Congress had passed in 1914 to amend the original US anti-trust law, the Sherman Act of 1890.

In 1939, Katz became a lecturer of law at Harvard University and he was appointed a professor the following year. During the war he served with the War Production Board (1941-43), the Combined Production and Resources Board (CPRB, 1942-43) and last, the Office of Strategic Services (1943-44). In 1946 he returned to the faculty at Harvard Law School. An enthusiastic law professor, Katz together with Bowie and other colleagues was involved in 1947 in producing a study on reforming the legal educational system.²¹³ Having initially joined the ECA as general counsel in 1948, Katz soon became the Deputy US Special Representative to Europe (1949), before in August 1950 he succeeded Harriman as the US Special Representative to Europe. Preparing his transfer to Paris, Katz re-established contact with Monnet who, apparently, he had last talked with in 1943 in the offices of the CPRB in Washington.²¹⁴ While it is difficult to determine precisely the role of Katz in the Schuman Plan conference, at the least, he was informed about the proceedings. Again it was Tomlinson who linked the US Embassy working group to the wider US foreign policy apparatus.²¹⁵

²¹¹ Personal papers Milton Katz. Harry S. Truman Presidential Library, NRA: Boxes 2-5; Attorney General: Boxes 9-12; further, see for the role of Katz among the 'liberals' around Harvard law professor and Supreme Court Justice Felix Frankfurter, who also promoted Acheson and McCloy, Alan Brinkley, *The End of Reform. New Deal Liberalism in Recession and War*, New York: Vintage Books, 1996, p. 55.

²¹² Folder Attorney General. Monopoly Study, Proposals for Legislation, Personal papers Katz, Box 10.

²¹³ Committee on Legal Education, 1947, Personal papers Katz, Box 20.

²¹⁴ Letter Katz to Monnet, 13 May 1948, Personal papers Katz, Box 18.

²¹⁵ Memorandum Eric E. Oulashin to Katz, 'Control and Distribution of Material on Schuman Plan Negotiations, 23 June 1950, NARA, RG 469, OSR, Box 30.

One question that arises out of Katz' professional background is why he was not drawn into the US Embassy working group. Katz shared important professional experiences with Ball – the New Deal administration before World War II; with Ball, Bowie and McCloy – the experience in the Washington administration during the war; and with Bowie – teaching at Harvard University. For Bowie and Katz as well as for MIT-based Bissell, their academic association paired with their experience in Washington during the war resulted in their affiliation with the US post-World War II administration in Europe. Perhaps one explanation for Katz' minor visibility in informal transatlantic policy-making at the Schuman Plan conference was his appointment as Harriman's successor. Arguably, when confronted with new professional challenges, Katz may have lacked time to devote his energy to the Schuman Plan. However, a high-ranking position in the US post-war administration and an active role in the Schuman Plan conference were not mutually exclusive, as is evidenced by McCloy. Having said this, McCloy's portfolio overlapped significantly with the agenda for the future ECSC treaty with regard to the reorganization of the German heavy industries. At the least, Katz' case demonstrates that sometimes it was not enough to know Monnet, be part of the Paris network of transatlantic contacts and have policy expertise to become part of the policy network in the US Embassy.

Katz is not the only case in point for unexploited policy expertise, however. Shortly after he took over from Harriman, Katz asked Hoffman to secure the temporary assistance of Clarence B. Randall to survey the 'internal organizational and personnel

problems, with particular reference to the new emphasis on rearmament'.²¹⁶ As President of Inland Steel and former ECA Steel Consultant (1948-50), Randall regarded it his duty to keep the US steel industry informed about European steel problems. Randall traveled England, France and Germany in the summer of 1948 as a consultant and knew French industry representatives Aron and Albert Bureau, the French Chairman of the Allied Steel Control Group²¹⁷ as well as Denis and Hirsch.²¹⁸ When he returned to Paris in 1950, Randall met with, among others, Monnet, Katz, and Bissell who 'let...[him] read the recent cables on the Schuman Plan'.²¹⁹ Although impressed with Monnet's personality Randall was suspicious of the potential of the Schuman Plan to create a cartel and remained one of the Schuman Plan's most fervent American critics.

Randall objected the (official) US government policy to 'observe' rather than 'intervene' in the negotiations and disapproved, in particular, of Tomlinson, in his words, a 'starry-eyed and altogether dangerous young New dealer'.²²⁰ Expressing his criticism of the Schuman Plan Randall published a number of articles in the *Atlantic Monthly*²²¹ that accompanied his discussion of the Schuman Plan with, among others, Ball in a radio debate²²² and German head of delegation Walter Hallstein in

²¹⁶ Prologue, 12 September 1950, Personal papers Clarence B. Randall, Seeley G. Mudd Library, Princeton University, Box 1, ECA Paris 1950.

²¹⁷ Memo No. 12, pp. 31-33, 13 July 1948, Personal papers Randall, Box 1, ECA Europe 1948.

²¹⁸ Memo No. 7, p.1, 7 October 1950, Personal papers Randall, Box 1, ECA Paris 1950.

²¹⁹ Memo No. 1, p. 3, 28 September 1950, *ibid.*

²²⁰ Memo No. 5, 2 October 1950, *ibid.*

²²¹ See, for example, Clarence Randall, 'European Steel: Monopoly in the Making', in: *Atlantic Monthly*, October 1951, pp. 34-8; *idem.* 'Free Enterprise is not a Hunting License', in: *Atlantic Monthly*, March 1952, pp. 38-41.

²²² The University of Chicago Roundtable, The Steelmen Look at the Schuman Plan, An NBC Radio Discussion by George W. Ball, Clarence B. Randall and Theodore W. Schultz, 20 January 1952, Personal papers Ball, 150.

correspondence.²²³ Clearly, Randall's unfavourable evaluation of the coal and steel pool was based on his experience with the European steel industry rather than a rejection of the idea to advance European integration. However, it shows that not every American actor who participated in the transatlantic debate on the Schuman Plan supported it, not even when in contact with Monnet himself. Here policy network formation did not materialize because Randall's professional experience prevailed over the paradigm of advancing European integration which was shared by so many other actors of all levels of policy-making, ranging from Acheson, Hoffman, McCloy and Monnet to the members of the US Embassy working group and beyond. A significant role in the negotiations, however, was exercised by another more clearly distinguishable academic expert network focusing on American and German actors, which also led to the US Embassy working group via mutually relating actors such as Bowie.

2.7 An expert network: the transatlantic university network

An informal network of legal experts with an academic affiliation, the 'transatlantic university network' contributed significantly to the negotiations. This expert network partly overlapped with the German delegation and comprised American law professor Heinrich Kronstein; German law professors Hallstein, Hermann Mosler and Hans-Jürgen Schlochauer; and German official and honorary law professor Carl Friedrich Ophüls. While Hallstein was the primary delegate and Mosler, Schlochauer and Ophüls were experts of the German delegation, Kronstein had no institutional affiliation that could have accounted for his role in the conference. The transatlantic university network

²²³ Letter Hallstein to Randall, 19 October 1951, AN 81, AJ 157.

collectively and individual actors within the network fulfilled three distinct functions. Firstly, the actors making up the network directly contributed to the draft treaty, most importantly regarding the institutional set-up and the anti-trust provisions. This function resulted from the fact that they became involved in the conference because of their recognized legal expertise. Secondly, the transatlantic university network fulfilled a particular function of transnational policy networks, namely to mediate between different socio-economic, political and cultural contexts. At the Schuman Plan conference, these legal experts functioned as mediators between American and European politico-legal concepts. The mediating function is crucial to conceptualizing this network as transatlantic, even more so than the fact that Kronstein, an American non-state actor, albeit with a German background, co-operated informally with actors who were part of the German delegation. Thirdly, through their professional affiliation the members of the network facilitated links to a wider circle of academic actors and initiated the collaboration of legal experts.

Essential to the formation of the transatlantic university network was the nomination of Hallstein as German head of delegation. Appointed Secretary of State for Foreign Affairs in the Federal Chancellory on 25 August 1950²²⁴ and later, on the realization of the EEC treaty, the first president of the European Commission, Hallstein was not the initial choice of Chancellor Konrad Adenauer. Only five years after the end of the war and in light of the acrimonious Franco-German relationship, the appointment of the German chief negotiator was a delicate political question. To some extent,

²²⁴ Diary entry, 25 August 1950, BA, Personal papers Herbert Blankenhorn (N 1351), 4. Until the establishment of the Federal Ministry for Foreign Affairs in March 1951 the office of the Secretary of State for Foreign Affairs was part of the Federal Chancellory.

Hallstein got appointed because other potential German negotiators had held high-profile positions during the National Socialist years. From this perspective, the consultations between top-level French and German officials and then between Adenauer and his confidants, which preceded Hallstein's appointment, serve as a prism through which to view the problem of continuity in administrative and financial circles from the inter-war years to the post-World War-II period.

In a meeting with Adenauer in Bonn on 23 May 1950 Monnet addressed the question of the German head of delegation. Monnet acted as a messenger for Schuman, which meant that while the French foreign minister technically served as the head of the French delegation, he entrusted Monnet with the presidency and day-to-day operation of the conference.²²⁵ However, Schuman, far from being removed from the negotiations altogether, was kept abreast by Monnet in writing about significant developments, especially difficulties with the German delegation arising, for example, after Acheson in September 1950 had invited Germany into NATO.²²⁶ In his meeting with Adenauer on 23 May, Monnet was accompanied by Clappier who according to Marjolin '...played a major role as an intelligent and convinced intermediary' between Schuman and Monnet.²²⁷ Further participating in the meeting were French Deputy High Commissioner Bérard and Herbert Blankenhorn, a career diplomat, the head of the Verbindungsstelle, the linking agency to the Allied High Commission in the Federal Chancellory, as well as Adenauer's foreign policy advisor. According to Hans-Peter Schwarz, Adenauer

²²⁵ Raymond Poidevin, *Robert Schuman*, Paris: Beauchesne, 1988, p. 105.

²²⁶ See, for example, 22 December 1950, Letter Monnet to Schuman, AN 81 AJ 137; *Jean Monnet-Robert Schuman Correspondence 1947-1953*, Lausanne: Fondation Jean Monnet pour l'Europe, 1986, pp. 90-1.

²²⁷ Robert Marjolin, *Architect of European Unity: Memoirs 1911-1986*, London: Weidenfeld and Nicholson, 1989, p. 272.

benefited from the intimate knowledge and the understanding of American affairs Blankenhorn had obtained when serving at the German Embassy in Washington from 1935-39.²²⁸ A leading Christian democrat, Blankenhorn also became part of the German delegation.

Initially, Adenauer proposed the deputy manager of the Kreditanstalt, the German Financial Institute for Reconstruction, Hermann Josef Abs, as head of delegation. This suggestion did however raise concerns with Monnet who advocated a 'completely independent' candidate and warned of the unfavorable reaction of the French public to the nomination of Abs.²²⁹ Within German domestic politics Abs' integrity remained untouched, which is evidenced by a description of the banker that Blankenhorn recorded in October 1949: 'Once again, Abs really impressed me today. Not only does he master economic problems, but he also understands foreign policy and like no other German, he has psychological sensitivity, which is so important'.²³⁰ The financier, who was a quarter-of-a-century Adenauer's junior, shared with the chancellor his Catholic and Rhineland background and probably would have found acceptance within the German government.

Abs' role during the years of the National Socialist regime could have given rise to criticism in France, however. In his biography of Abs, Lothar Gall has treated in detail the contested role of Abs and more generally, that of the banks, in the Third

²²⁸ Hans-Peter Schwarz, *Adenauer der Staatsmann: 1952-1967*, Stuttgart: Deutsche Verlags-Anstalt, 1991, pp. 565-6.

²²⁹ Diary entry, 24 May 1950, BA, N 1351, 3.

²³⁰ Diary entry, 8 October 1949, BA, N 1351, 1.

Reich.²³¹ As a member of the board of directors of the Deutsche Bank (1937-45), Abs became a member of the supervisory committee of I.G. Farben, among others. The company was intimately involved in the National Socialist system of forced labour and developed Zyklon B, which was used to execute detainees in the Auschwitz concentration camp. Even before February 1948, however, when he was declared innocent ('Unbelasteter in Kategorie V') after he had appeared as a witness in the I.G. Farben case at the Nuremberg trials, Abs advised UK and later also US occupation officials.²³² Notably, although Abs did not even become a designated member of the German delegation to Paris, he continued to play an important role in German domestic policy-making. In fact, the banker featured prominently in the especially appointed German expert committees on the Schuman Plan: he presided over the committee for investments and credits and participated in the committee on production.²³³ Similarly, Wilhelm Grewe, previously a member of the National Socialist party, who allegedly had used his party membership to advance his academic career,²³⁴ served as a legal expert to the domestic German legal committee on the Schuman Plan. When Grewe was appointed head of the German delegation to the negotiations on the abdication of the Occupation Statute in May 1951, his past affiliation with the National Socialist regime did not represent a barrier to taking a leading role in multinational negotiations.

²³¹ Lothar Gall, *Der Bankier Hermann Josef Abs. Eine Biographie*, Munich: C.H. Beck, 2004, here esp. pp. 100-33.

²³² *Ibid.* pp. 121-41.

²³³ Verzeichnisse der Mitglieder der Ausschüsse, 1 September 1950, BA, Bundesministerium für den Marshallplan (B 146), 277.

²³⁴ Letter Erich Kaufmann to Grewe, 12 (or 17) March 1952, PA AA, Personal papers Wilhelm Grewe, 63. While Kaufmann's letter may reflect personal dislike, there is strong evidence of Grewe having been not only career-driven, but also obsessed to the point of absurdity with formal professional recognition, which is evidenced, for example in a letter Grewe wrote to Adenauer on 13 January 1954. *Ibid.*

In the end, Adenauer did not insist on nominating Abs although the former Secretary in the German Finance Ministry (1930-32) and émigré to Sweden, Hans Schäffer, who would have been another potential nominee for the head of delegation, also supported Abs' nomination. Adenauer's willingness to compromise shows that the chancellor deemed an effective relationship between Monnet and his German counterpart essential to the success of the Schuman Plan conference. At this stage, Adenauer did not know Monnet personally, but could rely on Schäffer's advice.²³⁵ One could argue that because Schäffer knew Monnet he 'bridged trust' between Adenauer and Monnet. In contrast to bonding trust, the notion of 'bridging', 'instrumental' or 'exchange trust' maintains that actors' behaviour is driven by calculation rather than actual trust. Actors who offer bridging trust do not share a sense of community, like those who offer bonding trust, but instead differ from each other with respect to an important sociodemographic feature, for example, age, class, or in this case, the status in the political hierarchy.²³⁶ What is relevant here is that actors like Schäffer accordingly had the potential to link different networks with each other. Moreover, Adenauer's flexibility with regard to the German chief negotiator reflects the functioning interpersonal relationship between the chancellor and Schuman that had been an important precursor to the drafting of the Schuman Plan declaration.²³⁷ While the two political leaders probably first met in 1938,²³⁸ they only could accumulate social capital

²³⁵ Cf. Hans Schäffer, 'Konrad Adenauer und der Schuman-Plan. Ein Quellenzeugnis', in: Schwabe (ed.), *Die Anfänge des Schuman-Plans*, pp. 131-40, here p. 135 [originally published by Eckhard Wandel in: *Vierteljahreshefte für Zeitgeschichte*, vol. 20 (1972), pp. 197-203].

²³⁶ Verweij, 'Four Wrongs', pp. 470-1.

²³⁷ Kaiser, *Christian Democracy*, chapter 6, pp. 191-252.

²³⁸ Schäffer, 'Konrad Adenauer', p. 133; Kaiser, *Christian Democracy*, p. 212.

after World War II. In the words of Jean-Claude Démory, 'the two men often met and did so in a spirit of mutual understanding and appreciation'.²³⁹ Especially important to building up social capital between French and German Christian democrats were the informal meetings of leading European Christian democrats, where even before the Schuman Plan declaration a crucial political consensus was developed, namely to advance European integration through the coal and steel pool and without the participation of the UK.²⁴⁰

Finally, arguing that 'he had the psychological ability necessary to deal with foreigners' economist Wilhelm Röpke recommended Hallstein as a 'first or second chief delegate'²⁴¹ to Adenauer. Röpke also assumed a bridging function in this context. According to Ernst Steindorff, a young academic lawyer and Hallstein's Secretary for the main part of the conference, the mutually respectful relationship between Hallstein and Monnet indeed proved vital to the success of the negotiations.²⁴² This was especially significant since the two actors had not previously co-operated and could not rely on established social capital between them. The constructive character of their collaboration was evident, for example, in a joint meeting with US Ambassador Bruce in November 1950, when the negotiations had reached a critical stage resulting from the demands the German government promoted to object the ongoing occupation policy.

²³⁹ Jean-Claude Démory, *Georges Bidault 1899-1983*, Paris: Editions Julliard, 1995, p. 297.

²⁴⁰ Kaiser, *Christian Democracy*.

²⁴¹ Diary entry, 4 June 1950, BA, N 1351, 4. See also Wilfried Loth, William Wallace, Wolfgang Wessels (eds.), *Walter Hallstein. The Forgotten European?*, Basingstoke, London, New York: Macmillan, St. Martin's Press, 1998 [German 1995], pp. 1-13, here p. 5. Röpke was teaching at the Institut Universitaire de Hautes Etudes Internationales, Genève. See Milène Wegmann, 'Neoliberale Europa-Föderationskonzepte 1918-1945', in: *Journal for European Integration History*, vol. 8, no. 1 (2002), pp. 11-35, here p. 13.

²⁴² Interview Ernst Steindorff, Brigitte Leucht, 9 November 2005, Munich, Germany.

After Hallstein had presented Adenauer's preferences regarding the removal of occupation regulations, which included the termination of the IAR, '...Monnet and Hallstein agreed to ask their technicians to prepare a draft of a letter on this subject which Schuman would send to [the] German Government on [the] day that [the] treaty [would be] completed'. Moreover, '...Monnet stated very firmly that he was in full sympathy with Hallstein'.²⁴³ While Hallstein and Monnet might have differed on questions regarding the institutional framework as well as the anti-trust provisions, they were dedicated to the overall goal of European integration that provided their shared policy paradigm and the basis for their joint action.

Hallstein was an academic with an established record in the promotion of international education but little formal diplomatic experience. In addition to serving as dean to the School of Law and Economics, he headed the Institute for Comparative Law at the University of Frankfurt whose faculty he had joined in 1941. Further, Hallstein served in the supervisory committee of the Society for Comparative Law, set up in 1950 under the auspices of the United Nations Educational, Scientific and Cultural Organization.²⁴⁴ At the Schuman Plan conference Hallstein fulfilled all three functions assigned to actors within the transatlantic university network. The German head of delegation not only proved a skilled diplomat and negotiator, but he also comprehended in full the topics under discussion and contributed significantly to the emerging institutional framework. Central to Hallstein's role as mediator between different

²⁴³ Telegramme Bruce to Secretary of State, 21 November 1950, NARA, RG 59, 850.33/11-2150.

²⁴⁴ Letter Hans Dölle, Gesellschaft für Rechtsvergleichung to Hallstein, 5 September 1950, BA, N 1266, 1718.

politico-legal concepts and a facilitator for network formation were his time as a prisoner of war in 1944-45 and his academic background, respectively.²⁴⁵

Hallstein made the most of his time as a prisoner of war in a military camp in Como, Mississippi and with the support of the University of Chicago established a camp university. Among others, he taught anti-trust law, comparative law and Anglo-American private law.²⁴⁶ In a letter of 22 May 1945 to the dean of the University of Chicago Hallstein even asked unsuccessfully for permission to continue his studies at the reknown institution before returning to Germany. Arguing that the great legal challenges of the day could only be solved through co-operation of the diverse legal traditions within the Euro-American cultural sphere, he emphasized the significance of American legal thought for the evolution of European law.²⁴⁷ Even further, Hallstein expressed the belief that to really understand a foreign legal system one had to gain first-hand experience in the respective society, which applied in particular, to German law professors teaching American law. As a prisoner of war in the US, Hallstein had supplemented his longstanding academic interest in foreign legal systems with in-depth study of the American legal system, the appreciation of which he deemed crucial to the future of European law. Matthias Schönwald has suggested that Hallstein's view on the

²⁴⁵ Excellent for 'Hallstein's American years' is Matthias Schönwald, 'Hinter Stacheldraht - vor Studenten: Die „amerikanischen Jahre“ Walter Hallsteins, 1944-1949', in: Ralph Dietl, Franz Knipping (eds.), *Begegnung zweier Kontinente: die Vereinigten Staaten und Europa seit dem Ersten Weltkrieg*, Trier: Wissenschaftlicher Verlag Trier, 1999, pp. 31-54; see also Laura Hannemann, 'Gesandte in Fesseln? Kulturtransfer in Kriegsgefangenenlagern des Zweiten Weltkrieges', in: *Comparativ*, vol. 16, no. 4 (2006), pp. 179-99.

²⁴⁶ 2. Zwischenkursus, 2 July-22 Sept 1945, BA, N 1266, 1620; Undated notes, BA, N 1266, 1622, Fiche 3.

²⁴⁷ Letter Hallstein to the Dean of the Faculty of Law, University of Chicago, 22 May 1945, BA, N 1266, 1620.

unity of American and European law indeed only emerged during his time as a prisoner of war in the US. Schönwald's proposition is based on a contrast between beliefs, such as the one referred to here, expressed by Hallstein in 1945 and one letter, written in 1938, in which Hallstein emphasized the role of German legal thought for the distinctly European legal tradition.²⁴⁸ Schönwald acknowledges, however, that to date, there is no comprehensive study of Hallstein during the Third Reich²⁴⁹ and thereby invites re-interpretation of his proposition. What is crucial here is that Hallstein's conduct at the Schuman Plan conference supports an interpretation that emphasizes his partial political socialization in the US and his high regard for the American legal system.

In the summer of 1945, Hallstein further participated in the Administrative School in Fort Getty, Rhode Island. Only selected prisoners of war who demonstrated that they rejected National Socialist beliefs and were committed to the reconstruction of Germany were eligible for participation in this re-education programme, which was set up by the US Department of War. Among the teaching personnel were a number of German émigrés now employed by American universities.²⁵⁰ After his return to Germany, Hallstein stayed in touch with other 'Getty graduates', who even organized reunions in Germany.²⁵¹ Hallstein returned to the US in 1948-49, this time voluntarily and with an academic exchange programme between the University of Frankfurt and Georgetown University. During this period he made the acquaintance of Kronstein who

²⁴⁸ Schönwald, 'Hinter Stacheldraht', p. 42, note 54.

²⁴⁹ The contributions in Loth, Wallace, Wessels (eds.), *The Forgotten European?* also leave out the period before the Schuman Plan conference.

²⁵⁰ Schönwald, 'Hinter Stacheldraht', pp. 40-1.

²⁵¹ *Ibid.* pp. 44-5.

when meeting Hallstein was convinced to have discovered ‘the best qualified man to build bridges to German universities’.²⁵²

Born in Germany Kronstein practiced law as an attorney before at the age of 39, in 1936, he emigrated to the US with his family.²⁵³ In the US, Kronstein went back to law school and pursued a legal master’s degree at Columbia Law School and in 1940, completed his doctorate at Georgetown University, where in the same year he became a professor of law. Kronstein’s research broadly dealt with questions of economic organization in free and democratic societies, which included anti-trust law. Kronstein knew Franz Böhm, one of the founders of the influential Freiburg School of Ordo-liberalism, who was a close friend of Kronstein’s brother Max.²⁵⁴ Here it is sufficient to say that ordo-liberalism shared with US anti-trust law the notion that competition was vital to the maintenance of a liberal and democratic society. Further, Kronstein took the bar exam in the District of Columbia and served as an expert within the US Department of Justice before he was appointed Special Attorney in the Antitrust Division in 1940. In

²⁵² Heinrich Kronstein, *Briefe an einen jungen Deutschen*, Munich: C.H. Beck, 1967, p. 248.

²⁵³ For Kronstein see especially Eckard Rehbinder, ‘Heinrich Kronstein (1897-1972)’, in: Bernhard Diestelkamp, Michael Stolleis (eds.), *Juristen an der Universität Frankfurt am Main*, Baden-Baden: Nomos Verlag, 1989, pp. 253-67; see also Introduction to Hallstein, Georgetown University News Service, 12 March 1952, BA, N 1266, 134; Letter Hallstein to Kronstein, 1 July 1949, BA, N1266, 1864; and Personal History of Heinrich Kronstein, undated resume, ca. 1946, Personal papers Heinrich Kronstein, Lauinger Library, Georgetown University.

Unfortunately, at the time of the archival visit (2005), Kronstein’s personal papers were not catalogued and were not made available for examination. A number of interesting links could not be pursued therefore. They included a potential meeting with Bowie through Kronstein’s involvement in the US occupation as well as the question whether perhaps informally, Kronstein recruited other colleagues at Georgetown University for the Schuman Plan negotiations.

²⁵⁴ Cf. Rudolf Wiedhölter, Franz Böhm (1895-1977), in: Diestelkamp, Stolleis (eds.) *Juristen*, pp. 208-52, here p. 219.

the latter part of 1945 Kronstein headed the section German Agencies in the Economic Branch of the US Military Government to occupied Germany, where he specialized in the problem of foreign-held corporations. In 1949 Kronstein accepted an invitation by Hallstein and visited Frankfurt University under the auspices of the exchange programme between Georgetown and Frankfurt.²⁵⁵

Kronstein held no official position within the US administration in 1950. He continued to advise US governmental agencies on anti-trust policy, however. Moreover, Kronstein proved a vital mediator within the transatlantic university network. As for Hallstein, personal and professional experiences provide the key to appreciate this specific role. One case in point is provided by Kronstein's observations about German society during his exchange visit at Frankfurt. Later, these observations served as the basis for a memorandum Kronstein drafted on the need for a public information programme to explain the US de-cartelization policy in Germany. In early 1950 Kronstein forwarded his memorandum to the State Department and subsequently was invited to discuss his ideas with the USHICOG officials directly responsible for de-cartelization policy, Grant Kelleher and Sidney Willner, who both served under Bowie.²⁵⁶

Another example for Kronstein's role as a mediator was his involvement in an ECA programme to promote the introduction of laws safeguarding competition in European countries. Evidence for Kronstein's role first was found in the personal papers of Schlochauer, a law professor at the University of Cologne and an official in the

²⁵⁵ Brief Hallstein an Kronstein, 1 July 1949, BA, N 1266, 1864.

²⁵⁶ Memorandum Buttles to Baker, 23 January 1950, NARA, RG 59, 862A.054/1-2350.

Federal Ministry of Justice.²⁵⁷ In the summer of 1950, a commission of academic experts and practitioners from various German ministries, led by Böhm and including Schlochauer, travelled to the US to get a first-hand impression and to deepen their knowledge of American anti-trust law. Among other venues, the German committee attended lectures at the Federal Trade Commission (FTC), the US government agency that was set up in 1914 to promote free and fair competition in inter-state commerce. The Germans met with American academics, politicians and practitioners who were engaged in the formulation and administration of competition policy. Also on the agenda of the German commission was a meeting with Kronstein.²⁵⁸ The involvement of Kronstein, on the one side, and Böhm and Schlochauer on the other, of the ECA programme in 1950 evokes two interrelated arguments. Firstly, it highlights and confirms the links between Marshall Plan, US policy in occupied Germany and Schuman Plan, which has been central to the analysis of the US Embassy working group and the US foreign policy system at large. Notably, the study trip of the German commission to the US served the preparation of a German anti-trust law, not the anti-trust provisions of the Schuman Plan. Secondly, this suggests that networks of actors developing national, here German, anti-trust legislation and European anti-trust legislation, respectively, to some degree overlapped.

Against this backdrop, Kronstein at the Schuman Plan conference continued to mediate between American and German approaches to safeguarding competition and moreover attempted to interpret their respective societal contexts. In November 1950 he

²⁵⁷ Vorläufiger Bericht der deutschen Kommission zum Studium von Kartell- und Monopolfragen in den Vereinigten Staaten, Beilage zum Bundesanzeiger Nr. 250, 29 December 1950, PA AA, B 15, Personal papers Prof. Dr. Schlochauer, 340, Fiche 3.

²⁵⁸ Cf. also Kronstein, *Briefe*, pp. 248, 254.

explained to Raymond Cheseldine of the Bureau of German Affairs the German elections. In a letter to Hallstein on 6 January 1951, in turn, he translated the official position of the US government on vertical integration.²⁵⁹ Kronstein wrote to Cheseldine a couple of days later and referred to a 'Hallstein letter'.²⁶⁰ In this intervention, which resembled Ball's effort to broker for the French government in September 1950, Kronstein addressed the '[d]ifficulties between our officials in Europe and the German Schuman Plan delegation'.²⁶¹ Only little successful were Kronstein's efforts to facilitate contacts between select members of the German delegation and US officials in Paris. When he congratulated Hallstein on his appointment as head of delegation in July 1950, Kronstein declared he had mentioned Hallstein as well as Mosler to his 'very dear friend' Robert Terrill of the US Embassy in Paris.²⁶² In early October 1950, Kronstein again encouraged Hallstein to get in touch together with Mosler with his friend Terrill.²⁶³ There is no evidence that Hallstein and/or Mosler acted on Kronstein's attempts to facilitate informal co-operation. Hallstein probably saw no necessity to do so since he was aware of the activities of the US Embassy working group through regular consultations with Monnet and the talks on the deconcentration and de-cartelization of the German heavy industries with, among others, McCloy and Bowie. Finally, in late

²⁵⁹ Memorandum Cheseldine to Byroade, 21 November 1950, NARA, RG 59, 740.00/11-2150; Letter Kronstein to Hallstein, 6 January 1951, BA, N1266, 1864.

²⁶⁰ Letter Kronstein to Cheseldine, 12 January 1951. Following a typo in the date in the Kronstein letter ('1950' instead of '1951') the letter is filed under NARA, RG 59, 850.33/1-1250.

²⁶¹ Ibid.

²⁶² Letter Kronstein to Hallstein, 7 July 1950, BA, N1266, 1864.

²⁶³ Letter Kronstein to Hallstein, 3 October 1950, *ibid.*

January 1951 Kronstein informed Hallstein that he was in touch with Ball who had allegedly phoned him.²⁶⁴

One of the first instances that saw Hallstein facilitate policy network formation came in June 1950, when he recruited Mosler as a legal expert for the German delegation. Hallstein had no difficulty convincing Adenauer that Mosler, who came from a Rhenish family of lawyers, was the right man for the job. In fact, the chancellor could even remember Mosler's father Karl, who had served as the President of the Landesgericht, the Regional Court, in Bonn until the National Socialists dismissed him.²⁶⁵ Mosler succeeded Hallstein as a visiting professor to Georgetown University in 1950. Hallstein, Kronstein and Mosler, shared their affiliation with the bilateral exchange programme and their involvement in the Schuman Plan conference. While academic exchange had provided the framework for Hallstein and Kronstein to intensify their contacts with US actors and German actors, respectively, it had served as a first introduction to the American university legal system for Mosler.²⁶⁶ When he joined the German delegation in Paris in July 1950 Mosler did however draw on previous experience as a legal advisor. As a lawyer and from 1946 on as a Privatdozent, a lecturer affiliated with the University of Bonn he had assessed the consequences of the Allied dismantlement policy for the German heavy industries for clients such as the Wirtschaftsvereinigung Eisen- und Stahlindustrie.²⁶⁷

²⁶⁴ Letter Kronstein to Hallstein, 28 January 1951, *ibid.*

²⁶⁵ Letter Hallstein to Mosler, 17 June 1950, Personal papers Hermann Mosler, Archiv der Max-Planck-Gesellschaft Berlin (MPG-Archiv/III.Abt./ZA 139), Kasten 2.

²⁶⁶ Letters Mosler to Kronstein, 5, 19 December 1949, MPG-Archiv/III.Abt./ZA 139, Ordner 5.

²⁶⁷ Cf. Materials, 1946-1948, MPG-Archiv/III.Abt./ZA 139, Kasten 28.

At the Schuman Plan negotiations, Mosler contributed to questions concerning the relationship between the Schuman Plan and the General Agreement on Tariffs and Trade (GATT) as well as the institutional design, especially the court.²⁶⁸ Embedded in academic networks Mosler informally drew on the expertise of other legal experts who were not linked to the negotiations. He actually discussed the question of the court within the institutional system with Karl Bilfinger, the Director of the established Max-Planck Institute for Public and International Law in Heidelberg and, according to Mosler, an expert of federal systems.²⁶⁹ Starting in late August 1950, however, Mosler expressed concerns regarding the efficiency of his co-operation with Ophüls, the other legal expert of the delegation, and asked Hallstein to be relieved of his duties at the conference.²⁷⁰ Ophüls had been appointed honorary professor for patent law and Anglo-American law at the University of Frankfurt in 1949 and in the same year had joined the Federal Ministry of Justice.²⁷¹ Unlike Hallstein, Mosler and Schlochauer, Ophüls had no firsthand US experience or contacts. As a result of Mosler's complaint, he was replaced with Schlochauer in early October 1950.²⁷² Mosler and Schlochauer first had been in touch in 1947 when Schlochauer had invited his colleague to contribute an article to a journal he had co-founded.²⁷³ An interdisciplinary publication not restricted to

²⁶⁸ Letter Mosler to Hallstein, 27 August 1950, MPG-Archiv/III.Abt./ZA 139, Kasten 2; Copy letter Mosler to Ophüls, 3 December 1950, PA AA, B 15, Personal papers Schlochauer, 355, Fiche 2.

²⁶⁹ Ibid. and Mosler to Bilfinger, 16 September 1950, PA AA, B 15, 54.

²⁷⁰ Letter Mosler to Hallstein, 28 August 1950, MPG-Archiv/III.Abt./ZA 139, Kasten 2.

²⁷¹ Cf. the curriculum vitae from the description of PA AA, Personal papers Carl Friedrich Ophüls.

²⁷² Kurzprotokolle der Sitzung des Juristischen Sachverständigen-Ausschusses, 4 and 5 October 1950, PA AA, B 15, 19.

²⁷³ Letter Schlochauer to Mosler, 3 February 1947, MPG-Archiv/III.Abt./ZA 139, Kasten 8.

academia, *Europäische Föderation* aimed to ‘...identify with scholarly objectivity the foundations for the development and structure of Europe and those states outside of Europe, whose spiritual and political origins lie within on the old continent’.²⁷⁴ Schlochauer’s academic career had been interrupted when in 1933 he was excluded from the University of Frankfurt because of his father’s Jewish origins.²⁷⁵ As one representative of the Federal Ministry of Justice in an Interministerial Committee, especially appointed in June 1950 to deal with the Schuman Plan and managed by an official of the Federal Ministry of Economics, Schlochauer also featured importantly within German domestic policy-making.²⁷⁶

To sum up, the transatlantic university network suggests at least four main observations. Firstly, the academic exchange programme between Frankfurt and Georgetown and previously existing intra-German academic networks both contributed significantly to the formation and operation of the transatlantic university network. Although unfortunately, primary sources explored have not been sufficiently conclusive to trace fully the scope of the network, it is safe to say that this group of legal experts was informally engaged in transatlantic consultations. Consultations qualified as transatlantic mainly because they involved actors who were familiar with both contexts to mediate between American and European politico-legal concepts.

Secondly, Hallstein’s reflections on European and American law produced as a result of his stay in the US evidence a sophisticated approach to the mediating position

²⁷⁴ *Europäische Föderation*, vol. 1, no. 1, (1947).

²⁷⁵ Lebenslauf, 10 January 1951, MPG-Archiv/III.Abt./ZA 139, Ordner 28.

²⁷⁶ Interministerielle Besprechung zur Frage des Schuman Plans im Bundesjustizministerium, 3 July 1950, protocole dated 5 July 1950, PA AA, Personal papers Ophüls, 92. Cf also: Einleitung Findbuch, PA AA, B 15, Dr. Petsch, 1987.

he would assume in the Schuman Plan conference. Kronstein and Mosler in turn demonstrated a less reflected but more pragmatic approach to mediation. While Hallstein was a particularly strong proponent of European integration and Mosler and Kronstein, too, were in favour of European integration, it was Schlochauer who, through editing the *Europäische Föderation*, pursued an academic strategy to bringing about closer co-operation within Europe. Experts shared a commitment to advancing European integration and a common world-view. It does not surprise therefore that Kronstein wrote of his first meeting with Hallstein: 'We were dedicated to collaborating closely and co-ordinating our future ideas and plans. With regard to our world-views, we were somehow prepared for each other'.²⁷⁷

Thirdly, primary sources have indicated the multiple network affiliations of select actors within the group, which reveals a number of overlaps between different networks. To start with, apart from Hallstein, actors who belonged to the transatlantic university network as well as the German delegation, namely Ophüls and Mosler, and later Schlochauer, also participated in the intergovernmental sub-committee of legal experts that closely co-operated with the working group on institutional questions. This conference group in turn comprised the six heads of delegation and therefore Hallstein.²⁷⁸ Another overlap occurred when in September and October 1951 select actors who had been involved in the German Schuman Plan delegation participated in the negotiations on the treaty to replace the Occupation Statute. In the negotiations, which also comprised the deconcentration and de-cartelization of the German heavy

²⁷⁷ Kronstein, *Briefe*, p. 248.

²⁷⁸ See Kurzprotokolle der Sitzung des Juristischen Sachverständigen-Ausschusses, Oktober 1950, PA AA, B 15, 19.

industries, Hallstein, Mosler, Ophüls as well as Grewe and representatives from the federal ministries again bargained with leading USHICOG official Bowie.²⁷⁹

Lastly, like the US Embassy working group, the transatlantic university network provides evidence for the significant role academic and other experts played at the Schuman Plan conference. However, whereas the German actors presented here were university lecturers of law and legal experts, for the US Embassy working group this only applied to Bowie and Reuter. Uri's teaching portfolio encompassed philosophy and economics. Beyond the scope of these informal transatlantic networks, however, policy experts also featured prominently within the more formal consultation structures established at the conference, which will be addressed next.

2.8 Marginalizing diverging policy preferences and forging transnational coalitions: why the Schuman Plan materialized

Expertise and knowledge have been identified as vital elements in accounting for informal transatlantic co-operation. This raises the question as to what other forms of expertise and knowledge existed at the Schuman Plan conference and if and how these forms of expertise were utilized or marginalized at the negotiations. On 4 July 1950 working groups were established to provide an effective structure for consultations among experts outside the meetings of national delegations. These specifically designed expert groups were expected to deal with particular problems in the already specialized

²⁷⁹ For example Auswärtiges Amt, Delegation für die Ablösung des Besatzungsstatuts, Tgb. Nr. 111/51: Kurze Niederschrift über die 1. Besprechung des Unterausschusses für die Allgemeine Vereinbarung am 24. Oktober 1951, PA AA, Personal papers Grewe, 57.

area of coal and steel policy.²⁸⁰ Working groups were set up to address the institutional questions; commercial and tariff policy; nomenclature (definition of coal and steel); production, prices and investments; salaries and social questions; and information. The introduction of the working groups reinforced the significance of experts at the conference. While these working groups have been acknowledged in the literature,²⁸¹ the notion and impact of the differentiation of various forms of policy expertise has not been addressed.

The working group model is conventionally attributed to Monnet who allegedly set up a similar model in the French Planning Commission.²⁸² The model should, however, really be ascribed to Hirsch. The deputy commissioner general had been inspired by his collaboration during World War II with wartime British Minister for Aircraft Production Stafford Cripps who had introduced him to this specific working mode in London.²⁸³ More importantly, the working methods practiced by leading officials in the French Planning Commission complemented Schuman's preferences for the inter-state negotiations. Monnet addressed the rationale behind setting up the working groups in the same meeting with Adenauer on 23 May 1950, in which they discussed the question of the German head of delegation. The planning commissioner

²⁸⁰ Conversations sur le plan Schuman: Séance restreinte du mardi apres-midi, 4 July 1950, AN 81 AJ 131, Folder 2.

²⁸¹ See for example Charles Barthel, 'Das Streben der Stahlhersteller nach einer Gangbarmachung des Schuman-Plans. Einige Betrachtungen aus der Sicht Luxemburger Regierungs- und Industriearchive (1950-1952)', in: Gilbert Trausch, Edmée Croisé-Schirtz, Martine Nies-Berchem, Jean-Marie Majerus, Charles Barthel, *Le Luxembourg face à la construction européenne*, Luxembourg: Centre d'études et de recherches européennes Robert Schuman, 1996, pp. 203-52.

²⁸² For Monnet's working methods see François Duchêne, 'Jean Monnet's Methods', in: Brinkley, Hackett (eds.), pp. 184-209.

²⁸³ Previti Allaire, 'Les archives', p. 11.

presented to the chancellor Schuman's preferences for the conference and stressed that Adenauer, like Schuman in France, should remain in charge of the proposed plan in the Federal Republic. To safeguard the political goals of the plan it would be important to exclude two groups of actors. On the one hand, the national ministries concerned were only to be involved once the political questions had been resolved. On the other hand, the participation of the industry representatives should be limited. Monnet added that instead, delegates should be people less directly interested with a broad political and economic overview, such as professors and academics.²⁸⁴

With their strategy to exclude specific forms of expertise, Schuman and Monnet attempted to shape the parameters for the inter-state conference and ensure that the political goal of advancing European integration through the coal and steel pool would be realized. By identifying and hence trying to exclude civil servants, industrialists and trade unionists Schuman and Monnet anticipated where domestic opposition to the French government's initiative would come from. At the same time, they mapped a strategy of how to fill the gap in expertise created by their exclusions by including academic and other experts. In this context, not only the conference working groups, but even more informal transatlantic co-operation contributed to providing the desired policy expertise. Transatlantic policy networks fulfilled a specific function of policy networks in helping at least to marginalize, actors who did not share the policy preferences for supranational integration and a competitive market economy in the coal and steel pool.

²⁸⁴ Schäffer, 'Konrad Adenauer', p. 135.

But how successful was Schuman's and Monnet's strategy? In the case of France, Schuman and Monnet succeeded in marginalizing the main bulk of the French industry representatives who did not share their policy preferences. The French producers in particular objected to not being part of the policy-making process.²⁸⁵ Further, Coal and Steel Union President Aubrun in a letter to French Prime Minister René Pleven protested against the exclusion of the unions and the lack of co-operation between his union and the French delegation.²⁸⁶ Charles Barthel has stressed that Monnet continued to express discontent about the presence of industry 'technicians', however.²⁸⁷ In late November 1950, he even expelled Luxembourg industrialist Jean-Baptiste Henckes from a conference meeting. Henckes, however, was not only an industry representative, but also a designated member of the delegation of Luxembourg, which led their head of delegation, Albert Wehrer, to protest in writing against such conduct.²⁸⁸ Bruce also observed that the Belgian and Luxembourg delegates '...appear to be subject to more effective pressure from industrial interests than [the] others'.²⁸⁹

In the case of Germany, Monnet in his meeting with Adenauer had successfully contributed to shaping the parameters for the appointment of the German chief negotiator. Monnet could not prescribe for Germany or, for that matter, the other participating states how their delegations should be composed, nor how to run their domestic consultation processes. Among the German delegation members were Walter Bauer, the German observer at the IAR and the official responsible for the

²⁸⁵ Barthel, 'Das Streben', p. 205.

²⁸⁶ Letter Aubrun to Pleven, 16 November 1950, AN 81 AJ 135.

²⁸⁷ Barthel, 'Das Streben', p. 217.

²⁸⁸ Ibid.

²⁸⁹ Telegramme Bruce to Secretary of State, 9 December 1950, NARA 850.33/12-950.

deconcentration of the Southern German coal branch; Hans Boden, member of the board of the Allgemeine Elektrizitäts-Gesellschaft, a private electronics company; and Hans vom Hoff, member of the board of Deutscher Gewerkschaftsbund (DGB), the German Trade Union Congress. For reasons that will be discussed in chapter 4, the powerful DGB and the social democrat unions in other European countries supported the Schuman Plan, at least until the introduction of the anti-trust articles in November 1950.²⁹⁰ Crucially, none of the German members of delegation represented the coal and steel industries.²⁹¹ Notably, Adenauer had tried previously to foster co-operation with industrialists, which is supported by the fact that the chancellor as early as 1948 had attempted to enlist the support of industrialist Günter Henle for Franco-German industrial co-operation, a notion that will be further discussed in chapter 3.

Moreover, a formal and hierarchical framework for consultation was established in Germany. The newly established committees included the Cabinet Committee composed of the Federal ministers for economics, Marshall Plan affairs, finances and labour – in other words, the representatives of the ministries and the economic areas affected by the Schuman Plan. This committee was presided over by the chancellor and was responsible for providing the delegation with formal instructions.²⁹² Further agencies included the Interministerial Committee; the Secretariat for Questions of the Schuman Plan, which was founded on 3 July 1950 in the Department for Foreign Affairs

²⁹⁰ Cf. Declaration of the International Confederation of Free Trade Unions (ICFTU), Düsseldorf, 23 May 1950, AN 81 AJ 131.

²⁹¹ While the participants lists are not complete and do not reflect the changes in the composition of the delegations over the period of the conference, see for a first introduction Hans Dichgans, *Montanunion. Menschen und Institutionen*, Düsseldorf, Vienna: Econ Verlag, 1980, pp. 58-75; for the industry representatives see esp. pp. 67-8.

²⁹² Sitzung des Bundeskabinetts, 16 June 1950, PA AA, B 15, 7.

of the Chancellory to fulfil a co-ordinating function between the delegation and federal institutions; and various German expert committees that were formed in line with the policy areas of the conference working groups in Paris and provided the representatives of the German industries with an opportunity to participate in the policy-making process.²⁹³ In short, ministry officials and industry representatives were included at different levels in domestic policy-making. Further, German delegates travelled back and forth between Paris and Bonn to keep abreast the relevant committees in Germany about the proceedings for the entire period of the conference. While this is somewhat speculative, one could argue that the inclusion of a variety of interests in the domestic policy-making process reflected the German government's attempt to convey their commitment to the concept of a plurality of interests and transparency of policy-making. To take these notions seriously may have seemed important to the Adenauer government in the context of US occupation, in particular, and the wider foreign policy goal of establishing the Federal Republic firmly within the US-led western alliance.

Evidence suggests that policy-making was largely concentrated in Paris. Despite the existence of an elaborate consultation structure in Germany, Herbert Kraus, a law professor at the University of Göttingen and a member of the German expert committee for legal questions, in a letter to Adenauer asked to be relieved of his duty arguing that the German committee would not be integrated sufficiently in the policy-making process: 'Evidently, the legal work has moved to Paris... I am convinced that the expert committee for legal questions indeed is dead'.²⁹⁴ In fact, the legal sub-committee Kraus

²⁹³ For example letter Bundesvorstand des Deutschen Gewerkschaftsbundes to Adenauer, 1 July 1950, PA AA, B15, 15.

²⁹⁴ Letter Kraus to Adenauer, 6 October 1950, PA AA, B15, 54.

referred to did meet at least four times in early October 1950.²⁹⁵ However, Kraus' observations, while they represent an individual testimony and should therefore not be overemphasized, demonstrate frustration with the perceived lack of results from participating in the policy- and decision-making process. One could argue that perhaps because they were more tangible, formal consultation structures were more likely to be controversial than the informal activities of transatlantic policy networks. At least until the temporary breakdown of the inter-state conference in December 1950, which resulted from the pending resolution of restructuring the German heavy industries, Schuman, Monnet and Adenauer succeeded in concentrating policy-making largely in Paris and at the same time excluded alternative expert advice.

Thus, Monnet's and Schuman's strategy to exclude certain types of experts was mostly successful. While some national delegations may not have fitted their parameters ideally, the establishment of working groups contributed to a fragmentation of knowledge at the conference. Only few actors were aware of how the entire treaty, rather than a specific segment of it, was developing. According to Barthel, this process of fragmentation meant that only Monnet, the 'conductor of the Paris conference'²⁹⁶, had the overall picture. In line with the previous assessment of Monnet as a policy entrepreneur, however, this claim needs to be modified. Certainly, Monnet did have an overall view of the negotiations, but so did other key actors, including Hallstein, Hirsch and Uri. In fact, like Monnet, these actors each fulfilled a number of criteria that have been identified as a pre-requisite to having a holistic view of the emerging treaty. One

²⁹⁵ Cf. Kurzprotokolle über die Sitzung des Pariser juristischen Sachverständigenausschusses, 4, 5, 12, 13 October 1950, PA AA, B15, 19.

²⁹⁶ Barthel, 'Das Streben', p. 217. For the significance of fragmentation see *ibid.* pp. 217-8.

condition was sufficient access to informal transatlantic policy-making. Secondly, actors were more likely to develop a holistic view on the basis of multiple working group affiliations, which applied specifically to both Hirsch and Uri. Thirdly, these actors participated in, or were affiliated via mutually relating actors, with the working group on institutional questions and the sub-committee of legal experts.

The working group on institutional questions was responsible for designing the institutional framework for the coal and steel community rather than negotiating technical details. Reflecting its political mandate the group differed from the other working groups with regard to its composition and included all heads of delegation, which next to Hallstein, Monnet and Wehrer comprised Spierenburg for the Netherlands, Max Suetens for Belgium and Paolo Emilio Taviani for Italy. While Spierenburg, Suetens and Wehrer were diplomats, Taviani was also a leading Christian democrat politician, who had been socialized along with Adenauer and Schuman in the informal meetings of the European Christian democrats after World War II. He was very close to the Italian Prime Minister Alcide De Gasperi.²⁹⁷ Further taking part in the meetings of this group were select members and legal experts of the delegations, including for example, Blankenhorn, Mosler and Ophüls for the German delegation and Clappier, Reuter and Foreign Ministry official and legal expert Lucien Hubert for the French team.²⁹⁸ The working group for institutional questions relied on the policy expertise of the sub-committee of legal experts.

Jointly, these two groups indicate a twofold flexibility of the policy-making process at the conference. Firstly, following what was basically the conclusion of the

²⁹⁷ Kaiser, *Christian Democracy*, pp. 233-4.

²⁹⁸ List September 1950, PA AA, B 15, 57.

negotiations of the institutional provisions before the summer break on 10 August 1950, the working group for institutional questions in late August adapted its mandate and as the Comité restreint, or Réunion restreinte, the co-ordinating committee, synchronized the mandates of the different conference working groups.²⁹⁹ These working groups, which had acted largely independently from the heads of delegation until the summer break, now had to adjust their agendas. In early September 1950, for example, the co-ordinating committee instructed the working group on commercial and tariff policy to change their mandate and ‘propose definite texts’ for specific treaty articles.³⁰⁰ Secondly, flexibility also pertained to the membership in the legal sub-committee, which was not fixed. While Ophüls, for example, participated in the group for the entire period of the negotiations, Schlochauer came in for Mosler and Lagrange slowly replaced Reuter. Lagrange, the lawyer at the Conseil d’Etat struck an impressive figure, which both Bowie³⁰¹ and Steindorff recalled half a century later.³⁰² On the one hand, the participation of Mosler, Ophüls and Schlochauer in the sub-committee points to an overlap of the legal sub-committee with both the transatlantic university network and the German delegation. Reuter, on the other hand, provided the link to the US Embassy working group and the French delegation.³⁰³ These multiple affiliations of actors strongly suggest that even in the crucial area of the institutional framework, the heads of

²⁹⁹ Note Sahn to the Federal Chancellory, 5 September 1950, PA AA, B15, 99.

³⁰⁰ Réunions Groupe de travail politique commerciale et tarifaire, 5, 7 September 1950, AN 81 AJ 144.

³⁰¹ Interview Bowie.

³⁰² Interview Steindorff. In the words of Steindorff who contrasted the rather non-descript Reuter with the charismatic Lagrange: ‘Everyone would turn when he entered the room’.

³⁰³ Kurzprotokoll über die Sitzung des Pariser juristischen Sachverständigenausschusses, 6 September 1950, PA AA, B15, 18.

delegation did not have an exclusive and firm grip on decisions, but rather that there was room for informal transatlantic policy-making.

In general, Schuman's and Monnet's preference to give a leading role to academic and other experts at the inter-state conference materialized. One important dimension of their gate-keeping function vis-à-vis socio-economic actors was the admission and utilization of transatlantic policy networks. As a result of the fragmentation and informal transatlantic policy-making, even if industry representatives were included in domestic policy-making, they were marginalized in the negotiations. It was in this spirit that Schuman expressed satisfaction with the role of experts and the progress of the conference in a luncheon in New York on 20 September 1950.³⁰⁴

Having discussed Schuman's and Monnet's exclusion strategy it is noteworthy that in principle, industrialists also shared the political goal of European co-operation.³⁰⁵ More contested than the constitutional dimension of the treaty was its economic framework. Crucially, with the exception of the French and Italian Metal Manufacturing Syndicates, which regarded the access to raw materials at most favoured conditions as an advantage for small and medium sized businesses,³⁰⁶ representatives of the heavy industries did not share the preference for a competitive framework for the coal and steel pool. While the main bulk of the industrialists, namely all those who did not share this economic preference, were marginalized at the inter-state negotiations, the German industrialists did play a major role in the separate bi-lateral negotiations with Bowie and

³⁰⁴ Cf. Schuman Luncheon, ACUE, Box 1, Folder 5.

³⁰⁵ Barthel, 'Das Streben', p. 205.

³⁰⁶ See for the Italian case Ruggero Ranieri, 'The Italian Steel Industry and the Schuman Plan Negotiations', in: Schwabe (ed.), *Die Anfänge des Schuman-Plans*, pp. 345-56, here p. 347.

McCloy on the deconcentration and de-cartelization in late 1950 and early 1951. In contrast to the inter-state conference, which was supposed to advance Franco-German relations and help the Federal Republic to achieve a greater degree of equality in the international community, the Adenauer government could not marginalize industrialists from these deliberations that directly concerned their enterprises. Further, the introduction of the anti-trust articles into the draft treaty and the attempts to resolve the pending reorganization of the German heavy industries resulted in the temporary withdrawal of trade union support for the Schuman Plan, which will be addressed in chapter 4.

These observations regarding the industrialists and trade unions draw attention to the interface between policy-making at the inter-state conference and domestic politics in the future member-states, particularly Germany and France. The remainder of this sub-chapter therefore addresses the broader framework of political and societal support for the Schuman Plan. This analysis is informed by the notion that the activities of transatlantic policy networks alone do not account for why the French government's initiative was translated into a treaty, which subsequently was ratified in the six member-states. Instead, the supranational institutional framework for core Europe on the one hand, and the anti-trust provisions for the coal and steel pool on the other, were supported by transnational coalitions of different individual and collective actors. While these actors shared the policy preferences for a supranational and competitive Europe, they sometimes needed to align diverging core beliefs and values, which were underlying these policy preferences. In short, this broader contextualization is essential to understanding why the Schuman Plan materialized. Lastly, while key aspects of the

advocacy structures will be addressed here, further reference regarding their significance for policy development will be made in the following chapters.

At the time of the Schuman Plan negotiations, Christian democratic parties were the dominant political force in all six future member-states. Crucial political support for the French government's initiative drew on transnational social capital and consensus reached through informal co-operation of Christian democratic politicians. Informal meetings proved important to preparing early Franco-German rapprochement and took place in the Nouvelles Equipes Internationales (NEI), which was created in 1947 and a distant forerunner of the European People's Party, and the secret high-level meetings of leading Christian democrats, including Adenauer, Schuman and Taviani, in the Geneva Circle. From 1947-50 European Christian democrats established vital political consensus on advancing European integration through Franco-German co-operation in the coal and steel sectors and without the participation of the UK.³⁰⁷ Kaiser has shown that deep-rooted beliefs and concepts were responsible for the Christian democrats' embracing of supranational integration, which provoked the self-exclusion of the UK. Accordingly, the political concept of supranationality shared similarities with the organization of the Catholic Church with its 'supranational' centre in Rome. Further, supranationality was tied to the notion of European integration served as a tool to restore western civilization within the boundaries of the Carolingian Empire but on democratic foundations. Lastly, the delegation of authority from the national to the supranational European level also matched the principle of subsidiarity from Catholic social teaching,

³⁰⁷ Kaiser, *Christian Democracy*, chapter 6, pp. 191-252.

which embraced the dispersion of authority across different societal levels.³⁰⁸ Crucially, transnational Christian democracy had devised a concrete action plan to advance supranational integration.

Christian democrats with their supranational approach went beyond the general notion that European political co-operation was desirable, which was evidenced by the existing intergovernmental co-operation in the Council of Europe and the OEEC. Although many socialists particularly in France and Belgium had strongly federalist preferences, they did not share the ideological beliefs underlying the supranational preference of transnational Christian democracy. What was more, they did not favour advancing European integration without the UK, which was still under a Labour government. While the French socialists highlighted the significance of Franco-German reconciliation and the potential of establishing public authority for the basic industries in their endorsement of the Schuman Plan,³⁰⁹ they only fully supported the coal and steel pool after the British Labour party issued a 'Eurosceptic' policy document excluding the possibility of UK participation in the arrangement.³¹⁰

Kurt Schumacher, the leader of the German social democratic party initially also embraced the French government's initiative at European co-operation and the socio-political potential of the plan. From the beginning, however, Schumacher cautioned that the acceptance of the Schuman Plan would confirm the separation of Germany and constitute a barrier to reunification should the coal and steel pool be realized. Ultimately, Schumacher's nationalist preference formed the basis of his argument

³⁰⁸ Ibid. 228-9.

³⁰⁹ Telegramme Bonbright to Department of State, 13 May 1950, NARA 850.33/5-1350.

³¹⁰ Kaiser, *Christian Democracy*, p. 246.

against the emerging treaty during the negotiations and even more fervently, in the ratification debate.³¹¹ Since the German social democratic party was internally divided – high-ranking social democrats indicated their preference for western integration – and the trade unions came down in support of the Schuman Plan, Schumacher’s opposition to the coal and steel treaty represented no real threat to core Europe formation. Further opposition to the Schuman Plan originated with the French Communists as well as Charles de Gaulle’s *Rassemblement du Peuple Français* that ‘denounced the plan as a sellout to...capitalists, the Germans, or faceless supranational bureaucrats (or all three)’.³¹² Lastly, in Italy, Alcide de Gaspari needed to enlist the support of his partners in the coalition government against opposition to the treaty from the communists, some socialists, monarchists and neo-fascists.³¹³

The Christian democrats’ preference for supranational integration resonated with that of the US government. The Truman administration had since the inception of the Marshall Plan promoted European integration beyond intergovernmental co-operation. Because of ideological differences the Democrats of the Truman government did not regard European Christian democratic parties as preferred allies to realize supranational integration and initially tried to foster co-operation with social democratic and left-liberal groups. However, as a result of a learning process, not the least in occupied Germany, the US government came to regard Christian democrats as suitable political allies on the issue of European integration. Acheson’s diverse first encounters with

³¹¹ Kurt Klotzbach. ‘Die deutsche Sozialdemokratie und der Schuman-Plan’, in: Schwabe (ed.), *Die Anfänge des Schuman-Plans*, pp. 333-44, here pp. 335-6; cf. also Kaiser, *Christian Democracy*, p. 220.

³¹² Craig Parsons, *A Certain Idea of Europe*, Ithaca and London: Cornell University Press, 2003, p. 57.

³¹³ Haas, *The Uniting of Europe*, p. 140.

Adenauer and Schumacher in 1949 illustrate this development. Deeply impressed with the German chancellor, Acheson was 'struck by the imagination and wisdom of his approach'³¹⁴ to the question of integrating Germany into western Europe. In contrast, Acheson remembered that Schumacher 'combined a harsh and violent nature with nationalistic and aggressive ideas'.³¹⁵ Moreover, State Department officials began encouraging the French government to take the lead in initiating European integration from 1949 onwards.³¹⁶ In October 1949, Acheson in a letter to Schuman, following up on their recent encounter,³¹⁷ spelled out US policy. In the context of the division of Germany and the 'east-west split'³¹⁸, the occupying powers, according to Acheson, should determine the future course of the Federal Republic: 'Now is the time for French initiative and leadership of the type required to integrate the German Federal Republic promptly and decisively into Western Europe. Delay will seriously weaken the possibilities of success'.³¹⁹ Acheson further proposed that French leadership should focus on promoting Germany's participation in international organizations rather than imposing policies on the German government. Just after the announcement of the Schuman Plan, John Foster Dulles, then a consultant to Acheson, acknowledged that the policy proposal fitted in with larger US foreign policy objectives: 'This proposal is along the lines which Secretary Marshall and I thought about...in 1947 but which we

³¹⁴ Acheson, *Present at the Creation*, p. 341.

³¹⁵ *Ibid.*

³¹⁶ Cf. Klaus Schwabe, 'The Origins of the United States' Engagement in Europe, 1946-1952', in: Heller, Gillingham (eds.), *N.A.T.O: the Founding of the Atlantic Alliance and the Integration of Europe*, pp. 161-92, here pp. 177-8.

³¹⁷ Cf. interview Clappier.

³¹⁸ Letter Acheson to Schuman, 30 October 1949, Fond Robert Schuman de la Fondation Jean Monnet pour l'Europe, 3/1/4.

³¹⁹ *Ibid.*

did not believe the French would ever accept'.³²⁰ Even more, during the period of agenda setting, high-ranking US foreign policy officials actively supported the Christian democrats' preference to exclude the UK government. Following discussions with Hirsch, Monnet and McCloy, Harriman, for example, guarded against appointing an official of the ECA mission in Germany to participate in the negotiations on the grounds that 'to do so would invite British participation that might be obstructive'.³²¹

Although leading US foreign policy officials and Christian democratic politicians shared the preference for supranational European integration, they differed in their appreciation of the beliefs and values underlying this preference as will be demonstrated. As the incident of Monnet and McCloy's joint coaching to secure Acheson and Bruce's endorsement of the Schuman Plan corroborates, US officials and European Christian democrats also differed in their assessment of the suitability of the choice of the coal and steel sectors was to advance European integration. To bridge the ideological gap and to secure the ongoing support of the US government, Schuman relied on Monnet's role as a transatlantic mediator. To explain the co-operation of Monnet and Schuman as part of coalition building for a supranational Europe, two further observations are important. Firstly, the planning commissioner did not share Schuman's Catholicism or party affiliation, but needed to forge a coalition with the French foreign minister to realize his own preference for 'functional' western European integration beyond intergovernmental co-operation. Monnet sought to profit from Schuman's transnational political capital to realize the policy proposal, co-written by

³²⁰ John Foster Dulles to the Secretary of State, 10 May 1950, 740.5/5-1050, FRUS 1950 III, pp. 695-6.

³²¹ Telegramme Harriman to Acheson, 20 May 1950, 850.33/5-2050, FRUS 1950 III, pp. 702-4, here p. 704.

Hirsch, Reuter and Uri, and to escape his 'double-marginalization' within the Council of Europe and French domestic politics. As a member of the French state elite and bureaucracy Monnet had not participated in the Congress of The Hague, where national bureaucratic elites crucially were excluded from the policy-making process.³²² Probably Monnet would have been unlikely to recruit sufficient support for his policy preference for supranational sectoral integration among the variety of federalist movements at The Hague. Ironically however, Monnet was also isolated within the French bureaucracy that by and large did not share his preference.³²³ Secondly, an alliance with Schuman also required trade-offs for Monnet. As a consequence of attaching himself to the policy preference of the European Christian democrats, Monnet was forced to part with his personal preference of including the UK government in some form in the Schuman Plan.³²⁴ Realistically, Monnet may have well anticipated the 3 June 1950 announcement of the UK government that they would not join the inter-state conference.³²⁵ The intense negotiations that took place between Hirsch, Monnet, Uri and UK officials in London from 14 to 19 May 1950³²⁶ however, indicate that it was a preference Monnet only gave

³²² Antonin Cohen, 'Constitutionalism without Constitution: Transnational Elites Between Political Mobilization and Legal Expertise in the Making of a Constitution for Europe (1940s-1960s)', in: *Law and Social Inquiry*, vol. 32, no. 1 (2007), pp. 109-35, here p. 115.

³²³ Kaiser, *Christian Democracy*, p. 224.

³²⁴ On Monnet's preference see Gilbert Trausch, 'Der Schuman-Plan zwischen Mythos und Realität. Der Stellenwert des Schuman-Planes', in Trausch, Croisé-Schirtz, Nies-Berchem, Majerus, Barthel (eds.), *Le Luxembourg*, pp. 45-65, here pp. 50-1.

³²⁵ Cf. Summary of the Anglo-French Discussions, May, June 1950, Parliamentary Publication, FO 371, 85849; Schröder, *Jean Monnet und die amerikanische Unterstützung*, p. 115.

³²⁶ See for example the notes of a meeting held at the Hyde Park Hotel between Monnet, Roger Makins, Edwin Plowden, E.A. Hitchman (Treasury), 16 May 1950, HAEU, Foreign Office Files for Post-War Europe Series One: The Schuman Plan and the European Coal and Steel Community, 1950-55, Part I: 1950-53 (FO), Microfilm, FO

up reluctantly. In sum, transnational coalition building required compromising policy solutions, while at the same time it represented a necessary pre-requisite to safeguard the political acceptance of the ECSC treaty.

The acceptance of the anti-trust provisions relied on another transatlantic advocacy coalition formed by a number of actors who shared their policy preference for a competitive market economy and consumer protection. Among the industry representatives only the French and Italian Metal Manufacturing Syndicates supported the anti-trust provisions, whereas the trade unions, particularly German trade unionists, at least guaranteed sufficient permissive consensus. Opposition to the anti-trust provisions came not only from the industrialists, but also from the German social democrats, who favoured traditional socialist economic policies including the transfer of the heavy industries to public ownership and comprehensive planning.³²⁷ Important partners in the advocacy coalition for a competitive framework for the coal and steel pool were domestically marginalized political forces in both Germany and France, who had campaigned for the introduction of national anti-trust laws with the support of and, sometimes in co-operation with, US officials. Their policy preference only could be realized through the use of transnational political and expert capital. Against this backdrop, the following chapters will examine in detail how transatlantic policy networks contributed to shaping the negotiations on the institutional framework and the anti-trust provisions.

371/ 85841; note for record, meeting Hitchman with Monnet, Hirsch, Uri, 17 May 1950, *ibid.*

³²⁷ Klotzbach, 'Die deutsche Sozialdemokratie'.

3 The institutional framework

3.1 Introduction

This chapter demonstrates how transatlantic policy networks contributed to the shaping of the institutional framework of the ECSC. Comprising a High Authority, a Special Council of Ministers, a Common Assembly and a Court of Justice, the institutional system combined the supranational principle with a federal structure. Literature has portrayed the emergence of the institutional system as the result of a bargaining process of domestically derived and more or less coherent policy positions, in which the French, German and Dutch delegations feature as the main players.³²⁸ Accordingly, ‘the French’, under the leadership of Monnet, set the agenda by introducing the supranational principle and the idea of central government into the coal and steel treaty. These notions were adjusted mainly to accommodate various proposals by ‘the Dutch’ and other Benelux governments to integrate the member-state governments in the institutional architecture. By the same token, ‘the Germans’ were responsible for introducing the notions of federalism and separation of power into the ECSC treaty. In contrast, it will be demonstrated that these policy positions were less coherent. A much more nuanced picture of the genesis of the institutional system will be portrayed by developing a long-term transatlantic perspective and integrating informal policy-making processes.

The chapter is structured around five stages in the genesis of the institutions emerging from the Schuman Plan conference. In the first sub-chapter, the Schuman Plan

³²⁸ Cf. Küsters, ‘Die Verhandlungen über das institutionelle System’; Lappenküper, ‘Der Schuman Plan’; idem., *Die deutsch-französischen Beziehungen 1949-1963*, vol. 1; Spierenburg, Poidevin, *The History of the High Authority*, pp. 9-40.

declaration will be introduced as a point of departure for the period of agenda setting and the inter-state negotiations and will be contextualized broadly within earlier initiatives to unite Europe; to establish a European federation; and to pool the western European heavy industries (3.2). The purpose here is to sketch the scope and depth of the multi-faceted debate on European integration and to address the transatlantic element to this debate rather than to illustrate how actors drafting the Schuman Plan declaration or later, the institutional provisions, drew on specific previous schemes. Against this background, the next sub-chapter discusses the core institutional feature of the proposal of the French government, namely the high authority and the problem of accountability. Particular emphasis will be placed on the role of the drafters of the proposal as mediators between different constitutional and administrative traditions (3.3). Internal French policy papers show that the initial institutional preferences were partially adjusted even before the formal beginning of the inter-state negotiations. Only after the opening of the conference, however, did the concept of a central or unitary institutional system give way to a federal system with four institutions and separation of powers. This development is the subject of the following sub-chapter, which also highlights the influence of both the US Embassy working group and the transatlantic university network during the early days of the negotiations (3.4). The fifth sub-chapter addresses the changed setting for transatlantic policy-making after the summer break. While in principle the attention of the US Embassy working group had shifted from the institutional to the economic, more specifically, the anti-trust provisions of the treaty, the ongoing discussion about supranationality and the development of the court show the role of transatlantic policy networks during this period (3.5). The last sub-chapter

will summarize the decisions the Conference of Foreign Ministers took in April 1951 on the political questions the negotiating parties had left open. Finally, the immediate impact of transatlantic policy networks on the ECSC institutional framework and their long-term impact on institutional designs for core Europe will be evaluated (3.6).

3.2 'Bold, constructive'³²⁹, but not unique: the Schuman Plan declaration

At least three perspectives of the Schuman Plan declaration moulded the point of departure for the negotiations on the institutional framework. Firstly, the initiative of the French government can be contextualized within a series of proposals for European unity that can be traced back as far as Greek antiquity. These proposals have remained an integral element of political theory and discourse ever since the formation of the modern state system in Europe.³³⁰ In the period after World War I concepts to unite Europe flourished.³³¹ This time such concepts were no longer tied to the pursuit for hegemony of one of the European great powers, but proposed European integration as an alternative to the diverse and aggressive assertion of power through nation-states.³³²

³²⁹ Cf. chapter 12, A Bold, Constructive Act (1949-1950), in Jean Monnet, *Memoirs*, London: Collins, 1978, pp. 288-317.

³³⁰ Denis de Rougemont, *Europa. Vom Mythos zur Wirklichkeit*, Munich: Prestel-Verlag, 1962.

³³¹ See for example Carl H. Pegg, *Evolution of the European Idea, 1914-1932*, Chapel Hill, London: The University of North Carolina Press, 1983; Derek Heather, *The Idea of European Unity*, Leicester: Leicester University Press, 1992, chapter 6; for the perspective of the Weimar Republic see also Reinhard Frommelt, *Panuropa oder Mitteleuropa. Einigungsbestrebungen im Kalkül deutscher Wirtschaft und Politik 1925-1933*, Schriftenreihe der Vierteljahreshefte für Zeitgeschichte, vol. 34, Munich: R. Oldenbourg, 1977.

³³² Wilfried Loth, *Der Weg nach Europa: Geschichte der europäischen Integration 1939-1957*, Göttingen: Vandenhoeck und Ruprecht, 1996, p. 9.

Motives to integrate Europe included: safeguarding peace; finding joint solutions to the production problems of national industries, especially against the backdrop of rising competition from the US; and, defending the existing political and social system against Soviet Communism.³³³ The emergence of plans for integrating Europe was further helped by the fact that the newly established League of Nations, which attempted to replace the balance-of-power-system between the states with an international system of collective security, proved ineffective during the political and economic crises of the 1920s and 1930s. The League of Nations also served the starting point for a specific group of movements to promote European unification.³³⁴

A second perspective of the Schuman Plan declaration relates to the preference for a federal system of government, which represented an integral part of many proposals for European unity. The complexity of the federal heritage and the attached political ideas and strategies necessitate that the following remarks are cursory at best. A basic definition of federalism maintains that authority is exercised on at least two different levels, usually the central and the regional level of government.³³⁵ The division of power between different levels of government is laid down in a constitution. Further, regional representation is an important part of the central government.³³⁶ One advantage of federalism is to prevent the concentration of governmental power. A federal system of government, therefore, functions as a safeguard for democracy and

³³³ Ibid. p. 10.

³³⁴ See Pegg, *Evolution of the European Idea*, chapter 18, pp. 157-65.

³³⁵ Andrew Heywood, *Key Concepts in Politics*, Basingstoke: Palgrave Macmillan, 2000, pp. 240-2.

³³⁶ Keith S. Rosenn, 'Federalism in the Americas in Comparative Perspective', *Inter-American Law Review*, vol. 26, no. 1 (1994), pp. 3-50, here pp. 5-6.

against tyranny,³³⁷ particularly the rise of autocratic and totalitarian regimes. This core feature helps to explain the ongoing appeal of the federalist system of government. Moreover, the democratic dimension of federalism gives one good reason for the popularity and model function of the US system of government, in particular. A transatlantic viewpoint on the Schuman Plan declaration and the federal perspective requires that four observations regarding the American model be addressed briefly.

Firstly, the US set a federal constitution precedent. In the former British colonies, a modern federal system was for the first time realized on the basis of the written constitution of 1787 and the federal Bill of Rights – the first ten amendments to the constitution – of 1791. Replacing the Articles of Confederation the federal Constitution of the United States of America was ratified by the people and thus represented the break-through of the principle of popular sovereignty.³³⁸ Its constitutional basis coupled with the ratification process distinguished American federalism from historic predecessors such as the Swiss federation. From a contemporary perspective one has to concede that the US at their founding did not fulfil core criteria for democracy since participation in the political process was severely restricted and excluded major portions of the population on the basis of race and gender.³³⁹ Having said this, American federalism anticipated the advance of truly representative democracy. And the democratic dimension persisted even though the

³³⁷ Ibid. p. 7.

³³⁸ For interpretations of the American Revolution see Bernard Bailyn, *The Ideological Origins of the American Revolution*, Cambridge/MA, London: Belknap Press of Harvard University Press, 1992 [1967]; Gordon Wood, *The Creation of the American Republic 1776-1787*, Chapel Hill: University of North Carolina Press, 1969; and more recently idem., *The Radicalism of the American Revolution*, New York: Random House, 1993.

³³⁹ Cf. also Robert Alan Dahl, *How Democratic is the American Constitution?*, New Haven: Yale University Press, 2001.

balance between the central government and the states changed dramatically in the course of the 19th and 20th centuries, notably following the Civil War and later, the Great Depression. A cornerstone in this development came with the US Supreme Court's 1947 decision in *Adamson versus California*.³⁴⁰ In his dissenting opinion, Justice Hugo Black, proposed a new reading of the 14th amendment, one of the so-called Civil War amendments (amendments 13, 14 and 15 to the constitution). According to Black, the Federal Bill of Rights, the catalogue of fundamental rights of the federal constitution, should not only be applicable to the federal level, but also to the states. Crucially, Black's interpretation triggered a debate in American constitutional law that ultimately led to a shift of authority away from the states to the federal government.³⁴¹

Secondly, the American model has a utopian dimension. Since Europeans first started to settle in the New World, America simultaneously served as an experiment to create a better world and a mirror for the future of the Old World. In practical terms, studies of the American political system were embedded in a larger intellectual tradition, which preceded the institutionalization of US federalism in the late 18th century and entailed travelling to America. These journeys promised the travellers an insight into the future of Europe by crossing the Atlantic. Claus Offe has contextualized the famous journeys of French aristocrat and political philosopher Alexis de Tocqueville (1831-32), German sociologist Max Weber (1903) and German theorist and emigrant Theodor Adorno (1938) to America within:

³⁴⁰ *Adamson v. California*, 332 U.S. 46 (1947).

³⁴¹ For an introduction cf. William E. Nelson, *The Fourteenth Amendment: From Political Principle to Judicial Doctrine*, Cambridge/MA, London: Harvard University Press, 1988.

...a tradition in European social theory going back to the late seventeenth century, for which the nature of European problems and the range of possible solutions were to be understood through their reflection in the realities of America.³⁴²

Thirdly, with its utopian and democratic dimension, American federalism differed from alternative federal models that originated in the 19th century and served as potential points of reference for federalist thought and rhetoric. Important cases in point were the Zollverein, the German Customs Union, of 1834 and the North German Confederation of 1866, an alliance under Prussia's leadership. As a result of the particularity of the US model, ever since the late 18th century the debate on federalism has included a transatlantic element. The US has functioned as a model for political theorists and practitioners exploring alternative systems of government in Europe and elsewhere.

Fourthly, American federalism has attracted particular attention in times of political and economic turmoil and change such as the inter-war years and the post-war period. While American federalism induced positive associations of stable and liberal democratic government, this went hand in hand with a deep-rooted socio-cultural opposition to American materialism. Conservatives of the right and left political forces rejected what they perceived as the American way of life and American-style society, most importantly mass consumerism. For European societies after 1945 Richard Kuisel has summarized the ambiguity of the American model: 'postwar America appeared as both a model and a menace'.³⁴³ As a result of this tension, US federalism, rather than

³⁴² Claus Offe, *Reflections on America. Tocqueville, Weber and Adorno in the United States*, Cambridge: Polity Press, 2005 [German 2004], p. 3.

³⁴³ Kuisel, *Seducing the French*, p. 3.

serving as a model, provided terms and concepts that intellectuals and politicians utilized in the European discourse. A case in point for the semantic application of American federalism in the inter-war period that resonated well into the post-World War II era was Richard Coudenhove-Kalergi's scheme for a 'Pan-European' union, first published in 1923, in which he called for the formation of the 'United States of Europe'.³⁴⁴ Here, the tribute to the US fulfilled the specific function of giving a sense of direction to the Pan-European project.³⁴⁵ References to the 'US of Europe' were also frequent after 1945, as evidenced, for example, by former British Prime Minister Winston Churchill's speech in Zurich in September 1946.³⁴⁶ Even in 1955, after he had left the office of president of the High Authority of the ECSC, Monnet drew on an American federal concept when he founded his 'Action Committee for the United States of Europe'.³⁴⁷

In the European context of expressions of federal preferences, a number of proposals and trends helped to set the stage for the Schuman Plan declaration. One of the celebrated federal proposals from the inter-war period is the initiative presented by French Foreign Minister Aristide Briand and the French delegation to the League of Nations' General Assembly on 5 September 1929.³⁴⁸ As a matter of fact the Schuman

³⁴⁴ Richard Coudenhove-Kalergi, *Pan-Europa*, Wien: Pan-Europa Verlag, 1923.

³⁴⁵ Cf. Vanessa Conze, *Richard Coudenhove-Kalergi. Umstrittener Visionär Europas*, Gleichen: Muster-Schmidt, 2004; Frommelt, 'Paneuropa oder Mitteleuropa'; Anita Ziegerhofer-Pretenthaler, *Botschafter Europas. Richard Nikolaus Coudenhove-Kalergi und die Paneuropa-Bewegung in den zwanziger und dreißiger Jahren*, Vienna, Cologne, Weimar: Böhlau, 2004.

³⁴⁶ Winston Churchill, Speech at the University of Zurich, 19 September 1946, <http://www.ena.lu/> (accessed 20 February 2008).

³⁴⁷ Cf. Monnet, *Memoirs*, chapter 16, pp. 405-30.

³⁴⁸ Discours pour l'Union Européenne, 5 September 1929, in: Achille Elisha, *Aristide Briand. La paix mondiale et l'union européenne*, Louvain-la-Neuve: Academia Brylant,

Plan declaration referred to the Briand Memorandum of 1 May 1930, which substantiated the earlier speech: 'By making herself for more than twenty years the champion of a united Europe, France has had as her essential objective the maintenance of peace'.³⁴⁹ Certainly, parallels between the texts of 1930 and 1950 can be detected, among them the motivation to safeguard peace, the notion of the interdependency of nations and the idea that a federal union could only be achieved gradually.³⁵⁰ With regard to the point of departure of the Schuman Plan conference, however, it seems more important to note that the drafters of the Schuman Plan declaration chose to place their plan in the context of the earlier proposal although it did not materialize. According to Monnet, Clappier, who helped with the final revision of the text, inserted the reference as 'homage to Aristide Briand'.³⁵¹ One could argue that in addition to fulfilling a rhetorical function, the reference echoed the constitutional dimension of the Briand memorandum. In 1930, this aspect of the memorandum was remarkable in privileging political over economic integration and laying out 'a first institutional architecture for a European legal and political order'.³⁵²

World War II gave rise to a growing popularity of forms of co-operation between European states, including federalist solutions. Still relevant in this context are

2000 [2nd revised ed.], pp. 259-68; cf. also for a detailed assessment Pegg, *Evolution of the European Idea*, chapters 13-18.

³⁴⁹ Déclaration officielle du gouvernement français, 9 May 1950; Bonbright to Acheson, 9 May 1950.

³⁵⁰ Cf. Jules Hermans, *L'évolution de la pensée européenne d'Aristide Briand*, Nancy: Idoux, 1965.

³⁵¹ Monnet, *Memoirs*, p. 300.

³⁵² Mikael Rask Madsen and Antoine Vauchez, 'European Constitutionalism at the Cradle: Law and Lawyers in the Construction of a European Political Order (1920-1960)', in: Jettinghoff, Alex, Schepel, Harm (eds.), *In Lawyers' Circles. Lawyers and European Legal Integration*, 's-Gravenhage: Red Business Information, 2004, pp. 15-34, here p. 18.

the attempts of Lipgens to write the history of post-war European integration. While Lipgens' approach was characterized by a distinctly normative direction, which reflected his belief in a federalist system,³⁵³ he has crucially demonstrated the scope and the depth of plans for unifying and federating Europe.³⁵⁴ Among the concrete schemes that emerged during the wartime period was the joint confederation established by the Polish and the Czechoslovak exile governments in London in 1942.³⁵⁵ Another scheme, which anticipated key elements of the Schuman Plan declaration, was that of a western European regional federation.³⁵⁶ This policy solution presented itself in a number of variants. Paul Van Zeeland, for example, the former president of the Belgian National Bank and prime minister, who served as foreign minister at the time of the Schuman Plan conference, had promoted a western European customs and monetary union since the 1930s.³⁵⁷ A limited form of western European regional co-operation first materialized in 1943, when the exile governments of Belgium and Luxembourg, whose economic union was created by treaty in 1921 and established in 1922,³⁵⁸ signed a monetary agreement with the Netherlands to co-operate in exchange rate management

³⁵³ Kaiser, “Überzeugter Katholik”.

³⁵⁴ Lipgens, *Europa-Föderationspläne*; and idem., *Die Anfänge der europäischen Einigungspolitik*.

³⁵⁵ Lipgens, *Europa-Föderationspläne*, pp. 451-53.

³⁵⁶ These remarks are guided by Loth, *Der Weg nach Europa*, p. 17.

³⁵⁷ Cf. Vincent Dujardin, Michel Dumoulin, *Paul Van Zeeland 1893-1973*, Brussels: Éditions Racine, 1997.

³⁵⁸ James E. Meade, *The Belgium-Luxembourg Economic Union, 1921-1939. Lessons from an Early Experiment*, Essays in International Finance vol. 25, Princeton: [Princeton University Press], 1956.

and mutual credit supplies. In 1944, the three governments signed the agreement for the Benelux customs union, which was established in 1948.³⁵⁹

Furthermore, in 1943, while working with the French Committee of National Liberation in Algiers for the post-war reconstruction of France, Monnet discussed with Hirsch and René Mayer, who had been involved in the modernization and co-ordination of the French railways into a single system, the idea of a federation of European states coupled with the joint organization of their heavy industries.³⁶⁰ As Michael Burgess has pointed out, Monnet never attached himself to any federalist group, but believed ‘...that by forging specific functional links between states in a way which does not directly challenge sovereignty the door to federation will gradually be opened’.³⁶¹ Instead of trying to establish a causal link between earlier federal proposals and the Schuman Plan, it needs to be stressed that as a consequence of a transnational debate on federal schemes, these schemes were Europeanized during the war. From this viewpoint, the endorsement of a shared policy preference by the resistance and federalist movements created the basis for the later permissive consensus within the societies of the six future ECSC member-states that made possible the realization of core Europe in 1952.

A third perspective of the Schuman Plan declaration further shaped the point of departure for the negotiations on the institutional framework, however. This was the idea of improving Franco-German relations through the creation of a coal and steel pool,

³⁵⁹ Wendy Asbeek Brusse, *Tariffs, Trade and European Integration, 1947-1957. From Study Group to Common Market*, New York: St. Martin's Press, 1997, p. 54.

³⁶⁰ Monnet, *Memoirs*, p. 293. Cf. also excerpts from Jean Monnet, note de réflexion, 5 August 1943, in Gérard Bossuat, *Les fondateurs de l'Europe*, Paris: Belin, 1994, p. 87.

³⁶¹ Michael Burgess, *Federalism and European Union. Political Ideas, Influences and Strategies in the European Community, 1972-1987*, London, New York: Routledge, 1998, p. 52.

which had important precursors. As early as 1923, at the height of the crisis between France and Germany over the Ruhr, Konrad Adenauer, then the mayor of British-occupied Cologne, proposed the establishment of a 'Rhenisch Republic' within a heavily de-centralized Germany.³⁶² Crucially Adenauer argued that peace between France and Germany relied on western European industrial integration.³⁶³ In line with the prevalent view during the inter-war period, the problem of European integration accordingly required economic rather than legal tools and concepts.³⁶⁴ Indeed, in 1926, the twofold notion of industrial co-operation and Franco-German reconciliation materialized when, following the initiative of the Luxembourg industrialist Emile Mayrisch, European steel industrialists formed the International Steel Cartel (ISC), the first tangible project at European integration.³⁶⁵ As noted above, in 1943, Monnet, too, proposed the fusion of the heavy industries. After World War II Adenauer galvanized the crucial support of the concerned industries for the advancement of relations with France through industrial co-operation, when he encouraged German industrialist Henle to come up with a proposal for collaboration. As a result, Henle produced a memorandum on 'The Ruhr area and European co-operation'³⁶⁶ in October 1948, in

³⁶² For a detailed, if biased account see Henning Köhler, *Adenauer und die rheinische Republik: der erste Anlauf, 1918-1924*, Opladen: Westdeutscher Verlag, 1986.

³⁶³ Hans-Peter Schwarz, *Konrad Adenauer. A German Politician and Statesman in a Period of War, Revolution and Reconstruction*, vol. 1: 1876-1952, Providence and Oxford: Berghahn Books 1995 [German 1986], pp. 171-94.

³⁶⁴ Rask Madsen and Vauchez, 'European Constitutionalism at the Cradle', p. 18.

³⁶⁵ See Ulrich Nocken, 'International Cartels and Foreign Policy: the Formation of the International Steel Cartel 1924-1926', in: Clemens Wurm (ed.), *Internationale Kartelle und Aussenpolitik*, Stuttgart: Franz Steiner Verlag Wiesbaden GmbH, 1989, pp. 33-82.

³⁶⁶ Günter Henle, 'Ruhrgebiet und europäische Zusammenarbeit', 26 October 1948, Klöckner-Archiv, Nachlass Henle, Privat, Reden, quoted by Werner Bühner, *Ruhrstahl und Europa. Die Wirtschaftsvereinigung Eisen- und Stahlindustrie und die Anfänge der Europäischen Integration 1945-52*, Schriftenreihe der Vierteljahreshefte für

which he argued, amongst others, that German resources were essential to meet the demand for steel anticipated by the Marshall Plan.³⁶⁷ Importantly, it was a major industry representative rather than a foreign policy official who actually tied the projected Franco-German industrial collaboration to the Marshall Plan's objective to advance European co-operation. Finally, in March 1950, the German chancellor suggested to Bidault the idea of co-operation in the two industries³⁶⁸ and in two interviews with the International News Service, an American news agency, once again advocated the idea of a Franco-German union.³⁶⁹

Adenauer's statements in particular suggest two observations. Firstly, while these interviews did not lead to a concrete policy initiative by the German government, they underline that the idea of a Franco-German industrial pool was not unique in the post-war period.³⁷⁰ Secondly, the chancellor's remarks indicate that the German government was prepared to endorse a proposal for improving Franco-German relations and, therefore, further substantiate the claim that leading Christian democrats in the two states had reached political consensus on advancing European integration.³⁷¹ These observations escape the attention of political scientist Craig Parsons. In his recent monograph Parsons argues that the Schuman Plan was 'the first postwar initiative to envision a Europe centred on a Franco-German partnership'.³⁷² Parsons' perspective results from focusing primarily on French domestic politics and the role of the French

Zeitgeschichte, vol. 53, Munich: R. Oldenbourg, 1986, p. 127. Cf. *ibid.* pp. 126-37 for a discussion of industrial initiatives.

³⁶⁷ *Ibid.* p. 128.

³⁶⁸ Kaiser, *Christian Democracy*, p. 247.

³⁶⁹ Küsters, 'Die Verhandlungen über das institutionelle System', p. 74.

³⁷⁰ *Ibid.* and in more detail Kaiser, *Christian Democracy*, pp. 226-7.

³⁷¹ Cf. Kaiser, *Christian Democracy*, chapter 6, pp. 191-252 and chapter 7, pp. 253-303.

³⁷² Parsons, *A Certain Idea*, p. 37.

government and state elite in policy formation.³⁷³ To be fair, however, Parsons is not alone in overstating the role of French politics and actors in initiating the Schuman Plan declaration. To support this claim, the following sections will discuss the literature concerning two main areas of explanation, namely the (partially self-ascribed) role of Monnet and the French state elite in developing and prompting the Schuman Plan declaration and the foreign policy and economic necessities responsible for its adoption by the French government.

One of the major voices in the canon of literature emphasizing the predominant role of Monnet and his team on the Schuman Plan declaration belongs to Monnet himself. In his memoirs, Monnet provides a personal, slightly melodramatic version of how he arrived at the idea of the coal and steel pool in the spring of 1950. On long walks in the Swiss Alps, Monnet apparently pondered on the problem of how France should deal with Germany to safeguard peace in Europe.³⁷⁴ Monnet argued firstly, that the solution to prevent future wars in Europe was to achieve European unity. Secondly, the solution needed to ‘...put French industry on the same footing as German industry, while freeing the latter of the discrimination born of defeat...’³⁷⁵ As they represented the joint resources of France and Germany, the coal and steel industries should be the foundation of Franco-German reconciliation and, therefore, would be transformed from a symbol of war, used to forge weapons of war, into a guarantee of peace.³⁷⁶ On the basis of the simple formula of Franco-German reconciliation through fusing the coal and steel industries, Monnet prompted Reuter, Hirsch and Uri to prepare a policy paper the

³⁷³ Ibid. pp. 55-9.

³⁷⁴ Monnet, *Memoirs*, pp. 288-98.

³⁷⁵ Ibid. p. 292.

³⁷⁶ Ibid. p. 293.

French government could present to the Allied western foreign ministers at their upcoming conference in London.³⁷⁷

In line with Monnet's reasoning a significant body of literature has contextualized the emergence of the Schuman Plan declaration within 'a very specific bureaucratic segment of the French state elite'³⁷⁸, consisting of Monnet and a small group of civil servants who initiated and drafted the proposal.³⁷⁹ Such interpretations emphasize in particular the role of Monnet's thought in generating the proposal. Schröder³⁸⁰ and Fransen³⁸¹, for example, each study the evolution of Monnet's ideas to account for his alleged role in initiating European integration. Due to their biographical approach, these works at the same time subordinate the political objectives and material interests of the French and other governments to Monnet's ideas. The merit of intellectual biographies of Monnet is that they recognize a transatlantic perspective within European integration historiography, mainly through identifying Monnet's regard for the American political system and his contacts to US actors. These works, however, unduly limit the transatlantic angle to the experiences of one actor.

On the other end of the spectrum are publications focusing on the foreign policy and economic necessities that led the French government to forward the Schuman Plan. Milward bases his argument that the French government proposed the Schuman Plan to defend the Monnet Plan on the analysis of the economic challenges the French

³⁷⁷ Ibid. pp. 294-8.

³⁷⁸ Cohen, 'Constitutionalism Without Constitution', p. 115.

³⁷⁹ See for example Pierre Gerbet, 'La genèse du plan Schuman', in: *Revue française de science politique*, vol. 6, no. 3 (1956), pp. 525-53.

³⁸⁰ Schröder, *Jean Monnet und die amerikanische Unterstützung*.

³⁸¹ Frederic J. Fransen, *The Supranational Politics of Jean Monnet: Ideas and Origins of the European Community*, London and Westport/CT: Greenwood Press, 2001, especially chapter 4, pp. 88-113.

government faced in the spring of 1950. Accordingly, French governmental planning had relied on the idea that the demand for steel would be continually growing. Now that German steel output was limited through Allied restrictions, other European states could take over the former German export markets. By 1950 it had become clear, however, that the USHICOG failed to enforce the production limits. Germany, therefore, in fact surpassed French domestic steel production.³⁸² At the same time, the French government saw unrestricted access to the coal and coke resources of the Ruhr as critical to enable France to become a major steel producer. In the negotiations on the establishment of the Federal Republic in 1949, the French government and the US occupation authorities disagreed on where the authority over the Allied Coal and Steel Control Boards should rest. While the French government argued the Boards should now be transferred into the IAR, US occupation officials maintained that they should remain under the authority of the Allied High Commission.³⁸³ Against this backdrop, the French government feared that the US and the UK governments would expect them to approve a relaxation of the German steel production quotas at the May 1950 foreign ministers' conference. According to this interpretation, a combination of economic concerns and foreign policy objectives of the French government triggered the co-operation of Monnet and Schuman and were ultimately responsible for the Schuman Plan.

Giving his account a slightly different turn, Wall has portrayed the Schuman Plan as a follow-up to the Monnet Plan.³⁸⁴ In fact, Reuter's recollection of having

³⁸² Milward, *The Reconstruction*, pp. 362-3.

³⁸³ *Ibid.* 388.

³⁸⁴ Irwin Wall, 'Jean Monnet, the United States and the French Economic Plan', pp. 86-113.

suggested to Monnet to draft 'a Monnet Plan for the border regions'³⁸⁵ early on during the consultations on the coal and steel proposal seems to support such an argument. Frances Lynch has shown that in 1946-47 the French government's foreign economic goals in Europe, especially vis-à-vis Germany, were more important than domestic economic necessities in the acceptance of the Monnet Plan as the single plan to guide French economic recovery. Accordingly, the French government considered unrestricted access to the coal and coke resources of the Ruhr together with Germany's economic weakness vital to the successful restoration of France's economic and political strength in Europe.³⁸⁶

Milward, Wall and Lynch successfully integrate French domestically derived material interests in the genesis of the Schuman Plan declaration but downplay the role of ideas and values that were shared by actors across national boundaries. Indeed, the foreign policy and economic concerns of the French government help to explain why the French foreign minister chose to present the policy initiative against the background of the London Conference of Foreign Ministers in May 1950. In contrast, to account for why the Schuman Plan proposal materialized it is important to highlight that it met two related crucial criteria that take account of ideas as well as material interests, on the one hand, and surpass French domestic politics, on the other. As has been argued in chapter 2, the fact that leading European Christian democrats provided necessary political

³⁸⁵ Paul Reuter, *La naissance de l'Europe communautaire*, Lausanne: Centre de recherches européennes, 1980, p. 19.

³⁸⁶ Frances Lynch, 'Resolving the Paradox of the Monnet Plan: National and International Planning in French Reconstruction,' in: *The Economic History Review*, New Series, vol. 37, no. 2 (1984), pp. 229-43, here esp. pp. 232-3, 237, 242-3.

backing and the US government declared their support for the French government initiative safeguarded the realization of the proposed coal and steel pool.

3.3 A core institution and the notion of democracy: the ‘high authority’

The term ‘supranational’ is strangely absent from the Schuman Plan declaration.³⁸⁷ Preceding statements and the declaration itself, however, leave no doubt as to the desired political objective of the coal and steel pool. A first reference to a ‘joint high authority’ operating on a ‘supranational’ level³⁸⁸ can be found in one of the nine drafts for the policy proposal dated 24 April 1950. Uri, in a memorandum of 3 May 1950, which he drafted to argue that the coal and steel pool was different from a cartel, highlighted the supranational nature of the high authority: the ‘projected organization will acquire an authority which will impose itself even on governments. This is its political significance’.³⁸⁹ Finally, the Schuman Plan declaration itself introduced the idea to place the French and German coal and steel production under a ‘joint high authority’.³⁹⁰ Contrary to earlier references to the high authority, this was now part of a published policy proposal by the French to the German government. The high authority

³⁸⁷ Déclaration officielle du gouvernement français, 9 May 1950; Bonbright to Acheson, 9 May 1950.

³⁸⁸ 4ème projet, 24 April 1950, folder ‘Genesis 9 May 1950 proposal’, 16 April to 6 May 1950, AN 81 AJ 152. Identified as the first mentioning by Reiner Schulze, ‘Anfänge und Ausbau der europäischen Integration – zu den Konzepten der frühen fünfziger Jahre, in Rudolf Hrbek and Volker Schwarz (eds.), *Vierzig Jahre Römische Verträge: Der deutsche Beitrag. Dokumentation der Konferenz anlässlich des 90. Geburtstags von Dr.h.c. Hans von der Groeben*, Baden-Baden: Nomos, 1998, pp. 91-101, here p. 96.

³⁸⁹ London to Secretary of State: Text of anti-cartel note, 12 May 1950, 396.1 LO/5-1250. FRUS 1950 III. pp. 700-1, here p. 701.

³⁹⁰ Déclaration officielle du gouvernement français, 9 May 1950; Bonbright to Acheson, 9 May 1950.

was conceived as a core executive institution, whose mandate it was to organize the common coal and steel market.

The declaration sketched the key characteristics of the institution. Firstly, as a consequence of establishing a coal and steel ‘community of production’ and ‘a new high authority whose decisions will be binding on France, Germany and the other [participating] countries’, the declaration would create ‘the first concrete foundation for a European federation’.³⁹¹ With its emphasis on establishing a ‘concrete foundation’ for an ‘economic community’, the high authority was conceptualized the vehicle of functional and regional integration. As Dirk Stikker, the Dutch foreign minister, described in a frequently quoted journal article from 1951, functional integration involved a series of practical steps, whereby the integration of one policy area triggered further integration of other policy areas.³⁹² Secondly, regarding the composition of the high authority, the declaration stipulated that it should comprise ‘independent personalities chosen on a basis of equality by the governments’.³⁹³ At the top of the high authority would be a president, elected by the governments of the member-states. The decisions of the president in turn were to be enforceable in the member-states. Here, the policy proposal acknowledges the supranational principle. An appeal mechanism against the decisions of the high authority was introduced, but not specified.

³⁹¹ Ibid.

³⁹² Dirk Stikker, ‘The Functional Approach to European Integration’, in: *Foreign Affairs*, no. 29, vol. 3 (1951), pp. 436-44, here pp. 438 and 440.

³⁹³ Déclaration officielle du gouvernement français, 9 May 1950; Bonbright to Acheson, 9 May 1950.

According to Reuter, the high authority was indebted to the American system of government.³⁹⁴ One source of inspiration consisted of the ‘inter-state authorities’, which were set up by the New Deal programme in the early 1930s. The launch of the New Deal coincided with the inauguration of Franklin Delano Roosevelt as US President in March 1933. Highlighting the importance of Roosevelt and his era Alan Brinkley writes:

The New Deal he constructed, and which changed the landscape of American public life for the rest of the century and beyond, reflected the urgency of the crisis he inherited in 1933 and the accumulated legacy of nearly half a century of rising reform sentiment.³⁹⁵

Drawing on the US inter-state authorities, Reuter allegedly even proposed to Monnet the use of the term ‘authority’ for the supranational core institution of the coal and steel production community.³⁹⁶ In an interview, Reuter drew parallels with the Tennessee Valley Authority (TVA).³⁹⁷ A regional development programme originally conceived in 1933 against the backdrop of the Great Depression to modernize the American South, the programme shaped US foreign aid programmes worldwide, not least the Marshall Plan. In a nutshell, the TVA exemplified a ‘multipurpose development’³⁹⁸, which incorporated the notions of modernization, applied technology, scientific management and regional planning. The programme blended these ideas with attempts to increase the participation of people affected by the programme.³⁹⁹ Based on the notion that in a country as large and diverse as the US, regional and local knowledge could easily be lost

³⁹⁴ Cohen, ‘Le plan Schuman’, p. 647.

³⁹⁵ Alan Brinkley, *Liberalism and its Discontents*, Cambridge/MA, London: Harvard University Press, 1998, p. 2.

³⁹⁶ Bossuat, *L’Europe des Français*, p. 167.

³⁹⁷ Interview Reuter.

³⁹⁸ Ekbladh, “Mr. TVA”, p. 336.

³⁹⁹ *Ibid.* p. 337.

to bureaucracies centred in the capital Washington, proponents of the programme emphasized the significance of de-centralization: '[a] decentralized administration of federal functions could overcome the dangers of a top-heavy and overcentralized bureaucracy'.⁴⁰⁰ In its actual operation, the TVA fell short of its aspirations. Crucially, however, the 'grass-roots TVA model picked up a cross-section of domestic and international adherents who largely overlooked any shortcomings within the organization'.⁴⁰¹ One of the supporters of the TVA was Monnet, who in 1946 organized for David Lilienthal, the central figure of the programme, to visit France. Although the visit did not materialize, French Planning officials eventually met Lilienthal in the US.⁴⁰² In 1949, Monnet declared the TVA was 'a possible object-lesson for France and for Europe',⁴⁰³ which corroborates that Reuter was inspired by the TVA, in particular.

The inter-state authorities incorporated the idea of the devolution of authority between the central and the federal or regional levels of government and accordingly, carried democratic potential. If Reuter's claim of how he derived the term is to be believed however, it is noteworthy, that the element 'inter-state', which contains the US federal and regional connotations, gave way to the qualifier 'high'. Arguably, to the drafters of the Schuman Plan, 'inter-state' might have implied 'intergovernmental' in the European context and, therefore, would have contradicted the objectives of the proposal. After all, the advocacy coalition that initiated and secured the political acceptance of the Schuman Plan was disillusioned with the progress of European integration achieved by the intergovernmental Council of Europe and OEEC. In other words, 'inter-state' would

⁴⁰⁰ Ibid. p. 341.

⁴⁰¹ Ibid. p. 346.

⁴⁰² Franssen, *The Supranational Politics*, p. 82.

⁴⁰³ Monnet, *Memoirs*, p. 276.

not have expressed adequately the push for supranational integration. Although 'high' also resonated with existing intergovernmental institutions, such as the Allied High Commission for Germany, the adjective did not draw attention to its intergovernmental set-up. In contrast, Pierre Gerbet has argued that the IAR served a model and provided the rationale for the high authority.⁴⁰⁴ At the least, the IAR shows that 'authority' represented an integral component of contemporary intergovernmental relations. In sum, however, one could argue, that the proposed high authority of the coal and steel pool in its name did not carry the federal and democratic promise that the US inter-state authorities represented.

Further, Reuter claimed that the American system served a source of inspiration for the idea to assign a key political role to independent actors in the operation of the high authority.⁴⁰⁵ During talks in London in May 1950, Monnet stressed to British officials that the independent personalities of the proposed high authority would not represent the industries affected by the Schuman Plan.⁴⁰⁶ Independent meant that the actors serving the high authority would be neither accountable, nor subject to pressures by economic interest groups, nor the participating governments, nor be drawn from professional backgrounds in the participating industries. Regarding the notion of independence, Reuter and planning officials probably drew on the US independent regulatory commissions, especially given the affinity these officials repeatedly

⁴⁰⁴ Pierre Gerbet 'Les origines du plan Schuman. Le choix de la méthode communautaire par le gouvernement français', in: Raymond Poidevin (ed.), *Histoire des débuts de la construction européenne, mars 1948-mai 1950*, Brussels: Bruylant, 1986, pp. 199-222.

⁴⁰⁵ Paul Reuter, 'Aux origines du Plan Schuman', in: *Mélanges Fernand Dehousse*, vol. 2, *La construction européenne*, Paris, Brussels: Fernand Nathan, Ed. Labor, 1979, pp. 65-8, here p. 66.

⁴⁰⁶ Notes of a meeting held at the Hyde Park Hotel, 16 May 1950, FO 371/ 85841.

expressed for key New Deal policies. The 1930s saw an increase in establishing and empowering public organizations that were to regulate and control the activities of corporate institutions in different economic policy areas. By the end of the decade, the powers of the only two commissions that preceded the New Deal, namely the Interstate Commerce Commission and the FTC, had been substantially expanded. In addition, four new agencies had been founded: the Securities and Exchange Commission, the Federal Communications Commission, the National Labour Relations Board and the Civil Aeronautics Authority.⁴⁰⁷

The US independent regulatory commissions perform quasi-legislative, quasi-executive and quasi-judicial functions. These varied functions do not fit in properly with the separation of powers and checks and balances, the 'twin doctrines'⁴⁰⁸ of the American constitution, and therefore have subjected the commissions to criticism in the US. Domestic criticism has focused, in particular, on the problem, whether the independent regulatory commissions had not in fact 'become the captives of the industries which they ...[were] supposed to be controlling'.⁴⁰⁹ In highlighting the potential to subvert democratic scrutiny and process, however, such criticism challenges the very foundations of democracy. More specifically, disapproval of the commissions has evolved around the notion that they stand for a neo-corporatist type of government, whereby organized interests are granted privileged and institutionalized access to policy

⁴⁰⁷ Brinkley, *The End of Reform*, pp. 62-3.

⁴⁰⁸ M.J.C. Vile, *Politics in the USA*, London, New York: Routledge, 5th ed. 1999 [1970], p. 6. For an introduction into the original debate on checks and balances in 1787-8 see Wood, *The Creation*, pp. 547-53.

⁴⁰⁹ Brinkley, *The End of Reform*, pp. 62-3.

formulation, rather than a pluralist democracy.⁴¹⁰ At the same time, the commissions are technically independent of the President, who does however play a role in appointing the members of the board with the approval of the Senate.⁴¹¹ Independence of the executive links to another legal predecessor of the high authority, which former member of the German delegation Ophüls identified. According to Ophüls, the conception of the high authority resembled the ‘corporation sole’ of English public law. Explaining this reference, English law recognizes the concept of the corporation aggregate, derived from Roman law, which designates organized groups of men. In addition, the English common law concept of the corporation sole has acknowledged that ‘the king could make, and sometimes did make, a corporation out of a single man or out of that man’s official character’.⁴¹² Crucially, this legal construct allowed for granting to a legal personality recognized by English public law ‘a will of its own – which is really distinct from the several wishes of its members’.⁴¹³ According to Ophüls, the high authority would thus administer the newly established policy domain permanently and independently of the member-states’ governments, who only were to play a role in establishing the treaty and in appointing the members of the high authority.⁴¹⁴

⁴¹⁰ Cf. ‘Corporatism’, in Heywood, *Key concepts*, pp. 164-8.

⁴¹¹ Alan Grant, *The American Political Process*, London, New York: Routledge, 7th ed. 2004 [1979], p. 118.

⁴¹² Frederic Maitland, ‘The Corporation Sole’, in: *Law Quarterly Review*, vol. 16 (1900), pp. 335-54; idem., *State, Trust, and Corporation*, Cambridge: Cambridge University Press, 2003.

⁴¹³ Maitland, ‘The Corporation Sole’.

⁴¹⁴ Ophüls, ‘Zur ideengeschichtlichen Herkunft’, p. 391.

A first scheme of the treaty, dated 16 May 1950, which Reuter allegedly drew up in only forty-eight hours,⁴¹⁵ confirms the characteristics identified by Ophüls. The first of two sections (art. 1-12) of the scheme deals with ‘principles’, focusing on the Franco-German coal and steel pool, its organizational features and the notion of the transition period. The second section (art. 13-38) maps the ‘development’ of the joint coal and steel market. The scheme treats separately organizations required to manage the coal and steel industries. Each would require a superior council, presided by a director; study committees; management committees; secretariat and directorate staff (art. 9). The superior council would be composed of independent personalities, which the French and the German governments were to nominate in equal numbers (art. 10), and the study and management committees would consist of the representatives of the professional associations (art. 12). Further, the scheme proposes a *collège arbitral supérieur*, an ad-hoc court of appeals, composed of the secretary general of the United Nations (UN), the president of the International Court of Justice and the director of the International Labour Organization. It is noteworthy firstly, that Reuter in this draft treaty refers to the superior council rather than the high authority. Secondly, the scheme already presents the study and management committees, the later consultative committees. Thirdly, while the notion of a parliamentary assembly is completely missing from the scheme, it introduces the notion of the right to appeal to a court. Conceived as an ad-hoc institution, the court does not contribute to a separation of powers based on check and balances on the superior council or high authority. Although the early conception of the court therefore bears only little resemblance to what eventually became the court of

⁴¹⁵ Scheme for the treaty, Paul Reuter, 16 May 1950, AMG [le plan Schuman] 2/4/3; accompanying letter Reuter to Monnet, *ibid.* Cf. for the same documents AN 81 AJ 152.

justice, the idea that the decisions of the high authority could be challenged via judicial procedure is already there. Lastly, with regard to its planned composition, the court seems to express the desire to put the coal and steel production firmly within the web of international agreements that emerged after World War II. The International Court of Justice represented an integral part of the UN Charter, entered into force on 24 October 1945.⁴¹⁶ Cross-referencing to other international organizations, moreover, reflected contemporary practice, which is evidenced, for instance, by the 1947 GATT. According to the GATT, the secretary general of the UN would hold the original copies of the GATT and ‘furnish certified copies thereof to all interested governments’.⁴¹⁷

As to the proposal to institutionalize the co-operation of the members of the high authority with committees composed of industry representatives, this was closely linked to the importance attached to the independence of the members of the high authority. One could argue that together, these two features were expected to contribute to safeguarding the effective policy formulation and implementation for the coal and steel sector, regardless of any political questions impacting on the Franco-German relationship. The proposed study and management committees represented a key organizational feature of the Monnet Plan, which again was informed by US organizational practices. Drawing on the administrative and institutional practices of the New Deal, Hirsch and Monnet in 1946 introduced the collaboration of the central Planning Commission with committees of the representatives of affected economic

⁴¹⁶ For the statute see Edmund Jan Osmańczyk, *The Encyclopedia of the United Nations and International Agreements*, Philadelphia, London: Taylor and Frances, 1985, pp. 40-2.

⁴¹⁷ GATT article 26, 3 (accessed 23 November 2007):
http://www.wto.org/english/docs_e/legal_e/legal_e.htm#gatt47

sectors. French officials, thereby, selectively implemented a specific American organizational model. Applying the tools of cultural transfer, this means that representatives of the French 'target culture', rather than the American 'original culture', steered the process. The claim that French civil servants drove the process, whereby American administrative and institutional concepts were adjusted to the needs of post-war France, in turn, contests the logic of Americanization. In envisaging the co-operation of the high authority and the committees, Reuter merely continued the selective incorporation of American organizational features that French Planning officials had first developed in the national context.

Literature has acknowledged the link between the Monnet and the Schuman Plans in institutionalizing the collaboration of public and private actors. While only based on literature rather than archival sources, Featherstone has rightly stressed that the French Planning Commission was indebted to a corporatist style of government.⁴¹⁸ If one adds the American origins of the institutionalized co-operation to this observation, this suggests three arguments. Firstly, although the drafters of the 9 May proposal and the 16 May 1950 treaty scheme were French, Reuter's references, in particular, show that they approached the task of sketching the institutions, which were to manage the coal and steel pool, with a transatlantic dimension. As the case of the Monnet Plan

⁴¹⁸ See for example Kevin Featherstone, 'Jean Monnet and the "Democratic Deficit" in the European Union', *Journal of Common Market Studies*, vol. 32, no. 2 (1994), pp. 149-70, here p. 155; for an introduction into models of accountability and a partially source-based analysis see Berthold Rittberger, 'Original Meanings. Ideas About Representation in the Making of Europe's First Community', unpublished manuscript, presented at the Connex (Network of Excellence on 'Efficient and Democratic Governance in a Multi-level Europe') Thematic Conference on Accountability, Florence, 29-30 June 2007. For a current multi-disciplinary perspective on democracy in the EU see Beate Kohler-Koch, Berthold Rittberger (eds.), *Debating the Democratic Legitimacy of the European Union*, Lanham: Rowman & Littlefield, 2007.

demonstrates, moreover, the knowledge and interest of the actors involved in utilizing the US system predates the inter-state negotiations on the Schuman Plan and the co-operation of French and American actors in the US Embassy working group. Crucially, therefore, the initial period of agenda setting for the Schuman Plan conference confirms that French academics and civil servants mediated between American and European politico-legal concepts.

Secondly, the references to the US model did not underline the democratic nature, but instead drew attention to the ambiguity of the democratic potential of the coal and steel pool. In fact, in the context of the Monnet Plan and the Schuman Plan, French officials drew on organizational features that in the US were regarded as a challenge to the democratic system of government. Why then, one might ask, did the US government co-fund the Monnet Plan? And why did American agencies and foreign policy officials realizing their mandate to help trigger the formation of a democratic western Europe, approve of the Schuman Plan? Two factors help provide an answer, the first of which concerns the value system of the 'Marshall Planners'. While they did not promote a neo-corporatist type of government, foreign policy officials involved in the Marshall Plan administration shared an affinity with the socio-economic objectives and the strategies proposed by key New Deal legislation. Therefore, although the TVA model remained domestically contested, it did influence the Marshall Plan. From this perspective, the Monnet Plan, a national programme responding to the immediate need to restore France, did not appear objectionable. This argument probably also informed the attitude of US foreign policy officials regarding the Schuman Plan. Here, a second factor played a role, however, namely the 'Monnet factor'. US diplomatic records show

that the French Planning Commissioner was regarded as the person responsible for the Schuman Plan declaration. Because of his US contacts, Monnet crucially represented a democratic guarantor to American officials eager to see a democratic and supranational western Europe materialize against the backdrop of the incipient Cold War.

Monnet's position of trust, however, does not invalidate the claim that, thirdly, to some degree, the high authority symbolized an anomaly in contemporary post-war Europe, where the prospect for European unity was discussed from transatlantic, federal and democratic perspectives. Criticism of the high authority regarded its neo-corporatist features, on the one hand. At the inter-state conference, Dutch and Belgian delegation members, in particular, would follow this line of argument. In post-World War II Europe, neo-corporatism evoked the reminiscences of recent experiences with the corporatist solutions realized by some Fascist and Catholic authoritarian regimes. As Kaiser has demonstrated, Catholic politicians in British and American exile had already parted with their initial corporatist preferences during the war. Politicians who emphasized the necessity to separate the organization of politics and economics included the liberal Catholic Belgian politician Van Zeeland, among others.⁴¹⁹ However, the desire to avoid returning to the state corporatism of the 1930s was also shared by social democrat politicians. A case in point is a statement of expertise by German social democrat Gerhard Weisser,⁴²⁰ who in principle favoured planning,⁴²¹ but was concerned

⁴¹⁹ Wolfram Kaiser, 'Co-operation of European Catholic Politicians in Exile in Britain and the USA during the Second World War', in: *Journal of Contemporary History*, vol. 35, no. 3 (2000), pp. 439-65, cf. p. 455.

⁴²⁰ Gerhard Weisser, 'Bemerkungen zum Schuman-Plan', 17 July 1950, PA AA, B15, 67.

⁴²¹ Anthony Nicholls, *Freedom With Responsibility: the Social Market Economy in Germany, 1918-1963*, Oxford: Clarendon Press, 1994, pp. 138-9.

with the prevalent role the working document presented by the French delegation on 24 June assigned to experts. According to Weisser, to give experts a leading role in both the high authority and the regional associations would undermine the democratic principle of the Schuman Plan since 'the tendency to form an expert autonomy is closely related to the tendency to establish a corporate state'.⁴²² Weisser's observations regarding the importance to uphold the democratic principle demonstrate that these concerns were not exclusive to US officials engaged in the realization of US occupation policy in Germany but instead were shared by German actors. On the other hand, criticism evolved around the notion of privileging functional integration over the immediate establishment of a federation. European federalists, in particular, could not reconcile the Schuman Plan with their preferences. The Italian Socialist Altiero Spinelli, for example, a fervent and life-long advocate of federalism, who was instrumental in the founding of the Council of Europe, and later served as a Commissioner in the European Community (1970-76) and as a member of the European Parliament (1976-86)⁴²³, disapproved of the French government's initiative because of its functional approach.⁴²⁴

Do these three arguments imply that the drafters of the Schuman Plan opted for an undemocratic policy to initiate European integration? Perhaps, the question is based on a false dichotomy. It was not a choice between functional and federal integration. The phrasing and terminology of the proposal point to the long-term goal of establishing a federated western Europe. More importantly, its drafters as well as the advocacy coalition for supranational European integration, which backed the proposal, shared (a)

⁴²² Letter Weisser to Blankenhorn, 18 July 1950, Statement of 17 July attached to letter, PA AA, B 15, 67.

⁴²³ Burgess, *Federalism*, p. 44.

⁴²⁴ For a synthesis between Monnet's and Spinelli's legacies see *ibid.* pp. 58-9.

the belief that functional integration was a necessary pre-requisite to realize a federation and (b) a democratic world-view. In sum, as a result of the experiences of the Monnet Plan and its support by the Marshall Planners, the drafters of the French government's initiative perhaps did not anticipate the criticism that would arise from the notion of an independent executive, which was not accountable to the electorate and, therefore, considered undemocratic. The conflicting values, which were inherent in the initial conception of the high authority, foreshadowed conflicts at the inter-state conference as well as one of the ongoing debates of the coming decades, namely the debate on the democratic deficit. In this light, the French government's initial policy preference for the institutional design for the coal and steel pool created a path-dependency for the European integration process.

In the period of agenda setting, it became clear that the powers of the high authority needed to be checked. Criticism of the core institution originated with the Dutch and Belgian governments, in particular. The future head of the Dutch delegation to the inter-state conference, Spierenburg, for example, argued that the high authority would in fact establish a dictatorship over the coal and steel industries, which lacked any accountability. The Benelux governments agreed on restricting the supranational character of the high authority on 2 June 1950.⁴²⁵ They stressed, however, that contrary to the UK government they agreed, in principle, on the need to partially abnegate sovereignty.⁴²⁶ Literature acknowledges the impact of the Benelux governments on policy formation during the agenda setting-period. At the same time, the efforts of the

⁴²⁵ Based on the relevant government sources in The Hague and Brussels is Küsters, 'Die Verhandlungen über das institutionelle System', p. 79.

⁴²⁶ For Spierenburg see for example Hallstein to Blankenhorn, Fernschreiben vom 12. Juli 1950, PA AA, B15, 83.

French and the German governments to align their policy positions before the opening of the conference are downplayed. From such a viewpoint, Küsters describes the section of his chapter, which treats the conference opening, with the sub-heading 'a first exchange of opinion'.⁴²⁷ Nothing could be further from the truth, however. French, German and British officials, for instance, debated the Schuman Plan in the HICOG on 12 June 1950 and raised a catalogue of questions regarding mainly the competences of the high authority, which the Director for Economics and Finances at the French HICOG, Paul Leroy-Beaulieu, forwarded to Monnet.⁴²⁸ Shortly after, Leroy-Beaulieu visited Adenauer in Rhöndorf to discuss the French government's initiative with the chancellor and Blankenhorn.⁴²⁹ In short, informal Franco-German consultations on the Schuman Plan continued throughout the period of agenda setting.

Before the opening of the inter-state conference, a number of internal French policy papers addressed institutional questions. While it is not possible to establish a direct causal link between either the criticism of the Benelux governments or Leroy-Beaulieu's list of questions and specific policy papers, they show not only a growing concern with the accountability of the high authority, but also develop responses to the problem. On 7 June 1950, Uri developed a treaty scheme.⁴³⁰ Uri appears to have drafted the scheme by taking into account Reuter's proposal of 16 May, which Hirsch, Monnet and Uri perhaps received only after their return from London and probably used

⁴²⁷ Küsters, 'Die Verhandlungen', p. 80.

⁴²⁸ Paul Leroy-Beaulieu, Questions posées à propos du plan Schuman, 12 June 1950, AN 81 AJ 154.

⁴²⁹ Paul Leroy-Beaulieu, Plan Schuman, Entretien avec le Chancelier, 16 June 1950, *ibid.*

⁴³⁰ Uri (name handwritten, authorship very likely, but not 100 per cent certain), Schema de traité, 7 June 1950, AN 81 AJ 152.

internally. Uri's scheme no longer proposes two separate organizations for coal and steel. Instead, the scheme introduces a threefold structure for the treaty focusing in turn on the objects of the treaty; the high authority; and the modes of action. Some articles, as for example on the composition and decision-making within the high authority (art. 3-5) are developed, whereas other articles contain only headings, but are not spelled out (art. 9 and 10). Arguably, Uri's proposal develops further ideas of how to hold the high authority accountable as a result of the reservations expressed by the Belgian and Dutch governments. Firstly, to realize the treaty objectives, the high authority would publish an annual report, which then was to be scrutinized, 'for example, by the assembly of the European union'.⁴³¹ Circumstantial evidence suggests that Uri referred to the assembly of the Council of Europe here, which served an important institutional cross-reference for participants in the early days of the inter-state negotiations.⁴³² While the scheme refrains from proposing the establishment of a parliamentary body, the idea of accountability vis-à-vis a parliamentary assembly is clearly presented. Secondly, the last of the three sections is entirely concerned with the question of appeals. Accordingly, governments and concerned interests, the latter comprising enterprises and labour unions, could each under certain conditions appeal against the decisions of the high authority and require a second reading. With regard to the supranational principle it is significant that the draft grants the right to appeal to individual enterprises, not merely

⁴³¹ Ibid. p. 3.

⁴³² See for example Kurzprotokoll über die Sitzung des Ausschusses für die institutionellen Fragen, 12 July 1950, PA AA, B15, 102.

the member-state governments. Only in a subsequent draft on appeals, dated 12 June 1950, does Uri introduce the notion of taking an appeal to court.⁴³³

Another internal paper for the French inter-ministerial committee of the same date blends and further develops earlier ideas.⁴³⁴ Appeals, firstly, were to be directed to the high authority to require reconsideration of a decision through a second reading. The paper then distinguishes between juridical appeals concerning the high authority's excess of power, on the one hand, and *appels sur le fond*, substantive appeals, the other. The former could be directed at the International Court of Justice, whereas the latter were to be resolved by the three-member-tribunal, which Reuter first envisaged in his 16 May treaty scheme. The paper, secondly, re-emphasizes the need that the high authority be composed of personalities independent of both governments and interests, adding that 'it was clear that the responsibility of the high authority...needed to be embedded in a democratic procedure'.⁴³⁵ Crucially, the paper envisages parliamentary control to fulfil this responsibility. A committee of members of the national parliaments, appointed each year specifically for this purpose, is charged with examining the high authority's annually published report. If this parliamentary body disapproves of the report, the high authority may be dismissed. While no other concrete decision-making powers are bestowed on the parliamentary body, it is seen as 'the first concrete gathering of the European federation, as anticipated in the proposal of 9 May'.⁴³⁶ Later, Monnet recalled the significance of both judicial review and parliamentary control of the 12 June paper

⁴³³ Uri (name handwritten, authorship highly likely, but not 100 per cent certain), *Schema du traité, Recours contre les décisions de la Haute Autorité*, 12 June 1950, AN 81 AJ 152.

⁴³⁴ *Note pour le Comité interministeriel*, 12 June 1950, AN 81 AJ 131.

⁴³⁵ *Ibid.* p. 5.

⁴³⁶ *Ibid.* p. 5.

in his memoirs.⁴³⁷ Thirdly, the paper embarks on the necessity of co-operation between the high authority and the consultative committees.

Finally, in a policy paper dated 14 June and entitled 'Observations on the treaty scheme'⁴³⁸, Reuter organizes some ideas of the paper for the inter-ministerial meeting. The first five articles deal with the appointment and term of office of members and president of the high authority and their respective responsibilities; article 6 deals with the collège de médiateur, the arbitration college, whose recommendations could not overrule the decisions of the high authority, however; and articles 7-11 specify further the functions of the annual ad-hoc parliamentary assembly: its control function over the high authority (art. 7-8); its duty to establish commissions that require the high authority to explain the annual report (art. 9); and its right to vote the members of the high authority out of office, if necessary (art.10). The consultative committees are not addressed in these observations. Given the prominent role Reuter and Monnet assigned to the committees, however, this was certainly not a deliberate omission, but reflected what arguably might have been the double purpose of the paper: to systematize previous ideas and to focus specifically on adjusting those features of the scheme that, in their eyes, endangered the acceptance of the French government's policies by the other conference delegations. In summary, French internal policy papers and treaty schemes developed further the accountability of the high authority by maintaining the notion of judicial control and introducing basic parliamentary checks. Control functions assigned to an ad-hoc judiciary and an ad-hoc legislative were therefore already present. At the same time, none of these proposals challenged the high authority in arguing for an equal

⁴³⁷ Monnet, *Memoirs*, p. 321.

⁴³⁸ Paul Reuter, Observations sur le schema de traité, 14 June 1950, AMG 2/4/16.

dispersion of authority across permanent supranational institutions of the coal and steel pool.

3.4 Checks and balances: an emerging institutional framework between central and federal government

When the intergovernmental consultations officially began on 20 June 1950, the French delegation envisaged a treaty scheme that reflected the rationale of central government, not a federal government with separation of powers. The same holds true for Monnet's opening speech of 21 June,⁴³⁹ the explanations of the organization of the coal and steel pool expressed by Hirsch, Uri and Monnet during talks with the other heads of delegation from 21-24 June,⁴⁴⁰ and the 'working document' the French delegation presented to the other delegations on 24 June 1950.⁴⁴¹ The working document served as the basis for the inter-state negotiations and, until the first draft treaty was completed on 9 November 1950, provided the frame of reference for alternative treaty provisions.

After a foreword and a preamble, the document introduces a first section (art. 1-16), which deals with the common high authority. The second of the two sections treats the pooling of the coal and steel production (art. 17-40). In its first articles, the working document follows Reuter's observations of 14 June word for word: the core executive should be composed of six to nine members appointed for a period of six years with one

⁴³⁹ Cf. Kurzprotokoll der Sitzung im französischen Außenministerium, 21 June 1950, PA AA, B15, 53.

⁴⁴⁰ Compte rendu de la seconde séance tenue le 21 juin 1950 sous la présidence de M. Monnet, AN 81 AJ 131; Séances restreintes du jeudi, 22 juin 1950, vendredi, 23 juin 1950, samedi après-midi, 24 juin 1950, *ibid.*

⁴⁴¹ Document de travail, 24 June 1950, AN 81 AJ 131. For a contemporary English version of the working document see Bruce to the Secretary of State, Series of five telegrams, 24 June 1950, NARA, RG 59, 850.33/6-2450, FRUS III, pp. 728-38.

third of the college being renewed every two years (art. 2); the members of the high authority should be appointed by the member-state governments (art. 3); and the member-state governments were also to vote for the president of the high authority, who would be appointed for three years (art. 4). The exact number of members of the high authority – six, seven, eight, or nine – and the number of votes for each state in the appointment procedure are not specified. The high authority could pursue action against the member-state governments as well as enterprises in three different ways, namely by issuing ‘decisions’ that are legally binding; ‘recommendations’ that are binding ‘as to their purpose’, but not their mode of implementation; and ‘suggestions’, which are not legally binding (art. 6). The working document thereby laid the foundation for classifying the actions not only of the High Authority of the ECSC, but also of the institutions of subsequent European communities.⁴⁴²

As to the right to appeal, the member-state governments, but not the individual enterprises may require the re-examination of a decision or recommendation (art. 7). The right to appeal of enterprises against the action of the high authority, which Uri had included in his 7 June draft, accordingly did not feature in the working document. If the high authority confirmed its initial decision or recommendation, the matter could then be referred to an ‘*ad hoc* court of arbitration’ (art. 8). It is further suggested in the working document that the court consist of five members: for example, of one member each from the International Court of Justice and the International Labour Organization and three members from the member-states, to be appointed in the same mode as the members of the high authority. To involve the member-state governments in the

⁴⁴² Cf. Mosler, ‘Die Entstehung des Modells’, p. 368.

appointment of the court members represents a departure from the internal French policy papers and perhaps a concession to the criticism by the Benelux governments in that it attempts to enhance the role of the member-states in the operation of the coal and steel pool without jeopardizing the supranational principle.

The working document presents three further institutions that introduce a function of representation: the 'common assembly' (art. 11), an incipient parliamentary body, whose name most closely follows Uri's treaty scheme of 7 June, while its functions resemble Reuter's observations of 14 June; the 'consultative committees' that represent employers, workers and consumers (art. 15); and the 'regional associations' that represent the interests of the producers (art. 20) These associations were grouped regionally rather than nationally to further help to overcome national boundaries.⁴⁴³ The debate on the regional associations evolved mainly around their potential to establish cartels and will be discussed in chapter 4.2. Here it is sufficient to point out that these associations were dropped altogether from the negotiations. As to the distribution of power envisaged in the working document it is noteworthy that the articles on the court, the common assembly and the consultative committees are embedded in the section on the high authority rather than being treated in separate sections. This observation underlines just how rooted the proposed organization was in the concept of central government. Finally, to give the delegations time to develop their respective positions, the next intergovernmental meeting was scheduled for 3 July 1950. In the meantime, the French delegation would issue a press statement summarizing the working document.⁴⁴⁴

⁴⁴³ Kurzprotokoll über die Besprechung der Delegationen unter der Leitung von M. Monnet im Büro von M. Monnet, 22 June 1950, PA AA, B 15, 53.

⁴⁴⁴ Séance du samedi apres-midi, 24 juin 1950, AN 81 AJ 131.

During this period, the US Embassy working group and the transatlantic university network began to impact the negotiations. Specific incidents involving these networks provide the basis for discussing the main institutional questions that shaped the debate until the end of the first period of the inter-state negotiations on 10 August and resulted in a shift from central to federal government.

A first incident involving the US Embassy working group concerned the preparation of the working document summary. A copy of a draft summary with handwritten corrections contained in the papers of George Ball⁴⁴⁵ indicates that Ball participated in writing this summary, which the French delegation issued on 27 June.⁴⁴⁶ In fact, Ball who had arrived in Paris before the presentation of the working document to the other delegations perhaps even took part in its genesis. Ball's diaries, too, confirm that starting on 20 June he was already involved in deliberations with the French delegation.⁴⁴⁷ More importantly, the co-operation of the US Embassy working group after 24 June draws attention to an initial shift of perspective from central to federal government. The key to understanding this shift is provided by a constitutional feature that both the working document and the summary of 27 June address, namely the option to secede from the coal and steel pool. The working document (art. 39) specifies that the 'withdrawal by a state from the common organization shall be possible only if the other

⁴⁴⁵ Untitled document (in French), total of 7 pages, 26 June 1950, Personal papers Ball, 147; cf. also Ball's Memorandum of suggestions regarding article 8 of proposed working paper, 4 July 1950, FJM, AMG 4/6/6, quoted in Anne Boerger, *Aux origines de l'Union Européenne: la genèse des institutions communautaires (C.E.C.A., C.E.D, C.E.E. et Euratom). Un équilibre fragile entre l'idéal européen et les intérêts nationaux*, PhD, University of Liège, Liège 1996, part 1, La communauté européenne du charbon et de l'acier, première expérience supranationale, chapter 4, La Cour de Justice.

⁴⁴⁶ Résumé du document de travail présenté par les experts français le 27 juin 1950, AN 81 AJ 131.

⁴⁴⁷ Diaries 1950, 20 June-13 August 1950, Personal papers Ball, 43.

states parties to the treaty agree to accept this withdrawal and set the conditions thereof'.⁴⁴⁸ Accordingly, secession depended on the joint approval of all other member-states. Now the 27 June summary backgrounds the provision with a political argument: 'In a federation, secession is not possible by unilateral decision. At the same time, there is only a community of peoples if they commit without a time limit and without a sense of return'.⁴⁴⁹ It is not possible to assign authorship of the passage to an individual member of the US Embassy working group. Crucially, however, the question of secession is approached from a federal viewpoint. This means that although the institutional set-up of the working document reflects the rationale of central government, the federal rationale, too, guided the collaboration of the working group at this time. Contrary to earlier French internal policy papers that show a general commitment to establishing a federal Europe on the basis of the coal and steel pool, this demonstrates the specific use of a federal argument to answer a concrete constitutional problem. Furthermore, as Rosenn pointed out, political scientists disagree on whether or not the right to secede from a federation is in fact compatible with federalism.⁴⁵⁰ For instance, Carl Friedrich, argues in a volume he co-edited with Bowie, which is referenced by Rosenn, that

Federal states do not provide for secession. ...The advantage of adopting an article providing for secession is usually limited to the initial period of the federation since some States might be induced to adhere to the federation only if they are ensued the right to secede.⁴⁵¹

⁴⁴⁸ Document de travail, 24 June 1950; Bruce to the Secretary of State, 24 June 1950.

⁴⁴⁹ Résumé du document de travail, 27 juin.

⁴⁵⁰ Rosenn, 'Federalism', p. 5.

⁴⁵¹ Carl J. Friedrich, 'Admission of New States, Territorial Adjustments, and Secession', in: Robert R. Bowie and Carl Friedrich (eds.), *Studies in Federalism*, Boston, Toronto: Little, Brown and Company, 1954, pp. 753-71, here p. 770.

At the inter-state conference the negotiating parties did not give much attention to the question of secession from the organization addressed in article 39. The delegations did, however, debate the intimately related questions of firstly, a time limit for the treaty; secondly, the dual problem of defining the exact meaning of the surrender of power by the member-state governments to the high authority and the source of power of the high authority; and thirdly, further checks as well as true ‘balances’ for the high authority. As to the question of a time limit for the treaty, Belgian head of delegation Max Suetens on 3 July drew attention to the necessity of such a time limit and stressed that his government would not commit to an infinite treaty.⁴⁵² In a conversation with Monnet on 12 July, Suetens allegedly proposed a time period of fifty years for the treaty,⁴⁵³ which ultimately was the time period accepted by the signatories of the treaty. At the centre of Suetens’ concerns was the question of how to limit the surrender of sovereignty by the member-states and how to control the powers of the high authority. The working paper remained ambiguous in that it did not specify the concrete legal steps a state would have to take when surrendering power to the high authority, but merely declared that states would ‘confide the pooling’ of their coal and steel productions to the high authority (art. 1). The legal expert of the Belgian delegation Fernand Muûls, for example, objected to the use of ‘pooling’ of sovereignties, which he regarded as too far-reaching.⁴⁵⁴

⁴⁵² Kurzprotokoll über die Besprechung der Volldelegation im Hause des Planungsamtes, 3 July 1950, PA AA, B15, 83.

⁴⁵³ Fernschreiben Hallstein to Blankenhorn, 12 July 1950, PA AA, B15, 83.

⁴⁵⁴ Kurzprotokoll über die Sitzung des institutionellen Ausschusses, 4-5 August 1950, PA AA, B 15, 102. The minutes of the working group on institutional questions for 4 July- 28 August 1950 are also contained in AN 81 AJ 131.

To a large extent, the early debates at the inter-state conference resulted from the novelty of the supranational approach. The comments of two members of the transatlantic university network, who were involved in the deliberations of the sub-committee of legal experts, provide evidence for this observation. Firstly, Ophüls as early as July 1950 began drafting a proposal for the re-organization of the German federal justice ministry, which he thought would be necessary to accommodate emerging new areas of law. Analyzing the new 'droit intermédiaire' of the Schuman Plan, Ophüls argued that this was

...a new law that neither theoretically, nor practically can be subsumed under existing areas of law...The law of the coal and steel treaty will not constitute international law, but European public and private law, in particular, European quasi-constitutional law and European economic law that provides for direct links between individual citizens of the member-states to the treaty.⁴⁵⁵

In identifying 'European quasi-constitutional law', Ophüls anticipated that the legal systems of the member-states would undergo dramatic change as a result of the coal and steel treaty. At the same time, his comments show that when paraphrasing 'supranational law', Ophüls could not yet draw on adequate concepts, or on a developed terminology.

Secondly, Mosler in a book chapter in 1966 recalled the disputes within the sub-committee of legal experts, which further confirm just how new the legal implications of the supranational principle were. Particularly instructive are Mosler's recollections of the differences of opinion concerning the definition of the surrender of power of member-state governments to the high authority. Taking as their starting point article 1

⁴⁵⁵ C. F. Ophüls, Draft on key areas of law, 19 July 1950, PA AA, Ophüls papers, vol. 50. 'Constitutional law' represents the closest possible translation of *Staatsrecht*.

of the working document, the committee debated whether the 'confiding' of power to the high authority could perhaps be replaced by more viable alternatives such as 'delegating' or 'transferring'.⁴⁵⁶ According to Mosler, the delegation of power implied that the new organization would still derive their authority from the member-states. Transfer, in contrast, denoted that the member-states surrendered power to the high authority, which then held and exercised power in the policy area of coal and steel independently of the member-states.⁴⁵⁷ What at first might appear a quibble over terminology, in fact highlighted the problem of defining the surrender of power as well as the source of authority once these powers were surrendered: did authority rest with the member-state governments or the high authority? In the end, the legal subcommittee failed to reach an agreement on the question and the appropriate terminology. None of the suggested three formulas was incorporated into the treaty and the application of the supranational principle left open to interpretation.⁴⁵⁸ Different answers to the question of where authority rested, however, resulted in different proposals for institutions for the coal and steel organization that were to not only check, but also to balance the high authority.

One major proposal concerned the establishment of a special council of ministers. In the meeting of delegations on 3 July, Spierenburg argued for a council of ministers, a proposal that Suetens supported immediately. Accordingly, such a council would safeguard the inclusion of the member-state governments and discuss the decisions of the high authority. Acceptance of the decisions required a two-thirds

⁴⁵⁶ Kurzprotokoll des Juristischen Ausschusses über die Sitzung vom 21.7.1950, PA AA, B15, 103. Cf. also the report 'Comité d'experts juridiques', 25 July 1950, *ibid.*

⁴⁵⁷ Mosler, 'Die Entstehung des Modells' p. 375.

⁴⁵⁸ *Ibid.*

majority.⁴⁵⁹ In constitutional terms, Spierenburg justified his demand for a council of ministers with the argument that authority rested with the member-state governments. If one were to apply the pair of opposition debated within the sub-committee of legal experts, the Dutch and Belgian delegations tended to privilege the 'delegation' over the 'transfer' of power, while the French and the German delegations, albeit with different institutional consequences, favoured the 'transfer' of power to the high authority.⁴⁶⁰

Evaluations of the proposed council of ministers by a variety of experts and government officials focused on its intergovernmental characteristics. In the words of member of the German domestic committee of legal experts, Herbert Kraus, the proposal suggested 'falling back on the intergovernmental rationale'.⁴⁶¹ As Ball has rightfully stressed in his unpublished account of the negotiations, the argument for requesting a council of ministers did not primarily represent an objection to giving up sovereignty. Rather, the demand of the Dutch head of delegation reflected concerns with the surrender of sovereignty over a limited subject matter.⁴⁶² Giving up sovereignty in one policy area could cause disruption in the economies of the member-states. A measure of the high authority in wage matters, for example, could provoke a strike in one of the member-states. The co-ordination of the common coal and steel policy with

⁴⁵⁹ Kurzprotokoll über die Besprechung der Volldelegation im Hause des Planungsamtes, 3 July 1950, PA AA, B15, 83.

⁴⁶⁰ Cf. Kurzprotokoll über die Sitzung des Ausschusses für die institutionellen Fragen, 12 July 1950, PA AA, B15, 102; Kurzprotokoll über die Sitzung des institutionellen Ausschusses, 4-5 August 1950, PA AA, B 15, 102.

⁴⁶¹ Herbert Kraus, 'Aufzeichnung über die Frage der Beteiligung der Regierungen an der Gesamtorganisation der Montangemeinschaft', 9 July 1950, PA AA, B15, 64, p.2.

⁴⁶² 117-pages manuscript for Schuman Plan Book, p. 99, undated, Personal papers Ball, 150.

the overall economies of the member-states would therefore be essential.⁴⁶³ At the same time, US government officials were concerned the supranational principle would be compromised. For example, Tomlinson warned Monnet that the US government would have to reconsider their public position on the Schuman Plan, should the supranational aspect be watered down.⁴⁶⁴ Acheson, too, cautioned US foreign policy officials: the proposal for the council of ministers appeared to ‘nullify’⁴⁶⁵ the supranational character of the high authority. Against this backdrop, Monnet continued to defend the supranational principle, epitomized by the central role of the high authority, when confronted with the demand for more intergovernmental co-operation. German head of delegation Walter Hallstein, in turn came up with a combination of the supranational and the federal rationale.

Three ideas were essential to combining supranational and federal reasoning. Individually and together these three ideas contested the notion of central government and advanced that of federal government and the separation of powers. Firstly, Hallstein, did not perceive the proposed council of ministers as a threat to the supranational principle, but instead as a valuable link between the autonomous activities of the high authority and those areas of economic policy that remained within the spheres of sovereignty of the member-states. Undoubtedly, the German chief negotiator subscribed to a supranational high authority. However, Hallstein considered the council of ministers a ‘further fusion of sovereign powers and therefore a broadening of the

⁴⁶³ Kurzprotokoll über die Besprechung der Volldelegation im Hause des Planungsamtes, 3 July 1950, PA AA, B15, 83.

⁴⁶⁴ Note, Questions asked orally by Jean Monnet to W. Tomlinson, 19 July 1950, AMG 5/6/1.

⁴⁶⁵ Telegramme, 25 July 1950, NARA, RG 59, 850.33/7-2550.

basis of European integration'.⁴⁶⁶ Hallstein further argued that to realize the additional potential for integration, it would be necessary to define more clearly the powers of the high authority without unreasonably restricting them. In fact, he thus re-interpreted Spierenburg's concept of intergovernmental control or checks on the high authority as an institution with integration potential of its own to balance the high authority. Further, this argument provided a new answer to the question that also concerned the sub-committee of legal experts, namely whether authority ultimately rested with the member-state governments or the high authority. Küsters has pointed out, moreover, that the federal preferences served the German government's interests: whereas the government's international decisions were subject to the Occupation Statute, German representatives in international organizations, which would include the future high authority, acted independently of the occupation powers, according to the Petersberg Agreement.⁴⁶⁷ The Adenauer government, therefore, would not profit from expanding the control powers of the council of ministers over the high authority.⁴⁶⁸

Secondly, Hallstein proposed to strengthen the common assembly, which could serve as the basis for a European parliament. The main functions of the assembly were to '...organize the accountability of the high authority, ...uphold public opinion and debate in the area of the merged industries and prepare for a European parliament'.⁴⁶⁹ As Weisser expressed in his statement of expertise, control of the high authority could

⁴⁶⁶ Cf. Kurzprotokoll über die Sitzung des Ausschusses für die institutionellen Fragen, 12 July 1950, PA AA, B15, 102.

⁴⁶⁷ According to the Petersberg Agreement between the HICOG and the Federal Republic (22 November 1949), the Federal Republic was permitted to join international organizations, including the IAR, and establish consular and trade relations with other states.

⁴⁶⁸ Küsters, 'Die Verhandlungen über das institutionelle System', pp. 84-5.

⁴⁶⁹ Ibid.

not be achieved by strict rules but by conceptualizing the common assembly 'as a democratic organ with sufficient powers'.⁴⁷⁰ Their endorsement of a strong parliamentary assembly with direct elections showed the German delegation attempting to balance the undemocratic potential of the high authority. Principally as a result of the limited policy area of the coal and steel treaty, the idea of direct elections to the assembly was not pursued any further, however.⁴⁷¹ Thirdly, Hallstein argued that the proposed ad hoc court of arbitration could function as 'the guardian' of the high authority and 'the foundation for a healthy development of law'.⁴⁷² Accordingly, its powers were to be extended to those of a permanent court and its composition was to be reconsidered, too.⁴⁷³ Contrary to the German delegation's preference for a democratically elected parliament, Hallstein's conception of a permanent court that would balance the high authority materialized and was fleshed out later in the negotiations.

As a result of the deliberations in late June and July 1950, the French officials responsible for the original conception of the high authority were forced to break with the guiding principle of central government in order to sustain the supranational principle. Ophüls has highlighted that the shift from central to federal government was accompanied by a change of the guiding legal model. Whereas French administrative law informed the terminology regarding the executive, federal analogies were better suited to describe the institutional framework and the relations between the member-

⁴⁷⁰ Weisser, 'Bemerkungen zum Schuman-Plan', 17 July 1950.

⁴⁷¹ Mosler, 'Die Entstehung des Modells', pp. 378-9.

⁴⁷² Protokoll über die Zusammenkunft der deutschen Delegation mit Herrn Monnet in Houjarray, 2 July 1950, PA AA, B15, 53.

⁴⁷³ Ibid.

states.⁴⁷⁴ Although a former participant in the inter-state negotiations, Ophüls' report is not source-based and therefore shows no awareness of how the French planning officials were inspired by the administrative practices of the New Deal.⁴⁷⁵ Ophüls did, however, stress the significance of the US federal constitutional model for the institutional framework of the coal and steel treaty.⁴⁷⁶ German delegates and Hallstein in particular drew on analogies to the US system, which confirms this claim.⁴⁷⁷

Meeting with Monnet, Reuter, Blankenhorn and Dutch delegate Max Kohnstamm, Hallstein rejected the idea to distinguish between 'more' and 'less complete European institutions',⁴⁷⁸ which was presented in a draft for the 'memorandum on the institutions' that would form part of the conference interim report of 10 August 1950.⁴⁷⁹ 'More complete institutions' comprised the high authority and the court and 'less complete institutions', which had only transitory character, the common assembly and the council of ministers. Hallstein argued that the common assembly had to be supranational because only a supranational assembly would be entitled to monitor the supranational high authority. Further, asserting that the council of ministers would be a permanent, not a transitory institution, Hallstein underlined that '[t]he European union...would have the character of a federal state, in which the representation of

⁴⁷⁴ Ophüls, 'Zur ideengeschichtlichen Herkunft', p. 393.

⁴⁷⁵ In contrast, Mosler's account in the same volume is at the least based on the minutes he apparently kept from the inter-state negotiations. Cf. Mosler, 'Die Entstehung des Modells'.

⁴⁷⁶ Ophüls, 'Zur ideengeschichtlichen Herkunft', pp. 394-5.

⁴⁷⁷ Cf. Ulrich Sahn, 'Stellungnahme zur Bildung eines Ministerrates', AA.PA, B 15, 1.

⁴⁷⁸ Kurzprotokoll über die Besprechung bei Herrn Monnet, 27 July 1950, PA AA, B15, 62.

⁴⁷⁹ Rapport sur les travaux poursuivis à Paris par les delegations des six pays du 20 juin au 10 août 1950, <http://www.ena.lu/> (accessed 17 March 2008).

individual state interests would be legitimate'.⁴⁸⁰ To illustrate his claim, the German head of delegation drew on the US federal model, but 'despite of the repeated use of the example of the United States of America, it proved difficult to convey the federal concept to the French gentlemen'.⁴⁸¹

This episode is particularly significant because it demonstrates that Hallstein not only acted as the head of the German delegation defending domestically derived interests, but crucially, in promoting a federal and supranational preference, also acted as a representative of the transatlantic university network. Firstly, Hallstein mediated between American and European, here predominantly French, administrative and constitutional concepts. One could argue that Hallstein's reference to the US system represented a semantic application of American federalism to fulfil a specific rhetorical purpose. In promoting a federal system Hallstein very likely was informed by the system of the newly established Federal Republic. This is supported by Mosler's letter to the German head of delegation, in which he stressed that 'for the French, our federal organization appears to be a source of continuing misunderstanding'.⁴⁸² Further, Mosler guarded against 'resorting too often to the federal solutions of our own constitutional history'.⁴⁸³ Indeed, Hallstein was aware of Monnet and Reuter's affinity for the US model, which he tried to incorporate in his strategy to convey the federal concept.⁴⁸⁴ These incidents corroborate that while Monnet and, one could add, Reuter were

⁴⁸⁰ Kurzprotokoll, 27 July 1950, PA AA, B15, 62.

⁴⁸¹ Ibid.

⁴⁸² Letter Mosler to Hallstein, 27 August 1950, MPG-Archiv/III.Abt./ZA 139, Kasten 2. Cf. also Ophüls, 'Zur ideengeschichtlichen Herkunft', pp. 397-8.

⁴⁸³ Ibid.

⁴⁸⁴ Cf. also Hallstein's report in Protokoll über die Gemeinsame Sitzung aller Sachverständigenausschüsse, 8 December 1950, PA AA, B 15, 5.

rhetorically committed to establishing the federal United States of Europe, they did not share federalist preferences. Therefore, the observation feeds back into the notion of the marginalization of Monnet vis-à-vis federalist groups in post-World War II Europe. Secondly, Hallstein evidently was aware of the potential appeal of what he called ‘an incipient separation of powers of an emerging European constitutional system’,⁴⁸⁵ to the US government. In view of that, the appointment of the professor from Frankfurt University, who to some degree represented the ‘wild card’ among the options available to Adenauer during the period of agenda setting, proved to be a first-rate choice. As a matter of fact, Hallstein’s negotiation tactics buttressed the German chancellor’s politics of western integration of the Federal Republic and good bilateral relations with the US.⁴⁸⁶ Lastly, with regard to Hallstein’s view that the US government would pick up on the notion of the separation of powers and the court, in particular,⁴⁸⁷ further early activities of the US Embassy working group are instructive, too.

As the basis for the relevant activities of the US Embassy working group serves a memorandum Robert Bowie drafted after meeting with William Tomlinson to discuss the 24 June working document in Paris.⁴⁸⁸ Among others, the memorandum examines the functions and the composition of the proposed court and classifies the grounds of appeal introduced in the working document (art. 8). These grounds constitute treaty

⁴⁸⁵ Protokoll über die Zusammenkunft der deutschen Delegation mit Herrn Monnet in Houjarray, 2 July 1950, PA AA, B15, 53.

⁴⁸⁶ For Adenauer’s ‘Westpolitik’ see Schwarz, *Konrad Adenauer*, pp. 475-503; for the chancellor’s long-standing preference for western integration cf. Kaiser, *Christian Democracy*, pp. 218-9.

⁴⁸⁷ Protokoll über die Zusammenkunft der deutschen Delegation mit Herrn Monnet in Houjarray, 2 July 1950, PA AA, B15, 53.

⁴⁸⁸ Memo Tomlinson to Stokes, 30 June 1950, RG 469, Special Representative in Europe, Office of the General Counsel, Subject Files 1948-53, Box 30.

violations, on the one hand, and compromises of a member-state's full employment policies or of its equilibrium of the external balance, on the other. A similar distinction was first presented in the internal policy paper for the French inter-ministerial committee of 12 June that acknowledged juridical and substantive appeals,⁴⁸⁹ a classification that did not make it into the working document. Bowie, however, raising this very distinction, argues that two different kinds of grounds for appeal require different mechanisms for resolution. Appeals against treaty violations were to be directed to a court composed entirely of judges rather than of judges and general mediators, as proposed in the working document. Appeals against decisions or recommendations, which potentially affected the full employment or external balances of a member-state, in turn, 'raised serious questions'⁴⁹⁰, since this could concern almost any decision by the high authority. Therefore, Bowie claims, the appeals procedure would ultimately 'undermine the standing of the High Authority,'⁴⁹¹ whose decisions would always be challenged. A solution could be to strengthen the common assembly 'for any decisions which raise issues too basic to be left to the ultimate power of the High Authority'⁴⁹² instead of resorting to judicial procedure.⁴⁹³ Further, the Bowie memorandum addresses the notion of 'a check on the High Authority'⁴⁹⁴ with regard to implementing agreements (art. 36). In both instances, the memorandum reflects a concern with checking and balancing the powers of the high authority, which a central government fails to accommodate. Instead, Bowie's concerns further bolster a federal

⁴⁸⁹ Note pour le Comité interministeriel, 12 June 1950, AN 81 AJ 131.

⁴⁹⁰ Memorandum 30 June 1950, point 1.

⁴⁹¹ Ibid.

⁴⁹² Ibid.

⁴⁹³ Cf. also Boerger, *Aux origines de l'Union Européenne*, chapter 4) La Cour de Justice.

⁴⁹⁴ Memorandum 30 June 1950, point 2.

perspective on the treaty. Tomlinson later integrated the memorandum into a checklist he prepared for the US government.⁴⁹⁵ Collecting ‘all the questions and comments that have been raised either here or in Washington’, he intended to ‘...use this check-list in...conversations with...[Monnet] and his staff’⁴⁹⁶ and as an outline to evaluate future drafts. Finally, as regards the role of the court, State Department officials appeared more inclined to support the original preference of the working document for an ad hoc court of arbitration⁴⁹⁷ than Hallstein, whose federal aspirations superseded even those of the US government. In summary, the activities of the two policy networks defy Parson’s claim that ‘the French alone championed supranationality’.⁴⁹⁸

In the end of the first period of the inter-state negotiations, the six delegations agreed to establish four institutions: the high authority, the council of ministers, the common assembly and the court. The conference interim report maintained the differentiation into ‘supranational regime’ and ‘simply international institutions’⁴⁹⁹, which according to Mosler matched the distinction between federal and international law.⁵⁰⁰ Mosler further recapitulated that the federal and the supranational guiding principle were equally and best represented in the high authority and the court, while the council and the assembly would satisfy only pragmatic concerns. Notably, the respective composition of these institutions would ascertain their independence.⁵⁰¹ As a matter of fact, the independence of the members of the high authority and the court and the equal

⁴⁹⁵ Bruce to Perkins, Check list of first draft of Schuman Proposal Working Document, 5 July 1950, NARA, RG 59, 850.33/7-550.

⁴⁹⁶ Memorandum 30 June 1950.

⁴⁹⁷ Telegramme to US Embassy Paris, 7 August 1950, NARA, RG 59, 850.33/8-750.

⁴⁹⁸ Parsons, *A Certain Idea*, p. 59.

⁴⁹⁹ Rapport sur les travaux poursuivis...du 20 juin au 10 août 1950.

⁵⁰⁰ Mosler, ‘Die Entstehung des Modells’, p. 380.

⁵⁰¹ Ibid.

treatment of members of these institutions became part of the ECSC treaty. Equal treatment covered a range of aspects from the mode of appointment to the decision over their salaries, which were taken by the council.⁵⁰² Lastly, among other examples, the substantive powers of the high authority still needed defining and its powers cataloguing. In the interim report, the separation of powers between the institutions was deemed essential, but not entirely spelled out.⁵⁰³ Crucially, the precise distribution of powers between the high authority and the council of ministers remained open. At the same time, the control and check function of the council and the common assembly over the high authority required specification. The remaining institutional questions would only be debated after an official recess that lasted until September 1950 and against the backdrop of a modified conference setting.

3.5 Fleshing out the constitutional system: the supranational 'community' and the court

External as well as internal developments contributed to changing the conference setting. Firstly, the inter-state negotiations were increasingly held in the shadow of the defence question. On 25 June 1950, shortly after the beginning of the negotiations, the North Korean army crossed the 38th parallel. According to Thomas Schwartz, this incident was 'the Pearl Harbor of the Cold War [,] an event which catalyzed and transformed the American response to the Soviet Union'.⁵⁰⁴ The Korean War brought to the fore the question of German rearmament. Hans-Peter Schwarz has stressed that

⁵⁰² Ophüls, 'Zur ideengeschichtlichen Herkunft', p. 397, footnote 27.

⁵⁰³ Rapport sur les travaux poursuivis... du 20 juin au 10 août 1950.

⁵⁰⁴ Schwartz, *America's Germany*, p. 124.

Adenauer proposed setting up German contingencies as early as 6, 7 and 8 June, even before the North Korean aggression.⁵⁰⁵ In fact, the chancellor raised this question in individual conversations with the three high commissioners without having informed his ministers. Adenauer emphasized that an assessment of the security situation in the Federal Republic indicated that German forces were necessary to contribute to its defence against a potential Soviet invasion. At this point already, ‘...all the High Commissioners accepted the need for a German defence contribution’.⁵⁰⁶ Following the French government’s initiative of 9 May, US State Department officials highlighted that next to the contributing to Franco-German rapprochement, the Schuman Plan ‘...[m]ight provide [a] framework within which Ger[man] production c[ou]ld contribute to NAT[O’s] military production without raising difficulties that [a] separate Ger[man] activity w[ou]ld entail’.⁵⁰⁷ The question of German rearmament influenced the negotiations on the economic rather than the institutional provisions of the treaty, which will be addressed in chapter 4. The issue of defence, however, first emerged at the inter-state conference as part of the conflict over supranational and intergovernmental preferences.

In July 1950, the Dutch cabinet suggested to give the council of ministers the power ‘by [a] three-fourths majority to instruct [the] supra-national high authority on matters relating to defence in [the] coal [...and] steel field’.⁵⁰⁸ At the Schuman Plan conference, Spierenburg pushed the proposal in a meeting with Monnet, Hirsch,

⁵⁰⁵ Schwarz, *Konrad Adenauer*, pp. 516-30.

⁵⁰⁶ *Ibid.* p. 530.

⁵⁰⁷ Telegramme Webb to Acheson, 11 May 1950, 396.1 LO/5-1150, FRUS 1950 III, pp. 696-7.

⁵⁰⁸ Chapin to Acheson, 18 July 1950, NARA, RG 59, 850.33/7-1850, FRUS III, p. 741.

Kohnstamm and Hallstein after the summer break.⁵⁰⁹ Hallstein immediately objected to Spierenburg's demand on two grounds: firstly, the proposal would represent a complete departure from the principle of the Schuman Plan, which was characterized by the allocation of authority over coal and steel to 'European officials',⁵¹⁰ carefully selected by the member-state governments and partially controlled by a 'European parliament' and a 'European court', the members of which would also be elected by the member-state governments. The Dutch proposal, in contrast, required

...the submission under the opportune and uncontrollable decision by a majority of foreign ministers whose election one could not influence and who would represent their national interests. Such a solution does not suggest to integrate sovereign rights, but to alienate them without any return, that is to give them away like gifts.⁵¹¹

Hallstein argued, secondly, that while the council of ministers might instruct the high authority, decisions over defence would in fact be made within the framework of NATO. Since Germany was not a member of NATO an arrangement like the one proposed by Spierenburg would be unacceptable for the time being. Hallstein added that a majority decision by the council of ministers was only conceivable if another high authority was established for European defence or if Germany participated in NATO.⁵¹²

Briefly, the Dutch delegation attempted to reinforce the intergovernmental aspect of the coal and steel treaty with their proposition. Moreover, US foreign policy planners sympathized with this idea. In early August 1950, ECA and State Department officials outlined the possible co-ordination of the defence policies of the member-states through

⁵⁰⁹ Niederschrift über eine Unterhaltung im Generalkommissariat des Plans, 9 September 1950, PA AA, B 15, 103.

⁵¹⁰ Ibid.

⁵¹¹ Ibid.

⁵¹² Ibid.

the coal and steel treaty.⁵¹³ In a telegramme to Bruce Acheson proposed that the planned consultative committees should be entitled to instruct the high authority – as the institution managing the coal and steel resources – to realize measures to advance the common defence. One minister of each member-state would serve as a member of a consultative committee and the committee could pass on programmes that obtained a two-third majority to the high authority.⁵¹⁴ But why were US officials prepared to strengthen an intergovernmental committee and jeopardize the supranational principle? Did the proposal symbolize a break with the US government’s policy preference for a supranational western Europe? The US government’s attitude and their continued support of supranational European integration over the next couple of months and even years prove this was not the case. Instead the proposal reflects the sheer panic of US foreign policy officials in light of the Korean War and their preoccupation with the defence of the West. McCloy, who had expressed inconsistent views regarding the desirability of German rearmament,⁵¹⁵ may nevertheless have assumed a critical role in convincing US foreign policy officials to leave defence out of the inter-state conference to help the successful conclusion of the coal and steel treaty, when he wrote that ‘...the introduction of [the] common defense problem into [the] Schuman Plan negotiations at this time might confuse and retard such negotiations without furthering [the] development of common defense.’⁵¹⁶ Although ECA and State Department officials had attempted to pressurize the negotiating parties into accepting a Dutch-inspired proposal that appealed to vital US security interests, they ultimately resisted the temptation and

⁵¹³ Cf. also Gillingham, *Coal, Steel*, pp. 254-5.

⁵¹⁴ Acheson to Bruce, 3 August 1950, NARA, RG 59, 850.33/8-350.

⁵¹⁵ Gillingham, *Coal, Steel*, pp. 252-3.

⁵¹⁶ McCloy to Acheson, 24 August 1950, NARA, RG 59, 850.33/8-2450.

did not part with their long-term goal for a supranational western Europe.⁵¹⁷ The momentary inclination of US foreign policy officials to put the supranational principle at risk therefore can only be understood by considering the defence question.

Secondly, internal developments at the inter-state conference accounted for modifying the framework for the negotiations on the institutions, too. Because the heads of delegation began devoting their energies to the more technical aspects of the treaty from September 1950 onwards, the conference dynamics changed. Before the summer break the working group on institutional questions had in co-operation with the sub-committee of legal experts almost exclusively treated institutional questions. Now a general shift of focus from the institutional to the economic provisions occurred at the conference. While it would be wrong to assume that key actors including Monnet and Hallstein were no longer interested in institutional questions, they increasingly devoted their meetings to the economic particulars of the treaty. Together the issue of defence and the shift in focus of the heads of delegation impacted the setting in which the remaining institutional questions were debated, not the least for the two transatlantic policy networks.

Generally, informal transatlantic policy-making on the institutional framework became less important after the summer break. The US Embassy working group began to focus on the economic rather than the institutional aspects of the treaty. Bowie's responsibility for realizing the US occupation policies for the German heavy industries probably triggered the change of direction of the policy network. Further, reflecting the

⁵¹⁷ For a subsequent rejection of the link between defence and Schuman Plan see for example Hoffman to OSR Paris, 20 September 1950, RG 469, Special Representative in Europe, Office of the General Counsel, Subject Files 1948-53, Box 30.

shift of attention of the group of the heads of delegation, Monnet and McCloy guided the activities of the US Embassy working group towards the economic aspects of the treaty. The guidance of these two policy entrepreneurs underpinned Bowie's engagement and facilitated Ball's contribution to the anti-trust articles. What might have reinforced the new focus of the US Embassy working group further is that perhaps, the policy network was no longer needed to push informally for their institutional preferences. Not only were the supranational and federal principles asserted in the conference interim report, but also, one could argue, had the first period of the negotiations indicated that actors such as Hallstein and Ophüls, key actors of the transatlantic university network, functioned as guarantors of these principles. Contrary to the US Embassy working group, the transatlantic university network continued to play a role in the institutional negotiations, mainly through actors' simultaneous affiliation with the sub-committee of legal experts. Unfortunately, written sources are inconclusive as to the precise contribution of the transatlantic university network to fleshing out the operation of the institutions and the relations between them. Evidence supports two instances in which actors of the two policy networks arguably acted as mediators between different politico-legal concepts, however. Having introduced this qualification to assess the role of transatlantic policy-making, the remainder of this sub-chapter will address the development of the concept of supranationality and the emergence of the court of justice.

A renewed interest in defining the supranational principle was triggered by a discussion on the Schuman Plan and the GATT, which had first come up in the sub-

committee of legal experts in August 1950.⁵¹⁸ After the summer break, the sub-committee debated the legal consequences of the GATT for the coal and steel treaty. Two articles of the GATT raised important questions for the draft treaty. The ‘most favoured nation principle’⁵¹⁹ of article 1 stipulates that if an advantage in relation to any measure affecting the trade of goods is given to one contracting party, it must be given to all other contracting parties. According to article 24, the most favoured nation principle would not be breached if the contracting parties formed a customs union or a free trade area or signed a preliminary agreement necessary for the formation of a customs union or a free trade area.⁵²⁰ If the coal and steel treaty served as the basis for the establishment of a customs union or a free trade area, it would be necessary to submit the treaty to the GATT assembly, which needed to assert its compatibility with GATT article 24. To solicit further expertise on the most favoured nation principle, Mosler exchanged letters with the Max-Planck Institute for Public and International Law in Heidelberg⁵²¹, which confirms that informal policy-making continued during this period. In his book chapter, which reflects word for word the records of a sub-committee meeting of 7 September,⁵²² Mosler reports that legal experts agreed that

[t]he planned supranational institution cannot be subsumed under any form of union defined by the GATT because the abolition of internal customs barriers represented only a secondary aspect, which could not be separated from the economic and political aspects [of the coal and steel treaty].⁵²³

⁵¹⁸ Kurzprotokoll über die Besprechung zwischen Mr. Hubert und Herrn Prof. Ophüls, 8 August 1950, PA AA, B 15, 102.

⁵¹⁹ GATT article 1 (accessed 20 March 2008):

http://www.wto.org/english/docs_e/legal_e/legal_e.htm#gatt47

⁵²⁰ GATT article 24.

⁵²¹ See for example letter Mosler to Strebel, 9 September 1950, PA AA, B15, 102.

⁵²² Kurzprotokoll über die Sitzung des juristischen Sachverständigenausschusses, 7 September 1950, PA AA, B 15, 102.

⁵²³ Mosler, Die Entstehung des Modells, p. 381.

Legal experts failed to reach agreement over two related questions, however. Firstly, they disagreed over defining the coal and steel treaty as the basis for a state-like organization. If this were the case the commitments of the member-states concerning the coal and steel treaty arguably would supersede those of the GATT. Secondly, it was not clear to the experts whether the member-states needed to apply for a waiver to the obligations of the GATT under its article 25.⁵²⁴

Unable to resolve these problems, the sub-committee referred them to the coordinating committee between the various working groups (previously the working group for institutional questions). Among the problems relating to the supranational principle, committee members debated how to design the supranational powers of the high authority so that the coal and steel treaty would not fall under the GATT. Further, they discussed if the supranational high authority would only be entitled to issue recommendations to the member-state governments, which then would be binding on member-states concluding agreements with other states concerning the coal and steel areas, or whether the high authority itself should conclude such international agreements.⁵²⁵ Together these questions required specifying not only the supranational powers of the institutions, but also the underlying legal concepts for the coal and steel organization. To answer these questions, in turn, required legal expertise and the

⁵²⁴ GATT article 25; cf. Kurzprotokolle über die Sitzungen des juristischen Sachverständigenausschusses, 4, 6, 7 September 1950, PA AA, B 15, 102; Mosler, 'Die Entstehung des Modells', pp. 380-1.

⁵²⁵ Kurzprotokoll der réunion restreinte, 11 September 1950, PA AA, B 15, 99.

adjusted questions were therefore referred back to the legal sub-committee.⁵²⁶ However, these questions also had a constitutional dimension, which the new mandate of the sub-committee reflected. The co-ordinating committee therefore fine-tuned and effectively widened the sub-committee's mandate⁵²⁷ by authorizing the legal experts to clarify 'the juridical capacity of the Schuman union and its institutions, in the national and international sphere'.⁵²⁸ One could argue that only against the backdrop of the positive experience of working with the sub-committee before the summer break and the changed conference setting did the members of the co-ordinating committee feel sufficiently confident to entrust the legal experts with the resolution of vital constitutional questions.

Crucially the debate on juridical competences confirmed the use of 'community' to describe the coal and steel organization. Important preparatory work to devise this concept had been done in the sub-committee of legal experts in July 1950. The concept was first discussed when the sub-committee addressed the 'legal character' of the coal and steel organization.⁵²⁹ Until then, a variety of terms were used, among other examples, the 'coal and steel production community'⁵³⁰ in the Schuman Plan

⁵²⁶ Cf. also Hermann Mosler, Aufzeichnung über eine Unterhaltung mit Herrn Calmes (Luxemburg) im Anschluss an die Sitzung des Juristischen Sachverständigenausschusses, 20 September 1950, PA AA, B 15, 103.

⁵²⁷ Kurzprotokoll der réunion restreinte, 15 September 1950, *ibid.*

⁵²⁸ Dated 12 September, the new mandate was adopted in the 15 September meeting. Anlage zum Protokoll vom 12.9.1950, Deutscher Entwurf mit Änderungen des Ausschusses, PA AA, B 15, 103.

⁵²⁹ Kurzprotokoll des Juristischen Ausschusses über die Sitzung vom 24.7.1950, PA AA, B15, 103.

⁵³⁰ Déclaration officielle du gouvernement français, 9 May 1950; Bonbright to Acheson, 9 May 1950.

declaration, 'a community of peoples'⁵³¹ in the summary of the 24 June working document and 'Schuman union'.⁵³² Against this backdrop, 'community' emerged as the basis for creating an identifiable legal personality with state-like features and rights and duties in the international and national spheres, which importantly was to be represented by supranational institutions.⁵³³ The adoption of the term community only occurred after the summer break in the debate on the competencies of the organization and specified further the legal implications of supranationality.

Finally, the allegedly diverging economic preferences informing the ECSC and the GATT also had a transatlantic dimension. By establishing the coal and steel community between the six member-states, the ECSC treaty violated the GATT's most favoured nation principle without, however, conforming to the exceptions mentioned in article 24. Since all six ECSC member-states were members of the GATT, they invoked article 25 and applied for a waiver. Milward has argued that limited sectoral integration resulted in the establishment of a protectionist European community, whose preferences opposed the US government's long-standing preference for trade liberalization.⁵³⁴ In contrast, Christoph Buchheim has contended that by applying for the GATT waivers, the six member-states confirmed their commitment to trade liberalization. In accepting the waivers, moreover, ECSC member-states committed themselves to realizing a common trade policy, which would be advantageous for other GATT member-states, while the common institutions were precluded from introducing policies, which would be

⁵³¹ Résumé du document de travail, 27 June 1950.

⁵³² Anlage zum Protokoll vom 12.9.1950, Deutscher Entwurf mit Änderungen des Ausschusses, PA AA, B 15, 103.

⁵³³ Mosler, 'Die Entstehung des Modells', p. 382.

⁵³⁴ Milward, *The Reconstruction*, pp. 398-400; 421-35.

contradictory to the obligations of the six member-states under the GATT. According to Buchheim, a turning point in the post-war multi-lateral trade system, inspired by the US government, only came with the EEC treaty and horizontal integration.⁵³⁵

More conclusive evidence for the role of transatlantic policy networks as mediators between different legal traditions is provided by the negotiations on the court of justice. The memorandum on the institutions of the conference interim report first of all recognized the designation 'court of justice'⁵³⁶, previously adopted within the sub-committee of legal experts.⁵³⁷ Secondly, the report declared that the court of justice and the high authority were equal in status,⁵³⁸ which represented a clear departure from the initially planned ad-hoc court. Thirdly, when fleshed out, the powers of the court would have to strike the balance between ensuring the court 'would not take the place of any other institution, in particular the high authority'⁵³⁹ on the one hand, and fostering the development of the organization through interpretation of the treaty on the other. Fourthly, the report identified safeguarding the application of the treaty and the operation of the institutions within the treaty framework as primary functions of the court. The scope of action of the court, fifthly, stretched to 'all disputes between the high authority and the member-states or the enterprises'.⁵⁴⁰ According to the report,

⁵³⁵ Christoph Buchheim, 'Schuman-Plan und liberale Weltwirtschaft (GATT)', in: Schwabe (ed.), *Die Anfänge des Schuman-Plans*, pp. 161-70.

⁵³⁶ Since the working group on institutional questions accepted the memorandum on the institutions on 5 August 1950, the subsequent discussions of the sub-committee of legal experts on 7 and 8 August 1950 were not reflected in the conference interim report. Cf. *Rapport sur les travaux poursuivis... du 20 juin au 10 août 1950*.

⁵³⁷ *Kurzprotokoll des Juristischen Ausschusses über die Sitzung vom 24.7.1950*, PA AA, B15, 103.

⁵³⁸ *Rapport sur les travaux poursuivis... du 20 juin au 10 août 1950*.

⁵³⁹ *Ibid.*

⁵⁴⁰ *Ibid.*

institutions of the treaty and member-state governments could appeal the court, while it was left open if individual enterprises had the right to appeal, too.⁵⁴¹ In the sub-committee of legal experts Muûls criticized the potential implications for the national constitutions, notably that the right to appeal of individual enterprises would mean they could avoid having to go through the member-states first. The legal experts agreed, however, that it would be contradictory to the conception of the supranational community to grant to the court the right to affect enterprises directly, but withholding from individual enterprises the right to appeal to the court against the decisions of the high authority.⁵⁴² Only in mid-October did the heads of delegation agree that individual enterprises were entitled to appeal against sanctions of the high authority on the grounds of its alleged abuse of power and the perceived inappropriateness of a monetary penalty.⁵⁴³

The powers of the court were discussed further in November 1950. A draft treaty presented by the French delegation⁵⁴⁴ served as the basis for the deliberations. Mainly responsible for articles 26-29 was Lagrange who had replaced Reuter. According to his recollections, Lagrange designed the powers of the court on the basis of his experiences in the Conseil d'Etat.⁵⁴⁵ Article 26 addressed the court's right to annul sanctions of the

⁵⁴¹ See also Kurzprotokoll über die Sitzung des Institutionellen Ausschusses, 4-5 August, PA AA, B 15, 102; Mosler, 'Die Entstehung des Modells', p. 380.

⁵⁴² Kurzprotokoll über die Sitzung des juristischen Sachverständigenausschusses, 7 August 1950, PA AA, B 15, 102; cf. for an analysis Herbert Kraus, Bemerkungen zu dem deutschen "Memorandum sur les Institutions de la proposition du 9 mai 1950 (Schuman-Plan)", 14 August 1950, PA AA, B 15, 17.

⁵⁴³ Sitzungsbericht der Delegationschefs, 11-12 October 1950, PA AA, B 15, 77.

⁵⁴⁴ 1ère rédaction projet de traité, 8 November 1950, PU, HAEU, 29.

⁵⁴⁵ Maurice Lagrange, 'La Cour de justice des Communautés européennes du plan Schuman à l'Union européenne', in: *Mélanges Fernand Dehousse*, vol. 2, pp. 127-35; for an English translation see <http://www.ena.lu/> (accessed 20 February 2008).

high authority. Member-states or the council of ministers could plea for the annulment of a decision or recommendation of the high authority, whereas enterprises were only entitled to challenge individual decisions that affected them directly. Crucially, the court could evaluate the 'legality' of sanctions of the high authority, but not their 'expediency'. This distinction – according to Lagrange, derived from French administrative law⁵⁴⁶ – gave rise to contention because it reduced the powers of the court significantly, when compared to the framework for judicial review that had been previously agreed on. The high authority and the council could also call on the court to demand the tentative interpretation of a treaty clause or a protocol to the treaty (art. 26). Moreover, on the request of a member-state or the high authority, the court was entitled to review and annul the proceedings of the common assembly and the council of ministers if they exceeded their powers (art. 28). Among the omissions the other delegations highlighted were the failure to incorporate sufficiently broad guarantees for member-states, enterprises and associations to appeal against the sanctions of the high authority; the right to appeal against treaty violations; and the power of the court to address and invalidate an action by a community institution that jeopardized the economic equilibrium of a member-state.⁵⁴⁷ Briefly, in trying to avoid 'the eternally feared spectre of government by the judiciary'⁵⁴⁸, Lagrange had resorted to designing a predominantly administrative court.

The early conceptions of the court, developed by Reuter, had been guided by international law, according to which only member-state governments would have the

⁵⁴⁶ Ibid.

⁵⁴⁷ Boerger, *Aux origines de l'Union Européenne* chapter 4, La Cour de Justice.

⁵⁴⁸ Lagrange, 'La Cour de justice'.

right to appeal to the court. Subsequently, the notion of a constitutional court within the community had emerged in the debates on the institutional framework and checks and balances on the high authority. In this context, Lagrange's articles represented a break with previous proposals and crucially bore no resemblance to Hallstein's vision of the court as 'the guardian' of the high authority and 'the foundation for a healthy development of law'.⁵⁴⁹ In a high-level meeting, French and German delegates and legal experts tried to resolve the diverging approaches and proposals for the court.⁵⁵⁰ Notably, with Hallstein, who practically directed the meeting, and Uri, who at least attended in part, two key actors of the transatlantic policy networks participated in the meeting. Their participation further confirms the notion of Hallstein's and Uri's holistic view of the emerging treaty, discussed in chapter 2. Further, while Mosler was at this point no longer in Paris, his informal consultations with the Max-Planck Institute for Public and International Law⁵⁵¹ may have contributed to preference formation within the German delegation. As late as December 1950, Mosler commented on articles 26 and 27 of the draft treaty and allegedly discussed questions of phrasing with Schlochauer, his successor in Paris.⁵⁵² Notably absent from the meeting, in which French and German experts tried to resolve the question of the court were legal experts of the Benelux delegations, who were very critical of the articles presented by Lagrange.⁵⁵³ This seemed ironic given that the delegates of Luxembourg had stressed the need for

⁵⁴⁹ Protokoll über die Zusammenkunft der deutschen Delegation mit Herrn Monnet in Houjarray, 2 July 1950, PA AA, B15, 53.

⁵⁵⁰ Kurzprotokoll über die deutsch-französische Juristensitzung im französischen Planungsamt, 21 November 1950, PA AA, B15, 19.

⁵⁵¹ Letter Mosler to Bilfinger, 16 September 1950, PA AA, B15, 54.

⁵⁵² Letter Mosler to Ophüls, 3 December 1950, PA AA, B15, Personal papers Schlochauer, 355.

⁵⁵³ Cf. Boerger, *Aux origines de l'Union Européenne* chapter 4, La Cour de Justice.

strengthening the court, especially in light of a suspected tendency of the high authority to privilege the big over the small states.⁵⁵⁴

Ball in his unpublished account of the negotiations confirms that the smaller states tried to protect their interests ‘...first by the establishment of the Special Council of Ministers and, second, by attempting to expand the jurisdiction of the Court of Justice so that it could review economic decisions’.⁵⁵⁵ In his manuscript, which was drafted to promote the Schuman Plan to an American audience, Ball draws an analogy between the Schuman Plan conference and the creation of the US federal government in 1787. Turning to the question of the representation of smaller states, Ball argues that the ‘Great Compromise’, the establishment of a bicameral system, which resolved the problem for the US constitution, was no option for the coal and steel pool. Ultimately, the concerns of the smaller states were addressed in the treaty by permitting any member-state to require the high authority to consult with the council of ministers should it feel an action of failure on the part of the high authority. If such a review left the complaining state dissatisfied, this state could then appeal to the court of justice (art. 37).

In the course of the meeting on the court French and German legal experts achieved a compromise. Firstly, the decisions, recommendations and, with certain qualifications, opinions of the high authority could be challenged via the court. Secondly, the right to appeal was effectively broadened for enterprises and was also granted to associations. Thirdly, with regard to its scope of action, Hallstein, on the one

⁵⁵⁴ Ibid.

⁵⁵⁵ 117-pages manuscript for Schuman Plan Book, p. 109, undated, Personal papers Ball, 150.

hand, stressed the need for a strong court of justice to balance the high authority and to provide for the effective and comprehensive rule of the law within the community.⁵⁵⁶ Lagrange, on the other hand, agreed with Hallstein in principle but argued that the application of the concept of *excès de pouvoir*, the abuse of power, which allegedly served as the basis for pleas for annulment in the French administrative court system, would not be appropriate for the community. The French lawyer feared that the application of this principle would give the court the right to scrutinize the numerous economic particulars contained in the treaty and thus make the activities of the high authority 'illusory'.⁵⁵⁷ Agreement was finally reached on the grounds for appeal, which comprised the lack of jurisdiction, breach of form, abuse of power, abuse of discretion and the violation of regulations. Since this compromise formula for the plea for annulment also entailed the abuse of power and discretion as well as 'obvious' violations of regulations for 'economic facts and circumstances'⁵⁵⁸, the court of justice would balance the high authority.

At first the compromise appeared to be on shaky grounds, however. While Luxembourg's legal expert at the conference would have preferred a more extensive judicial review,⁵⁵⁹ Lagrange was now faced with opposition within the French delegation. In a letter to Steindorff, in which he advised the latter on his doctoral thesis on the court,⁵⁶⁰ Ophüls highlighted that

⁵⁵⁶ Kurzprotokoll über die deutsch-französische Juristensitzung im französischen Planungsamt, 21 November 1950, PA AA, B15, 19.

⁵⁵⁷ Ibid.

⁵⁵⁸ Ibid.

⁵⁵⁹ Cf. Boerger, *Aux origines de l'Union Européenne* chapter 4, La Cour de Justice.

⁵⁶⁰ See Ernst Steindorff, *Die Nichtigkeitsklage (Les recours pour excès de pouvoir) im Recht der Europäischen Gemeinschaft für Kohle und Stahl. Ein rechtsvergleichender*

...Monnet opposed the notion of judicial control... This changed with the appointment of Lagrange, whose juridical authority Monnet was largely prepared to follow. At the least, within the French Planning Commission, there remained a certain dislike of judicial control and often, Lagrange was caught in the crossfire between opposing views.⁵⁶¹

According to Ophüls, in retrospect, '...the guys from the Plan were so unsatisfied with the compromise that they mobilized the [French] Minister of Justice René Mayer'.⁵⁶² Mayer allegedly summoned Lagrange and pressurized his former colleague at the Conseil d'Etat to change the compromise formula so it would reduce the checks and balances on the high authority. According to the letter, Lagrange conveyed Mayer's demands to Ophüls without, however, sharing the justice minister's preference: 'Lagrange, who has come very close to our position'⁵⁶³, therefore accepted it, when Ophüls told him there was no room for manoeuvre and informed Mayer accordingly. It is not apparent from the letter who in the Planning Commission contacted Mayer, who had supported the Schuman Plan from its inception⁵⁶⁴ and was a friend of Monnet's.⁵⁶⁵ More importantly, Ophüls' testimony indicates that to some extent Lagrange had modified his preference with regard to judicial review and was therefore prepared to defend a position that no longer matched the 'French preference' as articulated by the planning officials. Neither official records, nor Lagrange's recollections reflect the tensions over the question of the court within the French team. In this context, the example of Lagrange underlines the insufficiency of a purely intergovernmental

Beitrag zur verwaltungsgerichtlichen Kontrolle der Hohen Behörde, Frankfurt am Main: Vittorio Klostermann, 1952.

⁵⁶¹ Letter Ophüls to Steindorff, 15 September 1951, PA AA, Ophüls papers, vol. 19.

⁵⁶² Ibid.

⁵⁶³ Ibid.

⁵⁶⁴ Cf. Monnet, *Memoirs*, pp. 300-3; Parsons, *A Certain Idea*, p. 55.

⁵⁶⁵ Gillingham, *Coal, Steel*, p. 259.

approach to describe policy and preference formation at the inter-state conference. In summary, the court of justice of the ECSC would fulfil the function of a constitutional court if an institution abused its power or did not perform its duties; an administrative court with regard to the activities of the high authority; and a court of arbitration between member-states or between member-states and the high authority. Further, the Statute of the Court, in whose making Lagrange and members of the transatlantic university network were involved,⁵⁶⁶ introduced the right of appeal of enterprises and natural and juridical persons to the court. According to Küsters, this represented a 'novelty in international law'.⁵⁶⁷

3.6 Finalizing the institutional framework: the Conference of Ministers

A number of political questions were left open and decided by the Conference of Ministers in April 1951. A working document prepared by the French delegation listed five issues that needed to be resolved.⁵⁶⁸ These issues concerned firstly the number of seats in the common assembly. Secondly, the question of how to weigh the votes in the council of ministers needed to be resolved. Since it had been agreed that all member-states were to have the same number of votes in the council of ministers, these votes would have to be weighed differently since the Benelux countries and Italy jointly only

⁵⁶⁶ See for example Schlochauer's Bemerkungen zum Statut-Entwurf Lagrange, 9 April 1951, PA AA, B 15, Personal papers Schlochauer, 355.

⁵⁶⁷ Küsters, 'Die Verhandlungen', p. 95; see also Carl Friedrich Ophüls, Aufzeichnung. Betr.: Kritik M. Rolins am Gerichtssystem des Schumanplans, 19 September 1951, PA AA, B 15, 64; and idem., 'Juristische Grundgedanken des Schumanplans', in: *Neue Juristische Wochenzeitschrift*, vol. 4, no. 8 (1951), pp. 289-92, here p. 291.

⁵⁶⁸ Projet de memorandum pour servir de base de discussion à la conférence des ministres sur le plan Schuman, Questions réservées à la conférence, 11 April 1951, AN 81 AJ 153.

held twenty-five per cent of the entire coal and steel production. Thirdly, the composition of the high authority and the court of justice and the procedure for nomination of their respective members were unresolved. Fourthly, the duration of office for the president and vice-president and their mode of appointment as well as fifthly, the number and distribution of seats within the consultative committees were still unclear. Crucially, all the proposals of the French delegation reflected the decision to grant to Germany parity with France in all institutions. According to Monnet, he had previously agreed with the chancellor on the question of parity.⁵⁶⁹ At their conference, the foreign ministers, therefore, needed to resolve the conflict over whether the institutions should be designed according to the principle 'one state-one vote', or whether the composition of the institutions should reflect the share of member-states in the joint coal and steel production.⁵⁷⁰

Turning to evaluating the impact of transatlantic policy networks, this chapter has demonstrated that as part of a broader advocacy coalition for a supranational western Europe excluding Britain transatlantic policy networks influenced the inter-state negotiations on the institutional framework. Already in designing the high authority but more importantly, in the debate on checks and balances on the high authority including the notion of a constitutional court, actors mediated between various European and American ideas and politico-legal concepts.

Finally, transatlantic policy networks contributed to creating an institutional design for core Europe, which had significant long-term repercussions. The federal institutional framework served as an important precursor for the unsuccessful joint

⁵⁶⁹ Monnet, *Memoirs*, p. 354.

⁵⁷⁰ Cf. Küsters, 'Die Verhandlungen', pp. 96-9.

project of establishing the EDC/EPC. Whereas disillusionment with the supranational principle followed from the failure of the EDC/EPC, the operation of the High Authority and functional sectoral integration, the federal principle found its way into the common market proposal, which in 1957 resulted in the treaty establishing the EEC. At least as important as these institutional path dependencies, however, were the path dependencies transatlantic policy networks created by contributing to the anti-trust provisions of the ECSC treaty, which will be addressed in the next chapter.

4 The anti-trust provisions

4.1 Introduction

This chapter demonstrates how transatlantic policy networks contributed to shaping the anti-trust provisions embodied in articles 65 and 66 of the ECSC treaty. Not only did these articles represent a crucial dimension in the formation of the first integrated core Europe organization of six member-states at the Schuman Plan conference, but they also set a precedent for EU competition policy. Next to mergers, state aids and public utility, anti-trust is one of the four separate areas constituting this key policy area. Anti-trust comprises the scrutiny and control of cartels and restrictive practices and the abuse of a dominant market position.⁵⁷¹ As part of a broader advocacy coalition for consumer protection outlined in chapter 2.8, transatlantic policy networks influenced the inter-state negotiations on the anti-trust provisions. Most significantly, the US Embassy working group contributed to drafting anti-trust articles during the period up to December 1950. Actors of both policy networks were involved in the deliberations on the reorganization of the German heavy industries and the final drafting period in February and March 1951.

Two interrelated arguments provide the background for this chapter. Firstly, key actors contributing to the discussion of the anti-trust provisions for the coal and steel pool were at the time of the negotiations involved in realizing anti-trust and competitive policies in post-war administration agencies in western Europe. Secondly, while in the shaping of these policies officials primarily drew on US anti-trust law, in Germany, the

⁵⁷¹ For an introduction s. Michelle Cini, Lee McGowan, *Competition Policy in the European Union*, Basingstoke: Macmillan, 1998.

American legal tradition crucially interacted with complementary domestic politico-legal thought and concepts.

This chapter is structured around five distinct stages in the evolution of a supranational European anti-trust law at the Schuman Plan conference. Taking as its starting point the reluctance of US Secretary of State Acheson and US Ambassador Bruce to embrace the Schuman Plan, the first sub-chapter contextualizes the initiative of the French government within a variety of earlier policy proposals to promote and safeguard competition in post-World War II Europe. Sketching the anti-trust and competition policies of France and Germany, respectively, similarities and potential links between the development of European post-war economic policies and American anti-trust policy and more generally, the tradition of US anti-trust law will be identified (4.2). The next sub-chapter outlines the debate following the declaration of 9 May 1950 on the potential of the Schuman Plan to set up an international cartel. Actors who engaged in this debate were motivated by a blend of political beliefs, rhetorical goals and material interests. Divergent incentives of American, German and French actors can be inferred, but are often hard to identify conclusively on the basis of primary evidence. Certain ideas and positions, however, can be tied to earlier discussions that occurred in the American debate on the reforms of the New Deal as well as in the German debate on cartel policy (4.3). Significant external developments, which contributed in October 1950 to Monnet's request to integrate explicit anti-trust provisions in the treaty are addressed in the following sub-chapter (4.4). The negotiations on the various draft articles introduced into the conference from October to early December 1950, are the subject of the next sub-chapter (4.5). With the temporary breakdown of the Schuman

Plan conference, the debate on the anti-trust provisions shifted from the Paris inter-state negotiations to the Federal Republic of Germany, where Allied and German officials discussed the deconcentration and de-cartelization of the heavy industries. Following a discussion of these separate negotiations between Allied and German officials the last sub-chapter addresses minor modifications on the anti-trust provisions after 9 February 1951 (4.6). Finally, the impact of transatlantic policy networks on the anti-trust articles, specifically with regard to the interaction of various legal traditions will be addressed (4.7).

4.2 A competitive market economy for western Europe: American, French and German discourses on anti-trust and competition policy

Initially, Acheson and Bruce rejected the Schuman Plan. When the two Americans were introduced to the French government's initiative prior to its release, they feared the proposal would encourage the revival of traditional forms of transnational collaboration of the European heavy industries, which often took the shape of cartels. Crucially therefore, the Schuman Plan appeared incompatible with the US government's policy preference for a competitive market economy for western Europe. Alarmed by Acheson's initial reluctance to embrace the proposal, Monnet asked Uri to prepare a publishable statement to contradict the notion that the plan would give rise to cartel formation. The Schuman Plan declaration itself contained merely a section broadly stating that

[u]nlike an international cartel whose purpose it is to divide up and exploit national markets through restrictive practices, and the maintenance of high

profits, the projected organization will insure the fusion of markets and the expansion of production.⁵⁷²

Uri's anti-cartel note was more specific, contrasting the proposed supranational joint authority with an international cartel and establishing five criteria against which the politico-economic rationale of the Schuman Plan were to be measured: the projected organization's objective, its mode of operation, means of action, management and scope.⁵⁷³ Criticism regarding the competitive framework of the coal and steel pool did not vanish, however. The continuance of criticism can be largely explained by the importance the US government attached to establishing a competitive market economy in western Europe.

For US foreign policy planners the need to implement the competitive principle within European societies was based on the notion that cartels have the potential to facilitate the rise of autocratic and totalitarian systems. Accordingly, they argued that there was an intimate economic, political and moral link between the cartelization of the European heavy industries in the inter-war period and the rise of the nationalist right in both Germany and France. Evidence for this argument was provided by two sources, in particular. One source was the foundation of the ISC by Germany, France, Belgium and Luxembourg in 1926. Ulrich Nocken has argued that the establishment of the ISC was significant because firstly, the ISC represented an attempt to solve the problem of balancing the basic industries between France and Germany after the latter had lost

⁵⁷² Déclaration officielle du gouvernement français, 9 mai 1950; Bonbright to Acheson, 9 May 1950.

⁵⁷³ No author [Pierre Uri], No title [Note], 9 May 1950, HAEU, PU/DO 19, Folder US-French relations. For the contemporary English translation see London to Secretary of State: Text of anti-cartel note, 12 May 1950, 396.1 LO/5-1250, FRUS 1950 III, pp. 700-1.

sovereignty over Alsace-Lorraine and the Saar as a consequence of the Versailles peace settlement. Secondly, the ISC resolved the question of which international economic system would dominate European trade. Thirdly, the ISC would, in the later part of the 1920s, influence the social and economic conflicts in Germany as a result of having created a new balance within the German industrial system.⁵⁷⁴ While the cartel institutionalized international co-operation in the western European heavy industries, the negotiations on the industrial agreement also fostered transnational coalition building, as was evidenced by the French steel producers and the South German steel-consuming industry.⁵⁷⁵ John Gillingham has demonstrated, moreover, that from the 1920s to the 1940s a largely unbroken tradition of co-operation in the heavy industries co-existed with the ongoing Franco-German conflict. Gillingham even argues that the collaboration of industrialists during the inter-war years represented an important precursor to functional integration in the coal and steel sector after World War II.⁵⁷⁶

Alternative and more serious evidence for the link between cartels and the rise of the nationalist right was provided by the rapid growth of cartels in France and Germany and the collaboration of the representatives of the heavy industries with the French Vichy and the German National Socialist regimes, respectively. According to this view, cartels did not only shape transnational collaboration but they were deeply embedded

⁵⁷⁴ Nocken, 'International Cartels and Foreign Policy', p. 35.

⁵⁷⁵ Ibid.; Clemens Wurm, 'Politik und Wirtschaft in den internationalen Beziehungen. Internationale Kartelle, Aussenpolitik und weltwirtschaftliche Beziehungen 1919-1939: Einführung', in: Wurm (ed.), *Internationale Kartelle*, pp.1-31, here p. 20.

⁵⁷⁶ John Gillingham, 'Zur Vorgeschichte der Montan-Union. Westeuropas Kohle und Stahl in Depression und Krieg', in: *Vierteljahreshefte für Zeitgeschichte*, vol. 34 (1986), pp. 381-405. For a critical assessment cf. Wurm, 'Politik und Wirtschaft', pp. 21-2.

within the national economic structures of France and Germany.⁵⁷⁷ To guarantee the sustainability of democratic governments in western Europe US foreign policy planners therefore promoted the implementation of democratic values and a pluralistic society model in the American style. Briefly, this was the politico-economic rationale informing the Marshall Plan as well as the US occupation policies for Germany. During the early Cold War, growing concern with security policy contributed further to increase the importance attached to the promotion of a democratic and capitalist society model.⁵⁷⁸ Upheld by the US government in response to perceived external challenges the policy preference for a competitive market economy relied on an idea developed within an essentially domestic frame, namely 'competition as a way of life'.

The American concept of competition as a way of life was first identified and analyzed by Richard Hofstadter in a seminal essay published in 1964.⁵⁷⁹ Arguing that competition served a means of social regulation, he postulated that, '...in America competition was more than a theory: it was a way of life and a creed'.⁵⁸⁰ As a result, competition policy simultaneously pursued economic, political and social-moral goals. As the legal basis of US anti-trust law, the Sherman Act of 1890 embodied an economic goal in the belief that competition would produce maximum economic efficiency. The law was intended to block private accumulation of power and protect democratic government, which represented its political goal. Moreover, fulfilling its social-moral

⁵⁷⁷ Cf. Henry A. Turner, *German Big Business and the Rise of Hitler*, New York, Oxford: Oxford University Press, 1985; Berghahn, *The Americanization*, pp. 19-26.

⁵⁷⁸ Smith, *America's Mission*, pp. 146-76; Schumacher, *Kalter Krieg und Propaganda*, pp. 41-9.

⁵⁷⁹ Richard Hofstadter, 'What Happened to the Antitrust Movement?', in: idem., *The Paranoid Style in American Politics and Other Essays*, Cambridge/MA: Harvard University Press, 1996 [1964], pp. 188-237.

⁵⁸⁰ *Ibid.* pp. 195-6.

function, the act corresponded to the belief that competition would engineer the formation of a constructive national character.⁵⁸¹ Due to judicial interpretation and further congressional legislation, particularly during the period of the New Deal, these three goals were subject to successive redefinition. While chapter 3 has demonstrated how New Deal concepts informed French planning officials and Reuter in the context of the Monnet Plan and the framing of the Schuman Plan declaration and early draft treaty proposals, this chapter will revisit and further explore New Deal legislation to shed light on the economic rationale of the coal and steel treaty.

The economic policies of the Roosevelt administration radically differed from those of the preceding Hoover government. Under the form of ‘business associationism’, the latter had already promoted the theme of productivity.⁵⁸² Even after the 1929 crash of the stock market, however, the Hoover government continued to practice laissez-faire capitalism and regarded welfare legislation a short-term solution at best. With the economic depression at a new height and unemployment at 25 per cent in early 1933,⁵⁸³ the administration of Franklin D. Roosevelt now gave centre stage to the social problem of economic inequality and to the implementation of appropriate solutions. Among a variety of attempts at reform, two key laws of the incipient New Deal tackled the major sectors of the American economy, namely industry and agriculture. Early New Dealers, who were inspired by the alleged effectiveness of rationalization and co-ordination of industrial activity during World War I, promoted the

⁵⁸¹ Ibid. pp. 199-200.

⁵⁸² Charles S. Maier, ‘The Politics of Productivity: Foundation of American International Economic Policy after World War II’, in: *International Organization*, vol. 31, no. 4 (1977), pp. 607-33, here p. 613.

⁵⁸³ Brinkley, *Liberalism and its Discontents*, p. 15.

National Industrial Recovery Act (NIRA), enacted in June 1933. Committed to state-supervised enterprise and national planning, NIRA created a new federal agency, the NRA that co-operated with business and labour representatives in order to stabilize the various industries. Moreover, by providing for the formation of new industry authorities, which were allowed to fix minimum prices, wages and production quotas, the NRA encouraged groups of business representatives to function as cartels.⁵⁸⁴ In spring 1935, the US Supreme Court in a unanimous decision declared NIRA unconstitutional.⁵⁸⁵ Rudolph Peritz has argued that the significance of the act rested not so much on the idea of centralized planning, but on the efforts to integrate labour unions in the policy-making process, which is a form of interest group politics associated with the 1960s in American history.⁵⁸⁶ The Agricultural Adjustment Administration (AAA), created by another piece of legislation in May 1933, proved more successful than the NRA. With the support of most commercial farmers it managed to stabilize farm prices and to control production. Accounting for the different results of the NRA and the AAA were various factors, among them, the contrast between the heterogeneous industrial economy, on the one hand, and the relatively homogenous agricultural sector, on the other. Also contributing to the success of the AAA was the fact that governmental intervention was not entirely new in the agricultural industry. In the US Department of Agriculture, there existed an administrative elite already.⁵⁸⁷

⁵⁸⁴ Ibid. pp. 27-8.

⁵⁸⁵ A.L.A. Schechter Poultry Corporation v. United States, 295 U.S. 495 (1935).

⁵⁸⁶ Rudolph Peritz, *Competition Policy in America. History, Rhetoric, Law*, Oxford, New York: Oxford University Press, rev. ed. 2000.

⁵⁸⁷ Brinkley, *Liberalism and its Discontents*, pp. 30-3.

While the early New Deal legislation relied on US government planning to stabilize the American economy, one of the main criticisms of the later New Deal evolved around the incompatibility of central planning and a free market economy. Notably, the TVA seemed more acceptable because it differed from other early New Deal legislation in employing planning on the regional level and fostering the potential of local democracy.⁵⁸⁸ Against the backdrop of the failure of NIRA and another major economic collapse in 1937, a new generation of New Dealers rejected the collectivist impulse of the years 1933-35 and its underlying vision of a 'liberal variant of corporatist interest intermediation'.⁵⁸⁹ While they continued to promote a strong role for the federal government in the market place, the new generation, which included Thurman Arnold, Thomas Corcoran, Benjamin Cohen and others, emphasized that de-centralized planning and competitive markets alone could perform as economic regulators. As one of the major proponents of the later New Deal, Arnold in his writings elaborated on the contradiction of the concepts of central planning and a free market economy. A political theorist and professor of law at Yale University, Arnold in 1937 was appointed the head of the Antitrust Division in the Department of Justice, where Katz, who had also been involved in the NRA, and later Kronstein temporarily were his co-workers. Characterizing the NRA as the 'antithesis of the Sherman Act'⁵⁹⁰ Arnold condemned the '...days of the NRA, when our legislative policy seemed inconsistent with maintaining a free market...'⁵⁹¹

⁵⁸⁸ Maier, 'The Politics of Productivity', p. 614-5.

⁵⁸⁹ The term is borrowed from Abelshauser, *The Dynamics of German Industry*, p. 46.

⁵⁹⁰ Thurman Arnold, *The Bottlenecks of Business*, New York: Reynal & Hitchcock, 1940, p. 263.

⁵⁹¹ *Ibid.* p. 98.

Although the economic rationale of anti-trust policies and the effectiveness of anti-trust law were always being challenged, a strong principle in US society was the necessity to maintain free competition. In other words, the underlying principles of traditional (economic) liberalism remained unchallenged during the New Deal era and beyond and continued to be central to the domestic development of US anti-trust law and its promotion abroad. First among these principles was the view that competition would have a positive effect on democratic government and the character of a society, while the private accumulation of power would endanger individual economic and political freedom.⁵⁹² Select European national policies safeguarding free competition notwithstanding, post-World War II European societies did not share the concept of competition as a way of life as comprehensively.⁵⁹³

A key role in trying to implement competition in post-war European societies and to advance productivity was assumed by the ECA agencies. To obtain American aid, recipient states of Marshall Plan funds were not only required to collaborate and formulate a joint economic programme, but they also had to commit to introducing and promoting policies that would conform to the concept of a competitive market economy. The ECA missions in Europe pursued a number of strategies to encourage a greater public understanding of competition policy. Among these strategies were efforts to enlist the support of trade unions in their campaign to eliminate restrictive business

⁵⁹² Hofstadter, 'What Happened to the Antitrust Movement?', pp. 199-200.

⁵⁹³ The following ideas have been published in part in Brigitte Leucht, 'Tracing European Mentalities: Free Competition in Post-WW II Transatlantic Europe', in: Marie-Therèse Bitsch, Wilfried Loth, Charles Barthel (eds.), *Cultures politiques, opinions publiques et construction européenne*, Brussels: Bruylant, 2007, pp. 337-53.

practices in various European countries⁵⁹⁴ as well as the funding of expert study visits to the US. With these visits, the ECA aimed at stirring greater public interest in the idea of competition. Further, the experts and practitioners were expected, on their return, to apply their experience and know-how to national legislation to enhance and safeguard competition. A French and a German commission of experts each participated in the ECA scheme in 1951 and 1950, respectively.⁵⁹⁵ In this context, Kronstein, Schlochauer and Böhm were involved in the German commission's visit to the US, which has been acknowledged in chapter 2.

Against the backdrop of the US policy preference for a competitive market economy and efforts by US government agencies to implement this preference in post-war Europe, the framework, in which these issues were discussed in France and Germany, needs to be sketched. Firstly, in France and Germany the discourse on national anti-trust laws crucially preceded the transatlantic debate on the anti-trust provisions at the Schuman Plan conference. Secondly, the Marshall Plan administration provided one important framework for the discussion of anti-trust policy with a transatlantic dimension. US government agencies threw important political weight behind initiatives for comprehensive national anti-trust bills, which were domestically contested. Thirdly, although the actors involved in advocating anti-trust policy and the nature of the debate on anti-trust and competition policy differed in France and Germany, in both states a fully-fledged discussion emerged first of all out of domestic

⁵⁹⁴ Office memorandum US government, 26 April 1950, NARA, RG 59, 840.054/4-2650.

⁵⁹⁵ Kai Pedersen, 'Re-educating European Management: the Marshall Plan's Campaign Against Restrictive Business Practices in France, 1949-1953, in: *Business and Economic History* vol. 25, no. 1 (1996), pp. 267-74.

concerns and was based on domestically derived ideas. The dimensions and scope of the respective domestic debates will be introduced in the following two sections of this sub-chapter.

The point of departure for French competition policy was provided by article 419 of the French Penal Code (1810). A legal instrument to prohibit concerted action, the article was enacted in response to concerns over the price increases, which had accompanied the Napoleonic wars, rather than to foster the competitive principle. Applying the article during the second half of the 19th century, French courts introduced the distinction of ‘good cartels’, regulating competition to the benefit of all, and ‘bad cartels’ which were monopolistic and harmful to other competitors. Article 419 only applied to bad cartels.⁵⁹⁶ The notion of good and bad cartels remained a characteristic of French competition policy, which clashed with conceptions of American anti-trust law. Further significant to the development of French competition law after World War II was an ordinance the French government passed in 1945, which introduced means of price control to combat post-war inflationary pressure. Supplementary provisions to the ordinance aimed at protecting price-cutting firms against retaliation from manufacturers and distributors. According to David Gerber these provisions partly reflected the discrediting of ‘big business’ and of industrialists accused of co-operating with the Nazi occupiers. Consequently, while domestic resentment in France could have provided the impetus to enact comprehensive anti-trust laws, such legislation did not materialize. Instead Gerber concludes that ‘[a]t least formally, French competition law developed

⁵⁹⁶ David Gerber, *Law and Competition in Twentieth Century Europe: Protecting Prometheus*, Oxford: Clarendon Press, 1998, pp. 183-4.

through amendments to price control legislation'.⁵⁹⁷ Matthias Kipping, on the other hand, has drawn attention to the domestic debate over the question whether private agreements or state intervention would best guarantee an efficient economy in post-war France.⁵⁹⁸ During the period from 1945-48, criticism of restrictive practices and of 'professional dirigisme' intensified and some critics demanded additional state intervention to safeguard competition and guarantee benefits for consumers. The initiative for a specific anti-trust law finally emerged within the Committee for Economic Affairs of the French National Assembly in December 1948, by way of a resolution introduced by the trade unionist and socialist Albert Gazier.⁵⁹⁹ It was the French Planning Commission, however, that presented the first draft for a national anti-trust bill.

Because he was concerned with the productivity of the French economy and the efficiency of the modernization programme, Monnet in 1948 set up a working group under Jean Fourastié, a professor at the Conservatoire National des Arts et Métiers and a co-worker of the Planning Commission to study the reasons for France's low productivity. Another member of the task force, Maurice Allais, professor of economics at the Ecole des Mines, was an outspoken proponent of free competition. Among the causes the working group identified for the low productivity in France were the restrictedness of the national market, which in turn provided an incentive for European integration,⁶⁰⁰ and the lack of real competition. Even within the working group, the

⁵⁹⁷ Ibid. pp. 186-7.

⁵⁹⁸ Matthias Kipping, 'Concurrence et compétitivité'.

⁵⁹⁹ Ibid. p. 435.

⁶⁰⁰ Cf. also Lynch, 'Resolving the Paradox of the Monnet Plan', who has adopted this explanation to account for the French government's initiative of 9 May 1950.

question of whether cartels were to be abandoned altogether or whether they could benefit the economy remained unresolved. In their final report, the group recommended the introduction of a French anti-trust law to counteract the potential abuses of concentrations. In May 1949, the report resulted in the establishment of the Comité Provisoire de la Productivité, the Provisional Productivity Committee, which should coordinate various public and private activities in order to increase productivity.⁶⁰¹ Against this backdrop, Monnet and planning officials proposed a draft anti-trust law. A US official, who commented on the bill, acknowledged the link between the concern over productivity and anti-trust legislation:

Early in 1949 officials in the Monnet Plan, reportedly disturbed over the additional expenses that cartel agreements were imposing on the cost of the Plan's projects, prepared an antitrust bill which was largely modelled after the United States laws on this subject in that it would have prohibited all agreements in restraint of trade.⁶⁰²

The external observation underlines that French officials drew on American anti-trust law when they were realizing the damaging effects of cartel agreements on the revitalization and modernization of the national post-war economy. At the same time, this example confirms that processes of cultural transfer are guided by the willingness to import rather than the intention to export.⁶⁰³ While the Planning Commission's strict anti-trust bill proved too far-reaching for business representatives and the French Ministry of Finance and was therefore unsuccessful, it demonstrates that Monnet and

⁶⁰¹ Ibid. pp. 436-7; see also for US government support of these initiatives Richard Kuisel, 'The Marshall Plan in Action: Politics, Labor, Industry and the Program of Technical Assistance', in: *Le Marshall plan et le relèvement économique de l'Europe*, Paris: Comité pour l'histoire économique et financière, 1993, pp. 335-58.

⁶⁰² US Embassy Paris to US Department of State, 2 February 1950, NARA, RG 59, 851.054/2-250. Cf. Kipping, 'Concurrence et compétitivité', pp. 437-8.

⁶⁰³ Middell, 'Kulturtransfer und Historische Komparatistik', pp. 20-1.

planning officials were practiced in translating the American concept of a free market economy into French domestic politics.

Crucially, the anti-trust bill was backgrounded by concerns about productivity, which resonated with the 'supposedly apolitical politics of productivity'⁶⁰⁴ of the Marshall Planners. Even though they presented the first national anti-trust bill, planning officials at the Schuman Plan conference would articulate contradictory preferences, for example, in the debates on price policy. Planning officials seemed not worried about the ideological contradiction between establishing a competitive market economy and employing price fixing as the means to achieve a competitive coal and steel pool. To explain some of these economic policy preferences Hirsch, Monnet and Uri defended at the inter-state conference, it is necessary to stress that the Monnet Plan shared affinities with the rationale underlying the early rather than the later New Deal.⁶⁰⁵ As evidenced by numerous French projects of the inter-war period, which involved economic planning, the Monnet Plan drew on a domestic tradition of planning. Simultaneously, however, the modernization programme shared specific goals and techniques of the legislative programme that instigated the New Deal. Among the main features that can be identified in both the early New Deal and the Monnet Plan were the focus on specific basic sectors of the economy and the use of central planning in order to stabilize or create a free market economy. In an article published in 1962, Hirsch described the Monnet Plan as '...far removed both from classical Liberalism of the *laissez-faire*,

⁶⁰⁴ Maier, 'The Politics of Productivity', p. 613.

⁶⁰⁵ For an assessment see also Richard Kuisel, *Capitalism and the State in Modern France. Renovation and Economic Management in the Twentieth Century*, Cambridge: Cambridge University Press, 1981, Chapter 8, The Monnet Plan, 1945-52: the Prototype of Planning, pp. 187-247.

laissez-aller school and of bureaucratic *dirigism*'.⁶⁰⁶ According to Hirsch, the authors of the first plan described its methods as those of a 'concerted economy' and deemed it essential to integrate in the process of drawing up the plan '...all those social and economic forces who would afterwards need to put the plan into practice'.⁶⁰⁷ Like the NRA, the Monnet Plan was committed to fostering collective regulatory and decision-making structures and to institutionalizing the co-operation of representatives of labour and industry, and specific interest groups.⁶⁰⁸ Lastly, Steindorff indicated the significance of the different traditions in which actors were socialized, when he stressed that Uri and French planning officials '...always started calculating right away' when it came to discussing the economic dimension of the Schuman Plan.⁶⁰⁹ To put it differently, these officials were used to predict, calculate and measure the consequences of the Monnet Plan on the recovery of the French economy. In the development of anti-trust policy at the Schuman Plan conference, this legacy of the planning officials proved just as important as the well-known French tradition of distinguishing good and bad cartels.

In France, the anti-trust bill proposed by the planning officials remained the only bill that fulfilled the expectations of US civil servants. Contesting proposals such as those developed by the Secrétariat d'Etat aux Affaires Economiques, the State Secretariat for Economic Affairs under Christian democratic (Mouvement Républicain Populaire, MRP) deputy Robert Buron as well as another bill submitted to the French National Assembly by Henri Teitgen did not ban cartels, but upheld the traditional

⁶⁰⁶ Etienne Hirsch, 'French Planning and its European Application', in: *Journal of Common Market Studies*, vol. 1, no. 2 (1962), pp. 117-27, here p. 118.

⁶⁰⁷ Ibid.

⁶⁰⁸ See also Mioche, *Le Plan Monnet*, pp. 114-7.

⁶⁰⁹ Interview Steindorff.

distinction of good and bad cartels. In a report to Acheson, Bruce criticized that the Teitgen bill

...in no sense is [an] antitrust proposal, but rather seeks to encourage cartelization by creating [a] special statute giving legal status to ententes and by establishing [a] system for forcing entire industries or recalcitrant firms to enter into cartel agreements.⁶¹⁰

Unfortunately, the authorship of the bill remains uncertain. According to Bruce the author of the 'private, not government-sponsored' bill was Henri Teitgen, 'Deputy and Law Professor at Nantes [and...] the father of Pierre Henri Teitgen, Minister of Information'.⁶¹¹ Like his son Pierre-Henri, Henri Teitgen also successfully combined a legal and political career. Finally, in 1953, the French government enacted a decree that added competition law principles to the price ordinance of 1945.⁶¹²

In the Federal Republic of Germany, the ECA together with the USHICOG required the introduction of laws protecting free competition. Central to the evolution of competition policy in Germany was the interaction of the traditions of US anti-trust law and domestic ordo-liberal thought.⁶¹³ Ordo-liberalism was first developed in the early 1930s by a group of scholars including the lawyers Franz Böhm and Hans Großmann-Doerth and the economist Walter Eucken at the University of Freiburg.⁶¹⁴ These ordo-liberals were concerned with generating a response to the traumatic economic and

⁶¹⁰ Bruce to Secretary of State, 18 January 1950, NARA, RG 59, 851.054/1-1850. S. Kipping, 'Concurrence et compétitivité', pp. 437-41. Cf. also Pedersen, 'Re-educating European Management', pp. 268-70.

⁶¹¹ Bruce to Secretary of State, 18 January 1950.

⁶¹² Gerber, *Law and Competition*, pp. 187-8.

⁶¹³ Cf. Murach-Brand, *Antitrust auf deutsch*.

⁶¹⁴ Franz Böhm, Walter Eucken, Hans Großmann-Doerth, 'The Ordo Manifesto of 1936', in: Alan Peacock, Hans Willgerodt (eds.), *Germany's Social Market Economy: Origins and Evolution*, London: Macmillan, 1989 [1936].

political experiences of Weimar Republic, which resulted in the rise to power of the National Socialist regime. An intellectual movement promoting an interdisciplinary approach to integrate economic policy and law, ordo-liberalism therefore also put forward a political and economic programme. To contextualize the programmatic interest of the ordo-liberals, it is necessary to outline briefly the foundations of German policy towards cartels.

Starting in the late 19th century, German cartel policy encouraged cartelization. According to Knut Wolfgang Nörr, the ‘protectionist turn’ of German economic policy in the late 1870s proved formative for the ‘organised economy’ of the Weimar Republic.⁶¹⁵ As the legal basis for free enterprise and freedom of occupation, the 1869 Trade Regulation Act of the North German Federation was only directed against public restraints, which were derived from the guild system. In 1871 the act was transformed into a law for the newly established German state. At the time, only few cartels existed and therefore the notion that private agreements could restrain the freedom to engage in business was irrelevant. This changed, however, when the number of cartels grew from the 1880s. In a landmark decision of 1897, moreover, the Reichsgericht, the highest German Administrative Court, upheld a cartel, which stipulated the use of a common sales agency by Saxon wood pulp producers under the Trade Regulation Act. By ranking a private agreement higher than the freedom to engage in business, the decision further contributed to the growth of cartels. Moreover, not only did the court hold a cartel enforceable against a member that had violated its terms, but the ruling also

⁶¹⁵ Knut Wolfgang Nörr, ‘Franz Böhm and the Theory of the Private Law Society’, in: Peter Kolowski (ed.), *The Theory of Capitalism in the German Economic Tradition. Historism, Ordo-Liberalism, Critical Theory, Solidarism*, Berlin et.al.: Springer, 2000, pp. 148-88, here p. 148.

became the basis for distinguishing between good and bad cartels. Essential in establishing whether a cartel was good or bad was the duration of the agreed restriction. Good cartels limited competition temporarily whereas bad cartels permanently destroyed it.⁶¹⁶ Just as the French variant of the notion of good and bad cartels, this conceptualization was also incompatible with US anti-trust law and ideology.

After cartels were fostered to control the economy and cartelization was made compulsory during World War I, the Weimar government under Gustav Stresemann on 2 November 1923 promulgated a Cartel Ordinance 'against the abuse of economic power'. Enacted to avert hyperinflation, the decree was directed against cartels abusing their economic position, while confirming their validity. Further, it sought to protect cartel members as well as the public interest. Among the measures introduced to protect the members of a cartel was the statutory right of parties to withdraw from an agreement on certain grounds. The Reichskartellgericht, a special Cartel Court, whose establishment was authorized by the 1923 Decree, was responsible for deciding whether a member withdrew from an agreement on permissible grounds. According to the ordinance, another key role in realizing cartel policy would be assumed by the Reich minister of economics. The minister could, for example, permit all withdrawals and consequently weaken a cartel as well as require copies of agreements and decisions to protect the public interest. After the 1923 Decree, cartels and concentrations grew rapidly and corporate combines such as I.G. Farben and Vereinigte Stahlwerke, both

⁶¹⁶ Decision of the Reichsgericht of 4 February 1897, RZG. 38/155; Corwin Edwards, *Trade Regulations Overseas: the National Laws: a Study in Comparative Law*, Dobbs Ferry, New York: Oceana Publications, 1966, pp. 153-4.

formed in 1926, became the dominant forces in the economy.⁶¹⁷ Moreover, cartels were turned into governmental policy instruments and cartelization became mandatory when the Nazi regime came to power in 1933.

From its inception, the development of cartel policy in Germany was accompanied by a wider debate on restrictive practices, in which politicians, economists and lawyers engaged. Harm Schröter has demonstrated that cartelization in Germany can only be understood by supplementing an account of legal norms and economic concepts with an appreciation of the collective mentality of the German cartel movement, which had emerged since the late 19th century.⁶¹⁸ Crucially, ordo-liberals developed their key arguments not only against the practice of cartelisation, but also against the justifications for cartels. Arguments in support of cartels helped consolidate cartels in the period before 1933. Further, they continued to shape the discourse on competition policy in Germany until the early years of the Federal Republic. Of the many justifications for cartels, Nörr has introduced four main perspectives.⁶¹⁹ Firstly, the Historical School with its evolutionist and deterministic traits gave rise to the argument that the organized economy, which was regarded as the more recent economic form, was on a higher stage than the free market economy. Secondly, the idea of organization was reinforced by the notion of collective regulatory and decision-making structures. Accordingly, cartels were compared with and linked to co-operative societies that fulfilled a moral function by counteracting the perceived negative effects of classical individualism. Reflecting this line of argument, the aforementioned court

⁶¹⁷ Edwards, *Trade Regulations Overseas*, pp. 155-7.

⁶¹⁸ Harm G. Schröter, 'Kartellierung und Dekartellierung 1890-1990', in: *Vierteljahrsschrift für Sozial- und Wirtschaftsgeschichte*, vol. 81 (1994), pp. 457-93.

⁶¹⁹ Nörr, 'Franz Böhm', pp. 149-52.

decision of 1897 confirmed that for business actors, co-operation through forming associations was a legitimate means to control the market. Thirdly, in accordance with the contemporary conception of Realpolitik, cartels were considered viable instruments of national assertion in international politics and the ongoing struggle for world markets. Lastly, Realpolitik and the ideology of power politics were part of a larger phenomenon of what Nörr has characterized as a 'decline in the idea of law'.⁶²⁰ Cartel policy therefore was discussed from the perspective of the interests of the state, the national economy and specific interest groups rather than politico-legal principles such as freedom of competition. Significant conclusions as to why cartels should be held up, particularly arguments pointing to the importance of corporatist interest intermediation in the economy were strikingly similar to the political and economic rationale informing both the early New Deal legislation and the Monnet Plan.

Against this backdrop, ordo-liberals in Germany were concerned with the problem of social power. In the writings of Böhm and Eucken, who co-operated closely since the early 1930s,⁶²¹ the problem of social power '...underlies the analytic and normative conception of the competitive order in the economic context and the rule of law in the political context...'⁶²² Ordo-liberals tried to restructure the relations between state and society, focusing on improving the institutional framework. In line with earlier

⁶²⁰ Ibid. p. 151.

⁶²¹ Franz Bönker, Agnès Labrousse, Jean-Daniel Weisz, 'The Evolution of Ordoliberalism in the Light of the Ordo Yearbook: A Bibliometric Analysis', in: Agnès Labrousse, Jean-Daniel Weisz (eds.), *Institutional Economics in France and Germany. German Ordoliberalism versus the French Regulation School*, Berlin, Heidelberg et.al.: Springer, 2001, pp. 159-81, here p. 163.

⁶²² Manfred E. Streit, Michael Wohlgemuth, 'The Market Economy and the State. Hayekian and Ordoliberal Conceptions', in: Kolowski (ed.), *The Theory of Capitalism*, pp. 224-69, here pp. 225-6.

conceptions of liberalism they maintained that a free, equitable and affluent society was based on a competitive economy. To guarantee such a development of society, ordoliberalism emphasized the importance of embedding the competitive order in an economic constitution, or *Wirtschaftsverfassung*. For the ordoliberal conception of the economic constitution a monograph published by Böhm in 1933 proved groundbreaking.⁶²³ Böhm's research was motivated by the practical experience he had gained enforcing the 1923 Cartel Ordinance while working for the Imperial Ministry for Economics. In his book on competition and monopolies, which amounted to 'a declaration of independence of the idea of competition',⁶²⁴ he transferred the concept of the economic constitution from the organized economy to the free market economy. Objecting to the notion that competition would produce chaos, Böhm contended that it would generate an order in its own right. Since order stood for legal rules, the question of the adequate legal order became central to his inquiry. At the time of the Schuman Plan conference, Böhm was involved in the development of German anti-trust policy. In his very first contribution to the newly established journal *Ordo*, Böhm emphasized the importance of the German anti-trust law, which accordingly represented 'a basic decision about the future German economic constitution'.⁶²⁵ Moreover, that he headed the German commission visiting the US within the ECA programme indicates that Böhm was at least interested in US anti-trust law.

⁶²³ Franz Böhm, *Wettbewerb und Monopolkampf. Eine Untersuchung zur Frage des wirtschaftlichen Kampfrechts und zur Frage der rechtlichen Struktur der geltenden Wirtschaftsordnung*, Berlin: Heymann, 1933.

⁶²⁴ Nörr, 'Franz Böhm', p. 156.

⁶²⁵ Franz Böhm, 'Das Reichsgericht und die Kartelle. Eine wirtschaftsverfassungsrechtliche Kritik an dem Urteil des RG. Vom 4. Febr. 1897, RZG. 38/155', in: *Ordo*, vol. 1 (1948), pp. 197-213, here p. 199.

Proponents of the Freiburg school of ordo-liberalism shared affinities with the prevalent tradition of US anti-trust law in that competition provided the key to the dual goal of economic prosperity and political stability. When referring the prevalent tradition in US anti-trust history this excludes, for example, the experiences of the early New Deal. Due to its foundations in the inter-war years, ordo-liberalism, contrary to American anti-trust law, was chiefly concerned with the problem of private economic power. After World War II the ideas of ordo-liberalism also shaped the emergence of the 'social market economy'.⁶²⁶ Trying to reconcile the idea of a free market economy with limited intervention by the state, the concept in 1949 was adopted by the Christian Democratic Union (CDU) in the Düsseldorfer Leitsätze, the party programme, which provided the basis for their election campaign of the same year. Following its breakthrough with the successful CDU campaign, the social market economy helped trigger the German 'economic miracle' of the 1950s.⁶²⁷

The face of the economic miracle and the first minister of economics of the Federal Republic, Ludwig Erhard, later claimed he applied what he had learned as a doctoral student with Franz Oppenheimer to the German economy. Discussing Oppenheimer's 'liberal socialism', 'a theory of a third path between capitalism and communism',⁶²⁸ Dieter Haselbach has challenged Erhard's claim. Born into a liberal

⁶²⁶ See Nicholls, *Freedom With Responsibility*; Nils Goldschmidt, 'Alfred Müller-Armack and Ludwig Erhard: Social Market Liberalism', in: *Freiburger Diskussionspapiere zur Ordnungsökonomik* (2004), http://www.walter-eucken-institut.de/publikationen/04_12bw.pdf (accessed 1 August 2007).

⁶²⁷ Keith Tribe, *Strategies of Economic Order. German Economic Discourse, 1750-1950*, Cambridge: Cambridge University Press, 1995, Chapter 8, The Genealogy of the Social Market Economy: 1937-48, pp. 203-40.

⁶²⁸ Dieter Haselbach, 'Franz Oppenheimer's Theory of Capitalism and of a Third Path', in: Kolowski (ed.), *The Theory of Capitalism*, pp. 54-86, here pp. 64-5.

Jewish family in Berlin in 1864, Oppenheimer for most of his professional life worked as a Privatdozent, a private lecturer of postdoctoral standing, with the exception of the period from 1918-29, when he held the chair for sociology and theoretical economics at the University of Frankfurt. After moving back to Berlin, Oppenheimer emigrated to Los Angeles in 1938, where he died in 1943.⁶²⁹ Oppenheimer was not well connected within professional networks, neither was he affiliated with the Freiburg school of ordoliberalism. Haselbach concludes that crucially Oppenheimer's liberal socialism and the ordoliberalism of the Freiburg school share the belief in the power of markets as regulators of modern societies. However,

[w]hile Oppenheimer thought that markets would still have their day in the future, once power relations in society were eliminated, the ordoliberals had the opposite conviction, that markets would need to be framed in a state administered framework, politics of order (*Ordnungspolitik*), as without such order, markets were in danger of destroying with their dynamics the very preconditions they needed for survival, both economically and culturally.⁶³⁰

Anthony Nicholls has argued that 'Oppenheimer certainly reinforced Erhard's own conviction that social responsibility was an essential aspect of the economist's profession'.⁶³¹ Such an argument supports the notion that Erhard perhaps claimed to realize Oppenheimer's programme because he tried to implement a third path economic policy as economics minister, which would avoid the extremisms of the political left and right. Where he parted with Oppenheimer's scheme and aligned with ordoliberalism, however, was in deliberately utilizing the state to create a free market economy.⁶³²

⁶²⁹ Ibid. pp. 58-63.

⁶³⁰ Ibid. pp. 82-3.

⁶³¹ Nicholls, *Freedom With Responsibility*, p. 75.

⁶³² Horst Friedrich Wünsche, 'Der Einfluss Oppenheimers auf Erhard und dessen Konzeption von der Sozialen Marktwirtschaft', in: Volker Caspari, Bertram Schefold,

Erhard did not target a political career. As a result of his economic expertise, however, Erhard came to hold a number of positions, in which he co-operated with the Allied occupation agencies in Germany. Ultimately, this professional engagement after 1945 paved the way to Erhard's appointment as federal minister for economics on 20 September 1949. Collaborating with the US military government to implement a free competitive economy in Germany, Erhard served as economics minister for Bavaria (1945-46) before became head of the Sonderstelle Geld und Kredit des Bizonalen Wirtschaftsrats, the Social Bureau for Monetary and Currency Matters of the Bizonal Economic Council, an expert committee that advised the military governments on the preparation of a German currency reform. Finally, with his appointment as Director of the Economics of the Bizone, the integrated Anglo-American zones, in 1948, Erhard found himself in a key position that enabled him to start introducing the transition to a market economy. On 21 June 1948 Erhard issued the Leitsatzgesetz, a law against rationing regulations and price fixing, which was accompanied by the introduction of a new currency, the Deutschmark.⁶³³ It was the successful currency reform that established Erhard's reputation as father of the economic miracle. As minister of economics at the time of the Schuman Plan conference, Erhard participated in the negotiations on the de-cartelization and deconcentration of the German heavy industries, which had implications for the German anti-trust law as well as for the anti-trust policy

(eds.) *Franz Oppenheimer und Adolph Lowe: Zwei Wirtschaftswissenschaftler der Frankfurter Universität*, Marburg: Metropolis, 1996, pp. 144-5; also quoted in Haselbach, 'Franz Oppenheimer's Theory', p. 82.

⁶³³ Cf. Bernhard Löffler, *Soziale Marktwirtschaft und administrative Praxis. Das Bundeswirtschaftsministerium unter Ludwig Erhard*, Wiesbaden: Franz Steiner Verlag, 2002, pp. 56-7; see also Alfred C. Mierzejewski, *Ludwig Erhard: A Biography*, North Carolina Press: Chapel Hill, 2004, pp. 51-2.

applicable to the coal and steel pool. Moreover, like Böhm, he was directly involved in negotiating a draft German anti-trust law between representatives of the German economics ministry and the HICOG.⁶³⁴ After a lengthy bargaining process the first German anti-trust law was finally enacted in 1957.

One of Erhard's most important strategic advisors was Leonard Miksch, a former student and a collaborator of Eucken's.⁶³⁵ In contrast to Böhm, Miksch did not wish to become involved in the study of US anti-trust policy to facilitate the creation of a German anti-trust law. In a lecture at the Institut zur Förderung Öffentlicher Angelegenheiten, the Institute for the Promotion of Public Affairs, Miksch stated that in this context the study of American legislation would be 'a waste of time'.⁶³⁶ Crucially, Miksch emphasized the domestic roots of the commitment to a competitive market economy and mentioned, among other examples, the 'by then unsuitable' 1923 Cartel Ordinance, the activities of such officials as Paul Josten in the Cartel Division of the Imperial Ministry of Economics, the jurisdiction of the Cartel Court and the publications of the Freiburg school. Further, as a result of World War II, Miksch argued, German society rejected planning and the notion of a compulsory economy altogether. In his discussion of the Allied demand for anti-monopoly legislation, he contended that while the formation of monopolies in both the US and Germany had originated in the 1880s, these two countries had differed in their developments since then. In the US, those economic policies, which were in line with classical liberalism – Miksch actually

⁶³⁴ Murach-Brand, *Antitrust auf Deutsch*, p. 157, footnotes 188, 190.

⁶³⁵ Löffler, *Soziale Marktwirtschaft und administrative Praxis*, pp. 72-3; Nicholls, *Freedom With Stability*, p. 206.

⁶³⁶ Leonhard Miksch, 'Der Schutz des Wettbewerbs im Rahmen der sozialen Marktwirtschaft. Phonographische Aufnahme des Referats', PA AA, B 15, Personal papers Schlochauer, 340, p. 3.

referred to a 'restrictive perspective' —, had prevailed and ultimately resulted in a high degree of concentration of economic power. In contrast, Germany had become the classical country of cartels. It would therefore be 'dangerous to transfer the American laws, policies and ideas, which were conceived in a different economic, legal and sociological context, to Germany'.⁶³⁷ Acknowledging different dimensions of competition policy, this line of argument illustrates the interdisciplinary approach of the ordo-liberals of the Freiburg school and at the same time parallels Hofstadter's analysis of competition as a way of life. Further, these observations provide evidence that within the ordo-liberal camp divergent opinions existed with respect to the usefulness of studying US anti-trust law.

Böhm's and Miksch's divergent assessments of the value of studying US anti-trust law resulted from their different conceptions of the role of competition and cartels. In his presentation Miksch stressed that he did not share the idea of 'his friend Böhm'⁶³⁸ to prohibit cartels completely. In Miksch's opinion, this would only create opposition to de-cartelization or the competitive order. Outlining guidelines for a German anti-trust law, Miksch promoted the notion of 'gebundene Konkurrenz', or 'relative competition', which he claimed to have first proposed in 1936. Accordingly, '...cartels must prevail. The difficulty is only to identify where a cartel is necessary'.⁶³⁹ One of the functions a cartel must not be allowed to have, for example, would be price regulation, which should instead be performed by a separate, independent agency. At the very least these remarks demonstrate that the conception, which Miksch forwarded, was further removed

⁶³⁷ Miksch, 'Der Schutz des Wettbewerbs'.

⁶³⁸ Ibid. p. 10.

⁶³⁹ Ibid. pp. 12-13.

from the tradition of US anti-trust law than that of Böhm. Contrary to the distinction of good and bad cartels in French competition law, Miksch based his analysis and argument for the permissibility of cartels on the goal to foster the competitive principle. However, in the eyes of US foreign policy officials, the tension between promoting competition and authorizing cartels was insurmountable and therefore had to be resolved. Ultimately, this could only be achieved by introducing a ban on cartels in the context of core Europe formation and within western European states.

4.3 The notion of consumer protection at the Schuman Plan conference: diverging notions and goals of a competitive economy

As a consequence of the joint mediation of Monnet and McCloy in May 1950, Acheson ensured that the Schuman Plan initiative received the necessary official support of the Truman administration. Drawing attention to the concerns that the economic framework of the Schuman Plan had raised from their perspectives, Acheson, Bruce and high-ranking US foreign policy officials at the same time contributed to setting the agenda for the inter-state conference. While American civil servants together with like-minded European officials had promoted free competition in western Europe since the end of World War II, high-ranking US actors had left no doubt that they were only prepared to support the Schuman Plan as long as it met the requirements of a competitive market economy and would not establish cartels. Uri's anti-cartel note did not appease critics of the Schuman Plan. Instead the question of whether the coal and steel pool encouraged cartelization fostered a vigorous debate on the competitive framework of the proposed coal and steel pool. While during the period from May to October 1950 no specific anti-

trust articles were debated, at least four mutually dependent issues emerged that illustrate the dimension of the discourse on anti-trust and competition policy. These issues comprised the competitive nature of the coal and steel pool, the question of the beneficiaries of the community, divergent approaches to price policy, and the regional associations. This sub-chapter focuses on demonstrating that the deliberations at the inter-state conference were embedded in a set of overlapping debates, some of which went back to inter-war period and even before rather than illustrate how actors drew on the American debate on the reforms of the New Deal and the German and French discourses on cartel policy or showing links between these discussions.

One issue that shaped the debate on anti-trust and competition policy concerned different notions of competition. In principle, the actors at the Schuman Plan conference shared the view that free competition was not feasible in the coal and steel sector. Evidence for this observation is provided, for example, by Weisser's policy paper, which was used in domestic consultations in the Federal Republic.⁶⁴⁰ The social democratic politician had co-operated with British occupation officials and later assumed an important role in the discussions over economic policy in the Bizone.⁶⁴¹ Another example for the incompatibility of free competition and the coal and steel industries is provided by the statement of German member of delegation Bauer. In a meeting of the co-ordinating committee in early September 1950, Monnet raised the question to which extent '...price fixing resulte[d] in a cartel-like system'. When Monnet argued that '...some competition is even possible in the two raw material

⁶⁴⁰ Weisser, 'Bemerkungen zum Schuman-Plan', 17 July 1950.

⁶⁴¹ Cf. Nicholls, *Freedom With Responsibility*, chapter 9, Theory into Practice: The Struggle over Policy, 1948, pp. 178-205, for Weisser see pp. 192-4.

industries that are now regulated through cartels', Bauer maintained that '[o]ne must try realize as much competition as possible and as much cartel as necessary'.⁶⁴² Accepting the existence of cartels and suggesting a concept, which resembled Miksch's notion of relative competition, Bauer foreshadowed the position the German delegation would express in the draft anti-trust articles submitted from late October 1950 onwards, which did not seek to prohibit cartels completely. Actors at the conference, however, also used a number of other qualifications to describe competition in the coal and steel pool. An opposition that emerged in the debate was that between perfect and imperfect competition.

In his anti-cartel memorandum, Uri concluded that economically 'as opposed to a cartel', the Schuman Plan would '...tend to produce [the] same effect which would result from perfect competition...'.⁶⁴³ Arguably, as an expert in price policy, Uri might have used the notion of 'perfect competition', which derives from neo-classical price-theory,⁶⁴⁴ rhetorically, in order to satisfy further critics of the proposal. In fact, economists of American anti-trust law had departed from the model of perfect competition and introduced into the debate criteria to assess 'workable' competition since the late 1930s.⁶⁴⁵ Article 17 of the working document the French delegation presented to the other delegations on 24 June 1950, did not refer to perfect competition,

⁶⁴² Kurzprotokoll über die Sitzung des Comité Restreint, 6 September 1950, PA AA, B15, 99.

⁶⁴³ Text of anti-cartel note, 12 May 1950.

⁶⁴⁴ Gerber, *Law and Competition*, p. 245, footnote 45.

⁶⁴⁵ William Kovacic, Carl Shapiro, 'Antitrust Policy: A Century of Economic and Legal Thinking', in: *The Journal of Economic Perspectives*, vol. 14, no. 1 (2000), pp. 43-60, here p. 52; J.M. Clark, 'Toward a Concept of Workable Competition', in: *American Economic Review*, vol. 30 (1940), pp. 241-56; and idem. 'An Alternative Approach to the Concept of Workable Competition', in: *American Economic Review* vol. 40 (1950), pp. 349-61.

but stipulated that the high authority, 'shall eliminate those artificial elements likely to jeopardize normal competitive conditions'.⁶⁴⁶ Crucially, Acheson, in a cable to Bruce in early October 1950, also acknowledged that in the coal and steel area 'competition...will inevitably be imperfect'.⁶⁴⁷ At the same time, the Secretary of State confirmed that US foreign policy officials would continue to monitor the progress of the conference to ensure the establishment of a competitive market economy. At least on the level of political discourse, imperfect competition and free competition were not mutually exclusive. An *ordo-liberal* variant, which to some degree was similar to perfect competition, was the concept of 'complete' competition. Contrary to perfect competition, however, complete competition described an economy that had successfully resolved the problem of social power, not the efficiency of an economy.⁶⁴⁸ Developed by Eucken, this notion does not appear to have resonated with actors at the Schuman Plan conference.

Another pair of opposition that helps to portray the debate on the competitive framework was that of free and fair competition. During the early years of the New Deal, the notion of fair competition replaced free competition in the mainstream discourse of American political economy.⁶⁴⁹ Drawing on the ideology of the social contract, which was based on the idea of equality between the contracting parties, the early New Deal '...introduced a *primary* commitment to *substantive* equality'.⁶⁵⁰ Effectively, the early New Deal legislation sought to protect small businesses and small

⁶⁴⁶ Document de travail, 24 June 1950; Bruce to the Secretary of State, 24 June 1950.

⁶⁴⁷ Acheson to Bruce, 3 October 1950, NARA, RG 59, 850.33/10-350, FRUS 1950 III, pp. 754-8.

⁶⁴⁸ Streit, Wohlgenuth, 'The Market Economy and the State', pp. 243-5.

⁶⁴⁹ Peritz, *Competition Policy*, p. 120.

⁶⁵⁰ Emphasis and italics in the original. *Ibid.* p. 112.

producers, including family farmers and tenants, from monopoly power without attaching sufficient regulations to have a real impact.⁶⁵¹ While the egalitarian impulse persisted throughout the entire New Deal, proponents of the later New Deal, in rejecting the collective regulatory and decision-making structures set up by associations and co-operatives that symbolized the early New Deal's struggle for economic equality and fairness, revived the ideas and images of free competition. The rhetoric of the late New Deal resembled that of the earlier anti-monopoly movement.⁶⁵² Contrary to the anti-monopoly crusaders, however, the actors of the late New Deal were not concerned with 'trust-busting' and the size of economic units. Instead, they '...were committed...to defending the consumer and to promoting full production by expanding the regulatory functions of the state'.⁶⁵³ In 1940 Arnold published a monograph entitled *Bottlenecks of business*⁶⁵⁴ to raise public understanding for the work of the Antitrust Division. Arnold proposed to make efficiency and service the criteria against which anti-trust policy was to be measured: 'What ought to be emphasized is not the evils of size but the evils of industries which are not efficient or do not pass efficiency on to consumers'.⁶⁵⁵ Arnold addressed consumers in particular and argued that there were two contrasting ways to distribute goods and services: the 'army system' and planning on the one hand, and free exchange in a free market, on the other. Accordingly, the latter

...is the only process which does not become static by freezing at the top a dynasty of men who have the means of keeping new enterprise to the surface. It

⁶⁵¹ Brinkley, *Liberalism and its Discontents*, pp. 28-31.

⁶⁵² Cf. Hofstadter, 'What Happened to the Antitrust Movement?'

⁶⁵³ Brinkley, *Liberalism and its Discontents*, pp. 41-2, here p. 42; Maier, 'The Politics of Productivity', pp. 615-6.

⁶⁵⁴ Arnold, *The Bottlenecks of Business*.

⁶⁵⁵ *Ibid.* p. 3; and chapter 6, pp. 116-31.

is the American ideal because the existence of industrial democracy is the only basis on which political democracy can rest.⁶⁵⁶

Arnold thus tied the free market economy to a view of the ideals of American democracy and attacked the early New Deal legislation and the NRA, in particular, for subtly having changed the idea of competition: 'We were still to have competition – lots of it – but it was to be “fair” competition, that is, competition with a floor under prices'.⁶⁵⁷ To Arnold, fixing minimum prices represented an un-American and undemocratic policy. It was nonetheless a policy in line with the attempts of the early New Deal to solve the problem of social inequality.

Within the Antitrust Division under Arnold, important intellectual underpinnings for consumer protection as the goal of anti-trust policy were developed. In their enforcement of anti-trust policy, officials in the Antitrust Division assumed an adversarial relationship between consumers and powerful, private economic organizations. This antagonism reflected the conflict between the individual and the collective, which took the shape of an unrestrained majority, of classical individualism. Offering a fresh explanation for how the late New Deal contributed to the formation of a consumer society, Peritz has argued that the statutory regulations of the later New Deal created separate administrative areas and agencies for consumers, farmers, shareholders, workers and small businesses and therefore contributed to a fragmentation of society. It was precisely this fragmentation, however, that gave impetus to the development of a consumer ideology:

⁶⁵⁶ Ibid. p. 11.

⁶⁵⁷ Ibid. p. 265.

[T]hose statutes, the agencies they empowered, and the Supreme Court doctrine that followed, were all drawn into a new organic body, a new image of a unified public interest: the consumer. The rhetoric of consumerism, familiar since the 1880s, now offered a new vision, a new language to fuse fragmented interests, to negotiate conflicting producer claims, to balance competition policy and private property rights.⁶⁵⁸

Consumer ideology saw its breakthrough after the end of World War II. Besides, the concept of free competition continued to shape American political discourse. In the debate for the US Employment Act in 1946, for example, the goal to achieve ‘maximum employment’ was tied to the idea that the US federal government was to ‘promote free competitive enterprise and the general welfare’.⁶⁵⁹ Perhaps because it had been discredited together with the early New Deal, the notion of fair competition was not revived, not even in the discussion of social policy. Concerns about fairness and equality, however, were embodied in the legislation. One reading of the 1946 debate would suggest that such concerns were now subsumed under the prevailing notion of free competition. It is perhaps less surprising that American business representatives did not invoke the idea of fair competition. For example, in a speech to the American Chamber of Commerce, Henry Ford II, President of the Ford Motor Company, pointed to ‘freedom of enterprise’ as one of the fundamental privileges of Americans:

It is the foundation on which our immense achievements as a nation have been built. What has given us our high standard of living is our capacity to produce, and our productive capacity has its roots in the vigorous, competitive spirit which freedom of enterprise created.⁶⁶⁰

⁶⁵⁸ Peritz, *Competition Policy*, p. 113.

⁶⁵⁹ 15 USC 1021, section 2. See also Council of Economic Advisors, ‘Third Annual Report to the President’, Papers Clark Clifford, File ‘State of the union address: Economic program’, 1948, Truman Presidential Library, Box 37.

⁶⁶⁰ Henry Ford, Obligations of business management, p. 3, 29 April 1949, Clifford papers, Box 42.

Briefly, in the US, fair competition was no longer part of the political discourse.

At the Schuman Plan conference actors did not use the concept of fair competition. Concerns about social equality for workers and consumers, however, did reflect a competitive concept that incorporated the notion of fairness. Next to the different notions of competition, the question of the beneficiaries of the coal and steel pool further shaped the framework for the debate on anti-trust and competition policy at the inter-state conference. Uri's anti-cartel note highlighted the commitment to raising the standard of living of workers, which would differ from a cartel benefiting only the employers, in this case the industrialists.⁶⁶¹ As a general goal, the promise of raising the standard of living was also contained in the Schuman Plan declaration.⁶⁶² Alongside the formation of a common coal and steel market, therefore, the Schuman Plan set forth a social policy for the workers of the community. This aspect of the plan received crucial political support from trade unions. In a meeting of the German delegation with Monnet at his home in Houjarray in July 1950, German member of delegation and executive member of the DGB, vom Hoff, reported on the international consultations of the trade unions and stressed the importance of maintaining the living standards of workers and of institutionalizing the communication of the high authority with trade unions.⁶⁶³ At the inter-state conference it was the working group on salaries and social questions, chaired by Uri, that during the first period of the negotiations continued to highlight the significance of protecting workers against wage reduction and exploitation.

⁶⁶¹ Text of anti-cartel note, 12 May 1950.

⁶⁶² Déclaration officielle du gouvernement français, 9 mai 1950; Bonbright to Acheson, 9 May 1950.

⁶⁶³ Protokoll über die Zusammenkunft der deutschen Delegation mit Herrn Monnet in Houjarray, 2 July 1950, PA AA, B 15, 53.

The commitment to raising the standard of living was reiterated in article 17 of the working document presented on 24 June 1950.⁶⁶⁴ Two other articles dealt with the beneficiaries of the pool. Article 25 drew specific attention to the protection of consumers and producers with regard to price policy. Article 26 gave the high authority sweeping powers regarding wages and work conditions and pointed to the protection of workers and consumers. The working group on salaries and social questions for the first time convened on 20 July 1950. The belated start of the group's activity reflected their desire to profit from the initial discussions of the group on prices, production and investments, which Uri also chaired.⁶⁶⁵ 'The French delegate', presumably Uri, explained that the structure of article 26 was analogous to article 25. Article 26 outlined the objectives and the means of action of the high authority in wage related questions and had to resolve a twofold problem, namely to protect and amplify the living standards through an increase in productivity and to eliminate artificial distortions of competition.⁶⁶⁶ Linking the concerns of productivity to the functioning of the market, Uri's remarks reflected the ideas that drove planning officials to propose an anti-trust bill for France in 1949. The reference to seeking to eliminate artificial distortions of the market in turn was in line with the framework of 'normal competition' that article 17 of the working document had put forth. In their contribution to the conference interim report of 10 August 1950, the working group on salaries and social questions reiterated the significance of the social dimension of the coal and steel community.⁶⁶⁷

⁶⁶⁴ Document de travail, 24 June 1950; Bruce to the Secretary of State, 24 June 1950.

⁶⁶⁵ Rapport du groupe des salaires et des questions sociales, 10 August 1950, AN 81 AJ 145.

⁶⁶⁶ Compte-rendus des réunions et des rapports (notes travaux), 20 July 1950, *ibid.*

⁶⁶⁷ Rapport du groupe des salaires et des questions sociales, 10 August 1950.

In addition to protecting the workers of the coal and steel sectors safeguarding the consumers represented an important goal in the negotiations. Article 25 of the working document authorized the high authority to make recommendations to the governments of the member-states when finding that ‘...the normal methods of competition [...were...] threatened by discrimination on the part of consumers...’.⁶⁶⁸ A modified version of the working document of 5 July, which was probably used internally by the French delegation in their deliberations, referred to ‘users’ rather than consumers.⁶⁶⁹ Crucially, however, a variety of actors who did not officially participate in the Paris negotiations also focused on consumers as the primary beneficiaries of the coal and steel community. Contributions included the policy paper by Weisser who warned against any tendency of the high authority to become an institution that would act against the interest of the ‘European population’⁶⁷⁰ and a report on the Schuman Plan drawn up in the German Ministry for the Marshall Plan in August 1950.⁶⁷¹

In Germany, arguments for consumer protection had already been part of the politico-legal discourse of the organized economy of the Weimar Republic. In 1927 for example, the German Cartel Court denied the Steel Plant Association the permission to boycott a company that had refused to join. The Court held that

...[t]he individual trader is no longer able to act in the interest of consumers through effecting price changes. This trend leads finally to monopoly and to dangerous conditions where consumers’ interests are unprotected against price dictatorship of producers...⁶⁷²

⁶⁶⁸ Document de travail, 24 June 1950; Bruce to the Secretary of State, 24 June 1950.

⁶⁶⁹ Modifications du document de travail, 5 July 1950, HAEU, PU/DO 21.

⁶⁷⁰ Weisser, ‘Bemerkungen zum Schuman-Plan’, 17 July 1950.

⁶⁷¹ [No author given], Analyse aus dem Marshall Plan Ministerium, 26 August 1950, PA AA, B15, 53.

⁶⁷² Quoted in Edwards, *Trade Regulations Overseas*, p. 157.

In the late 1920s, when the German economy became increasingly cartelized, this opinion had little effect. Consumer protection and with it the laws and regulations that guaranteed free competition were installed only after World War II in the Federal Republic, where consumer protection was linked and contributed to the emergence of the social market economy. For example, Miksch in his presentation on a German anti-trust law emphasized that competition first of all served the interest of the consumer, the white and the blue-collar worker, not that of the entrepreneur. Miksch went further and proposed that ‘...entrepreneurs should understand that by failing to support an efficient and social competitive system, they were digging their own grave’.⁶⁷³

In France, the Metal Manufacturing Syndicate highlighted the importance of consumer protection. An important constituent of what became a transatlantic advocacy coalition for consumer protection was its president, Jean Constant. Constant devoted the July 1950 editorial in the association’s magazine *Les Industries Mécaniques* to the Schuman Plan. Acknowledging that industrial groups were not invited to express their opinions due to the political emphasis of the Schuman Plan, he welcomed the ‘Monnet-Schuman idea’ and expressed the ‘unreserved support’ for the plan on behalf of the French steel consumers.⁶⁷⁴ In favour of trade liberalization, Constant also appreciated the establishment of a competitive common market. He warned against making the high authority too powerful, however, because its interventionist qualities would endanger competitiveness. In this case, the Schuman Plan would replace French central planning with central planning on the international level. Constant promoted consumer protection

⁶⁷³ Miksch, ‘Der Schutz des Wettbewerbs’, p. 3.

⁶⁷⁴ Jean Constant, Editorial ‘Le Plan Schuman’, in: *Les Industries Mécaniques*, vol. 64 (July 1950), pp. 1-4, AN 81 AJ 156, Folder Constant. S. also the summary of the editorial in Kipping, *Zwischen Kartellen und Konkurrenz*, pp. 182-4.

as the key benefit of the coal and steel pool and argued that, ‘...[t]he goal for the European user, or at least, to start with, for French and German users, is to access coal and steel at the same prices’.⁶⁷⁵ Notably, like Weisser in his statement, Constant used the notion of a European people to defend consumer protection. Moreover, Constant took concrete action to advance his goals, including helping to initiate the formation of the Association des Utilisateurs des Produits Sidérurgiques, the Association of Users of Coal and Steel Products. One of the members of the board of AUPS was Pierre Lefauchaux, the chief executive officer of the state-owned automobile producer Renault. Lefauchaux was an outspoken critic of the lack of dynamism that in his opinion characterized the French economic system.⁶⁷⁶ For Monnet, Constant’s initiative to organize a new association of steel users represented a welcome support in realizing the Schuman Plan, especially in light of the opposition of the French steel producers. To support the goal of consumer protection at the inter-state conference therefore became necessary for Monnet to guarantee the continued backing of Constant and steel users.

Ultimately, the decision whether the coal and steel pool would benefit consumers or producers depended on the decision on the price rules,⁶⁷⁷ which constituted a related issue framing the debate on anti-trust and competition policy. According to Uri’s anti-cartel note, an ‘increase of production and of productivity by improvement of methods, broadening of markets and rationalization of production’ was among the objectives of the coal and steel pool. To realize these objectives it would be necessary to employ temporarily, as ‘transitional measures’, price fixing, production quotas and the division

⁶⁷⁵ Constant, Editorial.

⁶⁷⁶ Kipping, *Zwischen Kartellen und Konkurrenz*, pp. 44-5, 184.

⁶⁷⁷ Richard T. Griffiths, ‘The Schuman Plan Negotiations: the Economic Clauses’, in: Schwabe, *Die Anfänge des Schuman-Plans*, pp. 35-71, here p. 47.

of markets. One could argue that in allowing for the temporary use of price fixing Uri proposed a system of fair rather than free competition. Identifying the problem of price fixing as a temporary versus a permanent measure, he anticipated one of the main points of criticism the plan encountered from US foreign policy officials. The memorandum Bowie drafted after meeting with Tomlinson to discuss the 24 June working document⁶⁷⁸ and which Tomlinson incorporated into the checklist for the US government,⁶⁷⁹ not only serves a case in point, but also provides evidence for the early activity of the US Embassy working group on the economic dimension of the coal and steel pool. Regarding article 25, which gave the HA power to fix minimum prices, Bowie stressed that ‘...[i]f this power is to be retained, the Treaty should make it clear that the power is to be exercised only under abnormal and unusual conditions as a temporary expedient’.⁶⁸⁰

The deliberations on price policy were not restricted to the general question of whether fixing maximum and/or minimum prices would be reasonable in the coal and steel community pool. Discussions also evolved around different concepts of price policy. Richard Griffiths has demonstrated that the experts in the working group meetings debated the advantages and disadvantages of diverging concepts to standardize prices.⁶⁸¹ According to the ‘prix-départ’ system, prices for consumers of the pool would have to be standardized, whereas the ‘prix-parité’ system would standardize the prices on departure from the mine or mill within a specific region. According to the first model, suppliers would pay the transport costs and consumers buy their products at the

⁶⁷⁸ Memo Tomlinson to Stokes, 30 June 1950.

⁶⁷⁹ Bruce to Perkins, Check list, 5 July 1950.

⁶⁸⁰ Memo Tomlinson to Stokes, 30 June 1950.

⁶⁸¹ Griffiths, ‘The Schuman Plan Negotiations’, pp. 47-8.

closest expedition point, whereas in the second model, consumers would take over the transport costs. While the *prix-parité* model of price regulation would prohibit competition within regions, it stimulated competition between regions. Further, by standardizing the prices *ex-mine* or *ex-mill*, producers could pass on any benefits to local consumers.⁶⁸² The *prix-parité* model therefore encouraged efficient service and reflected the goals of consumer protection more closely and resonated with the ideas presented by Constant in his editorial.⁶⁸³ In a meeting of the working group on prices, production and investments in June 1950, Hirsch defended the *prix-parité* model and argued that prices had to be equal for all buyers from the mine or mill. Differences in price were only permissible in relation to the amount of materials purchased and the duration of the contract.⁶⁸⁴

Another topic in the debate on anti-trust policy related to the question of the planned regional associations. When in his conference opening speech on 21 June Monnet addressed the idea of regional groups he outlined they were supposed to link the high authority with individual enterprises. He also took care to refute the notion that these groups would establish cartels and emphasized they were aimed at reducing prices. As an example, Monnet referred to the production in North France and Belgium where the equality of conditions for production and equal social conditions would be the basis for such co-operation.⁶⁸⁵ Formally introduced into the conference through article 20 of the 24 June working document, the regional groups were championed by Monnet, Uri

⁶⁸² Ibid.

⁶⁸³ Constant, Editorial.

⁶⁸⁴ Conversations sur le plan Schuman, 23 June 1950, MAEF, DE-CE, 500; summarized in Kipping, *Zwischen Kartellen und Konkurrenz*, p. 210.

⁶⁸⁵ Kurzprotokoll der Sitzung im französischen Aussenministerium, 21 June 1950, PA AA, B15, 53.

and Hirsch in formal and informal discussions with members of the other delegations. For Hirsch, the key question was whether participation in the regional groups would be mandatory, which in turn was linked to how the powers of the high authority would be defined. Moreover, the deputy commissioner general of the Planning Commission argued, ‘...the experiences of the Monnet-Plan in France have shown that in general compulsory regulations were unnecessary’.⁶⁸⁶

At least three further motives guided the defence of the regional groups. Firstly, Monnet argued that by linking the high authority to enterprises the regional associations could provide information such as statistics and economic plans to the high authority independent of the national governments. Secondly, Uri added that the high authority was not to interfere with business that was better left to the experts. Thirdly, Monnet claimed that by establishing regional groups instead of national groups the formation of powerful cartels could be prevented. Against this background, it was ‘...necessary to develop the supranational psychology’.⁶⁸⁷ Despite Monnet’s pledge to the contrary, Bowie saw in the regional associations the potential to form cartels:

These associations may involve serious risk of becoming little cartels and of fostering restrictive activity through cooperation among these associations. It may be necessary to use such associations for the collection of information...but their use for regulation is likely to result in serious abuses.⁶⁸⁸

⁶⁸⁶ Kurzprotokoll über die Besprechung der Delegationen unter der Leitung von M. Monnet im Büro von M. Monnet, 22 June 1950, PA AA, B 15, 53.

⁶⁸⁷ Ibid. Cf. further Kurzprotokoll über die Aussprache, die zwischen Monnet und den Mitgliedern der deutschen Delegation stattfand, 22 June 1950, PA AA, B 15, 53.

⁶⁸⁸ Memorandum attached to Memo Tomlinson to Stokes, 30 June 1950.

Bowie's reservations regarding the regional associations were shared by German social democrat Weisser.⁶⁸⁹

4.4 The demand for anti-trust provisions: in the shadow of the defence question and the reorganization of the German heavy industries

The need to integrate specific anti-trust provisions into the treaty resulted from a blend of external pressures and developments at the conference. External events impacted on the international dynamics of the conference with the outbreak of the Korean War which caused Acheson to shift his attention from European integration to more pressing defence issues. As a result of the war, the US government was concerned that only with the participation of the Federal Republic in the defence of the West could the expected increase in the demand of steel coupled with the projected need for manpower be met. The US government's new defence policy embraced German rearmament within the framework of committing US troops to Europe; organizing an integrated command structure for the Atlantic alliance; integrating German military units into the alliance; and raising the limits of German steel production.⁶⁹⁰ Finally, at the Foreign Ministers' conference in New York in September 1950 Acheson communicated the new US policy to Schuman and British Foreign Secretary Ernest Bevin. Crucially, the US government's proposals to remove the economic restrictions limiting Germany's defence contribution and to integrate German units into NATO had important repercussions for the inter-state conference. As Acheson later recollected:

⁶⁸⁹ Letter Weisser to Blankenhorn, 18 July 1950, Statement of 17 July attached to letter, PA AA, B 15, 67.

⁶⁹⁰ Gillingham, *Coal, Steel*, Chapter 5.2) The Bombshell at the Waldorf, pp. 250-66, here p. 255.

Perhaps the most important issue came in autumn when, to anticipate, American proposals for German participation in the defense of Europe gave Bonn a stronger bargaining position than it had as an occupied country.⁶⁹¹

Acheson's request had at least two significant consequences for the negotiations. Firstly, the prospect of a quickly rearmed Germany alarmed the French government. Although it had become clear that Germany would in some way contribute to the defence of the West, Acheson's announcement alarmed the French government, which felt pressurized into presenting the Pleven Plan for a European army.⁶⁹² Developed by Monnet and some of his co-workers since the summer of 1950 and announced on 24 October 1950 by French Prime Minister Pleven, the plan eventually evolved into the concept for the EDC. Secondly, as rearmament and with it a greater degree of equality and independence for the Federal Republic seemed within reach, the German government began pushing its preferences with fewer restraints both in the domestic context at the inter-state conference. The Adenauer government displayed resistance therefore to attempts by Bowie, in his capacity as general counsel of the USHICOG, to enforce Law 27, which dealt with the restructuring of the German heavy industries.⁶⁹³ On 14 September 1950 the HICOG issued three regulations specifying how Law 27 was to be enforced.⁶⁹⁴

Allied deconcentration and de-cartelization policies in Germany focused on the Ruhr, the centre of the highly concentrated and cartelized heavy industries. To secure

⁶⁹¹ Acheson, *Present at the Creation*, p. 389. Cf. also a letter McCloy to Brian Robertson, 11 October 1950, McCloy Papers/13B/HC6/#5.

⁶⁹² For the drafting of the Pleven Plan see Schröder, *Jean Monnet und die amerikanische Unterstützung*, pp. 131-80.

⁶⁹³ Lappenküper, 'Der Schuman Plan', pp. 429-31.

⁶⁹⁴ The text of Law 27 and the regulations in English, French and German are published in: *Official Gazette of the Allied High Commission for Germany*, vol. 2, Bonn: 1950-51.

the source of production inputs, raw materials and energy, coal and steel in particular were vertically integrated into the Verbundwirtschaft. In turn, the sales of Ruhr coal were managed centrally by the DKV. After 1945, military authorities sought to liquidate conglomerations of economic power with the ultimate goal to eliminate the German war potential. Based on decisions reached at the Potsdam conference of 1945 and directive 1067 of the Joints Chief of Staff for the US Military Governor, the US and UK military governments in February 1947 enacted Law 56 and Ordinance 78, respectively. While both pieces of legislation prohibited excessive concentrations and cartels, ordinance 78 for the UK military zone exempted the Ruhr industries from its applicability. Only the establishment of the Bizone later in the year, made it possible for American occupation authorities to directly exercise influence in the British zone and the Ruhr area. Subsequently, in November 1948, with Law 75, the US and UK military governments issued a new basis for deconcentration and de-cartelization. Importantly, Law 75 served an instrument for de-centralizing and returning the German heavy industries to German control. However, it failed to specify the mode of implementation and to resolve the controversial question of ownership. Whereas the former was left to regulations, the latter was to be decided in accordance with a freely elected German government. Occupation officials were divided on their preferences regarding the question of ownership, however. While UK occupation officials favoured socialization – the transfer of the heavy industries to public ownership –⁶⁹⁵, US authorities, in line with their

⁶⁹⁵ According to Van Hook, US and UK officials at the time used ‘socialization’ rather than ‘nationalization’. James C. Van Hook, ‘From Socialization to Co-Determination: The US, Britain, Germany, and Public Ownership of the Ruhr, 1945-1951’, in: *The Historical Journal*, vol. 45, no. 1 (2002), pp. 153-78. For the domestic context of the UK government’s preference cf. Martin Chick, *Industrial Policy in Britain 1945-51*.

general policy preference for a competitive market economy, promoted private ownership.⁶⁹⁶ The 'Ferguson Report', issued in 1949 by a Committee that was set up by the US Department of the Army to evaluate US occupation policies in Germany, summarized the main objectives of the US de-cartelization policy:

1. elimination of German war potential;
2. termination of the dominance of a few powerful entrepreneurs and financiers in industry;
3. restoration of a sound and democratic economy characterized by competition;
4. fostering of economic and political democracy; and
5. assistance in the economic restoration of Germany, which was also essential for the rest of (Western) Europe.⁶⁹⁷

A related and equally important part of Allied occupational policy, particularly in the immediate post-war period concerned the dismantling of German plants. The usefulness of dismantling was challenged with the initiation of the Marshall Plan, however, when plants were needed for Germany's economic restoration. On taking office as US high commissioner, McCloy, for his part, intensified the debate by proposing an end to 'aimless dismantling' upon sufficient guarantees by the Federal Republic. *Newsweek* magazine explained McCloy's propositions as a result of his dual role as high commissioner and head of the ECA for Germany.⁶⁹⁸ As Werner Bührer has shown, a shift occurred in the motives driving the US government's Ruhr policy that he characterizes as a process of de-politization and demystification. The memories of the Third Reich and with it the picture of the Ruhr as a symbol of aggressive industrial

Economic Planning, Nationalisation and the Labour Governments, Cambridge: Cambridge University Press, 1998.

⁶⁹⁶ Albert Diegmann, 'Deconcentration Policy in the Ruhr Coal Industry', in: Diefendorf, Frohn, Rupieper (eds.), *American Policy and the Reconstruction of Germany*, pp. 197-215, here pp. 197-205.

⁶⁹⁷ *Ibid.* p. 205.

⁶⁹⁸ 'Dismantling Dilemma: The British vs. the U.S. High Commissioner', *Newsweek* (7 November 1949), pp. 36-7.

power therefore gave way to more rationally based economic considerations.⁶⁹⁹ The question of dismantlement was settled between the Allies and the German government in the Petersberg Agreement, in which the newly established Adenauer government agreed to co-operate in the IAR.⁷⁰⁰

Lastly, the 1948 agreement on the establishment of the IAR, in which France participated, and the transition from military to civilian administration in 1949 made a revision of Law 75 necessary. Law 75 contradicted the agreement on the provision of the IAR agreement in that it codified that a freely elected German government would settle the question of ownership, whereas the IAR agreement had established international management of the Ruhr.⁷⁰¹ When Bowie arrived in Germany in February 1950, he procured the task to revise Law 75 from his predecessor McLain. The result of the revision was tripartite Law 27, which became effective on 16 May 1950, but did not substantially alter the contents of Law 75. In its preamble, however, Law 27 bestowed the right to make the ultimate disposition of coal and steel assets on the German government.

To control the opposition by German industry representatives to the coal and steel pool, the Adenauer government had stressed that participation in the inter-state conference represented an important step to full recognition of the newly established Federal Republic in the international community. The hardened attitude of the German government from September 1950 onwards reflected the understanding that the

⁶⁹⁹ Werner Bühner, 'Return to Normality: The United States and Ruhr Industry, 1949-1955', in: Diefendorf, Frohn, Rupieper (eds.), *American Policy and the Reconstruction of Germany*, pp. 135-53.

⁷⁰⁰ Schwartz, *America's Germany*, pp. 68-83

⁷⁰¹ *Ibid.* p. 93; Gillingham, *Coal, Steel*, pp. 161-2, 257.

Schuman Plan would meet considerably stronger resistance in German industrial circles now that a major tactical incentive for collaboration within a European supranational framework had diminished.⁷⁰²

On 14 September 1950, Monnet complained to Schuman about the 'change of attitude in the German delegation'.⁷⁰³ A series of independent events further confirms the change of atmosphere. Firstly, at a conference of the Munich Export Club on 30 September 1950, the CDU member in the Bundestag Robert Lehr attacked the Schuman Plan as an initiative by which the French government merely sought to increase France's steel capacity. When Lehr was appointed as federal minister for the interior on 13 October 1950, his speech on the Schuman Plan retrospectively stirred political turmoil, particularly in the French delegation and in French governmental circles.⁷⁰⁴ In 1923 already, in the Franco-German struggle about the Ruhr area, Lehr had adopted a tough position vis-à-vis the French government⁷⁰⁵ and he had a mixed record in German domestic politics. Competing with the then mayor of Cologne Adenauer in the struggle about the communal reorganization in the Prussian Landtag and to attract further political support, Lehr in 1929 had joined the conservative *Deutschnationale Volkspartei*, the German National Party. Furthermore in 1932, Lehr officially received Hitler when the latter gave a speech at the Industry Club, an organization of powerful industrialists, in Düsseldorf. Expelled from office by the Nazi regime in 1933, Lehr

⁷⁰² William Diebold, *The Schuman Plan. A Study in Economic Cooperation 1950-1959*, New York: Frederick A. Praeger, 1959, pp. 67-70.

⁷⁰³ Telegramme Monnet to Schuman, 14 September 1950, in: *Jean Monnet, Robert Schuman Correspondance*, p. 56.

⁷⁰⁴ S. Incident Lehr, October 1950, Special Dossier in AN 81 AJ 138; Telegramme Bohlen to Acheson, 18 October 1950, NARA, RG 59, 850.33/10-1850. Cf. also Lovett, 'The United States and the Schuman Plan', p. 443.

⁷⁰⁵ Schwarz, *Konrad Adenauer*, p. 559.

became associated with the Catholic resistance circles around Karl Arnold during the Third Reich. Schwarz has suggested, however, that as a result of his Protestant confession, Lehr in 1945 was no serious contender for the post of general secretary of the CDU, for which he would have been considered otherwise.⁷⁰⁶ Kaiser has also stressed the link between confessional affiliation and internal party division in the CDU, especially in the case of the policy preference for western integration, which was pursued by Adenauer and a predominantly Catholic fraction of the party.⁷⁰⁷ Although the chancellor probably was aware of Lehr's critical attitude towards the Schuman Plan, he also knew that his former competitor had only a small power base within the party. Therefore, the benefits outweighed the costs and Lehr became Adenauer's preferred candidate to head the Ministry of the Interior.⁷⁰⁸ Kipping has rightly stressed that Lehr delivered his critique on the Schuman Plan before Monnet demanded specific anti-trust articles at the inter-state conference. Therefore the 'Lehr incident' represented only a precursor to the increasing opposition of German steel industrialists against the Schuman Plan from October 1950 onwards.⁷⁰⁹

Secondly, a meeting of Economics Minister Erhard with Monnet in Paris on 28 September 1950 also indicated the atmosphere had changed. Erhard raised serious concerns about the HICOG's latest efforts to enforce deconcentration and decartelization without consulting the federal government.⁷¹⁰ Further, the economics minister argued that these occupation programmes were contradictory to the spirit of the

⁷⁰⁶ Ibid. p. 344.

⁷⁰⁷ Kaiser, *Christian Democracy*, p. 218.

⁷⁰⁸ Schwarz, *Konrad Adenauer*, pp. 444, 446.

⁷⁰⁹ Kipping, *Zwischen Kartellen und Konkurrenz*, p. 225.

⁷¹⁰ Note Jean Monnet à Schuman pour rendre compte visite Erhard à Jean Monnet, 28 September 1950, AN 81 AJ 137.

Schuman Plan and the agreements of the New York Conference of Foreign Ministers, which stipulated that by the end of 1950, the German government would be responsible to carry out deconcentration.⁷¹¹ Preceding Erhard's protest was a meeting of the chancellor with the Allied high commissioners, in which Adenauer also reported that the Economics Ministry had alerted him to the incompatibility of the regulations enforcing Law 27 and the Schuman Plan.⁷¹² Moreover, corresponding to his ordo-liberal preferences, Erhard criticized the protectionist position the French delegation in his view defended in the negotiations.⁷¹³

Thirdly, Bruce reassured Acheson that in their conversations with French officials, US Embassy staff stressed their policy preference for a competitive market economy and the major preoccupations of the State Department and ECA regarding price flexibility, competition and the cartel dangers of the regional group approach.⁷¹⁴ Yet, in late September 1950, State Department and ECA officials jointly condemned the progress of the conference concerning the competitive framework. Their criticism concerned annex IV to the conference interim report of 10 August 1950 and the memorandum on institutions and permanent economic and social provisions of 28 September 1950.⁷¹⁵ A working paper of unidentified authorship that the French

⁷¹¹ *Kommunikes zur New Yorker Aussenministerkonferenz*, 14, 19 September 1950, *Europa-Archiv*, vol. II (1950), pp. 3405-7.

⁷¹² Protokoll Nr. 17, 23 September 1950, in: *Akten zur Auswärtigen Politik der Bundesrepublik Deutschland, Adenauer und die Hohen Kommissare 1949-1951*, vol. 1, Munich: Oldenbourg, 1989, p. 244.

⁷¹³ Note Jean Monnet à Schuman, 28 September 1950.

⁷¹⁴ Telegramme Bruce to Acheson, 2 October 1950, 850.33/10-250. FRUS 1950 III, pp. 753-4.

⁷¹⁵ Telegramme Acheson to Bruce, 3 October 1950, 850.33/10-350, FRUS 1950 III, pp. 754-58; Memorandum on institutions and permanent economic and social provisions, 28 September 1950, PA AA, B 15, 58.

delegation had circulated in August 1950 further seemed to corroborate that cartel-like practices would creep back into the treaty. Kipping, who discusses the paper in the context of the debate on price policy, has pointed out that the French delegation had in fact temporarily changed their position and departed from the *prix-parité* to the *prix-départ* concept, when they provided the other delegations with this paper outlining the role of the high authority during the initial period.⁷¹⁶ Possibly drafted or inspired by Denis, who was responsible for the steel industry in the French Ministry of Industry and Commerce, the paper promoted a *prix-départ* policy, standardized prices for consumers and far-reaching powers for the industrial associations, which were reminiscent of cartels. After departing from this position in late September 1950, finally, on 23 October 1950, the French delegation returned to their initial position on price policy. Kipping discusses with great attention to detail the different arguments offered by literature to explain the initial and the later change of opinion of the French delegation. As to the initial presentation of the paper in August 1950, he concludes persuasively that it can perhaps not be explained conclusively on the basis of sources. Concerning the second policy change Kipping acknowledges the link between going back to the *prix-parité* model and the explicit demand for anti-trust provisions for the coal and steel treaty in early October.⁷¹⁷

Against this backdrop two further arguments need to be considered. Firstly, the critique that US foreign policy officials voiced vis-à-vis key actors and via the well-established channels of the US Embassy working group might account for the French

⁷¹⁶ Note préliminaire sur l'action de la Haute Autorité au cours de la période de démarrage, 8 August 1950, Archives de Saint-Gobain-Pont-à-Mousson, Blois, quoted by Kipping, *Zwischen Kartellen und Konkurrenz*, p. 212, note 17.

⁷¹⁷ Ibid. pp. 212-7.

delegation's decision to return to their initial and more consumer friendly price policy preference. Secondly, the fact that the French delegation was inconsistent in their preference might also have reflected the ideological discrepancies at the heart of the Monnet Plan, which employed means of central planning to advance productivity and achieve a free market economy.

Finally, on 4 October 1950, in a meeting of the heads of delegation and select delegation members, Monnet openly criticized the agreements between enterprises and the conception of the regional groups in the memorandum on institutions and permanent economic and social provisions of 28 September.⁷¹⁸ A memorandum of 5 October 1950 reflecting the concerns of US foreign policy officials, which the Paris Embassy staff had expressed to the French negotiators,⁷¹⁹ complemented Monnet's oral critique. At the core was the call to prohibit cartels and to allow concentrations and specialization agreements only, if the high authority had previously authorized them.⁷²⁰ While concerns of US foreign policy officials almost certainly triggered Monnet's call to integrate anti-trust provisions into the treaty, domestic considerations may also have enforced his move. Gillingham argues that what Monnet had in mind when he proposed to endow the high authority with far reaching powers to regulate cartel policy was to prevent the re-concentration of the Ruhr under the Schuman Plan treaty. Once and for all Europeanized, the Ruhr's resources would no longer provide potential for war.

⁷¹⁸ Kurzprotokoll über die Sitzung des Comité Restreint im Planungsamt, 4 October 1950, PA AA, B 15, 99.

⁷¹⁹ Telegramme Bruce to Acheson, 2 October 1950.

⁷²⁰ Dokument 45: Observations sur le memorandum du 28.9.1950, exposées par M. Jean MONNET au cours de la réunion restreinte des chefs de délégation le 4.10.50, 5.10.50, in: Reiner Schulze, Thomas Hoeren, (eds.), *Dokumente zum Europäischen Recht. Gründungsverträge*, vol. 1, Berlin, Heidelberg: Springer, 1999: pp. 241-44.

Besides, since Law 27 provided that the ultimate determination of ownership lay with the German government, the Federal Republic technically, could have circumvented deconcentration simply by nationalization of the Ruhr coal and steel industries, although nationalization was not the policy preference of the Adenauer government.⁷²¹ While Monnet may have worried about the Ruhr problem, primary evidence accentuates other concerns, too.

In a diary entry about an informal lunch on 5 October with Monnet, 'two from the staff' and Denis, US Inland President and former ECA Steel Consultant Randall recorded that while Monnet was '...in complete accord that for a vital economy [the] industry must be self-policed by actual and vigorous competition..., [t]he difficulty lies not with Monnet but with those around him here and in the other nations who seek to defeat him'.⁷²² As one of the most fervent American critics of the Schuman Plan, Randall might have overstated the degree of Monnet's isolation. Randall's observations, however, draw attention to the difficulties Monnet faced in promoting free competition not only at the inter-state conference, but also in the domestic context. French steel producers, for example, resisted the plan while promoting the continuation of Allied policies vis-à-vis Germany and the IAR. However, as has been demonstrated with regard to the preferences articulated by Constant on behalf of the Metal Manufacturing Syndicate, the French steel industry was not unified in their opposition to the Schuman Plan.⁷²³ Acting as a reliable ally for Monnet and Hirsch, Constant promoted consumer protection as one crucial benefit of the coal and steel pool and even reinforced his

⁷²¹ Gillingham, *Coal, Steel*, p. 267.

⁷²² Memo No. 7, 7 October 1950, Personal papers Randall, Box 1, ECA Paris 1950

⁷²³ Kipping, *Zwischen Kartellen und Konkurrenz*, pp. 182-7.

contacts with ECA officials to advance the goals of consumers.⁷²⁴ As the failure of the 1949 anti-trust bill introduced by the French Planning Commission indicated, it would be difficult to find a coalition for anti-trust provisions in France. Arguably therefore Monnet might have also considered safeguarding the essential domestic support, especially that of Constant, when he demanded anti-trust provisions for the Schuman Plan.

Although the negotiations on the reorganization of the German heavy industries were technically separate from the inter-state conference, their resolution became a prerequisite to the successful conclusion of the coal and steel treaty. Bowie's attempts to enforce the newly issued regulations to Law 27 on 10 October 1950 met strong opposition by the Adenauer government. Not only had the regulations fixed the immediate disintegration of six steel corporations but the German government had not even been consulted. As a result, on 13 October 1950, the Adenauer government demanded the revision of the Occupation Statute and the dissolution of the IAR.⁷²⁵ At the same time, the chancellor threatened to call back the German delegation from Paris. Adenauer therefore made the successful completion of the Schuman Plan conference dependent on the resolution of the Ruhr situation. As Klaus Schwabe has pointed out he thereby created a conjunction between the Schuman Plan and the restructuring of the German heavy industries.⁷²⁶ As the negotiations on the anti-trust articles show, however, the links between the inter-state conference and the resolution of the deconcentration

⁷²⁴ Telegramme Bruce to Secretary of State, 20 June 1950, NARA, RG 59, 850.33/7-2050.

⁷²⁵ Memorandum remis par M. Hallstein à M. Monnet, Communauté charbon-l'acier et droit d'occupation, 13 October 1950, MAEF, DE-CE, 507.

⁷²⁶ Schwabe, "Ein Akt konstruktiver Staatskunst", pp. 232-238, here p. 235.

and de-cartelization of Germany go far beyond the level of governmental policy-making.

4.5 Drafting the anti-trust articles: mediating between American anti-trust and German ordo-liberalism

Following the call for anti-trust provisions, the German and French delegations each prepared draft versions for treaty articles. A proposal of the German delegation, dated 21 October, which may however not even have been introduced into the inter-state negotiations, made agreements subject to the authorization of the high authority, but refrained from barring them.⁷²⁷ This proposal reflected the earlier preference expressed by Bauer to maintain cartels in the coal and steel pool whenever necessary.⁷²⁸ Against the preceding analysis of anti-trust and competition policy in Germany the proposal suggests that the German delegation assumed a position, which was closer to the conception of Miksch's relative competition, introduced in the discussion on German anti-trust legislation, than the competitive conceptions of Eucken and Böhm. While there is no evidence as to who drafted the proposal of 21 October, sources show that in early October 1950, jointly, Bauer and the head of the Cartel Division in the German Economics Ministry Roland Risse sketched a memorandum on price policy for the German delegation.⁷²⁹ Many years later, Steindorff remembered vividly Risse's role in

⁷²⁷ Dokument 8: Bestimmungen zum Schumanplan, 21 October 1950, in: Reiner Schulze, Thomas Hoeren (eds.), *Dokumente zum Europäischen Recht. Kartellrecht (bis 1957)*, vol. 3, Berlin, Heidelberg: Springer, 2000, pp. 23-4; s. also Introduction to this volume pp. XXII-I.

⁷²⁸ Cf. Kurzprotokoll über die Sitzung des Comité Restreint, 6 September 1950, PA AA, B15, 99.

⁷²⁹ Letter Bauer to Hallstein, 10 October 1950, BA, N 1266, 1852.

the evolution of the anti-trust articles.⁷³⁰ Berghahn has also acknowledged Risse's involvement with the German delegation for November and December 1950.⁷³¹ One can only speculate as to whether Risse influenced the first anti-trust draft by the German delegation. Given that Risse was involved in the deliberations on price policy in October 1950 and on the anti-trust articles in the following two months, it is a possibility at least.

Moreover, Risse's involvement underscores the link between the Schuman Plan conference and the negotiations on German anti-trust legislation, which points to a number of observations. Firstly, various actors were at the same time involved in both negotiations. From 10-19 October 1950, Risse and Economics Minister Erhard participated alongside Bowie and Kelleher, the head of the USHICOG de-cartelization branch, in the negotiations on the draft German anti-trust law between representatives of the German economics ministry and the HICOG.⁷³² According to McCloy, '...Erhard and his group...provide[d the] main support for anti-cartel legislation'⁷³³ in Germany. McCloy did not specify who belonged to Erhard's group. Multiple affiliations of individual actors validate, however, that there was an interaction between American anti-trust law and German *ordo-liberal* ideas on competition. Further, in October 1950, Hallstein, for example, was in contact with Böhm regarding deconcentration and the problem of cartels.⁷³⁴

⁷³⁰ Interview Steindorff.

⁷³¹ Berghahn, *The Americanization*, pp. 142-45; Murach-Brand, *Antitrust auf Deutsch* quotes Berghahn.

⁷³² Murach-Brand, *Antitrust auf deutsch*, p. 157, footnotes 188, 190.

⁷³³ Telegramme McCloy to Acheson, 9 December 1950, NARA, RG 59, 850.33/12-950.

⁷³⁴ Letter Böhm to Hallstein, 12 October 1950, BA, N 1266, 1853; and letter Ernst Steindorff to Sahn, 22 October 1950, PA AA, B 15, 2.

Secondly, while Erhard was in favour of a strict ban on cartels for the Federal Republic,⁷³⁵ his policy preference was contested within his own ministry. When Erhard expressed his preferences for a cartel ban in the domestic domain therefore, he was not only faced with opposition from the industry and other federal ministries, but also with reservations from Risse, his own leading cartel official.⁷³⁶ Like Böhm, Risse had worked in the Cartel Division of the Imperial Ministry of Economics and defended a moderate position on anti-trust policy: He was 'no longer a proponent of the old-style cartels; but he was also no supporter of Josten's ideas'.⁷³⁷ Contrary to Risse, Erhard's policy preference matched that of Josten,⁷³⁸ formerly head of the Cartel Division of the Imperial Ministry of Economics. From 1948-49 Josten headed the Division for Economic Order and Policy in the Economic Council of the Bizone. When the US military government in January 1947 announced that Law 56 would only be an interim solution, a task force under Josten, in which Böhm participated, started working on a proposal for a German anti-trust law. These activities crucially preceded the formalized co-operation between the Allies and German representatives on the national anti-trust law for Germany. In 1949, the task force presented Erhard, then the director of the Economic Council, with an anti-trust bill to secure Leistungswettbewerb or competition based on efficiency.⁷³⁹ The 'Josten draft' proved too far-reaching for industry representatives and was therefore unsuccessful.⁷⁴⁰ Murach-Brand has shown that even this bill contained two specific clauses providing for exceptions to the general ban on

⁷³⁵ Murach-Brand, *Antitrust auf deutsch*, pp. 148-9.

⁷³⁶ Berghahn, *The Americanization*, pp. 159-60.

⁷³⁷ *Ibid.* p. 159.

⁷³⁸ See for Josten Nicholls, *Freedom With Responsibility*, pp. 326-8.

⁷³⁹ Murach-Brand, *Antitrust auf deutsch*, p. 107.

⁷⁴⁰ *Ibid.* pp. 110-1.

cartels and concentrations. These exceptions were either to be defined by the Monopoly Agency or to be granted jointly by the Monopoly Agency, the Economics Ministry and a Commission within the Bundestag.⁷⁴¹ Having acknowledged this, the Josten draft represented a first anti-trust bill drafted by German officials and experts, which included the prohibition of cartels and concentrations and therefore matched the prevalent tradition of American anti-trust law. In contrast, Risse was more likely to have applied a moderate approach regarding the cartel question to the Schuman Plan treaty, which may help shed light on the official anti-trust policy preference of the German delegation.

Thirdly, in the context of the Schuman Plan Erhard did not promote an ordoliberal conception of competition law. According to Adenauer and Franz Blücher, the leader of the Free Democratic Party and thus Adenauer's partner in the government coalition as well as the federal minister for the Marshall Plan, Erhard even compromised the good working relations with Allied officials when he defended the demands of the representatives of the heavy industries with regard to German deconcentration and the anti-trust provisions for the coal and steel treaty.⁷⁴² Berghahn has rightly stressed that Erhard was first of all a pragmatic politician and not a dogmatic representative of the Freiburg school.⁷⁴³ As economics minister, Erhard was politically accountable and he was expected to represent the interests of the German industrialists. While domestically marginalized in promoting a strict ban on cartels, Erhard nevertheless could trust that firstly, a sufficient number of German officials and experts shared his preference for advancing competition and secondly, that USHICOG officials would support this policy

⁷⁴¹ Ibid. p. 109.

⁷⁴² Löffler, *Soziale Marktwirtschaft und administrative Praxis*, pp. 534-5. Löffler's analysis is based on the protocols of the Cabinet meetings of 17 and 29 October 1950.

⁷⁴³ Berghahn, *The Americanization*, p. 158.

preference in Germany. Against this background, Erhard – unlike Monnet – might not have deemed it necessary to press hard to integrate his ideas of a competitive order in the Schuman Plan treaty.

A first draft that the French delegation presented at the inter-state conference on 27 October 1950 banned cartels. It prohibited firstly, all agreements and practices that hindered free competition (including price fixing), entailed production quotas, and divided up markets, products, customers or material resources. The proposal made the high authority responsible for declaring and terminating such agreements or practices. To enforce its orders, the high authority was entitled to demand penalty fees from relevant enterprises. Secondly, the proposal addressed specifically those agreements and practices likely to secure a market-dominating position for one enterprise, including the concentration of enterprises.⁷⁴⁴ Critical to the twofold structure of the proposal, later incorporated into the first complete draft treaty of 9 November as articles 41 and 42, was the understanding that cartels or agreements between enterprises were made for a limited period of time and therefore maintained the competitive independence of the enterprises. Concentrations, in contrast, once they were completed, were virtually impossible to dissolve. Instead of outlawing transactions creating market-dominating enterprises, the proposal made them subject to previous authorization by the high authority and stipulated the precise conditions for authorization. Accordingly,

⁷⁴⁴ Propositions relatives à la mise en oeuvre du plan Schuman en ce qui concerne les accords et pratiques restrictives ou tendant à la constitution de monopoles, 27 October 1950, Nr. 18, MAEF, DE-CE, 500. The use of legal terminology is guided by Richard Hamburger, 'Inter-relationship of the cartel, monopoly and merger provisions of the European Coal and Steel Community Treaty', in: International Conference on Restraints of Competition, *Cartel and Monopoly in Modern Law Reports on Supranational and National European and American law*, Karlsruhe: C.F.Müller, 1961, pp. 243-60, here p. 250.

transactions hampering the normal operation of competition or granting to an individual, an enterprise or a private group more than twenty per cent of the market share were forbidden. Briefly, the proposal presented by the French delegation was a much more comprehensive anti-trust draft than that of the German delegation. One could argue, moreover, that the draft presented by the French delegation represented a departure from partly ambiguous preferences previously articulated by key actors of the French delegation, including Hirsch, Monnet and Uri in that it reflected a commitment without qualifications to the competitive principle. Not only was the draft compatible with the predominant tradition of US anti-trust law, but it also matched the understanding of the American concept of competition as a way of life.

It is justifiable to assume that the US Embassy working group was already involved in sketching the 27 October proposal. At the very least, US officials were knowledgeable about draft versions even prior to the release of the proposal by the French delegation: in a telegramme to the Paris Embassy Acheson considered the '[r]ecent French draft articles on cartels, ...[transmitted to the Department on] October 24...excellent'.⁷⁴⁵ At the conference, the Italian and Dutch delegations supported the French delegation's proposal, while it was contested by the Belgian delegation, in particular. The German delegation, too, in early November officially reaffirmed their initial position on authorizing agreements and rejected the proposition by the French

⁷⁴⁵ Telegramme Acheson to US Embassy Paris, 27 October 1950, NARA, RG 469, Special Representative in Europe, Office of the General Counsel, Subject Files 1948-53, 1950-53, Box 30.

delegation regarding market-dominating enterprises.⁷⁴⁶ On 13 November therefore in a meeting with German diplomat von Marchtaler, Tomlinson expressed in the strongest possible terms his preference for a 'complete ban on cartels and cartel-like agreements'.⁷⁴⁷ To support this, he referred to his experiences within the OEEC and in negotiations with the French business representatives: 'the slightest exception to a comprehensive ban on cartels invites cartels back in'.⁷⁴⁸ Further, Tomlinson apparently compared the draft article with the latest draft German anti-trust bill and emphasized that if USHICOG officials appeared more conciliatory on the German bill, this reflected their having to consider the preferences of their British and French colleagues. In contrast, the Schuman Plan, which represented a solution for Europe and applied to one economic sector only, required meeting stricter criteria, not least to satisfy the American public and guarantee their support for the project.⁷⁴⁹

In addition to evaluating the initial articles vis-à-vis the negotiating parties, the US Embassy working group directly contributed to the drafting process on two specific occasions, namely from 20-24 November and again in early December 1950. As to the first instance, Ball, who was then already officially advising the French delegation, on 21 November recorded a lunch with Bowie and a conference at Tomlinson's office in his journal. Further, on 23 November, after having dinner with Hirsch, he worked on the

⁷⁴⁶ Dokument 12: Stellungnahme der deutschen Delegation zu den Vorschlägen über die Inkraftsetzung des Schumanplans, 10.11.1950. Schulze, Hoeren (eds), *Dokumente zum Europäischen Recht*, vol. 3, pp. 30-2.

⁷⁴⁷ Gesprächsaufzeichnung Marchtaler für Hallstein, 13 November 1950, PA AA, B 15, 114.

⁷⁴⁸ Ibid.

⁷⁴⁹ Ibid.

‘revised draft’,⁷⁵⁰ without however specifying on which article. Asked about the role of US anti-trust in the drafting of the anti-trust articles of the coal and steel treaty, Bowie in an interview expressed reservations and argued that the European negotiators had a pretty clear idea of what they were doing. At the same time, however, Bowie conceded his involvement in authoring draft articles:

And I created, as I recall it, two articles very much drawn from my understanding of American antitrust law – not trying to duplicate American antitrust law, but just based on ...our American experience with the effort to enforce the competition, but it was not intentionally aping or copying American [law].⁷⁵¹

More reliable evidence for Bowie’s role is provided by Sahm’s journal. More particularly, the journal suggests that the general counsel of the USHICOG authored an ‘American proposal’⁷⁵² for article 42, dated 23 November.⁷⁵³ Just like the French delegation’s original proposal, the draft article prohibited concentrations not previously authorized by the high authority, but outlined different conditions for authorization. In an inter-ministerial meeting in the German Chancellery on 24 November, in which Ophüls also participated, Hallstein discussed article 42 with Risse. Hallstein reportedly observed that ‘Bowie’s interim draft [was...] inadequate since it require[d] previous authorization’.⁷⁵⁴ In the debate on article 41, which implied the dissolution of the DKV,

⁷⁵⁰ Diaries 1950, Personal papers Ball, 43.

⁷⁵¹ Interview Bowie; Bowie’s statement has been quoted in Brigitte Leucht, ‘Die Gründung des „Neuen Europa“, 1950/51. Die Bedeutung einer transatlantisch-rechtlichen Perspektive für die Erforschung der europäischen Integration’, in: *Wiener Zeitschrift zur Geschichte der Neuzeit*, vol. 3, no. 2 (2003), pp. 53-66, here p. 63.

⁷⁵² Dokument 14: Entwurf zu den Artikeln 32a, 41, 42; 20, 23 November 1950, Schulze, Hoeren (eds), *Dokumente zum Europäischen Recht*, vol. 3, pp. 34-8, here pp. 36-8.

⁷⁵³ Protokoll Ulrich Sahm, 24 November 1950, pp. 218-9, BA, Personal papers Ulrich Sahm (N 1474), 41.

⁷⁵⁴ Ibid.

Risse related that Erhard intended to discuss the matter with USHICOG officials.⁷⁵⁵ Consequently, Sahms's notes not only substantiate Bowie's input into the negotiations,⁷⁵⁶ but they also confirm that the drafting of the German anti-trust law remained closely connected to the debate on the anti-trust provisions of the Schuman Plan.⁷⁵⁷

On 24 November, the French delegation presented another version for article 41, which was co-authored or drafted by Jacques Van Helmont, the Secretary to the Schuman Plan conference.⁷⁵⁸ The article gave the high authority power to authorize temporary agreements concerning the specialization, the purchase or the sale of specific products if the high authority concluded at first that such agreements improved the production or distribution of products; were essential to cause these effects without implying any further restrictions; and did not entitle the enterprises involved to fix prices or to control or limit the production or distribution of products.⁷⁵⁹ In essence, this draft version represented what was later discussed as article 60 and incorporated into the ECSC treaty as article 65.

The US Embassy working group for a second time influenced the negotiations on the anti-trust provisions directly, more specifically on article 42, when Ball contributed to drafting a memorandum on cartels (28 November) and collaborated with

⁷⁵⁵ Ibid.

⁷⁵⁶ Further acknowledged in Telegramme McCloy to Acheson, 9 December 1950, NARA, RG 59, 850.33/12-950.

⁷⁵⁷ Cf. also Dokument 17: Vorschlag 1 des Bundeswirtschaftsministeriums zu Artikel 42 a-e, 29 November 1950, Schulze, Hoeren (eds), *Dokumente zum Europäischen Recht*, vol. 3, pp. 40-2.

⁷⁵⁸ Note Van Helmont du 24 novembre 1950, Versions successives des articles 41 et 42 dont notes jointes, AN 81 AJ 138.

⁷⁵⁹ Article 41, am 24.11.1950 als Entwurf der französischen Delegation übergeben, PA AA, B 15, 163.

Tomlinson and Bowie on several memoranda on the Schuman Plan (5 December).⁷⁶⁰ On 6 December Ball provided Monnet with a revised 'Note regarding the French position on articles 41 and 42', which in its opening focused on the politico-economic goals of the Schuman Plan: 'the establishment of a single market and the creation within that market of conditions which will serve to bring about maximum productivity, full employment and low cost'.⁷⁶¹ Ball's terminology reflected that of the domestic debate over the US Employment Act of 1946.⁷⁶² Linking the objective of full employment to the notion of creating the largest possible body of consumers, contemporary US political economy emphasized that consumption rather than production provided the key to a prosperous economy and consequently highlighted the need for consumer protection.⁷⁶³ Further, Ball's memorandum stressed that together, articles 41 and 42, contained the powers for the high authority to realize the politico-economic goals of the Schuman Plan. Article 41 would declare invalid cartels and article 42, in turn, would be

...designed to prevent such mergers and consolidations which would result either in a horizontal development of single enterprises to a point where they would control an important part of the market or a vertical combination of enterprises which would result in discriminatory pricing.⁷⁶⁴

It is impossible to show precisely how Ball's note informed the more comprehensive memorandum the French delegation presented to the other delegations together with a

⁷⁶⁰ Diaries 1950, Personal papers Ball, 43.

⁷⁶¹ Note regarding the French position on articles 41 and 42, 6 December 1950, FJM, AMG 10/6/2bis.

⁷⁶² 15 USC 1021, section 2. See for this argument Leucht, 'Tracing European Mentalities', p. 350.

⁷⁶³ Brinkley, *The End of Reform*, pp. 227-64, here p. 229.

⁷⁶⁴ Note regarding the French position on articles 41 and 42, 6 December 1950,

revised draft article 42.⁷⁶⁵ Jointly, however, the two memoranda reflect the co-operation of the US Embassy working group on the anti-trust provisions. Both notes emphasized the intimate connection between articles 41 and 42. Even more they argued that the prohibition of agreements under article 41 – to prevent price fixing, the control of production and technical progress and market-sharing agreements – would reinforce efforts at concentration to achieve precisely these effects. Specific horizontal and vertical concentrations therefore had to be considered as long as they did not create market-dominating enterprises or restrain competition. Minor modifications notwithstanding, this article would subsequently be discussed as article 61 and finally incorporated into the ECSC treaty as article 66.

4.6 Saving the Schuman Plan: the bi-lateral negotiations on the reorganization of the German heavy industries

The Schuman Plan conference adjourned on 17 December 1950. The German delegation insisted that the problem of the deconcentration and de-cartelization of the German heavy industries had to be resolved before they could agree to the anti-trust provisions of the treaty and thus caused the temporary breakdown of the Schuman Plan conference.⁷⁶⁶ The following day Monnet urged the US government to complete the deconcentration of the Ruhr region and warned that the French government would otherwise not accept the treaty with its anti-trust features.⁷⁶⁷ In France, Monnet was

⁷⁶⁵ Memorandum, 6 December 1950, PA AA, B 15, 163; Article 42 *ibid*.

⁷⁶⁶ Telegramme (3483) Bruce to Secretary of State, 18 December 1950, NARA, RG 59, 850.33/12-1850.

⁷⁶⁷ Telegramme (3484) Bruce to Secretary of State, 18 December 1950, NARA, RG 59, 850.33/12-1850.

confronted with growing resistance to the first draft treaty and its anti-trust articles by some members of the government, industrialists and trade unions. With the notable exception of Constant and the steel users, the French steel industry resented the treaty because of its anticipated effect on prices and supplies of steel products. The introduction of the anti-trust articles fuelled criticism of the powers and the composition of the high authority. Crucially, this criticism fed back into the concerns trade unions had previously articulated regarding the lack of union representation and the degree of independence assigned to the institutions of the supranational community. Industry representatives in their criticism of the treaty, moreover, focused on the notions of planning and state control. Briefly, in their critique of the independence of policy-makers and the means of policy-making, industrialists and trade unions objected to the practices they associated with the Planning Commission in the domestic context.⁷⁶⁸

After Monnet's 'call for help'⁷⁶⁹ to the US government, French and US officials attempted to align their policy positions in dealing with the German government.⁷⁷⁰ On 19 December 1950 Monnet facilitated a key meeting in Paris, in which actors of the US Embassy working group, including Hirsch, Tomlinson, Cleveland and Bowie, who was accompanied by Willner, participated alongside French Foreign Ministry official and

⁷⁶⁸ Henry W. Ehrmann, 'The French Trade Associations and the Ratification of the Schuman Plan', in: *World Politics*, vol. 6, no. 4 (1954), pp. 453-81, here pp. 457-60; for the French steel producers see Kipping, *Zwischen Kartellen und Konkurrenz*, pp. 228-31.

⁷⁶⁹ Schwabe, "Ein Akt konstruktiver Staatskunst", p. 232.

⁷⁷⁰ Cf. Lettre Monnet à Schuman, 22 December 1950, plus 2 annexes (a) compte rendu réunion 19/12/50 entre experts français et américains (b) projet d'instructions par JM à RS, AN 81 AJ 137; see also *Jean Monnet-Robert Schuman Correspondence*, pp. 90-1.

Secretary General to the Schuman Plan conference François Valéry,⁷⁷¹ Leroy-Beaulieu and the French chairmen of the Allied coal and steel control groups.⁷⁷² Notably, in this meeting US participants officially represented the agencies they were affiliated with, namely the USHICOG and the US Embassy in Paris. At the same time, participation was restricted to French and US civil servants, while UK officials, who favoured the socialization of the coal and steel industry in the Allied administration of the Ruhr, were sidelined. To McCloy it was apparent that the UK government would not dare to oppose any agreement reached with the German government or be accused of sabotaging the Schuman Plan conference.⁷⁷³

Participants of the meeting generally confirmed that Law 27 and the Schuman Plan were complementary and that the realization of the deconcentration programme of Law 27 represented a pre-requisite to achieving the objectives of the Schuman Plan. Participants agreed on four specific points.⁷⁷⁴ Firstly, according to Law 27 reconcentration through financial manipulation would be prohibited. Importantly, this reading of the deconcentration law challenged one possible reading of article 61 of the draft treaty, articulated by the CDU in Germany. According to this interpretation, article 61 made market-dominating enterprises subject to prior scrutiny and authorization by the high authority and therefore opened the door to the reconcentration of pre-war German coal and steel combines, at least to the levels corresponding to the size of

⁷⁷¹ The source refers to “M. Valerian? [French Foreign Office]”. However, it is very likely that the French Foreign official participating in the meeting was Paul Valéry. Memo of meeting held 19 December at the office of M. Monnet, 20 December 1950, NARA, RG 466, Office of General Counsel, Decartelization Division, General Subject Files 1948-55, Box 2.

⁷⁷² Ibid.

⁷⁷³ Schröder, *Jean Monnet und die amerikanische Unterstützung*, p. 190.

⁷⁷⁴ For a summary see also Gillingham, *Coal, Steel*, pp. 170-1.

French combines.⁷⁷⁵ Secondly, participants agreed that the deconcentration programme should continue along the lines of the dissolution of certain trusts, which the high commissioners had previously communicated to Adenauer. Thirdly, the DKV would have to be dissolved since the existence of a central sales agency for Ruhr coal was incompatible with both Law 27 and the Schuman Plan. An attempt to transfer the DKV to public ownership would also be forbidden. To the French government, accustomed to the practice of state control,⁷⁷⁶ the dissolution of the DKV did not represent a top priority. In the meeting Monnet stressed, however, that the very idea that one member-state, namely Germany, centrally controlled the distribution of Ruhr coal was inconsistent with the aim of the Schuman Plan of establishing a single market.⁷⁷⁷ Fourthly, participants agreed that the complete separation of coal and steel combines neither would be required by the deconcentration programme of Law 27, nor by the coal and steel treaty. Vertical integration therefore would be allowed in specific cases.⁷⁷⁸ Following the meeting Monnet reassured Schuman that combines were only permissible if they were not damaging to the French industry and remained compatible with the Schuman Plan.⁷⁷⁹

Literature has portrayed the 19 December meeting predominantly as a bargaining process of French and American interests. Accordingly, 'the French' made concessions concerning the DKV, while 'the Americans' agreed to take on board French concerns

⁷⁷⁵ Haas, *The Uniting of Europe*, p. 164.

⁷⁷⁶ Lovett, 'The United States and the Schuman Plan', p. 440.

⁷⁷⁷ Memo of meeting held 19 December at the office of M. Monnet, 20 December 1950.

⁷⁷⁸ Ibid.

⁷⁷⁹ Cf. Lettre Monnet à Schuman, 22 December 1950. Warner has argued that Monnet integrated the results of another meeting of 21 December in his letter to Schuman. Isabel Warner, *Steel and Sovereignty, The Deconcentration of the West German Steel Industry, 1949-54*, Mainz: Philipp von Zabern, 1996, p. 25.

regarding the Verbundwirtschaft.⁷⁸⁰ In contrast, it has not been sufficiently highlighted that Monnet used this meeting to transform the official position of the French government. Perhaps Monnet condemned state intervention and emphasized the single market rhetorically, to appease or win over US officials. One could also argue, however, that Monnet used the meeting to help realize his policy preference for a competitive market economy. From this perspective, Monnet made the best of the impasse at the inter-state conference by further forging the transatlantic coalition for a competition policy with strong anti-trust provisions that was unlikely to succeed in the French domestic context. In any event, French and US civil servants had developed a joint agenda for the subsequent bi-lateral talks between German and US officials, in which McCloy and Bowie would take the lead.

German officials were aware of Bowie's role in Allied preference formation⁷⁸¹ and following the temporary breakdown of the negotiations, the Adenauer government was faced with a difficult choice of tactics. Law 27 and article 61 of the draft treaty directly concerned the deconcentration of the Verbundwirtschaft. Among the voices against the abolition of the Verbundwirtschaft was that of industrialist and Christian democrat member of the Bundestag, Henle. Adenauer's confidant argued that abolishing the Verbundwirtschaft would destroy Germany's competitiveness. In contrast to the main bulk of industrialists Henle crucially shared the commitment to establishing a

⁷⁸⁰ For example Lovett, 'The United States and the Schuman Plan', p. 444; Warner, *Steel and Sovereignty*, pp. 24-5. An exception is Schröder, *Jean Monnet und die amerikanische Unterstützung*, p. 189, who does not stress intergovernmental bargaining.

⁷⁸¹ See for example Niederschrift über die Sitzung im Haus des Bundeskanzlers, 8 January 1951, PA AA, B 15, 10; Vermerk. Betr. Verbundwirtschaft, Besprechung im Bundeswirtschaftsministerium am 6.1.1951 unter Vorsitz von Ministerialrat Schmid, 8 January 1951, PA AA, B 15, Personal papers Schlochauer, 340.

competitive market economy expressed in the draft treaty. However, the industrialist rejected the far-reaching powers granted to the high authority, especially since the regional associations would no longer balance the core executive.⁷⁸² Increasing opposition to the treaty and the USHICOG's attempts to enforce Law 27 not only originated with industrialists, but also with representatives of the Economics Ministry. While the anti-trust articles of the draft treaty in principle reflected the ordo-liberal preferences of officials in the Economics Ministry, they challenged their evaluation regarding the necessity to maintain the Verbundwirtschaft and the DKV.⁷⁸³ In negotiations with steel industry and trade union representatives Economic Ministry officials worked out proposals, reflecting an attempt to increase the size of industrial units permitted under Law 27, that served as the basis for developing the position of the German government.⁷⁸⁴ On 27 December 1950 Adenauer transmitted the memorandum on the reorganization of the steel industry to the HICOG.⁷⁸⁵

Another related dimension of policy development in Germany with repercussions for the inter-state conference concerned the temporary withdrawal of trade union support. The ensuing struggle between the Adenauer government and the German trade unions over co-determination, the notion to achieve parity with 'capital' in managing the economy,⁷⁸⁶ would only be resolved in April 1951. At first German trade unions had supported the French government's initiative and its social policy,

⁷⁸² Berghahn, *The Americanization*, pp. 179-80; Kipping, *Zwischen Kartellen und Konkurrenz*, p. 226-7; Van Hook, 'Public Ownership in the Ruhr, 1945-1951', p. 174.

⁷⁸³ Löffler, *Soziale Marktwirtschaft und administrative Praxis*, p. 532.

⁷⁸⁴ Warner, *Steel and Sovereignty*, pp. 26-7.

⁷⁸⁵ Lettre et mémorandum Adenauer à la Haute Commission, 27 December 1950, AN 81 AJ 137.

⁷⁸⁶ Bo Stråth, *The Organisation of Labour Markets: Modernity, Culture and Governance in Germany, Sweden, Britain and Japan*, London: Routledge 1996, pp. 64-5

represented by the commitment to raising the standards of living of workers and consumers. More importantly, the coal and steel pool promised co-determination on the supranational European level.⁷⁸⁷ Trade union representation featured importantly in the proposed consultative committees of the high authority and originally, in the regional associations, too. The potential to realize their core preference for co-determination between labour and management at the supranational level was particularly important to the social democrat-dominated DGB since the Adenauer government did not indicate they would support co-determination in the domestic context. Erhard's announcement to the DGB in early January 1951 that co-determination would be abolished in the steel industry, where it had been introduced in 1947, rather than extended to other industries confirmed this doubt.⁷⁸⁸ Finally, the DGB made their support for the coal and steel treaty dependant on the satisfactory resolution of the problem of co-determination in Germany.⁷⁸⁹ To safeguard the support of the DGB, Adenauer signed the German Law for Co-determination on 10 April 1951.⁷⁹⁰ While he acknowledges the concession of the German government, Van Hook neglects the European dimension of policy formation, which forced the chancellor to make this concession.

Against this backdrop, actors of the transatlantic policy networks were involved in the deliberations on the reorganization of the German heavy industries and the final

⁷⁸⁷ See John Gillingham, 'Solving the Ruhr Problem: German Heavy Industry and the Schuman Plan', in: Schwabe (ed.), *Die Anfänge des Schuman-Plans*, pp. 399-453, here p. 427.

⁷⁸⁸ The social democratic party also embraced co-determination after having abandoned their earlier preference for socialization. Van Hook, 'Public Ownership in the Ruhr, 1945-1951', p. 175-6.

⁷⁸⁹ Gillingham, 'Solving the Ruhr Problem', pp. 427-8; Berghahn, *The Americanization*, pp. 226-30.

⁷⁹⁰ Van Hook, 'Public Ownership in the Ruhr, 1945-1951', p. 175.

drafting period in February and March 1951. Actors of the US Embassy working group, for example, Tomlinson together with ECA official Goldenberg, continued to meet with French industry representatives to help facilitate a successful conclusion to the Schuman Plan.⁷⁹¹ The inter-state negotiations resumed on 16 January 1951⁷⁹² and on 6 February 1951, Cleveland noted that Tomlinson gave a memorandum with revised proposals for articles 60 and 61 to Hallstein.⁷⁹³ Officially, the deliberations on the anti-trust provisions only continued on 9 February 1951, when according to Clappier, the German delegation expressed that the separate discussions on the German economy had proceeded sufficiently to reopen the talks on the anti-trust provisions.⁷⁹⁴ The suggestions articulated by Cleveland and Tomlinson appear to respond to modifications, very likely proposed by the German delegation. The Cleveland/Tomlinson note does not alter the substance of the articles, but discusses in detail viable alternative adjectives and verbs for the articles and reiterates the overriding significance of strong anti-trust provisions for the treaty.⁷⁹⁵

As a key mediator of the transatlantic university network, Hallstein understood the expectations of the US government. For example, when the German head of delegation informed members of the delegation and the cabinet about the deliberations on the anti-trust provisions in December 1950, he acknowledged that ‘the Americans’ favoured consumer protection and the prevention of the concentration of [economic]

⁷⁹¹ Tomlinson to Department of State, NARA, RG 59, 850.33/12-2150.

⁷⁹² Memorandum de M. Monnet aux chefs de delegation, 16 January 1951, PA AA, B 15, 54.

⁷⁹³ Proposed revisions articles 60 and 61, 6 February 1951, AN 81 AJ 138.

Unfortunately, it could not be clarified satisfactorily which contribution of the German delegation the memorandum referred to.

⁷⁹⁴ Clappier to Harvey, 9 February 1950, HAEU, FO, 371/93826.

⁷⁹⁵ Proposed revisions articles 60 and 61, 6 February 1951.

power.⁷⁹⁶ Following the adjournment of the inter-state conference, however, Hallstein turned to Kronstein for further guidance on the US government's position on the Ruhr. In a letter to Hallstein, Kronstein answered questions the former had raised and suggested that Hallstein would 'overestimate the American interest in vertical integration'. In contrast, Kronstein confirmed the US government's firm approach to the dissolution of the DKV.⁷⁹⁷ Moreover, Kronstein also attempted to act as a broker on behalf of the German delegation in the State Department.⁷⁹⁸ Hallstein continued to play a vital role in preference formation within Germany.⁷⁹⁹ Another actor of the transatlantic university network Ophüls, also contributed to the debate on modifying article 61 in late February 1950.⁸⁰⁰ Minor modifications notwithstanding, articles 60 and 61 were incorporated into the final treaty as articles 65 and 66.⁸⁰¹

It has been established in the literature that the key to the successful conclusion of the negotiations on the anti-trust articles was the agreement on the restructuring of the German heavy industries. Literature has demonstrated the role of Bowie and particularly McCloy in the bi-lateral negotiations between January and March 1951.⁸⁰² A breakthrough in the deliberations was only reached in early March 1951, when Adenauer and

⁷⁹⁶ Sitzung, 7 December 1950, PA AA, B 15, 5.

⁷⁹⁷ Letter Kronstein to Hallstein, 6 January 1951, BA, N 1266, 1864.

⁷⁹⁸ Letter Kronstein to Cheseldine, 12 January 1951.

⁷⁹⁹ For example Sitzung Schaumburg, 13 January 1951, Sahm Diary 1951, BA, N 1474, 17.

⁸⁰⁰ See for example New proposal art. 61 Professor Ophüls, 24 February 1951, PA AA, B15, 170.

⁸⁰¹ Documents 24-40, Evolution des negotiations par article dans le projet du traite, 13 February-14 March 1951, [from FJM, AMG], Schulze, Hoeren, *Dokumente zum Europäischen Recht*, vol. 3, pp. 52-98.

⁸⁰² See for example Gillingham, *Coal, Steel*, pp. 272-82; Lovett, 'The United States and the Schuman Plan', pp. 442-52; Schröder, *Jean Monnet und die amerikanische Unterstützung*, pp. 181-98.

McCloy agreed that the DKV would not be dissolved before 1 October 1952. Agreement on a number of other questions was reached in a conversation with Bowie, McCloy and the French high commissioner. Subsequently, Adenauer on 14 March 1951 transmitted a memorandum to the US high commissioner, which clarified the remaining questions.⁸⁰³ According to the memorandum, the German government would accept the coal and steel treaty with its anti-trust provisions. Further, the Adenauer government committed to reorganizing the twelve German steel companies into twenty-eight units to ensure their competitive positions – reconcentration would be prevented. The Verbundwirtschaft of coal and steel, in contrast, could be partially retained and steel plants were permitted to cover up to 75 per cent of their coal needs from mines in their ownership.

4.7 The first European anti-trust law: the interaction of American and European thought and politico-legal concepts

An evaluation of the role transatlantic policy networks played in the making of the anti-trust provisions reveals a number of findings. Firstly, the legal traditions of US anti-trust law and German ordo-liberalism interacted with each other in the making of the anti-trust provisions for the ECSC treaty, albeit in the context of the negotiations on German deconcentration and the German anti-cartel law. A purely textual analysis falls short of attributing the articles fully to either American anti-trust law or German ordo-liberalism. Ophüls in an article on the economic law of the ECSC treaty, published just after the

⁸⁰³ Telegramme McCloy to Acheson, 15 March 1951, NARA, RG 59, 850.33/3-1551, FRUS IV/1, pp. 102-3; for a summary of the memorandum see Löffler, *Soziale Marktwirtschaft und administrative Praxis*, p. 537.

conclusion of the conference, acknowledged that the anti-trust articles matched more or less the German Freiburg School and contemporary US anti-trust law.⁸⁰⁴ An analysis of the final articles shows that the ban of agreements and practices hampering competition (art. 65) and of market-dominating enterprises (art. 66) resembled American anti-trust law. Treating differently an accumulation of power depending on whether it results from concentration or from an expansion of an existing enterprise, however, is an idea contrary to US anti-trust law⁸⁰⁵ and hence more likely derived from an ordo-liberal position.

Secondly, transatlantic policy networks assumed a crucial function in shaping the negotiation tactics of various stakeholders. Monnet and Erhard, for example, both shared a belief in the competitive principle and, on the surface, were both marginalized in their respective domestic context. Arguably, the very existence of transatlantic policy-making on the anti-trust provisions, allowed Monnet to transfer his efforts to break with French cartel traditions to the core European level. At the same time, it allowed Erhard to defend the position of the industrialists in the context of the Schuman Plan. Advancing his policy preference for a ban on cartels in the domestic setting instead, the economics minister could rely on external pressure by USHICOG officials.

With regard to the competitive principle, the findings of this chapter further suggest that the preference of Monnet and planning officials for a competitive market economy solidified as a result of transatlantic policy-making. While these French actors had embraced the notion of a competitive market economy based on productivity in the

⁸⁰⁴ Carl Friedrich Ophüls, 'Das Wirtschaftsrecht des Schumanplans', in: *Neue Juristische Wochenschrift*, vol. 4, no. 10 (1951), pp. 381-4, here p. 382.

⁸⁰⁵ Hamburger, 'Inter-relationship', pp. 254, 256.

national domain, they increasingly focused on the notion of consumer protection at the inter-state conference. It may be argued therefore, that they followed the shift of contemporary US economic policy according to which consumption rather than production provided the key to a prosperous economy.

Thirdly, a process of transnational coalition building that included Monnet and planning officials, Constant and the Metal Manufacturing Syndicate and proponents of German ordo-liberalism was essential to the formation of the supranational European anti-trust law. Triggered by Monnet, the process was successful because its goals matched the US government policy preference for a free market economy and for consumer protection in western Europe.

Finally, the emergence of the anti-trust provisions clearly highlights the significance for the history of European integration to broaden its scope of analysis and go beyond the geographical and chronological confines of core Europe formation at the Schuman Plan conference.

5 Conclusions

This chapter will draw on the findings of the empirical chapters and underline the original contribution to knowledge of the thesis. It will review firstly, the empirical findings and secondly, methodological issues raised by the thesis within a wider framework of historical research on post-war Europe. Thirdly, it will address how these findings could be utilized for future research.

5.1 Transatlantic policy networks: creating core Europe

The thesis sheds new light on how the process of European integration was triggered in 1950-51. It offers an empirically based explanation for the integration of core Europe of the six founding member-states at the Schuman Plan conference. More specifically, the thesis has demonstrated that the ECSC treaty was the product of a complex negotiation process of a variety of academic and other experts and civil servants, state and non-state actors from both sides of the North Atlantic. As part of transatlantic policy networks these actors facilitated the successful conclusion of the inter-state negotiations and contributed significantly to drafting the institutional framework and the anti-trust provisions of the ECSC treaty. Crucially, transatlantic policy networks were linked to political decision-makers that shared a commitment to advancing core Europe formation through the coal and steel pool and excluding the UK. These links were vital to account for the formation, the operation and the impact of informal transatlantic policy-making in fleshing out the French government's initiative of 9 May 1950.

This explanation of why and how core Europe materialized differs, firstly, from Milward's propositions and more generally, intergovernmental approaches to European integration.⁸⁰⁶ The findings of the thesis corroborate that the formation of core Europe was not merely the result of the bargaining of domestically derived (economic) interests by national delegations at the inter-state negotiations in 1950-51. The results defy approaches and explanations that are informed exclusively by the national paradigm. The complexity of the negotiation process, especially the interplay of formal and informal policy-making, has suggested that intergovernmental accounts unduly simplify the complex reality of policy- and decision-making processes. The integration of the anti-trust provisions in the ECSC treaty, in particular, has underlined the importance of material interests and ideational motivations in domestic policy and preference formation. While Milward regarded integration as instrumental for the rescue of the nation-state, the interpretation forwarded here substantiates key general assumptions about the role of transnational actors of Lipgens' approach to understanding the post-war period.

Secondly, the French government's proposal to advance European integration through the coal and steel pool responded to a combination of factors, namely the political and economic decline of Europe during the inter-war period and the rise of the Soviet Union and the USA; the experiences with nationalism and the fascist and National Socialist regimes; and most importantly, the perceived anachronism of the aggressive nation-state asserting itself by means of military and economic power instead

⁸⁰⁶ Milward, *The Reconstruction*.

of co-operation and negotiation in new supranational institutional structures.⁸⁰⁷ The last factor pertains specifically to the desire by the French and German governments to overcome Franco-German antagonism after three major wars within less than seventy-five years. In sharp contrast to Lipgens, however, this account of the formation of core Europe has studied the role of actors at the interface between states and societies. It has identified the links between ideas and preferences of state and non-state actors for European unification and integration and the concrete policy initiative proposed by the French government as well as its realization through transatlantic policy networks. Empirical findings therefore reinforce the reconceptualization of the crucial role of networks in the informal politics of European integration.⁸⁰⁸

Thirdly, empirical data has substantiated the claim that early European integration was an American as well as a European project. The empirical chapters have delivered the missing systematic assessment of the role of US state and non-state actors involved in the Schuman Plan conference and an exploration of the interaction of American and European politico-legal concepts in the negotiations, respectively. Crucially, this goes beyond confirming that the wider goals of US foreign policy officials in the Truman administration matched the aspirations of the French and German governments to overcome the antagonism between them, as shown by Lundestad and Neuss.⁸⁰⁹ To outline the scope and the limits to transatlantic co-operation has been important to arrive at a differentiated view of which US government agencies or European organizations co-operating with US agencies provided the backbone for

⁸⁰⁷ Cf. Wurm, *Early European Integration*.

⁸⁰⁸ See most importantly Kaiser, *Christian Democracy*.

⁸⁰⁹ Lundestad, *The United States*; Neuss, *Geburtshelfer*.

policy network formation. A ranking of the relevant agencies relies on the number of actors involved and the estimated frequency of contacts between them. The most important governmental organizations for the formation of policy networks, therefore, were the ECA, the USHICOG and the French Planning Commission. These organizations were followed by the OSR, where Katz at the least sustained an ongoing interest in the negotiations and lastly, the OEEC, where Alphand functioned as a communication node, especially in the early days of the negotiations. Due to its intergovernmental foundation and the participation of the UK government, neither the OEEC, nor the Council of Europe provided a source for policy network formation, however. A ranking of the influence of organizations is vital to understanding the circumstances that enabled the emergence of informal transatlantic policy networks. Further, the systematic assessment of the role of US officials at the conference has suggested that there was a relationship between the status of actors within the foreign policy system and their point of involvement in the negotiations. Higher-ranking US foreign policy officials tended to dominate the initial discourse on the importance of the competitive framework of the proposed coal and steel pool. In contrast, only once the negotiations had begun, did US officials, who were less established in the hierarchy, and American non-state actors participate informally. McCloy proves an exception to this rule. Parallels can, however, be drawn with the involvement of Christian democrat leaders whose role as party politicians in the actual Schuman Plan negotiations was most significant during the period of agenda setting.⁸¹⁰ Together the differentiated assessment

⁸¹⁰ Kaiser, *Christian Democracy*, chapter 6.

of the role of US actors and organizations corroborates that the empire approach is insufficient to capture the reality of policy- and decision-making processes.

Furthermore, it has been confirmed that a policy network approach to explore the formation of core Europe indeed requires considering actor behaviour and policy formation from a long-term perspective. While 1945 was a turning point in transatlantic governmental relations, experiences of co-operation between individual actors that served as the basis for the accumulation of social capital and consequently, the formation of policy networks in 1950-51, often went back to the inter-war period. World War II, from this point of view, was particularly significant for actors involved because it necessitated further collaboration, mainly to devise the logistics involved in aiding the liberation and occupation of Europe. Findings have also confirmed the significance of shared experiences of actors or shared socialization. Among other examples, this included their professional backgrounds and the socialization of European actors in the US. As regards the impact of the US socialization of European actors on the policy debates, the transatlantic university network and Hallstein in particular serve as an important illustration.

Turning attention from the networks to the policies, it needs to be stressed that here too, a long-term perspective has proven vital to analyzing the interaction of American and European politico-legal concepts. With respect to outlining the framework for negotiating the anti-trust provisions, for example, domestic friction in France and Germany occurred because traditional concepts of competition, shaped since the late 18th century, were challenged. On the whole, the thesis highlights the

importance of going back beyond 1945 for the history of early European integration and transatlantic relations.

Moreover, the thesis has provided empirical evidence in support of certain approaches to European integration. The findings have on the one hand highlighted the importance of sociological constructivist studies, which emphasize the importance of social interaction and the role of EU institutions in socializing actors within them. On the other hand, they have confirmed the emphasis which historical institutionalism has placed on the examination of political processes over time. Lastly, Paul Hirst has defined governance as 'new practices of coordinating activities through networks, partnerships and deliberative forums that have grown up on the ruins of the more centralized and hierarchical corporatist representation of the period up to the 1970s'.⁸¹¹ Empirical evidence has demonstrated, however, that in early post-war Europe these practices were not as new and nation-states were not as cohesive as Hirst's reference suggests. Transatlantic policy networks co-ordinated their preferences and constrained the policy options of governmental actors at the inter-state negotiations on the Schuman Plan prior to the governance turn that designates the shift from state-centred government in more unitary states to governance in the present-day more de-centred society.⁸¹² Empirical findings have contributed to demonstrating the extent to which transnationalization preceded European institutionalization and helped lock in the integration process by determining major policy choices, particularly for supranational integration and a competitive market economy.

⁸¹¹ Paul Hirst, 'Democracy and Governance', in: Jon Pierre (ed.), *Debating Governance*, Oxford: Oxford University Press, 2000, pp. 13-35, here p. 19f.

⁸¹² Börzel, 'Organizing Babylon'; Heard-Lauréote, 'Transnational networks'.

5.2 The evaluation of the conceptual tools: methodological challenges

Multi-national archival research focusing exclusively on governmental sources is insufficient for developing a historical narrative that goes beyond intergovernmental bargaining. In contrast, the combination of multi-archival research – including the personal testimonies and papers of actors not before analyzed in the context of the formation of core Europe – and the application of a set of new research questions – informed by the network concept and the concept of cultural transfer – has proven crucial in identifying processes of informal and transatlantic policy-making that helped to shape the outcome of the inter-state conference. More generally, this strategy draws attention to the importance of revisiting ‘older’ source material. This is particularly relevant for the institutionalized historiography of European integration, which tends to frame its research questions in line with the opening of new governmental records, in general following the thirty-years-rule.

An approach that focuses on informal policy- and decision-making processes faces major methodological challenges, however. It has been argued here that social capital, including various forms of trust between actors, was essential to initiating and utilizing the joint expertise of transatlantic policy networks. If actors had established trust and familiarity between them, they were likely to further discuss policy-relevant issues outside of the negotiations, however, and therefore moved outside the range of written governmental sources. To some extent, the private papers of actors have filled some of these gaps in written evidence. Another course employed during the research

process involved the exploration and identification of multiple affiliations of some actors. This strategy led to the detailing of overlapping spaces of policy-making, which in turn necessitated the inclusion of additional literature. A case in point is the overlap between the deliberations on the anti-trust provisions at the Schuman Plan conference and on the German anti-trust law. As a rule, however, the informality of decision-making outside formally established and recognized consultation structures means that sometimes there is only little written evidence historians can draw on. Having acknowledged this, one should not draw false epistemological conclusions from this basic fact. In the end, this would suggest that the sources indeed tell the story or, to put it differently, that there is no story if it cannot be found in the written sources. Without doubt, sources provide the foundation of historical research, not the least to make historical findings verifiable. To fill the void created rather involuntarily by positivist approaches to historiography, however, it is useful to strengthen the analytical tools and thus the framework for interpretation. The combination of the network concept and the concept of cultural transfer has been essential in this sense.

Another potential methodological challenge presented itself with the notions of showing and measuring impact. One solution applied to this problem in the empirical chapters has been to focus on the varying functions – again provided by the combined conceptual tools – to describe the role of individual and collective actors. Showing and measuring impact therefore only represents methodological problems when the focus is too narrowly set on the role of policy networks in contributing draft treaty provisions. To address the challenge further it is helpful to draw on Peter Bachrach and Morton

Baratz' 1962 article on power.⁸¹³ The authors draw specific attention to the question of '...how...one [can] be certain in any given situation that the "unmeasurable" elements are inconsequential, are not of decisive importance?'⁸¹⁴ Bachrach and Baratz argue that actors also exercise power invisibly, by establishing or buttressing 'barriers to the public airing of policy conflicts'.⁸¹⁵ To be fully debated therefore issues and ideas have to reach the agenda. The notion of the invisibility of power crucially reinforces the argument that transatlantic policy networks restrained policy options merely through their existence. For example, they reinforced barriers to having any serious discussion about protective practices for the ECSC treaty and guaranteed its compatibility with the US government's preference for a competitive market economy for western Europe.

5.3 The potential of the thesis: future threads for historical research

Empirical findings also raise important questions as to their significance for future research. One question concerns the extent to which we can generalize from the historical evidence presented. It could be argued that the transatlantic policy network approach has been successfully applied and therefore may be able to shed light on subsequent inter-state conferences, including, for example, the negotiations on the EEC and Euratom treaties. Is it justified therefore to argue that this approach has the potential to produce an alternative, more transatlantic narrative of EU history that would modify Europe-centric accounts of the negotiations of 1956-57, for example? Yet, it is

⁸¹³ Peter Bachrach, Morton S. Baratz, 'Two Faces of Power', in: *The American Political Science Review*, vol. 56, no. 4 (1962), pp. 947-52.

⁸¹⁴ *Ibid.* p. 948.

⁸¹⁵ *Ibid.* p. 949.

paramount to distinguish between two forms of research potential inherent in the transatlantic policy network approach. Firstly, its potential pertains more to the transnational than the transatlantic dimension of the policy network approach of conceptualizing policy- and decision-making processes in the present-day EU after its original institutionalization, which induced a process of Europeanization of European policy-making. Secondly, the approach can be usefully applied to understand better the temporal dimension of informal transatlantic co-operation beyond the post-World War II period.

To background these two pathways for future research it is useful to stress the conditions that gave rise to informal transatlantic co-operation in the post-World War II period. The framework that had provided the backbone for policy network formation in 1950-51, specifically the US Embassy working group, changed after that, however. By the mid-1950s, the US government's support for an initiative for European integration was less important than in 1950. From a security and military perspective, consolidation had been achieved within the North Atlantic alliance, while US strategy had made the presence of the US in western Europe a permanent feature. From an economic and socio-cultural point of view, financial aid and the attempts by the US government to promote a pluralist and democratic US style model reached their peak during the years of the Marshall Plan.⁸¹⁶ Productivity and welfare in western European societies were on the rise in the 1950s. In the case of France, consumption and income levels increased by a third between 1949-58.⁸¹⁷ Further, the socio-cultural critique of mass consumption as a

⁸¹⁶ For the public relations of the Marshall Plan administration in France see McKenzie, *Remaking France*.

⁸¹⁷ Kuisel, *Seducing the French*, p. 104.

perceived specificity of American capitalism became increasingly popular once more.⁸¹⁸ In Germany, the introduction of the 'social market economy', devised by Erhard and the leading official and later State Secretary for European Affairs in the Ministry for Economics, Alfred Müller-Armack, marked the beginning of the German economic miracle.⁸¹⁹ At the same time, the US government lost its enthusiasm for European integration as a result of the failure of the French National Assembly to ratify the EDC treaty in August 1954, which to President Dwight Eisenhower represented a personal defeat. The reaction of the US government was rather detached, therefore, when in May 1955, the Benelux countries proposed the formation of a European atomic energy community, a customs union and a common market with common institutions. A change of US government policy from supporting only the Euratom project, championed by Monnet,⁸²⁰ to embracing all proposals only occurred after the six ECSC member-state governments had adopted the Spaak Report in May 1956.⁸²¹ In a nutshell, the conditions for informal transatlantic co-operation had altered by the time the six governments entered negotiations on pooling their nuclear policies and establishing a customs union and a common market.

Another factor to consider when sketching the changed conditions for policy network formation is the institutionalization of the ECSC. Once supranational institutions began operating in 1952, the US preference for an integrated western Europe, at least in one policy sector, became a reality. One could argue, therefore, that

⁸¹⁸ Ibid. pp. 103-30.

⁸¹⁹ Nicholls, *Freedom With Responsibility*.

⁸²⁰ For the support of the Euratom project by the Eisenhower government see Winand, 'European Insiders', pp. 212-21.

⁸²¹ Winand, *Eisenhower, Kennedy*, pp. 110-4.

transatlantic policy networks, which had shared and helped to implement this preference, no longer had an incentive, nor the immediate necessity for informal co-operation. Instead, transatlantic relations between the US government and supranational institutions became formalized. Tomlinson co-operated with the High Authority as deputy to Bruce. Other key actors of the US Embassy working group also became affiliated with the High Authority. Uri, for example, took a leading role in designing its administrative structures.⁸²² Ball continued to provide legal counsel for the French government and began advising the High Authority with the law firm Cleary, Gottlieb, Friendly and Ball. Other actors continued working for European integration, but through different channels: Bowie co-edited together with the German-born political scientist Carl Friedrich⁸²³ a comparative study on federalism, commissioned by the European Movement, before accepting the nomination as head of the Policy Planning Staff in the US State Department in 1952.⁸²⁴ Mosler in turn served as head of the Legal Department in the German Foreign Ministry (1951-53), took over the Max-Planck Institute for Public and International Law (1954-76) and became a judge at the European Court for Human Rights in Strasbourg (1959-81).⁸²⁵

Against this backdrop, transatlantic policy networks were much less likely to take shape and influence the preparation of the EEC and Euratom treaties in 1956-57. It would be inappropriate, therefore, to propose a one-to-one application of the transatlantic policy network approach to these negotiations or, for that matter, to

⁸²² Cf. Seidel, 'Gestalten', pp. 140-1.

⁸²³ Bowie, Friedrich (eds.), *Studies in Federalism*; for Friedrich cf. also Cohen, 'Constitutionalism without constitution', here pp. 124-5.

⁸²⁴ In fact the main bulk of the editorial work was therefore allegedly left to Friedrich. See Carl Friedrich, 'Preface', in: Bowie, Friedrich, *Studies in Federalism*, p. v.

⁸²⁵ 'Curriculum vitae', undated [ca. 1995], MPG-Archiv/III.Abt./ZA 139, Kasten 2.

subsequent inter-state conferences reforming the existing treaty framework. In contrast, the transnational rather than the transatlantic component of the approach can be exploited. Without going into a detailed debate of the incipient transnational history of the EU, which indeed offers an alternative to Moravcsik and Milward's intergovernmental accounts,⁸²⁶ two areas of application shall be addressed briefly. Firstly, the thesis has stressed the role of policy expertise and of academic and other experts in the Schuman Plan conference. One could explore further, for example, the role of transnational expert networks, including their interaction with supranational expert communities in the EEC Commission.⁸²⁷ It is suggested that such an exploration could rely on the combined tools of the network concept and the concept of cultural transfer. While the transatlantic policy network approach therefore does not have model character, its conceptual foundations could be utilized productively.

Secondly, the thesis has helped to undermine the notion that business actors only represent business or material interests. An example of a business actor in the wider sense of the term is Ball, who in 1950 represented a private law firm, but clearly came to Europe for strong ideational motives. A case for the significance of ideational motivations as well as material interests has been made with regard to the role of the European Roundtable of Industrialists in helping to initiate the 're-launch' of the

⁸²⁶ Cf. the conceptual chapter by Wolfram Kaiser, 'Transnational Networks in European Governance: The Informal Politics of Integration', in: Kaiser, Leucht, Rasmussen (eds.), *The History*; and the empirical chapters in the same volume.

⁸²⁷ For an example for such a supranational community see Katja Seidel, 'DG IV and the Origins of a Supranational Competition Policy: Establishing an Economic Constitution for Europe', in: *ibid.*

European integration process in the early 1980s.⁸²⁸ It is proposed therefore that the systematic assessment of the informal role of business actors in the process of European integration, which started at least as early as 1950, still needs to be fully investigated. Again, such an investigation could draw on the tools developed for the thesis. The applicability of the transatlantic/transnational policy network approach is not restricted to the transnational history of the EU, however.

Another fruitful area of application is opened up with the long-term dimension of informal transatlantic co-operation. Policy networks formed against the backbone of the reconstruction and occupation programmes for western Europe were no longer influential after the institutionalization of the ECSC. This is not to say that there was no potential for informal transatlantic co-operation, however. Crucially, there is still a relative lack of research on the temporal dimension of informal transatlantic co-operation between 1945 and 1973, which US Secretary of State Henry Kissinger declared as the 'Year of Europe', but which really marked a low point in transatlantic relations in a period of global turmoil. Partial exceptions to this observation include Winand who has demonstrated the significance of non-state actors in informal policy-making processes on European integration in the late 1950s and early 1960s;⁸²⁹ Berghahn who has accentuated the contribution of philanthropy to US Cold War cultural diplomacy beyond the scope of core Europe;⁸³⁰ and Aubourg and Gijswijt who have each explored how European integration was debated in the high-level informal

⁸²⁸ See for example Maria Green-Cowles, 'The European Round Table of Industrialists: The Strategic Player in European Affairs', in: Justin Greenwood (ed.), *European Casebook on Business Alliances*, Hemel Hempstead: Prentice-Hall, 1995, pp. 225-36.

⁸²⁹ Winand, *Eisenhower, Kennedy*.

⁸³⁰ Berghahn, *America and the Intellectual Cold Wars*.

meetings of the Bilderberg Group.⁸³¹ On the basis of these existing works and the conceptual approach developed in the thesis one could, for example, assess the changing role of transatlantic policy networks over time. In other words the transatlantic policy network approach has the potential to enhance our understanding of how the role of these networks changed with respect to influencing inter-state negotiations between the six core member-states; why transatlantic policy networks became more fragile from the 1960s onwards; and if the increasing importance of supranational European actors such as the European Commission and an emerging European administrative elite influenced and possibly diminished the role of transatlantic policy networks for policy-making in the present-day EU. A study of informal transatlantic co-operation over time may improve our understanding of the role of transatlantic networks in promoting co-operation on different levels of policy-making. Ultimately, the extension of such study would enhance our understanding of current transatlantic relations. The thesis, which has advanced the history of European integration and post-World War II transatlantic relations, could serve as the foundation for this larger enterprise.

⁸³¹ Aubourg, 'Le groupe de Bilderberg'; Gijswijt, 'The Bilderberg Group'.

Bibliography

Unpublished sources

Amherst College Library, Archives and Special Collections, Amherst, MA, USA
Personal papers John McCloy

Archiv der Max-Planck-Gesellschaft Berlin (MPG-Archiv), Berlin, Germany
Personal papers Hermann Mosler (III.Abt./ZA 139)

Archives nationales (AN), Paris, France
Archives du Commissariat du Plan (81 AJ)

Deutsches Bundesarchiv (BA), Koblenz, Germany
Bundesministerium für den Marshallplan (B 146)
Personal papers Herbert Blankenhorn (N 1351)
Personal papers Walter Hallstein (N 1266)
Personal papers Ulrich Sahn (N 1474)

Fondation Jean Monnet pour l'Europe (FJM), Lausanne, Switzerland
Archives américaines
Interview Hervé Alphand, Roger Massip, 17 June 1981
Interview Stanley Cleveland, Leonard Tennyson, 12 June 1981, USA
Interview Maurice Lagrange, Antoine Marès, 28 September 1980, France
Interview Paul Reuter, Antoine Marès, 7 August 1980, France
Personal papers Jean Monnet
 Le plan de modernisation (AMF)
 Le plan Schuman (AMG)
Personal papers Robert Marjolin
Personal papers Robert Schuman

Harry S. Truman Presidential Library, Independence, MO, USA
Personal papers Dean G. Acheson
Personal papers Will Clayton
Personal papers Clark Clifford
Personal papers Paul G. Hoffman

Personal papers Milton Katz

Historical Archives of the European Union (HAEU), Florence, Italy

**Foreign Office Files for Post-War Europe Series One: The Schuman Plan and the
European Coal and Steel Community, 1950-55. Part I: 1950-53. Microfilm**

Personal papers Etienne Hirsch (EH)

Personal papers Pierre Uri (PU)

Interview Robert R. Bowie, Brigitte Leucht, 13 July 1999, Baltimore, MD, USA.

Interview Ernst Steindorff, Brigitte Leucht, 9 November 2005, Munich, Germany.

Lauinger Library, Georgetown University, Washington, DC, USA

Archives of the American Committee on United Europe

Interview Richard M. Bissell, Melbourne Spector, 11 September 1990, USA

Ministère des affaires étrangères (MAEF), Paris, France

B Amérique (1944-1952)

Etats-Unis

**Direction des affaires économiques et financières, Service de coopération
économique 1945-1966 (DE-CE)**

Z Europe (1944-1970) (EU)

Généralités

National Archives and Records Administration (NARA), College Park, MD, USA

Central Decimal and Lot Files (RG 59)

Records of the US High Commissioner for Germany (RG 466)

Records of the Special Representative in Europe (RG 469)

Politisches Archiv des Auswärtigen Amtes (PA AA), Berlin, Germany

Personal papers Wilhelm Grewe

Personal papers Carl Friedrich Ophüls

Sekretariat für Fragen des Schuman Plans (B 15)

Personal papers Hans-Jürgen Schlochauer (339-72)

Seeley G. Mudd Library, Princeton University, Princeton, NJ, USA

Archives of the Council on Foreign Relations

Personal papers George Ball
Personal papers Clarence B. Randall

Published sources and memoirs

- Acheson, Dean, *Present at the Creation. My Years in the State Department*, New York: W. W. Norton & Company, 1969.
- Akten zur Auswärtigen Politik der Bundesrepublik Deutschland 1949/50*, Munich: Oldenbourg, 1997.
- Akten zur Auswärtigen Politik der Bundesrepublik Deutschland. Adenauer und die Hohen Kommissare 1949-1951*, vol.1, Munich: Oldenbourg, 1989.
- Alphand, Hervé, *L'étonnement d'être, journal 1939-1973*, Paris: Fayard, 1977.
- Ball, George, *The Past has Another Pattern. Memoirs*. New York and London: W. W. Norton & Company, 1982.
- Blankenhorn, Herbert, *Verständnis und Verständigung. Blätter eines politischen Tagebuchs 1949 bis 1979*, Frankfurt a. M., Berlin, Vienna: Propyläen, 1980.
- Bohlen, Charles, *Witness to History*, New York: Norton, 1973.
- Europa-Archiv*, vol. II (1950).
- Europäische Föderation*
- Foreign Relations of the United States (FRUS)*, 1950 III Western Europe, U.S. Department of State, 1977.
- Foreign Relations of the United States (FRUS)*, 1951 IV Europe, Political and economic relations, U.S. Department of State, 1985.
- General Agreement on Tariffs and Trade (GATT):
http://www.wto.org/english/docs_e/legal_e/legal_e.htm#gatt47 (accessed 23 November 2007)
- Hirsch, Etienne, *Ainsi va la vie*, Lausanne: Centre de Recherches Européennes, 1988.
- Jean Monnet, Robert Schuman Correspondance 1947-1953*, Lausanne: Fondation Jean Monnet pour l'Europe, 1986.
- Kennan, George, *Memoirs 1925-1950*, Boston: Little Brown, 1967.
- Kindleberger, Charles P., *The Life of an Economist. An Autobiography*, Cambridge/MA: Basil Blackwell, 1991.
- Kronstein, Heinrich, *Briefe an einen jungen Deutschen*, Munich: C.H. Beck, 1967.
- Marjolin, Robert, *Architect of European Unity: Memoirs 1911-1986*, London: Weidenfeld and Nicholson, 1989.
- Monnet, Jean, *Memoirs*, London: Collins, 1978.

Newsweek

Official Gazette of the Allied High Commission for Germany, vol. 2, Bonn: 1950-51.

Osmanczyk, Edmund Jan, *The Encyclopedia of the United Nations and International Agreements*, Philadelphia, London: Taylor and Frances, 1985.

Les Rapports Mensuels d'Andre Francois-Poncet, Haut Commissaire francais en Allemagne (1949-1955).

Rapport sur les travaux poursuivis à Paris par les delegations des six pays du 20 juin au 10 août 1950, <http://www.ena.lu/> (accessed 17 March 2008).

Sahm, Ulrich, „*Diplomaten taugen nichts*“. *Aus dem Leben eines Staatsdieners*, Düsseldorf: Droste Verlag, 1994.

Schäffer, Hans, 'Konrad Adenauer und der Schuman-Plan. Ein Quellenzeugnis', in: Schwabe, Klaus (ed.), *Die Anfänge des Schuman Plans 1950/51*, Baden-Baden: Nomos, 1988, pp. 131-40, [originally published by Eckhard Wandel in: *Vierteljahreshefte für Zeitgeschichte*, vol. 20 (1972), pp. 197-203].

Schulze, Reiner, Hoeren, Thomas (eds.), *Dokumente zum Europäischen Recht. Gründungsverträge*, vol. 1, Berlin, Heidelberg: Springer, 1999.

Schulze, Reiner, Hoeren, Thomas (eds.), *Dokumente zum Europäischen Recht. Kartellrecht (bis 1957)*, vol. 3, Berlin, Heidelberg: Springer, 2000.

Uri, Pierre, *Penser pour l'action. Un fondateur de l'Europe*, Paris: Odile Jacob, 1991.

Van Helmont, Jacques, *Options européennes 1945-1985*. Luxembourg: Office des publications officielles des Communautés Européennes, 1986.

Literature

Abelshauer, Werner, *The Dynamics of German Industry: Germany's Path Toward the New Economy and the American Challenge*, Oxford, New York: Berghahn Books 2005 [German 2003].

Abelshauer, Werner, 'Wiederaufbau vor dem Marshallplan. Westeuropas Wachstumschancen und die Wirtschaftsordnung der zweiten Hälfte der vierziger Jahre', in: *Vierteljahreshefte für Zeitgeschichte*, vol. 29 (1981), pp. 545-78.

Aldrich, Richard, *The Hidden Hand. Britain, America and Cold War Secret Intelligence*, Woodstock, New York: The Overlook Press, 2002.

Angster, Julia, *Konsenskapitalismus und Sozialdemokratie: Die Westernisierung von SPD und ADGB*, Studien zur Ideengeschichte der Neuzeit, vol. 13, Munich: Oldenbourg, 2003.

Arnold, Thurman, *The Bottlenecks of Business*, New York: Reynal & Hitchcock, 1940.

- Asbeek Brusse, Wendy, *Tariffs, Trade and European Integration, 1947-1957. From Study Group to Common Market*, New York: St. Martin's Press, 1997.
- Aubourg, Valérie, 'Le groupe de Bilderberg et l'intégration européenne jusqu'au milieu des années 1960', in: Dumoulin, Michel (ed.), *Réseaux économiques et construction européenne*, Brussels: Peter Lang, 2004, pp. 411-29.
- Bachrach, Peter, Morton S. Baratz, 'Two Faces of Power', in: *The American Political Science Review*, vol. 56, no. 4 (1962), pp. 947-52.
- Bailyn, Bernard, *The Ideological Origins of the American Revolution*, Cambridge, MA/ London: Belknap Press of Harvard University Press, 1992 [1967].
- Barthel, Charles, 'Das Streben der Stahlhersteller nach einer Gangbarmachung des Schuman-Plans. Einige Betrachtungen aus der Sicht Luxemburger Regierungs- und Industriearchive (1950-1952)', in: Trausch, Gilbert, Croisé-Schirtz, Edmée, Nies-Berchem, Martine, Majerus, Jean-Marie, Barthel, Charles (eds.), *Le Luxembourg face à la construction européenne*, Luxembourg: Centre d'études et de recherches européennes Robert Schuman, 1996, pp. 203-52.
- Berger, Françoise, 'Les sidérurgistes français et allemands face à l'Europe: convergences et divergences de conception et d'intérêts (1932-1952)', in: *Journal of European Integration History*, vol. 3, no. 2 (1997), pp. 35-52.
- Berghahn, Volker, *America and the Intellectual Cold Wars in Europe*, Princeton, Oxford: Oxford University Press, 2001.
- Berghahn, Volker, *The Americanization of West German Industry 1945-73*, Lemington Spa, New York: Berg, 1986 [German 1985].
- Berghahn, Volker, 'Das "deutsche Kapitalismus-Modell" in Geschichte und Geschichtswissenschaft', in: idem., Vitols, Sigurt (eds.), *Gibt es einen deutschen Kapitalismus? Tradition und globale Perspektive der sozialen Marktwirtschaft*, Frankfurt a. M., New York: Campus, 2006, pp. 25-43.
- Berghahn, Volker, Vitols, Sigurt (eds.), *Gibt es einen deutschen Kapitalismus? Tradition und globale Perspektive der sozialen Marktwirtschaft*, Frankfurt a. M., New York: Campus, 2006.
- Betsill, Michele M., Harriet Bulkeley, 'Transnational Networks and Global Environmental Governance: The Cities for Climate Protection Program', in: *International Studies Quarterly*, vol. 48, 2 (2004), pp. 471-93.
- Bird, Kai, *The Chairman. John J. McCloy. The Making of the American Establishment*, New York et. al.: Simon & Schuster 1993.
- Bitsch, Marie-Therèse, Loth, Wilfried, Barthel, Charles (eds.), *Cultures politiques, opinions publiques et construction européenne*, Brussels: Bruylant, 2007.

- Boerger, Anne, *Aux origines de l'Union Européenne: la genèse des institutions communautaires (C.E.C.A., C.E.D, C.E.E. et Euratom). Un équilibre fragile entre l'idéal européen et les intérêts nationaux*, PhD, University of Liège, Liège 1996.
- Böhm, Franz, 'Das Reichsgericht und die Kartelle. Eine wirtschaftsverfassungsrechtliche Kritik an dem Urteil des RG. Vom 4. Febr. 1897, RZG. 38/155', in: *Ordo*, vol. 1 (1948), pp. 197-213.
- Böhm, Franz, *Wettbewerb und Monopolkampf. Eine Untersuchung zur Frage des wirtschaftlichen Kampfrechts und zur Frage der rechtlichen Struktur der geltenden Wirtschaftsordnung*, Berlin: Heymann, 1933.
- Böhm, Franz, Eucken, Walter, Großmann-Doerth, Hans, 'The Ordo Manifesto of 1936', in: Peacock, Alan, Willgerodt, Hans (eds.), *Germany's Social Market Economy: Origins and Evolution*, London: Macmillan, 1989 [1936].
- Bönker, Franz, Labrousse, Agnès, Weisz, Jean-Daniel, 'The Evolution of Ordoliberalism in the Light of the Ordo Yearbook: A Bibliometric Analysis', in: Labrousse, Agnès, Weisz, Jean-Daniel (eds.), *Institutional Economics in France and Germany. German Ordoliberalism versus the French Regulation School*, Berlin, Heidelberg et.al.: Springer, 2001, pp. 159-81.
- Börzel, Tanja A., 'Organizing Babylon – On the Different Conceptions of Policy Networks', *Public Administration*, vol. 76, no. 2 (1998), pp. 253-73.
- Bossuat, Gérard, *L'Europe occidentale à l'heure américaine. Le Plan Marshall et l'unité européenne 1945-52*, Paris: Editions Complexes, 1994.
- Bossuat, Gérard, *Les fondateurs de l'Europe*, Paris: Belin, 1994.
- Bossuat, Gérard, *La France, l'aide américaine et la construction européenne, 1944-1954*, 2 vols, Paris: Comité pour l'Histoire Économique et Financière, 1992.
- Bossuat, Gérard, Wilkens, Andreas (eds.), *Jean Monnet, l'Europe et les chemins de la paix. Actes du Colloques de Paris du 29 au 31 Mai 1997*, Paris: Publications de la Sorbonne, 1999.
- Bowie, Robert R., Friedrich, Carl (eds.), *Studies in Federalism*, Boston, Toronto: Little, Brown and Company, 1954.
- Briand, Aristide, 'Discours pour l'Union Européenne', 5 September 1929, Achille Elisha, *Aristide Briand. La paix mondiale et l'union européenne*, Louvain-la-Neuve: Academia Brylant, 2000 [2nd revised ed.].
- Brinkley, Alan, *The End of Reform. New Deal Liberalism in Recession and War*, New York: Vintage Books, 1996.
- Brinkley, Alan, *Liberalism and its Discontents*, Cambridge/MA, London: Harvard University Press, 1998.

- Brinkley, Douglas, Hackett, Clifford (eds.), *Jean Monnet: The Path to European Unity*, New York: St. Martin's Press, 1991.
- Brown Wells, Sherrill, 'Monnet and "The Insiders": Nathan, Tomlinson, Bowie and Schaezel', in: Clifford Hackett (ed.), *Monnet and the Americans. The Father of a United Europe and his U.S. Supporters*, Washington, DC: Jean Monnet Council, 1995, pp. 198-228.
- Buchheim, Christoph, 'Schuman-Plan und liberale Weltwirtschaft (GATT)', in: Schwabe, Klaus (ed.), *Die Anfänge des Schuman Plans 1950/51*, Baden-Baden: Nomos, 1988, pp. 161-70.
- Bude, Heinz, Bernd Greiner (eds.), *Westbindungen. Amerika in der Bundesrepublik*, Hamburg: Hamburger Edition, 1999.
- Bührer, Werner, 'Return to Normality: The United States and Ruhr Industry, 1949-1955', in: Diefendorf, Jeffrey M., Frohn, Axel, Rupieper, Hermann-Josef (eds.), *American Policy and the Reconstruction of Germany, 1945-1955*, Washington DC: German Historical Institute and Cambridge University Press, 1993, pp. 135-53.
- Bührer, Werner, *Ruhrstahl und Europa. Die Wirtschaftsvereinigung Eisen- und Stahlindustrie und die Anfänge der Europäischen Integration 1945-52*, Schriftenreihe der Vierteljahreshefte für Zeitgeschichte, vol. 53, Munich: R. Oldenbourg, 1986.
- Burgess, Michael, *Federalism and European Union. Political Ideas, Influences and Strategies in the European Community, 1972-1987*, London, New York: Routledge, 1998.
- Burk, Kathleen, Stokes, Melvyn (eds.), *The United States and the European Alliance Since 1945*, Oxford, New York: Berg 1999.
- Bussière, Eric, Dumoulin, Michel (eds.), *Milieux économiques et intégration européenne en Europe occidentale au XXe siècle*, Arras: Artois presses université, 1998.
- Caemmerer, Ernst von, Schlochauer, Hans-Jürgen, Steindorff, Ernst (eds.), *Probleme des europäischen Rechts. Festschrift für Walter Hallstein zu seinem 65. Geburtstag*, Frankfurt am Main: Klostermann, 1966.
- Caspari, Volker, Schefold, Bertram (eds.), *Franz Oppenheimer und Adolph Lowe: Zwei Wirtschaftswissenschaftler der Frankfurter Universität*, Marburg: Metropolis, 1996.
- Castells, Manuel, *The Rise of the Network Society*, vol. 1, Oxford, Cambridge/MA: Blackwell Publishers 1996.

- Chick, Martin, *Industrial Policy in Britain 1945-51. Economic Planning, Nationalisation and the Labour Governments*, Cambridge: Cambridge University Press, 1998.
- Christopoulos, Dimitrios, 'Relational Attributes of Political Entrepreneurs: a Network Perspective,' in: *Journal of European Public Policy*, vol. 13, no. 5 (2006), pp. 757-78.
- Chrysochoou, Dimitris, *Theorizing European Integration*, London: Sage Politics Texts, 2001.
- Churchill, Winston, Speech at the University of Zurich, 19 September 1946, <http://www.ena.lu/> (accessed 20 February 2008).
- Cini, Michelle, Bourne, Angela (eds.), *Palgrave Advances in European Union Studies*, Basingstoke: Palgrave, 2006.
- Cini, Michelle, McGowan, Lee, *Competition Policy in the European Union*, Basingstoke: Macmillan, 1998.
- Clark, J.M., 'Toward a Concept of Workable Competition', in: *American Economic Review*, vol. 30 (1940), pp. 241-56.
- Clark, J.M., 'An Alternative Approach to the Concept of Workable Competition', in: *American Economic Review* vol. 40 (1950), pp. 349-61.
- Cohen, Antonin, 'Constitutionalism without Constitution: Transnational Elites Between Political Mobilization and Legal Expertise in the Making of a Constitution for Europe (1940s-1960s)', in: *Law and Social Inquiry*, vol. 32, no. 1 (2007), pp. 109-35.
- Cohen, Antonin, 'Le plan Schuman de Paul Reuter. Entre communauté nationale et fédération européenne', in: *Revue française de science politique*, vol. 48, no. 5 (1998), pp. 645-63.
- Constant, Jean, Editorial 'Le Plan Schuman', in: *Les Industries Mécaniques*, vol. 64 (July 1950), pp. 1-4.
- Conze, Vanessa, *Richard Coudenhove-Kalergi. Umstrittener Visionär Europas*, Gleichen: Muster-Schmidt, 2004.
- Coudenhove-Kalergi, Richard *Pan-Europa*, Wien: Pan-Europa Verlag, 1923
- Cox, Michael, Caroline Kennedy-Pipe, 'Special Forum: The Marshall Plan and the Origins of the Cold War Reassessed', in: *Journal of Cold War Studies*, vol. 7, no. 1 (2005), pp. 97-134.
- Dahl, Robert Alan, *How Democratic is the American Constitution?*, New Haven: Yale University Press, 2001.
- De Rougement, Denis, *Europa. Vom Mythos zur Wirklichkeit*, Munich: Prestel-Verlag, 1962.

- Deighton, Anne (ed.), *Building Postwar Europe National Decision Makers and European Institutions, 1948-63*, New York: St. Martin's Press, 1995.
- Démory, Jean-Claude, *Georges Bidault 1899-1983*, Paris: Editions Julliard, 1995.
- Deutsch, Karl, et. al. *Political Community and the North Atlantic Area. International Organization in the Light of Historical Experience*, New York: Greenwood Press, 1957.
- Dichgans, Hans, *Montanunion. Menschen und Institutionen*, Düsseldorf, Vienna: Econ Verlag, 1980.
- Diébold, William, *The Schuman Plan. A Study in Economic Cooperation 1950-1959*, New York: Frederick A. Praeger, 1959.
- Diefendorf, Jeffrey M., Frohn, Axel, Rupieper, Hermann-Josef (eds.), *American Policy and the Reconstruction of Germany, 1945-1955*, Washington DC: German Historical Institute and Cambridge University Press, 1993.
- Diegmann, Albert 'Deconcentration Policy in the Ruhr Coal Industry', in: Diefendorf, Jeffrey M., Frohn, Axel, Rupieper, Hermann-Josef (eds.), *American Policy and the Reconstruction of Germany, 1945-1955*, Washington DC: German Historical Institute and Cambridge University Press, 1993, pp. 197-215.
- Diestelkamp, Bernhard, Stolleis, Michael (eds.), *Juristen an der Universität Frankfurt am Main*, Baden-Baden: Nomos Verlag, 1989.
- Dietl, Ralph, Knipping, Franz (eds.), *Begegnung zweier Kontinente: die Vereinigten Staaten und Europa seit dem Ersten Weltkrieg*, Trier: Wissenschaftlicher Verlag Trier, 1999.
- Diez, Thomas, 'Riding the AM-Track through Europe, Or: The Pitfalls of a Rationalist Journey through European Integration', in: *Millennium: Journal of International Studies*, vol. 28, no. 2 (1999), pp. 355-69.
- DiLeo, David L., 'Catch the Night Plane for Paris: George Ball and Jean Monnet', in: Hackett, Clifford (ed.), *Monnet and the Americans. The Father of a United Europe and his U.S. Supporters*, Washington, DC: Jean Monnet Council, 1995, pp. 141-169.
- Doering-Manteuffel, Anselm, *Wie westlich sind die Deutschen? Amerikanisierung und Westernisierung im 20. Jahrhundert*. Göttingen: Vandenhoeck und Ruprecht, 1999.
- Duchêne, François, *Jean Monnet. The First Statesman of Interdependence*, New York, London: Norton, 1994.
- Duchêne, François 'Jean Monnet's Methods', in: Brinkley, Douglas, Hackett, Clifford (eds.), *Jean Monnet: The Path to European Unity*, New York: St. Martin's Press, 1991, pp. 184-209.

- Dujardin, Vincent, Dumoulin, Michel, *Paul Van Zeeland 1893-1973*, Brussels: Éditions Racine, 1997.
- Dumoulin, Michel (ed.), *Réseaux économiques et construction européenne*, Brussels: Peter Lang, 2004.
- Edwards, Corwin, *Trade Regulations Overseas: the National Laws: a Study in Comparative Law*, Dobbs Ferry, New York: Oceana Publications, 1966.
- Ehrmann, Henry W., 'The French Trade Associations and the Ratification of the Schuman Plan', in: *World Politics*, vol. 6, no. 4 (1954), pp. 453-81.
- Ekbladh, David, "'Mr. TVA": Grass-Roots Development, David Lilienthal, and the Rise and Fall of the Tennessee Valley Authority as a Symbol for U.S. Overseas Development, 1933-1973', in: *Diplomatic History*, vol. 26, no. 3 (2002), pp. 335-74.
- Eldin, Grégoire, Fournié, Pierre, Moinet-Le Menn, Agnès, Soutou, Georges-Henri, *L'Europe de Robert Schuman*, Paris: Presse de l'Université de Paris Sorbonne, 2001.
- Elisha, Achille, *Aristide Briand. La paix mondiale et l'union européenne*, Louvain-la-Neuve: Academia Brylant, 2000 [2nd revised ed.].
- Espagne, Michel, Michael Werner, 'Deutsch-französischer Kulturtransfer im 18. und 19. Jahrhundert. Zu einem neuen interdisziplinären Forschungsprogramm des C.N.R.S.', in: *Francia*, vol. 13 (1985), pp. 502-10.
- Espagne, Michel, 'Die Rolle der Mittler im Kulturtransfer', in: Hans-Jürgen Lüsebrink, Rolf Reichhardt (eds.), *Kulturtransfer im Epochenumbruch Frankreich - Deutschland 1770 bis 1815*, Deutsch-Französische Kulturbibliothek vol. 9, no. 1, Leipzig: Leipziger Universitätsverlag 1997, pp. 309-29.
- Espagne, Michel, Michael Werner (eds.), *Transferts. Les relations interculturelles dans l'ésoace franco-allemand (XVIIIe et XIXe siècle)*, Paris: éditions Recherches sur les Civilisations 1988.
- Featherstone, Kevin, 'Jean Monnet and the "Democratic Deficit" in the European Union', *Journal of Common Market Studies*, vol. 32, no. 2 (1994), pp. 149-70.
- Fischer, Erika J., Fischer, Heinz-D. (eds.), *John McCloy. An American Architect of Postwar Germany. Profiles of a Trans-Atlantic Leader and Communicator*, Frankfurt et.al.: Peter Lang, 1994.
- Fransen, Frederic J., *The Supranational Politics of Jean Monnet: Ideas and Origins of the European Community*, London and Westport/CT: Greenwood Press, 2001.
- Friedrich, Carl J., 'Admission of New States, Territorial Adjustments, and Secession', in: Bowie, Robert R., Friedrich, Carl (eds.), *Studies in Federalism*, Boston, Toronto: Little, Brown and Company, 1954, pp. 753-71.

- Frommelt, Reinhard, *Panuropa oder Mitteleuropa. Einigungsbestrebungen im Kalkül deutscher Wirtschaft und Politik 1925-1933*, Schriftenreihe der Vierteljahreshefte für Zeitgeschichte, vol. 34, Munich: R. Oldenbourg, 1977.
- Gall, Lothar, *Der Bankier Hermann Josef Abs. Eine Biographie*, Munich: C.H. Beck, 2004.
- Gassert, Philipp, 'Amerikanismus, Antiamerikanismus, Amerikanisierung. Neue Literatur zur Sozial-, Wirtschafts- und Kulturgeschichte des amerikanischen Einflusses in Deutschland und Europa', in: *Archiv für Sozialgeschichte*, vol. 39 (1995), pp. 531-61.
- Gemelli, Giuliana (ed.), *The Ford Foundation and Europe (1950's-1970's). Cross-fertilization of Learning in Social Science and Management*, Brussels: Princeton University Press, 1998.
- Gerber, David, *Law and Competition in Twentieth Century Europe: Protecting Prometheus*, Oxford: Clarendon Press, 1998.
- Gerbet, Pierre, 'La genèse du plan Schuman', in: *Revue française de science politique*, vol. 6, no. 3 (1956), pp. 525-53.
- Gerbet, Pierre, 'Les origins du plan Schuman. Le choix de la méthode communautaire par le gouvernement français', in: Poidevin, Raymond (ed.), *Histoire des débuts de la construction européenne, mars 1948-mai 1950*, Brussels: Bruylant, 1986, pp. 199-222.
- Gienow-Hecht, Julia, 'Shame on US? Academics, Cultural Transfer and the Cold War – A critical review', in: *Diplomatic History*, vol. 24, no. 3 (2000), pp. 465-94.
- Gijswijt, S. Thomas W., 'The Bilderberg Group and the Rome Treaties: Transnational Elites and the Debate on European Integration in the 1950s', unpublished manuscript, presented at the Third HEIRS conference, Geneva, 16 March 2007.
- Gijswijt, S. Thomas W., *Uniting the West. The Bilderberg Group, the Cold War and European Integration, 1952-1966*, PhD, University of Heidelberg, Mikrofiche, Heidelberg 2008.
- Gillingham, John, *Coal, Steel, and the Rebirth of Europe, 1945-55. The Germans and the French from Ruhr Conflict to Economic Community*, New York et.al.: Cambridge University Press, 1991.
- Gillingham, John, 'Solving the Ruhr Problem: German Heavy Industry and the Schuman Plan', in: Schwabe, Klaus (ed.), *Die Anfänge des Schuman Plans 1950/51*, Baden-Baden: Nomos, 1988, pp. 399-453
- Gillingham, John, 'Zur Vorgeschichte der Montan-Union. Westeuropas Kohle und Stahl in Depression und Krieg', in: *Vierteljahreshefte für Zeitgeschichte*, vol. 34 (1986), pp. 381-405.

- Goldschmidt, Nils, 'Alfred Müller-Armack and Ludwig Erhard: Social Market Liberalism', in: *Freiburger Diskussionspapiere zur Ordnungsökonomik* (2004), http://www.walter-eucken-institut.de/publikationen/04_12bw.pdf (accessed 1 August 2007).
- Grant, Alan, *The American Political Process*, London, New York: Routledge, 7th ed. 2004 [1979].
- Green-Cowles, Maria, 'The European Round Table of Industrialists: The Strategic Player in European Affairs', in: Justin Greenwood (ed.), *European Casebook on Business Alliances*, Hemel Hempstead: Prentice-Hall, 1995, pp. 225-36.
- Griffiths, Richard T., 'The Schuman Plan Negotiations: the Economic Clauses', in: Schwabe, Klaus (ed.), *Die Anfänge des Schuman Plans 1950/51*, Baden-Baden: Nomos, 1988, pp. 35-71.
- Haas, Ernst B., *Beyond the Nation-State. Functionalism and International Organization*, Stanford: Stanford University Press, 1968 [1964].
- Haas, Ernst B., *The Uniting of Europe. Political, Social and Economic Forces, 1950-57*, Notre Dame/IN: University of Notre Dame Press 2004 [1958].
- Haas, Peter M., 'Introduction: Epistemic Communities and International Policy Coordination', in: *International Organization*, vol. 46, no. 1 (1992), pp. 1-35.
- Hackett, Clifford (ed.), *Monnet and the Americans. The Father of a United Europe and his U.S. Supporters*, Washington, DC: Jean Monnet Council, 1995.
- Hamburger, Richard, 'Inter-relationship of the cartel, monopoly and merger provisions of the European Coal and Steel Community Treaty', in: International Conference on Restraints of Competition, *Cartel and Monopoly in Modern Law Reports on Supranational and National European and American law*, Karlsruhe: C.F.Müller, 1961, pp. 243-60.
- Hannemann, Laura, 'Gesandte in Fesseln? Kulturtransfer in Kriegsgefangenenlagern des Zweiten Weltkrieges', in: *Comparativ*, vol. 16, no. 4 (2006), pp. 179-99.
- Haselbach, Dieter, 'Franz Oppenheimer's Theory of Capitalism and of a Third Path', in: Kolowski, Peter (ed.), *The Theory of Capitalism in the German Economic Tradition. Historism, Ordo-Liberalism, Critical Theory, Solidarism*, Berlin et.al: Springer, 2000, pp. 54-86.
- Heard-Lauréote, Karen, 'Transnational Networks. Informal Governance in the European Political Space', in: Kaiser, Wolfram, Starie, Peter (eds.), *Transnational European Union: Toward a Political Space*, London: Routledge, 2005, pp. 36-60.
- Heater, Derek, *The Idea of European Unity*, Leicester: Leicester University Press, 1992.
- Heller, Francis, John Gillingham (eds.), *N.A.T.O. The Founding of the Atlantic Alliance and the Integration of Europe*, New York: St. Martin's Press, 1992.

- Heller, Francis, John Gillingham (eds.), *The United States and the Integration of Europe. Legacies of the Postwar Era*, New York: St. Martin's Press, 1996.
- Hermans, Jules, *L'évolution de la pensée européenne d'Aristide Briand*, Nancy: Idoux, 1965.
- Heywood, Andrew, *Key Concepts in Politics*, Basingstoke: Palgrave Macmillan, 2000.
- Hirsch, Etienne, 'French Planning and its European Application', in: *Journal of Common Market Studies*, vol. 1, no. 2 (1962), pp. 117-27.
- Hirst, Paul, 'Democracy and Governance', in: Jon Pierre (ed.), *Debating Governance*, Oxford: Oxford University Press, 2000, pp. 13-35.
- Hitchcock, William, *France Restored. Cold War Diplomacy and the Quest for Leadership in Europe*, Chapel Hill and London: University of North Carolina Press, 1998.
- Hochgeschwender, Michael, *Freiheit in der Offensive? Der Kongreß für kulturelle Freiheit*, Munich: Oldenbourg, 1998.
- Hofstadter, Richard, *The Paranoid Style in American Politics and Other Essays*, Cambridge/MA: Harvard University Press, 1996 [1964].
- Hofstadter, Richard, 'What Happened to the Antitrust Movement?', in: idem., *The Paranoid Style in American Politics and Other Essays*, Cambridge/MA: Harvard University Press, 1996 [1964], pp. 188-237.
- Hogan, Michael, *The Marshall Plan America, Britain, and the Reconstruction of Western Europe, 1947-1952*, Cambridge, New York: Cambridge University Press, 1987.
- Hrbek Rudolf, Schwarz, Volker (eds.), *Vierzig Jahre Römische Verträge: Der deutsche Beitrag. Dokumentation der Konferenz anlässlich des 90. Geburtstags von Dr.h.c. Hans von der Groeben*, Baden-Baden: Nomos, 1998.
- International Conference on Restraints of Competition, *Cartel and Monopoly in Modern Law Reports on Supranational and National European and American law*, Karlsruhe: C.F.Müller, 1961.
- Isaacson, Walter, Evan Thomas, *The Wise Men. Six Friends and the World They Made*, New York: Simon & Schuster, 1986.
- Jackson, Robert, Georg Sørensen, *Introduction to International Relations: Theories and Approaches*, Oxford: Oxford University Press, 1999.
- Jettinghoff, Alex, Schepel, Harm (eds.), *In Lawyers' Circles. Lawyers and European Legal Integration*, 's-Gravenhage: Red Business Information, 2004.
- Jordan, Lothar, Bernd Kortländer (eds.), *Nationale Grenzen und internationaler Austausch. Studien zum Kultur- und Wissenschaftstransfer in Europa*,

- Communicatio. Studien zur europäischen Literatur- und Kulturgeschichte, vol. 10, Tübingen: Niemayer 1995.
- Junker, Detlev (ed.), *Die USA und Deutschland im Zeitalter des Kalten Krieges 1945-1990. Ein Handbuch, Band I, 1945-1968*, Stuttgart, Munich: Deutsche Verlags-Anstalt, 2001.
- Kaiser, Wolfram, *Christian Democracy and the Origins of European Union*, Cambridge: Cambridge University Press, 2007.
- Kaiser, Wolfram, 'Co-operation of European Catholic Politicians in Exile in Britain and the USA during the Second World War', in: *Journal of Contemporary History*, vol. 35, no. 3 (2000), pp. 439-65.
- Kaiser, Wolfram, 'From State to Society? The Historiography of European Integration', in: Cini, Michelle, Bourne, Angela (eds.), *Palgrave Advances in European Union Studies*, Basingstoke: Palgrave, 2006, pp. 190-208.
- Kaiser, Wolfram, 'History Meets Politics: Overcoming Interdisciplinary Volapük in Research on the EU', in: *Journal of European Public Policy*, vol. 15, no. 2 (2008), pp. 300-13.
- Kaiser, Wolfram, Leucht, Brigitte, Rasmussen, Morten (eds.), *The History of the European Union. Origins of a Supranational Polity 1950-72*, London: Routledge (forthcoming 2008).
- Kaiser, Wolfram, Starie, Peter (eds.), *Transnational European Union: Toward a Political Space*, London: Routledge, 2005.
- Kaiser, Wolfram, 'Transnational Europe Since 1945: Integration as Political Society Formation', in: Wolfram Kaiser, Peter Starie (eds.), *Transnational European Union: Toward a Political Space*, London: Routledge, 2005, pp. 17-35.
- Kaiser, Wolfram, 'Transnational Networks in European Governance: The Informal Politics of Integration', in: Kaiser, Wolfram, Leucht, Brigitte, Rasmussen, Morten (eds.), *The History of the European Union. Origins of a Supranational Polity 1950-72*, London: Routledge (forthcoming 2008).
- Kaiser, Wolfram, "'Überzeugter Katholik und CDU-Wähler'": Zur Historiographie der Integrationsgeschichte am Beispiel Walter Lipgens', in: *Journal of European Integration History*, vol. 8, no. 2 (2002), pp. 119-128.
- Kipping, Matthias, 'Concurrence et compétitivité, les origines de la législation anti-trust française après 1945', *Comité pour l'histoire économique et financière: Extrait de Études et documents*, vol. VI, 1994, pp. 429-55.
- Kipping, Matthias, *Zwischen Kartellen und Konkurrenz Der Schuman-Plan und die Ursprünge der europäischen Einigung 1944-1952*, Schriften zur Wirtschafts- und Sozialgeschichte, vol. 46, Berlin: Duncker&Humblot, 1996, pp. 203-6.

- Kipping, Matthias, Ove Bjarnar (eds.), *The Americanization of European Business: The Marshall Plan and the Transfer of U.S. Management Models*, London, New York: Routledge, 1998.
- Klotzbach, Kurt, 'Die deutsche Sozialdemokratie und der Schuman-Plan', in: Schwabe, Klaus (ed.), *Die Anfänge des Schuman Plans 1950/51*, Baden-Baden: Nomos, 1988, pp. 333-44.
- Kohler-Koch, Beate, Rittberger, Berthold (eds.), *Debating the Democratic Legitimacy of the European Union*, Lanham: Rowman & Littlefield, 2007.
- Köhler, Henning, *Adenauer und die rheinische Republik: der erste Anlauf, 1918-1924*, Opladen: Westdeutscher Verlag, 1986.
- Kolowski, Peter (ed.), *The Theory of Capitalism in the German Economic Tradition. Historism, Ordo-Liberalism, Critical Theory, Solidarism*, Berlin et.al: Springer, 2000.
- Kovacic, William, Shapiro, Carl, 'Antitrust Policy: A Century of Economic and Legal Thinking', in: *The Journal of Economic Perspectives*, vol. 14, no. 1 (2000), pp. 43-60.
- Küstners, Hanns-Jürgen, 'Die Verhandlungen über das institutionelle System zur Gründung der Europäischen Gemeinschaft für Kohle und Stahl', in: Klaus Schwabe (ed.), *Die Anfänge des Schuman Plans 1950/51*, Baden-Baden: Nomos, 1988, pp. 73-102.
- Kuisel, Richard, *Capitalism and the State in Modern France. Renovation and Economic Management in the Twentieth Century*, Cambridge: Cambridge University Press, 1981.
- Kuisel, Richard, 'The Marshall Plan in Action: Politics, Labor, Industry and the Program of Technical Assistance', in: *Le Marshall plan et le relèvement économique de l'Europe*, Paris: Comité pour l'histoire économique et financière, 1993, pp. 335-58.
- Kuisel, Richard, *Seducing the French: The Dilemma of Americanization*, Berkeley: University of California Press, 1993.
- Labrousse, Agnès, Weisz, Jean-Daniel (eds.), *Institutional Economics in France and Germany. German Ordoliberalism versus the French Regulation School*, Berlin, Heidelberg et.al.: Springer, 2001.
- Lagrange, Maurice, 'La Cour de justice des Communautés européennes du plan Schuman à l'Union européenne', in: *Mélanges Fernand Dehousse*, vol. 2, pp. 127-35; for an English translation see <http://www.ena.lu/> (accessed 20 February 2008).

- Lappenküper, Ulrich, 'Der Schuman Plan. Mühsamer Durchbruch zur deutsch-französischen Verständigung', in: *Vierteljahreshefte für Zeitgeschichte*, vol. 42, no. 3, 1994, pp. 403-45.
- Lappenküper, Ulrich, *Die deutsch-französischen Beziehungen 1949-1963. Von der "Erbfeindschaft" zur "Entente élémentaire"*, Quellen und Darstellungen zur Zeitgeschichte 49, 2 vols., Munich: Oldenbourg, 2001.
- Leucht, Brigitte, 'Die Gründung des „Neuen Europa“, 1950/51. Die Bedeutung einer transatlantisch-rechtlichen Perspektive für die Erforschung der europäischen Integration', in: *Wiener Zeitschrift zur Geschichte der Neuzeit*, vol. 3, no. 2 (2003), pp. 53-66.
- Leucht, Brigitte, 'Tracing European Mentalities: Free Competition in Post-WW II Transatlantic Europe', in: Bitsch, Marie-Therèse, Loth, Wilfried, Barthel, Charles (eds.), *Cultures politiques, opinions publiques et construction européenne*, Brussels: Bruylant, 2007, pp. 337-53.
- Leucht, Brigitte, 'Transatlantische Politiknetzwerke: Kulturtransfer und Schuman-Plan 1950/51', in: *Comparativ*, vol. 16, no. 4 (2006), pp. 200-18.
- Lipgens Walter, *Die Anfänge der europäischen Einigungspolitik 1945-1950, Erster Teil: 1945-1947*, Stuttgart: Ernst Klett, 1977.
- Lipgens Walter, *Europa-Föderationspläne der Widerstandsbewegungen, 1940-1945: eine Dokumentation*, Munich: Oldenbourg, 1968.
- Löffler, Bernhard, *Soziale Marktwirtschaft und administrative Praxis. Das Bundeswirtschaftsministerium unter Ludwig Erhard*, Wiesbaden: Franz Steiner Verlag, 2002.
- Loth, Wilfried, 'Die Beiträge der Geschichtswissenschaft zur Deutung der Europäischen Integration', in: Loth, Wilfried, Wessels, Wolfgang (eds.), *Theorien europäischer Integration*, Opladen: Leske & Budrich 2001, pp. 87-106.
- Loth, Wilfried, *Der Weg nach Europa: Geschichte der europäischen Integration 1939-1957*, Göttingen: Vandenhoeck und Ruprecht, 1996.
- Loth, Wilfried, Wallace, William, Wessels, Wolfgang (eds.), *Walter Hallstein. The Forgotten European?*, Basingstoke, London, New York: Macmillan, St. Martin's Press, 1998 [German 1995].
- Loth, Wilfried, Wessels, Wolfgang (eds.), *Theorien europäischer Integration*, Leske & Budrich: Opladen 2001.
- Lovett, A.W., 'The United States and the Schuman Plan. A Study in French Diplomacy', in: *Historical Journal*, vol. 39, no. 2 (1996), pp. 425-55.
- Lundestad, Geir, *The United States and Western Europe since 1945. From 'Empire by Invitation' to 'Transatlantic Drift'*, Oxford: Oxford University Press, 2003.

- Lynch, Frances, 'Resolving the Paradox of the Monnet Plan: National and International Planning in French Reconstruction,' in: *The Economic History Review*, New Series, vol. 37, no. 2 (1984), pp. 229-43.
- Maier, Charles S., *In Search of Stability: Explorations in Historical Political Economy*, Cambridge: Cambridge University Press, 1987.
- Maier, Charles S., 'The Politics of Productivity: Foundation of American International Economic Policy after World War II', in: *International Organization*, vol. 31, no. 4 (1977), pp. 607-33.
- Maier, Charles S., The Two Postwar Eras and the Conditions for Stability in Twentieth Century Western Europe, in: idem. (ed.), *In Search of Stability: Explorations in Historical Political Economy*, Cambridge: Cambridge University Press, 1987.
- Maitland, Frederic, 'The Corporation Sole', in: *Law Quarterly Review*, vol. 16 (1900), pp. 335-54
- Maitland, Frederic, *State, Trust, and Corporation*, Cambridge: Cambridge University Press, 2003.
- Marsh, David, *Comparing Policy Networks*, Buckingham: Open University Press 1998.
- Marshall, George, Commencement Speech Harvard University, 5 June 1947, <http://www.america.gov/st/texttransenglish/2007/May/20070521153224MVyelwarC0.4675867.html> (accessed 1 March 2008).
- Le Marshall plan et le relèvement économique de l'Europe*, Paris: Comité pour l'histoire économique et financière, 1993.
- McDougall, Walter A., 'Our Periclean Age: The Cold War as Collective Biography', in: *Reviews in American History*, vol. 15, no. 4 (1987), pp. 686-90.
- McKenzie, Brian Angus, *Remaking France: Americanization, Public Diplomacy, and the Marshall Plan*, Oxford, New York: Berghahn Books, 2005.
- Meade, James E., *The Belgium-Luxembourg Economic Union, 1921-1939. Lessons from an Early Experiment*, Essays in International Finance vol. 25, Princeton: [Princeton University Press], 1956.
- Mélanges Fernand Dehousse*, vol. 2, La construction européenne, Paris, Brussels: Fernand Nathan, Ed. Labor, 1979.
- Mélandri, Paul, *Les Etats-Unis face à l'Unification de l'Europe 1945-1954*, Paris: Pendone, 1980.
- Middell, Katharina, Middell, Matthias, 'Forschungen zum Kulturtransfer. Frankreich und Deutschland', in: *Grenzgänge*, vol. 1, no. 2 (1994), pp. 107-22.
- Middell, Matthias, 'Kulturtransfer und Historische Komparatistik – Thesen zu ihrem Verhältnis', in: *Comparativ*, vol. 10, no. 1 (2000), pp. 7-41.

- Mierzejewski, Alfred C., *Ludwig Erhard: A Biography*, North Carolina Press: Chapel Hill, 2004.
- Milward, Alan, *The European Rescue of the Nation-State*, London: Routledge, 2nd ed. 2000 [1992].
- Milward, Alan S., *The Reconstruction of Western Europe*, London: Routledge, 1992 [1984].
- Milward, Alan, Frances Lynch, Frederico Romero, Ruggero Ranieri, Vibeke Sørensen (eds.), *The Frontier of National Sovereignty. History and Theory 1945-1992*, London and New York: Routledge 1993.
- Mioche, Philippe, *Le Plan Monnet. Genèse et élaboration 1941-1947*, Paris: Publications de la Sorbonne, 1987.
- Mitterbauer, Helga, 'Kulturtransfer – ein vielschichtiges Beziehungsgeflecht?' in: *newsletter Moderne*, vol. 2., no. 1 (1999), pp. 23-5.
- Mosler, Hermann, 'Die Entstehung des Modells supranationaler und gewaltenteilender Staatenverbindungen in den Verhandlungen über den Schuman-Plan', in: Caemmerer, Ernst von, Schlochauer, Hans-Jürgen, Steindorff, Ernst (eds.), *Probleme des europäischen Rechts. Festschrift für Walter Hallstein zu seinem 65. Geburtstag*, Frankfurt am Main: Klostermann, 1966, pp. 355-86.
- Moravcsik, Andrew, 'The future of European Integration Studies: Social Science or Social Theory?', in: *Millennium: Journal of International Studies*, vol. 28, no. 2 (1999), pp. 371-91.
- Moravcsik, Andrew, *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht*, London: UCL Press, 1998.
- Murach-Brand, Lisa, *Antitrust auf Deutsch. Der Einfluß der Amerikanischen Alliierten auf das Gesetz gegen Wettbewerbsbeschränkungen (GWB) nach 1945*, Tübingen: Mohr, 2004.
- Nelson, William E., *The Fourteenth Amendment: From Political Principle to Judicial Doctrine*, Cambridge/MA, London: Harvard University Press, 1988.
- Neuss, Beate, *Geburtshelfer Europas? Die Rolle der Vereinigten Staaten im europäischen Integrationsprozeß 1945-1958*, Baden-Baden: Nomos, 2000.
- Nicholls, Anthony, *Freedom With Responsibility: the Social Market Economy in Germany, 1918-1963*, Oxford: Clarendon Press, 1994.
- Nocken, Ulrich, 'International Cartels and Foreign Policy: the Formation of the International Steel Cartel 1924-1926', in: Wurm, Clemens (ed.), *Internationale Kartelle und Aussenpolitik*, Stuttgart: Franz Steiner Verlag Wiesbaden GmbH, 1989, pp. 33-82.

- Nörr, Knut Wolfgang, 'Franz Böhm and the Theory of the Private Law Society', in: Kolowski, Peter (ed.), *The Theory of Capitalism in the German Economic Tradition. Historism, Ordo-Liberalism, Critical Theory, Solidarism*, Berlin et.al: Springer, 2000, pp. 148-88.
- Offe, Claus, *Reflections on America. Tocqueville, Weber and Adorno in the United States*, Cambridge: Polity Press, 2005 [German 2004].
- Ophüls, Carl Friedrich, 'Juristische Grundgedanken des Schumanplans', in: *Neue Juristische Wochenzeitschrift*, vol. 4, no. 8 (1951), pp. 289-92.
- Ophüls, Carl Friedrich, 'Das Wirtschaftsrecht des Schumanplans', in: *Neue Juristische Wochenschrift*, vol. 4, no. 10 (1951), pp. 381-4.
- Ophüls, Carl Friedrich, 'Zur ideengeschichtlichen Herkunft der Gemeinschaftsverfassung', in: Caemmerer, Ernst von, Schlochauer, Hans-Jürgen, Steindorff, Ernst (eds.), *Probleme des europäischen Rechts. Festschrift für Walter Hallstein zu seinem 65. Geburtstag*, Frankfurt am Main: Klostermann, 1966, pp. 387-413.
- Parsons, Craig, *A Certain Idea of Europe*, Ithaca and London: Cornell University Press, 2003.
- Paulmann, Johannes, 'Internationaler Vergleich und interkultureller Transfer. Zwei Forschungsansätze zur europäischen Geschichte des 18. bis 20. Jahrhunderts', in: *Historische Zeitschrift*, vol. 267, no. 3 (1998), pp. 649-85.
- Peacock, Alan, Willgerodt, Hans (eds.), *Germany's Social Market Economy: Origins and Evolution*, London: Macmillan, 1989.
- Pedersen, Kai, 'Re-educating European Management: the Marshall Plan's Campaign Against Restrictive Business Practices in France, 1949-1953', in: *Business and Economic History* vol. 25, no. 1 (1996), pp. 267-74.
- Pegg, Carl H., *Evolution of the European Idea, 1914-1932*, Chapel Hill, London: The University of North Carolina Press, 1983.
- Peritz, Rudolph, *Competition Policy in America. History, Rhetoric, Law*, Oxford, New York: Oxford University Press, rev. ed. 2000.
- Pierre, Jon (ed.), *Debating Governance*, Oxford: Oxford University Press, 2000.
- Pierson, Paul, 'The Path to European Integration: A Historical-Institutionalist Analysis', in: Wayne Sandholtz, Alec Stone Sweet (eds.), *European Integration and Supranational Governance*, Oxford, New York: Oxford University Press, 1998, pp. 27-58.
- Plischke, Elmer, *History of the Allied High Commission for Germany: Its Establishment, Structure and Procedures*, Bonn: Historical Division, U.S. High Commissioner for Germany, 1951.

- Poidevin, Raymond (ed.), *Histoire des débuts de la construction européenne, mars 1948-mai 1950*, Brussels: Bruylant, 1986.
- Poidevin, Raymond, *Robert Schuman*, Paris: Beauchesne, 1988.
- Pollack, Mark A., 'International Relations Theory and European Integration', in: *Journal of Common Market Studies*, vol. 39, no. 2 (2001), pp. 221-44.
- Previti Allaire, Catherine, 'Les archives d'Etienne Hirsch à Florence. Sources d'un itinéraire européen', www.eui.eu/ECArchives/pdf/HIRSCH2.pdf (accessed 1 March 2008), 1996.
- Randall, Clarence, 'European Steel: Monopoly in the Making', in: *Atlantic Monthly* (October 1951), pp. 34-8
- Randall, Clarence, 'Free Enterprise is not a Hunting License', in: *Atlantic Monthly* (March 1952), pp. 38-41.
- Ranieri, Ruggero, 'The Italian Steel Industry and the Schuman Plan Negotiations', in: Schwabe, Klaus (ed.), *Die Anfänge des Schuman Plans 1950/51*, Baden-Baden: Nomos, 1988, pp. 345-56.
- Rask Madsen, Mikael, Vauchez, Antoine, 'European Constitutionalism at the Cradle: Law and Lawyers in the Construction of a European Political Order (1920-1960)', in: Jettinghoff, Alex, Schepel, Harm (eds.), *In Lawyers' Circles. Lawyers and European Legal Integration*, 's-Gravenhage: Red Business Information, 2004, pp. 15-34.
- Rask Madsen, Mikael, 'From Cold War Instrument to Supreme European Court: The European Court of Human Rights at the Crossroads of International and National Law and Politics', in: *Law&Social Inquiry*, vol. 32, no. 1 (2007), pp. 137-59.
- Rehbinder, Eckard, 'Heinrich Kronstein (1897-1972)', in: Diestelkamp, Bernhard, Stolleis, Michael (eds.), *Juristen an der Universität Frankfurt am Main*, Baden-Baden: Nomos Verlag, 1989, pp. 253-67.
- Reuter, Paul, 'Aux origines du Plan Schuman', in: *Mélanges Fernand Dehousse*, vol. 2, La construction européenne, Paris, Brussels: Fernand Nathan, Ed. Labor, 1979, pp. 65-8.
- Reuter, Paul, *La naissance de l'Europe communautaire*, Lausanne: Centre de recherches européennes, 1980.
- Rhodes, Rod, Marsh, David, 'New Directions in the Study of Policy Networks', in: *European Journal of Political Research*, vol. 21, no. 1-2 (1992), pp. 181-205.
- Risse-Kappen, Thomas (ed.), *Bringing Transnational Relations Back in: Non-state Actors, Domestic Structures and International Institutions*, Cambridge: Cambridge University Press, 1995.

- Risse-Kappen, Thomas, 'Bringing Transnational Relations Back in: Introduction', in: idem. (ed.), *Bringing Transnational Relations Back in: Non-state Actors, Domestic Structures and International Institutions*, Cambridge: Cambridge University Press, 1995, pp. 3-33.
- Rittberger, Berthold, 'Original Meanings. Ideas About Representation in the Making of Europe's First Community', unpublished manuscript, presented at the Connex (Network of Excellence on 'Efficient and Democratic Governance in a Multi-level Europe') Thematic Conference on Accountability, Florence, 29-30 June 2007.
- Rosamond, Ben, *Theories of European Integration*, Basingstoke: Macmillan, 2000.
- Rasmussen, Morten, 'Supranational Governance in the Making: Towards a European Political System', in: Kaiser, Wolfram, Leucht, Brigitte, Rasmussen, Morten (eds.), *The History of the European Union. Origins of a Supranational Polity 1950-72*, London: Routledge, (2008 forthcoming).
- Rosenn, Keith S., 'Federalism in the Americas in Comparative Perspective', *Inter-American Law Review*, vol. 26, no. 1 (1994), pp. 3-50.
- Rumford, Chris, *The European Union: a Political Sociology*, Oxford: Blackwell Publishing 2002.
- Sabatier, Paul A., Jenkins-Smith, Hank C. (eds.), *Policy Change and Learning. An Advocacy Coalition Approach*, Boulder, San Francisco, Oxford: Westview, 1993.
- Sabatier, Paul A., 'The Advocacy Coalition Framework: Revisions and Relevance for Europe', in: *Journal of European Public Policy*, vol. 5, no. 1 (1998), pp. 98-130.
- Sandholtz, Wayne, Stone Sweet, Alec (eds.), *European Integration and Supranational Governance*, Oxford, New York: Oxford University Press, 1998.
- Sandholtz, Wayne, Stone Sweet, Alec, 'Integration, Supranational Governance, and the Institutionalization of the European Polity, in: idem. (eds.), *European Integration and Supranational Governance*, Oxford, New York: Oxford University Press, 1998, pp. 1-26.
- Schmale, Wolfgang, *Historische Komparatistik und Kulturtransfer. Europageschichtliche Perspektiven für die Landesgeschichte. Eine Einführung unter besonderer Berücksichtigung der sächsischen Landesgeschichte, Herausforderungen. Historisch-politische Analysen*, vol. 6, Bochum: Dieter Winkler, 1998.
- Schönwald, Matthias, 'Hinter Stacheldraht - vor Studenten: Die „amerikanischen Jahre“ Walter Hallsteins, 1944-1949', in: Dietl, Ralph, Knipping, Franz (eds.), *Begegnung zweier Kontinente: die Vereinigten Staaten und Europa seit dem Ersten Weltkrieg*, Trier: Wissenschaftlicher Verlag Trier, 1999, pp. 31-54.

- Schröter, Harm G., 'Kartellierung und Dekartellierung 1890-1990', in:
Vierteljahrsschrift für Sozial- und Wirtschaftsgeschichte, vol. 81 (1994), pp. 457-93.
- Schröder, Holger, *Jean Monnet und die amerikanische Unterstützung für die Europäische Integration 1950-1957*, Frankfurt am Main et.al.: Peter Lang 1994.
- Schulze, Reiner, 'Anfänge und Ausbau der europäischen Integration – zu den Konzepten der frühen fünfziger Jahre, in Hrbek Rudolf, Schwarz, Volker (eds.), *Vierzig Jahre Römische Verträge: Der deutsche Beitrag. Dokumentation der Konferenz anlässlich des 90. Geburtstags von Dr.h.c. Hans von der Groeben*, Baden-Baden: Nomos, 1998, pp. 91-101.
- Schumacher, Frank, *Kalter Krieg und Propaganda. Die USA, der Kampf um die Weltmeinung und die ideelle Westbindung der Bundesrepublik Deutschland, 1945-1955*, Trier: Wissenschaftlicher Verlag Trier, 2000.
- Schwabe, Klaus (ed.), *Die Anfänge des Schuman Plans 1950/51*, Baden-Baden: Nomos, 1988.
- Schwabe, Klaus, 'Do Personalities Make a Difference? Washington Working with Europeans', in: Kathleen Burk, Melvyn Stokes (eds.), *The United States and the European Alliance since 1945*, Oxford, New York: Berg, 1999, pp. 239-267.
- Schwabe, Klaus, "'Ein Akt konstruktiver Staatskunst" – die USA und die Anfänge des Schuman Plans', in: Klaus Schwabe (ed.), *Die Anfänge des Schuman Plans, 1950/51*, Baden-Baden: Nomos, 1988, pp. 211-39.
- Schwabe, Klaus, 'The Origins of the United States' Engagement in Europe, 1946-1952', in: Heller, Francis, Gillingham, John (eds.), *N.A.T.O. the Founding of the Atlantic Alliance and the Integration of Europe*, New York: St. Martin's Press, 1992, pp. 161-92.
- Schwabe, Klaus, *Weltmacht und Weltordnung. Amerikanische Außenpolitik von 1898 bis zur Gegenwart. Eine Jahrhundertgeschichte*, Paderborn et.al.: Ferdinand Schöningh, 2006.
- Schwartz, Thomas, *America's Germany. John McCloy and the Federal Republic of Germany*, Cambridge, MA, London: Harvard University Press, 1991.
- Schwarz, Hans-Peter, *Adenauer der Staatsmann: 1952-1967*, Stuttgart: Deutsche Verlags-Anstalt, 1991.
- Schwarz, Hans-Peter, *Konrad Adenauer. A German Politician and Statesman in a Period of War, Revolution and Reconstruction*, vol. 1: 1876-1952, Providence and Oxford: Berghahn Books 1995 [German 1986].
- Seidel, Katja, 'DG IV and the Origins of a Supranational Competition Policy: Establishing an Economic Constitution for Europe', in: Kaiser, Wolfram, Leucht,

- Brigitte, Rasmussen, Morten (eds.), *The History of the European Union. Origins of a Supranational Polity 1950-72*, London: Routledge (forthcoming 2008).
- Seidel, Katja, 'Gestalten statt Verwalten: Der Beitrag von Europabeamten zur europäischen Integration', in: *Historische Mitteilungen*, vol. 18 (2005), pp. 136-49.
- Smith, Tony, *America's Mission. The United States and the Worldwide Struggle for Democracy in the Twentieth Century*, Princeton: Princeton University Press, 1994.
- Söllner, Alfons, 'Normative Verwestlichung. Der Einfluß der Remigranten auf die politische Kultur der frühen Bundesrepublik', in: Bude, Heinz, Bernd Greiner (eds.), *Westbindungen. Amerika in der Bundesrepublik*, Hamburg: Hamburger Edition, 1999, pp. 72-92.
- Spevack, Edmund, *Allied Control and German Freedom: American Political and Ideological Influences on the Framing of the West German Basic Law*, Münster: Lit; Piscataway/NJ : Transaction Publishers, 2001.
- Spierenburg, Dirk, Poidevin, Raymond, *The History of the High Authority of the European Coal and Steel Community: Supranationality in Operation*, London: Weidenfeld & Nicholson, 1994.
- Steindorff, Ernst, *Die Nichtigkeitsklage (Les recours pour excès de pouvoir) im Recht der Europäischen Gemeinschaft für Kohle und Stahl. Ein rechtsvergleichender Beitrag zur verwaltungsgerichtlichen Kontrolle der Hohen Behörde*, Frankfurt am Main: Vittorio Klostermann, 1952.
- Stephan, Alexander (ed.), *Americanization and anti-Americanism: the German Encounter with American Culture After 1945*, New York: Berghahn Books, 2005.
- Stikker, Dirk, 'The Functional Approach to European Integration', in: *Foreign Affairs*, no. 29, vol. 3 (1951), pp. 436-44.
- Stråth, Bo, *The Organisation of Labour Markets: Modernity, Culture and Governance in Germany, Sweden, Britain and Japan*, London: Routledge 1996.
- Streit, Manfred E., Wohlgemuth, Michael, 'The Market Economy and the State. Hayekian and Ordoliberal Conceptions', in: Kolowski, Peter (ed.), *The Theory of Capitalism in the German Economic Tradition. Historism, Ordo-Liberalism, Critical Theory, Solidarism*, Berlin et.al: Springer, 2000, pp. 224-69.
- Svendsen, Gunnar Lind Haase, Svendsen, Gert Tinggaard, *The Creation and Destruction of Social Capital. Entrepreneurship, Co-operative Movements and Institutions*, Cheltenham, Northampton/MA: Edward Elgar.
- Thiemayer, Guido, *Vom "Pool Vert" zur Europäischen Wirtschaftsgemeinschaft. Europäische Integration, Kalter Krieg und die Anfänge der Gemeinsamen Europäischen Agrarpolitik 1950-1957*, Munich: Oldenbourg, 1999.

- Trausch, Gilbert, 'Der Schuman-Plan zwischen Mythos und Realität. Der Stellenwert des Schuman-Planes', in: Trausch, Gilbert, Croisé-Schirtz, Edmée, Nies-Berchem, Martine, Majerus, Jean-Marie, Barthel, Charles (eds.), *Le Luxembourg face à la construction européenne*, Luxembourg: Centre d'études et de recherches européennes Robert Schuman, 1996, pp. 45-65.
- Trausch, Gilbert (ed.), *Die Europäische Integration vom Schuman-Plan bis zu den Verträgen von Rom*, Brussels: Bruylant, 1993.
- Trausch, Gilbert, Croisé-Schirtz, Edmée, Nies-Berchem, Martine, Majerus, Jean-Marie, Barthel, Charles (eds.), *Le Luxembourg face à la construction européenne*, Luxembourg: Centre d'études et de recherches européennes Robert Schuman, 1996.
- Tribe, Keith, *Strategies of Economic Order. German Economic Discourse, 1750-1950*, Cambridge: Cambridge University Press, 1995.
- Van Apeldoorn, Bastiaan, 'Transnational Business: Power Structures in Europe's Political Economy', in: Kaiser, Wolfram, Starie, Peter (eds.), *Transnational European Union: Toward a Political Space*, London: Routledge, 2005, pp. 83-106.
- Van Hook, James C., 'From Socialization to Co-Determination: The US, Britain, Germany, and Public Ownership of the Ruhr, 1945-1951', in: *The Historical Journal*, vol. 45, no. 1 (2002), pp. 153-78.
- Verweij, Marco, 'Four Wrongs Can Make a Right: From Stocks of Social Capital to Competing Ways of Life', in: *Politics & Policy*, vol. 35, no. 3 (2007), pp. 464-95.
- Vile, M.J.C., *Politics in the USA*, London, New York: Routledge, 5th ed. 1999 [1970].
- Wagnleitner, Reinhold, *Coca-colonization and the Cold War: The Cultural Mission of the United States in Austria After the Second World War*, Chapel Hill/NC: University of North Carolina Press, 1994.
- Wala, Michael, "'Ripping Holes in the Iron Curtain": The Council on Foreign Relations and Germany, 1945-1950', in: Diefendorf, Jeffrey M., Frohn, Axel, Rupieper, Hermann-Josef (eds.), *American Policy and the Reconstruction of Germany, 1945-1955*, Washington DC: German Historical Institute and Cambridge University Press, 1993, pp. 1-20.
- Wall, Irwin, 'Jean Monnet, the United States and the French Economic Plan', in: Douglas Brinkley, Clifford Hackett (eds.), *Jean Monnet: The Path to European Unity*, New York: St. Martin's Press, 1991, pp. 86-113.
- Warleigh, Alex, 'Conceptual Combinations: Multilevel Governance and Policy Networks', in: Cini, Michelle, Bourne, Angela (eds.), *Palgrave Advances in European Union Studies*, Basingstoke: Palgrave, 2006, pp. 77-95.

- Warleigh-Lack, Alex, 'Interdisciplinarity in Research on the EU: Politics, History and Prospects for Collaboration', in: Kaiser, Wolfram, Leucht, Brigitte, Rasmussen, Morten (eds.), *The History of the European Union. Origins of a Supranational Polity 1950-72*, London: Routledge (forthcoming 2008).
- Warner, Isabel, *Steel and Sovereignty, The Deconcentration of the West German Steel Industry, 1949-54*, Mainz: Philipp von Zabern, 1996.
- Wegmann, Milène, 'Neoliberale Europa-Föderationskonzepte 1918-1945', in: *Journal for European Integration History*, vol. 8, no. 1 (2002), pp. 11-35.
- Wiedhölter, Rudolf, 'Franz Böhm (1895-1977)', in: Diestelkamp, Bernhard, Stolleis, Michael (eds.), *Juristen an der Universität Frankfurt am Main*, Baden-Baden: Nomos Verlag, 1989, pp. 208-52.
- Wilkens, Andreas, 'L'Europe des ententes ou l'Europe de l'intégration? Les industries française et allemande et les débuts de la construction européenne (1948-1952)', in: Bussière, Eric, Dumoulin, Michel (eds.), *Milieux économiques et intégration européenne en Europe occidentale au XXe siècle*, Arras: Artois presses université, 1998, pp. 267-84.
- Winand, Pascaline, 'De l'usage de l'Amérique par Jean Monnet pour la construction européenne', in: Bossuat, Gérard, Wilkens, Andreas (eds.), *Jean Monnet, l'Europe et les chemins de la paix. Actes du Colloques de Paris du 29 au 31 Mai 1997*, Paris: Publications de la Sorbonne, 1999, pp. 253-72.
- Winand, Pascaline, *Eisenhower, Kennedy, and the united states of Europe*, New York: St. Martin's Press, 1993.
- Winand, Pascaline, 'European Insiders Working Inside Washington: Monnet's Network, Euratom, and the Eisenhower Administration', in: Burk, Kathleen, Stokes, Melvyn (eds.), *The United States and the European Alliance Since 1945*, Oxford, New York: Berg 1999, pp. 207-38.
- Wood, Gordon, *The Creation of the American Republic 1776-1787*, Chapel Hill: University of North Carolina Press, 1969.
- Wood, Gordon, *The Radicalism of the American Revolution*, New York: Random House, 1993.
- Wurm, Clemens, 'Early European Integration as a Research Field: Perspectives, Debates, Problems', in: idem. (ed.), *Western Europe and Germany: the Beginnings of European Integration, 1945-1960*, Oxford: Berg, 1995, pp. 9-26.
- Wurm, Clemens (ed.), *Internationale Kartelle und Aussenpolitik*, Stuttgart: Franz Steiner Verlag Wiesbaden GmbH, 1989.
- Wurm, Clemens, 'Politik und Wirtschaft in den internationalen Beziehungen. Internationale Kartelle, Aussenpolitik und weltwirtschaftliche Beziehungen 1919-

1939: Einführung', in: idem. (ed.), *Internationale Kartelle und Aussenpolitik*, Stuttgart: Franz Steiner Verlag Wiesbaden GmbH, 1989, pp.1-31.

Wurm, Clemens, *Western Europe and Germany: the Beginnings of European Integration, 1945-1960*, Oxford: Berg, 1995.

Ziegerhofer-Pretenthaler, Anita, *Botschafter Europas. Richard Nikolaus Coudenhove-Kalergi und die Paneuropa-Bewegung in den zwanziger und dreißiger Jahren*, Vienna, Cologne, Weimar: Böhlau, 2004.

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CULTURES POLITIQUES,
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ET INTÉGRATION
EUROPÉENNE

SOUS LA DIRECTION DE
MARIE-THÉRÈSE BITSCH
WILFRIED LOTH
CHARLES BARTHEL

EXTRAIT

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TRACING EUROPEAN MENTALITIES:
FREE COMPETITION
IN POST-WW II TRANSATLANTIC EUROPE

BY

BRIGITTE LEUCHT

DOCTORAL RESEARCHER,
CENTRE FOR EUROPEAN AND INTERNATIONAL STUDIES,
UNIVERSITY OF PORTSMOUTH

One of the most prominent European Union economic policies, competition policy, is composed of four separate areas: antitrust, mergers, state aids and public utility. Antitrust comprises scrutiny and control of restrictive practices and cartels and the abuse of a dominant market position. The legal origins of EU competition policy were articles 65 and 66 of the treaty establishing the European Coal and Steel Community (ECSC) of 1951 (1). EU competition policy has been shaped by the directorate-general IV of the European Commission (the primary European competition policy actor) and, to a lesser extent, the European Court of Justice and the Court of First Instance (2). Against this backdrop, the origins of European competition policy might be seen to be of historical and contemporary importance. In this context, one might ask whether European competition policy originated with the ECSC treaty. Further, the question arises of how various European post-WW II societies handled competition policy before common European institutions were established. This chapter aims to answer these questions by exploring the concept of free competition as expressed by actors within the transatlantic policy networks that

(1) ECSC treaty/III/6 is entitled 'Cartels and concentrations'. However, provisions concerning the regulation of market-dominating enterprises are not laid down in a separate article, but in art. 66/7.

(2) M. Chri, I. McGowan, *Competition policy in the European Union*, Macmillan, Basingstoke, 1998, pp. 38-59.

worked in the background of the «Europeanization» (3) of competition policy. This chapter, therefore, proposes to depict traces of a European mentality on free competition.

Two assumptions are at the basis of this chapter: First, mentalities are reflected, among others, in norms, policy proposals and policies. For the purpose of tracing mentalities it does not matter whether or not policy proposals were realized. Hence, the focus is not on the success or failure of proposed policies, but on the attitudes and values underpinning norms and policy proposals as well as the deliberations which they generated. Moreover, policies can be identified with individual or collective historical actors who have initiated specific courses of action to safeguard free competition (4). Second, therefore, I suggest that the key to mapping out a European mentality on free competition is to focus on the orientations of actors who initiated and developed policies. In addressing these issues, it becomes clear that tracing a European mentality on free competition implies more than merely looking for similarities between the deliberations and implementations of national legal provisions. It becomes evident that in post-WW II Europe, the debate on free competition was shaped by policy networks that included American as well as European actors. Accordingly, competition policy was discussed within transatlantic policy networks. What is required, therefore, to identify a specifically European mentality on free competition is an understanding of the American concept of «competition as a way of life» (5).

The American concept of competition as a way of life, which historian Richard Hofstadter presented in a seminal essay first published in 1964, introduces the following four arguments that are influential in the development of this chapter: First, in contrast to American society, European post-WW II societies lacked commitment to the competitive principle. This observation applied to the West German and French societies which provide the illustrations for this chapter. Second, based on their perception of the European

(3) For an introduction to the concept of Europeanization, see J. Orszyn, «The many faces of Europeanization», in: *Journal of Common Market Studies*, 6(2002), pp. 921-962.

(4) This is a narrow definition of mentalities. Certainly, the chapter could be extended towards a wider history of mentalities with a stronger emphasis on the *longue durée*.

(5) R. HOFSTADTER, «What happened to the antitrust movement?», in: R. HOFSTADTER, *The paranoid style in American politics and other essays* (1st paperback ed.), Harvard University Press, Cambridge/MA, 1966 [1964], pp. 188-237, esp. pp. 195 f.

cartel experiences in the interwar period, US foreign policy planners and administrators emphasised the need to implement within European societies the competitive principle. This view shaped the policies of the US occupation organization in (West) Germany as well as those of the Marshall Plan administration. Third, US policies in West Germany and France helped stir debate on competition policy on the domestic (German and French) as well as the bilateral (German-American and Franco-American) level. The bilateral transatlantic exchanges also facilitated contacts between American and German and French actors, respectively. Fourth, the announcement of the Schuman Plan on 9 May 1950 and the subsequent drafting (20 June 1950-18 April 1951) of the ECSC treaty resulted in a Europeanization of the discussion on competition policy. Drafting for the first time supranational European law to protect competition, actors from both sides of the North Atlantic compared diverging economic traditions and policies across national boundaries.

In its structure the chapter follows closely the arguments presented above. Central to the concerns of this chapter are the Schuman Plan negotiations. This reflects my archival research which has focused on the Schuman Plan conference and the actors involved in the drafting of the ECSC treaty. I will show that the Europeanization of the discussion of competition policy has to be set in the context of (a) the various domestic and transatlantic bilateral debates on competition and (b) the formation of policy networks in these debates.

I. - THE AMERICAN CONCEPT OF COMPETITION AS A WAY OF LIFE

In his article, Hofstadter discussed competition as a means of social regulation. Central to his analysis was the postulation that «in America competition was more than a theory: it was a way of life and a creed» (6). As a result, competition policy simultaneously pursued an economic, a political and a social-moral goal. As the legal basis of US antitrust law, the Sherman Act of 1890 embodied an economic goal in the belief that competition would produce

(6) R. HOFSTADTER, *op. cit.*, pp. 195 f.

maximum economic efficiency. The law was intended to block private accumulation of power and protect democratic government – its political goal. Moreover, it represented the belief that competition would be a machinery for the formation of a constructive national character – its social-moral goal (7).

Due to judicial interpretation, further congressional legislation and particularly the variety of reforms introduced by the New Deal these three goals were subject to successive redefinition. Starting in the late 1930s, economists departed from the model of perfect competition and introduced into the debate criteria to assess «workable» and «fair» competition (8). What remained unchallenged, however, was the view that the competitive principle would have a positive effect on democratic government and the character of a society (9). American devotion to the principle of competition developed within an essentially domestic frame. Although the economic rationale of antitrust and the effectiveness of antitrust law had always been challenged, US society agreed on the necessity to maintain free competition. Select European national policies safeguarding free competition notwithstanding, post-WW II Europe did not share the concept of competition as a way of life.

II. – AMERICAN EFFORTS TO IMPLEMENT FREE COMPETITION IN EUROPEAN SOCIETIES

US foreign policy makers emphasised the need to implement within European societies the competitive principle. They argued that there was an intimate economic, political and moral link between the cartelization of the European heavy industries in the interwar-period and the rise of the nationalist right in both Germany and France. Firstly, there was the foundation of the 1926 International Steel Cartel (ISC) by Germany, France, Belgium and

(7) *Ibid.*, pp. 199 f.

(8) W. KOVACIC, C. SHAPIRO, «Antitrust policy: A century of economic and legal thinking», in: *The Journal of Economic Perspectives*, 1(2000), pp. 43-60, esp. p. 52; J. CLARK, «Toward a concept of workable competition», in: *American Economic Review*, 30(1940), pp. 241-256; J. W. MARKHAM, «An alternative approach to the concept of workable competition», in: *American Economic Review*, 40(1950), pp. 349-361.

(9) For an overview of the development of US antitrust policy, see W. KOVACIC, C. SHAPIRO, *op. cit.*; A detailed account is A. BARNHART, *The end of reform. New deal liberalism in recession and war*, Vintage Books, New York, 1996.

Luxembourg. An industrial agreement, the ISC was established for political motives, namely to bridge national differences in Western Europe (10). Moreover, alternative and more serious evidence was provided by the rapid growth of cartels in Germany and France and the collaboration of the representatives of the heavy industries with the German National Socialist government and the French Vichy regime, respectively (11).

Introducing competition as a way of life was part of the broader US policy to democratize and re-educate the societies of defeated Germany and Japan after WW II. Correspondingly, US governmental agencies and officials at home and abroad were engaged in promoting democratic values and a pluralistic society model in the American style (12). By the same token, the US government controlled the promotion of a specific American self-image. While US government involvement in propagating their economic-political model abroad originated in the aftermath of WW I, in the early Cold War, growing concern with security policy was reflected in the increasing importance attached to the promotion of a democratic and capitalist society model (13).

Contacts between US and European actors were particularly dense following the end of WW II. This was due to the presence of (a) the US occupation officials in Germany and (b) the American administrators responsible for managing the Marshall Plan (European Recovery Program, ERP) in European countries. Efforts by the US to promote competition as a way of life in post-WW II Europe can be identified within the US occupation of (West) Germany as well as the Marshall Plan administration.

(10) J. GILLINGHAM, *Coal, Steel, and the Rebirth of Europe, 1945-55. The Germans and the French from Ruhr conflict to economic community*, Cambridge University Press, New York et al., 1991, pp. 1-44, esp. pp. 26-28. Cf. also U. NOCKEN, «International Cartels and foreign policy: the formation of the International Steel Cartel 1924-1926», in: C. WURM (ed.), *Internationale Kartelle und Aussenpolitik*, Franz Steiner Verlag, Stuttgart, 1989, pp. 33-82.

(11) M. GINTI, L. MCGOWAN, *op. cit.*, p. 8. For a critical account of the role of actors from industry and business of H. TURNER, *German Big Business and the rise of Hitler*, Oxford University Press, New York, Oxford, 1985.

(12) For a powerful argument of the successful democratization of Germany and Japan see T. SMITH, *America's Mission. The United States and the Worldwide Struggle for Democracy in the Twentieth Century*, Princeton University Press, Princeton, 1994, pp. 146-176.

(13) F. SCHULMANN, *Kalter Krieg und Propaganda. Die USA, der Kampf um die Weltmeinung und die ideale Verbindung der Bundesrepublik Deutschland, 1945-1955*, Wissenschaftlicher Verlag Trier, Trier, 2000, pp. 41-49.

Linked with the democratization of German society, de-concentration and de-cartelisation formed the cornerstones of American occupation policy in Germany. By reorganising the German economy the US government hoped to break the German potential for aggression and to construct a free market economy. A report issued in 1949 by a Committee established by the US Department of the Army to evaluate US policy, provides valuable insight into the American goals of decartelization: '1. elimination of German war potential; 2. termination of the dominance of a few powerful entrepreneurs and financiers in industry; 3. restoration of a sound and democratic economy characterized by competition; 4. fostering of economic and political democracy; and 5. assistance in the economic restoration of Germany, which was also essential for the rest of (Western) Europe' (14).

The centre of the German highly concentrated and cartelized heavy industries was the Ruhr. To secure the source of production inputs, raw materials and energy, coal and steel in particular had been vertically integrated into the so-called *Verbundwirtschaft*. It was only with the establishment of the Bi-zone (joint US and UK occupation) in 1947 that the US occupation administration could directly exercise influence in this specific area of Germany. The instrument for decentralizing and returning to German control the German heavy industries was bipartite Law 75 which was based on decisions reached at the Potsdam conference of 1945 and a series of subsequent British and American directives. However, Law 75 neither specified the mode of implementation, nor did it resolve the controversial question of ownership. Whereas the former was left to regulations, the latter was to be decided in accordance with a freely elected German government. Whereas the UK preferred nationalization, the US, predictably in line with their concept of competition as a way of life, favoured private ownership (15).

The agreement on the establishment of the International Authority for the Ruhr (in which France participated) in December 1948 and the establishment of the Federal Republic in the transition from military to civilian administration in May 1949 made neces-

sary a revision of bipartite Law 75. The result of the revision was tripartite Law 27 which became effective on 16 May 1950, but did not substantially alter the contents of Law 75. It did, however, bestow on the West German government the right to make the ultimate disposition of coal and steel assets (16).

Responsible for the revision of Law 75 and the drafting of Law 27 on the American side was Robert Bowie who headed the office of the general counsel of the first US high commissioner for Germany, John McCloy. Both actors were later involved negotiating the provisions safeguarding competition at the Schuman Plan conference.

A key role in trying to implement the American concept of competition as a way of life in post-war European societies was assumed by the European Cooperation Administration (ECA), the organization responsible for managing the Marshall Plan on the US side. This fitted in with the larger objectives of the ERP, namely (a) to promote the economic and political integration of Europe in order to enlist a democratic and capitalist (Western) Europe in the US fight against Soviet communism; and (b) to avoid the revival of centralised and nationalised economic structures in Europe.

To obtain American aid, recipient states of ERP funds were not only required to collaborate and formulate a joint economic programme, but they also had to commit to introducing and promoting policies that would conform to the concept of a free market economy. The ECA missions in Europe pursued a number of strategies to implement a greater public understanding of competition policy. Among these strategies were (a) efforts to enlist the support of trade unions in their campaign to eliminate restrictive business practices in various European countries (17); and (b) the funding of expert study trips to the US.

In summer 1950, a commission of academic experts and practitioners from various West German ministries travelled to the US to get a first-hand impression and deepen their knowledge of US antitrust law. Among other venues, the West German committee attended lectures at the Federal Trade Commission, the US government agency which was set up in 1914 to promote free and

(14) A. DIEGMANN, 'Decentralization policy in the Ruhr coal industry', in: J. DIRSZENDORF, A. FROHN and H. RUPPRECHT (eds.), *American Policy and the Reconstruction of Germany*, Cambridge University Press, Washington, Cambridge, 1993, pp. 197-215, esp. p. 205.
(15) A. DIEGMANN, *op. cit.*, pp. 197 and 201-207.

(16) *Ibid.*, pp. 207-209.
(17) 840 054/4-2550, *Office memorandum US government, in: *US National Archives and Records Administration (NARS)*, Record Group (RG) 59.

fair competition in interstate commerce. They met with American academics, politicians and practitioners engaged in the formulation and administration of competition policy. Also on the agenda of the German commission was a meeting with Heinrich Kronstein (18).

Kronstein was a lawyer and an émigré of German background, who had served as a consultant to the US Ministry of Justice during WW II. As a law professor at Georgetown University he had established close links to German academics including Walker Hallstein (who in 1950 became the first secretary of state for Foreign Affairs in the federal chancellery (19) and Hermann Mosler of the University of Frankfurt. Both Hallstein and Mosler had spent time as visiting professors at Georgetown University (20). All three actors were involved in the discussion of competition policy at the Schuman Plan negotiations.

A year later, a French study group embarked on a study trip to the US. With the study trips, the ECA pursued a two-fold strategy. Not only should the trips stir greater public interest in the idea of competition, but the experts and practitioners were expected on their return to apply their experience and know-how to national legislation to enhance and safeguard competition (21).

III. - COMPETITION POLICY IN WEST GERMANY AND FRANCE

In the Federal Republic, the ECA together with the US High Commission required the introduction of laws protecting free competition. US officials discussed various antitrust bills with West

(18) Vorläufiger Bericht der deutschen Kommission zum Studium von Kartell- und Monopolfällen in den Vereinigten Staaten, Beilage zum Bundesanzeiger Nr. 250, 29.12.1950, in: *Auswertiges Amt*, Politisches Archiv, Sekretariat für die Fragen des Schuman Plans (AAPA/B15), Nachlass Prof. Dr. Schlochauer, 340, Fiche 3.

(19) The federal ministry for Foreign Affairs was only established in March 1951.

(20) School of Foreign Service Georgetown University, Press Conference, October 1948, in: *Bundesarchiv Koblenz*, Nachlass Walter Hallstein (N 1286), 2003. On Hallstein, cf. W. LOTH, W. WALDORF and W. WASSERUS (eds.), *Walter Hallstein. Der vergessene Europäer?*, Europlische Schriften 73, Europa Union Verlag, Bonn, 1995. See also: 'Leiter Mosler to Kronstein', 06.12.1949, in: *Archiv der Max-Planck-Gesellschaft Berlin* (MPG-Archiv), III. Abt., Nachlass Hermann Mosler (ZA 139), Ordner 5.

(21) For France, see K. PRUNSESKY, 'Re-educating European management: the Marshall Plan's campaign against restrictive business practices in France, 1949-1953', in: *Business and Economic History*, [1996], pp. 267-274.

German government representatives and experts. Between 1949 and 1951, for example, fourteen draft bills were considered. West Germany eventually enacted its antitrust bill in 1957 (22). The discussion of the antitrust bill was tied to the talks on the abdication of the Occupation Statute.

Participating in those parts of the negotiations that dealt with de-concentration and decartelisation were, among others, Hallstein, Mosler and Carl Friedrich Ophüls, a honorary professor of law at Frankfurt University and an official in the German federal ministry for Justice (23). Like Hallstein and Mosler, Ophüls took part in the Schuman Plan negotiations. Among the American negotiators was Robert Bowie.

West German society had not incorporated competition as a way of life. However, academics, political thinkers and politicians alike contributed to the debate on competition. The German ordoliberal school, developed in the 1930s, among others, by Franz Böhm, Walter Eucken and Hans Großmann-Doerth at the University of Freiburg, tried to reconcile the idea of a free market economy (*laissez-faire* liberalism) with limited intervention by the state (economic dirigisme) (24). Correspondingly, the ideas of ordoliberalism shaped the emergence of the social market economy (*soziale Marktwirtschaft*), a concept that saw its breakthrough with the 1949 election campaign of the Christian Democratic Union and helped trigger the German *Wirtschaftswunder* of the 1950s (25). In short, West German antitrust legislation emerged through a transatlantic discourse on competition policy. Central to its conception, however, was the combination of US antitrust law with domestic ordoliberal economic thought (26).

(22) L. MURACH-BRAND, *Antitrust auf deutsch. Der Einfluß der amerikanischen Alliierten auf das Gesetz gegen Wettbewerbsbeschränkungen (GWB) nach 1945. Beiträge zur Rechtsgeschichte des 20. Jahrhunderts*, Mohr Siebeck, Tübingen, 2004, pp. 114-163.

(23) For these contacts, see *Nachlass Wilhelm Greve*, Bd. 56, 57, in: AAPA, Mosler and Bowie are recorded: *Auswertiges Amt*, Delegation für die Ablesung des Besatzungsstatuts, 24.10.1951, Tgb. Nr. 111/51: Kurze Niederschrift über die 1. Besprechung des Unterausschusses für die Allgemeine Vereinbarung am 24. Oktober 1951, in: *Nachlass Greve*, Bd. 57.

(24) An excellent introduction into ordoliberalism is D. GERBER, *Law and competition in twentieth century Europe: protecting Prometheus*, Clarendon Press, Oxford, 1998, pp. 232-265.

(25) Cf. N. GOLDSCHMIDT, 'Alfred Müller-Armack and Ludwig Erhard: Social Market Liberalism', in: *Freiburger Diskussionspapiere zur Ordnungsökonomik*, 4/12: http://www.walker-eucken-institut.de/publikationen/04_12bw.pdf.

(26) Cf. L. MURACH-BRAND, *op. cit.*, pp. 101-112, 198 et s. and 216-219.

In France, too, the ECA encouraged strongly the introduction of laws protecting free competition to guarantee that funds were used effectively. While France had developed governmental policies against restrictive agreements, these policies did not correspond to the American economic, political and social-moral goals of antitrust law. An initial legal instrument to prohibit concerted action, article 419 of the French penal code (1810) had been enacted in response to concerns over the price increases that had accompanied the Napoleonic wars rather than to foster competition as a way of life. Post-WW II French competition law was based on an ordinance (1945) which introduced means of price control to combat post-war inflationary pressure (27). In the late 1940s, the French government began to consider broader anticartel legislation.

One antitrust bill was drafted by Jean Monnet and his co-workers in the French Planning Commission which oversaw the reconstruction and modernisation of the French post-war economy. The bill prohibited all agreements in restraint of trade. According to an American official, «the only governmental draft which can accurately be termed an antitrust measure» (28), the bill proved too far-reaching for the French ministry of Finance and business representatives. Equally, subsequent proposals the French government introduced in 1950-51 were unsuccessful although they were less affirmative of the competitive principle in seeking to control rather than suppress cartels (29). Finally, in 1953, the French government enacted a decree that added competition law principles to the price ordinance of 1945.

IV. - THE EUROPEANIZATION OF THE DISCUSSION ON COMPETITION POLICY AT THE SCHUMAN PLAN CONFERENCE

On May 9th, 1950, in a press conference at the Quai d'Orsay, French foreign minister Robert Schuman proposed to pool the coal and steel industries of France and West Germany under a joint

high authority» (30). This was important for two reasons: First, the area of coal and steel was regarded symbolic in improving the acrimonious Franco-German relationship. Second, the declaration was also expected by its originators to establish the basis and framework for what eventually was to become a European political union. In the period following the Schuman Plan declaration, France, the Federal Republic of Germany, Italy and the Benelux countries participated in multinational negotiations in Paris. A year later, on April 18th, 1951, these six countries signed the treaty establishing the ECSC. The High Authority (HA) was finally created in 1952, after the six member-states had ratified the ECSC treaty. The period of the Schuman Plan conference can be divided into two basic periods in which the institutional and the economic provisions of the treaty were negotiated, respectively.

The first full draft treaty, introduced by the French delegation on 9 November 1950, contained two articles (41 and 42) that addressed the problem of cartels, concentrations and market-dominating enterprises. The legislative history of articles 41 and 42 is complex and cannot be fully recounted here. However, adopted later as articles 65 and 66 of the ECSC treaty, the provisions provided ample ground for debate on formulating competition policy in the limited area of coal and steel.

The provisions were the product of the unofficial collaboration of French and American actors. An informal, yet important role in the very first draft of the articles was assumed by Robert Bowie (31). In sketching the draft articles, Bowie, who prior to his assignment with the US High Commission was a law professor at Harvard University, applied his knowledge and understanding of American antitrust law to the Schuman Plan (32). Bowie owed his involvement in the Schuman Plan negotiations first to the friendship that high commissioner McCloy entertained with Monnet, the head of the French delegation. Second, Bowie became involved because of the conjunction between the proposed treaty articles and the simultaneous reorganisation of the German heavy industries.

(27) D. GARRE, *op. cit.*, pp. 183-189.

(28) 851.064/2-250, *US embassy Paris to US department of State*, in: NARA, RG 59.

(29) K. PEDERSEN, *op. cit.*, pp. 268-270. M. KIRPINSO, *Zwischen Kartellen und Konkurrenz: der Schuman-Plan und die Ursprünge der europäischen Einigung 1944-52*, Duncker und Humboldt, Berlin, 1996, pp. 156-164.

(30) La déclaration du 9 Mai 1950, in: P. FOSTRAINE, *Une idée neuve pour l'Europe. La déclaration Schuman - 1950-2000* - http://europa.eu.int/comm/publications/books/leu_documentation/04/text07_fr.htm#DECLARATION.

(31) 850.33/12-950, *Telegram US high commission for Germany Frankfurt to US secretary of State*, in: NARA, RG 59.

(32) B. LEUCHT, *Interview with Robert R. Bowie*, Baltimore, MD, USA, 13.7.1999.

Bowie's attempt in early October 1950 to enforce Law 27, had met strong opposition by the West German government. Not only had the regulations to Law 27 fixed the immediate break-up of six steel corporations, among other things, but the federal government had not been consulted. It was the West German request for co-determination in the enforcement of the reorganization of the Ruhr that led federal chancellor Konrad Adenauer to threaten the Allied high commissioners to call back the West German delegation from the Schuman Plan negotiations. The West German position vis-à-vis the Allies had changed considerably following US secretary of State Dean Acheson's announcement to rearm the Federal Republic in September 1950. Adenauer made the resolution of the Ruhr problem a prerequisite to the successful completion of the Schuman Plan. Likewise, Monnet in early December 1950 expressed concerns that the French National Assembly would reject the draft treaty unless the Ruhr problem had been resolved. Acceptance of the draft treaty thus became dependant on the resolution of the problem of German de-concentration and de-cartelisation (33). In other words, this conjunction resulted in a Europeanization of the debate on reorganizing the German heavy industries.

A variety of American and European actors were involved in working on the antitrust provisions of the Schuman Plan treaty. Like Bowie, William Tomlinson worked for the US government. Tomlinson was in charge of financial and trade affairs at the Marshall Plan mission to France and he was the financial attaché at the US embassy in Paris. A co-worker of Tomlinson's, Stanley Cleveland, also participated in the negotiations (34). Another American actor at the conference was the lawyer George Ball who served as an advisor to Monnet and the French delegation (35). Among the French actors were Pierre Uri and Etienne Hirsch, both collaborators of Monnet in the French Planning Commission. Also involved

(33) K. SCHWARZ, 'Ein Akt konstruktiver Staatskunst' – die USA und die Anfänge des Schuman Plans, in: K. SCHWARZ (ed.), *Die Anfänge des Schuman Plans 1950/51. Beiträge des Kolloquiums in Aachen 28. bis 30. Mai 1986*, Baden-Baden, 1988, pp. 211–239; J. GILLINGHAM, *op. cit.*, pp. 266–283.

(34) S.L. TENNYSON, *Interview Stanley Cleveland*, Fondation Jean Monnet pour l'Europe, Lausanne, 12 juin 1981.

(35) B. LEUCHT, 'George W. Ball, Jean Monnet and the founding of the European Coal and Steel Community – A case study in the importance of transatlantic relations', in: W. KARPMAN, H. SLETTERDAHL, MACPHERSON (eds.), *New Perspectives in Transatlantic Studies*, University Press of America, Lanham, New York, Oxford, 2002, pp. 159–170.

in the drafting were members of the West German team, including Walter Hallstein, the head of the West German delegation, Hermann Mosler, and Carl Friedrich Ophüls. Another German actor was Robert Krawinkel of the German federal ministry of Justice. From the US, law professor Heinrich Kronstein informally advised the West German delegation on cartel questions. The individual actors mentioned here were part of a transatlantic network on competition policy (36).

Although not officially involved in the Schuman Plan negotiations, American actors contributed to the discussions on competition policy. Repeating the official US position in a telegram to American embassies in Europe, on 8 December 1950, US secretary of State Dean Acheson stressed that the US did 'not expect an espousal of virtues of competition and free enterprise in abstract. [...] emphasis should be placed on [the] idea that now [the] system is directed above all to bring change to [the] present ossified structure, to contribute to these basic industries to [the] creation of a dynamic, expanding economy' (37).

In the midst of meetings touching on competition policy, George Ball composed a memorandum for Monnet. The memorandum of 6 December 1950 provides an insight into the rationale of articles 41 and 42. In starting, Ball reiterated the politico-economic concept underlying the Schuman Plan: 'The essence of the Schuman Plan is the establishment of a single market and the creation within that market of conditions which will serve to bring about maximum productivity, full employment and low costs' (38).

To realise this concept, Ball continued, the HA would have to be given the powers described in articles 41 and 42 of the draft treaty. Article 41 declared invalid cartels. According to Ball, it was designed 'to prevent the fixing of prices, the control of production and the division of market by agreements'. Article 42 supplemented article 41 and made the establishment of concentrations dependant

(36) The network is introduced in B. LEUCHT, *Transatlantische Politikstrategie: Kulturtransfer und Schuman-Plan 1950/51. Conference proceedings*, 'Transatlantischer Kulturtransfer im Kalten Krieg', Zentrum für Höhere Studien, Universität Leipzig (forthcoming 2006).

(37) 950.33/12-850. *Telegram US secretary of State to select US embassies in Europe, in: NARA, RG 59.

(38) Fondation Jean Monnet pour l'Europe, Lausanne, Archives de Jean Monnet (AMG), Le plan Schuman (1950-52), 10/6/2bis.

on the authorization of the HA. It was conceived to prevent such mergers and consolidations which would initiate either a horizontal development resulting in a market-dominating enterprise or a vertical combination of enterprises leading to discriminatory pricing (39).

The Ball memorandum was forwarded by Monnet to Hallstein who in turn used it to explain to a West German inter-ministerial committee on the Schuman Plan what was then the French delegation's approach to articles 41 and 42. Asked about the role of «the Americans» in the negotiation process, Hallstein acknowledged that they made their position known. As to competition policy, he added that the Americans sought to protect consumers and prevent the concentration of power (40).

American actors at the Schuman Plan conference reaffirmed the significance of the competitive principle. Their terminology mirrored the contemporary US discussion on antitrust policy. Ball's memorandum, for example, resembled the language used in the domestic debate over the US Employment Act of 1946. Unfortunately, it is not possible to precisely identify the sources Ball used to compose his memorandum. Ball was a lawyer and a practitioner and his private papers do not provide a definite answer to the question. Ball's reference to «maximum productivity, full employment and low costs», however, evoked the language of the US debate on full employment. To achieve «maximum employment», the 1946 act declared, the US federal government was to «promote free competitive enterprise and the general welfare» (41). Whilst New Deal policy makers had aimed at reducing widespread unemployment since the Great Depression, full employment became a primary economic policy goal of New Deal liberals only during WW II. Proponents of full employment argued that consumption – and not production – was the key to economic growth. Accordingly, full employment would create the largest possible body of consumers (42). Corresponding to this shift in the goals of US political economy, American

actors at the Schuman Plan conference emphasised the need for consumer protection.

Even if they did not share the exact American understanding of competition, European actors adopted the American rhetoric of free competition. An example is provided by the representative of the French iron and steel syndicate, Alexis Aron. Principally, Aron regarded free competition in the steel industry as «unthinkable» (43). In a discussion with William Tomlinson and another ECA official, however, he used the rhetoric of consumer protection to justify agreements rather than free competition. According to Aron, agreements among industrialists would result in a more efficient utilization of the industry and ultimately benefit the consumer (44). This of course was not what American government representatives had in mind.

In talks with American officials, Monnet and Hallstein conveyed it would be extremely difficult to secure the acceptance and ratification of the draft treaty with its anti-cartel features. Central to their concerns was the prevalent fear that the Schuman Plan's introduction of the competitive process without any interference by producer agreements would lead to chaos. As Monnet explained, one was «not dealing so much with organizations seeking 'domination' as with groups which had been used to and were seeking 'protection'» (45). Hallstein pointed out that an «over emphasis on the need of organization» was an «important element in German psychology» (46). Both Monnet and Hallstein understood the American notion of competition as a way of life. At the same time, they were aware of the lack of the competitive principle in the French and German societies and the problems this implied for realising the Schuman Plan.

Contributing to the discussion on the different American and European mentalities on free competition was one of the most fervent American critics of the Schuman Plan, Clarence Randall, a former steel consultant to the ECA and the president of Inland Steel. In a 1951 article on the Schuman Plan negotiations, entitled «European steel: Monopoly in the making», he wrote: «The Ameri-

(39) AMG 10/6/26a.

(40) 7 December 1950. AAPA/B 15/Bd. 5/Fiche 2/p. 93.

(41) 15 USC 1021. Sec. 2. See Council Of Economic Advisors, «Third Annual Report to the President», in: *Papers of Clark Clifford*, Box 37, File State of the union address: Economic program, 1948, Truman Presidential Library.

(42) A. BRINKLEY, *op. cit.*, pp. 227-284, esp. p. 229.

(43) 850.33/11-2550. *Telegram US embassy Paris to US secretary of State, in: NARA, RG 59.

(44) 850.33/12-2150. *Telegram US embassy Paris to US secretary of State, in: NARA, RG 59.

(45) 850.33/11-2150. *Telegram US embassy Paris to US secretary of State, in: NARA, RG 59.

(46) 850.33/11-2150.

can influence was thrown strongly behind provisions comparable to the Sherman Act, as it should have been. But against us were all of the traditional forces of European business practices which have always sought price agreements under the complacent eye of the government. They really know no other way of life in Europe» (47).

Randall then addressed the theme of diverging European and American understandings of «free market»: In Europe, free market designated an area «in which the price is identical for all» rather than an area in the American understanding which would be characterised by equal access for all producers. Randall concluded that this «chasm between their thinking and ours makes all discussion of the cartel aspects [...] extremely difficult» (48). He forwarded his article to Hallstein who responded and rebutted the article. But Hallstein agreed with Randall on the different mind-sets of European and American business men. And he continued: «Free competition – I venture to say this with assurance – is indeed the economic core of the Schuman Plan. You should not compare its rules with American rules. Measured by American rules, it may contain too many governmental competences. But measured by European rules such as have prevailed up to now, it contains a drastic reduction of governmental competences» (49).

V. – CONCLUSION

It has been argued that traces of a distinctive European mentality on free competition can be shown in the rejection, or neglect, of the competitive principle by the West German and French societies rather than their endorsement of competition as a way of life. Yet there was a discourse on competition policy in West Germany and France that preceded the Schuman Plan conference and the ECSC treaty. The debate on laws safeguarding competition took place under the auspices of the US administration agencies in Europe. More important, the bilateral transatlantic discussions of competition policy made possible a partial transfer of American rhetoric and ideas to Europe. However, domestic economic thought

also impacted on the understanding of competition and the formation of national and European legal provisions. Although post-WW II European societies did not share the cultural concept of competition as a way of life, individual European actors identified broadly with the competitive principle.

Central to the partial transfer of American ideas and rhetoric to the Schuman Plan was the formation of transatlantic policy networks in the context of the US occupation and US economic assistance in Europe. Last, the Europeanization of the debate on competition policy at the Schuman Plan negotiations preceded the creation of supranational European institutions which have developed to function as common European competition policy actors.

(47) C. RANDALL, «European steel: Monopoly in the making», in: *Atlantic Monthly*, October 1951, pp. 34-38.

(48) *Ibid.*, p. 36.

(49) «Letter W. Hallstein to C. Randall, 19.10.1951, in: Archives Nationales, 81 AJ 157.

**TEXT
BOUND INTO THE
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U

COMPARATIV

Leipziger Beiträge zur Universalgeschichte und vergleichenden Gesellschaftsforschung

Brigitte Leucht

Netzwerke als Träger grenzüberschreitenden Kulturtransfers. Transatlantische Politiknetzwerke bei der Schuman-Plan-Konferenz 1950/51

Einleitung

In einer Pressekonferenz am 9. Mai 1950 schlug der französische Außenminister Robert Schuman vor, die französische und die westdeutsche Kohle- und Stahlproduktion zusammen zu legen und einer gemeinsamen supranationalen Hohen Behörde zu unterstellen. Die Tragweite der Schuman-Plan-Erklärung hing zum einen damit zusammen, dass der Kohle- und Stahlbereich eine zentrale Stellung in der Kriegswirtschaft (Waffenproduktion) einnahm. Die Entscheidung, gerade diesen Bereich als Basis der deutsch-französischen Zusammenarbeit zu wählen, hatte damit hohe symbolische Bedeutung. Zum anderen enthielt der Schuman-Plan die Zielsetzung, die Grundlage einer künftigen europäischen politischen Union zu sein. Die Erklärung des französischen Außenministers richtete sich an die Bundesrepublik Deutschland, die Teilnahme stand jedoch auch anderen interessierten westeuropäischen Staaten frei. Am 20. Juni 1950 nahmen Frankreich, die Bundesrepublik, die Benelux-Staaten und Italien in Paris internationale Verhandlungen auf. Am 18. April 1951 unterzeichneten die sechs Staaten den Vertrag zur Gründung der Europäischen Gemeinschaft für Kohle und Stahl (EGKS).

Hier wird davon ausgegangen, dass der EGKSV das Produkt eines komplexen Verhandlungsprozesses einer Vielzahl von individuellen und kollektiven, von privaten und öffentlichen (staatlichen) Akteuren beiderseits des Nordatlantik ist.¹ Davon ausgehend verfolgt der Aufsatz zwei Zielsetzungen:

Erstens möchte ich zeigen, dass das Konzept des Politiknetzwerks, welches aus den Sozialwissenschaften stammt, für die Historiografie der frühen europäischen Integrationsgeschichte bzw. der Geschichte der transatlantischen Beziehungen nach dem Zweiten Weltkrieg nutzbar gemacht werden kann. Politiknetzwerke können eine wichtige Rolle als Träger

grenzüberschreitenden Kulturtransfers spielen, der in diesem Band im Mittelpunkt steht.

Zweitens möchte ich die transatlantischen Politiknetzwerke vorstellen, die 1950/51 an den Schuman-Plan-Verhandlungen teilgenommen bzw. den Verhandlungsverlauf geprägt und beeinflusst haben. Der Schwerpunkt liegt hier darauf, deren Umfang und Strukturen zu skizzieren und in den größeren Rahmen der transnationalen und transatlantischen Netzwerke einzubetten. Die internen Funktionsweisen spezifischer Netzwerke und die Kooperation bzw. Überlappung von Netzwerken werden hier nicht näher beschrieben. Auch dem Einfluss spezifischer Netzwerke auf (a) die Formulierung von themenvorgebenden und themenbestimmenden Schriftstücken wie etwa internen Arbeitspapieren oder Tagesordnungen für Besprechungen und (b) auf die Verhandlungen wird nicht nachgegangen. Die vorliegende Netzwerk-Rekonstruktion gründet auf neuen Primärquellen und gedruckten Quellen mit innovativen Fragestellungen.

Forschungsrahmen

Die Geschichte der frühen europäischen Integration hat die Schuman-Plan-Verhandlungen als eine internationale Konferenz europäischer Staaten beschrieben.² Die Schuman-Plan-Konferenz kann in mehrere Phasen unterteilt werden, in denen bestimmte Teile des Vertrags ausgearbeitet wurden. Historiografische Darstellungen haben dieses chronologische und thematische Schema übernommen. So gibt es eine Reihe von Konferenzbeiträgen und Aufsätzen, die den institutionellen Aspekten des Vertrags gewidmet sind.³ Daneben befassen sich andere Beiträge mit den wirtschaftlichen Artikeln des EGKSV.⁴ Die Geschichte der Entstehung der wirtschaftlichen Vertragsbestimmungen wird zudem mit der Geschichte der Reorganisation der westdeutschen Schwerindustrie nach dem Ende des

² Z. B. D. Spierenburg/R. Poidevin, *The history of the High Authority of the European Coal and Steel Community: Supranationality in operation*. London 1994.

³ Vgl. C. F. Ophüls, *Zur ideengeschichtlichen Herkunft der Gemeinschaftsverfassung*; in: E. von Caemmerer/H. Schlochauer/E. Steindorff (Hrsg.), *Probleme des europäischen Rechts*. Festschrift für Walter Hallstein zu seinem 65. Geburtstag, Frankfurt a. M. 1966, S. 387-413; H. Kisters, *Die Verhandlungen über das institutionelle System zur Gründung der Europäischen Gemeinschaft für Kohle und Stahl*; in: K. Schwabe (Hrsg.), *Die Anfänge des Schuman Plans 1950/51*, Baden-Baden 1988, S. 73-102.

⁴ Vgl. M. Kipping, *Zwischen Kartellen und Konkurrenz Der Schuman-Plan und die Ursprünge der europäischen Einigung 1944-1952*, Berlin 1996 (Schriften zur Wirtschafts- und Sozialgeschichte 46).

¹ Der Aufsatz ist Teil der an der University of Portsmouth entstehenden Doktorarbeit zum Thema "Transatlantic policy networks and the formation of the European Coal and Steel Community 1950/51".

Zweiten Weltkriegs verknüpft.⁵ Der englische Wirtschaftshistoriker Alan Milward, der sich in seiner Forschung vor allem auf Regierungsquellen stützt, hat einen umfassenden Erklärungsansatz für die europäische Integration entwickelt, bei dem nahezu ausschließlich die nationalen Regierungen als Motor der europäischen Integration erscheinen.⁶ Dieser Zugang zur Politikentwicklung vernachlässigt jedoch jeglichen transnationalen Einfluss. Demgegenüber haben andere Historiker einen transnationalen Zugang zur europäischen Integration sowie die Untersuchung transnationaler Netzwerke auf europäischer Ebene beifürwortet.⁷ Zusammenfassend lässt sich festhalten, dass die europäische Integrationsgeschichte die Entstehung des EGKSV aus einem intergouvernementalen Blickwinkel rekonstruiert hat. Die Rolle einzelner und kollektiver Akteure, privater und öffentlicher (staatlicher) Akteure in der Vorbereitung der Verhandlungen und bei den Verhandlungen selbst hingegen wurde bislang kaum berücksichtigt. Ebenso hat es die Historiografie der europäischen Integration versäumt, den Beitrag von US-amerikanischen Akteuren und Netzwerken bei der EGKS-Gründung entsprechend zu bewerten.

Die Historiografie der transatlantischen Beziehungen hat den „amerikanischen Einfluss“ auf die Schuman-Plan-Verhandlungen untersucht. So lässt sich die Schuman-Plan-Konferenz als Ergebnis der neuen amerikanischen Hegemonie über Westeuropa nach 1945 verstehen. Diese These vertritt insbesondere Geir Lundestad, demzufolge sich das amerikanische Imperium gegenüber anderen Imperien dadurch auszeichnete, dass es „auf Einladung“ errichtet wurde („empire by invitation“).⁸

Lundestad folgend, propagierten und förderten die USA in ihrem Kampf gegen den sowjetischen Kommunismus die Bildung eines demokratischen und kapitalistischen Westeuropa in einem atlantischen Rahmen.

⁵ Vgl. V. Berghahn, *Unternehmer und Politik in der Bundesrepublik*, Frankfurt a. M. 1985; J. Gillingham, *Coal, Steel, and the Rebirth of Europe, 1945–55*. The Germans and the French from Ruhr conflict to economic community. New York u. a. 1991; A. W. Lovett, *The United States and the Schuman Plan. A study in French diplomacy*, in: *Historical Journal*, 39.2 (1996), S. 425–455.

⁶ Vgl. A. Milward, *The European Rescue of the Nation-State*, London 1994.

⁷ W. Kaiser, *Transnational Western Europe since 1945: integration as political society formation*, in: ders.; P. Starke, (Hrsg.), *Transnational European Union: Towards a political space*, London 2005, S. 17–35.

⁸ Vgl. G. Lundestad, „Empire“ by integration. *The United States and European integration, 1945–1997*, Oxford 1998. Vgl. weiter zur Unterscheidung „formales“ versus „informales“ Imperium Volker Berghahn, *Introduction: German big business and the quest for a European economic empire in the twentieth century*, in: ders. (Hrsg.), *Quest for economic empire: European strategies of German big business in the twentieth century*, Providence/Oxford 1996, S. 1–33, S. 4.

Die europäische Integration sollte das atlantische Bündnis ergänzen und stärken. Andere Autoren haben diese These insofern modifiziert, als sie herausgearbeitet haben, wie z. B. Frankreich und andere Länder das amerikanische Imperium aktiv (mit)gestaltet haben.⁹ Wie auch immer einzelne Autoren das amerikanische Imperium in der frühen Nachkriegszeit bewerten, die Schuman-Plan-Konferenz wurde stets als intergouvernementale Austragung nationaler Interessenskonflikte dargestellt und nicht als transnationale Kooperation europäischer und US-amerikanischer Akteure. Pascaline Winand hat in ihrer 1993 erschienenen Monografie „Eisenhower, Kennedy, and the United States of Europe“ das „atlantische Netzwerk“ über die Regierungsebenen hinaus rekonstruiert. Winands Forschungsinteresse gilt jedoch vorwiegend der Zeit nach der Präsidentschaft Trumans.¹⁰ Andere Werke, die über die Regierungsebene hinausgehen, beschäftigen sich mit einzelnen transatlantischen Schlüsselfiguren wie dem Franzosen Jean Monnet und dem US-amerikanischen Hochkommissar für Deutschland, John J. McCloy.¹¹ In seiner Monografie „America and the intellectual Cold Wars in Europe“, die sich ausgehend von der Biografie Shepard Stones mit der kulturellen Komponente des Kalten Krieges befasst, plädiert Volker Berghahn für eine gründlichere Erforschung der sozio-kulturellen Dimension des Kalten Krieges. Dazu gehört auch die umfassende Rekonstruktion von Netzwerken aus Bankleuten und anderen Akteuren des wirtschaftlichen Lebens, Beamten, Akademikern und Intellektuellen.¹²

⁹ Vgl. W. Hitchcock, *France restored. Cold War diplomacy and the quest for leadership in Europe*, Chapel Hill/London 1998.

¹⁰ P. Winand, *Eisenhower, Kennedy, and the united states of Europe*, New York 1993.

¹¹ T. Schwartz, *America's Germany*. John McCloy and the Federal Republic of Germany. *Cambridge/MA* und London 1991; K. Bird, *The chairman*. John J. McCloy. *The making of the American establishment*, New York et al. 1993; D. Brinkley/C. Hackett (Hrsg.), *Jean Monnet: The path to European unity*. New York 1991; F. Duchene, *Jean Monnet. The first statesman of interdependence*. New York und London 1994; H. Schröder, *Jean Monnet und die amerikanische Unterstützung für die europäische Integration 1950–1957*, Frankfurt a. M. u. a. 1994.

¹² Vgl. V. Berghahn, *America and the intellectual Cold Wars in Europe*. Shepard Stone between philanthropy, academy, and diplomacy. Princeton und Oxford 2001, S. 284. Berghahn bezieht jedoch weder das Problem, noch die Historiografie der europäischen Integration mit ein.

Transnationale Netzwerke und transatlantische Politiknetzwerke

Netzwerke sind dann transnational, wenn zumindest einer der beteiligten Akteure eine nicht-staatliche Funktion innehat bzw. weder die Regierung eines Staates, noch eine internationale Organisation vertritt.¹³ Transnationale Netzwerke transportieren und mobilisieren Informationen, Wissen und Werte über nationale Grenzen hinaus.¹⁴ Sind diese Netzwerke aus Akteuren beiderseits des Nordatlantiks zusammengesetzt, so können sie darüber hinaus als transatlantische Netzwerke gelten.

Das innerhalb der Sozialwissenschaften entwickelte Netzwerk-Konzept hat drei Ansätze hervorgerufen, wobei jener des Politiknetzwerks (*policy network*) zum primären Instrument der Netzwerkanalyse in den Politikwissenschaften geworden ist. Die verwandten Netzwerk-Ansätze der *epistemic community* und der *advocacy coalition* sind enger definiert als jener des *policy network*.¹⁵ Es geht hier jedoch ausschließlich darum, das Politiknetzwerk-Konzept für eine historiografische Arbeit nutzbar zu machen. Das heißt, dass konzeptuelle und terminologische Anleihen beim Netzwerk-Konzept gemacht werden, wenn es die Primärquellen nahelegen. Damit klammere ich die Schlüsselprobleme der politikwissenschaftlichen Debatte zum Netzwerk-Konzept aus.¹⁶ Politiknetzwerke können als eine Einheit öffentlicher, quasi-öffentlicher und privater Akteure verstanden werden, die voneinander abhängig sind und auf Grund dieser Abhängigkeit Beziehungen zueinander pflegen.¹⁷ Der Politiknetzwerk-Ansatz bietet ein theoretisches Gerüst an, mit dessen Hilfe Entscheidungs(findungs)prozesse analysiert werden können, die eine Vielzahl von individuellen und kollektiven Akteuren einbeziehen. Er anerkennt und erfasst die komplexen Beziehungen zwischen einzelnen staatlichen Abteilungen und

Organisationen, Interessensvertretungen bzw. -gruppen und anderen Gruppierungen, die den politischen Entscheidungsprozess mitbestimmen. Der Ansatz ist bezüglich seiner Anwendbarkeit auf politische Prozesse in der heutigen EU nicht unumstritten, wobei argumentiert wurde, die Entscheidungsprozesse in der EU zeichneten sich durch ein zu hohes Ausmaß an Fluidität und Komplexität aus.¹⁸ Zumindest bietet der Politiknetzwerk-Ansatz das Potenzial, politische Entscheidungsprozesse über das nationale Paradigma hinaus zu verstehen, welches die europäische Integrationsgeschichte so lange dominiert und rachsichtig geprägt hat. Der Begriff des Politiknetzwerks hat gegenüber dem einfachen Netzwerk-Begriff, den etwa Pascaline Winand ihrer Diskussion eines „atlantischen Netzwerks“ zu Grunde legt, mindestens zwei Vorteile: Erstens verbindet Politiknetzwerk terminologisch und konzeptuell die Ebene der Akteure (Netzwerk) mit der inhaltlichen Ebene (Politik). Bei den Schuman-Plan-Verhandlungen kam es sowohl auf der Ebene der Akteure als auch auf inhaltlicher Ebene zu transatlantischer Zusammenarbeit bzw. Auseinandersetzung. Politiknetzwerke trachten danach, bestimmte Interessensbereiche zu gestalten und ihre kollektiven Vorstellungen innerhalb dieser Bereiche zu verwirklichen.

Zweitens lässt sich der Politiknetzwerk-Begriff damit in die Logik des Kulturtransfers einordnen, denn auch das Konzept des Kulturtransfers betont die Verknüpfung von Akteuren und Inhalten. Kulturtransfer ist ein dynamischer Prozess, der (a) die Ausgangskultur, (b) die Vermittlungsinstanzen und (c) die Zielkultur miteinander verbindet.¹⁹ Das Politiknetzwerk-Konzept und die Kulturtransferforschung ergänzen und befruchten einander.

Bei der Rekonstruktion von Politiknetzwerken stehen die Vermittlungsinstanzen und -instanzen im Mittelpunkt. Das Interesse gilt hier den transatlantischen Politiknetzwerken als Mittler kulturellen Transfers. Die Objekte, Praktiken, Texte, oder allgemeiner, die Produkte des Kulturtransfers, welche die Akteure und Netzwerke übertragen bzw. sich angeeignet haben, stehen zwar nicht im Mittelpunkt, müssen aber gerade wegen der Verknüpfung von Akteuren und Inhalten angerissen werden.²⁰ Bei den Schuman-Plan-Verhandlungen ging es darum, eine politisch-wirtschaftliche Ordnung für den späteren EGKS-Raum herzustellen. Die Politikbe-

¹³ Th. Risse-Kappen, *Cooperation among democracies The European influence on U.S. foreign policy*, Princeton 1995, S. 3.

¹⁴ Vgl. M. Betsill, H. Bulkeley, *Transnational Networks and Global Environmental Governance: The Cities for Climate Protection Program*, *International Studies Quarterly* 48 (2004), S. 471-493, hier S. 474.

¹⁵ Für eine konzise Darstellung der verschiedenen Ansätze s. hervorragend K. Heird-Laureote, *Transnational networks. Informal governance in the European political space*, in: Kaiser/Starré, *Transnational European Union* S. 36-60.

¹⁶ Es handelt sich u.a. um die Frage, ob die Träger oder die Strukturen einen entscheidenden Einfluss auf die Politikentwicklung haben; um das Verhältnis von Politiknetzwerk und -ergebnis; um mögliche Klassifizierungen und Ebenen der Analyse uaf. siehe D. Marsh, *The development of the policy network approach*, in: ders., *Comparing policy networks*, Buckingham 1998, S. 3-17, hier S. 13-16.

¹⁷ Vgl. J. De Bruijn/E. ten Heuvelhof, *Policy networks and governance*, in: D. Weimer (Hrsg.), *Institutional design*, Boston 1995, S. 161-181.

¹⁸ Vgl. P. Heywood/V. Wright, *Executives, bureaucracies and decision-making*, in: M. Rhodes/P. Jeywood/V. Wright (Hrsg.), *Developments in West European Politics*, New York 1997, S. 75-94.

¹⁹ Vgl. H. Mitterbauer, *Kulturtransfer – ein vielschichtiges Beziehungsgeflecht?* *newsletter Moderne*, 2.1 (1999), S. 23-25, hier S. 23.

²⁰ In den Hintergrund treten auch die spezifischen Formen von Übertragungs- und Aneignungsprozessen.

reiche, welche die transatlantischen Politiknetzwerke gestärkter, waren zum einen das institutionelle Gefüge der zu gründenden europäischen supranationalen Gemeinschaft und zum anderen die wirtschaftlichen Bestimmungen, die das Prinzip des freien Wettbewerbs im Geltungsbereich des künftigen Vertrags garantieren sollten. Dies betraf vor allem die Antikartell-Bestimmungen des EGKS-V, die Artikel 65 und 66.²¹ Es sind die politisch-rechtlichen Konzepte, welche die transatlantischen Politiknetzwerke übertragen bzw. sich angeeignet haben. Vereinfacht gesagt handelt es sich um Ideen, die in den USA umgesetzt worden waren (ein föderatives System und Antikartell-Gesetze bzw. -Rechtssprechung) und die nun für einen europäischen Vertrag rezipiert wurden.

Nun ließe sich fragen, ob auf inhaltlicher Ebene nicht schlicht von einer „Amerikanisierung“²² des europäischen Vertrags zu sprechen ist. Amerikanisierung spiegelt das bereits vorgestellte Argument von amerikanischem Einfluss wider.²³ Das Konzept einer Amerikanisierung vernachlässigt jedoch den prozessualen Charakter von Politikentwicklung und Entscheidungsfindungen. Die Kulturtransferforschung eröffnet außerdem eine neue Perspektive auf die Ausgangs- und Rezeptionskultur: „Nicht der Wille zum Export, sondern die Bereitschaft zum Import steuert hauptsächlich die Kulturtransferprozesse.“²⁴ Zudem stellt das Amerikanisierungs-

Konzept nicht die Frage nach der Rolle von Mittlern des Transfers. Zusammfassend ist zu sagen, dass das Konzept des Kulturtransfers weitaus besser geeignet ist als dasjenige der Amerikanisierung, um jenen komplexen Verhandlungsprozess zu erfassen, dessen Ergebnis der EGKS-V war.

Transatlantische Politiknetzwerke und die Schuman-Plan-Konferenz

Offiziell nahmen die sechs nationalen Delegationen der künftigen EGKS-Mitgliedsstaaten an der Pariser Konferenz zum Schuman-Plan teil. Die Verhandlungsteams bestanden jeweils aus einem Delegationsleiter, den Delegierten sowie so genannten „Experten“, und einem Sekretariat, das für organisatorische und administrative Belange zuständig war. Zusätzlich zu den Delegationen wurden fachliche Ausschüsse gebildet, die sich den folgenden Themen widmeten: Institutionelle Fragen; Wirtschafts- und Zollpolitik; Nomenklatur; Produktion, Preise und Investitionen; Löhne und soziale Fragen; sowie Information. Die fachlichen Ausschüsse waren mit Vertretern aus den sechs Delegationen besetzt. Die institutionellen Fragen und die Organisation der Montangemeinschaft diskutierte ein Arbeitsausschuss, der aus den Delegationsleitern bestand.²⁵ Im Spätsommer 1950 wurde zudem ein Koordinierungsausschuss (*comité restreint*) eingesetzt, der aus den Delegationsleitern und jeweils zwei bis drei Mitarbeitern bestand und der die Verhandlungen leiten sollte.²⁶ Die Vereinigten Staaten waren nicht an den Schuman-Plan-Verhandlungen beteiligt. Sie hatten nicht einmal offiziellen Beobachterstatus. Trotzdem wurden die USA während des gesamten Verhandlungsverlaufs über die Entwicklung der Gespräche informiert. Darüber hinaus spielten einzelne amerikanische Akteure eine Rolle in der Vertragsausarbeitung.²⁷

²¹ Vgl. dazu ausführlich B. Leucht, Die Gründung des „Neuen Europa“, 1950/51. Die Bedeutung einer transatlantisch-rechtlichen Perspektive für die Erforschung der europäischen Integration, in: Wiener Zeitschrift zur Geschichte der Neuzeit, 3.2 (2003), S. 53-66.

²² Für Definitionen des Begriffs und Differenzierung s. P. Gassert, Amerikanismus, Antiamerikanismus, Amerikanisierung. Neue Literatur zur Sozial-, Wirtschafts- und Kulturgeschichte des amerikanischen Einflusses in Deutschland und Europa, in: Archiv für Sozialgeschichte, 39 (1995), S. 531-561.

²³ Amerikanisierung wurde stets als eine Unterkategorie der Geschichte der internationalen Beziehungen und der traditionellen Diplomatengeschichte verstanden. Dabei wird der Diskurs über Amerikanisierung unter solchen Überschriften wie „kulturelle Beziehungen“ oder „Kulturdiplomatie“ abgehandelt. Vgl. z. B. R. Pells, Not like us: How Europeans have loved, hated, and transformed American culture since World War II, New York 1997. Amerikanisierung wird der Westernisierung und der Globalisierung gegenübergestellt, manchmal werden die Phänomene auch gleichgesetzt. Für die Phase nach dem Zweiten Weltkrieg gibt es eine Reihe von Arbeiten, die die Amerikanisierung auf binationaler Ebene untersuchen. Von besonderem Interesse für die Forschung sind hierbei die deutsch-amerikanischen und die franko-amerikanischen Beziehungen gewesen. Vgl. A. Doering-Manteuffel, Wie westlich sind die Deutschen? Amerikanisierung und Westernisierung im 20. Jahrhundert, Göttingen 1999 bzw. R. Kuissel, Seducing the French: The dilemma of Americanization, Berkeley 1993.

²⁴ Vgl. M. Middell, Kulturtransfer und Historische Komparatistik – Thesen zu

ihrem Verhältnis. *Comparativ*, 10.1 (2000), S. 7-41, hier S. 20f.

²⁵ Die Mitglieder der Delegationen und der Ausschüsse nennt nur teilweise H. Diehlgans, *Montanunion. Menschen und Institutionen*. Düsseldorf, Wien 1980, S. 58-60. Umfassende Listen der Akteure sind in den unveröffentlichten Regierungsquellen zugänglich: z.B. Auswärtiges Amt, Politisches Archiv, Sekretariat für Fragen des Schuman-Plans [AA-PA/B 15], S. AA-PA/B 15/Bd. 53 (für Juni 1950) und Bd. 57 (für Listen mit Stand September 1950).

²⁶ Die erste Sitzung des Koordinierungsausschusses fand am 31.8.1950 statt. S. 5.9.1950 Notiz Ulrich Sahm für die Dienststelle für Auswärtige Angelegenheiten im Bundeskanzleramt. AA-PA/B 15/Bd. 99.

²⁷ Zur Schuman-Plan-Konferenz vgl. die Quellenausgabe *Foreign Relations of the United States [FRUS] 1950*, III, 691-767 sowie *FRUS 1951*, IV, 86-138.

Die internationalen Pariser Verhandlungen fanden im Rahmen zahlreicher Sitzungen auf unterschiedlichen Ebenen statt. Neben den formalen Besprechungen kam es auch in informellem Rahmen zu einem regen Informationsaustausch zwischen den Akteuren der Schuman-Plan-Verhandlungen, so z. B. am Rande der offiziellen Gespräche oder bei gemeinsamen Abendessen.²⁸ Die Akteure der Pariser Verhandlungen arbeiteten in unterschiedlichen Konstellationen und aus verschiedenen Beweggründen zusammen. Was die Akteure jedoch teilten, war ihre Überzeugung, dass die Idee der europäischen Integration förderungswürdig wäre. Und sie erkannten, dass die europäische Integration nur mit ihrer aktiven Unterstützung verwirklicht werden konnte. Im Rahmen der Besprechungen um das institutionelle System der Montangemeinschaft und verstärkt bei den Verhandlungen um die Antikartell-Bestimmungen des EGKSV kam es zur Zusammenarbeit von zumindest drei Politiknetzwerken. Zum einen kooperierten amerikanische und europäische Akteure im Umkreis von zwei Institutionen, welche 1950/51 als institutionelle Grundlage für Regierungs- bzw. öffentliche transatlantische Netzwerke fungierten. Es handelte sich um das französische Plankommissariat (a) und das US-amerikanische Hochkommissariat für Deutschland (c). Zum anderen fand sich innerhalb der deutschen Delegation der Kern eines (transatlantischen) deutsch-amerikanischen und akademischen Politiknetzwerks (b).

(a) *Das französische Plankommissariat*²⁹

Jean Monnet, der die französische Delegation bei den Schuman-Plan-Verhandlungen leitete, stand auch an der Spitze des Plankommissariats. Monnet war mit seinen Mitarbeitern im Plankommissariat, insbesondere dem Ökonomen Pierre Uri, für den Entwurf der Schuman-Plan-Erklärung vom 9. Mai verantwortlich gewesen. Eine weitere wichtige Rolle beim Verfassen des Textes hatte der Rechtsprofessor und Rechtsberater des französischen Außenministeriums Paul Reuter.³⁰ Uri und Reuter nahmen als Mitglieder des französischen Verhandlungsteams an der Schuman-

²⁸ Vgl. etwa ein Abendessen der deutschen Delegation bei Jean Monnet am 21. Juni 1950, AA-PA/B 15/Bd. 53. Während für dieses Gespräch ein Kurzprotokoll vorliegt, gibt es leider oftmals keine Zeugnisse über die informellen Besprechungen.

²⁹ Für eine umfassende Geschichte des Plankommissariats oder Planungsauntes (Commissariat général du Plan) vgl. P. Mioche, *Le Plan Monnet. Genèse et élaboration 1941–1947*, Paris 1987.

³⁰ Vgl. Schröder, Jean Monnet und die amerikanische Unterstützung (Anm. 11), S. 103–106.

Plan-Konferenz teil, ebenso wie ein weiterer Mitarbeiter Monnets im Plankommissariat, der Ingenieur Etienne Hirsch. Das Plankommissariat war 1946 ins Leben gerufen worden, um den nationalen Wiederaufbau der französischen Nachkriegswirtschaft zu koordinieren. Der von Jean Monnet vorgelegene Plan zur Modernisierung und Wiederherstellung der französischen Wirtschaft ging davon aus, dass ein wirtschaftlich schwaches Deutschland der Schlüssel zu einem erfolgreichen französischen Wiederaufbau sei. Dabei kam dem uneingeschränkten Zugang Frankreichs zu den Ressourcen der Ruhr ein besonders hoher Stellenwert zu.³¹ In Bezug auf die wirtschaftspolitische Zielsetzung, nämlich das westdeutsche Wirtschaftspotenzial kontrollieren zu wollen, ist der französische Modernisierungsplan, der auch Monnet-Plan genannt wird, ein Vorläufer des Schuman-Plans.³² Zur Wiederherstellung einer freien marktwirtschaftlichen Ordnung in Frankreich sah der Monnet-Plan den temporären Einsatz von staatlichen Instrumenten wirtschaftlicher Planung vor.

Jean Monnet verfügte über Erfahrungen in der wirtschaftlichen Planung, hatte er doch als Leiter der französischen Versorgungs-Kommission in Washington die unter dem Lend-Lease Programm durchgeführten Importe aus den USA nach Frankreich koordiniert. Im Rahmen dieser Tätigkeit hatte Monnet auch erstmals mit dem US-amerikanischen Anwalt George W. Ball zusammengearbeitet, der Monnet und der französischen Delegation bei der Schuman-Plan Konferenz als juristischer Berater zur Seite stand.³³ Von 1948 bis 1952 wurde das französische nationale Wiederaufbauprogramm mit Mitteln aus dem Marshall-Plan finanziert. Dadurch verfügte das Plankommissariat über institutionelle Kontakte mit der Marshall-Plan-Behörde in Frankreich, die von David Bruce geleitet wurde, der während der Schuman-Plan-Konferenz der US-amerikanische Botschafter in Frankreich war. Auch der Berater von Botschafter Bruce, der Finanzsachverständige in der amerikanischen Botschaft in Paris, William

³¹ Vgl. F. Lynch, *Resolving the Paradox of the Monnet Plan: National and International Planning in French Reconstruction*, in: *The Economic History Review*, New Series 37.2 (1984), S. 229–243.

³² Vgl. I. Wall, Jean Monnet, the United States and the French Economic Plan, in: Brinkley/Hackett, Jean Monnet: The path to European unity (Anm. 11), S. 86–113.

³³ Vgl. G. Ball, *The past has another pattern. Memoirs*, New York and London 1982, S. 84–91. Genauer zu Ball und Monnet vgl. B. Leucht, George W. Ball, Jean Monnet and the founding of the European Coal and Steel Community – A case study in the importance of transatlantic relations, in: W. Kaufman/H. Slettedahl Macpherson (Hrsg.), *New Perspectives in Transatlantic Studies*, Lanham, New York, Oxford 2002, S. 159–170.

Tomlinson, sollte in den Beratungen für den Schuman-Plan vor allem der französischen Delegation mit seiner Expertise zur Verfügung stehen.³⁴ Darüber hinaus kooperierte das Plankommissariat mit der Organisation für wirtschaftliche Zusammenarbeit in Europa (OEEC), die für die Koordination des Marshall-Plan-Programms auf europäischer Seite zuständig war. Der erste Generalsekretär dieser Institution war Robert Marjolin (1948–55), wiederum ein ehemaliger Mitarbeiter Monnets, zunächst im Zusammenhang mit dem Lend-Lease Programm 1943–44 und später im Plankommissariat.³⁵

Die Sekundärliteratur hat sich ausgiebig mit Monnets Arbeitsweise befasst, die sich dadurch auszeichnete, dass der Franzose Experten und Politikberater zusammenkommen ließ, um seine Ideen von ihnen zu konkreten Konzepten ausarbeiten zu lassen.³⁶ Sicherlich kam Jean Monnet eine Schlüsselrolle bei der kontinuierlichen Kontaktpflege mit US-amerikanischen Akteuren zu. Die Sekundärliteratur hat hier seine US-amerikanischen Erfahrungen nachgezeichnet. Dazu zählte in den 1920er Jahren, also lange vor seiner Tätigkeit für die französische Versorgungs-Kommission in Washington und das französische Plankommissariat, Monnets berufliche Verbindung mit der New Yorker Bank *Blair & Company*. Monnet leitete das Plankommissariat zwar von der Rue de Martignac in Paris und nicht von Washington aus, doch bestand eine institutionelle Grundlage für die regelmäßige Zusammenarbeit mit US-amerikanischen Akteuren. Monnet war jedoch im Rahmen der Schuman-Plan-Verhandlungen nicht der einzige Akteur auf europäischer Seite, in dessen Biografie sich wesentliche US-amerikanische Erfahrungen finden und der über ein transatlantisches Netzwerk an persönlichen und professionellen Kontakten verfügte. Weit weniger bekannt ist, dass der Leiter der deutschen Delegation und Staatssekretär für Auswärtige Angelegenheiten, der Jurist Walter Hallstein, die USA auch aus eigener Erfahrung kannte.

(b) *Das deutsch-amerikanische akademische Politiknetzwerk*

Walter Hallstein verbrachte die Jahre 1944/45 in amerikanischer Kriegsgefangenschaft in einem Gefangenenlager in Como im US-Staat Mississippi.³⁷ Vor und nach dem Kriegsdienst war er an der Universität Frank-

³⁴ Vgl. Schröder, Jean Monnet (Anm. 11), S. 123–129.

³⁵ Fondation Jean Monnet pour l'Europe, Archives de Robert Marjolin [ARMJ] 36/3/1.2.

³⁶ Vgl. z. B. F. Duchene, Jean Monnet's methods, in: Brinkley/Hackett, Jean Monnet: The path to European unity (Anm. 11), S. 184–209.

³⁷ Umfassend zu Walter Hallstein vgl. W. Loh/W. Wallace/W. Wessels (Hrsg.), Wal-

furt am Main tätig. Hallstein widmete sich in den USA intensiv dem Studium des US-amerikanischen Rechts, um das er nach dem Krieg sein Lehrprogramm in Deutschland erweitern wollte. Darüber hinaus begründete Hallstein eine Lageruniversität, wo er auch unterrichtete, u. a. amerikanisches Antitrustrecht und anglo-amerikanisches Privatrecht. In einem Brief vom 22. Mai 1945 an die University of Chicago, in dem Hallstein sich für die Leihgabe von Büchern bedankte, betonte er die Bedeutung amerikanischen Rechts für die Rechtsentwicklung Europas. Er unterstrich außerdem, dass

„ein wirkliches Verständnis einer fremden Rechtsordnung nur in dem Lander selbst erlangt werden kann, in dem diese Rechtsordnung gilt, weil sie nur aus der Gemeinschaft ihrer sozialen und wirtschaftlichen Bedingungen und aus der Kenntnis der Menschen heraus verstanden werden kann, die nach ihr leben. Jedenfalls ist ein solches tieferes Verständnis für den unentbehrlich, der es als Rechtslehrer als seine Aufgabe ansieht, in Deutschland unter den heranwachsenden Juristen für ein besseres Verständnis des amerikanischen Rechts zu wirken.“³⁸

Der Rechtsprofessor sah sich als Vermittler amerikanischen Rechts an auszubildende deutsche Juristen. Zudem verbrachte Hallstein 1948/49 ein akademisches Jahr als Gastprofessor an der Georgetown University in Washington.³⁹ Hallstein war mit den Vereinigten Staaten vertraut, er verfügte über Fachkenntnisse des US-amerikanischen Rechts und über gute Kontakte in die USA.

Im Juni 1950 wurde Hallstein zum Staatssekretär für außenpolitische Aufgaben im Bundeskanzleramt ernannt. Sein beruflicher Hintergrund eröffnete den Zugang zu einem akademischen Netzwerk, das bei den Schuman-Plan-Verhandlungen zum Einsatz kam. Diesem Netzwerk gehörte u. a. der in Deutschland gebürtige Rechtsanwalt Heinrich Kronstein an, der nach seiner Emigration in die USA während des Zweiten Weltkriegs für das US-amerikanische Justizministerium gearbeitet hatte. Kronstein lehrte an der Georgetown University. Er war ein Kartellrechts-Experte und stand von den USA aus der deutschen Delegation als inoffizieller Berater

ter Hallstein. Der vergessene Europäer? Europäische Schriften 73, Bonn 1995. Vgl. auch M. Schönwald, Hinter Stachelndraht – vor Studenten: Die „amerikanischen Jahre“ Walter Hallsteins, 1944–1949, in: R. Dietl/F. Knipping (Hrsg.), Begabung zweier Kontinente: die Vereinigten Staaten und Europa sei dem Ersten Weltkrieg, Trier 1999, S. 31–54. Vgl. auch den Beitrag von Laura Hannemann in diesem Band.

³⁸ Bundesarchiv Koblenz, Nachlass Hallstein [Barth/N 1266]/Bd. 1620.

³⁹ Barth/N 1266/Bd. 273–275.

zur Verfügung.⁴⁰ Ein weiterer Kollege Hallsteins war Carl Friedrich Ophüls, der, wie Hallstein, an der Universität Frankfurt unterrichtete. Ophüls war 1949 zum Honorarprofessor für Patentrecht, internationales und anglo-amerikanisches Recht an der Universität Frankfurt ernannt worden. Im gleichen Jahr hatte er auch seinen Dienst im Bundesministerium für Justiz angetreten. Ophüls nahm als Experte der deutschen Delegation an den Pariser Verhandlungen teil und war dort Mitglied des juristischen Unterausschusses.⁴¹

Es handelte sich bei dem hier nur skizzierten Kern des deutsch-amerikanischen akademischen Politiknetzwerks um eine Expertengruppe des internationalen und amerikanischen Rechts. Anders als Hallstein und Kronstein, bei denen zum akademischen Wissen ganz konkrete Erfahrungen in den USA hinzukamen, verfügte Ophüls nicht über eigene US-amerikanische Kontakte. Die genannten deutschen Akteure waren Juristen, die u. a. in der Lehre tätig gewesen waren. Diese Beschreibung trifft aus dem Netzwerk um das französische Plankommissariat nur auf Paul Reuter zu, wobei Reuters Zusammenarbeit mit US-amerikanischen Akteuren über Monnet lief.⁴² Pierre Uri war zwar in der Lehre tätig, doch in den Bereichen Philosophie und Ökonomie. Bei dem Netzwerk um Walter Hallstein handelt es sich um ein spezifisch deutsch-amerikanisches transatlantisches Netzwerk mit einer ausgewiesenen (akademischen) Kompetenz in bestimmten Gebieten der Rechtswissenschaften.

(c) *Das US-Hochkommissariat für Deutschland*

Die Bundesrepublik trat zwar bei den Schuman-Plan-Verhandlungen erstmals als gleichwertiger Verhandlungspartner auf, doch stand sie unter westlicher Besatzung. Folglich wurden die Alliierte Hohe Kommission und das US-Hochkommissariat für Deutschland stets über den Verhandlungsverlauf in Paris unterrichtet.

Der erste US-amerikanische Hochkommissar für Deutschland, John J. McCloy, war außerdem persönlich mit Jean Monnet befreundet. McCloy und Monnet hatten sich während Monnets Aufenthalt in New York in den 1920er Jahren kennengelernt. McCloy war damals bei der Anwaltskanzlei *Cravath, DeGersdorff, Swaine, and Wood*. Während des Zweiten Weltkriegs hatte er unter Henry Stimson im Kriegsministerium als Unterstaats-

sekretär gedient. Von 1947 bis 1949 fungierte er als der erste Präsident der Internationalen Bank für Wiederaufbau und Entwicklung (der Weltbank).⁴³ McCloy verfügte, ähnlich wie Monnet, über zahlreiche Kontakte. In seiner Biografie McCloy's hat Kai Bird diesen einmal zutreffend als den "quintessential chairman of the American Century" bezeichnet.⁴⁴ Durch seine Tätigkeit als Anwalt auf der Wall Street kannte er Schlüsselakture des wirtschaftlichen Lebens aus anderen einflussreichen Kanzleien und Banken. McCloy gehörte darüber hinaus seit 1939 dem amerikanischen "Think Tank" *Council on Foreign Relations* an, der in der Nachkriegszeit eng mit dem US-Außenministerium zusammenarbeitete.⁴⁵ Auch andere Akteure wie George W. Ball und Robert Marjolin zählten zu den Mitgliedern des *Council on Foreign Relations*.

Als McCloy am 1. Juli 1949 das Amt des US-amerikanischen Hochkommissars übernahm und General Lucius Clay ablöste, markierte dies einen wichtigen Schritt beim Übergang von militärischer zu ziviler Besatzung.⁴⁶ Im Sommer 1949 schloss McCloy die Rekrutierung von Mitarbeitern für sein ziviles "Kabinett" ab.⁴⁷ Zu seinen Mitarbeitern zählte der Jurist Robert R. Bowie, der an der juristischen Fakultät in Harvard u. a. Antitrustrecht und Antitrustrecht unterrichtete. Als Bowie Anfang 1950 die Leitung der Rechtsabteilung des US-Hochkommissars für Deutschland übernahm, gehörte es zu seinen dringlichsten Aufgaben, die bereits begonnene Revision des Gesetzes Nr. 75 abzuschließen.

Dieses Gesetz regelte die Dekonzentration und Dekartellierung in der Bizone, d. h. der gemeinsamen US-amerikanischen und britischen Besatzungszone in Deutschland.⁴⁸ Es wurde im Mai 1950 von dem neuen Ge-

⁴³ Vgl. Bird, *The chairman* (Anm. 11), S. 47-77.

⁴⁴ Vgl. ebd., S. 20.

⁴⁵ M. Wala, "Ripping Holes in the Iron Curtain": The Council on Foreign Relations and Germany, 1945-1950, in: J. Diefendorf/A. Frohn/H. Ruppier (Hrsg.), *American Policy and the Reconstruction of Germany, 1945-1955*, Washington D. C. und Cambridge 1993, S. 1-20.

⁴⁶ Vgl. E. Plischke, *History of the Allied High Commission for Germany. Its Establishment, Structure, and Procedures. Historical Division Office of the Executive Secretary Office of the U. S. High Commissioner for Germany 1951*, o.O. [Bonn] 1951, S. 1-28.

⁴⁷ Newsweek vom 15. August 1949, "McCloy's 'Cabinet'", S. 28.

⁴⁸ Streng genommen ist von zwei Gesetzen 75 zu sprechen, die von der US-amerikanischen bzw. der britischen Besatzung verabschiedet wurden und sich auf deren jeweiligen Geltungsbereich erstreckten. A. Diegmann, *Deconcentration Policy in the Ruhr Coal Industry*, in: Diefendorf/Frohn/Ruppier, *American Policy*, S. 197-215, hier S. 207; B. Leucht, Interview mit Robert R. Bowie, 13.7.1999 in Bowies Wohnung bei Baltimore, MD, USA.

⁴⁰ Z. B. 6. Januar 1951. Brief Heinrich Kronstein an Walter Hallstein. Barch/N 1266/Bd. 1864.

⁴¹ AA-PA/Nachlass Ophüls.

⁴² Dies ist zumindest der aktuelle Forschungsstand. Ein Nachlass Paul Reuters konnte nicht gefunden werden.

setz Nr. 27 abgelöst, an dessen Entstehung Bowie maßgeblich beteiligt war. Die Alliierte Hohe Kommission war für die Durchführung von Gesetz 27 verantwortlich. Dadurch waren Überschneidungen und Kompetenzstreitigkeiten zwischen der geplanten Hohen Behörde der Montanunion und den Besatzungsorganen vorgezeichnet.⁴⁹ Die wirtschaftlichen Bestimmungen des EGKSV waren also eng verbunden mit der Frage der Reorganisation der westdeutschen Schwerindustrie. Bowie und McCloy unterhielten einen besonders regen Informationsaustausch mit Monnet und seinen Mitarbeitern im Plankommissariat.

(d) *Transatlantische Politiknetzwerke: Eine vorläufige Auswertung*

Die Beschreibung der transatlantischen Politiknetzwerke ist nicht vollständig. Zusätzliche Primärquellen verweisen auf neue Verbindungen zu immer neuen Akteuren. Insofern kann die Darstellung (a-c) nur als Grundlage einer umfassenderen Erforschung der transatlantischen Politiknetzwerke bei den Schuman-Plan-Verhandlungen gelten. Diese Skizze lässt jedoch eine Reihe von Klassifizierungen von Akteuren und Netzwerken bzw. von Interaktionen und Kontakten zwischen Akteuren und Netzwerken zu.

Erstens: sowohl individuelle Akteure als auch kollektive Akteure spielten eine Rolle bei den Schuman-Plan-Verhandlungen. Als individuelle Akteure sind z. B. Jean Monnet oder William Tomlinson zu nennen. Beispiele für kollektive Akteure stellen die Mitarbeiter der US-Hochkommission für Deutschland oder die deutsche Delegation bei der Schuman-Plan-Konferenz dar.

Zweitens: die Bandbreite der beruflichen Hintergründe der einzelnen Akteure reichte von akademischen und diplomatischen bis hin zu administrativen und politischen Erfahrungen.

Drittens: Akteure konnten eine öffentliche (staatliche oder institutionell begründete) Funktion oder eine private Funktion innehaben. Während z. B. Pierre Uri ein Mitarbeiter des Plankommissariats und französisches Delegationsmitglied war, wohnte der Anwalt George W. Ball den Verhandlungen zunächst als inoffizieller Berater Monnets und der französischen Delegation bei.

Viertens: Netzwerke können als öffentlich (staatlich oder mit institutioneller Basis) oder privat klassifiziert werden. Das institutionelle Netzwerk um das Plankommissariat etwa kann hier mit dem *Council on Foreign Relations* kontrastiert werden.

Fünftens: Kontakte zwischen Akteuren können als offiziell oder informell eingestuft werden. Als offiziell sind z. B. die Sitzungen der Delegationen und der diversen Ausschüsse zu verstehen, während z. B. Robert Bowies Teilnahme an Gesprächen in Paris zum Schuman-Plan als informell gelten kann.

Sechstens: Akteure verfügten über multiple Netzwerkzugehörigkeiten. Robert Marjolin z. B. war ein ehemaliger Mitarbeiter des Plankommissariats, der Generalsekretär der Organisation für wirtschaftliche Zusammenarbeit in Europa sowie ein Mitglied des *Council on Foreign Relations*.

Siebtens: multiple Netzwerkzugehörigkeiten können bei mehreren Akteuren zusammenreffen. Folglich kann man von überlappenden Netzwerken sprechen. Eine Gegenüberstellung der Mitarbeiter des Plankommissariats mit den Mitgliedern der französischen Schuman-Plan-Delegation beispielsweise zeigt, dass eine Reihe von Akteuren zeitgleich beiden Netzwerken angehörte.

Achtens: Netzwerkzugehörigkeiten und -konstellationen verändern sich. Das bedeutet hier, dass die Formierung und die Entwicklung transatlantischer Netzwerke über den Zeitraum der Schuman-Plan-Konferenz hinaus genauer zu beleuchten ist. Das betrifft die Jahre vor und nach den Verhandlungen. Im Detail zu rekonstruieren wäre beispielsweise, wie das Netzwerk um die französische Versorgungs-Kommission und das transatlantische Netzwerk um das Plankommissariat bei der Schuman-Plan-Konferenz zusammenhingen.

Netzwerke und die Schuman-Plan-Konferenz

Neben den transatlantischen Politiknetzwerken waren möglicherweise auch andere transnationale Netzwerke an den Schuman-Plan-Verhandlungen beteiligt. Diese können hier nur skizziert werden.

Im Vorfeld und während der Konferenz gab es z. B. einen intensiven franko-britischen Austausch über die Zielsetzung bzw. inhaltliche Fragen des Schuman-Plans.⁵⁰ Hier ist auf die besondere Rolle des Vereinigten Königreiches zu verweisen, das sich zwar am 3. Juni 1950 gegen eine Teilnahme am Schuman-Plan entschied, doch von allen Fragen betroffen war, die aus einer Überschneidung von Schuman-Plan und Besatzungsrecht für Westdeutschland resultierten. In einem Gesamtbild der transnationalen Netzwerke bei den Schuman-Plan-Verhandlungen sind weiters

⁴⁹ Vgl. Leucht, Die Gründung des „Neuen Europa“ (Anm. 21), S. 59 und 61f.

⁵⁰ Vgl. dazu die Quellen des britischen Foreign Office: FO Files for Post-War Europe Series One: The Schuman Plan and the European Coal and Steel Community, 1950–55, Part 1: 1950–53 (Microfilm).

inner-europäische Parteienkontakte insbesondere innerhalb der christdemokratischen Parteien zu berücksichtigen.⁵¹ Dazu kommen die transnationale Kooperation von Gewerkschaften sowie inner-europäische transnationale Kontakte von Vertretern der betroffenen Industrie, wie etwa der Stahlindustrie.⁵²

Obwohl bei der Schuman-Plan-Konferenz Politikentwicklung im Rahmen von transnationalen und transatlantischen Netzwerken stattfand, spielten auch Beratungen und Entscheidungsprozesse im nationalen Bereich weiterhin eine Rolle. Das Beispiel Westdeutschlands zeigt, dass über die Delegation hinaus eine Vielzahl von Akteuren in Deutschland selbst am Verhandlungsverlauf beteiligt war. Zunächst gab es einen Kabinettsausschuss, der unter dem Vorsitz von Bundeskanzler Adenauer stand und dem einige Mitglieder der Bundesregierung angehörten. Es handelte sich um die Bundesminister für Wirtschaft; für Angelegenheiten des Marshall-Plans; für Finanzen; und für Arbeit. Der Kabinettsausschuss war gegenüber der deutschen Delegation bei den Schuman-Plan-Verhandlungen weisungsberechtigt. Außerdem wurde ein interministerieller Ausschuss unter dem Vorsitz des Vertreters des Bundesministeriums für Wirtschaft eingerichtet.

Darüber hinaus wurde die Arbeit der Pariser-Delegation von separaten, nationalen Ausschüssen begleitet. Den sogenannten Sachverständigen-Ausschüssen gehörten akademische Experten ebenso an wie Vertreter der betroffenen Industriekreise.⁵³ Die Verbindung der Ausschüsse, die in Deutschland tagten, zu den Pariser Verhandlungen wurde neben der regelmäßigen Weiterleitung von Schriftstücken (von Protokollen, Vertragsentwürfen und Gutachten) dadurch gewährleistet, dass Mitglieder und Experten der deutschen Delegation zum Schuman-Plan den betreffenden Ausschüssen auch mündlich Bericht über den Verhandlungsverlauf erstatteten. Im Rahmen der Sachverständigen-Ausschüsse wiederum wurden Interessen formuliert und, je nach Zusammensetzung der Gruppe, zu schriftlichen Gutachten ausgearbeitet. Die Möglichkeiten zu einer wirksamen transna-

tionalen Netzwerkbildung innerhalb der deutschen Sachverständigen-Ausschüssen waren vergleichsweise eingeschränkt. Bei diesen Expertengremien lag keine Notwendigkeit zur transnationalen Zusammenarbeit vor, jedenfalls nicht auf struktureller Ebene; sie arbeiteten dem deutschen Verhandlungssteam zu. Demgegenüber musste sich sowohl das französische Plankommissariat, als auch das US Hochkommissariat schon auf institutioneller Ebene mit den organisatorischen Einheiten anderer Staaten verständigen. Beim Plankommissariat waren dies die Kooperationen, die sich aus der Marshall-Plan-Finanzierung des französischen Modernisierungsplans ergaben, beim US-Hochkommissariat waren es der Kontakt zu den anderen Alliierten wie auch zu Repräsentanten des besetzten Westdeutschland.

Schlussbemerkung: Hat das nationale Paradigma ausgedient?

Das Politiknetzwerk-Konzept unterstützt dadurch, dass es die Verknüpfung der Akteursebene mit der inhaltlichen Ebene betont, die Identifizierung der transatlantischen Politiknetzwerke im Rahmen der Schuman-Plan-Verhandlungen. Die Verknüpfung von Akteuren und Inhalten, die auch das Kulturtransfer-Konzept unterstreicht, ermöglicht es außerdem, die Grenzen von Politiknetzwerken zu identifizieren. Hier ist gezeigt worden, dass transatlantische Politiknetzwerke sowohl bei der Ausgestaltung des institutionellen Rahmens der Montanunion als auch bei den wirtschaftsrechtlichen Vertragsbestimmungen zusammengearbeitet haben. Akteure beiderseits des Nordatlantik beschäftigten sich mit US-amerikanischen politisch-rechtlichen Konzepten und ermöglichten einen partiellen Transfer dieser Ideen in den EGKSV. Politiknetzwerke fungierten somit als Träger grenzüberschreitenden Kulturtransfers. Über den Rahmen der Schuman-Plan-Konferenz hinaus verspricht die Kombination des Politiknetzwerk- und des Kulturtransfer-Konzepts, neue Einblicke in eine transnationale Geschichte der frühen europäischen Integration zu liefern. Ebenso würde die Geschichte der transatlantischen Beziehungen in den Jahren des beginnenden Kalten Krieges von einem solchen Zugang profitieren, der weit besser als das Konzept der Amerikanisierung geeignet ist, transnationale und transatlantische Politikentwicklung zu erfassen und zu beschreiben. Der vorliegende Beitrag kann als eine erste Fallstudie gelesen werden.

Die europäische Integrationsgeschichte, die Geschichte der transatlantischen Beziehungen und die Amerikanisierungs-Literatur sind vom nationalen Paradigma bestimmt. Auch in der Kulturtransferforschung gilt das nationale Paradigma nicht als überwunden. Michel Werner hat hervorge-

⁵¹ Vgl. M. Gehler/Wolfram Kaiser, *Transnationale Parteienkooperation der europäischen Christdemokraten. Dokumente 1945–1965*, München 2004.

⁵² Vgl. P. Pasture, *European trade unions at the beginning of the European integration process*, in: B. de Wilde (Hrsg.), *The past and future of international trade unionism*, Gent 2001, S. 80–103. Während die französischen Stahlverarbeiter eine Öffnung der Märkte in Europa befürworteten, schlugen Vertreter der französischen Stahlindustrie 1950 sogar eine Wiederauflage des internationalen Stahlkartells der Zwischenkriegszeit vor. Vgl. Kipping, *Zwischen Kartellen und Konkurrenz* (Anm. 4), S. 101–105 und S. 135–142.

⁵³ Für die Sachverständigenausschüsse s. insbes. AA-PA/B 15/Bd. 14–15.

hoben, dass gerade die Betonung transnationaler Prozesse die Ebene der Nationalkultur gestärkt hätte, obwohl ja deren Dekonstruktion angepeilt worden war.⁵⁴ Die Darstellung der drei unterschiedlichen transatlantischen Politiknetzwerke, insbesondere aber die Präsentation des deutsch-amerikanischen akademischen Politiknetzwerks, hat jedoch verdeutlicht, dass Akteure über unterschiedliche Identifikationskategorien verfügten. Eine solche Kategorie ist die national(-staatliche) Zugehörigkeit, die selbstverständlich eine wichtige Kategorie war. Es gibt jedoch weitere Identifikationskategorien, wie z. B. die akademische Ausbildung, die Berufsausübung, die Parteizugehörigkeit oder gemeinsame (bindende) berufliche oder private Erfahrungen, welche die Zugehörigkeit zu einem Akteurskollektiv in gleicher Weise bestimmen konnten. Ich gehe davon aus, dass die Beschreibung von Politiknetzwerken, also die Erforschung der Mittler als Träger grenzüberschreitenden Kulturtransfers, den Blick auf andere Identifikationskategorien als die nationale Kategorie freigibt. So bietet das Politiknetzwerk-Konzept für die Kulturtransferforschung eine Möglichkeit, die Festschreibung der nationalen Ebene als der bestimmenden Analyseebene zu überwinden.

⁵⁴ Vgl. M. Werner, Maßstab und Untersuchungsebene. Zu einem Grundproblem der vergleichenden Kulturtransfer-Forschung, in: L. Jordan/B. Kortländer (Hrsg.), *Nationale Grenzen und internationaler Austausch. Studien zum Kultur- und Wissenschaftstransfer in Europa*, Tübingen 1995, S. 20-33, hier S. 21.

Emmanuelle Loyer

Transatlantic Conversations: 'Americanization', Modernization, and Cultural Transfers

Returning to France, French exiles in the United States during the Second World War became the voluntary and sometimes involuntary peddlers of an America that they had known only unevenly.¹ Were they, as their critics would sometimes have it, an American Trojan Horse in post-war France? To what degree can we bring the experience of the return from exile to bear on the process of Americanization underway in the Europe of the Marshall Plan?

The micro-historical study of exile enables the displacement of notions like 'Americanization', denounced by many intellectuals, then as now, in stridently ideological terms. It was regularly condemned as the imposition of a model in the context of a relation of force favorable to the United States after the Second World War.

However, upon closer examination, nothing justifies this interpretation. An examination of 'cultural transfers', such as have been theorized by Michel Espagne and Michael Werner,² allows for a reconsideration of the role of exile³ in underlining three aspects. First, in what was exported to Europe after 1945,⁴ there was much that was not wholly American. The exiles had already alloyed 'made in USA' and 'made in Europe'. Second, the example of the Social Sciences, as well as that of political modernization, refutes the notion of a unilateral superimposition. A 'cultural transfer' was effected only if the reception found its uses, users, and mediators. The exiles were particularly well-suited to

¹ For further reference and extensive bibliography see Emmanuelle Loyer, *Paris à New York. Intellectuels et artistes français en exil (1940-1947)*, Paris 2005.

² See M. Espagne, *Les Transferts culturels franco-allemands*, Paris 1999.

³ See C. Collomp/M. Menendez (ed.), *Exilés et réfugiés politiques aux États-Unis, 1789-2000*, Paris 2003.

⁴ For transfer processes during the interwar period especially in the arts see among others S. Barron (ed.), *Exiles+Emigrés. The Flight of European Artists from Hitler*, County Museum of Art, Los Angeles 1997; E. Panofsky, *Three decades of Art History in United States: impressions of a transplanted European*, in: *Meaning in the visual arts*, New York 1955; C. Eisler, *Kunstgeschichte, American style: a study in migration*, in: D. Fleming/B. Bailyn (ed.), *The Intellectual migration, Europe and America, 1930-1960*, Cambridge 1969.

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Es scheint, als wollte die österreichische Historiographie zum Ersten Weltkrieg den Fehler wiederholen, den die von ihr beschriebene Politik schon vor ihr gemacht hatte: Werden die USA, wenn überhaupt, behandelt, so glaubt man mit dem Bild einer transatlantischen Flügelmacht das Auslangen zu finden, die die Verhältnisse in Zentraluropa nicht verstehen konnte und daher für das Verständnis der Entwicklung dieses Raumes nur eingeschränkt relevant war.

Wie gezeigt wurde, verstanden die Vereinigten Staaten am Beginn des 20. Jahrhunderts den nordatlantischen Raum als zusammenhängend und zusammengehörend. Sie wussten sich von allen dort stattfindenden Entwicklungen betroffen und handelten konsequenterweise de facto als eine europäische Macht. Sie waren ähnlich gut wie ihre in Europa gelegenen Konkurrenten über die Verhältnisse in der Alten Welt informiert. Ihr politisch-militärisches Eingreifen zeitigte daher auch weitreichende, bis heute andauernde Folgen.

Dass die österreichisch-ungarische Diplomatie und Politik im Ersten Weltkrieg die im atlantischen Mächtekonzert an zentraler Stelle positionierten Vereinigten Staaten weder machtpolitisch, noch ideologisch und kulturell in ausreichendem Maß in ihr Denken mit einbezogen haben, gereichte ihr zum gravierenden Nachteil; noch bemerkenswerter ist aber, dass diese Sicht der Dinge noch Jahrzehnte später in der österreichischen Historiographie zu diesem Thema ihren Niederschlag findet.

Brigitte Leucht

Die Gründung des „Neuen Europa“, 1950/51. Die Bedeutung einer transatlantisch-rechtlichen Perspektive für die Erforschung der europäischen Integration*

1. Die Schuman-Plan-Konferenz als Ort transatlantischer Kooperation

Am 9. Mai 1950 schlug der französische Außenminister Robert Schuman im Rahmen einer Pressekonferenz vor, die französische und deutsche Kohle- und Stahlproduktion zusammenzuliegen und einer gemeinsamen „Hohen Behörde“ zu unterstellen. Der französische Vorschlag richtete sich an Deutschland, allerdings stand die Teilnahme auch anderen europäischen Staaten offen. Im Juni 1950 traten Deutschland, Frankreich, Italien und die Benelux-Staaten in internationale Verhandlungen. Diese fanden am 18. April 1951 ihren Abschluss in der Unterzeichnung des Vertrags von Paris.¹

Dieser Vertrag zur Gründung der Europäischen Gemeinschaft für Kohle und Stahl (EGKS) schuf für die sechs Signatarstaaten erstmals eine Struktur supranationaler² Institutionen. Damit unterschied sich die Europäische Gemeinschaft für Kohle und Stahl (EGKS) von vorangehenden Formen institutionalisierter Zusammenarbeit in Europa. Diese waren einerseits auf Initiative europäischer Staaten entstanden, wie die Westeuropäische Union (1948) und der Europarat (1949), andererseits gründeten sie auf dem Interesse der Amerikaner, die europäische Integration voranzutreiben. 1948 fand der Marshall Plan (European Recovery Program) eine institutionalisierte Entsprechung in der

* Der Aufsatz ist Teil meiner Dissertation „Die Gründung des ‚Neuen Europa‘, 1950/51 aus transatlantisch-rechtlicher Perspektive“. Für konstruktive Kritik danke ich Lonnie Johnson, Christopher Leucht, Robert Leucht und Prisca Olbrich.

1 Zur Schuman-Plan-Konferenz vgl. Klaus Schwabe (Hg.), Die Anfänge des Schuman Plans 1950/51. Beiträge des Kolloquiums in Aachen 28. bis 30. Mai 1986. Baden-Baden 1988.

2 Eine allgemein anerkannte juristische Definition des Begriffs „supranational“ gibt es nicht. Häufig werden die Begriffe „supranational“ und „international“ einander gegenübergestellt. Der EGKSV schafft demzufolge eine neue Ordnung mit selbständigen Hoheitsbefugnissen. Z.B. Carl Friedrich Opplis, Zur ideengeschichtlichen Herkunft der Gemeinschaftsverfassung, in: Ernst von Caemmerer/Hans-Jürgen Schlochauer/Ernst Steindorf (Hg.), Probleme des europäischen Rechts. Festschrift für Walter Hallstein zu seinem 65. Geburtstag. Frankfurt am Main 1966, 387-413, hier 387f.

Organisation für wirtschaftliche Zusammenarbeit in Europa (OECE), die zur Koordination des Programms auf europäischer Seite gegründet wurde.

Die USA förderten die europäische Integration aus geopolitischen Erwägungen. Sie waren als stärkster Partner der westlichen Allianz aus dem Zweiten Weltkrieg hervorgegangen und legten ihrer Europapolitik ab 1947/48 das Konzept der „doppelten Eindämmung“ zu Grunde.³ Demzufolge trachteten die USA danach, gleichzeitig die Machtentfaltung der kommunistischen Sowjetunion und eines rehabilitierten, wirtschaftlich mächtigen Deutschland zu beschränken. Der Weg zur Eindämmung der Sowjetunion lag in der Bildung eines demokratischen und kapitalistischen Gegengewichts zu ihr in Westeuropa, jener zur Eindämmung Deutschlands in der Integration der Bundesrepublik in den westlichen Block. Die Zustimmung der Vereinigten Staaten zu jeglicher europapolitischer Initiative, die europäische Integration voranzutreiben, war entscheidend für deren Verwirklichung. Dies galt auch für den Schuman Plan.⁴

Die Vereinigten Staaten waren nicht an den Schuman-Plan-Verhandlungen beteiligt, sie hatten nicht einmal Beobachterstatus, denn der Eindruck einer amerikanischen Einflussnahme auf die Verhandlungen sollte vermieden werden. So konnten sich die USA einerseits eine endgültige Beurteilung des gesamten Vertrags offen halten und andererseits der Gefahr einer Ablehnung des Vertrags durch Frankreich vorbeugen. Eine offene amerikanische Intervention hätte möglicherweise eine französische Ablehnung mit sich gebracht.⁵ Trotzdem waren die USA während der gesamten Konferenz über den Verhandlungsverlauf unterrichtet.⁶ Einzelne Amerikaner wurden zudem in Fragen, die die Ausarbeitung des Vertrags betrafen, konsultiert.

Die Zusammenarbeit von Amerikanern und Europäern am EGKSV stellt eine Form transatlantischer Kooperation dar und knüpft an das Konzept des „Atlantischen Netzwerks“ an: ein Netzwerk von Akteuren auf beiden Seiten des Nordatlantik, das für die Idee der europäischen Integration stand und aktiv an ihrer Umsetzung arbeitete. Pascaline Winand hat das Atlantische Netzwerk für die Periode von 1945 bis in die Kernedy-Jahre teilweise rekonstruiert, allerdings nicht die Zusammenarbeit von Europäern und Amerikanern bei der Entstehung des EGKSV untersucht.⁷

Das Atlantische Netzwerk umfasste Akteure wie Jean Monnet, der dem französischen Plankommissariat (Commissariat général du Plan)⁸ vorstand und die französische Dele-

gation bei den Verhandlungen leitete. Monnet wird als eine der Schlüsselfiguren der europäischen Integration betrachtet, obwohl er nie ein gewähltes Amt bekleidete. Er verfügte über zahlreiche Kontakte in die Vereinigten Staaten. Zum Zeitpunkt der Schuman-Plan-Konferenz zählte der erste amerikanische Hochkommissar in Deutschland, John J. McCloy, zu Monnets persönlichen Freunden.⁹

Zu den Akteuren des Atlantischen Netzwerks zählten aber auch jene, die bei den Schuman-Plan-Verhandlungen nicht in der „ersten Reihe“ standen, wie etwa Monnet, sondern hinter den Kulissen an der Formulierung des Vertrags arbeiteten. Auf europäischer Seite wäre bei den Akteuren der „zweiten Reihe“ z.B. auf enge Mitarbeiter Monnets zu verweisen: auf den Rechtsberater des Quai d'Orsay und Rechtsprofessor in Aix-en-Provence, Paul Reuter, und den Ökonomen Pierre Uri. Zu den amerikanischen Akteuren zählten Robert R. Bowie, der Leiter der Rechtsabteilung des US-Hochkommissars für Deutschland (Head of the Office of the General Counsel of the US High Commissioner for Germany), ferner William M. Tomlinson, der Finanzbevollmächtigte (Financial Attaché) an der amerikanischen Botschaft in Paris, sowie George W. Ball, ein amerikanischer Anwalt und Freund Monnets, der mit der französischen Delegation eng zusammenarbeitete.¹⁰

Die USA begrüßten die Schuman-Plan-Initiative, hatten allerdings Bedenken, dass der Plan ein internationales Kartell schaffen würde. Amerikas Außenminister Dean Acheson, der sich auf dem Weg zur Londoner Außenministerkonferenz befand, reagierte zunächst zögernd, als ihm der Plan am 7. Mai in Paris präsentiert wurde. Monnet, der mit seinem Team im Plankommissariat für die Schuman-Plan-Erklärung verantwortlich zeichnete,¹¹ gelang es schließlich gemeinsam mit McCloy, Acheson und den Botschafter der USA in Frankreich, David Bruce, für den Schuman-Plan zu gewinnen;¹² der EGKSV regelt übrigens in den Artikeln 65 und 66 die Bildung von „Kartellen und Zusammenschlüssen“.¹³

2. Die wirtschaftspolitische Grundhaltung des Schuman-Plans

Die amerikanische Kritik betraf die wirtschaftspolitische Grundhaltung des Schuman-Plans. Die Schuman-Plan-Erklärung verbindet die politische Zielsetzung, nämlich die Sicherung des Weltfriedens durch deutsch-französische Kooperation im Rahmen einer

- 3 Eine „Eindämmungspolitik“ („containment policy“) gegenüber der Sowjetunion hatte der amerikanische Diplomat George F. Kennan 1946 gefordert. Zur „doppelten Eindämmung“ vgl. Delfel Jurker, Politik, Sicherheit, Wirtschaft, Kultur und Gesellschaft: Dimensionen transatlantischer Beziehungen, in: ders. (Hg.), Die USA und Deutschland im Zeitalter des Kalten Krieges 1945-1990. Ein Handbuch. Band 1 1945-1968. Stuttgart/München 2001, 17-56, hier 37-40.
- 4 Geir Lundestad, „Empire“ by Integration. The United States and European Integration, 1945-1997. Oxford 1998.
- 5 The Ambassador in France (Bruce) to the Secretary of State, 23 May 1950, in: *Foreign Relations of the United States* (FRUS) 1950 III, 704f.
- 6 Klaus Schwabe, „Ein Akt konstruktiver Staatskunst“ – die USA und die Anfänge des Schuman Plans, in: Schwabe, Anfänge des Schuman Plans, wie Anm. 1, 211-239.
- 7 Pascaline Winand, Eisenhower, Kennedy, and the united States of Europe. New York 1993.
- 8 Das Commissariat général du Plan wurde 1946 zur Modernisierung der französischen Industrie eingerichtet. Philippe Mioche, *Le Plan Monnet. Genèse et Elaboration 1941-1942*. Paris 1982.

- 9 Die amerikanischen Verhandlungen Monnets finden sich bei Holger Schröder, Jean Monnet und die amerikanische Unterstützung für die europäische Integration 1950-1957. Bonn/Wien 1994.
- 10 Die Verbindung Ball-Monnet unter Einbezug relevanter Materialien aus dem Nachlass von George Ball findet sich erstmalig in Brigitte Leucht, George W. Ball, Jean Monnet and the Founding of the European Coal and Steel Community – A Case Study in the Importance of Transatlantic Relations, in: Will Kaufman/Heidi Slettedahl Macpherson (eds.), *New Perspectives in Transatlantic Studies*. Lanham/New York 2002, 159-170.
- 11 Jean Monnet, *Memoires*, Paris 1976, 348-353; Pierre Uri, *Penser pour l'action*. Un fondateur de l'Europe. Paris 1991, 79f.
- 12 Schwabe, Ein Akt konstruktiver Staatskunst, wie Anm. 6, 225-28; Dean Acheson, *Present at the Creation*. My Years in the State Department. New York 1969, 382-384.
- 13 Die Artikel richten sich gegen Unternehmen, die den Wettbewerb ausschalten oder beschränken sowie gegen marktbeherrschende Unternehmen, die sich verträglich verhalten. Reiner Schulze/Thomas Hoeren (Hrsg.), *Dokumente zum Europäischen Recht*. Band 1: *Gründungsverträge*. Berlin/Heidelberg 1999, 417-416.

europäischen Föderation, mit wirtschaftlichen Absichten. Die Gemeinschaft, die durch die Zusammenlegung der Kohle- und Stahlproduktion entstehen würde, wäre nur der erste Schritt zu einer europäischen Föderation.

Die mit der Produktionsgemeinschaft einzurichtende gemeinsame Hohe Behörde (Haupte Autorität) würde Entscheidungen treffen, die für die Mitgliedstaaten bindend wären. Als wirtschaftliche Ziele nennt der Schuman-Plan allgemein einen Beitrag zur Hebung des Lebensstandards leisten zu wollen und von Seiten „Europas“ die Entwicklung des afrikanischen Kontinents günstig zu beeinflussen. Dementsprechend müsse die Hohe Behörde die Produktion modernisieren und deren Qualität verbessern, die gleichmäßige Verteilung von Kohle und Stahl an die beteiligten Staaten sichern, den gemeinsamen Export organisieren, sowie die Lebens- und Arbeitsbedingungen in den betroffenen Industrien angleichen und verbessern.

Um die unterschiedlichen Ausgangsbedingungen anzugleichen und Bedingungen zu schaffen, die eine maximale Rationalisierung der Produktion auf Basis maximaler Produktivität ermöglichen, wären jedoch Übergangsmaßnahmen notwendig. Die Erklärung spricht sich darüber hinaus explizit dagegen aus, dass die Initiative Schumans auf die Schaffung eines internationalen Kartells abzielt: Im Unterschied zu einem internationalen Kartell würde die künftige Organisation darauf abzielen, die Märkte zu verschmelzen und die Produktion zu vergrößern, und nicht die nationalen Märkte durch einschränkende Praktiken und die Aufrechterhaltung hoher Profite aufzuteilen und auszubeuten.¹⁴

Über die Ideen, die hinter der „Antikartell-Versicherung“ der Schuman-Plan-Erklärung stehen, gibt ein Memorandum Aufschluss, das Monnets Mitarbeiter verfassten. Das Memorandum zeigt, dass die Hohe Behörde kein Kartell schaffen würde, da sie sich hinsichtlich der Zielsetzung, des Modus Operandi, der Maßnahmen, der Art des Managements und des Handlungsrahmens von einem Kartell unterscheidet. Während ein Kartell durch Preisregulierung hohe und stabile Profite beizubehalten suchte, so das Memorandum, würde die geplante Organisation auf eine Steigerung der Produktion und der Produktivität abzielen. Dem der Öffentlichkeit nicht bekannten Zustandekommen von Kartellabreden, dem das Hauptinteresse der Industrie gelte, würde die künftige Organisation gegenüberstehen, die unter den Augen dieser Öffentlichkeit operieren bzw. den Teilnahmeländern verantwortlich sein würde. Ein Kartell, so heißt es weiter, würde auf das Instrument der Preisregulierung und das Festlegen von Produktionsquoten zurückgreifen, und die Märkte aufteilen; diese Maßnahmen würden Wettbewerbsstreichlich wirken. Die geplante Organisation hingegen würde nur in einer Übergangszeit auf diese Maßnahmen zurückgreifen. Ein Kartell würde von Vertretern der Industrie geleitet, die an ihre Arbeitgeber gebunden wären; der künftigen Organisation stünden unabhängige Persönlichkeiten vor, die das Interesse des Gemeinwohls im Auge behielten und der Öffent-

lichkeit verantwortlich wären. In Bezug auf den Handlungsrahmen, so das Memorandum, beschränkte sich ein Kartell auf die Arbeitgeberseite, das Interesse würde der Industrie und den Profitten gelten; die projizierte Organisation wäre auch für den Lebensstandard der Arbeitnehmerseite und das Wachstum der betroffenen Industriezweige verantwortlich.¹⁵

Das Memorandum verknüpft dann die wirtschaftlichen Erwägungen direkt mit der politischen Zielsetzung des Schuman-Plans, nämlich mit dem Prinzip der Supranationalität. Nur wenige Wochen nach der Unterzeichnung des EGKSV hielt der Jurist und deutsche Delegationsleiter Walter Hallstein einen Vortrag am Institut für Weltwirtschaft der Universität Kiel, in dem er für den Schuman-Plan warb. Um den Vorwurf zu entkräften, der EGKSV würde ein Kartell begründen, erwähnte Hallstein die Verbindung zwischen den wirtschaftlichen Zielen und dem supranationalen Prinzip:

„Diese Europäische Gemeinschaft, die ja ein Staatenverein ist (nicht ein Konzern von Unternehmensleistungen und auch kein Kartell von Unternehmen bei getrennter Unternehmensführung, sondern [...] eine Fusionierung von Wirtschaftsministerien – und daher sind es die Ministerien, die etwas abgeben; [...]), dieses supranationale Gebilde unterscheidet sich von den staatsrechtlichen Analogien, die wir ziehen könnten, also etwa von einem Wirtschaftsministerium, dadurch, daß hier keine selbstverständliche, aus der Souveränität des Staats abgeleitete Kompetenz existiert.“¹⁶

Es scheint zunächst naheliegend, dass die „Antikartell-Versicherung“ in die Schuman-Plan-Erklärung einbezogen wurde, um mögliche amerikanische Bedenken zu zerstreuen. Es gibt jedoch eine komplementäre Interpretation, die besagt, dass für Monnet selbst das Unterbinden von Kartellen wichtig war, was aus seiner Tätigkeit als Plankommissar resultierte. Matthias Kipping zeigt, dass Monnet 1949 sogar einen Gesetzesentwurf gegen Wettbewerbsbeschränkungen hatte ausarbeiten lassen:¹⁷ John Gillingham anerkennt Monnets Bewunderung für die Gesetze des New Deal.¹⁸ Monnet war also bereits vor der Schuman-Plan-Erklärung mit kartellrechtlichen Erwägungen vertraut – und er wusste um die Bedeutung des Antitrust-Rechts für die Amerikaner.¹⁹

14 *FRUS* 1950 III, wie Anm. 5, 701. Die französische Originalversion des Dokuments trug den Titel „Note anticartel, jointe à la déclaration du 9.5.1950“. Reiner, Schulze/Thomas Hoeren (Hg.), *Dokumente zum Europäischen Recht*, Band 3: Kartellrecht (bis 1957), Berlin, Heidelberg 2000, 3f.

15 *Problems des Schuman-Plans*. Eine Diskussion zwischen Professor Dr. Walter Hallstein, Staatssekretär im Auswärtigen Amt und Professor Dr. Andreas Frensdorf und Professor Dr. Fritz Baade (5. Mai 1951), in: Fritz Baade (Hg.), *Kieler Vorträge gehalten am Institut für Weltwirtschaft an der Universität Kiel*, Neue Folge 2, Kiel 1951, 9. Matthias Kipping, *Zwischen Kartellen und Konkurrenz*. Der Schuman-Plan und die Ursprünge der europäischen Einigung 1944-1952. Berlin 1996, 176-178.

16 John Gillingham, *Coal, Steel, and the Rebirth of Europe, 1945-1955*. The Germans and the French from Ruhr conflict to economic community. New York/Port Chester 1991, 382.

17 Die Schreibung Antitrust wird aus dem Amerikanischen übernommen. Vgl. Ernst-Joachim Westmacker, *Kartell, in: Staatlexikon*, Wirtschaft, Gesellschaft, 4. Bd. Freiburg 1959, 839-848, hier 847. „Kartelle“ sind Vereinigungen wirtschaftlich selbständig bleibender Unternehmungen (im Unterschied zu Zusammenschlüssen in Form von Fusionen), die darauf abzielen, den Wettbewerb zu beschränken oder auszuschalten. In den anglo-amerikanischen Ländern wird „cartel“ oft für internationale Wettbewerbsbeschränkungen verwendet und zwar unabhängig davon, ob eine Vereinigung selbstständig bleibender Unternehmen besteht. *Ebd.*, 839f.

14 La déclaration du 9 Mai 1950, in: Pascal Fontaine, *Une idée neuve pour l'Europe*. La déclaration Schuman – 1950-2000, URL (9. Mai 2003): http://europa.eu.int/comm/publications/booklets/eu_documentation/04/yk07_fr.htm#DECLARATION Die Erklärung ist unter dieser Adresse in zehn weiteren Sprachen abrufbar.

3. Die Reorganisation der deutschen Schwerindustrie

Eine Auseinandersetzung mit dem Kartellrecht fand nicht nur bei den Schuman-Plan-Verhandlungen statt, sondern auch im Rahmen der alliierten Besetzung in Deutschland.²⁰ Die besatzungsrechtlich geregelte Reorganisation der deutschen Schwerindustrie wurde durch den projizierten Handlungsrahmen des Schuman-Plans berührt.

Dekonzentration und Dekartellisierung der deutschen Industrie bildeten gemeinsam mit Entmilitarisierung, Entnazifizierung und Demokratisierung der deutschen Gesellschaft das Fundament der amerikanischen Besatzungspolitik in Deutschland.²¹ Es galt, das deutsche Kriegspotenzial zu eliminieren und gleichzeitig die Bedingungen für eine freie Marktwirtschaft herzustellen, die nach dem Wettbewerbsprinzip funktionierte. Eine Schlüsselposition in der deutschen Schwerindustrie nahm das Ruhrgebiet ein. Die Schwerindustrie war dort hochkonzentriert und kartellisiert, insbesondere Kohle und Stahl waren in der „Verbundwirtschaft“ vertikal integriert.²² Das Ruhrgebiet stand als die „Waffenkammer Deutschlands“²³ darüber hinaus symbolisch für das deutsche Aggressionspotenzial; NS-Regime und Kartelle waren in den Augen der Alliierten untrennbar miteinander verbunden, und bis 1945 prägten sogenannte „Zwangskartelle“ die zentral gelenkte staatliche Wirtschaftspolitik Deutschlands.²⁴ Noch 1947/48 galt es für die USA, das deutsche Kriegspotenzial zu eliminieren, doch ging es nun ebenso darum, im Kalten Krieg das deutsche Wirtschaftspotenzial für den Westen zu nutzen.

Im Mai 1949 wurde die Internationale Ruhrbehörde (IRB) eingesetzt, die u.a. folgende Aufgaben übernehmen sollte: die Aufteilung von Kohle, Koks und Stahl zwischen deutschem Verbrauch und deutscher Ausfuhr, die Prüfung bzw. Beseitigung diskriminierender Maßnahmen im Bereich von Kohle, Koks und Stahl sowie die Verhinderung übermäßiger Konzentration wirtschaftlicher Macht.²⁵

20 Am 21. September 1949, am Gründungstag der Bundesrepublik Deutschland, traten das Besatzungsstatut und die Charter der Alliierten Höhen Kommission in Kraft, 1^{er} Quarterly Report on Germany, 21 September–31 December 1949^o (originally published Washington D. C. 1950), in: Erika J. Fischer/Heinz-D. Fischer (eds.), John McCloy, An American Architect of Postwar Germany; Profiles of a Trans-Atlantic Leader and Communicator, Frankfurt am Main/Berlin 1994, 321-324.

21 S. Tony Smith, America's Mission. The United States and the Worldwide Struggle for Democracy in the Twentieth Century, Princeton 1994, Chapter 9, 146-176.

22 Albert Diegmann, American Deconcentration Policy in the Ruhr Coal Industry, in: Jeffrey M. Dieendorf/Axel Fohn/Herrmann-Josef Ruppeler (eds.), American Policy and the Reconstruction of Germany, 1945-1955, Washington D. C./Cambridge 1993, 197-215, hier 197f.

23 Raymond Poidevin, Frankreich und die Ruhrfrage 1945-1951, in: Historische Zeitschrift 228 (1979), 317-334, hier 317.

24 Deutschland war bereits vor der Machtergreifung der Nationalsozialisten das höchstkartellierte Land der Welt. Regina Ursula Garner, Von der Entflechtung zur Rekonzentration: Das uneinheitliche Vermächtnis der wirtschaftlichen Umgestaltung, in: Junker (Hg.), Die USA und Deutschland, wie Amm. 3, 448-456, hier 450; Meiermäcker, Kartell, wie Amm. 19, 946.

25 Poidevin, Frankreich und die Ruhrfrage, wie Amm. 23, 328f. – Kommunikative und Entwurf eines Abkommens über die Errichtung einer Internationalen Ruhrbehörde, in: Europa-Archiv, 5, Juni 1949, Signatarstaaten des Abkommens waren neben den drei Westalliierten die Benelux-Staaten und Nordirland. Deutschland sollte beitreten, sobald es eine eigene Regierung hatte.

Am 16. Mai 1950 unterzeichneten die drei Westalliierten das Gesetz Nr. 27 zur „Umgestaltung des deutschen Kohlenbergbaues und der deutschen Stahl- und Eisenindustrie“.²⁶ Dieses Gesetz formuliert „die Dezentralisation der deutschen Wirtschaft“ als Ziel der alliierten Politik, „um übermäßige Konzentration wirtschaftlicher Macht zu beseitigen und die Entwicklung eines Kriegspotenzials zu verhindern“. Die endgültige Entscheidung über die Frage der Eigentumsverhältnisse im Kohlenbergbau und in der Eisen- und Stahlindustrie wurde einer frei gewählten deutschen Regierung überlassen. Mit der Umgestaltung der betroffenen Industrien wurden die auf Grundlage der Satzung für die Alliierte Hohe Kommission (AHK) eingerichteten Kohle- und Stahlkontrollgruppen betraut.²⁷ Überschneidungen und Kompetenzstreitigkeiten zwischen der geplanten Hohen Behörde und der IRB bzw. den Besatzungsorganen waren damit vorgezeichnet.²⁸

Als alliierte Besatzungsmacht hatten die USA ihre Politik stets mit den Interessen Englands und Frankreichs abzustimmen – das galt auch in Bezug auf den Schuman-Plan. Zwar entschied sich das Vereinigte Königreich am 3. Juni 1950, also noch vor Konferenzbeginn, gegen eine Teilnahme am Schuman-Plan-Projekt, trotzdem wurde London lauffähig und detailliert über den Fortgang der Verhandlungen informiert.²⁹ Die Bundesrepublik Deutschland vertrat sich bei den Schuman-Plan-Verhandlungen erstmals selbst nach außen und trat als gleichwertiger Verhandlungspartner auf.

4. Der institutionelle Rahmen des EGKS-V

Am 20. Juni 1950 eröffnete der französische Außenminister die Beratungen über den Schuman-Plan. In einer ersten Verhandlungsphase, die bis zur Sommerpause am 10. August 1950 andauerte, wurde der institutionelle Rahmen für die Gemeinschaft festgelegt. Die Schuman-Plan-Erklärung enthielt das Prinzip der Supranationalität; weitere institutionelle Aspekte waren noch nicht ausgeführt. Die konkrete Verhandlungsrundlage bildete schließlich ein aus 40 Artikeln bestehendes französisches Arbeitspapier (das „Document de travail“), das wiederum im Plankommissariat ausgearbeitet worden war und das Monnet nach einem ersten Meinungsaustausch den anderen Delegationen am

26 Das trizonale Gesetz Nr. 27 unterschied sich kaum von dem bizonalen Gesetz Nr. 75, das im November 1948 von der britischen und der amerikanischen Militärregierung für ihre jeweilige Zone separat erlassen, jedoch nicht umgesetzt worden war. Diegmann, American Deconcentration Policy, wie Amm. 22, 203-208. Für Gesetz Nr. 27 s. (das dreisprachige) Amtsblatt der Hohen Alliierten Kommission in Deutschland Nr. 20 vom 20.5.1950.

27 Gesetz Nr. 27/Art. 12.

28 Die Aufgaben der Hohen Behörde der Montangemeinschaft in ihrem Verhältnis zu den Befugnissen der Internationalen Ruhrbehörde und von Organen der Besatzungsmächte*, 14. September 1950, Juristischer Sachverständigenausschuss für den Schuman Plan, Schriftstück Nr. 15, gez. Muth, Schlochauer, in: Auswärtiges Amt, Politische Abteilung, Sekretariat für Fragen des Schuman Plans, 64.

29 S. Foreign Office Files for Post-War Europe (FO), Series One: The Schuman Plan and the European Coal and Steel Community, 1950-55, Part 1, 1950-53, Microfilm. Zur britischen Nichtteilnahme vgl. Edmund Dell, The Schuman Plan and the British Abdication of Leadership in Europe, Oxford/New York 1995.

24. Juni übergab. Das Papier beschreibt die Hohe Behörde als Ausführungs- und Verwaltungsorgan, ihre Handlungsweisen sowie ihre Aufgaben und Vollmachten und setzt sich mit der Kontrolle der Ausübung ihrer Befugnisse auseinander. Dazu zählen ein Beschwerdeverfahren an ein einzurichtendes Schiedsgericht und die Prüfung des von der Hohen Behörde vorzulegenden Jahresberichts durch eine gemeinsame Versammlung, die durch die Parlamente der Mitgliedsstaaten unmittelbar gewählt werden sollte. Ferner sollten beratende Ausschüsse eingerichtet werden, die Unternehmer, Arbeiter und Verbraucher vertreten.³⁰

Die Lösung einer Reihe wichtiger Fragen (wie die Stimmengewichtung bei der Normierung der Mitglieder für die Hohe Behörde) wurden bewusst hintangestellt, um den Erfolg der Verhandlungen nicht vorzeitig zu gefährden. Diese Fragen sollten erst im Rahmen der Außenministerkonferenz im April 1951 gelöst werden. Am Ende der ersten Verhandlungsphase stand jedenfalls fest, dass vier Organe mit supranationalem Charakter einzurichten wären, nämlich die Hohe Behörde, ein Ministerrat, eine gemeinsame Versammlung sowie ein Gerichtshof. Die formellen und materiellen Zuständigkeiten der Organe wurden in einer zweiten Verhandlungsphase nach der Sommerpause weitgehend geklärt – ein erster Vertragsentwurf lag am 9. November 1950 vor.³¹

5. Der wirtschaftliche Rahmen des EGKSV und die Folgen des Korea Krieges

Schwieriger und komplexer als die Verhandlungen über die institutionelle Form gestaltete sich die Umsetzung der wirtschaftlichen Konzeption der Gemeinschaft. Das Arbeitspapier vom 24. Juni enthält keine spezifische Antikartell-Bestimmung, gibt aber die wirtschaftspolitische Haltung der Schuman-Plan-Erklärung wieder. Abschnitt II, der sich mit der Zusammenlegung der Kohle- und Stahlproduktion beschäftigt, legt fest, dass es die Aufgabe der Hohen Behörde sei, jene künstlichen Elemente zu beseitigen, die den „normalen Wettbewerb“ gefährden könnten (Artikel 17 (d)). Ferner ist Artikel 25 von Interesse, der die Zielsetzung der Hohen Behörde im Bereich der Preise vorgibt: Schutz der Konsumenten ohne Diskriminierung, Schutz der Produzenten vor unlauteren Handelspraktiken, Expansion von Märkten und Produktion, schließlich Schaffung von Bedingungen, die eine möglichst effiziente Verteilung der Produktion bei maximaler Produktivität sicherstellen.³²

Im Herbst 1950 gerieten die Verhandlungen ins Stocken. Das hing damit zusammen, dass sich der internationale Kontext während der Verhandlungen verändert hatte. Mit dem

Ausbruch des Korea Krieges am 24. Juni 1950, kurz nach Konferenzbeginn, war für die Vereinigten Staaten der Wunsch nach deutscher Wiederbewaffnung stärker geworden. Der im September 1950 von Dean Acheson präsentierte amerikanische Vorschlag der NATO-Einbindung Deutschlands sowie der französische Pleven-Plan vom Oktober 1950, der nach dem Modell des Schuman-Plans die Gründung einer europäischen Verteidigungsgemeinschaft mit Einbindung Deutschlands vorsah, machten die deutsche Wiederbewaffnung wahrscheinlich und stärkten dadurch die Position Deutschlands bei den Schuman-Plan-Verhandlungen. Der Schuman-Plan und die europäische Integration waren nicht länger der einzige Weg für Deutschland, seine Rehabilitierung zu erreichen. Das deutsch-französische Verhältnis litt darunter, als Deutschland begann, seine nunmehr stärkere Position einzusetzen. Die deutsch-französischen Beziehungen wurden jedoch auch durch die widersprüchliche Politik Frankreichs gegenüber Deutschland belastet: „Zwar betrachtete Paris Bonn im Rahmen des Schuman-Plans als gleichgestellt, trachtete aber ansonsten nach Kräften danach, diese Gleichberechtigung zu verhindern.“³³

Umstrittene Punkte betrafen die Saarfrage, die durch den Schuman-Plan vorgezeichnete Aufösung der IRB und die Umsetzung von Gesetz Nr. 27.³⁴ Im Geltungsrahmen von Gesetz Nr. 27 befanden sich vor allem die großen Stahlfirmen, die vertikal integrierte „Verbundwirtschaft“ und der „Deutsche Kohleverein“ (DKV), die zentrale Verkaufsstelle für Ruhrkohle. Vor dem Hintergrund der deutschen Wiederbewaffnung, die Frankreich als bedrohlich empfand, bezeugte nun auch die französische Regierung ein stärkeres Interesse als zuvor an der Durchführung des Dekonzentrationsgesetzes.

Für die Umsetzung von Gesetz Nr. 27 war Robert R. Bowie verantwortlich, der Anfang 1950 die Leitung der Rechtsabteilung des US-Hochkommissars für Deutschland übernommen hatte. Bowie verdankte seine Bestellung der Empfehlung Ben Shutes, einem ehemaligen Kollegen an der Harvard Law School und Mitarbeiter McCloy's.³⁵ Nach seinem Studium in Princeton (Wirtschaft) und Harvard (Jus) praktizierte Bowie zunächst Recht in seiner Heimatstadt Baltimore und trat 1942 in die Armee ein. Bis zum Herbst 1944 diente er in der Rechtsabteilung des Pentagon. Seine Arbeit für General Lucius Clay führte Bowie 1945 zum ersten Mal nach Deutschland. Nach seiner Rückkehr in die Vereinigten Staaten 1946 übernahm Bowie eine Lehrverpflichtung an der Harvard Law School, wo er Wirtschaftsrecht, insbesondere „Corporation law“ und „Antitrust law“ unterrichtete.³⁶ Mit der Zusage einer einjährigen Dienstfreistellung machte sich Bowie Anfang 1950 auf den Weg nach Deutschland, wo er zum zweiten Mal für die amerikanische Be-

30 Für die französischsprachige Version des „Document de travail“ vom 24. Juni 1950 vgl. „Schuman Plan, Draft French Working Document.“ = FO 371/85863. Für die englischsprachige Version: FRUS 1950 III, wie Anm. 5, 728-738.

31 Hanns Jürgen Küsters. Die Verhandlungen über das institutionelle System zur Gründung der Europäischen Gemeinschaft für Kohle und Stahl, in: Schwabe, Anfänge des Schuman Plans, wie Anm. 1, 73-102.

32 „Document de travail“ vom 24. Juni 1950. Das Diskriminierungsverbot „[...] sans discrimination“ wurde um die Phrase „contre les conditions de vente abusives“ ergänzt. „Modifications du document de travail“, 5 Juli 1950. = PU/21, in: Nachlass Pierre Uri (PU), Historische Archive der Europäischen Gemeinschaft, Florenz.

33 Ulrich Leppenkiiper, Der Schuman-Plan. Mühsamer Durchbruch zur deutsch-französischen Verständigung, in: Vierteljahrshefte für Zeitgeschichte 42 (1994), 403-445, hier 424.

34 Ebd., 424-433.

35 Interview Brigitte Leucht mit Robert R. Bowie in Bowies Wohnung, Baltimore, 13. Juli 1999. Die Seitenzahlen beziehen sich auf ein Transkript der Kassettenaufnahme, hier 2, 7. Brief Robert Bowie to John J. McCloy, 16 September 1949, John J. McCloy Papers, Archives and Special Collections, Amherst College Library, Amherst Massachusetts/HICOG Correspondence/13/HOS#28.

36 Interview Bowie, 2.

satzung tätig wurde.³⁷ Hier konnte Robert Bowie auf seine wissenschaftliche Expertise zurückgreifen.

Wie Bowie verfügte auch McCloy selbst über einen Hintergrund im Kartellrecht, wenngleich er ein Gegner der Antitrust-Initiativen des New Deal gewesen war.³⁸ John Gillingham unterstreicht Bowies und McCloys anfangs unterschiedlichen Zugang und anerkennt McCloys Wandel („from reluctant decartelizer to enforcer of Law 27“), den er vor allem auf die amerikanische Entscheidung für die deutsche Wiederbewährung zurückführt.³⁹

Als die Alliierte Hohe Kommission am 14. September 1950 auf Grundlage von Gesetz Nr. 27 eine Durchführungsverordnung erließ, die die Liquidation von sechs großen Stahlfirmen vorsah, protestierte Bundeskanzler Adenauer und drohte damit, die deutsche Delegation aus Paris abzuziehen.⁴⁰ Am 10. Oktober 1950 begann Robert Bowie, die per Durchführungsverordnung angeordneten Liquidationen durchzusetzen. Ein erneuter Protest Adenauers führte dazu, dass sich McCloy bereit erklärte, deutsche Vorschläge zur Durchführung von Gesetz Nr. 27 zu berücksichtigen.

6. Ein Kartellverbot für den EGKS

Es war Jean Monnet, der Anfang Oktober 1950 den anderen Delegationsteilern erstmals die Einführung eines Kartellverbots und einer Fusionskontrolle vorschlug.⁴¹ Die Ausgangsbasis von Monnets Überlegungen stellte das Memorandum über die wirtschaftlichen und sozialen Dauerbestimmungen des Schuman-Plans vom 28. September 1950 dar, das die Ergebnisse der zweiten Verhandlungsrunde zusammenfasste. Monnet äußerte sich hinsichtlich der wirtschaftspolitischen Grundhaltung des Vertrags besorgt und verwehrt. Die Dauerbestimmungen des Vertrags, die sich explizit gegen Kartelle und Spornen, ihre Produktivität zu steigern, damit letztlich die Konsumenten davon profitieren. Dazu wäre es absolut notwendig, Kartellpraktiken auszuschließen. Den Rahmen für die Antikartell-Bestimmungen gab Monnet folgendermaßen vor: ein eindeutiges Kartellverbot und eine Freistellungsmöglichkeit für Fusionen und Spezialisierungen, sofern diese von der Hohen Behörde genehmigt würden.⁴²

Unmittelbar nach Monnets Plädoyer für ein Kartellverbot präzisierte die deutsche und die französische Delegation ihre Vorstellungen. Im Unterschied zum französischen Entwurf sah der deutsche Entwurf kein generelles Kartellverbot vor, sondern ging von der Genehmigungsbedürftigkeit von Kartellen aus.⁴³ Frankreich und Deutschland hatten also durchaus unterschiedliche Vorstellungen hinsichtlich der Beschränkung von Kartellen, wobei sich die französische Haltung durchsetzen sollte.

An der Ausarbeitung der Artikel 41 und 42 (Artikel 65 und 66 EGKS) des ersten vollständigen Vertragsentwurfs, den die französische Delegation am 9. November präsentierte, waren Amerikaner beteiligt. Stets anerkannt (wenn auch nicht näher beleuchtet) ist die herausragende Rolle William M. Tomlinsons in der französisch-amerikanischen Zusammenarbeit. Der Finanzsachverständige der amerikanischen Botschaft in Paris hatte ebenso Anteil an der Diskussion um die Antikartell-Bestimmungen des Vertrags wie Robert Bowie.⁴⁴ Als amerikanischer Berater der französischen Delegation hat auch George Ball in dieser Phase der Verhandlungen mitgewirkt. Die Rolle Bowies geht jedoch über das bis dato Gezeigte hinaus – es ist möglich, dass der erste Entwurf für die Artikel 41 und 42 aus seiner Feder stammte. Auf Ersuchen Monnets skizzierte Bowie zwei Artikel:

„And I created, as I recall it, two articles very much drawn from my understanding of American antitrust law – not trying to duplicate American antitrust law, but just based on [...] our American experience with the effort to enforce the competition, but it was not intentionally aping or copying American [law].“⁴⁵

Bowie betont, dass es nicht um eine eins-zu-eins Übertragung amerikanischen Antitrust-Rechts auf den Schuman-Plan ging, sondern, dass er die Bestimmungen des amerikanischen Bundesrechts, die Gesetze und ihre Weiterentwicklung durch die Gerichte, durchdacht hätte.⁴⁶ Bowie hebt ferner die Expertise von Monnets Mitarbeitern hervor, insbesondere jene Pierre Uris. Die Frage der ursprünglichen Autorschaft der Artikel 65 und 66 ist nicht geklärt, möglicherweise war Bowies Entwurf nur ein Erstentwurf; die Artikel waren jedenfalls das Ergebnis transatlantischer Kooperation.

Die Artikel erforderten, dass zuvor die offenen Fragen bei der Reorganisation der deutschen Schwerindustrie geklärt würden. Ende 1950 forderte Monnet, dass das Ruhrproblem, insbesondere die Frage der Verbundwirtschaft, gelöst werden müsste, bevor der Schu-

37 Schreiben Dean Erwin N. Griswold [sic!] to HICOG (forwarded to McLain), 16 September 1949, *McCloy Papers / HICOG Correspondence/198/HHCO5/#28*.

38 Kai Bird, *The Chairman*, John J. McCloy: The Making of the American Establishment New York/London 1992, 20, 100f.

39 Gillingham, *Coal, Steel, and the Rebirth of Europe*, wie Anm. 18, 262.

40 *Lappenküper*, *Schuman-Plan*, wie Anm. 33, 429. *Schwabe*, *Akt konstruktiver Staatskunst*, wie Anm. 6, 233f.

41 Kipping, *Zwischen Kartellen und Konkurrenz*, wie Anm. 17, 212-214. Für eine Zusammenfassung der Literatur zur Erklärung des Monnet Vorstoßes, ebd. 217-220.

42 Bemerkungen Jean Monnets zu seinem Memorandum vom 28.09.1950, 05.10.1950 [frühdliche Präsentation am 04.10.1950] = Dokument 7, in: *Schulze/Hoeren*, *Dokumente zum Europäischen Recht* 3, wie Anm. 15, 20-29, hier 21.

43 Bestimmungen zum Schumanplan, 2.1.10.1950 = Dokument 8 sowie Vorschläge über die Inkraftsetzung des Schuman-Plans in Hinblick auf Vereinbarungen und Praktiken, die einschneidender Natur sind oder die zur Errichtung von Monopolen tendieren, 27.10.1950 = Dokument 9, in: *Schulze/Hoeren*, *Dokumente zum Europäischen Recht*, Band 3, wie Anm. 15, 23f. bzw. 24-27. Vgl. auch die einleitenden Bemerkungen zur Genesis der Artikel, XXIX-XIV, 44 *Schröder*, *Jean Monnet*, wie Anm. 9, 124-126, 187. Leider konnten bis dato keine schriftlichen Quellen zu Tomlinson gefunden werden. Vgl. A. W. Lovett, *The United States and the Schuman Plan. A study in French diplomacy 1950-1952*, in: *The Historical Journal* 39 (1996), 425-455, hier 441; *Volker Bergahn*, *Unternehmer und Politik in der Bundesrepublik*, Frankfurt am Main 1985, 141-44.

45 *Interview Bowie*, wie Anm. 35, 10. Balls Tagebuchaufzeichnungen zufolge war Bowie zumindest am 7. Oktober, am 21. November und am 5. Dezember 1950 in Paris. *Diaries 1950*, *George W. Ball Papers* (GWB), = *Public Policy Papers*, Department of Rare Books and Special Collections, at the Seeley S. Mudd Library, Princeton University Libraries, Princeton New Jersey, Archivarbeiten 1999, *GWBI/43*.

46 *Interview Bowie*, 13.

man-Plan mit seinem Kartellverbot in Kraft treten könnte, da die Widerstände der betroffenen Industriezweige in Frankreich groß wären. Auch Deutschland gab selbstbewusst zu verstehen, den Schuman-Plan Vertrag erst dann zu unterschreiben, wenn die Reorganisation der Ruhr geklärt sei.⁴⁷

Die Amerikaner reagierten auf Monnets Forderung und begannen im Januar 1951, mit Deutschland separat zu verhandeln, wobei McCloy regelmäßig Rücksprache mit Monnet hielt. Bowie spielte in den Verhandlungen eine wichtige Rolle. Erst Anfang März konnte ein Kompromiss erzielt werden: der „Deutsche Kohleverein“ sollte bis 1952 liquidiert werden; die deutsche Stahlindustrie wurde neu organisiert, allerdings wurden wettbewerbsfähige Unternehmen erhalten; die Verbundwirtschaft wurde teilweise erhalten (Stahlwerke durften Kohlegruben bis zu einer Bedarfsdeckung von 75% behalten); die deutsche Bundesregierung verpflichtete sich zudem zur Annahme des Schuman-Plans inklusive des Kartellverbots.⁴⁸

McCloy und Bowie trugen über ihre Arbeit für die amerikanische Besatzungsmacht dazu bei, dass der EGKSV zu Stande kam. Sie personifizierten die Europäisierung des deutschen Kartellproblems, welche eine Folge des Schuman Plans darstellte.

7. Die Interpretation des Schuman-Plans

George W. Ball hatte Monnet während des Zweiten Weltkriegs kennen gelernt, als er für die Verwaltung des „Lend Lease“-Programms arbeitete und Monnet für den „British Supply Council“ tätig war. In den 1930er Jahren hatte Ball erste Erfahrungen in Washington gesammelt, und zwar in der „Farm Credit Administration“, wo er die Politik des New Deal kennen gelernt hatte. Seit 1946 war Ball für „Cleary, Gottlieb, Steen and Hamilton“ tätig. Die Kanzlei arbeitete offiziell mit Monnet bzw. der französischen Regierung zusammen.⁴⁹ Bei den Schuman-Plan-Verhandlungen hatte Ball darüber hinaus als Berater Monnets und der französischen Delegation fungiert und am EGKSV mitgearbeitet.⁵⁰

Im Dezember 1950 begann Ball an einem Buch über den Schuman-Plan zu schreiben. Dieses Unterfangen ist im Rahmen von Balls Bestrebungen zu sehen, in den Vereinigten Staaten um Akzeptanz für den Schuman-Plan zu werben. In einer Reihe von Radiosendungen und öffentlichen Diskussionen setzte sich Ball mit Kritik am Schuman-Plan auseinander, die die Gründung eines Superkartells betraf.⁵¹ Das sogenannte „Schu-

man-Plan-Buch“ ist ein wichtiger Bestandteil von Balls „PR“-Versuchen; Ball hat das Schuman-Plan-Buch übrigens nie fertiggestellt bzw. veröffentlicht.⁵²

Die Materialien gewähren Einblick in das Denken George Balls und zeigen, welche Strategien Ball, der zum damaligen Zeitpunkt kein Repräsentant des offiziellen Amerika in Europa war, entwickelte, um in der amerikanischen Öffentlichkeit für die europäische Integration zu werben. In einem Kapitel mit dem Titel „The Economic Nature of the Plan“ stellt Ball die wirtschaftlichen Prinzipien des Schuman Plans dar. Ball anerkennt, dass der EGKSV vom Erfolg des einheitlichen Marktes in den USA inspiriert worden sei: „The lesson of the American experience was well understood by the drafters of the Schuman Plan“.⁵³ Ball erklärt das Europa der EGKS mit einem Rückgriff auf die Erfahrung der Vereinigten Staaten und betrachtet die europäischen Entwicklungen zunächst durch das Prisma der amerikanischen Vergangenheit. Allerdings wären die Antikartell-Bestimmungen des EGKSV, so Ball, „breiter“ und „moderner“ als das geltende amerikanische Antitrust-Recht.⁵⁴ Ball bezieht sich u.a. auf den Sherman Act, jenes Bundesgesetz, das 1890 verabschiedet wurde und Monopolisierung und Verhaltensabsprachen mit der Absicht der Wettbewerbsbeschränkung untersagt.⁵⁵

Die Bezugnahme auf die amerikanische Geschichte zur Interpretation der aktuellen Geschehnisse in Europa stellte eine Strategie Balls dar, die amerikanische Öffentlichkeit aufzuklären und für den Schuman-Plan zu gewinnen. Aber nicht nur Befürworter, sondern auch Gegner des Schuman-Plans, wie z.B. der Stahlindustrielle Clarence B. Randall, bedienten sich in ihrer Kritik am Vertragswerk dieser Strategie. In einem Artikel der Zeitschrift *Atlantic Monthly* greift Randall die europäische Haltung zu Antikartell-Fragen an. Auch Randall bezieht sich auf den Sherman Act, argumentiert allerdings – anders als Ball –, dass die amerikanischen Bemühungen an den traditionellen europäischen Geschäftspraktiken gescheitert wären.⁵⁶

Dieser Bezugsrahmen unterstreicht, dass Befürworter wie Gegner des Schuman-Plans davon ausgingen, dass die amerikanische Öffentlichkeit mit diesen Bestimmungen vertraut war bzw. Kartellen kritisch gegenüberstand. Auch Außenminister Acheson fürchtete noch Anfang Dezember 1950 die Ablehnung des Schuman-Plans auf Grund der negativen öffentlichen Meinung über die Kartellbestimmungen.⁵⁷

⁵² Materialien zum Schuman-Plan Buch; *GW/B/150*.

⁴⁷ Schwabe, Akt konstruktiver Staatskunst, wie Anm. 6, 235.

⁴⁸ Lappenkjuiper, Schuman-Plan, wie Anm. 33, 433; ausführlicher: Schröder, Jean Monnet, wie Anm. 9, 189-198; Thomas Alan Schwartz, America's Germany, John McCloy and the Federal Republic of Germany, Cambridge, Mass./London, 1991, 186-197; Lovett, The United States and the Schuman Plan, wie Anm. 44, 425-455, hier: 444-453.

⁴⁹ George W. Ball, *The Past Has Another Pattern*, Memoirs, New York/London 1982, 1-69, 77.

⁵⁰ Diaries, 1950, *GW/B/43*. Matthias Kipping verweist darauf, dass Ball einen Bericht über die „Federal Trade Commission“ angefertigt hatte, *Kipping*, Zwischen Kartellen und Konkurrenz, wie Anm. 17, 219.

⁵¹ Z. B. Vortrag über die EGKS im Council on Foreign Relations, New York, 3 May 1951; *University of Chicago Roundtable*, *The Steelmen Look at the Schuman Plan*, An NBC Radio Discussion by George W. Ball, Clarence B. Randall and Theodore W. Schultz, 20 January 1952, *GW/B/150*.

⁵³ The Economic Nature of the Plan, 30-Seiten Version des Kapitels (nummeriert als Kapitel 14), undatiert, *GW/B/150*: 1, 14.

⁵⁴ Ebd., 1f. Für Balls Erläuterung der Artikel 65 und 66 ebd., 3-9.

⁵⁵ Sherman Act, 26 Stat. 209 (1890). Für die amerikanische Erfahrung auf einem Konferenzbeitrag von 1964f., in: Ders., *The Paranoid Style in American Politics and Other Essays*, Cambridge, Mass., 1996, 188-237.

⁵⁶ Clarence B. Randall, *European Steel: Monopoly in the Making*, in: *Atlantic Monthly* (October 1951), 34-38, hier: 36. Zu Randall siehe auch Schröder, Jean Monnet, wie Anm., 9, 184. Ein Aufeinandertreffen Balls und Randalls fand im Rahmen eines Radioprogrammes am 20. Januar 1952 statt; *University of Chicago Roundtable*, *The Steelmen Look at the Schuman Plan*, wie Anm. 51.

⁵⁷ *The Secretary of State to Certain Diplomatic Offices*, 8 December 1950, *FRUS 1950 III*, wie Anm. 5, 761-765, hier: 763.

Das in seinen Augen mangelnde Problembewusstsein der Europäer in Bezug auf Kartelle spricht Ball in seiner Autobiografie an. Dass dieses Problem insbesondere Deutschland betrifft, konstatiert der Franzose Albert Bureau, der den französischen Teil der Alliierten Stahlkontrollgruppe leitete. Es sei notwendig, so Bureau 1951, bei der Dekonzentration nicht nur die wirtschaftliche Struktur, sondern auch die „Mentalität“ („la mentalité“) zu verändern. Bureau hofft, dass der Schuman-Plan hier einen Beitrag leisten würde.⁵⁸

8. Schlussfolgerungen

Der Diskurs um Kartellrecht fand im Kontext der alliierten Besetzung in Deutschland ebenso statt wie bei der Schuman-Plan-Konferenz und danach im Rahmen der Interpretation des Schuman-Plans. Einer atlantischen Expertengruppe des Antikartell-Rechts, die Akteure beiderseits des Atlantik umfasste, stand das unterschiedlich ausgeprägte Bewusstsein für kartellrechtliche Fragen der amerikanischen und der europäischen Öffentlichkeit gegenüber.

Die Schuman-Plan-Konferenz war ein Ort transatlantischer Kooperation. Ein Resultat dieser Kooperation waren die Artikel 65 und 66. Die EGKS-Gründung kann daher nicht nur als Bestandteil der Geschichte der frühen europäischen Integration, sondern auch als ein Beitrag zur atlantischen Geschichtsschreibung gesehen werden.

Horst Pietschmann*

Atlantische Geschichte – zwischen europäischer Geschichte und *Global History*

Das Konzept einer „atlantischen Geschichte“ oder einer „Atlantic History“ hat seit den 1950er Jahren eine immer weitere Verbreitung erfahren.¹ Vor allem nach 1989 kam es innerhalb des angelsächsischen Sprachraums rasch zu einer fast inflationären Verwendung dieser Bezeichnung, und sie wurde inzwischen auch in anderen europäischen und lateinamerikanischen Ländern gebräuchlich. Dies führte in den letzten Jahren bis hin zur Einrichtung eigener Studiengänge an angloamerikanischen und westeuropäischen Universitäten.

Was aber soll und kann „atlantische Geschichte“ auf den ersten Blick anderes sein als die Übertragung von Fernands Braudels „Mediterranee“-Konzept auf einen anderen maritimen Raum? Um die Entwicklung und aktuelle geschichtswissenschaftliche Bedeutung dieser Konzepte und Begriffe zu verstehen, empfiehlt sich zunächst ein kurzer historiographischer Rückblick, um ihr Aufkommen und ihre Verbreitung nachvollziehen zu können. Daran anschließend wird die Frage untersucht, ob und wieweit dieses Konzept inhaltlich und methodisch fundiert ist bzw. werden kann, bevor ein abschließender Ausblick den Versuch unternimmt, das künftige wissenschaftliche Erklärungspotential abzustechen.

In den 1950er Jahren waren der „Kalte Krieg“ und der „heiße“ Koreakrieg im Gange, die UNO war gegründet und die Charta der Menschenrechte verkündet. In der „westlichen Hemisphäre“ (ein Schlüsselbegriff für die angloamerikanische Herangehensweise an „atlantische Geschichte“) war die Organisation Amerikanischer Staaten (OAS), entstanden, die NATO organisiert und die Diskussion um die deutsche Wiederbewaffnung

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¹ Der Begriff „Atlantik“ als geographische Bezeichnung im Zusammenhang mit küstennahen Regionen oder Provinzen, sei es westeuropäischer Staaten oder afrikanischer Staaten, bleibt sowohl im Text als auch in den Literaturangaben unberücksichtigt. „Atlantik“ bezieht sich vielmehr hier ausschließlich auf ausgedehnte Räume des Ozeans und die damit verbundenen Konzepte, Deutungen und empirischen Befunde, und zwar selbst dann, wenn v.a. in den Literaturangaben auch einzelne Städte mit der spezifischen Funktion von Knotenpunkten in ausgedehnten Beziehungsnetzwerken genannt sind.

⁵⁸ Ball, *Memoirs*, wie Anm. 49, 88. Albert Bureau, *Avant et après. La déconcentration de la sidérurgie allemande*, 28. jun. 1951, 14f., in: *PU/39*. Zum Problem der „Hervorwurzeln Mentalitäten“ vgl. Bergahn, *Unternehmer und Politik*, wie Anm. 44, 103.