Note from René Massigli to Robert Schuman (17 June 1950)

Caption: In this note to French Foreign Minister, Robert Schuman, René Massigli, French Ambassador to London, informs the French Ministry of Foreign Affairs of the United Kingdom's negative attitude towards the French plan to pool coal and steel production in Western Europe.

Source: BOSSUAT, Gérard. D'Alger à Rome (1943-1957), Histoire de la construction européenne, choix de documents. Louvain-la-Neuve: Ciaco, 1989. 240 p. ISBN 2-87085-186-3. (Histoire de la construction européenne. Études, instruments et documents de travail). p. 125-130.

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http://www.cvce.eu/obj/note_from_rene_massigli_to_robert_schuman_17_june_1950-en-05f2ae16-3b91-43cb-a6b3-fc86e83e7907.html

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Note from René Massigli to Robert Schuman (17 June 1950)

The French Ambassador in London 17 June 1950

secret

Note for the Minister

The declaration of 9 May presented the plan to pool coal and steel production and establish a High Authority, its decisions binding member countries, as the first step towards the organisation of the European Federation.

Furthermore, the Minister has stated on several occasions — and he repeated this to me officially yesterday — that French policy must seek to secure, as soon as possible, British cooperation in the task now under way. In this connection my despatches have repeatedly drawn attention to the importance, from the point of view of the British Government and general public, of the issue of the accountability of the Authority.

Mindful of these concerns, I have been considering the provisions in the preliminary draft that the Minister was kind enough to let me read yesterday.

The present note summarises the conclusions I reached. They are necessarily provisional and certainly incomplete, as without direct access to the texts I have had to reconstitute the structure of the preliminary draft from memory.

I- The manner in which the members of the Authority are appointed is not in itself a decisive factor in whether it becomes a supranational body or not. The decisive factor is the powers vested in the Authority. The Court of Justice in The Hague, for instance, is clearly a supranational body despite the fact that its members are elected by government delegates.

There are therefore several systems that one could devise. However, there can be no doubt that the British would have difficulty accepting the idea that individual governments would have no say in the choice of delegates. They would undoubtedly dismiss as unfair a system in which Luxembourg, for example (with 2 million tonnes of steel and no coal), enjoyed the same rights with regard to appointments as Great Britain. Several types of ‘weighted’ system are possible and there is nothing to prevent the system being based on the one adopted for appointments to the Strasbourg Assembly.

Once the Authority has been set up it is hard to see why Governments or Parliaments should be denied any part in the reappointment of its members. In any case we may be certain that the system of co-optation advocated by the authors of the preliminary draft will be condemned as encouraging the formation of a ‘synarchy’ and elevating a few big ‘directors’ to a position where they wield almost absolute power over the European economy. One might counter that delegating a portion of sovereignty to a group of people in whose appointment Governments or Parliaments have a say is not at all the same as relinquishing the same amount of sovereignty to figures who are not necessarily even ‘Europeans’ and whose only qualification is the fact that they were appointed by some of the people who initially belonged to the Authority.

A system of this sort will be condemned as contrary to all democratic principles and favourable — by way of third parties — to collusion between private interests. The Labour Party will talk about a ‘bosses’ syndicate’ or ‘Ruhr magnates’. I do not think it would be an exaggeration on my part to say that no British Government could support such a system.

Finally I should point out that setting up the High Authority on such terms would not bring us any closer to establishing the European Federation; quite the contrary.

II- The question of the accountability of the High Authority and the means of appeal against decisions is even more important.

I used to be convinced that provision had been made for a judicial body to settle disputes in which a Government maintained that such and such a decision by the Authority exceeded its powers ... On reflection I am no longer so sure. In any case I think it is essential that there should be such a body.

Otherwise even greater powers would be vested in the 'mediators', giving yet more weight to the objections prompted by the provision in the preliminary draft, and they are already serious.

a) The 'mediators' would be appointed by three international figures, but it is quite plausible to suppose that not a single one of them would be a citizen of a European State when the time comes to make such appointments. Nor, for that matter, should the candidates for the post of conciliator necessarily be European citizens. There is consequently no link between the new institution and the European ideal.

b) The extremely short lapse of time available to Governments to appeal against a decision will be seen as making it practically impossible to exercise the right of appeal at all. This will merely confirm the impression that, for the authors of the draft, the words 'supranational Authority' are synonymous with 'dictatorial Authority'.

c) The mediators only have powers of 'recommendation'. This is obviously not acceptable if their sphere of competence is to include appeals against abuses of power. It is just as unacceptable in relation to any other sort of appeal. If a Government protests against a decision that affects the economic interests of its country and if the mediators rule that the protest is justified, it is inconceivable that the Authority should not bow to this decision. But that is just what the authors of the draft allow it to do. Will they say that the Authority is morally obliged to comply with the recommendation made by the mediators? In this case, it should be stated in writing. Were they afraid of diminishing the prestige of the Authority? If so, it would once again be difficult to dispel the impression that the authors are confusing 'supranational' and 'dictatorial'. On the contrary, we should, in my opinion, seize every opportunity to assert that a supranational Authority is not above the law, even if the laws themselves are supranational or, at the very least, international.

If my analysis is accurate — and I believe that it is — it is unnecessary to add that no British Government will agree to the plan in its present state.

III- The provisions concerning the answerability of the Authority to a sort of European Assembly are too complex for me to risk criticising them from memory. Moreover they are less open to criticism.

I shall therefore merely draw attention to a few points.

Greater recognition could, I think, be given to the right to criticise. In practical terms, the only right conferred on the Assembly relates to the submission of the Authority's report. The Assembly can, at that time, pass a vote of no confidence which results in the dismissal of the entire Authority, prompting a serious crisis. Are we to rely on the gravity of such an action to dissuade the Assembly from ever passing a vote of this nature? In addition, is it sufficient to confer on the Assembly the right to dismiss the Authority but consider that the Authority should enjoy a form of immunity, when no democratically elected government is exempt from criticism from its Parliament?

Could provision not be made for the Authority to refer particularly important decisions to the Assembly for approval? In specific cases it could be stipulated that a qualified majority (two-thirds, for example) was required to obtain approval. Any provisions along these lines would help reassure the undecided.

There remains the question of the appointment of the members of the Assembly. Who will make these appointments? Governments or Parliaments?

We ran into the same difficulty regarding the Strasbourg Assembly. The solution in that case was to let the various Member States adopt the rule that suited them best: in France, Parliament appoints delegates; in the United Kingdom, it is the Government. It seems to me that adopting a similar arrangement would greatly

facilitate matters with respect to London. For constitutional reasons the British Government would certainly be reluctant to give up the right of appointment, which it considers an essential prerogative of government, and transfer it to the House of Commons.

In conclusion I should like to remind you that, following the *faux pas* committed by Mr Dalton and the stir it prompted in the United States and France, circumstances are now more favourable than ever to obliging the British Government to sign up to a ‘reasonable’ project./.