

Note on the relationship between the International Authority for the Ruhr and the European Coal and Steel Community (7 November 1950)


Caption: Anonymous French note on the coexistence of the International Authority for the Ruhr and the High Authority of the European Coal and Steel Community (ECSC).

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A.S. Ruhr Authority
& Coal and Steel Community

The aim of this note is:

— to provide a comparison, with regard to Germany, between the powers of the Ruhr Authority and those of the institutions of the Coal and Steel Community;

— to provide the French Government with information on which to base the decision which it will be required to take on the future of the Ruhr Authority.

It is drawn up on the basis of the draft Treaty submitted by the French delegation to the Six-Power Conference and the agreements reached at that conference.

1 — With regard to Germany, the Ruhr Authority, on the one hand, and the High Authority, on the other, have a field of activity that covers the same products: coal and steel.

Although it has the notion of control as its starting point, the Ruhr Statute seeks to guarantee conditions for equal access, non-discrimination, lowering of trade barriers and economic cooperation like those which the Coal and Steel Community guarantees within the Single Market.

2 — The Ruhr Agreement therefore represents a middle way between the safeguard policy imposed on Germany and the cooperation policy.

In some of the provisions of that agreement, Germany is regarded as an equal partner, whilst, in others, the signatory Powers, France, the United Kingdom, the United States and the Benelux countries, have a preferential position.

Similarly, although the Statute was imposed on Germany, which did not discuss it, the Federal Government was given the opportunity to accede to it.

The same hybrid character may be found in the substance of the agreement which makes Germany subject to particular constraints equivalent to a partial abandonment of sovereignty but in accordance with a doctrine which, to a certain extent, opens the way for the Schuman Plan.

3 — The problem of the coexistence of the two organisations had not been raised either in the Declaration of 9 May or in the Working Document drafted in June. It was not possible at that time to predict with sufficient accuracy the powers that would be conferred on the High Authority and the tasks that would be assigned to it.

Accordingly, the Declaration of 9 May stated that the High Authority would ‘take account of the powers conferred upon the International Authority for the Ruhr and the obligations of all kinds imposed upon Germany, so long as these remain in force.’

The situation is no longer the same today in view of the results achieved by the Six-Power Conference. It therefore has to be decided whether the coexistence of the Ruhr Authority and the Coal and Steel Community is, firstly, possible and, secondly, necessary.

As far as the first point is concerned, the duplicated field of activity and different legal position in which Germany

would find itself in the two organisations shows that it is difficult to maintain both alongside one another.

As far as the second point is concerned, there needs to be a review of those powers held by the Ruhr Authority that are included in the draft Treaty establishing the Coal and Steel Community and of whether the guarantees that can be expected are equivalent to the guarantees offered by Germany's obligations under the Ruhr Statute.

4 — (a) Allocation

Article 14 of the Ruhr Statute gives the IAR the power to allocate coal, coke and steel from the Ruhr with a view to ensuring adequate access to supplies of these products by countries cooperating in the common economic good.

One of the main tasks of the European Coal and Steel Community is to 'ensure an orderly supply to the common market and to ensure that all users have equal access to the sources of production' (Article 2 of the draft Treaty).

The draft Treaty includes a number of provisions for achieving that objective (continuous market study, forward programmes, indirect action to regularise consumption, intervention with regard to prices and commercial policy, etc.).

In addition, in the event of a shortage — where a division becomes necessary — Article 40 of the draft Treaty gives the Community the power to allocate coal, coke and steel among the participating countries, having regard to export requirements.

The measures that are necessary to that end are adopted by the Council of Ministers acting unanimously, which represents a guarantee for each of the members of the Community; if unanimity is not achieved, the High Authority has the power itself to allocate the Community's resources among the Member States, a provision that rules out a veto by any one of those countries.

It should be observed, even though this does not relate to such allocation, that Article 39 of the draft Treaty gives the High Authority the power to set up mandatory production programmes in the event of shortfalls in production.

(b) Non-discrimination

Article 15 of the Ruhr Statute gives the IAR the right to review and, where necessary, modify or terminate discriminatory or artificial practices relating to steel, coke and coal from the Ruhr.

The elimination of discriminatory measures forms the basis for the ideas set out in the Schuman Plan and is a condition for the creation of the Single Market.

The draft Treaty aims to prohibit and abolish discrimination, both in the provisions that lay down the Community's aims (Article 3: definition of the Single Market; Article 4: Community's tasks) and in the provisions laying down the powers of the High Authority (Article 38).

5 — In addition to these powers that it exercises at present, other powers will also have to be conferred on the Ruhr Authority in future; although the field of application of these powers is expressly laid down in the London Agreement, their scope and their extent have not yet been defined by the signatory governments.

(a) Decentralisation

The decentralisation of the Ruhr's industries is currently taking place under the auspices of the High Commission and the Supervisory Groups. It is provided for by a High Commission law, Law 27. This fundamental task is currently being performed, and its completion may not be jeopardised.

When the task has been successfully completed, the problem of preventing the rebirth of the old structures, the ‘Konzerns’, will be raised.

Article 18 of the Ruhr Statute provides that the signatory states will have to determine the conditions under which certain powers will be transferred to the Ruhr Authority in order to prevent the establishment or re-establishment of excessive concentrations of economic power.

As we have seen, this decision has not yet been taken.

In Articles 41 and 42, the draft Treaty confers on the Community the powers required to maintain in Germany the structure resulting from the decentralisation by means of measures that will apply throughout the Community.

(b) Production and investment programmes

Under the same conditions as for Article 18, the Ruhr Statute accords the IAR powers relating to investment and production and development programmes in order to allow the requirements of countries cooperating in the common economic good to be duly met.

The approved minutes annexed to the London Agreement stated that Article 19 was to contribute to a closer association between the European countries and to create the conditions in which the powers that it envisages would no longer be necessary.

In this case, too, the signatory governments have not yet taken any decision, and, given the position taken by some of those governments, it is very difficult to say to what extent Article 19 could become a reality.

The High Authority’s intervention powers in this field are more dynamic and wider-ranging. Article 32 provides for the establishment of forward programmes, Article 36 provides for coordination of investments, Article 39 provides for the establishment of production quotas in the event of crises, and Article 40 provides for the possibility of establishing mandatory production programmes in the event of shortages.

6. — Information

Article 20 of the Ruhr Statute gives the IAR the right to obtain the information that it considers necessary in order to carry out its tasks and to verify information.

Article 33 of the draft Treaty provides that the High Authority may obtain information and have the necessary verifications carried out.

The draft Treaty is more general than the Ruhr Agreement in that it expressly permits access to information on individual undertakings, a power that the Ruhr Statute does not rule out but which has, to date, not been used.

7. — Other powers

Aside from the abovementioned powers, the Ruhr Statute makes provision for certain powers that do not fall within the scope of the Community’s activity.

These powers relate to the protection of foreign interests in the Ruhr (Article 16), demilitarisation (Article 17) and denazification (Article 18). These powers, currently exercised by the High Commission or by its subsidiary bodies, will be able to remain under its responsibility and to be included in the terms of any peace settlement.

8. — Composition and term

Two main points must be made:

(a) The Ruhr Authority comprises six 'signatory governments': France, the United Kingdom, the United States and the Benelux countries. It also includes Germany, which has acceded to the agreement.

As matters stand at present, the Community comprises France, the Benelux countries, Germany and Italy. Two of the occupying powers, the United Kingdom and the United States, are, therefore, not represented.

In most cases, the Ruhr Authority decides by a simple majority; France, the United Kingdom, the United States and Germany each has three votes, and each Benelux country has one vote.

The voting procedure within the Community is fairly complex because several bodies are involved, in particular the High Authority and the Council of Ministers. The weighting of votes has not yet been determined.

(b) As far as the term is concerned, the Ruhr Statute remains in force pending a Peace Treaty and, thereafter, as provided in any such settlement.

Under Article 33 of the Statute and paragraph 8 of the approved minutes, the Ruhr Agreement may be amended or terminated only by the agreement of all the signatory governments.

The Treaty establishing the European Coal and Steel Community is to remain in force for 50 years.

9 — Subject to the obvious proviso of the future of Western Germany in terms of the general problem of German unity, the Treaty represents a set of contractual commitments entered into voluntarily by Germany and, as far as coal and steel are concerned, accords it the status of an equal partner, integrated into a federal system.

This objective, which is the objective of France's policy vis-à-vis Germany, cannot be achieved by the Ruhr Agreement which is unilateral and too limited.

Conclusions

On the basis of the above considerations, the French Government might adopt the following position:

1 — If the draft Treaty were accepted with the provisions currently envisaged or equivalent provisions, it would recognise that the coexistence of the Ruhr Authority and the European Coal and Steel Community appears neither possible nor necessary.

2 — In accordance with the general conclusion above, an assurance would be given to the German Government that the French Government would be prepared, for its part, to take the necessary steps to put an end to the Ruhr system when the Coal and Steel Community is actually carrying out its tasks.

Mr Monnet wishes to be allowed to judge when would be the most appropriate time to communicate this assurance to the German Government.

3 — The French Government would make the necessary recommendations, along the lines set out above, to the signatory Governments of the Ruhr Agreement, given that, as has been pointed out above, no unilateral decision may be taken by a government in this area.

4 — It should be understood that there can be no continuity solution between the Ruhr Statute system and the Community system.

The German Government should be informed of the French position in this regard.

It is inconceivable for such essential functions as allocation and non-discrimination to be suspended temporarily as regards Germany. This objective will be achieved if:

— the cessation of the tasks currently carried out by the IAR coincides with the actual establishment of the Single Market;

— the conditions under which the Community system succeeds the Ruhr Authority system are set out in accordance with a procedure approved by the signatory governments.