Albert R. Métral, The Schuman Plan is a leap into the unknown (1951)

Caption: In 1951, Albert R. Métral, Chairman of the Mechanical Engineering and Metallurgists Association, considers the principles and the basic rules laid down by the Treaty establishing the European Coal and Steel Community (ECSC) and calls for the French Parliament to reject the text.

Source: Nouvelle Revue de l'économie contemporaine. Numéro spécial: Le plan Schuman. dir. de publ. Dauphin-Meunier, Achille. 1951, n° 16-17. Paris. "Le plan Schuman constitue un saut dans l'inconnu", auteur:Métral, Albert R. , p. 31-35.

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‘The Schuman Plan is a leap into the unknown’

Van Zeeland, the Belgian Foreign Minister

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The following comments only reflect the personal opinions of the author, both regarding the basic principles at issue for the projected European Coal and Steel Community and the form Mr Jean Monnet has proposed for its application.

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General considerations

We have always maintained, at conferences and in various technical articles, that Europe is confronted by two economic forces: on the one hand, the largely open United States and, on the other, the Soviet Union, jealously guarded and consequently threatening with its centrally planned European and Asian satellites. It is therefore a basic condition for Europe’s economic survival that it should set up a rationalised, specialised market, at the centre of a consumer community, unfettered by any customs constraints and using freely convertible national currencies, if not a single European currency.

Like many other French people, we were entirely sincere in our applause for the constructive idea launched by President Robert Schuman to set up a European Coal and Steel Community, because we are convinced that the process of economic union must start with basic raw materials. However, we consider that this economic process must go hand-in-hand with a gradual attempt to achieve democratic political union in the fields we see as essential: education, currency, tax and welfare. We are sorry to note that European countries have so far not displayed any concern for these matters.

We are nevertheless absolutely convinced that the treaty on the coal and steel pool will constitute the prototype for a European treaty, to serve as a model for all subsequent economic integration.

The Strasbourg Assembly, whose current scope and influence should not be exaggerated, presented the organisation of the specialist High Authority, proposed as part of the Monnet project, as a model for widespread use in the institutions tasked with gradually achieving European economic union.

In November 1960 the Organisation for European Economic Co-operation (OEEC), acting on a decision by the Council of Ministers, launched a study of various projects for the economic integration of sectors of the manufacturing industry, including cars, textile, rolling stock, agricultural machinery and heavy equipment for power stations. This reflects the entirely reasonable belief that integration must start with the basic components of production, in farming (tractors), motive power (electricity power stations) and transport (motor vehicles, rolling stock).

In view of the unanimous opposition of the French trades concerned and the almost unanimous opposition of their foreign counterparts, we need to take a careful look at the basic principles and rules set forth by Mr Monnet for the coal and steel treaty.

It would certainly make no sense to support this treaty, which will apply to two commodities, and to oppose other agreements based on it, destined to apply to the industrial sectors cited above; this list only being a preliminary draft to which basic industries, such as capital goods, will shortly be added.

It should be borne in mind that on 16 April 1951, in a memorandum to European governments, the French

government asserted its belief ‘that a further step towards the economic unity of Europe should have as its objective the joint organisation of the principal agricultural markets’, based on the creation of European institutions, comparable in their organisation and operating rules to those established by the treaty on coal and steel. As we know, the aim is to start with wheat, dairy products, sugar and wine.

At the same time the Council of Europe asked for an agreement to be drawn up for a European High Authority on Transport.

However, from an entirely objective standpoint, it does seem that the basic principles and rules set forth in the treaty are largely contrary to the basic principles and rules that independent professional organisations have always upheld, in particular since the Liberation of Europe.

We can safely say, without going into further detail or misrepresenting the views of private industry, that they are against any idea of a combine, for reasons that are already well known and that it would be pointless to develop here. They believe that European union can only be achieved through industrial agreements on specialisation and rationalisation established by manufacturers and consumers, with the help of the authorities, but taking into account both economic and technical factors, and social and demographic factors.

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A. — Review of the administrative organisation

The first point of note is that the treaty will be in force for 50 years. The signature of the various ministers was sufficient for preparations to start, though not for the treaty actually to come into force.

These provisions are not just dangerous, they are so unrealistic they make no sense at all.

Faced with this final leap into the unknown — this being an initial experiment with far-reaching consequences — it is presumptuous immediately to embark on a definitive term of 50 years while making it impossible in practical terms for the signatory states to approve or even initiate the study of any changes, and even more impossible to leave the pool to defend the interests they see as vital. As things stand any request of this nature must be jointly agreed by member states.

So, if just one government considers that it is in its own interest either to leave the treaty as it is, or that the treaty endorses its political doctrine, despite the other participants concluding, for example, that it runs counter to the principles of a free European economy, the treaty can become untouchable, set in stone till 2001.

Considering the changes and shifts in emphasis that have affected the Monnet plan within the national framework — and it is only four years old — it seems an elementary precaution in terms of political common sense to provide for a four or five-year trial period, on the understanding that at the end of this period, the signatories will convene to draw up a rider for the initial agreement, which is either permanent or at least valid for a longer period. History has shown that economic life is not the result of a crystallisation process, occurring once and for all at a particular time in national or international events. The word ‘life’ itself implies constant change.

The need for a unanimous vote to launch the study of a change is very similar to the veto procedure which has always attracted criticism in international assemblies and makes them almost completely ineffective. Moreover it is not democratic, being more akin to a totalitarian regime.

The possibility that the project may come into force before national parliaments have had time to ratify it also poses a serious problem. An eloquent example is the Havana Charter, which parliament has not ratified, thus creating a dangerous situation for several reasons. The present case is even more troublesome, the whole project being based on an ‘all or nothing’ approach. The French parliament, to which the signed treaty

will be submitted for ratification, will only have two options: to accept it as it stands or to throw it out. Under no circumstances may it amend the treaty. Whatever one may think about the real effectiveness of parliament, it is unthinkable in a democratic country that our elected representatives cannot, after due deliberation, make any changes to a projected European statute involving the issue of raw materials, and consequently a part of our national sovereignty. The United States of Europe have not yet been established and they will only be achieved through gradual approximation, in the firm determination that we shall reach our goals. Taking a few elementary precautions at the beginning will substantially increase our chances of success.

We must also emphasise the fact that the Schuman plan was never presented to the French parliament, contrary to what the Foreign Minister claimed in his speech to the upper chamber on 28 July 1950.

Meeting behind closed doors, in the absence of the Finance Minister, the Secretary of State for Economic Affairs, and the Industry Minister, a restricted group of supermen ‘with overall competence’ discussed relinquishing part of our national sovereignty! It is surely emblematic of France’s present predicament in that people with no constitutional responsibility should feel entitled to disregard the Constitution in this way.

Furthermore, we need to look at how the European pool will be administered.

In fact, four bodies will discharge this task: the High Authority, the Council (of ministers), the Consultative Committee and the (parliamentary) Assembly.

The ministers have decided that the High Authority will consist of nine members, with two at the most of the same nationality. Eight will be appointed by the governments on the basis of their ‘overall competence’, and the ninth member will be co-opted. They will hold office for six years, then one-third of the assembly will be replaced every two years.

This assembly will thus consist not of technicians but of technocrats.

Decisions will be taken by a majority of the members of the High Authority.

What form of appeal will be available? Through Council? One minister from each member country will sit on the Council, so it will not be able to act as an effective check.

And what about the Consultative Committee? This tripartite committee, comprising government officials, manufacturers, consumers and traders, only has an advisory role. The High Authority is only required to consult it in exceptional cases, or if the majority of its members request it, having first agreed on all the items on the agenda. In other words, the committee has no established right to convene a meeting even if one of the three categories, for instance the consumers and traders, should unanimously agree to do so. Membership of this committee, numbering at least 30 and no more than 51, will be spread proportionately between member countries, so here again there is no effective check.

The Assembly consists of delegates appointed by national parliaments from among their number or elected by direct universal suffrage. Germany, France and Italy will appoint 18 delegates each, Belgium and the Netherlands 10 each, and Luxembourg four, making a small parliament of 78 members. But to clarify the issue we should perhaps add what Professor Halstein, one of the leading German negotiators, said on the radio, explaining that ‘the situation has shifted in Germany’s favour: the presence of three delegates from the Saar in the Assembly’s French delegation has raised the number of German delegates from 18 to 21’. So it seems logical to conclude that the number of French delegates will in practice be cut from 18 to 15!

A provision in the draft treaty stipulates that this assembly, comparable to an annual general meeting of shareholders, should meet at least once a year to hear the presentation of the annual report submitted by the High Authority. In practical terms this is the only occasion when the body can exercise any control, and in keeping with the all-or-nothing principle it may either approve the report or vote a motion of censure. In both cases a two-thirds majority is required. If the motion of censure obtains a two-thirds majority, it obliges

ipso facto all the members of the High Authority to resign. Without further discussion of this provision, which seems totally unrealistic, we should simply stress that if one country holds more than 34 % of the vote it can prevent a motion of censure and perpetuate the High Authority.

So, contrary to what some commentators have written, this High Authority is certainly not French in inspiration.

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B. — Will the High Authority seek to centralise control?

To answer this question we need to examine a series of documents very closely, including the one dated 11 December 1950, and to think about what the words mean. Behind its remarkable presentation we can thus grasp the true nature of the project.

On the basis of the arguments outlined above we may categorically assert that this is a clever attempt to impose a highly centralised, international technocracy, which is both discretionary and permanent.

We were not the first to accuse this system of being highly centralised: President Ramadier of France referred to the Schuman plan as *superdirigisme*.

Unsuspecting readers will certainly be impressed by the article [in the treaty] which formally condemns the overall principle of cartels, but nevertheless provides for the High Authority under exceptional circumstances to 'authorise enterprises to agree among themselves to specialise in the production of […] specified products'. We should point out straight away that this provision is deceptive, as the High Authority can withdraw any authorisation of this type on the nod, without justifying its decision. Given the substantial capital investment involved, no one is going to consider specialising without a guarantee on duration or scope for appealing against arbitrary decisions.

The text of this article certainly places all forms of concentration under the control of the Authority, but by virtue of Article 2, which states that the purpose of the treaty is to 'progressively establish conditions which will in themselves assure the most rational distribution of production at the highest possible level of productivity', this leaves complete latitude to the Authority, without departing from its usual methods, to restore a cartel in much of the Ruhr. Moreover, an attentive reading of the text leads to the conclusion that although it seems to ban horizontal concentration, it gives the Authority every opportunity to justify or even encourage vertical concentration.

These provisions thus uphold, contrary to one's initial impression, a position that is entirely at odds with the standpoint of independent French industrialists, and also of the French parliament.

1. Centralised technical, economic and social control

The treaty invests the High Authority with far-reaching powers of investigation in companies, concerning issues of production costs and even manufacturing secrets. Companies refusing to provide information which the Authority may unilaterally decide it needs (Article 48), even if such information constitutes a professional secret, run the risk of fines of up to 1 % of their annual turnover, with penalties of up to 5 % of their average daily turnover. No legal system, even in the Soviet Union, has yet inflicted such severe penalties.

The Authority controls all forms of investment, which might be conceivable if it had a technical committee, but in practice it can refuse the funding of any investments with which it disagrees, without having to justify its decision. This may, for example, lead to acceptance of any investment in the Ruhr and a ban on any investment in France.

The Authority can fix the prices of a specific company, if it considers this necessary. With the backing of a

majority (High Authority, Council), it can fix the price of all products, and the level and schedule of production for each company. It thus becomes a trading system for steel that is no longer national but international. If three states decided to nationalise their industry (including the one holding the presidency) they could impose on all the companies in the six countries either price scales and production quotas permanently decided by the administration, subjecting them to the threat of the exorbitant fines cited above, or outright nationalisation.

It thus looks increasingly as if the treaty was drafted by a Soviet ministry, not by a group of Western democracies.

2. Centralised financial control

The financial provisions in the treaty are so extravagant as to justify rejecting the entire document out of hand. But at the same time it is essential that Mr Schuman's political agenda should be achieved. To do so, it would need to be implemented by well qualified technicians, well versed in the problems of international trade in coal and steel. They would also have to be very determined to achieve a single European market and take the necessary measures to avoid financial chaos in France and secure its immediate future.

We shall now examine the financial provisions in greater detail.

First, the budget of the Community institutions is established by simply adding up the expenditure forecasts of each of the constituent bodies. It is submitted neither to the Assembly nor to the Council, which is excessive in itself.

Having fixed the budget in this way, the High Authority levies a tax on turnover to cover this uncontrolled budget. The tax may be as much as 1 % of turnover, which currently amounts to 150 to 200 billion French francs. Provision also exists for the rate to be raised, subject to the approval of the majority of the Council, with no indication of an upper limit.

This provision alone is unacceptable. We are surely right in asserting, on the basis of our longstanding experience of international bodies, that special taxes are being introduced here based on a new principle, with no means of appeal, for the benefit of a sort of super-officialdom. Worse still, thanks to the texts establishing this system, there is no way of checking its proliferation.

On the contrary proliferation is written into the treaty, which authorises the Authority to set up any bodies or financial mechanisms required to fulfil its mission. It certainly seems reasonable that it should set up a European coal and steel bank, but we have reason to believe that this provision will find its first application in the setting up of an export trading company. This would be equipped with a harmonisation system, which would immediately give rise — if only to work out the basis for harmonisation — to a body for registering and checking all the operations carried out by coal and steel firms. In short, the first step would be an international export trading organisation for steel, soon to be followed by overall nationalisation of coal and steel.

The consumers, who are already openly hostile to some of the rules of operation of France's Comptoir des Produits Sidérurgiques (a government-sponsored steel sales syndicate), will certainly not accept an even larger equivalent body, operating on an international scale.

Nor is this all. The High Authority should by definition remain completely independent from the companies in the pool. But under the terms of the draft treaty the Authority could be empowered to select promising companies and fund the launch of new activities, which in its sovereign wisdom it considers viable. It may also act as a guarantor for loans, or even grant non-refundable subsidies. The scale and elasticity of its resources, obtained by levying the previously mentioned tax, affords it complete latitude in this matter.

In this way the Authority would become financially tied to some of the companies it was supposedly supervising, thus constituting a preliminary error of principle. It would also be judge and party, in its

sovereign, unchecked right: a second anomaly. By awarding preferential interest rates or indexing its loans on the price of coal or steel, it could encroach on the authority of finance ministers, depriving them of any scope for investing in their home market.

Such provisions are quite simply intolerable.

Lastly the Authority may also provide its financial support to facilitate the reconversion of companies to 'economically sound' activities, subject to its sovereign approval. The resulting development of new equipment could lead to the disappearance of more primitive activities.

It would consequently encroach, from the very outset, on other trades, necessarily processing industries, without in any way being obliged to consult them.

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C. — To which court will the High Authority be answerable?

In view of the extensive powers vested in the High Authority the less well informed reader might well suppose that an administrative court should exist to prevent countless economic, technical, financial and administrative abuses. Before considering the workings of the Court of Justice, established for this purpose, we should draw attention to a particular point of international law.

The outline of the Authority's main powers, which we have tried to keep as brief as possible, shows that in fact the governments of participant countries have delegated — or more exactly purely and simply relinquished — their powers over prices, programmes, investments, loans and even customs duty, in favour of the international Authority. But do they really hold these powers in the first place? In many instances the answer is open to doubt, and in the case of Belgium it is certainly negative. We are personally convinced that this country cannot ratify the Monnet plan, or in other words the treaty, without completely reforming its legislation.

Returning to the court to which the Authority will be answerable, it seems obvious that as an international body the Authority cannot be answerable to national courts. This explains why a special court is being set up. The texts on this body suggest that its authors took their inspiration from those governing France's Conseil d'Etat, but in our opinion they emptied the texts of their basic judicial substance. In principle the statutes of the Court do not empower it to review the Authority's appraisal of prevailing economic circumstances in its judgments. Furthermore companies may only appeal against the Authority's decisions in a limited number of cases. To obtain compensation for established damages they must demonstrate that the Authority has committed a serious fault. All the specialists in administrative law that we have consulted agree that it would be almost impossible to prove this point. Manufacturing or processing companies which suffer from the action of the Authority will be stripped of the guarantees provided by their national legal system and exposed to arbitrary, administrative decisions.

And what of governments? They too can appeal against abuses of power or procedural errors committed by the Authority. Indeed only governments may lodge such an appeal, though it will not be suspensive.

Bearing in mind that the governments which signed the treaty can only withdraw with the unanimous consent of the other participants, it is clear that such rules are inane.

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Conclusions

This bulky treaty, with its 100 articles, annexes and protocols, as well as the convention on transitional provisions, should be read by anyone in France who cares about his or her country's future.

It makes sad reading for anyone unfettered by ideological or national sectarian views, sound of mind and in good faith. It is sad to see this travesty of the fine ideal voiced by President Schuman, which could have formed the basis for reconciliation and European economic union, supplanted by a Monnet text, to which no one who upholds the fundamental principles of freedom and constitutional government, could possibly agree.

The French parliament should reject this text which was drawn up with the formal determination, unspoken and consequently shameful, to destroy the root principle of professional federation. Parliament should then appeal to all the various trades concerned, entrusting them with the task of preparing, in consultation with their European counterparts, a new text reflecting the basic principles of freedom and dignity which have, in our view, characterised the finest moments of French thinking since 1789.