Transatlantic policy networks and the formation of core Europe

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The thesis is submitted in partial fulfilment of the requirements of the award of the degree of Doctor of Philosophy of the University of Portsmouth.

June 2008
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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Bibliography
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

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
OECE     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


Presentations


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

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 1945

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

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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.
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,

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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 historiography 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. 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

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negotiations of the institutional framework on the one hand,\textsuperscript{6} and the deliberations on the economic provisions on the other.\textsuperscript{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.\textsuperscript{8} At the same time, Françoise Berger\textsuperscript{9} and Andreas Wilkens\textsuperscript{10} 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


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.\textsuperscript{11} German historian Walter Lipgens, who first developed the study of European integration as a historical discipline in its own right in the 1960s,\textsuperscript{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.\textsuperscript{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.\textsuperscript{14} Together these developments caused a profound change in the political consciousness of European leaders. As a result, European states

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’.\footnote{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.} The authors accredit early theorists of neo-functionalism with devising the conception of a transnational European society.\footnote{Ibid. pp. 5-6.} 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-
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.\(^\text{17}\) 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.\(^\text{18}\) 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


the end tends to equate transnationalism with European supranationalism'. 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. These accounts implicitly accept 'realist' assumptions of International Relations (IR) theory about the dominance of material power and the resilience of the state. 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

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.\textsuperscript{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 interstate 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.\textsuperscript{23} In his seminal \textit{The Reconstruction of Western Europe}\textsuperscript{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


\textsuperscript{24} Alan S. Milward, \textit{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*.\(^\text{25}\) 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.\(^\text{26}\) 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,\(^\text{27}\) 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.\(^\text{28}\) Focusing on preference formation in a purely

\(^{26}\) Milward, *The European Rescue*, chapter 2, pp. 21-45.
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

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\(^{29}\) 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.

‘locked in’ 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. 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. Similarly, institutionalism has emphasized the role of EU institutions in the convergence of ideas and policies. 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 Chryssochoou, 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. 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. 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. 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. In

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

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the ‘American empire’, particularly associated with the work of Geir Lundestad. 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. 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

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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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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


\textsuperscript{43} Lundestad, \textit{The United States and Western Europe}, pp. 55-9.

\textsuperscript{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.\textsuperscript{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.\textsuperscript{46} Similarly, Milward has argued that European recovery would have gone ahead with or without US funding.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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

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49 Lundestad, \textit{The United States and Western Europe}, pp. 87-9.
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which Lipgens has collected.\textsuperscript{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.\textsuperscript{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

\textsuperscript{50} Lipgens, \textit{Europa-Föderationspläne}.
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

understandings and differentiations, it tends to follow the logic of empire in that it studies the role of American influence in other societies. 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. 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. However, even though Angster focuses on transnational networks and together with some other authors allows for the interaction of American and European concepts, 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-

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 cooperation 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. 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. Similarly, Holger Schröder and others, regard Monnet as central to informal

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transatlantic policy-making. Just like Monnet the second key transatlantic figure, US High Commissioner for Germany John J. McCloy, has been the subject of various biographies. 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. 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 cooperation, 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

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above their peers by means of their strategic forethought and ability to manipulate their environment. 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. 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 socio-cultural foundations of the Cold War. For the 1956-57 negotiations on the treaties establishing the EEC and the European Atomic Energy Commission (Euratom), Thomas

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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. 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 chose 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

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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’ 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’. 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’. Within political science, an interest in the network approach coincided with the adoption of new approaches to the study of European integration. Originally developed to re-conceptualize public policy-making in the national arena, the network concept has

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73 Ibid. p. 469.
become important for the analysis of policy- and decision-making within the EU and of the process of European transnationalization.\textsuperscript{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.\textsuperscript{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.\textsuperscript{78}

Börzel distinguishes two main trends in the policy network literature: the 'interest intermediation' or 'Anglo-Saxon school' and the 'governance' or 'German school'.\textsuperscript{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

\textsuperscript{78} Ibid. p. 254-5.
\textsuperscript{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. Interdependency between actors facilitates the construction of policy networks. Actors within a policy sector are dependant upon each other for resources.

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. 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-

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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.\(^8^3\)

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.\(^8^4\) 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

\(^8^3\) Börzel, 'Organizing Babylon', p. 255

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.\textsuperscript{85} Moreover, the network approach considers such categories as trust between actors and their common view of the world or shared policy paradigm.\textsuperscript{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.\textsuperscript{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

\textsuperscript{85} Cf. Börzel, 'Organizing Babylon'.
\textsuperscript{86} Heard-Laureote, 'Transnational networks', pp. 40-1.
forge coalition type relationships with each other. 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’. 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. The use of ‘policy networks’ rather than ‘Atlantic networks’, as suggested by Winand, for example, is preferable since it focuses on the

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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, the concept has been adapted for cultural studies and has been used by history, literary studies, sociology and pedagogy. 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. It is argued here that cultural transfer and the network concept reinforce each other, while they challenge the idea of

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Americanization. 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. 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’. Cultural

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96 Ibid.

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. 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


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 politics\(^\text{99}\) 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

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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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

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

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

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 co-operation 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.\textsuperscript{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

\textsuperscript{104} Cf. Milward, \textit{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.\(^\text{105}\) 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.\(^\text{106}\) 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


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

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:

\begin{quote}
If with the help of ECA, OEEC grows into an effective instrumentality for European economic unity during the Marshall Plan period, further integration of
\end{quote}
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

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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

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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. Further, High Commissioner McCloy served as the head of the ECA mission in Germany.

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

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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' 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

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

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\(^{115}\) 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.


\(^{121}\) 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.

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’. 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. On behalf of the French Supply Council, Hirsch in April 1944 accompanied Monnet to Washington. 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.
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.\textsuperscript{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,\textsuperscript{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.\textsuperscript{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.

\textsuperscript{127} Proces-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.


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.
132 Cf. various documents in AN 81, AJ 137, Folder 3.
134 Interview Paul Reuter, Antoine Marès, 7 August 1980, France, FJM.
Ministry, Reuter had met Monnet in 1944 through the prominent French Christian democrat Pierre-Henri Teitgen. 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. Later, Reuter was in touch directly with Schuman, too. 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. 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.

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136 Interview Reuter.
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 motives, 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. 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. 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. 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.

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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.\footnote{Memorandum Tomlinson to Stokes, 30 June 1950, NARA, RG 469, OSR, Box 30.} According to McCloy, Bowie returned from Paris ‘after full discussion with Monnet in which Tomlinson participated…’\footnote{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.} 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.\footnote{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.} 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.
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'.

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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 practice\textsuperscript{155} 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.\textsuperscript{156} Also associated with the Cravath law firm since the 1920s, was Chester McLain, Bowie’s predecessor as general counsel.\textsuperscript{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).\textsuperscript{158} Founded in 1921 the CFRS closely collaborated with US State Department officials in the formulation of foreign policy after World War II.\textsuperscript{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

\textsuperscript{155} Cf. Christopoulos, ‘Relational Attributes’, p. 758.

\textsuperscript{156} Schwartz, America’s Germany, p. 172.

\textsuperscript{157} Paul Hoffman to McLain, 6 April 1950, Personal papers Hoffman, Box 2.

\textsuperscript{158} Bird, The Chairman, pp. 63, 108.

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.\footnote{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.} As financial attaché at the French Embassy in Washington, in 1940, Alphand had also co-operated with Monnet.\footnote{Interview Hervé Alphand, Roger Massip, 17 June 1981, FJM.} 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.\footnote{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.}

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).\footnote{Eric Sevareid, Analysis of Hoffman's success in government on the leaving of Hoffman, CBS (transcript), 25 September 1950, Personal papers Hoffman, Box 21.} 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
...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.\footnote{McCloy's “Cabinet”, \textit{Newsweek}, 15 August 1949, p. 28.}

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.\footnote{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.} 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.\footnote{Cf. Verweij, `Four Wrongs`, pp. 466-8.} Historical literature has established that Monnet's US socialization and McCloy's European socialization were one key to their successful co-operation.\footnote{Schröder, \textit{Jean Monnet und die amerikanische Unterstützung}; Schwartz, \textit{America's Germany}.} Further, social scientists have recently demonstrated that social capital and policy entrepreneurship are intimately linked.\footnote{Cf. Gunnar Lind Haase Svendsen, Gert Tinggaard Svendsen, \textit{The Creation and Destruction of Social Capital. Entrepreneurship, Co-operative Movements and Institutions}, Cheltenham, Northampton/MA: Edward Elgar 2004.} 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.
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

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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. 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’ and architect of the US foreign policy doctrine of containment, and Charles Bohlen, the brain behind the Marshall Plan. While Issacson 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, they demonstrate convincingly the scope of a network ‘...connecting Wall Street, Washington, worthy foundations, and proper clubs’. In any case, Acheson did play a significant part in shaping the positive official response of the Truman

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 Anglophile 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, Alphand, informed US officials on the British position on the Schuman Plan.176 Alphand’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 Alphand 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.

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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 Tomlinson 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. 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. 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).

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

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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. As head of the ECA, Hoffman was informed just like the high-ranking officials in the State Department, such as Perkins. 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. 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. 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. Also contributing to the debate was Tomlinson. 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.

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.
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, 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 Macready. When Macready 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, 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

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
repre[sentative] 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. 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.

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.

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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 Katz\(^{200}\) and dealt directly with Tomlinson\(^{201}\) 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

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\(^{197}\) Interview Bissell.
\(^{199}\) 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 telegrame 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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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

\begin{footnotes}
\footnotetext[204]{Telegramme Bissell for Katz, Bruce, Parkman, McCloy, Cattier, 13 April 1951,ibid.}
\footnotetext[205]{19\textsuperscript{th} 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.}
\footnotetext[206]{Telegramme Bruce to Secretary of State, 3 July 1950, NARA, RG 59, 850.33/7-350. Cf. chapter 4.}
\footnotetext[207]{Tomlinson to Department of State, NARA, RG 59, 850.33/12-2150.}
\end{footnotes}
their opposition to the project. 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.

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. 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

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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).\textsuperscript{211} For instance, Katz was collaborating with Arnold and others on amending the Clayton Act,\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{215}


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

\textsuperscript{213} Committee on Legal Education, 1947, Personal papers Katz, Box 20.

\textsuperscript{214} Letter Katz to Monnet, 13 May 1948, Personal papers Katz, Box 18.

\textsuperscript{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\(^\text{216}\) 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 Group\(^\text{217}\) as well as Denis and Hirsch.\(^\text{218}\) 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'.\(^\text{219}\) 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'.\(^\text{220}\) Expressing his criticism of the Schuman Plan Randall published a number of articles in the *Atlantic Monthly*\(^\text{221}\) that accompanied his discussion of the Schuman Plan with, among others, Ball in a radio debate\(^\text{222}\) 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.

correspondence. 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

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 1950\textsuperscript{224} 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,

\textsuperscript{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 Chancellery.
Hallstein got appointed because other potential German negotiators had held highprofile 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 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. 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. 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. 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

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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.\textsuperscript{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.\textsuperscript{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’.\textsuperscript{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

\textsuperscript{229} Diary entry, 24 May 1950, BA, N 1351, 3.
\textsuperscript{230} Diary entry, 8 October 1949, BA, N 1351, 1.
Reich. 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. 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. Similarly, Wilhelm Grewe, previously a member of the National Socialist party, who allegedly had used his party membership to advance his academic career, 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.

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. 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. 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. While the two political leaders probably first met in 1938, they only could accumulate social capital

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


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’. 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.

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’ 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. 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.

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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'. 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. 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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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


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

\textsuperscript{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. Schönwald acknowledges, however, that to date, there is no comprehensive study of Hallstein during the Third Reich 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. After his return to Germany, Hallstein stayed in touch with other ‘Getty graduates’, who even organized reunions in Germany. 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

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

253 For Kronstein see especially Eckard Rehbinder, ‘Heinrich Kronstein (1897-1972)’, in: Bernhard Dietelkamp, 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.
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.  

Kronstein wrote to Cheseldine a couple of days later and referred to a 'Hallstein letter'. 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'. 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. In early October 1950, Kronstein again encouraged Hallstein to get in touch together with Mosler with his friend Terrill. 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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{267}

\textsuperscript{264} Letter Kronstein to Hallstein, 28 January 1951, ibid.
\textsuperscript{266} Letters Mosler to Kronstein, 5, 19 December 1949, MPG-Archiv/III.Abt./ZA 139, Ordner 5.
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.\footnote{Letter Mosler to Hallstein, 27 August 1950, MPG-Archiv/III.Abt./ZA 139, Kasten 2; Copy letter Mosler to Ophuls, 3 December 1950, PA AA, B 15, Personal papers Schlochauer, 355, Fiche 2.}

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.\footnote{Ibid. and Mosler to Bilfinger, 16 September 1950, PA AA, B 15, 54.} Starting in late August 1950, however, Mosler expressed concerns regarding the efficiency of his co-operation with Ophuls, the other legal expert of the delegation, and asked Hallstein to be relieved of his duties at the conference.\footnote{Letter Mosler to Hallstein, 28 August 1950, MPG-Archiv/III.Abt./ZA 139, Kasten 2.}

Ophuls 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.\footnote{Cf. the curriculum vitae from the description of PA AA, Personal papers Carl Friedrich Ophuls.} Unlike Hallstein, Mosler and Schlochauer, Ophuls had no firsthand US experience or contacts. As a result of Mosler’s complaint, he was replaced with Schlochauer in early October 1950.\footnote{Kurzprotokolle der Sitzung des Juristischen Sachverständigen-Ausschusses, 4 and 5 October 1950, PA AA, B 15, 19.}

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.\footnote{Letter Schlochauer to Mosler, 3 February 1947, MPG-Archiv/III.Abt./ZA 139, Kasten 8.} An interdisciplinary publication not restricted to
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’.

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. 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.

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

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274 *Europäische Föderation*, vol. 1, no. 1, (1947).
275 Lebenslauf, 10 January 1951, MPG-Archiv/III.Abt./ZA 139, Ordner 28.
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’.  

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. 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

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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

area of coal and steel policy. 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, 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. 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. 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

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280 Conversations sur le plan Schuman: Séance restreinte du mardi après-midi, 4 July 1950, AN 81 AJ 131, Folder 2.
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.\textsuperscript{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.\textsuperscript{286} Charles Barthel has stressed that Monnet continued to express discontent about the presence of industry ‘technicians’, however.\textsuperscript{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.\textsuperscript{288} Bruce also observed that the Belgian and Luxembourg delegates ‘...appear to be subject to more effective pressure from industrial interests than [the] others’.\textsuperscript{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

\begin{footnotes}
\item\textsuperscript{285} Barthel, ‘Das Streben’, p. 205.
\item\textsuperscript{286} Letter Aubrun to Pleven, 16 November 1950, AN 81 AJ 135.
\item\textsuperscript{287} Barthel, ‘Das Streben’, p. 217.
\item\textsuperscript{288} Ibid.
\item\textsuperscript{289} Telegramme Bruce to Secretary of State, 9 December 1950, NARA 850.33/12-950.
\end{footnotes}
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. Crucially, none of the German members of delegation represented the coal and steel industries. 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. 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

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.
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. 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’. 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. 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', 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

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 Spielenburg for the Netherlands, Max Suetens for Belgium and Paolo Emilio Taviani for Italy. While Spielenburg, 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. Further taking part in the meetings of this group were select members and legal experts of the delegations, including for example, Blankenhorn, Mosler and Ophuls for the German delegation and Clappier, Reuter and Foreign Ministry official and legal expert Lucien Hubert for the French team. 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

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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 restraine, 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

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.
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.

which embraced the dispersion of authority across different societal levels.\textsuperscript{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,\textsuperscript{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.\textsuperscript{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.

\textsuperscript{308} Ibid. 228-9.
\textsuperscript{309} Telegramme Bonbright to Department of State, 13 May 1950, NARA 850.33/5-1350.
against the emerging treaty during the negotiations and even more fervently, in the ratification debate.\textsuperscript{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)’.\textsuperscript{312} Lastly, in Italy, Alcide de Gasperi 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.\textsuperscript{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


\textsuperscript{313} Haas, \textit{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’ 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’. Moreover, State Department officials began encouraging the French government to take the lead in initiating European integration from 1949 onwards. In October 1949, Acheson in a letter to Schuman, following up on their recent encounter, spelled out US policy. In the context of the division of Germany and the ‘east-west split’, 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’. 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.
317 Cf. interview Clappier.
319 Ibid.
did not believe the French would ever accept'.\textsuperscript{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'.\textsuperscript{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

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

\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{325} The intense negotiations that took place between Hirsch, Monnet, Uri and UK officials in London from 14 to 19 May 1950\textsuperscript{326} however, indicate that it was a preference Monnet only gave

\textsuperscript{323} Kaiser, Christian Democracy, p. 224.
\textsuperscript{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.
\textsuperscript{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 123
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.\textsuperscript{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.

\textsuperscript{371} 85841; note for record, meeting Hitchman with Monnet, Hirsch, Uri, 17 May 1950, ibid.
\textsuperscript{327} Klotzbach, ‘Die deutsche Sozialdemokratie’.

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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

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.\(^{332}\)

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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. 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.

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. 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. 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

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333 Ibid. p. 10.
against tyranny, 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. 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. Having said this, American federalism anticipated the advance of truly representative democracy. And the democratic dimension persisted even though the

337 Ibid. p. 7.
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. 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.

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:

...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.\textsuperscript{342}

Thirdly, with its utopian and democratic dimension, American federalism differed from alternative federal models that originated in the 19\textsuperscript{th} 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 19\textsuperscript{th} 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'.\textsuperscript{343} As a result of this tension, US federalism, rather than

\textsuperscript{343} Kuisel, \textit{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

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.'

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.

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.' 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.'

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

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349 Déclaration officielle du gouvernement français, 9 May 1950; Bonbright to Acheson, 9 May 1950.
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, he has crucially demonstrated the scope and the depth of plans for unifying and federating Europe. 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. Another scheme, which anticipated key elements of the Schuman Plan declaration, was that of a western European regional federation. 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. 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, 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.
356 These remarks are guided by Loth, Der Weg nach Europa, p. 17.
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,


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 ‘Rhenish Republic’ within a heavily de-centralized Germany.\textsuperscript{362} Crucially Adenauer argued that peace between France and Germany relied on western European industrial integration.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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’\textsuperscript{366} in October 1948, in

\textsuperscript{362} For a detailed, if biased account see Henning Köhler, \textit{Adenauer und die rheinische Republik: der erste Anlauf, 1918-1924}, Opladen: Westdeutscher Verlag, 1986.
\textsuperscript{364} Rask Madsen and Vauchez, ‘European Constitutionalism at the Cradle’, p. 18.
which he argued, amongst others, that German resources were essential to meet the demand for steel anticipated by the Marshall Plan.\textsuperscript{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 industries\textsuperscript{368} and in two interviews with the International News Service, an American news agency, once again advocated the idea of a Franco-German union.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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'.\textsuperscript{372} Parsons' perspective results from focusing primarily on French domestic politics and the role of the French


\textsuperscript{369} Küsters, 'Die Verhandlungen über das institutionelle System', p. 74.

\textsuperscript{370} Ibid. and in more detail Kaiser, Christian Democracy, pp. 226-7.


\textsuperscript{372} Parsons, A Certain Idea, p. 37.
government and state elite in policy formation. 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. 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...’ 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. 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

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', 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

380 Schröder, Jean Monnet und die amerikanische Unterstützung.
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

\(^{383}\) 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’ 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.

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

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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. 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' level 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'. Finally, the Schuman Plan declaration itself introduced the idea to place the French and German coal and steel production under a 'joint high authority'. 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

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387 Déclaration officielle du gouvernement français, 9 May 1950; Bonbright to Acheson, 9 May 1950.
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'. 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. 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'. 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.  
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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{396} In an interview, Reuter drew parallels with the Tennessee Valley Authority (TVA).\textsuperscript{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'\textsuperscript{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.\textsuperscript{399} Based on the notion that in a country as large and diverse as the US, regional and local knowledge could easily be lost.

\textsuperscript{394} Cohen, 'Le plan Schuman', p. 647.  
\textsuperscript{396} Bossuat, \textit{L'Europe des Français}, p. 167.  
\textsuperscript{397} Interview Reuter.  
\textsuperscript{398} Ekbladh, "'Mr. TVA'", p. 336.  
\textsuperscript{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’.\textsuperscript{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’.\textsuperscript{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.\textsuperscript{402} In 1949, Monnet declared the TVA was ‘a possible object-lesson for France and for Europe’,\textsuperscript{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

\textsuperscript{400} Ibid. p. 341.
\textsuperscript{401} Ibid. p. 346.
\textsuperscript{402} Fransen, \textit{The Supranational Politics}, p. 82.
\textsuperscript{403} Monnet, \textit{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


\(^{406}\) 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.  

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' 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'. 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.

formulation, rather than a pluralist democracy.\footnote{Cf. ‘Corporatism’, in Heywood, Key concepts, pp. 164-8.} 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.\footnote{Alan Grant, The American Political Process, London, New York: Routledge, 7th ed. 2004 [1979], p. 118.} 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 coporation 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’.\footnote{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.} 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’.\footnote{Maitland, ‘The Corporation Sole’.} 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.\footnote{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, 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

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. 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

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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 cooperation 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. 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, who in principle favoured planning, but was concerned

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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’.\textsuperscript{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)\textsuperscript{423}, disapproved of the French government’s initiative because of its functional approach.\textsuperscript{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)

\textsuperscript{422} Letter Weisser to Blankenhorn, 18 July 1950, Statement of 17 July attached to letter, PA AA, B 15, 67.
\textsuperscript{423} Burgess, \textit{Federalism}, p. 44.
\textsuperscript{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. They stressed, however, that contrary to the UK government they agreed, in principle, on the need to partially abnegate sovereignty. 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.
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

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’. 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. 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

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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.\footnote{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.}

Another internal paper for the French inter-ministerial committee of the same date blends and further develops earlier ideas.\footnote{Note pour le Comité interministériel, 12 June 1950, AN 81 AJ 131.} 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 appel 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'.\footnote{Ibid. p. 5.} 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'.\footnote{Ibid. p. 5.} Later, Monnet recalled the significance of both judicial review and parliamentary control of the 12 June paper...
in his memoirs.\textsuperscript{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',\textsuperscript{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

\textsuperscript{437}Monnet, \textit{Memoirs}, p. 321.
\textsuperscript{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, 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, and the ‘working document’ the French delegation presented to the other delegations on 24 June 1950. 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

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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 telegrammes, 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

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. 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.

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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 Ball\(^{445}\) 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

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\(^{445}\) 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. 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'. 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. 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.

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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.
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. In a conversation with Monnet on 12 July, Suetens allegedly proposed a time period of fifty years for the treaty, 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.

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’. 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. 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 sub-
committee 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. 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
458 Ibid.

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majority.\textsuperscript{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.\textsuperscript{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’.\textsuperscript{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.\textsuperscript{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

\textsuperscript{459} Kurzprotokoll über die Besprechung der Volldelegation im Hause des Planungsamtes, 3 July 1950, PA AA, B15, 83.
\textsuperscript{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, B15, 102.
\textsuperscript{461} Herbert Kraus, ’Aufzeichung über die Frage der Beteiligung der Regierungen an der Gesamtorganisation der Montangemeinschaft’, 9 July 1950, PA AA, B15, 64, p.2.
\textsuperscript{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’. 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. The Adenauer government, therefore, would not profit from expanding the control powers of the council of ministers over the high authority.

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’. As Weisser expressed in his statement of expertise, control of the high authority could

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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.
469 Ibid.
not be achieved by strict rules but by conceptualizing the common assembly ‘as a
democratic organ with sufficient powers’. 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. 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’. Accordingly, its
powers were to be extended to those of a permanent court and its composition was to be
reconsidered, too. 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-

472 Protokoll über die Zusammenkunft der deutschen Delegation mit Herrn Monnet in
Houjarray, 2 July 1950, PA AA, B15, 53.
473 Ibid.
states. 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. Ophüls did, however, stress the significance of the US federal constitutional model for the institutional framework of the coal and steel treaty. German delegates and Hallstein in particular drew on analogies to the US system, which confirms this claim.

Meeting with Monnet, Reuter, Blankenhorn and Dutch delegate Max Kohnstamm, Hallstein rejected the idea to distinguish between ‘more’ and ‘less complete European institutions’, 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. ‘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

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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’.
individual state interests would be legitimate'.\textsuperscript{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'.\textsuperscript{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’.\textsuperscript{482} Further, Mosler guarded against ‘resorting too often to the federal solutions of our own constitutional history’.\textsuperscript{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.\textsuperscript{484} These incidents corroborate that while Monnet and, one could add, Reuter were

\textsuperscript{480} Kurzprotokoll, 27 July 1950, PA AA, B15, 62.
\textsuperscript{481} Ibid.
\textsuperscript{483} Ibid.
\textsuperscript{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'\textsuperscript{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.\textsuperscript{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,\textsuperscript{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.\textsuperscript{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

\textsuperscript{485} Protokoll über die Zusammenkunft der deutschen Delegation mit Herrn Monnet in Houjarray, 2 July 1950, PA AA, B15, 53.
\textsuperscript{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.
\textsuperscript{487} Protokoll über die Zusammenkunft der deutschen Delegation mit Herrn Monnet in Houjarray, 2 July 1950, PA AA, B15, 53.
\textsuperscript{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, 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’, 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’, 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’ instead of resorting to judicial procedure. Further, the Bowie memorandum addresses the notion of ‘a check on the High Authority’ 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

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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.\textsuperscript{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\textsuperscript{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 arbitration\textsuperscript{497} 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'.\textsuperscript{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'\textsuperscript{499}, which according to Mosler matched the distinction between federal and international law.\textsuperscript{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.\textsuperscript{501} As a matter of fact, the independence of the members of the high authority and the court and the equal

\textsuperscript{495} Bruce to Perkins, Check list of first draft of Schuman Proposal Working Document, 5 July 1950, NARA, RG 59, 850.33/7-550.
\textsuperscript{496} Memorandum 30 June 1950.
\textsuperscript{497} Telegramme to US Embassy Paris, 7 August 1950, NARA, RG 59, 850.33/8-750.
\textsuperscript{498} Parsons, \textit{A Certain Idea}, p. 59.
\textsuperscript{499} Rapport sur les travaux poursuivis...du 20 juin au 10 août 1950.
\textsuperscript{500} Mosler, 'Die Entstehung des Modells', p. 380.
\textsuperscript{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.\textsuperscript{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.\textsuperscript{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'.\textsuperscript{504} The Korean War brought to the fore the question of German rearmament. Hans-Peter Schwarz has stressed that

\textsuperscript{502} Ophüls, ‘Zur ideengeschichtlichen Herkunft’, p. 397, footnote 27.
\textsuperscript{503} Rapport sur les travaux poursuivis...du 20 juin au 10 août 1950.
\textsuperscript{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. 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’. 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’. 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’. At the Schuman Plan conference, Spierenburg pushed the proposal in a meeting with Monnet, Hirsch,

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505 Schwarz, Konrad Adenauer, pp. 516-30.
506 Ibid. p. 530.
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. 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', 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.

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.

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

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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.\textsuperscript{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.\textsuperscript{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,\textsuperscript{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.'\textsuperscript{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

\textsuperscript{513} Cf. also Gilligham, \textit{Coal, Steel}, pp. 254-5.
\textsuperscript{514} Acheson to Bruce, 3 August 1950, NARA, RG 59, 850.33/8-350.
\textsuperscript{515} Gilligham, \textit{Coal, Steel}, pp. 252-3.
\textsuperscript{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. 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

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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 came up in the sub-
committee of legal experts in August 1950.\textsuperscript{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'\textsuperscript{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.\textsuperscript{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 Heidelberg\textsuperscript{521}, 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,\textsuperscript{522} Mosler reports that legal experts agreed that

\begin{quote}
[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].\textsuperscript{523}
\end{quote}

\begin{itemize}
\item \textsuperscript{518} Kurzprotokoll über die Besprechung zwischen Mr. Hubert und Herrn Prof. Ophüls, 8 August 1950, PA AA, B 15, 102.
\item \textsuperscript{519} GATT article 1 (accessed 20 March 2008): http://www.wto.org/english/docs_e/legal_e/legal_e.htm#gatt47
\item \textsuperscript{520} GATT article 24.
\item \textsuperscript{521} See for example letter Mosler to Strebel, 9 September 1950, PA AA, B15, 102.
\item \textsuperscript{522} Kurzprotokoll über die Sitzung des juristischen Sachverständigenausschusses, 7 September 1950, PA AA, B 15, 102.
\item \textsuperscript{523} Mosler, Die Entstehung des Modells, p. 381.
\end{itemize}
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.\footnote{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.}

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.\footnote{Kurzprotokoll der réunion restreinte, 11 September 1950, PA AA, B 15, 99.} 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
adjusted questions were therefore referred back to the legal sub-committee. 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 mandate by authorizing the legal experts to clarify ‘the juridical capacity of the Schuman union and its institutions, in the national and international sphere’. 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. Until then, a variety of terms were used, among other examples, the ‘coal and steel production community’ in the Schuman Plan.

526 Cf. also Hermann Mosler, Aufzeichnung über eine Unterhaltung mit Herrn Calmes (Luxemburg) im Anschluss and 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'\textsuperscript{531} in the summary of the 24 June working document and 'Schuman union'.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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

\textsuperscript{531} Résumé du document de travail, 27 June 1950.
\textsuperscript{532} Anlage zum Protokoll vom 12.9.1950, Deutscher Entwurf mit Änderungen des Ausschusses, PA AA, B 15, 103.
\textsuperscript{533} Mosler, 'Die Entstehung des Modells', p. 382.
\textsuperscript{534} Milward, \textit{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.\textsuperscript{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’\textsuperscript{536}, previously adopted within the sub-committee of legal experts.\textsuperscript{537} Secondly, the report declared that the court of justice and the high authority were equal in status,\textsuperscript{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’\textsuperscript{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’.\textsuperscript{540} According to the report,

\textsuperscript{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.
\textsuperscript{537} Kurzprotokoll des Juristischen Ausschusses über die Sitzung vom 24.7.1950, PA AA, B15, 103.
\textsuperscript{538} Rapport sur les travaux poursuivis...du 20 juin au 10 août 1950.
\textsuperscript{539} Ibid.
\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{543}

The powers of the court were discussed further in November 1950. A draft treaty
presented by the French delegation\textsuperscript{544} 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.\textsuperscript{545} Article 26 addressed the court's right to annul sanctions of the

\textsuperscript{541} See also Kurzprotokoll über die Sitzung des Institutionellen Ausschusses, 4-5
\textsuperscript{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.
\textsuperscript{543} Sitzungsbericht der Delegationschefs, 11-12 October 1950, PA AA, B 15, 77.
\textsuperscript{544} 1ère rédaction projet de traité, 8 November 1950, PU, HAEU, 29.
\textsuperscript{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 law\textsuperscript{546} — 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.\textsuperscript{547} Briefly, in trying to avoid ‘the eternally feared spectre of government by the judiciary’\textsuperscript{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

\textsuperscript{546} Ibid.
\textsuperscript{547} Boerger, \textit{Aux origines de l'Union Européenne} chapter 4, La Cour de Justice.
\textsuperscript{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 Law 551 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 Juristentagung in französischer
552 Letter Mosler to Ophuls, 3 December 1950, PA AA, B15, Personal papers
Schlochauer, 355.
strengthening the court, especially in light of a suspected tendency of the high authority to privilege the big over the small states.\textsuperscript{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’.\textsuperscript{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

\textsuperscript{554} Ibid.
\textsuperscript{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.\textsuperscript{556} Lagrange, on the other hand, agreed with Hallstein in principle but argued that the application of the concept of exces 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 ‘illusionary’\textsuperscript{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’\textsuperscript{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,\textsuperscript{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,\textsuperscript{560} Ophül highlighted that

\textsuperscript{556} Kurzprotokoll über die deutsch-französische Juristensitzung im französischen Planungsamt, 21 November 1950, PA AA, B15, 19.
\textsuperscript{557} Ibid.
\textsuperscript{558} Ibid.
\textsuperscript{559} Cf. Boerger, \textit{Aux origines de l’Union Européenne} chapter 4, La Cour de Justice.
\textsuperscript{560} See Ernst Steindorff, \textit{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.\textsuperscript{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’.\textsuperscript{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’\textsuperscript{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 inception\textsuperscript{564} and was a friend of Monnet’s.\textsuperscript{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

\textit{Beitrag zur verwaltungsgerichtlichen Kontrolle der Hohen Behörde}, Frankfurt am Main: Vittorio Klostermann, 1952.
\textsuperscript{561} Letter Ophüls to Steindorff, 15 September 1951, PA AA, Ophüls papers, vol. 19.
\textsuperscript{562} Ibid.
\textsuperscript{563} Ibid.
\textsuperscript{564} Cf. Monnet, \textit{Memoirs}, pp. 300-3; Parsons, \textit{A Certain Idea}, p. 55.
\textsuperscript{565} Gillingham, \textit{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, 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'.

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. 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

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566 See for example Schlochauer Bemerkungen zum Statut-Entwurf Lagrange, 9 April 1951, PA AA, B 15, Personal papers Schlochauer, 355.
568 Projet de memorandum pour servir de base de discussion à la conference des ministres sur le plan Schuman, Questions reservees à la conference, 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. 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.

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

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. 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

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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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

\textsuperscript{574} Nocken, ‘International Cartels and Foreign Policy’, p. 35.
within the national economic structures of France and Germany.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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’.\textsuperscript{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

\textsuperscript{578} Smith, \textit{America’s Mission}, pp. 146-76; Schumacher, \textit{Kalter Krieg und Propaganda}, pp. 41-9.
\textsuperscript{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

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 policymaking 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.
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...'\(^{591}\)

\(^{589}\) 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.  

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.  

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

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practices in various European countries\textsuperscript{594} 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.\textsuperscript{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

\textsuperscript{594} Office memorandum US government, 26 April 1950, NARA, RG 59, 840.054/4-2650.
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. 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

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through amendments to price control legislation.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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,\textsuperscript{600} and the lack of real competition. Even within the working group, the

\textsuperscript{597} Ibid. pp. 186-7.
\textsuperscript{598} Matthias Kipping, ‘Concurrence et compétitivité’.
\textsuperscript{599} Ibid. p. 435.
\textsuperscript{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 co-ordinate various public and private activities in order to increase productivity. 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.

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. 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

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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’\textsuperscript{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.\textsuperscript{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,'

laisser-aller school and of bureaucratic dirigism.\textsuperscript{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'.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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


\textsuperscript{607} Ibid.

\textsuperscript{608} See also Mioche, \textit{Le Plan Monnet}, pp. 114-7.

\textsuperscript{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

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611 Bruce to Secretary of State, 18 January 1950.
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. 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

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.\textsuperscript{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

formed in 1926, became the dominant forces in the economy. 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. 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. 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

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’. 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, 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...’ Ordo-liberals tried to restructure the relations between state and society, focusing on improving the institutional framework. In line with earlier

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620 Ibid. p. 151.
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, ordo-liberals emphasized the importance of embedding the competitive order in an economic constitution, or Wirtschaftsverfassung. For the ordo-liberal conception of the economic constitution a monograph published by Böhm in 1933 proved groundbreaking. 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,’ 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’. 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.

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'.

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.

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', Dieter Haselbach has challenged Erhard's claim. Born into a liberal

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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 ordo-liberalism. Haselbach concludes that crucially Oppenheimer's liberal socialism and the ordo-liberalism 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 ordo-liberals 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 ordo-liberals, however, was in deliberately utilizing the state to create a free market economy.632

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 Leitsätzegesetz, a law against rationing regulations and price fixing, which was accompanied by the introduction of a new currency, the Deutschmark.\textsuperscript{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.

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 HICOQ.\textsuperscript{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.\textsuperscript{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'.\textsuperscript{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

\textsuperscript{634} Murach-Brand, \textit{Antitrust auf Deutsch}, p. 157, footnotes 188, 190.
\textsuperscript{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’.\footnote{Miksch, ‘Der Schutz des Wettbewerbs’} 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’\footnote{Ibid. p. 10.} 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’.\footnote{Ibid. pp. 12-13.} 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

\footnote{637 Miksch, ‘Der Schutz des Wettbewerbs’.} \footnote{638 Ibid. p. 10.} \footnote{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-rank-
ing 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. 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. 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 result[d] in a cartel-like system’. When Monnet argued that ‘...some competition is even possible in the two raw material


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industries that are now regulated through cartels', Bauer maintained that 'one must try realize as much competition as possible and as much cartel as necessary'. 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...'. Arguably, as an expert in price policy, Uri might have used the notion of 'perfect competition', which derives from neo-classical price-theory, 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. Article 17 of the working document the French delegation presented to the other delegations on 24 June 1950, did not refer to perfect competition,

644 Gerber, Law and Competition, p. 245, footnote 45.
but stipulated that the high authority, 'shall eliminate those artificial elements likely to
jeopardize normal competitive conditions'. 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'. 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.
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. 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'.
Effectively, the early New Deal legislation sought to protect small businesses and small

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646 Document de traval, 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.
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.\textsuperscript{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.\textsuperscript{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'.\textsuperscript{653} In 1940 Arnold published a monograph entitled \textit{Bottlenecks of business}\textsuperscript{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'.\textsuperscript{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

\ldots 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

\textsuperscript{651} Brinkley, \textit{Liberalism and its Discontents}, pp. 28-31.
\textsuperscript{652} Cf. Hofstadter, 'What Happened to the Antitrust Movement?'.
\textsuperscript{654} Arnold, \textit{The Bottlenecks of Business}.
\textsuperscript{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.
Those 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.\textsuperscript{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'.\textsuperscript{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.\textsuperscript{660}

\textsuperscript{658} Peritz, \textit{Competition Policy}, p. 113.
\textsuperscript{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.
\textsuperscript{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.

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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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{667}

\textsuperscript{664} Document de travail, 24 June 1950; Bruce to the Secretary of State, 24 June 1950.
\textsuperscript{665} Rapport du groupe des salaires et des questions sociaux, 10 August 1950, AN 81 AJ 145.
\textsuperscript{666} Compte-rendus des réunions et des rapports (notes traveaux), 20 July 1950, ibid.
\textsuperscript{667} Rapport du groupe des salaires et des questions sociaux, 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 [...] threatened by discrimination on the part of consumers...’. 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. 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’ and a report on the Schuman Plan drawn up in the German Ministry for the Marshall Plan in August 1950.

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

...the 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...

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668 Document de travail, 24 June 1950; Bruce to the Secretary of State, 24 June 1950.
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 antitrust 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.
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’. 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 Lefaucheux, the chief executive officer of the state-owned automobile producer Renault. Lefaucheux was an outspoken critic of the lack of dynamism that in his opinion characterized the French economic system. 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, 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

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675 Constant, Editorial.
676 Kipping, Zwischen Kartellen und Konkurrenz, pp. 44-5, 184.
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 document and which Tomlinson incorporated into the checklist for the US government, 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'.

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. 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

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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.
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. 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. 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.

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. Formally introduced into the conference through article 20 of the 24 June working document, the regional groups were championed by Monnet, Uri

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682 Ibid.  
683 Constant, Editorial.  
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’.

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’. 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.

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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:

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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{693} On 14 September 1950 the HICOG issued three regulations specifying how Law 27 was to be enforced.\textsuperscript{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

\begin{footnotes}
\begin{enumerate}
\item Acheson, \textit{Present at the Creation}, p. 389. Cf. also a letter McCloy to Brian Robertson, 11 October 1950, McCloy Papers/13B/HC6/#5.
\item For the drafting of the Pleven Plan see Schröder, \textit{Jean Monnet und die amerikanische Unterstützung}, pp. 131-80.
\item Lappenküper, ‘Der Schuman Plan’, pp. 429-31.
\item The text of Law 27 and the regulations in English, French and German are published in: \textit{Official Gazette of the Allied High Commission for Germany}, vol. 2, Bonn: 1950-51.
\end{enumerate}
\end{footnotes}
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

general policy preference for a competitive market economy, promoted private ownership. 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.

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. 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

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697 Ibid. p. 205.

698 ‘Dismantling Dilemma: The British vs. the U.S. High Commissioner’, Newsweek (7 November 1949), pp. 36-7.

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power therefore gave way to more rationally based economic considerations. 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.

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. 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

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.\textsuperscript{702}

On 14 September 1950, Monnet complained to Schuman about the ‘change of attitude in the German delegation’.\textsuperscript{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.\textsuperscript{704} In 1923 already, in the Franco-German struggle about the Ruhr area, Lehr had adopted a tough position vis-à-vis the French government\textsuperscript{705} 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


\textsuperscript{703} Telegramme Monnet to Schuman, 14 September 1950, in: \textit{Jean Monnet, Robert Schuman Correspondance}, p. 56.

\textsuperscript{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.

\textsuperscript{705} Schwarz, \textit{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 de-cartelization 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.
\(^{708}\) Schwarz, *Konrad Adenauer*, pp. 444, 446.
\(^{710}\) 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.\footnote{Kommuniques zur New Yorker Aussenministerkonferenz, 14, 19 September 1950, \textit{Europa-Archiv}, vol. II (1950), pp. 3405-7.} 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.\footnote{Protokoll Nr. 17, 23 September 1950, in: \textit{Akten zur Auswärtigen Politik der Bundesrepublik Deutschland, Adenauer und die Hohen Kommissare 1949-1951}, vol. 1, Munich: Oldenbourg, 1989, p. 244.} Moreover, corresponding to his ordo-liberal preferences, Erhard criticized the protectionist position the French delegation in his view defended in the negotiations.\footnote{Note Jean Monnet à Schuman, 28 September 1950.}

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.\footnote{Telegramme Bruce to Acheson, 2 October 1950, 850.33/10-250. \textit{FRUS 1950 III}, pp. 753-4.} 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.\footnote{Telegramme Acheson to Bruce, 3 October 1950, 850.33/10-350, \textit{FRUS 1950 III}, pp. 754-58; Memorandum on institutions and permanent economic and social provisions, 28 September 1950, PA AA, B 15, 58.} A working paper of unidentified authorship that the French
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.\textsuperscript{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.\textsuperscript{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

\textsuperscript{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, \textit{Zwischen Kartellen und Konkurrenz}, p. 212, note 17.

\textsuperscript{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.

719 Telegramme Bruce to Acheson, 2 October 1950.
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-policied 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

contacts with ECA officials to advance the goals of consumers.\textsuperscript{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.\textsuperscript{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.\textsuperscript{726} As the negotiations on the anti-trust articles show, however, the links between the inter-state conference and the resolution of the deconcentration

\textsuperscript{724} Telegramme Bruce to Secretary of State, 20 June 1950, NARA, RG 59, 850.33/7-2050.
\textsuperscript{725} Memorandum remis par M. Hallstein à M. Monnet, Communauté charbon-l'acier et droit d'occupation, 13 October 1950, MAEF, DE-CE, 507.
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.  

This proposal reflected the earlier preference expressed by Bauer to maintain cartels in the coal and steel pool whenever necessary. 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. Many years later, Steindorff remembered vividly Risse's role in

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729 Letter Bauer to Hallstein, 10 October 1950, BA, N 1266, 1852.
the evolution of the anti-trust articles. Berghahn has also acknowledged Risse's involvement with the German delegation for November and December 1950. 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. According to McCloy, '...Erhard and his group...provide[d the] main support for anti-cartel legislation' 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.

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730 Interview Steindorff.
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 Sahm, 22 October 1950, PA AA, B 15, 2.
Secondly, while Erhard was in favour of a strict ban on cartels for the Federal Republic, 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. 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’. Contrary to Risse, Erhard’s policy preference matched that of Josten, 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. The ‘Josten draft’ proved too far-reaching for industry representatives and was therefore unsuccessful. Murach-Brand has shown that even this bill contained two specific clauses providing for exceptions to the general ban on

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736 Berghahn, The Americanization, pp. 159-60.
737 Ibid. p. 159.
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.\textsuperscript{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.\textsuperscript{742} Berghahn has rightly stressed that Erhard was first of all a pragmatic politician and not a dogmatic representative of the Freiburg school.\textsuperscript{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

\textsuperscript{741} Ibid. p. 109.
\textsuperscript{742} Löffler, \textit{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.
\textsuperscript{743} Berghahn, \textit{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,

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’. 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 delegation.

delegation regarding market-dominating enterprises. 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'. 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'. 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.

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

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748 Ibid.
749 Ibid.
‘revised draft’, 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].

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’ for article 42, dated 23 November. 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 Chancellary 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’. In the debate on article 41, which implied the dissolution of the DKV,

750 Diaries 1950, Personal papers Ball, 43.
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.\textsuperscript{755} Consequently, Sahms’s notes not only substantiate Bowie’s input into the negotiations,\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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

\textsuperscript{755} Ibid.  
\textsuperscript{756} Further acknowledged in Telegramme McCloy to Acheson, 9 December 1950, NARA, RG 59, 850.33/12-950.  
\textsuperscript{757} Cf. also Dokument 17: Vorschlag 1 des Bundeswirtschaftsministeriums zu Artikel 42 a-e, 29 November 1950, Schulze, Hoeren (eds), \textit{Dokumente zum Europäischen Recht}, vol. 3, pp. 40-2.  
\textsuperscript{758} Note Van Helmont du 24 novembre 1950, Versions successives des articles 41 et 42 dont notes jointes, AN 81 AJ 138.  
\textsuperscript{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). 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’. Ball’s terminology reflected that of the domestic debate over the US Employment Act of 1946. 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.

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.

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

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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.
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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{767} In France, Monnet was

\textsuperscript{765} Memorandum, 6 December 1950, PA AA, B 15, 163; Article 42 ibid.
\textsuperscript{766} Telegramme (3483) Bruce to Secretary of State, 18 December 1950, NARA, RG 59, 850.33/12-1850.
\textsuperscript{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

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, Leroy-Beaulieu and the French chairmen of the Allied coal and steel control groups. 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.

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. 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

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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. 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, 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.

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. 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.

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

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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.
regarding the Verbundwirtschaft.\textsuperscript{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 formation\textsuperscript{781} 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

\textsuperscript{780} For example Lovett, 'The United States and the Schuman Plan', p. 444; Warner, \textit{Steel and Sovereignty}, pp. 24-5. An exception is Schröder, \textit{Jean Monnet und die amerikanische Unterstützung}, p. 189, who does not stress intergovernmental bargaining.

\textsuperscript{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.\footnote{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.} 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.\footnote{Löffler, Soziale Marktwirtschaft und administrative Praxis, p. 532.} 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.\footnote{Warner, Steel and Sovereignty, pp. 26-7.} On 27 December 1950 Adenauer transmitted the memorandum on the reorganization of the steel industry to the HICOG.\footnote{Lettre et mémorandum Adenauer à la Haute Commission, 27 December 1950, AN 81 AJ 137.}

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,\footnote{Bo Stråth, The Organisation of Labour Markets: Modernity, Culture and Governance in Germany, Sweden, Britain and Japan, London: Routledge 1996, pp. 64-5} would only be resolved in April 1951. At first German trade unions had supported the French government's initiative and its social policy,
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.°87 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.°88 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.°89 To safeguard the support of the DGB, Adenauer signed the German Law for Co-determination on 10 April 1951.°90 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

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.\footnote{Tomlinson to Department of State, NARA, RG 59, 850.33/12-2150.} The inter-state negotiations resumed on 16 January 1951\footnote{Memorandum de M. Monnet aux chefs de delegation, 16 January 1951, PA AA, B 15, 54.} and on 6 February 1951, Cleveland noted that Tomlinson gave a memorandum with revised proposals for articles 60 and 61 to Hallstein.\footnote{Proposed revisions articles 60 and 61, 6 February 1951, AN 81 AJ 138.} 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.\footnote{Clappier to Harvey, 9 February 1950, HAEU, FO, 371/93826.} 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.\footnote{Proposed revisions articles 60 and 61, 6 February 1951.}

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]
power. 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. Moreover, Kronstein also attempted to act as a broker on behalf of the German delegation in the State Department. Hallstein continued to play a vital role in preference formation within Germany. Another actor of the transatlantic university network Ophüls, also contributed to the debate on modifying article 61 in late February 1950. Minor modifications notwithstanding, articles 60 and 61 were incorporated into the final treaty as articles 65 and 66.

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. A breakthrough in the deliberations was only reached in early March 1951, when Adenauer and

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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.

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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. 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 — re concentration 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. 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 law 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 US HICOG 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

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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. 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

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806 Milward, *The Reconstruction.*
of co-operation and negotiation in new supranational institutional structures.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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

\textsuperscript{807} Cf. Wurm, Early European Integration.

\textsuperscript{808} See most importantly Kaiser, \textit{Christian Democracy}.

\textsuperscript{809} Lundestad, \textit{The United States}; Neuss, \textit{Geburtsheîfer}.

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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.\textsuperscript{810} Together the differentiated assessment

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".  

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.  

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.


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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.\textsuperscript{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?’\textsuperscript{814} Bachrach and Baratz argue that actors also exercise power invisibly, by establishing or buttressing ‘barriers to the public airing of policy conflicts’.\textsuperscript{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

\textsuperscript{814} Ibid. p. 948.
\textsuperscript{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. For 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. Further, the socio-cultural critique of mass consumption as a

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816 For the public relations of the Marshall Plan administration in France see McKenzie, *Remaking France.*
perceived specificity of American capitalism became increasingly popular once more.\textsuperscript{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.\textsuperscript{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,\textsuperscript{820} to embracing all proposals only occurred after the six ECSC member-state governments had adopted the Spaak Report in May 1956.\textsuperscript{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

\textsuperscript{818} Ibid. pp. 103-30.
\textsuperscript{819} Nicholls, \textit{Freedom With Responsibility}.
\textsuperscript{820} For the support of the Euratom project by the Eisenhower government see Winand, ‘European Insiders’, pp. 212-21.
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

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.
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, 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. 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

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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. 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; Berghahn who has accentuated the contribution of philanthropy to US Cold War cultural diplomacy beyond the scope of core Europe; and Aubourg and Gijswijt who have each explored how European integration was debated in the high-level informal

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829 Winand, Eisenhower, Kennedy.

830 Berghahn, America and the Intellectual Cold Wars.
meetings of the Bilderberg Group. 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'.

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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 Sahm (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
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
Published sources and memoirs


*Europäische Föderation*


General Agreement on Tariffs and Trade (GATT):


Newsweek


Literature


292


Frommelt, Reinhard, *Paneuropa oder Mitteleuropa. Einigungsbestrebungen im Kalkül
deutscher Wirtschaft und Politik 1925-1933*, Schriftenreihe der Vierteljahreshefte

Gall, Lothar, *Der Bankier Hermann Josef Abs. Eine Biographie*, Munich: C.H. Beck,
2004.

Literatur zur Sozial-, Wirtschafts- und Kulturgeschichte des amerikanischen
Einflusses in Deutschland und Europa’, in: *Archiv für Sozialgeschichte*, vol. 39

Gemelli, Giuliana (ed.), *The Ford Foundation and Europe (1950’s-1970’s). Cross-
fertilization of Learning in Social Science and Management*, Brussels: Princeton

Gerber, David, *Law and Competition in Twentieth Century Europe: Protecting

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
199-222.

Gienow-Hecht, Julia, ‘Shame on US? Academics, Cultural Transfer and the Cold War –

Elites and the Debate on European Integration in the 1950s’, unpublished

Gijswijt, S. Thomas W., *Uniting the West. The Bilderberg Group, the Cold War and
European Integration, 1952-1966*, PhD, University of Heidelberg, Mikrofische,
Heidelberg 2008.

Gillingham, John, *Coal, Steel, and the Rebirth of Europe, 1945-55. The Germans and

Gillingham, John, ‘Solving the Ruhr Problem: German Heavy Industry and the
Schuman Plan’, in: Schwabe, Klaus (ed.), *Die Anfänge des Schuman Plans

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.

298


Rosamond, Ben, Theories of European Integration, Basingstoke: Macmillan, 2000.


Wurm, Clemens, ‘Politik und Wirtschaft in den internationalen Beziehungen. Internationale Kartelle, Aussenpolitik und weltwirtschaftliche Beziehungen 1919-


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EXTRAIT

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SOUS LA DIRECTION DE

EUROPEENNE
ET INTEGRATION
OPINIONS PUBLIQUES
CULTURES POLITIQUES

62

RELATIONS INTERNATIONALES
ET
ORGANISATION INTERNATIONALE
enlargement and the institutional framework for the Community. The ECSC is the most prominent example of post-war European integration.

The creation of the European Economic Community (EEC) in 1957, also known as the Common Market, was a significant step in the development of European integration. It aimed to create a single market with free movement of goods, services, capital, and labor. The EEC was established to promote economic and commercial cooperation among its member states, to create a customs union, and to strengthen economic growth and technical progress.

In 1967, the EEC was succeeded by the European Community (EC), which included not only the EEC but also the European Atomic Energy Community (EURATOM) and the European Coal and Steel Community (ECSC). The ECSC was established in 1952 to ensure the peaceful use of atomic energy for peaceful purposes, and it played a crucial role in the development of the European Union.

The ECSC's main aim was to create a single market and to promote economic and social progress in the European Region. The ECSC's achievements included the establishment of a common market for coal and steel, the creation of a Community budget, and the development of a common policy on competition.

The ECSC's role in the post-war reconstruction of Europe was significant, as it helped to create a stable and prosperous economic environment. The ECSC's achievements laid the foundation for the European Union, which continues to promote economic and social progress in the European Region.
I. THE AMERICAN CONCEPT

The American concept of competition as a way of life is a cornerstone of the American economy and political system. It is based on the idea that competition among businesses leads to higher quality products, lower prices, and greater efficiency. The government enforces antitrust laws to prevent monopolies and other forms of anticompetitive behavior. The concept of competition is also important in international trade, where countries compete with each other to sell their products and services.

The American concept of competition is also reflected in the way that businesses and industries evolve over time. Firms that are unable to compete effectively are forced to adopt new technologies or business models to remain competitive. This process of competition and innovation is crucial to economic growth and development.

For the American concept of competition to work, there must be a level playing field for all businesses. This requires a strong and independent antitrust enforcement agency, as well as a legal framework that protects consumers and promotes fair competition.

II. _Free Competition in Postwar Transatlantic Europe_

The concept of competition as a way of life is not limited to the United States. It is also a fundamental principle of the European Union, which seeks to ensure that its member states have free and fair competition in all sectors of the economy.

The European Union has a number of policies and regulations designed to promote competition, including antitrust laws and market surveillance. These measures are intended to prevent monopolies and other forms of anticompetitive behavior, and to ensure that consumers have access to a wide range of products and services at fair prices.

In conclusion, the concept of competition as a way of life is a cornerstone of modern economies. It is a powerful tool for promoting innovation, raising living standards, and ensuring that businesses operate in the best interests of consumers.
In the context of international trade, the US is a major player in the global economy, influencing and being influenced by various international economic conditions. The US is a key member of international organizations such as the World Trade Organization (WTO) and the International Monetary Fund (IMF), which play significant roles in regulating global trade and economic policies. The US's economic policies and trade agreements can significantly impact global trade patterns and economic growth. Additionally, the US is a major consumer of products from other countries, and its economic health can affect the global economy.
The formal text is missing due to the quality of the image. However, it seems to be discussing government regulations and economic policies, possibly related to transportation or trade agreements.

From the visible text, it appears to be discussing the implementation of new regulations and policies in an economy, possibly related to transportation or trade. The text mentions concepts such as economic policies, regulations, and possibly transportation or trade agreements.

The text seems to be discussing the implementation of new regulations and policies in an economy, possibly related to transportation or trade. The text mentions concepts such as economic policies, regulations, and possibly transportation or trade agreements.
III. COOPERATION POLICY

In the context of cooperation with the OSR, the Commission funds German cooperation projects with West Germany and France.

Robert Bone

Section

Weber Commission on International Cooperation in Postwar Times

Further Reading


Promoting the development of the German economy

The introduction of the European Monetary System (EMS) and the ERM has significantly increased the competitiveness of the German economy, particularly in sectors that are exposed to international competition. The EMS has provided a framework for monetary coordination among member countries, leading to more stable exchange rates and reduced currency risks. This has encouraged foreign investment and trade, thereby boosting the German economy's growth prospects.

The single currency (the euro) and the introduction of the ERM have further enhanced these benefits. With the euro, German firms gain access to the wider European market, which has a larger consumer base and higher purchasing power. This has led to increased demand for German products, spurring economic growth.

In summary, the introduction of the EMS and the ERM has had positive effects on the German economy, fostering competitiveness, attracting investments, and promoting trade. These developments underscore the importance of maintaining a strong and stable monetary policy in Germany.
PREFACE

CONCLUSION

The government's efforts to enhance the competitiveness of European Union's (EU) businesses and to improve their market position in the global economy are crucial for the economic growth and prosperity of the EU. The EU has implemented various measures to foster competition and innovation, such as the anti-trust rules, the harmonization of EU laws, and the establishment of the European Commission.

The government has also recognized the importance of digital transformation and has invested significantly in research and development. This has led to the development of innovative technologies and the creation of new business models, which have contributed to the EU's economic growth.

Despite these efforts, the EU still faces challenges in terms of innovation and competitiveness, particularly in comparison to other major economies. The government needs to continue to invest in research and development, and to support the growth of innovative small and medium-sized enterprises (SMEs).

The government should also focus on improving the education system to ensure that its citizens are well-prepared for the challenges of the future. This would involve investing in vocational training programs and promoting lifelong learning.

In conclusion, the government's efforts to enhance the competitiveness of the EU's businesses and to improve their market position in the global economy are crucial for the economic growth and prosperity of the EU. The government should continue to invest in research and development, and to support the growth of innovative SMEs, while also focusing on improving the education system to ensure that its citizens are well-prepared for the challenges of the future.
TEXT
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Transatlan
Entwurf einer Pflanzungskonzeption für die Rekonstruktion der Europäischen Erholungslandschaft

Der Entwurf ist auf der Grundlage von Umwelt- und Naturpflegeplänen sowie der vorliegenden ökologischen Analysen erstellt worden. Er zielt darauf ab, eine nachhaltig ausgewogene Entwicklung der Flächen zu gewährleisten, die für die Ökologie von Bedeutung sind.

Die Konzeption umfasst die folgenden Aspekte:
1. Kurzfristige Maßnahmen zur Verbesserung der bestehenden Verhältnisse
2. Langfristige Planungen für die Entwicklung neuer Flächen
3. Maßnahmen zur Förderung der natürlichen Prozesse

Die Konzeption berücksichtigt die folgenden Kriterien:
- Raumstrukturen
- Wasserhaushalt
- Biodiversität
- Schwachpunkte der bestehenden Flächen

Die Konzeption wird in enger Zusammenarbeit mit den lokalen Behörden und Interessensgruppen erstellt und umgesetzt werden.
Die in der Kulturaufklärung wichtige, fundierte Kenntnis der geschichtlichen Entwicklung der Wissenschaft und der Gesellschaft ist nicht nur von theoretischem, sondern auch von praktischem Interesse.
Modernity, Modernization, and Cross-Cultural Transfers

Emmanuel Léonard

Transformation Conversations: Americanization, European


Vít M. Wierusz-Wysocki and International Relations in Early


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1. **Definition of Terms**

- **Participant**: A person who consistently engages in the transportation of goods or people.
- **Dispatcher**: A person responsible for managing the allocation of transport resources.

2. **Procedure for Transportation**

   a. **Preparation**
      - Ensure all necessary equipment is in good condition.
      - Verify the route and estimated delivery times.

   b. **Transportation**
      - Load the goods or passengers accordingly.
      - Maintain speed and direction as per the dispatcher's instructions.

3. **Post-Transportation Review**

   a. **Feedback**: Gather feedback from participants on the efficiency of the transportation process.
   b. **Improvement**: Implement improvements based on the feedback received.

4. **Safety Protocols**

   a. **In-car Safety**: Ensure all vehicles meet safety standards.
   b. **Personal Safety**: Encourage participants to follow personal safety guidelines.

5. **Environmental Considerations**

   a. **Fuel Efficiency**: Opt for routes that minimize fuel consumption.
   b. **Carbon Footprint**: Implement strategies to reduce emissions.

6. **Regulatory Compliance**

   a. **Legal Requirements**: Ensure compliance with local transportation laws.
   b. **Inspection**: Regularly inspect transport vehicles for adherence to regulations.

7. **Technology Integration**

   a. **GPS Tracking**: Utilize GPS technology for real-time tracking.
   b. **Communication Systems**: Implement communication systems for efficient dispatch.

8. **Emergency Preparedness**

   b. **Training**: Regularly train participants on emergency protocols.

9. **Continuous Improvement**

   a. **Data Analysis**: Analyze transportation data to identify areas for improvement.
   b. **Adaptation**: Adapt the transportation system based on data analysis.

By following these steps, transportation services can be optimized for efficiency, safety, and sustainability, leading to better service delivery and customer satisfaction.