'The Schuman Plan and national fiscal independence' from the Luxemburger Wort (9 July 1954)

Caption: On 9 July 1954, the Luxembourg daily newspaper Luxemburger Wort criticises the lack of fiscal harmonisation among the ECSC Member States and its negative impact on competition policy.

Source: Luxemburger Wort. Für Wahrheit und Recht. 09.07.1954, n° 190; 107e année. Luxembourg: Imprimerie Saint-Paul. "Plan Schuman et souveraineté fiscale des Etats", p. 7.

URL:
http://www.cvce.eu/obj/the_schuman_plan_and_national_fiscal_independence_from_the_luxemburger_wort_9_july_1954-en-2ace6572-60e5-4b7b-b62e-f5b10aaf7bfe.html

Last updated: 06/07/2016

The Schuman Plan and national fiscal independence

It has been underlined many times that the material limitation of the purpose of the treaty establishing the ECSC solely for the coal and steel industries represents a birth defect whose unforeseen and sometimes unpredictable consequences are difficult to curb.

This legal limitation in supranational jurisdiction leads to a continual conflict between the law and actual circumstances. The economic unit that makes up the national market is not divisible into isolated sectors, as each one is subject to differently designed rules, often based on opposing doctrines. The complications are increased by the fact that despite the attempt that was made to patch together the main industries beyond national parameters into one juridical unit and economic entity, these industries continue, in many respects, to operate as six separate national economies.

The answer of partially integrating these economies within the Schuman Plan framework, though of an unusual orthodoxy for economists, stemmed from the political contingencies that are at its source. Admittedly, this solution is justified by the fact that it only represents a single step or transition toward the complete union of economies. In order to synchronise the joint action of establishing national and supranational sovereignty in the coal and steel sector, the Schuman Treaty regulates, through many economic and social clauses, the inevitable coexistence of six different national jurisdictions and one supranational authority together on a single continent.

In spite of this, the cracks in the system are too numerous to prevent the loopholes that Governments strive to uncover in order to get around the ban against undermining competition in the coal and steel industry, and through this, to benefit their own national enterprises.

The ideal arena for these manipulations is the tax system. Coal and steel manufacturers, while coming under supranational jurisdiction in production and sales, continue to be subject to taxes and national duties. The impact of this, whether directly or indirectly related to the tax burden, obviously influences the competitive capacities of the industries in question. The ECSC Treaty, in anticipation of these possible loopholes in the industry, urges Governments to ensure that competitive conditions, in so far as they abide by the economic, fiscal and social policy, are neither more or less favourable than those available to non-integrated industries.

However, a loophole still exists in the area of exportation to non-member countries of the Community. The basic principles regarding price – non-discrimination and open display – are not mandatory. The sphere of global exportation, where the Community s enterprises come face to face with world competition, unrestricted by mandatory regulations regarding competition, must logically remain free in order to allow for more flexibility in quotation and an ability constantly to adapt to the competitive figures on world markets, which are not subject to the common market s internal regulation.
The French government, by decree of 16 June last, recently brought within the ambit of French iron and steel industry products, where export to third countries is involved, the premium from the payment of taxes and social security contributions that put a strain on these products. It is virtually a question of stopping the collection of taxes normally levied on merchandise that does not leave ECSC territory. This action obviously improves the French iron and steel industry s competitive position on external markets. It is liable to damage the interests of other exporters of the Community. A ricochet effect could also bring about internal repercussions in the common market, since the French iron and steel industry, instead of taking advantage of the concession it received on the third markets, uses it to compensate the loss in prices on Community territory.

It is therefore understandable that non-French iron and steel industries are concerned about the possible repercussions of this decree that poses, once again, the more general problem of the divergent effect of national tax systems on the competitive situation of enterprises confronting each other on a unified market.

The High Authority has no direct jurisdiction in the area of taxation, which continues to be under the jurisdiction of each independent government. However, Article 67 of the Treaty forces each State to notify the High Authority of any legislative and regulatory acts that it passes, inasmuch as these acts are liable

significantly to affect the competitive conditions in the coal and steel industries. The same text forces the High Authority to ensure the protection of the competing industries of other Member States in the ECSC, that stand to be disadvantaged by the unilateral action of a specific government. In this case, it will intervene through recommendations giving the government to whom the recommendations are addressed the choice of suitable solutions. It should be added that this procedure cannot be set in motion except where prejudicial effects may be duly noted following the action called into question.

Does this new French action actually bring about repercussions that hinder the interests of other iron and steel industries? Calculations indicate that the rebate reaches almost nine dollars per tonne of steel that is exported by the French industry. Distributed over the total production in France, it adds up to approximately 1.25 dollars per tonne of raw steel. The Franco-Saar iron and steel industry therefore saves some 20 million dollars each year as a result of this decree.

The deciding factor is however not on this level. It is a matter of determining whether this appreciable reduction in expenses is used for competitive means, or whether it is simply used to boost sales profits. In the latter case, in fact, it would be difficult to support the argument of an adverse effect on the other iron and steel industries competitive situation.

Nothing indicates, up until now, how the French iron and steel industry intends to capitalise on this state of grace. In export to third countries, it is bound by cartel prices set by the Brussels Convention. At this time at least, no valid reason leads us to believe that French manufacturers will no longer respect these agreements. On the common market, the immovability of price schedules is increasing to the point of forcing the complete elimination of 2.5 % leeway margin which, since last January, has taken a downward turn. This margin now seems to come increasingly into use, justifying its existence.

In the event of such an evolution, the intervention of the High Authority under Article 67 becomes illusory, since it would lack a legal basis. The whole problem would be reduced to determining whether, in the absence of an adverse effect on the common market s competitive situation, the High Authority has the right to interfere in the formation and the price components of exports to third countries. The negotiations, at the time of the establishment of the agreement on exports according to the Community s procedures, revealed the extent of this issue s complexity. The High Authority will venture out very little into this area which is, in principle, almost outside the treaty s limits.

Other than the difficulties mentioned, the French action involves the underlying risk of creating a taxation war between national Governments, failing intervention from the High Authority.

The smaller countries will certainly be the ones covering the costs, since the necessary averaging following tax losses in the integrated sector, would be practically impossible.

It is most important that the High Authority use all its influence to persuade the Community s Member States to become aware of the inescapable necessity of co-ordinating and harmonising the fiscal policy of the six countries, as a result of the opening of the carbon and steel common market.