

Institutional Antecedents of European Integration

Robert Mark Spaulding

UNC - Wilmington

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Scholars of all stripes have frequently looked back to the nineteenth century to find the origins of twentieth century European supranational integration. One popular activity in this area has been explicating nineteenth century visions of European unity. Other scholarly efforts have centered on finding late nineteenth century origins of economic integration.¹ In contrast, the real working institutions of integration have not been investigated in this nineteenth century context as they are widely considered to have had no real historical antecedent.

Could it be that these traditional representations of the nineteenth century contributions to European unity have overlooked an important body that prefigured the post-1945 structures of European integration by 150 years and played a significant role in the administrative, financial, and legal integration of several European states? My paper seeks to demonstrate that the structures of European integration that evolved after 1945 do have a clear early nineteenth century institutional precedent: Commission Centrale pour la Navigation du Rhin (The Central Commission for Rhine Navigation). Established at the Congress of Vienna, the commission brought together seven sovereign states-- France, Netherlands, Prussia, Nassau, Hessen, Bavaria, and Baden-- in Europe's first institutionalized intergovernmental regime. My essay offers a very brief explication of some of the commission's activities between 1815 and 1848 to demonstrate how joint

¹ For example, Carl Strikwerda and Paul Schroeder, "AHR Forum. The Troubled Origins of European Economic Integration: International Iron and Steel and Labor Migration in the Era of World War I," *AHR*, October 1993, pp. 1106-1137.

international administration of the river required the member states to surrender portions of their sovereignty to the Central Commission in areas of inspection, taxation, and law.

My paper concludes by suggesting several ways in which we might assess the central Commission in its long-term significance for understanding the process of European integration in the second half of the twentieth century. First we must acknowledge the complete absence of hard evidence that might suggest any sort of direct link between the Central Commission and any of Europe's post-1945 integrative structures. Second, I try to suggest what the consequences of that acknowledgement must be—a fundamental reassessment of the process of European integration that unfolded in the 1950s

The Supranational Character of the Commission

Elsewhere I have analyzed in some detail the origins of the Central Commission in the years between 1804 and 1815. For the purposes of today's discussion, I shall forego an analysis of the commission's re-authorization by the powers assembled in Vienna. Instead let me briefly quickly describe three important areas of activity for the Central Commission in the period after 1815, with the purpose of highlighting how the powers, structures, and practices of the commission might be seen as antecedents of later European arrangements.

The significance of the Central Commission began with the commission itself: its very existence, its duties, and its structures. Scholars of the period might be forgiven for underestimating the role of the Central Commission because, superficially, the commission appeared quite weak. Strictly speaking it lacked any compulsive powers, with decisions binding on member states only if individual governments had assented to

them (articles XVII, 92).² Yet already in the original Vienna articles of 1815, and again in the expanded agreement, the Rhine Convention of 1831, member governments agreed to extensive transgressions against individual state sovereignty, so that the powers of the commission throughout this period were quite considerable.

Because there were no other political institutions that reached across international borders after 1815, any arrangement that linked together several states had enormous potential significance. The Central Commission was given the active goal of promoting commerce along the length of the Rhine. In other words, the Central Commission had an integrative mandate; its reason d'etre was to manage the river as a commercial link through seven European states. At Vienna in June 1815 the major European powers and the Rhine states had established the Central Commission and had explicitly charged it with several duties: first, to "provide official communication between the river states concerning all aspects of shipping on the river" (art. X); second, to "develop exact controls for the observation of the common rules" on the river (art. X); third, to issue "interim instructions" on toll-rates for the river (art. XXXI); and fourth, to produce a new long-term comprehensive regulatory agreement (Reglement) for Rhine shipping that would regulate commerce beyond the general guidelines given by the congress at Vienna in the thirty-two articles of 1815 (article XXXII).³ This fourth obligation produced a long period of tough negotiations and eventually the new Rhine Convention of 1831. In addition to linking the member states through communication, the Central Commission had an explicit mandate for forging active cooperation between the states on shipping controls, tolls, and a comprehensive new regulatory agreement. Certainly in no other

² Rheinurkunden. Sammlung Zwischenstaatlicher Vereinbarungen, Landesrechtlicher Ausfuehrungsverordnungen und sonstiger wichtiger Urkunden ueber die Rheinschiffahrt seit 1803 Munich (1803) Bd.1, 212-273. In accordance with the documents themselves, this essay uses roman numerals when referring to the Rhine articles of 1815 and Arabic numerals when referring to articles of the 1831 Convention.

³ Rheinurkunden, Bd.1, 42-50.

institution on European territory in 1815 can we find any similar agenda for international economic integration. The new treaty of March 1831, reconfirmed the duties of the Central Commission as monitoring enforcement of current rules, offering new regulations, indicating necessary physical improvements in the river, and issuing an annual report on the state of commerce on the Rhine (article 93). In nineteenth century Europe, the Central Commission served as the only institution with an avowed goal of fostering political and economic cooperation among its member states.

The Vienna instructions of 1815 had foreseen the Central Commission holding brief sessions twice annually; spring and autumn (article XI). In fact, hard bargaining over the provisions of an expanded treaty initially produced a year-round regimen and some 550 meetings of the commission between 1816 and the signing of the new definitive Rhine Convention in March 1831. The task was large and the general guidelines issued at Vienna were ambiguous, so progress on the new regulatory agreement of 109 articles was initially slow. On the positive side, none of the member states ever suggested scuttling the project, despite some extended phases of negotiating deadlock. Further, the sheer number of meetings and the corresponding volume of documentation gave the young Central Commission an institutional and bureaucratic density that it might not have achieved with just two short sessions per year.

The very act of seven sovereign European states meeting regularly to produce a program of closer administrative and economic cooperation in itself made the Central Commission a unique institution in the 1820s. The success of the commission in generating the comprehensive new Convention of 1831 made the Central Commission the only institution in Europe with tangible results in political and economic integration.

In fulfilling this surprisingly extensive mandate, the Central Commission continued to manage the river on an active basis. In the decades after 1815, the commission initiated dozens of regulatory directives, added twenty supplementary articles to the treaty of 1831, created an agreement on common police procedures, and

finally arranged for a fundamental overhaul of the 1831 agreement that produced a revised treaty in 1868.

In addition to its own active agenda, the Central Commission spawned a number of integrating sub-bureaucracies that operated across the territories of the member states: the Rhine inspectors, the revenue stations, the central accounting office, and the Rhine courts. Each of these bureaucracies required close administrative cooperation or even some degree of administrative integration among the member states. The system of Rhine inspectors required the riparian states to work closely together and in many ways prefigured the administrative organs of European integration after 1945. The chief administrative officer of the Central Commission, the Chief Inspector (Inspecteur en chef, Ober-Inspector) of the Rhine, clearly embodied the pooling and transfer of sovereignty characteristic of federal arrangements. The commission appointed the Chief Inspector on a system of weighted voting that presaged the practices of the EC. In this arrangement Prussia held one-third of the votes; Baden, Bavaria, Hessen, and Nassau together held one-third; France and the Netherlands held the remainder, i.e., one-sixth each (article XIII, article 95).⁴

In many ways, the Chief Inspector of the Rhine was modern Europe's first supranational bureaucrat. He was an official not of any one state, but rather served the Central Commission itself. Appointed for life, he was paid from common funds and took an oath of loyalty to the commission (articles XIII, XVIII, 92, 95, 96, 99). The Vienna articles authorized the Chief Inspector to issue "orders" to the state-run revenue stations and all local officials in the member states were required to follow his instructions in

⁴ Article 95 of the 1831 Rhine Convention explicated relations between these four by assigning votes in proportion to the estimated length of Rhine bank held by each: Baden 11 votes, Bavaria 4, Hessen 6, and Nassau 3.

matters relating to the enforcement of Rhine regulations (article XV).⁵ Nowhere else in early nineteenth century Europe can we find a central authority with this ability to harmonize commercial practices among several states.

Collecting and redistributing Rhine toll revenues also required cooperation between the states that pre-figured fiscal and administrative arrangements in both the Zollverein and the Reich. In this area the sovereignty of the individual states remained largely untouched and the powers of the Central Commission were correspondingly weaker. On the "conventional Rhine" as it was called, between Strassbourg and the Dutch border, tolls were collected by the individual state governments at twelve revenue stations (articles V, VI, 15). Agents at the revenue stations had an ambiguous dual nature. On the one hand they were clearly recognized as servants of their state governments: appointed and paid by state governments and wearing the service uniforms of the states. On the other hand, these state revenue officers took an oath requiring them to strictly follow the terms of the 1815 and 1831 international agreements on the Rhine (articles VI, 103). We have already mentioned that officials at these state toll stations were subject to orders and instructions from the "supranational" Chief Inspector. In sum, the revenue agents at the toll stations might be described as "quasi-supranational" officers in an emerging supranational structure that had yet to articulate fully the balance of power between sovereign states and the supranational authority. As a symbol of the revenue agents' ambiguous dual nature, ships employed in collecting Rhine tolls flew the

⁵. The treaty of 1831 confirmed the Chief Inspector's power to "issue instructions" (*deleguer denonces*) to the state revenue officers (article 98). Article 18 established another, albeit temporary, "federal" official, an engineer who would measure the length of the Rhine and each state's share of the Rhine channel and would be "duty-bound by oath" to work in the "common interest of all the riparian states" (*lui fera preter serment dans l'interet commun de tous les Etats riverains*).

flags of their home state with the Latin "Rhenus" added thereto (articles XXIII, 107). In addition, by the 1820s the commission had its own chancery, staff, and annual budget of some Fr. 25,000.⁶

The Vienna articles and the treaty of 1831 both gave explicit and elaborate instructions to the member states on collecting and apportioning the Rhine tolls.⁷ Significant sums were at stake.⁸ Because the physical conditions of the river determined the location of the revenue stations, they could not be situated along the channel exactly at the borders of the riparian states.⁹ Therefore, the revenues collected at each station were to be distributed among the states in proportion to the length of their respective possessions in the total Rhine bank for which that station was responsible (articles VI, 25). Above Koblenz, the last upstream station on exclusively Prussian territory, the tolls

⁶ The chancery consisted of a general secretary and secretariat of 6-8 persons. A number of annual and quarterly expense reports for the commission from the 1820s are located in Hessisches Staatsarchiv Darmstadt [hereafter StAD] Abt.G4 Nr.935, 936.

⁷ The Central Commission's strict uniformity in assessing and collecting Rhine tolls stands in contrast to Europe's long-standing inability to harmonize many consumer fees and taxes across the member states.

⁸ For the five-year period 1816-1820, annual gross revenues collected on the conventional Rhine between Strassbourg and Emmerich averaged Fr. 2.2 million, calculated from the report of Bavarian commissioner Nau to Munich, 15 November 1831, Bayerisches Hauptstaatsarchiv [hereafter BayHStA], MA63447. At that time, Fr. 2.2 million equaled 1.01 million gulden, or about half the annual budget of the Duchy of Nassau.

⁹ Article 14 of the 1831 Convention authorized revenue stations on the conventional Rhine at Emmerich, Wesel, Ruhrort, Dusseldorf, Cologne, Linz, Andernach, Koblenz, Caub, Mainz, Mannheim, and Neuburg. Further upstream, tolls were collected at Strassbourg and Breisach; below the Dutch border, tolls were collected on the Leck and the Waal at Gorcum, Tiel, Krimpen, and Vreeswyck.

collected at any one station had to be shared among several states in proportion to the length of river bank held by the states on either the left bank, right bank, or both sides of the Rhine. For example, tolls collected from upstream traffic by France at Strasbourg had to be shared with Baden and Bavaria because each of these states held some of the Rhine bank between Strasbourg and the last previous upstream toll station administered by the Bavarians in the Palatinate at Neuburg.

In addition to this revenue sharing, the commission also practiced expense sharing. The costs of the central administration-- the commission itself, the Chief Inspector, the lower-level Inspectors, the administrative and clerical staff-- were borne by the member states. According to the Vienna articles and the treaty of 1831, about half the expenses were divided out equally between the states and half were assessed according to length of Rhine bank held by each state. States were to contribute quarterly payments in advance of projected expenses. As a starting point, sharing revenues and expenses required financial transparency among the states in matters of Rhine revenues and expenses. More importantly, the principles and mechanisms that stood at the center of these arrangements-- individual state collection of tolls, revenue and expense sharing among the member states-- served also as the guiding principles of European arrangements after 1945.

The third agency of the commission were the Rhine courts. Ordained by article VIII of the Vienna articles and elaborated by articles 81-88 of the 1831 Rhine Convention, the courts were powerful tools for creating a uniform code of law among the member states. One might be excused for initially viewing the Rhine courts merely as state courts that heard cases involving Rhine traffic. After all, the courts were staffed, administered, and paid for by the individual member states; they issued judgments in the name of the local sovereign (article VIII, 82, 85).

Yet beneath the surface, the Rhine courts were, in many ways, the functional equivalent of a European system of courts. First, the judges were transformed into

supranational agents by their required oaths to uphold the Rhine regulations of 1815 and 1831 (articles VIII, 82). This only confirmed the position of the Rhine regulations passed by the Central Commission as, in effect, supranational law superior to state law.

Judgments by a Rhine court in any one state were valid and could be executed in any or all of the other states (article 85). Finally, appeal could be made from any of the state-run Rhine courts to the Central Commission itself, which functioned as the final court of appeal for cases invoking Rhine law (articles IX, 86, 88). The superiority of Rhine law to state law applied not only to substance, but to procedure as well; member states were instructed to establish a rough uniformity of procedure in Rhine cases. The power to hear appeals allowed the commission, through its judgments, to shape the evolving Rhine law of each of the member states. From these arrangements an extensive body of case-based Rhine law emerged that produced legal uniformity among the participating states.¹⁰ The Rhine courts had exclusive jurisdiction over cases involving the regulations of 1815 and 1831 as well as cases involving disputes over tolls or fees. The courts were also allowed to hear civil cases concerning blockage of the tow paths and cases involving damages caused by ships or horses engaged in Rhine commerce (article 81).¹¹ With this extensive jurisdiction, the Rhine courts helped shape a common civil law among the states as well. In this context Rhine law and the Rhine courts can be recognized as an important first

¹⁰ In 1836 the Central Commission formalized its procedures as an appeals court; by 1861 the commission had issued fifty-six judgments, interpreting and, in effect, elaborating the treaty of 1831. On the commission's role as the final court of appeals see Otto von Völderndorff, Die richterliche Tätigkeit der Centralcommissison für die Rheinschiffahrt (FF/M, 1894), J.B. von Traut, Die Central-Commission für die Rheinschiffahrt und ihre Rechtsprechung (FF/M, 1901).

¹¹ See also, for example, the Prussian Verordnung of 30 June 1834 establishing and governing the Rheinzoll-Gerichte, reprinted in Rheinurkunden, I, p. 306.

step in bringing some degree of conformity to the commercial and civil law of these seven states.

Assessing the Central Commission in the History of European Integration

Explicating the structures of the Central Commission reveals that the commission shared a number of obvious historic parallels with and twentieth-century European structures for integration in terms of both the principles of shared sovereignty and the practices of administrative arrangements. At the same time, by themselves these unusual parallels do not demonstrate any specific intellectual or causal link between the two institutions. How then shall we evaluate the role played by the Central Commission's innovative structures in the processes of economic integration in post-1945 Europe?

First, we can say with some certainty in summary form that the large body of evidence we possess on the origins of European integration is uniformly silent about the Central Commission. In other words, we have no evidentiary reason to believe that the commission served as a model to the founding fathers of European integration, either in its origins, its principles, or its practices. On the other hand, we know that the commission continued to function in the interwar period between 1918 and 1939 and its activities were part of European political life: the victorious allies reorganized the commission as part of the Versailles settlement; the commission continued to regulate the river's huge volume of commercial traffic throughout the 1920s and early 1930s; and Hitler had Germany withdraw from the commission in 1936. In short, the role and activities of the commission must have been generally known. Certainly a Rhinelaender like Konrad Adenauer and a Lorrain such as Robert Schumann had to be familiar with the commission. When the commission is

placed in that context, it seems implausible that its successful structures and practices remained without impact on a group of statesmen struggling with issues of integration after 1945.

Yet even without direct evidence of the commission's impact on later political schemes, the very existence of the Central Commission compels us to some significant reassessments of post-war developments. In the new light of this remarkable early nineteenth century institution, the aura of uniqueness that has surrounded the post-1945 processes of integration is somewhat diminished. The creativity Jean Monnet, Robert Schuman and others appears less genial knowing that the generation of Wilhelm von Humboldt had crafted surprisingly similar structures 135 years earlier. Further, even these preliminary explications of the parallels between the Central Commission and the later institutions of European integration (for example, the European Coal and Steel Community) suggest that the task of multilateral economic integration by itself requires certain types of institutions. Can we say that the structural solutions arrived at separately, a century apart, were inherent in the very problem of integration? In other words, might we now claim that the practical imperatives of achieving policy coordination on a limited but important economic point required the construction of similar institutions in 1815 and 1950: a deliberative body to represent national interests, a supranational bureaucracy to implement policies, and a court of justice to enforce new, task-specific rules across national borders?

Such a conclusion would have profound consequences for current scholarship. Most importantly, it would allow historians of the nineteenth century to contribute to and participate in the current debate among political scientists over how best to construct a

“theory of integration.” For both its intellectual content and its practical implications, that debate is one of the most important and exciting discussions underway in the field of international relations. Conclusions brought into that discussion from the experience of the Central Commission in the early nineteenth century would both highlight the emerging political modernity of early nineteenth century Europe and significantly broaden the body of historical evidence from which any theory of integration must be extracted. Surely one of the problems already apparent in constructing integration theory is the limited number and somewhat incestuous nature of the historical examples on which political scientists draw.