

## Eurafrica and its Business: the European Development Fund Between the Member States, the European Commission and European Firms

Véronique DIMIER

When the British joined the EEC they immediately asserted that the European Development Fund (EDF), and by extension, the European Commission, were serving French interests.<sup>1</sup> As they were contributing to the fund, it was essential that the money should be well managed and spent, i.e., that UK firms and UK former colonial territories should get their fair share of it.

‘UK firms continue to take a proportionately low share of business from the EDF. At 31/12/83, with a UK contribution of 18.7% to EDF IV and 17.76% to EDF V, UK firms had only won 9.8% of overall business from EDF IV (or 14.44% of Member States’ contracts only) and 11.71% of business overall from EDF V (or 15% of business won by Member States only). The position is improving steadily but still compares unfavourably with most of our multilateral contribution’.<sup>2</sup>

In 1967, EDF Director Jacques Ferrandi, confronted with similar criticisms from the Germans, warned that the Community ‘[was]not a piggy-bank, from which each Member State could draw the exact amount of money that it initially gave’.<sup>3</sup> After all, was the EEC, as a political experiment, not supposed to enhance solidarity among the Member States and, through the Association, between the EEC and the African associates? Indeed, as laid down in the Treaty of Rome, the Association was meant to ensure ‘the development and well-being’ of what were still in 1957 overseas territories (mainly French and Belgian colonial territories in Tropical Africa). Renamed after decolonization of those countries, the Yaoundé Convention with Associated African and Malagasy States, (AAMS, 1963), then, when the British joined the EEC and some of their former colonial territories were associated, the Lomé Convention with the African, Caribbean and Pacific countries (ACP, 1975), it purported to be a ‘*grand œuvre de solidarité*’ (‘great charitable solidarity effort’).<sup>4</sup> The EDF was the main financial instrument of those conventions and one of the first financial instruments run by the European Commission. While the Member States of the EEC contributed directly to its funding, it was the European Commission that was responsible

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2. OD [National archives of the UK, PRO, Kew Garden, Overseas Development Ministry or Administration], 1/121/50, Chard to Stanton, March 1984.
3. J. FERRANDI, *L’Association, aventure ou nécessité?*, in: *La Revue Nouvelle*, 7-8(1967), p.31.
4. AEC [Archives of the European Commission], 25/1980/1894, Deniau (Commissioner for Development), talk, 1972; 25/1980/1546, Note to Rochereau and Hendus, concerning a British television broadcast with Van Der Lee, 17.11.1962.

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for the administration of the fund. Member States had, through their participation in an EDF Committee, the last word on all development projects to be financed, even if this Member-State control proved illusory, on occasion. The authorities of the associated countries (colonial bureaucracies, and subsequently, independent African administrations) were responsible both for presenting funding requests for suitable projects and subsequently implementing them (i.e., launching the call for tenders, choosing the successful firms and undertaking the necessary work). Within this framework, the Commission, through its dedicated service, Directorate General 8 (DG8), was in charge of appraising the projects proposed by the African administrations, forwarding them (along with a financial proposal) to the EDF Committee for approval and supervising the implementation of the work undertaken by the recipient territories.<sup>5</sup> As the treaty stipulates that all the contracts funded by the EDF should be open on equal terms to all the firms in the Member States and in the associated countries, the Commission had also to see to it that fair terms of competition were respected by the Associated States and the Member States alike.

Hence, not only did the Commission have to assess the development projects presented by the associated countries, distribute the money among them and supervise the way it was used; it also had to make sure that the competition principle was respected at the 'call for tenders' stage by all actors concerned, be they firms or those who chose the firms (first colonial-, then African administrations). This was all the more difficult considering the immediate post-colonial context: previously, France, with its colonies, had constituted a commercial bloc that was protected from outside competition and where French firms enjoyed a privileged position. To run the EDF correctly, the Commission had to convince one of the leading EEC Member States and the main initiator of the Association, namely France, as well as its clients in Africa, to open their markets. It also had to convince firms from other Member States to play the game, i.e., to participate in the call for tenders and make offers. As we will demonstrate in this article, the Commission eventually succeeded: the main actors concerned (European firms and African states), eventually accepted to abide by the rule of competition. However, this success was due as much to the efforts of the Commission to control the application of this principle as to unexpected means, i.e., through the adoption or consolidation of clientelistic practices.

The first hypothesis of this paper is that DG8 put in place a system of EDF management well adapted to dealing with the neo-patrimonial administrations of most African countries. In this sense, the authority and legitimacy of the European Commission, in administering the fund, was based less on 'expertise',<sup>6</sup> as assumed by many scholars, than on clientelist practices, featuring arbitrariness in the decision making, permanent exception to rules, opacity and the primacy of personal relation-

5. Once a project was approved by DG8, it was forwarded to the EDF Committee for approval. If a project was not approved, it was forwarded to the College of Commissioners for them to decide whether to approve it or not.

6. C. RADAELLI, *Technocracy in the EU*, Longman, London, 1999; S. SAURUGGER, *L'expertise, un mode de participation des groupes d'intérêt au processus décisionnel communautaire*, in: *Revue Française de Science politique*, 52(2002), pp.375-401.

ships with the DG8 constituency, in this case, the African elite.<sup>7</sup> The second hypothesis is that those clientelistic practices were largely fuelled by the Member States themselves, in their attempts to secure funding for ‘their’ firms and their ‘political’ clients in Africa. This was obvious in the case of France, a former colonial power. But a state like Germany, without a deep colonial past, came to have its own clients in Africa, too. Hence, each Member State tried to derive as much benefit as possible from the fund, either by trying to change the rule of competition in its own favour or by playing the clientelistic card to its own advantage.

The third hypothesis is that this process had the result of increasing the autonomy and power of the Commission in running the EDF. Following Anan Menon’s hypothesis, we believe that the issue at stake in the delegation of power from the Member States to the EEC institutions is not so much some abstract consideration concerning the transfer of sovereignty; rather, it is the concern of each Member State to secure greater distributional benefits than the other through its control of EEC institutions. However, while delegating functions to EEC institutions and hoping to secure for themselves future substantive benefits, ‘they run the risk of confronting unintended consequences that may serve to enhance the autonomy of the institution they have created’.<sup>8</sup> We will see in this article how the Director of the EDF, Ferrandi, took advantage of the Member States’ rivalry to enhance his own power (and the power of the Commission) well beyond what Member States had ever envisaged. He soon became trapped in his own contradictions, however: on the one hand, while playing the role of disinterested arbiter, he put in place rules to ensure fairer competition among Member State firms; on the other hand, he encouraged the systematic disregard of these same rules through his consistent promotion of his own patron-client system with the African elite. This contradiction will be particularly salient in the case of the Mannesman affair.

### DG8 and its Clients

Until mid-1975, DG8 was dominated by a small team of colonial officials led by Jacques Ferrandi, the Director of the EDF from 1963 to 1975. The omnipotence of

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7. Several scholars have examined this aspect: D. COOMBES, *Politics and Bureaucracy in the European Community*, Allen & Unwin, London, 1970, p.257; G. ROSENTHAL, *The Men Behind the Decisions: Cases in European Policy-making*, Lexington Books, Lexington (Mass.), 1975, p.61; M. McDONALD, *Accountability, anthropology and the European Commission*, in: M. STRATHERN (ed.), *Audit Cultures: Anthropological Studies in Accountability, Ethics and the Academy*, Routledge, London, 2000, p.117; G. ROSS, *Jacques Delors and the European Integration*, Oxford University Press, Oxford, 1975; C. SHORE, *Culture and corruption in the EU: reflections on fraud, nepotism and cronyism in the European Commission*, in: D. HALLER, C. SHORE (eds), *Corruption: Anthropological Perspectives*, Pluto Press, London, 2005, pp.131–155.
8. A. MENON, *Member States and international institutions: institutionalizing intergovernmentalism in the EU*, in: *Comparative European Politics*, 1(2003), p.83.

Ferrandi, his clientelistic practices and disregard for the rules in distributing the EDF money was latterly the subject of criticism by British officials.

‘Under the Yaoundé Conventions there was no programming. This led to a situation where a recipient state put forward proposals for projects one at a time and where Ferrandi of DG8 then used to assure the applicant state that if project X was what they wanted the Community would provide the necessary finance. I have been told that this stemmed from Ferrandi’s basically political outlook on Community assistance, which he believed was there to secure the allegiance of francophone African states South of Sahara’.<sup>9</sup>

Indeed, Ferrandi created in the heart of Brussels a type of institution well adapted to dealing with emergent African administrations.<sup>10</sup> Management of the EDF, and more generally the authority and legitimacy of the European Commission in running it, was less based on any particular expertise, than on the ‘political skills’ or ‘intuition’ of a small number of officials dubbed ‘the African political artists’ of DG8. What was often referred to as Ferrandi’s ‘style’ was the capacity of the Director of the EDF to model his methods of management on the neo-patrimonial system of DG8’s African clients.

By ‘neo-patrimonial’ we mean a hybrid system of authority which prevails in most African post-colonial states: seen from the outside, these states resemble any bureaucracy as defined by Max Weber, i.e., a rational-legal type of administration where authority and legitimacy are based on legal, impersonal, standardized rules.<sup>11</sup> In the case of African states, this imposed and imported bureaucracy constituted no more than the external façade of a much more complex political system where power and positions were garnered by strong leaders and their ‘clans’ and whose patrimonial style of authority and legitimacy rested on a web of very personal relationships, bonds of trust, loyalty, mutual respect and obligation. Opacity of administration, a regime that operated outside the structures of rules and the absence of clear objectives from an aid point of view were permanent features of this neo-patrimonial system. Above all, this system was founded on the capacity of political leaders to ‘nurture’ clients through the distribution of sinecures and money extracted from external aid and other sources. DG8, equally, resembles any bureaucracy: it had its objectives, neutral and impersonal rules and criteria for selecting projects. In practice, shopping lists of projects were presented directly to Ferrandi by African Heads of State and then evaluated on an *ad hoc* basis. Criteria used for this appraisal were, above all, linked to Ferrandi’s opaque bonds of loyalty with the African Heads of State in question, to French or European political or economic priorities in Africa and to the ‘political needs’ of the newly arrived African elite.<sup>12</sup> Chief among the considerations of these elites was the perceived need to maintain their own positions of power and to guar-

9. OD, 9/435, Sands Smith to Vereker, 23.02.1979.

10. V. DIMIER, *The Invention of A European Development Aid Bureaucracy*, Basingstoke, Palgrave, 2014.

11. J.F. MÉDARD, *The Underdeveloped State in Tropical Africa: Political clientelism or Neopatrimonialism?*, in: C. CLAPAM (ed.), *Private Patronage and Public Power: Political Clientelism in the Modern State*, Palgrave, Basingstoke, 1982.

12. V. DIMIER, *The Invention...*, op.cit.

antee their visibility, legitimacy and authority, both inside and outside the country. In brief, they needed to nurture their clients. Hence the tendency to favour huge, prestigious projects that would ‘eat’ lots of money.<sup>13</sup>

Behind these projects lay also the interests of powerful European businesses. These, most notably French enterprises, worked in close collaboration with consultancy firms involved in technical assistance, that is, firms that helped African administrations to devise their projects. They were eager to bribe African administrations and Presidents to propose development projects in which they would have a major role.<sup>14</sup> For example, in 1961, the President of the Organisation Commune des Chemins de Fer et Transport in Dahomey and Niger, did not hesitate to send several letters to the President of Niger, Hamani Diori, asking him to intervene in Brussels in favour of a railway project. This project, which could be justified ‘on political grounds’, had recently been refused by the Commission’s services ‘whose lack of political imagination and concern for the evolution of this country’ seemed obvious to him. As part of the same strategy, he also advised the President to convince the European authorities to get a particular consulting firm involved in the preparatory studies concerning the project.<sup>15</sup> Whether bribes were given to President Diori’s administration to make such proposal is of course not revealed in this letter. Nor do we know from the archives if Diori succeeded in convincing Ferrandi to accept the project and if the railway was finally funded. We do know, however, from the European Court of Auditors reports that this kind of practice was frequent and sometimes led to ruinous and catastrophic projects.<sup>16</sup>

Such business of course represented yet another source of revenue for the African elites in power. And what revenue it was. The desire for money seems to have been almost insatiable, as demonstrated by a letter by President Ahmadou Ahidjo of Cameroon, at a time when the EDF was financing one of its major projects, the Transcamerounais (Trans-Camaroon railway). As he bluntly recognised in this letter:

‘The recent in-principle decision on the funding of the second section of the Trans-Camaroon, which was taken in Brussels on 13 November last, during the donors’ meeting and a certain number of decisions regarding the financing of large agricultural and industrial development operations, bring the grand total of the value of FED interventions to the advantage of the Federal Republic of Cameroon to a high level, which raises up the heart

13. J.F. BAYART, *L’État en Afrique, la politique du ventre*, Fayart, Paris, 1989.

14. V. LICKERTS, *Légitimité et légitimation des pratiques et discours du monde des affaires français en Afrique depuis les années 1990*, Thèse, Science Politique, Université Paris Sorbonne, 2015.

15. Regarding this see: AJF [French National Archives, archives of Jacques Foccart, Paris], 96/Niger, President of the organization to Hamani Diori, 06.04.1961 (included in a letter from Colombani to the Secretary of State in charge of relations with the states of the French Community, 11.04.1961).

16. The road called ‘Sibitvallée of the Niari’ in Congo-Brazzaville presented the best example of this. Cf. Court of Auditors, Annual Report 1982, pp.135-136 and 139. See V. DIMIER, *The Invention...*, op.cit., p.136.

of all Cameroonians and strengthens my government in the confidence that it places in the cooperation between the EEC and Cameroon'.<sup>17</sup>

Nonetheless,

'Cameroon would like to benefit more from the financial aid disbursed by the EDF [...]. The Cameroonian authorities admit that their country has – since 1964 – been one of the principal beneficiaries of Community financial aid (this is true also for the first EDF, that is, for the pre-1964 period) [...] Ahidjo's team assert that the Community could deal with their country in an even more privileged way, in that we are talking about one of the 18 associates where the inverse preferences are of the greatest benefit to the Community. The Cameroonians give, in truth, quite convincing figures: Imports from the EEC to (French-speaking) East Cameroon have risen from 18 billion Francs in 1963 to 27 billion Francs in 1966. We are incontestably a long way from the very modest figures represented by the global development of trade between associated Europe and the AAMS'.<sup>18</sup>

This 'opening shot' was very poorly received in Brussels:

'It is a line of reasoning – in the end, the Law of the Strongest or of the Richest – that Brussels cannot accept. The Community authorities are obliged to promote investments in the least-favoured regions of Associated Africa. The EDF cannot accept the recriminations of a country which is one of the most advantaged countries'.<sup>19</sup>

Ferrandi clearly tried to play the role of arbiter between the demands of the associates. As the system led to fierce competition between African elites to secure funding, he made sure that they could get each a share of the cake, whatever their political orientation.<sup>20</sup> This cake, however, was far from being equally divided among the recipient countries. Indeed, in his role of arbiter Ferrandi was constrained by the very neo-patrimonial system he put in place, based on opacity, personal relations and adaptation to the priorities of the African elite. As many African regimes could only survive thanks to the support of France, their priorities (and those of Ferrandi) were largely dictated by the former colonial power. The distribution-by-country of the EDF funds shows that those countries which benefited the most (Cameroon and Gabon) were among the richest on the continent. They were also countries whose President was supported by France. One jarring example of the discrepancy between relative poverty and aid granted is the following comparison:

'Gabon, for instance, with a 1970 per capita GNP of US\$630 received per capita 50.73 units of account under EDF II, whereas Burundi with a per capita GNP of US\$60 received per capita aid of only 6.34 units of account'.<sup>21</sup>

17. AFFM [Archives of the French Foreign Ministry, Nantes], 743/PO2, President Ahidjo to Mr Rochereau, Commissioner for development, 18.01.1968.

18. AFFM, 743/PO2, Note from the French embassy on Ahidjo's letter to Rochereau, 18.01.1968.

19. Ibid.

20. This was noted later by a British expert. See D. JONES, *European Chosen Few*, ODI Publications, London, 1974.

21. M. LISTER, *The European Community and the Developing World*, Avebury, Aldershot, 1988, p. 50.

The situation was widely criticized by the associated countries themselves: in 1962, some of them (Congo-Léopoldville, Senegal and the Ivory Coast) began to ask for more objective criteria, such as population size and GNP, to be taken into account in the distribution of aid, a request that seemed to worry other countries like Gabon.<sup>22</sup>

This situation attracted the pointed criticism of British officials when the UK joined the EEC in 1973. Those officials insisted that more rational methods and fairer criteria be used in order to distribute the funds among the ACP countries and that those criteria should be linked to what they considered to be the main objective of aid: the eradication of poverty.<sup>23</sup> The Lomé Convention did, in point of fact, impose National Indicative Programmes, which were drawn up at the beginning of each convention. They specified priorities, the long-term development objectives of the country, the specific actions required to reach them and, above all, the amount of funding at each country's disposal for the relevant five-year period of the convention – this amount being linked to the country's level of poverty. This system was meant to constrain Ferrandi's freedom of action in distributing funds among the associated countries, and also the freedom of his clients in proposing their choice of projects. It also served to ensure that the fund would be distributed more-or-less equally between the old (francophone) and the new (anglophone) associates, i.e., between French and British interests. In practical terms, programmes were proposed by the ACP governments, then negotiated with DG8 during programming missions sent by the latter to each country. This came to be a highly political process, as DG8 officials found themselves once again playing the role of arbiter and explaining to some countries (the francophone associates) that they might have less money than before, due to the new system of funds allocation. This created even more competition among the Associate States, old and new, as exemplified by the never-ending complaints of Gabon about the paucity of its EDF envelope, as the result of the new programming system.<sup>24</sup>

### **The European Commission as the Honest Broker between Member States.**

While the system led to fierce competition among the Associated States, it was no less responsible for the conflict and displays of greed among the Member States of the EEC: while the former were naturally anxious to gather the manna from Europe, the latter were no just as anxious for their businesses to reap the benefits of lucrative contracts. The costs and benefits of the Association had already been one of the main points of debate within the Treaty of Rome negotiations. Germany was eventually asked to contribute up to 200 million units of account to the future development fund

22. AJF, 95/1, French Prime Minister to the Minister of Cooperation and Foccart, 03.10.1962; *Bulletin Afrique Noire*, 09.12.1964.

23. V. DIMIER, *Constructing conditionality: the bureaucratization of EC development aid*, in: *Journal of European Foreign Affairs*, 11(2006), pp.263-280.

24. AFFM, 362 PO/1/184, Telegram from the French embassy in Libreville, 24.10.1981.

for overseas countries, thereby matching France's contribution. The fund in total amounted to 581.25 million of units of account and was ear-marked mainly for French overseas territories in Africa. Germany only accepted to participate in this investment deal for the sake of the EEC and after obtaining from France the promise that German firms would get their fair share of contracts from the future fund.<sup>25</sup> There is little doubt, however, that France regarded the EDF as a piggy-bank, set to serve the interests of its territories and companies in Africa. This context explains what Anan Menon was to call the 'interstate competition over the distributive outcomes' of the EEC, and as we will see here, of the EDF. In this competition, both losers and winners

'will have incentives to limit the scope for future potential unintended consequences – the former to lock in gains, the latter (at a minimum) to prevent further losses'.<sup>26</sup>

This process led the Member States to impose tighter control on such institutions as the Commission, as exemplified by France's attempts to keep a firm grip on the EDF procedures, or by Germany's, and later on, the UK's efforts to change procedures in their favour. Here again, Ferrandi tried to play the role of arbiter between Member States' interests, this time by setting up more transparent rules in the controlling system of the EDF and in the adjudication procedures. The aim was to remedy the clear bias of the EDF in favour of French firms and to create real competition.

Indeed, French companies came to garner more than 40% of the works contracts of the first EDF (1958-1964), as against 13.88% for Italy, 3.28% for Germany, 2.37% for Belgium, 4.48% for the Netherlands and 0.25% for Luxembourg, the rest (35.74%) being allocated to firms from the Associated States, i.e., indirectly to French firms.<sup>27</sup> Indeed, one of the strategies employed by French firms to keep their monopoly in former colonies was to don 'false colours' in an effort to present themselves as local.<sup>28</sup> Not everyone was convinced, however: certainly not the Italian firms.<sup>29</sup> German firms also continued to complain about this situation, feeling that 'they were consciously prejudiced in the procedure for the award of the contracts'.<sup>30</sup> Undeniably, they met many obstacles, compared to French firms that were

25. Archives of the French Foreign Ministry (Paris, série Affaires économiques et financières, sous-série, service de la coopération économique)/720, Intergovernmental conference for the Common Market and Euratom, 23.01.1957, Meeting of the Heads of delegations, working paper written by the German delegation. See also: Note on the conference of the Ministers of Foreign Affairs, Brussels, concerning the Association of the Overseas Territories and Countries with the Common Market, 25.01.1957; Note by the French Foreign Ministry, comparing the French and Belgian proposals and those adopted by the heads of government on the 19 and 20 February 1957, 21.02.1957.

26. A. MENON, op.cit., p.183.

27. AEUD [Archives of the EU delegation in Washington], European Commission, Answer to the written question No. 308/1968, by Pedini (Italy), European Parliament.

28. V. LICKERTS, op.cit.

29. AEC, 131/1983/491, Draft of a new *cahier général des charges* for supplies and public works contracts financed by the EDF, observations by the Italian delegation, 21.09.1978. The proposal envisaged in article 8 that 15% of the contracts would be reserved for firms from the ACP. This seemed 'excessive' to the Italian delegation, 'as these firms are often direct off-shoots of firms from the Member States'.

30. D. JONES, op.cit., p.13; AEC, 25/1980/1316, Note by Hendus, 05.06.1964.



already established in Africa. The first of these was the right to establish an enterprise in an Associated State. During the Treaty of Rome negotiations, Bonn had insisted on, and obtained from France, an equal right of establishment in French overseas territories for all European firms. The EEC Council of Ministers issued directives on this question in November 1959 so that, on paper, all discrimination among companies of the Six in the associated territories had to be abolished. In practice, however, the French administration did nothing to facilitate the establishment of German or Italian enterprises or nationals on territories which were still under French sovereignty.<sup>31</sup> Following decolonization, the question had to be renegotiated. The Yaoundé Convention obliged each associate to amend its laws and regulations within three years in this direction (Art. 29). However, most of the Associated States did not adopt a general law on this issue before the late 1960s and, as noted by Carol Twitchett, ‘there is little evidence that these legal rights [...] were at all effective in their impact’.<sup>32</sup>

Indeed, local rules and practices could easily make these laws null and void, especially within the framework of the neo-patrimonial states, where exceptions to rules, opacity, bribery and corruption were the basis of the legitimacy and authority of the political elite in power.<sup>33</sup> The latter were prone to using a jungle of regulations and ‘irregular practices’ to protect their local interests against any kind of competition and maintain their patronage networks. Access to official documents and exemptions from rules constituted a powerful means to extract money from those who needed them, for example, firms that wanted to establish themselves or get access to documents related to a call for tenders. French firms were used to this jungle of regulation and opacity of rules. They were also used to bribing local administrations to get a contract or a bid. Those practices were so common that the bribes given to obtain any favour from officials in African administrations were deductible from the firm’s taxes and remained so until the 2000s.<sup>34</sup> This largely explains the many irregularities in the call for tenders launched by African administrations under the supervision of the Commission, irregularities that the European Court of Auditors often highlighted: those bids only aim to hide the fact that firms have been selected beforehand.<sup>35</sup> Such practices were more difficult for firms which had never been in Africa before and had neither the knowledge nor the networks necessary to obtain privileges.

There were many other obstacles, too. As noted by an Italian document, the fact that many EDF projects were split into several small shares tended to favour local or ‘already established firms, most notably those of certain Member States’, clearly

31. E. COMTE, *La Formation du Régime européen de Migrations, de 1947 à 1992*, Thèse Histoire, Université Paris Sorbonne, 2014.

32. C. TWITCHETT, *Europe and Africa: From Association to Partnership*, Saxon House, Farnborough, 1978, pp.66-67 and 139.

33. D. JONES, op.cit., 13; C. HODEIR, *Stratégies d’Empire: le grand patronat colonial face à la décolonisation*, Éds Belin, Paris, 2003, p.297.

34. V. LICKERTS, op.cit., p.133.

35. Archives of the Court of Auditors, Draft report of the Mission of the Court of Auditors of the EEC in Cameroon, from 23 April to 4 May 1979.

sparing the blushes of France.<sup>36</sup> Being composed of a series of small elements, these contracts were not big enough to attract the largest firms, whether Italian or German. Another obstacle laid in the fact that the administrations of the Associated States were responsible for drafting the tender documents, calling for tenders, then selecting the bids and granting the contracts. It was not just procedures that differed from one country to another, but tenders, contract law and technical regulations (*cahier des charges*) were most likely to be written in French and follow French procedures, codes and laws. In former French colonial territories, most administrations were in fact advised by French technical staff, consultancy firms and former colonial officials who had stayed on after decolonisation. They were most likely to influence the project proposal during its formulation. And of course, consulting firms of a certain nationality would tend to favour norms and products of their own country, which would then give a clear advantage to firms of the same nationality, once the call for tenders was launched. Hence, a related problem was the difficulty of guaranteeing the neutrality in the technical definition of work covered by the call for tenders. Indeed, tender documents drafted by the local administration could include technical specifications so detailed and specific as to favour some firms at the expense of others. By contrast, too general a description of the project could result in too much uncertainty for the firms concerned. In addition, even though the calls for tenders were published in the European Community's *Official Journal* (OJ), established French firms, thanks to their links with the local administration, had every chance to receive the information earlier than their European competitors, which created instances of discrimination. These obstacles were later emphasized by the Commission itself:

‘European firms [...] have often regretted that the different conditions applied in the diverse associated countries have not been standardized; that in the call for tenders only laws, rules or execution procedures in force in the associated country concerned have been specified; that these documents have never been added to the tenders’ documents and that the firms had to muddle through to get them in the Associated States; that the firms had to have them translated and analysed carefully because they differed from one country to another; that the general provisions included in these documents are too numerous and totally disproportionate compared to the main provisions of the procurement; that consequently, writing up a bid is made more complex and the object of much delay’.

All in all,

‘these [European] firms run up against multiple problems implied by regulations they do not know. The diversity of these regulations and their complexity constituted for these firms a prerequisite that is hardly surmountable. They make it hard, if not impossible for external firms to measure exactly the risks and hazards involved in the realisation of distant works whose procedures are ill known. These risks and hazards are for the firms concerned factors of insecurity and may result in the overestimation of bids. Firms already on the spot, on the contrary, thanks to their knowledge of local regulation and practices, benefit

36. Draft of a new *cahier général des charges*..., observations by the Italian delegation, 21.09.1978, op.cit.

from a reverse advantage. This constitutes a real impediment to the establishment of normal conditions of competition'.<sup>37</sup>

Lobbied by strong industrial interests (like the Bundesverband der Deutschen Industrie (BDI), Afrika Verein, the Hauptverband der Deutschen Bauindustrie), the German government continued to complain about this state of affairs. German representatives repeatedly asked for quotas in the attribution of contracts, in addition to other demands: a pre-distribution of the EDF bid documents for works and supplies contracts to the firms of the Member States (a provision which already applied for consultancy firms that participated in technical assistance). They proposed that quotas should be proportional to the percentage of the contribution by each Member State to the EDF. The European Commission should be the guardian of the system and should be allowed to take the necessary measures to maintain a fair balance among the firms of Member States where contracts granted to one country represented 115% of its financial contribution to the EDF. The Hauptverband der Deutschen Bauindustrie also proposed (besides a general fund), the creation of five specific funds reserved for each Member State – and their firms, of course. The German government went as far to threaten to boycott the signing the Yaoundé II convention in 1968 if the Commission did not take steps to deal with what was referred to as the 'discrimination issue'.<sup>38</sup>

Again, after the British accession, the UK government tried to change the EEC rules in favour of their companies, this time asking for the abolition of quotas for consultancy firms:

'UK firms are particularly strong in gaining consultancy contracts (the UK consultancy profession is the strongest in Europe). These account for only 12% of EDF V commitment but are, arguably, often instrumental in the winning of subsequent major works and supplies contracts. However, UK consultants are restricted to a set share of consultancy business by a quota system which does not apply to other contracts. A partial relaxation of this system is currently being tried by the Commission. This expires in March next year. We should press for abolition of the quota system under the next convention, in line with other EDF contracts and the principles of the Treaty of Rome. British business is also not helped by the very infrequent and out-of-date production of what is intended to be advanced information on project proposals. We have long pressed for regular and timely production of comprehensive information of this sort, as produced by the Asian Development Bank. We should press for the publication by the Commission of regular information on prospective EDF contracts comparable to that provided by other multilaterals'.<sup>39</sup>

In both cases, the Commission resisted any attempts to change the existing rules in favour of one particular Member State, positioning itself as the mediator between the interests of all its members. This stance harked back to the position that Ferrandi had

37. SEC, (68) 3394, Communication of the Commission to the Council on the measures it took or intended to take in order to improve the conditions of competition concerning participation in EDF bids, final 29.11.1968.

38. L. BATAILLE, *German Firms, African Strategies and the EDF*, in: V. DIMIER, V. S. STOCKWELL (eds), *Business, Decolonization, Development*, (book in progress).

39. OD, 1/121/50, Stanton to Raison, 27.04.1984.

taken in the early 1960s when he had resisted all attempts by France to let French firms play the role of ‘contrôleur’ of the EDF, i.e., to control the EDF on the ground and assist the Associated States in devising their projects.<sup>40</sup> Playing on Franco-German rivalry, he succeeded in setting up his own EDF ‘contrôleurs techniques’, latterly renamed ‘Commission delegates’. These officials were recruited on individual private contract and administered through the Association européenne de Coopération (AEC), a not-for-profit association, incorporated under Belgian law. Besides technical assistance, their main functions were threefold: firstly, to supervise the way calls for tenders were launched by African administrations; secondly, to supervise the way these administrations implemented the projects; and lastly, to supervise the spending of the allocated funds. The French government (more precisely the Ministry of Economy) sought its abolition on many occasions, complaining that

‘its existence had only been possible through a double irregularity, financial and legal. Its creation had been decided without being accepted by the Council of Ministers. Its financing, based on EDF credits, had not been submitted to the EDF Committee’.<sup>41</sup>

The irregularity of this arrangement served Ferrandi’s purposes, as it delivered power both to DG8 and to himself. At the same time, Ferrandi tried hard to increase the transparency of the adjudication procedures and make information available.<sup>42</sup> Calls for tenders were publicized in numerous specialist journals in the different Member States and in different languages (besides publication in the *Official Journal* of the EEC and that of the AAMS country concerned). Records for each project (specifying its technical and financial aspects) were transmitted by the Commission to the Permanent Representations in Brussels and the information offices of the EEC in the Member States. They were also supposed to be circulated locally by the AAMS concerned amongst the relevant consulates. The results of the calls for tenders (the amount of the contract and name of the contractors) were published in the OJ under a special heading. Ferrandi himself regularly went around Europe to meet businessmen and representatives of the German, Dutch and Italian governments in order to encourage them to be more active in their efforts to bid and join consortiums with French firms.<sup>43</sup> On-going German criticism and the prospect of the negotiations for Yaoundé II in 1968, eventually prompted Ferrandi’s team to prepare a *cahier général des charges* (general specifications document) for all the contracts financed by the EDF, which was translated into the four languages of the Community. This involved a standardization and modernization of the relevant contract law and technical regula-

40. V. DIMIER, *The Invention...*, op.cit., p.76.

41. Archives of the French Ministry of the Economy and Finance (Centre des archives économiques et financières, Bercy), B 0017727/1, CEE/FED, 1962-1974, Note of the service dealing with international affairs, to Mr Deguen, 18.05.1967.

42. AEUD, Notes by the Director General of DG8 on measures taken to increase information about EDF operations, 08.03.1960 and 17.05.1963.

43. AEUD, Note by Cohen on Ferrandi’s trip to The Hague, 28.02.1964.

tions to be applied in the associated countries.<sup>44</sup> A German official, Klaus Prange, was also appointed to head of the service responsible for the calls for tenders.

Whether this changed anything was a matter of some debate. Although the Commission was still limited by the fact that it could not interfere in the legislation and regulations of the associated countries, it proved to be pivotal in arbitrating between the Member States' interests and their likely conflicts. In addition, the Commission took on the role of honest broker between the Member States' interests and those of the Associated States. By doing so, it succeeded in increasing its power, especially as far as the choice of the projects was concerned, and in dominating the whole process of financial management. This was clear within the EDF Committee. What also emerges clearly from the debates of this committee is the capacity of Ferrandi to bypass the rules he himself had set up and to create what we might call (to use the legal term) 'binding precedent'.

### Creating 'Binding Precedent'

The role of the Committee was to approve the financial proposals (forwarded by the Commission) related to the project proposals sent by the African Associated States and assessed by DG8 services. The Committee was made up of Member State representatives (generally coming from the Ministry of Cooperation or Ministry of Finance) who would vote by qualified majority. The EDF Committee was sometimes depicted by the DG8 officials as a great bazaar where Member State representatives came to defend the interests of their own firms (those that were likely to be involved in the implementation of the future projects). Indeed, each time a project met some resistance within the Committee, one of the Member States, France in particular, would deploy its irrefutable argument: 'the project will be of direct benefit to European enterprises'.<sup>45</sup> Legally speaking, the Commission was entrusted with both the Presidency and the Secretariat of the Committee and could send as many *fonctionnaires* as it wished to discuss and present the projects. On some occasions their numbers swelled to an imposing 31, as against the 16 Member State representatives. Even though they were not voting members of the EDF Committee, their expert knowledge, combined with the weight of their considered opinion, proved pivotal in steering the debate in the direction of the desired outcome. All the more so because Ferrandi habitually deputized for Director General Heinrich Hendus as chairman of the EDF Committee, and delegated the secretariat of the Committee to his own right-hand men, André Auclert and, subsequently, Pierre Cristofini (both former colonial officials). Not only did Ferrandi (and his men) know the project dossiers very well, but

44. AEC, 25/1980/1041, Draft project of a common contract law and specification for public work financed by the EDF, 1970.

45. ASGCI [French National Archives (Paris), Archives of the Secrétariat Général des Affaires Européennes], 19880053/50, Meeting of the EDF Committee, 04.06.1968 (discussion on the Trans-Cameroon railway).

he was also very skilled at playing coalitions of interests among the Member States against one another in order to have his projects accepted.<sup>46</sup>

Ferrandi also played the ‘fait accompli’ card like a past master, leaving the Member States with little or nothing to say. For example, in the case of the Trans-Cameroon railway, a project co-financed by USAID, the EDF and France, and politically very important to President Ahidjo of Cameroon, the Belgian representative could only

‘note that the Committee had no choice but to make a ‘yes/no’ decision on a pre-set financial plan, without being given the wherewithal to form an opinion on the principle itself and on the conditions of the attendant financing’.<sup>47</sup>

The Trans-Gabon railway is also a good example of Ferrandi’s scheming. The project was proposed to various agencies (the World Bank and the European Commission, for example) by President Omar Bongo of Gabon in 1968 and again, seeking continued support, in 1973. The project already accounted for the entire aid budget for Gabon under the third EDF (1968-1973). The railway was expected to help the exploitation of the forests and possibly of iron ore mines. The World Bank gave a negative opinion on the continuation of the project, arguing that Gabon had reached a dangerous point regarding its debts. Within the EDF Committee, most of the Member States (France and Italy excepted) had strong ‘hesitations’: the profitability of the project had not been demonstrated, according to the Germans, who stressed continually that ‘even regarding the basis of the project, the documents do not shed enough light to allow the Committee to take its decision’. The Belgian representative also underlined the fact that the mines were not yet open and that there were strong doubts as whether they would, in fact, open in the future. In addition,

‘the portion of the EDF aid that Gabon has received is great compared to other countries, even ones which are less rich: if we go by the number of inhabitants in Gabon – estimated at 500,000 by the BIRD and at 750,000 by the Commission – this country received EDF funding per person to the tune of more than 100 units of account, while a poor country like Upper Volta, for example, only received 17 or 18 UA per capita’.<sup>48</sup>

The Dutch felt ‘a certain uneasiness regarding the procedures of the Commission’ in this matter. ‘This tends to influence the Member States before the project is submitted to the Committee’.<sup>49</sup> Indeed, it appeared that Gabon, with the support of DG8, had launched a call for tenders to pre-select firms (a consortium including firms from several Member States) even before the project had been approved by the EDF Committee and before the call for tenders had been published in the OJ. The Belgian representative asked whether

46. Before the first enlargement, qualified majority meant 67 out of 100 votes, with Germany and France having 33 votes each. This meant that no project could be adopted without the consent of at least three Member States. See: V. DIMIER, *The Invention...*, op.cit., p.60.

47. Meeting of the EDF Committee, 04.06.1968, op.cit.

48. ASGCI, 19880053/65, Meeting of the EDF Committee, 29.04.1974. See also, Meeting of 28.05.1974.

49. ASGCI, 19880053/63, Meeting of the EDF Committee, 19.06.1973.

‘publication in this fashion was in accordance with the law, as the project to which it referred had not been approved either by the Committee of the EDF or by the Commission [and] if, from a legal point of view, businesses which answer this call for tenders could not sue the Commission if the latter did not agree on their participation in the project’.

The DG8 head of unit responsible for the project (André Auclert), answered that ‘as it involves a pre-selection notice, the EEC is not bound by it’. This answer did not reassure the Dutch and German representatives who worried that ‘the insertion of this notice in the OJ could cause confusion, inasmuch as it omitted to include the clause that specified that the subsequent funding of the project was not guaranteed’. A German representative asked whether ‘there have been cases where the pre-selection was not followed by EDF funding’. The Commission representative answered in the negative.<sup>50</sup> This was typical of Ferrandi’s strategy of creating a precedent and using it to bypass the rules, something that continually irked the German representatives. The latter asked persistently for the procedures to be respected and for the quality of projects to be assessed in a proper fashion.<sup>51</sup> Indeed, in certain

‘German milieux – but also among the public – there is a certain hesitation regarding community aid[so] we must consider the desire to see public money put to good use’.<sup>52</sup>

Despite these objections, the project was eventually accepted by qualified majority by the members of the Committee (67 votes out of 100). While Ferrandi made sure, through his consortium of firms, to give a fair share of the project to companies from several Member States, there was no doubt that the project would favour one of the best political allies of France in Africa.

Ferrandi’s ability to manoeuvre was helped by the fact that representatives of certain Member States (like the Netherlands, for example), came from Financial Ministries rather than Overseas aid Ministries.<sup>53</sup> In consequence, they were unaware of procedures, and more generally, of development problems, or did not have the staff and time to scrutinise the projects in depth.<sup>54</sup> This was clearly recognised later by the Dutch and German governments. The fact that these representatives regularly complained about the lack of detail in the project proposals also shows that Ferrandi and his team were not eager to share their knowledge with them. According to some of these representatives, there was a tendency for the ‘projects to be submitted to the Committee in draft form’.<sup>55</sup>

50. Ibid., Meeting of the EDF Committee, 25.09.1973.

51. ASGCI, 19880053/66, Meeting of the EDF Committee, 19.11.1974 (concerning a project to build a slaughterhouse in Bangui).

52. ASGCI, 19880053/61, Meeting of the EDF Committee, 20.11.1972.

53. OD, 9/426, Note Baxter (Overseas Development Ministry), August 1977: brief for the Minister’s meeting with Mr Pronk, Dutch Minister for Development Cooperation, 29.08.1977.

54. Ibid., Bridger to Buist, 07.12.1977, referring to a discussion with German representatives from the Minister of Cooperation.

55. Representative from Luxembourg. ASGCI, 19880053/45, Meeting of the EDF Committee, 16.06.1966.

‘We have the impression that, more and more, the Committee is called upon to decide not on projects but on general ideas, suggestions and spending forecasts. Under the present conditions, we have the impression that the Committee limits itself to authorising a funding ceiling, within which the Chief Administrator[Ferrandi] can do practically what he wants because, to use the well-worn phrase, he is tasked with taking the necessary measures to ensure the correct execution of the project, in the best financial and technical conditions’.<sup>56</sup>

Ferrandi responded that

‘it is too harsh to say that the projects are presented to the Committee in the form of unformed ideas. This was true during the first years of the fund. But under the second EDF, the Commission has tried to develop better and better the technical cases, drawing on the services of specialist consultant engineers [...]. The technical services could present 50 kg of files from the investigation bureaux, drawn up over more than a year. But if we want to end up with dossiers like these being presented to the Committee, we must face the inevitable consequences: the paralysis of the Committee’s work’.<sup>57</sup>

This situation continued long after Ferrandi left DG8 in 1975. The new chairman of the Committee, Michael Hauswirth proved to be a worthy heir of the practices of his predecessor.<sup>58</sup> British fears that the EDF Committee would remain a mere ‘rubber stamp, as in the days of Ferrandi’ proved well founded.<sup>59</sup> UK representatives within the EDF Committee argued that ‘the documentation provided [...] often gave us insufficient information’.<sup>60</sup>

‘This is the first time I am involved in these activities and I am frankly dismayed. As they stand, the documents are superficial and in the absence of the supporting papers referred to in the texts, it is impossible to make a professionally acceptable appraisal of them [...]. Basically, we must decide whether the EDF projects are to be rubber stamps or if we are, as you say, to take them seriously’.<sup>61</sup>

Accessing information through direct contacts remained difficult, as noted by one official from the Overseas Development Ministry:

‘Incidentally, my ‘lack of success’ in telephoning Brussels is not a technical difficulty but the Commission’s collective evasiveness in responding to reasoned queries, as Mr Gubbins is now finding’.<sup>62</sup>

Sending experts to sit on the Committee was useless as debates proved to be more political than technical in nature.

56. Meeting of the EDF Committee, 16.06.1966, op.cit.

57. Ibid., Answer by Ferrandi; Meeting of the EDF Committee, 16.06.1966, op.cit.

58. Michael Hauswirth had been the Director responsible for development aid in the French Ministry of Cooperation from 1968 to 1973. He was a firm believer in the project’s style as developed by Ferrandi and like the latter, did not favour programming, as sought by the British civil servants of the Overseas Development Administration.

59. OD, 9/426, Note from Sands Smith, 16.09.1977.

60. Ibid., Baxter to Buist, 16.12.1977.

61. Ibid., Tuley (British representative in the EDF Committee) to Aitken, 14.06.1976.

62. OD, 9/435, Owyer to Bridger, 18.12.1978.



‘On a few occasions we have been able to send our advisers before an EDF Committee meeting in order to minimise the damage being done by a project’.<sup>63</sup>

There were a few occasions, however, when Ferrandi was not able to impose his view on the Member States: one was the idea to open the call for tenders to firms other than those from the Member- or Associated States; the other was the Mannesman affair.<sup>64</sup>

### Untying Aid

Ferrandi was keen to favour local firms when this happened to be less costly or when giving contracts to European firms was risky for the local economy –threatening local enterprises and creating unemployment.<sup>65</sup> More than this, he and the Commission went much further than the Member States would have ever expected in their efforts to encourage the non-discrimination principle inscribed in the Treaty of Rome, i.e., in opening competition for EDF contracts to firms of third countries, whether African or not. The treaty stipulates that all the contracts funded by the EDF should be open on equal terms to all the firms in the Member States and in the associated countries. For the French government, this provision meant ‘all the firms in the Member States and in the associates only’, that is to say, tied aid. Following a much broader interpretation, the Commission made the awkward decision to open the bids for tenders to firms of other countries, without consulting the Member States. This decision was largely influenced by the reflection conducted by the Development Aid Committee (DAC) of the OECD on tied aid during one of its sessions (28 February 1963). As the DAC encouraged donors to introduce more liberal practices in their aid delivery, the Commission representative announced that the Commission would open some of the EDF bids to nationals of all OECD and DAC countries, an experiment which would be limited to the year 1963 and with the possibility of an extension. The minutes of the Secretary General of the OECD state that, for its part, ‘the Commission had decided to open any EDF bids to all OECD and DAC countries’.<sup>66</sup> This declaration was followed by a communiqué and a communication in which the Commission reaffirmed its position formally. It was also followed by a decision to open the EDF bids to Israeli firms. That decision was based on Article 501 of the financing agreement and Article 132.4 of the Treaty, which, according to the Commission, allowed

63. OD, 9/427, Bridger to Vereker, 04.10.1978.

64. On this affair, see M. REMPE, *From Development Business to Civil Society? Societal Actors in Development Cooperation*, in: W. KAISER, J.-H. MEYER, (eds), *Societal Actors in European Integration, 1958-1992*, Palgrave, Basingstoke, 2013, pp.129–150 and V. DIMIER, *The Invention...*, op.cit.

65. AFFM,184 PO/1, 758, Junges to the French Ambassador in Dakar, Argot, 25.03.1971 (relating an interview with Ferrandi).

66. ASGCI, 19880053/35, Mayoux (Deputy Secretary General, SGCI) to Boegner (SGCI), 23.04.1963.

DG8 to extend the right to take part in an EDF bid to third countries.<sup>67</sup> This was a source of great annoyance to the French government, all the more so because the Commissioner in charge of development was French.<sup>68</sup> More generally, French officials complained that:

‘As to the methods used to solve this problem, we can only express our astonishment at the Commission’s attitude. The latter has continually presented the Member States with a *fait accompli* and has systematically refused to take into account their point of view. Neither the declaration of the Commission representative to the DAC, nor the communiqué of 4 March, nor the decision to modify Article 501, nor the recent decision to open adjudications to Israel has been submitted beforehand to the Council’.<sup>69</sup>

While a working group of experts from the Member States gathered to examine nine projects considered by the Commission as being liable to be open to widened competition, Raymond Triboulet, the French Minister of Cooperation, ‘reaffirmed with strength the French opposition to the Commission initiative and interpretation of the Treaty of Rome’.<sup>70</sup> He insisted that ‘any decision to open the call for tenders to third countries should be taken by the Council’.<sup>71</sup> When the COREPER came to analyse the communiqué of the Commission,

‘the six delegations agreed unanimously that the Commission had been wrong to modify its previous practice –and to announce it in such a spectacular way – on such aspects as implying important political implications, this without even asking beforehand the advice of the Member States’.<sup>72</sup>

However, as the EEC texts were not so clear regarding the legal competence of the Council to intervene on this issue, the Member States tried to find a ‘gentlemen’s agreement’ with the Commission. In the end, the Commission had to agree to consult the Member States before making any decision concerning the opening of the call for tenders to international (third country) competition. This outcome was largely supported by the German government and German firms, which opposed categorically any attempts to open the bids to non-European companies.<sup>73</sup> In March 1980, for example, the Commission asked the EDF Committee to approve a derogation from Article 56 of the Lomé Convention, in order to open the call for tenders for a road project in Zambia to a firm from Zimbabwe. DG8’s argument was that the price offered by the Zimbabwean firm was much lower than that offered by European firms and that they could deliver the materiel more quickly. Most importantly, it would contribute to the development of the regional economy, promoting local employment and facilitating future dialogue between Brussels and this newly independent country

67. European Commission (1963), Communication to the Council on the opening of EDF bids to the firms of third countries, VIII/S/02962/63/final.

68. ASGCI, 19880053/35, Mayoux to Boegner, 23.04.1963.

69. Ibid., Morin (acting Secretary General) to Boegner, 01.10.1963.

70. Ibid., Triboulet to the Prime Minister, 30.11.1963.

71. Ibid., Triboulet to Rochereau, 08.05.1963.

72. Ibid., Note by Boegner, 25.10.1963.

73. AGFM [Archives of the German Foreign Ministry, Berlin], B 53-70, Note from the German Foreign Minister, 15.09.1962.

(with a view to integrating Zimbabwe into the ACP group of countries).<sup>74</sup> This argument did not convince the German officials from the Ministry of the Economy, who considered that the whole business had been devised by the Commission.<sup>75</sup> Nor did it cut much ice with the German firms, which were interested in the call for tenders and maintained that the rules of the EDF had been ignored in this case.<sup>76</sup> The German position is hardly surprising if we consider what was to become known as the Mannesman affair.

### The Mannesman Affair

The Mannesman affair bears detailed analysis, as it exemplifies the way the EDF was run, operating as a highly political process based on clientelistic practices. It also shows how Ferrandi, while being the honest broker between Member States' interests and those of the associates, could become trapped in his own neo-patrimonial system.

Mannesman was at this time a giant in the German steel industry. At independence, the firm convinced Léopold Senghor, President of Senegal, to build a 300km-long water pipe from Guiers Lake to Dakar. With rapid population growth, water shortages in the Senegalese capital had become a serious issue and Senghor made it a political priority. The project was first presented to the French government for funding, but rejected by the French Ministry of Cooperation and the Ministry of Foreign Affairs, as they preferred sinking wells as a solution to the water crisis. The truth was that the project, in its original form, would benefit a German firm at the expense of French companies. Not having much support from the French donor, Mannesman turned to the German Cooperation Ministry for funding. After intense lobbying, they succeeded in convincing the latter to finance part of the project to the tune of 100 million Deutschmarks, but this was not enough to cover the full cost of the pipeline. Hence, the idea to appeal to the EDF to finance part of the project. The Senegalese government put forward their first (unsuccessful) proposal in 1964. According to Ferrandi, the project was both technically flawed and too expensive, as it would have absorbed the totality of the EDF funds allocated to Senegal. His view was shared by the French Ministry of Cooperation.<sup>77</sup> Their complaints about the 'dubious' practices of Man-

74. AGME [National Archives of Germany, Archives of the German Minister of the Economy, Koblenz], B102, 375750, Note for the EDF Committee Members (derogation in favour of a third country for an EDF financed contract in Zambia).

75. *Ibid.*, D'Hondt (German Permanent Representation to the European Communities) to Everling (German Ministry of Economy), 27.04.1980.

76. *Ibid.*, BC Berlin Engineering and contracting to Mr Erverling, 19.03.1980.

77. AJF, 96/ Senegal, Paye, French Ambassador to Senegal, to Triboulet, Minister of Cooperation, 11.03.1964.

nesmann and Senghor (meaning here bribery) speak volumes about the whole ‘*af-fair*’.<sup>78</sup>

Indeed, the technical specifications of the project were so precise as to prevent any other firm, most notably French ones, from competing. According to Ferrandi, this was against EEC rules.<sup>79</sup> When Senghor proposed the project a second time, Ferrandi’s team, in collaboration with a consultancy firm, the French Bureau des Recherches Géologiques et Minières, provided a competing plan, which was much less costly.<sup>80</sup> To avoid any criticism as to a possible bias in favour of French companies, Ferrandi’s plan envisaged that the project would be carried out by another giant of German industry, Krupp, in collaboration with other (most notably French) firms. The project was to desalinate salt water. Discussions with Krupp were apparently led by Ferrandi without even informing the German Director General of DG8, Heinrich Hendus.<sup>81</sup> A delegate from Krupp came to Paris to negotiate a schedule of Franco-German cooperation on this project with the French government. ‘Krupp said that the French government would be very happy with the Krupp project in Senegal and the Mannesman project could then be avoided’.<sup>82</sup> The German permanent representative to the EEC wondered whether it would not be better for the German government to support the Krupp project, keeping in mind that the project had to be proposed by Senghor’s administration, not the Commission.<sup>83</sup>

The issue then became a German-German issue as Senghor accused Krupp of torpedoing his own project with the blessing of the Commission. Eventually, the German Ambassador in Dakar asked Krupp to withdraw its project to avoid a diplomatic crisis.<sup>84</sup> President Senghor had made the project ‘a political issue of prime importance. He does not want to lose his face in this affair’, the Ambassador advised.<sup>85</sup> It also became a political issue for both the French and German governments, as well as for the Commission, which wanted to assert its autonomy. For the German government, the project became all the more important as it was the first time that an important German company had been involved in an EDF project. It was perceived as being important also from a political and diplomatic point of view: water distribution was seen as a guarantee of social and political peace in Africa.<sup>86</sup> According to the German Ministry of Foreign Affairs, the project had a ‘psychological value’. At this time, Gamal Abdel Nasser was disseminating highly charged propaganda

78. ASGCI, 19880053/100, Note by Peltier, 23.11.1966; Boegner to the Ministry of Foreign Affairs, 23.02.1966.

79. ASGCI, 19880053/47, Note by DG8 services, 07.07.1967.

80. ASGCI, 19880053/100, Note on the Mannesman project, 23.02.1966.

81. AGFM, B. 68.636, Note by the German Foreign Ministry, 26.12.1966.

82. *Ibid.*, German Ambassador in Dakar to the Ministry of Foreign Affairs, 16.12.1966.

83. *Ibid.*, German Permanent Representative to the EEC, 28.10.1966.

84. *Ibid.*, German embassy in Dakar to the German Ministry of Foreign Affairs, 16.01.1967.

85. *Ibid.*, German Ambassador to the German Ministry of Foreign Affairs, 16.12.1966.

86. *Ibid.*, German Ministry of Foreign Affairs to the Ministry of Finance and the Ministry of Cooperation, 26.06.1967.

against Germany in Africa and was trying to influence Guinea, Mali and Mauritania. Hence, it was necessary to ‘reward Senghor for his loyalty to Germany’.<sup>87</sup>

Senghor’s direct appeal to Charles de Gaulle eventually led the French government to support the project officially. The President of Senegal was not above enlisting other supporters, if needs be: he told the French government he would seek funds from the USSR, as he had already done for other projects.<sup>88</sup> As the EDF rapporteur for the project, Ferrandi tried to block it, challenging its professionalism and trying to prevent any strong coalition among the Member State representatives. Indeed, he almost succeeded. As a result of Ferrandi’s action, one German official concluded, no agreement could be found among the Member States. For him, it was clear that Ferrandi ‘had exceeded his power’ as rapporteur:

‘the latter should only discuss suggestions put forward by the Commission and answer queries. He [Ferrandi] has created a negative atmosphere and a rapporteur should not do that’.<sup>89</sup>

Given Ferrandi’s obstruction, the discussion was postponed. The project was presented again to the Committee some weeks later and accepted.<sup>90</sup> Meanwhile, the project had become an ‘affaire empoisonnée’ (a poisonous affair, to use Ferrandi’s term) as Ferrandi accused Mannesman during a Committee meeting of having tried to bribe him. This accusation was too much for the German representative. ‘In violation of professional secrecy, he read in front of the Member State representatives a letter which proved this corruption’.<sup>91</sup> Following this, Ferrandi’s responsibilities as rapporteur were passed to someone else. He may have lost this battle but he did not lose the war. The ‘poisonous affair’ became ‘a plot’, to quote Mannesman, as the contract concerning the part of the pipeline funded by the EDF was eventually won by a French company, Pont-à-Mousson. Mannesman accused Ferrandi and his good friend, Pirzio Birolli, the contrôleur of the EDF in Senegal, of having put pressure on the Senegalese civil servants in their management of the bid.<sup>92</sup>

‘New information let us fear that through irregular ways, the Commission has evicted Mannesman from the bid to the advantage of Pont-à-Mousson [...]. Some well known civil servants of the EDF have clearly given advantage to French competitors’.<sup>93</sup>

According to Mannesman, in their manoeuvre, they had delayed the procedures for the bids and then the works, which could cost a lot of money to Senegal. This led

87. AGFM, B. 68.635, German Ministry of Foreign Affairs to the Ministry of Economy and the Ministry of Cooperation, 05.04.1965.

88. AJF, 96/Senegal, Telegram from Lagarde, French embassy in Senegal, 09.03.1965.

89. AGFM, B. 68.636, Note by Moltrecht, 05.07.1967.

90. ASGCI, 19880053/47, Meetings of the EDF Committee, 05 an 13.07.1967; Notes by Boegner, 12 and 14.07.1967.

91. AGFM, B. 68.636, Note by Moltrecht, 05.07.1967.

92. AGFM, AV 7. 313, Mannesman Export GMDH to Steinlein, 30.03.1970. See also: Memorandum Mannesman sent to the Ministry of Foreign Affairs, January 1970.

93. *Ibid.*, Memorandum Mannesman to the Ministry of Foreign Affairs, January 1970. Also quoted by M. REMPE, *op.cit.*

Mannesman to criticise once again Ferrandi's 'disloyal methods'.<sup>94</sup> Ferrandi's argument in favour of Pont-à-Mousson was that Mannesman's offer was more expensive than the successful bid – a factual error, according to the German government. The latter could only deplore the fact that Ferrandi 'continued to resist even when de Gaulle agreed to the Mannesman project. He does not follow the position of his government'.<sup>95</sup> Indeed, the Commission being, by definition, a supranational body, Commission officials were not supposed to defend the position of their government. Coming from a German official, this remark was the positive proof of the fact that Ferrandi had succeeded in gaining some autonomy from the French in his management of the EDF. Mannesman's personnel, for their part, continued to apply pressure to the German Ministry of Economy and the BDI for them to intervene against Ferrandi and his 'friends'.

'It is unbearable that someone like Ferrandi and the contrôleur of the EDF in Senegal took themselves so seriously – that they had such an ego – as to consider everything they do as good'.<sup>96</sup>

### Conclusion

What is important in this affair is not whether accusations and counter-accusations of sharp practice, meaning bribery and corruption, were right or wrong, but the fact that they were made at all. This speaks volumes of the clientelistic EDF system that Ferrandi set up within DG8. It was a system based on personal ties, opacity and permanent exception to the rules. In this case, he himself became ensnared in his own system and was unable to play the role of arbiter, as the interests and clientelistic practices of the two major Member States and those of President of Senegal ran against his own plan. The affair also illustrates the way European firms became socialised to the rules of competition within the context of the Yaoundé Convention. Indeed, eventually, discrimination among European companies was to a certain extent alleviated: in 1980, German firms obtained 12.52% of the overall EDF contracts as against 22.71% for France, 7.01% for the UK, 6.10 for Belgium, 13.61% for Italy, 0.38% for Luxembourg, 5.13% for the Netherlands, 0.85%, for Denmark, 0.32% for Ireland, 1.32% for third countries and 30.05% for the ACP.<sup>97</sup> According to one British official, this improvement may explain 'why the Germans act unequivocally in Brus-

94. Ibid.

95. Ibid., letter from Jünger, 24.03.1970.

96. Ibid., Manesman Export GMDH to Steinlein, 30.03.1970.

97. *Official Journal of the European Communities*, S 161, 24.08.1981, pp.3-7. Position for the 4<sup>th</sup> EDF on 31 December 1980.

If we consider the works contracts only, changes seem less significant: Germany, 5,58% for works contracts, against 24,34% for France and 3,65% for the UK.

sels in support of projects' which, according to him, were sometimes poorly documented and justified.<sup>98</sup>

Hence, German firms became 'Europeanised'.<sup>99</sup> They agreed to play the game of the EDF, but this, it seems, was due as much to the adaptation of German enterprises to the local practices and the neo-patrimonial system set up by Ferrandi, as it was to the efforts of the European Commission to set up more transparent and clearer rules. The best summary of this process was given by a Dutch official:

'Was it not paradoxical for the Germans to fight against discrimination and ask for transparent and clear rules in the management of the EDF (especially the call for tenders) while forcing the EDF Committee to accept dubious projects (like Mannesman's)?'<sup>100</sup>

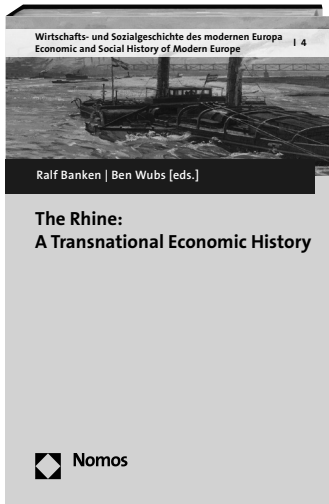
The conclusion was probably adequate for DG8 and Ferrandi himself: to remain the arbiter between Member States' interests, he had an interest in making rules more transparent (as shown by his attempts to standardize the law and regulations for contracts). This ran counter to the opacity that characterized the allocation of funding, his personal ties with the African elite, one of the main elements in the neo-patrimonial system of DG8, the main basis of his power, legitimacy and authority. This resulted in an inherent contradiction, which still pervades EU development policy and agency to keep its legitimacy as regards the Member States and their tax payers and to regulate the competition between the Member State's firms, DG8 (now DG DEVCO) had to become more and more bureaucratic, meaning it had to adopt increasingly complex and transparent selection and evaluation procedures. At the same time, to keep its legitimacy with its African 'clients', it had to continue its old neo-patrimonial practices, bypassing those procedures or closing its eyes to those (including firms and African elites) who bypassed the very procedures it had set up.

98. OD, 9/427, Paice to Aitken, 23.06.1978.

99. On the concept of Europeanisation, i.e., the capacity and attempts by the EEC to induce other actors to accept and adopt its rules and institutions, see: A.T. BÖRZEL, T. RISSE, *From Europeanisation to Diffusion*, in: *West European Politics*, 1(2011), pp.1-19; K. FEATHERSTONE, C. RADAELLI (eds), *The politics of Europeanisation*, OUP, Oxford, 2003.

100. AGME, B. 213/1140, Working group of the Council on the question of the participation of third countries in the bids for the EDF projects, 04.08.1966.

# The Rhine and Its Transnational Economic History



## The Rhine: A Transnational Economic History

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The transnational focus of this anthology on the cross-border flow of goods, capital, people and the institutions involved in the Rhine economy adds new insights to existing knowledge of national and local histories. Both the history of the Central Commission for Navigation on the Rhine (CCNR) and contributions on environmental issues show that the manifold problems of the riparian Rhine states could, and can, only be solved through international and transnational collaboration. As an early example of

transnational collaboration, the CCNR is one of the institutional explanations for the long-term successful economic development of the region. On the other hand, private industry, multinational companies and entrepreneurs played a major role in both the development of the economy along the Rhine and the transnational interdependencies of its core regions. Despite wars and the nationalistic economic policies of governments, these private agents created a long-lasting cross-border economic region.



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