

Adoption or adaptation? German and Italian Big Business and the American anti-trust policy, 1945-57¹

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The standard narrative about the introduction of anti-trust legislation in Europe is that it must largely be attributed to the influence of the US.² Before the war European governments had hardly enacted laws in this area. After the Allied occupation of Germany in 1945 the United States, as the strongest power of the three Western occupation forces, imposed their antitrust policy on the other two less enthusiastic powers Britain and France. Of the three Western allied forces the Americans had the harshest policy in their treatment of Germany's monopolistic and highly cartelised industry. In 1948, the US government used Marshall Aid to impose its views on anti-trust policy in West Germany and in the rest of aid-receiving Europe. In Italy the US administration nonetheless had apparently a softer approach, considering that in this country cartels were relatively less important. In Italy, however, it had to face with a strong resistance against any attempt to eliminate or to reduce restrictive business practices, partly because of the importance of the State owned companies, and partly because of the oligopolistic structure of Italian industrial capitalism.

After the Second World War antitrust policy had become the cornerstone of America's policy to build a new liberal economic world order. In Europe the impact of the projects of US trade warriors was but far from a success. Even when the American views on cartels and other restrictive business practices were eventually included in the Treaty of Rome in 1957, their concrete implementation was more a (superficial) adaptation than a serious and scrupulous adoption. Literature shows how deep and strong the roots of the anti-trust policy were in the first decades of the European integration process, and how unsuccessful it has been, for a long time – to some extent till today – to reduce the influence of cartels among European and international big firms on this continent.

This paper aims to show that the history of the restructuring of the European post-war economic institutions was neither linear nor a unidirectional story. By a

¹ First draft. Please do not quote by permission of the authors.

² Wells, W., *Antitrust & the Formation of the Postwar World* (New York: Columbia University Press 2002).

detailed comparison of two big European nations, Germany and Italy – both losing powers of the Second World War, and both therefore strongly dependent on post-war Allied policy – the effects of this policy up to the Treaty of Rome will be assessed. Similarities as well as differences between the two cases will be analysed and evaluated. The paper will closely look into US government documents regarding the implementation of anti-trust policy in occupied Germany, the Federal Republic of Germany, and Italy. In addition, it will explore West German and Italian government papers, as well as documents of lobby and pressure groups of German and Italian big business. By comparing formal and informal relations between the German and Italian states and their national and international firms, it endeavours to identify both changes and continuities within national economic institutions in the immediate post-war period.

The US perception of European restrictive business practices

US administration started to consider the anti-cartel policy towards Europe much before launching the military campaign to free the Continent from the Axis troops, when still America was warming up the industrial and military machinery that would lead to victory in 1945. In fact, in 1942 an interdepartmental committee, headed by the joint-secretary for economic affairs Dean Acheson, was set up, at the Secretary of State's suggestion, to study all elements and factors that could negatively intervene against the economic development and international free trade. The final results were approved by Roosevelt, and later written down in article 7 of the Lend-Lease Agreement. The text suggested that - in return for US aid and assistance - any «recipients agreed to eliminate both private and public barriers to trade».³

It appeared nonetheless evident to the more pragmatic sectors of the administration that that article was extremely clear but also very generic. It was necessary to go further, to find a solid, but also elastic instrument that could be used both to implement that policy, and to find the compromise to permit a reasonable success of the campaign. So in January 1943 a confidential document of the State Department affirmed that:

³ U.S. National Archives and Records Administration (NARA), Rg 59, Lot files, Economic bureau, international business practices division, 1944-52, Folder restrictive business practices, 1944-49, Mr. Jackson memorandum on restrictive business practices, October 17, 1949.

the future of the cartel and other forms of business combination in the post-war economic organization of Europe present numerous problems of possible interest to this government, particularly in view of its traditional anti-trust policy and its interest in the future management of German industrial holdings.⁴

This analysis showed that cartels were present everywhere in Europe, although France, Germany and United Kingdom dominated the situation at least for the international cartels with, respectively, 67, 57, and 53 international agreements in which firms of those countries were involved. Switzerland came forth in this ranking with 25 agreements, followed by Netherlands and Belgium with 20; Italy was behind Czechoslovakia (17), Sweden and Norway (16), and with only 15 agreements was at the same ranking as Austria. But even more dramatic was the level of production and exports that were controlled through these agreements especially in some of the most important commodities (cobalt, copper, tin, tungsten, mercury, aluminium, lumber, rubber, white lead, etc.): in Europe in many cases it amounted to 100 per cent of the total production and a very close percentage of total exports. In the entire world between two-thirds and 100 per cent of the production was controlled by cartel agreements, depending on the commodity.⁵

That same document is extremely important because it was linking any anti-cartel and anti-monopolistic policy for post-war Europe with the assumption that the Old Continent was supposed to move towards a process of «unification», that would have certainly induced the growth of cartels. As a result, the possibility to eliminate or to limit the power of these combination depended on «the scope of the powers granted to an international administrative authority», and on «the type of economic system which [was supposed] to be established» at the end of the war.⁶

The visionary analysis formulated in this document highlighted a story that has largely been the effective trajectory of EEC and then of EU in the last decades:

⁴ NARA, Rg 59, Lot files, Economic bureau, international business practices division, 1944-52, Folder restrictive business practices, 1944-49, «Cartels and other forms of private monopoly in European economic reconstruction», January 15, 1943, p. 1.

⁵ Ibid., p. 5 and 10.

⁶ Ibid, p. 17.

it would be possible to have an European authority whose power in the economic field which were superior in certain matters of international concern to those of individual nations, but which were exercised only to secure the general framework of European economic life. In this case the authority might establish uniform customs duties, labour standards, monetary and credit facilities, and commercial laws. Subject to the conditions thereby created, individual firms would operate in a free market.⁷

It seemed quite clear that only Europe with general economic planning would solve the collusive features of the European economy and create free competition, but, as we will see later, in the end the document was quite pessimistic about the possibilities of introducing this kind of free market, because of the force and resistance of cartels, and the low degree of compromises that the balance of institutional and economic powers could permit. In fact, even the less optimistic proposal to fight the cartels was not too far from what the effective historical process concretely proposed in the 1950's. In the future «European economic authority» might also propose the establishment of a mixed economy permitting cartels and other forms of combination to exist, but under «public control». The paradox of this policy, if followed till the extreme consequences, was to require the «compulsory cartelization» or corporate consolidation of firms in certain industries. The example offered was not too far away from what would become the European Community of Coal and Steel from its birth, an institution charged of various activities:

the fixing of prices and production quotas (...) the designation of market territories or the establishment of a central selling board. Its regulatory mandate could also be extended to new capital investments, technical methods, allowable profit returns, the opening of new sources and the closing down of old, with the attendant problems of compensating owners thus forced out of production.⁸

So, from this very initial process of analyzing the complexity of cartels and other forms of combinations among firms it appeared clear - at least to a part of the US administration - that the battle of principles could be won not only insisting on the correctness and superiority of the American anti-monopolistic and anti-trust policies,

⁷ Ibid, p. 18.

⁸ Ibid., p. 21.

but, simultaneously introducing some new institutions at the European level that could control, fight but also interact with any form of restrictive business practices.

The best and most visible result of the work done between 1942 and 1945 was a sort of progressively superior level of analysis and intervention, that slowly reduced – if not eliminated - the use of the word «cartel» with the more complex but also less comprehensible expression of «restrictive business practices», in a sort of *ante litteram* politically correctness. The new aims of the US campaign, summed up by the secretary of State Department Cordell Hull in a letter to president Roosevelt, was based on the assumption that:

the elimination of restrictive business practices of cartels is an objective that consistently follows from liberal principles of international trade which this government, under your direction, has constantly sought to implement through the trade agreements program and other aspects of commercial policy. It is also an objective which consistently follows from this country's traditional and long-standing program design to protect the consumer against monopoly and to preserve individual enterprise on a freely competitive basis.⁹

The concrete implementation of these ideas and principles was, however, more difficult, and its final results were less successful than those expected or, better, officially proclaimed. Especially, when this campaign was launched in Western Europe, passing from just an intellectual debate to a concrete discussion with political and economic partners, it became immediately evident, as in many other policies launched by the US administration in those years and during the Marshall Plan, that reality was much more complex, and less willing to be changed according to the US desires.

Role of cartels and monopolistic practices in Germany

Pre-war Germany had probably been the most highly cartelised economy in the world. At the beginning of the First World War there existed around 700 cartels in the

⁹ NARA, Rg 59, Lot files, Economic bureau, international business practices division, 1944-52, Folder restrictive business practices, 1944-49, Cordell Hull to the President, September 11, 1944.

country.¹⁰ After the war, when Germany had lost all its foreign property it searched for an alternative internationalisation strategy, and consequently became closely involved in numerous international cartels.¹¹ However, also inside Germany the number of cartels increased; estimates vary from 1,500 to 2,500 horizontal market agreements during the 1920s. A few months after Hitler's take-over the regime issued a decree of compulsory cartels. As a result, during the 1930s there existed more than 3,000 cartel agreements in Germany.¹² Cartelisation, however, did not prevent concentration in the German industry. In particular, during the 1920s large industrial trusts were set up after mergers in the chemical and steel industry. The result, had been the formation of the largest chemical company in the world, IG Farben, and steel giant Vereinigte Stahlwerke. However, also in the German electronics sector Siemens & Halske, AEG and Robert Bosch AG had developed into highly integrated giant companies.

Clause 12 of the Potsdam Agreement of July 1945 provided that German industry should be decentralised for the purpose of eliminating excessive concentrations of economic power.¹³ Soon after Potsdam the Big Four sanctioned Law No. 9 which provided for the seizure and control of Germany's largest trust IG Farben, whose directors would also be tried in Nuremberg as Nazi criminals. The difference between the Big Four as regards the treatment of German industry nonetheless soon appeared. The British in their zone promoted a constructive approach to German industry, according to the ideals of the ruling Labour Party. The French had a similar attitude, they wanted to contain German industry, not destroy it. Soviet anti-capitalist policy towards German industry came down to the nationalisation and dismantling of German companies.

Of the three Western allied forces, however, the Americans had the harshest policy in their treatment of German industry.¹⁴ They were determined to hold the leaders of German industry responsible for their collaboration with the Nazis. Henry

¹⁰ Volker R. Berghahn, *The Americanisation of West German Industry* (Berg:Leamington Spa/ New York 1986) 20-21.

¹¹ Harm Schröter, "Siemens and Central and Southeast Europe between the Two World Wars," in Alice Teichova and PL Cottrell, eds., *International Business and Central Europe 1918-1939* (New York 1989) 173-196.

¹² Berghahn, *The Americanisation*, 20-21.

¹³ Unilever Archive Rotterdam (UAR), DIR 23, 348.1, Memorandum: "Anti-Trust Legislation in Europe", 31 May 1951, 4.

¹⁴ S. Jonathan Wiesen, *West German Industry and the Challenge of the Nazi Past, 1945-1955* (Chapel Hill 2001) 42-43.

Morgenthau's radical proposal of 1944 to dismantle Germany's heavy industry of the Ruhr was nonetheless replaced in 1945 by a Joint Chiefs of Staff policy directive (JCS 1067). It explicitly outlawed cartels and called up for the break-up of large business conglomerates. In January 1947, the Americans and British united their zones of occupation and in July the Americans abandoned JCS 1067. From then on the British and Americans co-ordinated their policy and established the Bipartite Decartelisation Commission (BIDEC). They had adopted two laws, Law 56 for the American zone and Law 78 for the British zone. These laws were practically identical in their terms. Article 1 provided for the prohibition and elimination of restrictive and monopolistic enterprises, practices and excessive concentrations of German economic power. Cartels, combines, and various other concerted undertakings, having the purpose or effect of restraining domestic or international trade or fostering monopolistic control or restricting access to markets, were declared to be excessive concentrations.

Companies having their headquarters in the American or British zone and employing more than 10,000 people were to be examined *prima facie* as excessive concentrations and were to be deconcentrated.¹⁵ On the basis of a comprehensive study it was concluded that there existed 69 separate industrial combines which were appropriate for further investigation and further action. Obviously, given this large number of companies, not all actions could be taken at once. Therefore it was decided in June 1947 to select six companies to start with, i.e. Henschel & Sohn, Robert Bosch GmbH, Siemens & Halske, Metallgesellschaft AG, Vereinigte Kugellager Fabriken (VKF) and Gutehoffnungshuette AG. After expiry of six months four other principal combines would be chosen, and so on.¹⁶

De-concentration activities by the Military Government in Germany related to IG Farben, the steel and iron companies in the Ruhr, and the German banking system were handled outside the Decartelisation Branch. In 1945, IG Farben property had been sequestrated by the Military Government and its huge conglomerate dismantled into independent operating units, although its definitive legal break-up would be delayed until 1950. Deconcentration of the largest German banks, the Deutsche Bank, the Dresdner Bank and the Kommerz Bank, had been vigorously prosecuted to

¹⁵ UAR, DIR 23, 348.1, *Report of the Committee appointed to review the Decartelisation Program in Germany*, 33-34.

¹⁶ *Ibid.*, 52-53.

eliminate their concentration of economic power.¹⁷ Before the German currency reform in 1948 the German banking system was reorganised and the principal banks were all administered by an independent (state) custodian. The coal, iron and steel combines were located mainly in the Ruhr, which was part of the British zone. At first the British operated these industries as they had found them in 1945; as part of large business conglomerates. Later on the British, in contrast to their overall policy in their zone, started to de-concentrate extensively through the creation of 30 separate units.¹⁸ US military governor Lucius Clay expressed his disapproval of the British «self-seeking» policy concerning German heavy industry, and he feared that they were «protecting their own enterprises in their own country.»¹⁹

In 1948, however, dissatisfaction arose inside the US Decartelisation Branch about General Clay's statement that Henschel & Sohn was not a proper subject for a deconcentration action.²⁰ He did not believe that the breaking up of the only locomotive manufacturer in Germany would be wise in a period in which transportation had been almost at a standstill. In addition, Clay also stated that he was not against vertical integration, but that he was opposed to horizontal integration. No action had to be taken against companies in the heavy industry, but only against companies that had monopolies in consumer goods. In reaction, nineteen members of the Decartelisation Branch signed a memorandum to Clay expressing their concerns about his policy review. The new policy would:

leave the fundamental concentrations of economic power intact while engaging in little more than harassing attacks on smaller companies. This, of course, aside from being in contravention of the Law, would tend to make its enforcement unpopular and completely ineffectual.²¹

Soon after the elections of 1948 the re-elected president Truman appointed the Ferguson committee to survey the policy and status of the American decartelisation

¹⁷ Ibid., 33-34.

¹⁸ Ibid., 25.

¹⁹ Maddox, R.F., *The War Within World War II. The United States and International Cartels* (Westport CT: Praeger 2001), 145.

²⁰ Ibid.

²¹ Ibid, 147.

policy in Germany.²² On 29 April 1949 the New York Times summarised the committee's 135-page report by stating that United States occupation officials had failed to smash a single one of Germany's giant monopolies.²³ A little further on it wrote that high decartelisation officials were out of step with the presidential policy, fearing it would impede German recovery. According to the most critical committee member the de-concentration programme had been "completely nullified." The committee had further observed that «some, including those who are responsible for the review of the actions, have not always been in complete sympathy with the program». Governor Clay was criticised on the ground that he had modified the programme.²⁴

Clay was furious about all the criticism and he threatened to resign as early as January 1949. On 3 May 1949 president Truman released a statement on Clay's retirement from the service. In fact, Clay did not want to retire at all, but had overplayed his hand. During World War II Truman's War Investigating Committee had exposed IG Farben's role for the first time.²⁵ Roosevelt's trust busting drive was completely supported by Truman, also after his re-election. Two weeks later Truman appointed John McCloy as United States High Commissioner for Germany. In July 1949 McCloy stated: «It is my intention to continue the enforcement of the decartelisation program with the greatest emphasis that is possible and practical, in order to establish within the Federal Republic of Germany a free and democratic economy.»²⁶

The efforts of the Western Allied forces to create one western zone culminated in 1949 in the formation of the Federal Republic of Germany (FRG). Deconcentration policy nonetheless remained in the hands of the Military Governors of the Western zones until March 1951. The revised Occupation Statute then provided that the reserved powers relating to deconcentration would be exercised only to ensure the completion of the current Allied deconcentration programmes. In 1950, however, the tide was turning. The Schumann Plan was launched in May, which was the first move towards the creation of the European Coal and Steel Community (ECSC). In fact, it

²² UAR, DIR 23, 348.1, *Report of the Committee appointed to review the Decartelisation Program in Germany*.

²³ *New York Times*, 30th April 1949.

²⁴ *Ibid.*

²⁵ Maddox, R.F., *The War Within World War II*, pp. 172-173.

²⁶ *Ibid.*, 177.

solved the decartelisation problem of the steel and coal industry in Germany. In addition, the break-up of IG Farben in September 1950 was not the beginning of a general dismantling of West German industry. It actually marked the beginning of a fade out of the Allied decartelisation programme. In addition, the early cold war became hot. In June 1950, the war broke out in Korea, leading to the largest rearmament boom since World War II. Huge world-wide government spending on armaments stimulated the world economy.²⁷ From the early 1950s until the first oil crisis in 1973 the world economy would show unprecedented growth rates. That did not mean that anti-trust legislation was now completely moved into the background. In the FRG anti-trust legislation was drafted and for the first time adopted in 1957.

Volker Berghahn describes how German industrialist put pressure on the government to legalize cartels again during the 1950s.²⁸ Cartels, however, remained banned. According to Harm Schröter Berghahn even presents the acceptance by West German industrialist of the American decartelisation plans as the cornerstone of the Americanisation of the their economy.²⁹ Decartelisation, however, was only one part of the anti-trust policy the Americans had in mind for Germany after the war; deconcentration was the other side of the coin. Nevertheless, except for a few cases which have been described above, complete dismantling or deconcentration in West Germany had faded-out during the 1950s. German industry's resistance towards American anti-trust policy, not uncommon supported by their sympathisers in American business circles, did not result in a restoration of pre-war German business conditions. The question is whether that would have served the interest of the West German industry anyway. More importantly, however, the soup was not as bad as it was served.

Role of cartels and oligopolistic practices in Italy

Immediately after the war, when the provisional government was still discussing many issues with the US military administration, the Ministry for the Costituente (the ministry charged to prepare the procedure for the elections for the new parliament, as

²⁷ Aldcroft, D.H., *The European Economy 1914-2000* (London: Routledge 2001) 123.

²⁸ Volker R. Berghahn, *The Americanisation of West German Industry* (Berg:Leamington Spa/ New York 1986) passim.

²⁹ Harm Schröter, *Americanization of the European Economy. A compact survey of the American Influence in Europe since the 1880s* (Springer: Dordrecht 2005) 68.

well as all the documents that could be of some interest for the preparation of the new constitution) made a deep analysis of the industrial, financial and commercial structure of the country.³⁰ A special commission prepared a report that has been for many years a sort of consensual description of the Italian economy.³¹ The long tradition of trade tariffs and protectionism, coupled with – and deeply increased by – the dominant mentality and practices of the previous fascist regime paved the way to a monopolistic and/or oligopolistic situation in almost all the economic and industrial sectors of the country. Moreover, during the 1930s the Italian government, as many others in Europe, pushed firms to set up cartels – the Italian word was *consortia* – as an instrument to reinforce the weak structures of firms but also offering a strong support to the big industrial and financial groups which were called to play a leading role in this process.³² As a result, the industrial census of 1940 showed that more than 22 per cent of all Italian employees and 38 per cent of all horse power installed in Italy were concentrated in 816 plants with more than 500 employees i.e. 0,37 per cent of the total. Between 60 and 70 per cent of industrial assets belonged to stock companies, and less than hundred among them, 0,21 per cent of the total, owned two third of the total.

Ownership concentration was even more impressive: 462.123 persons were owners of shares; out of them 851, i.e. 0,18 per cent, owned 54 per cent of the total amount of those shares. The role of the State in the ownership structure, via many holdings (IRI, AGIP, Finsider, STET, Fincantieri, etc.) was very important as well, because according to an evaluation of that time, 15 per cent of industrial assets of the country were controlled by the State³³. Both private and state owned companies contributed to this situation according to the following table.

Table 1 – Level of industrial production concentration

| | Nr. of groups | Production (%) | Of which by State owned companies (%) |
|-------------|---------------|----------------|---------------------------------------|
| Electricity | 8 | 77 | 29 |
| Gas | 5 | 74 | 27 |

³⁰ F. Caffè, *Un riesame dell'opera svolta dalla Commissione economica per la Costituente*, in *Studi per il ventesimo anno dell'Assemblea costituente*, vol. III, Firenze, Vallecchi, 1969, p. 35 ff.

³¹ Ministero per la Costituente, *Rapporto della Commissione economica*, Rome, 12 voll., 1947.

³² L. Segreto, *Industrial Capitalism and Political Constraints: the Bureaucratization of Italian Economy during the fascist Regime*, in K. Kobrak-P Hansen (eds.), *European Business, Dictatorship, and Political Risk*, Berghahn Books, Oxford-New York, 2004.

³³ Ministero per la Costituente, *Rapporto della Commissione economica*, cit., II, *Industria*, I, *Relazione*, vol. 2, pp. 201-225.

| | | | |
|----------------------|---|-----|----|
| Car industry | 2 | 68 | 7 |
| Iron and steel | 6 | 86 | 57 |
| Cement | 6 | 57 | 5 |
| Rubber | 4 | 82 | - |
| Synthetic ammonia | 2 | 86 | 9 |
| Artificial textile | 2 | 90 | - |
| Typewriting Machines | 4 | 75 | - |
| Soda | 1 | 100 | - |

Source: Ministero per la Costituente, *Rapporto della Commissione Economica*, II, *Industria*, I. *Relazione*, vol. 2, Rome, Istituto Poligrafico di Stato, 1947, pp. 216-217

In 1947, during the complex procedures dealing with the signature of a new commercial treaty between Italy and the US, the State Department produced a report on «The effects of Cartels on the Italian Economy». The analysis made clear that «substantial portions of Italian industry and trade were subject to restrictions imposed by cartel agreements», that these were also responsible for the unnatural distortion of the «development of Italian resources by protecting uneconomic Italian producers in some cases, and preventing expansion of Italian production and trade in accord with natural advantages in other cases»³⁴. During the following months representative of both governments worked on a text to be included in the proposed Treaty of Friendship, Commerce and Navigation, which should specify measures to be taken in order to «prevent business practices affecting international trade which restrains competition, and which are engaged in or made effective by combination, agreement or other arrangement among public or private commercial enterprises».

But after several discussions, also among the US administration, the decision taken was rather realistic: it was «administratively impracticable, if not impossible, to squash cartels with respect to trade between two countries without at the same time following an anti-cartel policy generally». And the final observation that «the treaty is so already so long, comprehensive and replete with troublesome issues that further complications, by way of additional issues, are not to be welcomed», definitively closed the debate³⁵. Nevertheless, the final version of the treaty, approved in February 1948, affirmed that the Italian government was

³⁴ NARA, RG 59, Dec File 1945-49, DF 865.602, cartels in Italy 1945-63, J.P. Furman to the Officer in Charge of the American Mission in Rome, February 14, 1947.

³⁵ NARA, RG 59, Dec File 1945-49, DF 865.602/11-546, Coppock to Wilcox, October 3, 1947.

to adopt all measures it consider useful and to cooperate with other participating countries with the aim of avoiding the use by private or public commercial firms of methods or business combinations that could influence the international trade by diminishing competition, limiting the access to the market or to favor monopolistic controls, whereas those methods or agreements have the effect to avoid the achievement of the common program of European recovery.³⁶

As suggested many years ago by a seminal study by Richard Griffiths and Wendy Asbeek Brusse, the Marshall Plan offered the framework in which the US anti-cartel initiative could be really transformed into an effective more comprehensive policy.³⁷ For the ECA director, Hoffman,

restrictive business practices worried ECA, because we are convinced that their diffusion in Europe represents one of the major obstacles for the diminution of unit costs, the productivity and revenues growth, and to a more efficient competitiveness of Western Europe in international trade. Thereafter they represent some impediments to achieving the goals of ECA.³⁸

The adaptation of this initiative in Italy nonetheless took many forms, partly because of the obsolete structure of the industrial apparatus, and of the legal and cultural structure of the economic framework, and partly because of the strong resistance of the business community and the political elites that supported the centrist government. In fact the aim was not easy at all to be reached. The goals of ECA in Western Europe, and not just in Italy, could only be achieved through a sort of revolution of the economic culture still dominant on the continent. Only when this first – and difficult task – would be reached, it could have been possible for these new ideas to penetrate the political, legislative and administrative apparatus. Finally, it would have been also thinkable to work for the introduction of a liberal reform in the

³⁶ Camera dei Deputati, Disegno di legge n. 36, seduta del 30 giugno 1948, ratifica dell'accordo di cooperazione economica tra l'Italia e gli Stati Uniti d'America concluso a Roma il 28.6.1948,

³⁷ W. Asbeek- R.T. Griffiths, *L'European Recovery Program e i cartelli*, in «Studi storici», XXXVII (1996), n. 1.

³⁸ NA, RG 469, Records of US foreign assistance, Office of Special Representative in Europe (OSR), Office of the general counsel (OGC), Subject files, 1948-1953, Folder Restrictive business practices, Instructions A-252, May 6, 1950.

economic institutions, according to competitive instead of restrictive business practices.³⁹

The US representative were often between the devil and the deep sea. In some moments their vision was quite realistic, by considering that «the differences between the institutions and the way of thinking are so big that it would be hazardous for the US soliciting a specific reform program» to their European counterparts. In other moments they appeared quite aggressive, suggesting that the ECA missions should make the point about the use of ECA dollars or the counterpart funds by firms that were adopting restrictive business practices, even to the point of including anti-restrictive clauses in loan contracts and in any other deals⁴⁰.

A clear suggestion to the staff of US mission in Rome (as well as in many other Western European countries) was to work with national governments to change the legislation. This, however, was a delicate matter, because in those activities it was necessary to avoid any «doctrinarian attitudes, the inclination to exaggerate with the generalized sermons about the merits of competition, as well as any attempt of the US to impose its economic and legal model on the participant countries»⁴¹.

The US encouraged the introduction of legal norms to enhance competition, using all possible ways to influence the Italian political elites and the ruling classes, which were officially in favour of the campaign against restrictive business practices. The US representatives in Rome pressed to the point of redacting many drafts of the laws to eliminate restrictive business practices, and particularly cartels, and to introduce economic liberalization. Nevertheless, they avoided to use any form of pressure linking the continuation of the Marshall Plan in Italy to the adoption of liberalization procedures. The strategic aim to contain communism acted as a sort of invisible barrier stopping the most radical critics against the Allies.

As a result, US representative could only record several times, between 1949 and 1953, and even later, in 1960, that the Italian government was going to present to the Parliament the law to eliminate restrictive business practices, but during those years discussion about the draft law never reached the assembly, slowly navigating in

³⁹Ibid., An ECA program for dealing with restrictive business practices, September 20, 1949.

⁴⁰Ibid., RG 469, OSR/E, OGC, Subject files 1948-53, Folder restrictive business practices, Instructions, May, 6, 1950; Lack of activity on restrictive practices and price fixing, July 17, 1950.

⁴¹Ibid., RG 469, OSR/E, OGC, Subject files 1948-53, Folder restrictive business practices, Instructions, May, 6, 1950.

several commissions of the Chamber of Deputies or the Senate.⁴² Even the 1951 Benton amendment, engaging US to push the development of competitive economies in Western Europe, despite linking the continuation of economic aid to concrete policies to discourage cartels and monopolistic commercial practices, was never effective.

The attempt to enrol the non-communist trade unions in the battle against cartels was never successful in Italy, and the Italian Parliament postponed for year the discussion of the draft law for an antitrust legislation, finally prepared by the government after the first drafts channelled by the US mission in Rome. Much more rapid and efficient the Parliament was in 1952-53, when the government assigned to a new public owned company, ENI, the monopoly of oil and gas drillings in Italy, despite the efforts by the American oil companies and the US representatives in Rome to leave the door also open to private investments in this sector⁴³.

In fact, the dominating economic culture of the government, especially in the majority party, the Cristina Democratic Party, was a State intervention policy, according to the idea that the deep, historical social and economic contradictions of the country could find a solution only through a strong investment policy of the State holding, IRI, and the very large industrial apparatus it controlled. The private business elites, after reaching a good balance of power and a sort of division of labour with the State owned firms, could only profit from this situation and from this culture, which was simply singing the old song of the protectionism, although under new forms⁴⁴.

During the 1950's a small section of the public opinion, and an even more minuscule part of the political elites and the parties represented in the national Parliament, conducted a campaign for the adoption of an antitrust legislation in Italy. Conferences and some other initiatives characterized their campaign, but the absence of a real unity among the political and cultural opposition to cartels and monopolies did not lead to a concrete success. Nevertheless, the increasing influence of this groups in the political arena, as well as the new political atmosphere with the birth of the first centre-left governments in the early 1960's, obtained a result. After the

⁴² NA, RG 59, 865-054, 1950-54, Department of State o American embassy in Rome, June 2, 1952; *ibid.*, 1960-63, Department of State to US Embassy in Rome, march 8, 1960.

⁴³ L. Segreto, *Gli investimenti americani in Italia (1945-1963)*, in "Studi Storici", a. XXXVII (1996).

⁴⁴ F. Barca, *Compromesso senza riforme nel capitalismo italiano*, in F. Barca (ed.), *Storia del capitalismo italiano*, Rome, Donzelli, 1987, pp. 73-89; G. P. Ammassari, *La politica della Confindustria*, Napoli, Liguori, 1976, pp. 30-31; L. Mattina, *Gli industriali e la democrazia*, Bologna, il Mulino, 1991.

presentation to the Italian Chamber of Deputies of nine law projects against monopolies and trusts and to protect and favour competition (usually drafted by some small parties both of some centre-left wing parties and of the liberal party area) the Italian parliament was involved in a larger discussion. Between 1961 and 1965 a Parliament Commission examined the Italian economic structure, the level of competition, and the role of cartels and monopolies. The final results of that huge work was that the difficulties to put together numerous data, and to evaluate the operative conditions existing in the market, did not permit to conclude that Italian economy was under the control of trusts, oligopolies, and monopolies. This was only the confirmation of the force of the guardians of the anticompetitive structures of Italian capitalism.⁴⁵

Conclusion

The US administration envisioned a unified free European market without cartels as early as 1943, however, it would take another 50 years before their ideas would be implemented. Why they were not able to execute their policies directly after war in Italy and West Germany? These two former Axis powers had in common that they were losers of the war and as a consequence occupied by the Allies, of which the US had the harshest views regarding anti-trust policy. Both Italy and Germany had been in favour of cartels and restrictive business practices before the war.

The Americans were not successful with the implementation of their economic plans in the immediate post-war period for various reasons. European integration, beginning with the establishment of the European Community for Coal and Steel, could contribute to solve many dilemma's concerning restrictive business practices raised during the discussion from 1943 to 1951. Permitting in some cases cartels for coal and steel, natural resources, and strategic materials. In the meanwhile, the priorities had changed, recovery and political stabilisation in Europe had become more important to the Americans. The cold war postponed the implementation of American ideas about post-war Europe. Besides, American anti-trust ideas – not always as crystal clear as often presented – and economic post-war reality in Europe were two separate worlds.

⁴⁵ M. Granata, *Cultura del mercato. La Commissione parlamentare d'inchiesta sulla concorrenza (1961-1965)*, Rubettino, Soveria Mannelli, 2007.

Despite the similarities there were big differences between the German and Italian cases. In Germany antitrust legislation was adopted in 1957, however, in a much softer fashion than the Americans had envisioned originally. In Italy, however, antitrust legislation was drafted by the Americans, but never discussed in parliament. Italian antitrust law, following the special committee of the European union of the 1980s, was adopted and an agency was only set up in 1990. So in a way the Germans better adopted to the American plans than the Italians, however, only in an adaptive form. The Italian resistance to economic reforms were much stronger. The creation of ENI and the introduction of a monopoly for oil and gas research and exploitation on the national territory could be considered the best example of the Italian attitude, especially if one considers the American position, and impressive pressure made by the US oil companies, both on the US and Italian government to avoid that solution. The 1963 Italian parliamentary committee on competition concluded in its 12 volume report that in Italy there was no clear evidence of monopolies and cartels, although a minority report concluded the opposite. In the next 25 years nobody in Italy ever mentioned the word cartel or restrictive business practice anymore.

The paper has challenged the conventional wisdom that, during the 1950's, European governments were more conscious about the negative effects of the cartels in their economies, also thanks to the pressures of US administration and the influence of American pro-business and pro-liberalization culture. In fact, most of the European anti-trust and anti-cartel legislation was not a consequence of US pressures, but a way to evade concrete action against all actors responsible for restrictive business practices. In Europe, governments even when they got the effective power to intervene, used this possibility only with the most delicate circumspection, and only when the existence of a cartel had been disclosed. In the end, the American crusade against cartels and restrictive business practices was not a success, and it ran aground amid obstructionism and misunderstandings.

It is impressive to read today the final lines of the report written in January 1943, and quoted in the first pages of this paper. Their capacity of forecasts has probably gone well beyond the author's imagination and intelligence. He was suggesting that only with an European supranational institution it could have been less difficult – but in any case not sure – to introduce and to make successful an anti-cartel policy in Europe. But even in case of a success in this field, he was also aware that:

if the powers of the European economic authority regarding industrial combinations were limited to negotiations with the governments of individual nations in respect of policy, it could promulgate international standards for adoption by several national legislations or by international convention. It is extremely doubtful, however, that this alternative would prove effective either with regard to the suppression or the control of monopolistic combinations.⁴⁶

When the war was still to be decided, this document was offering a vision of the future of Europe that became a reality only many years later. Unfortunately, these forecasts were extremely precise, and not only regarding the anti-trust policy and the fight against the cartels.

⁴⁶ NARA, Rg 59, Lot files, Economic bureau, international business practices division, 1944-52, Folder restrictive business practices, 1944-49, «Cartels and other forms of private monopoly in European economic reconstruction», January 15, 1943, cit., p. 21.