

### 3 Legitimising Cartels

#### The joint roles of the League of Nations and of the International Chamber of Commerce

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It is certainly and conceivable that an all-pervading cartel system might sabotage all progress, as it might realise, with smaller social and private costs, all that perfect competition is supposed to realise.

(Schumpeter 1942: 91)

The interwar period is often considered the ‘golden age’ of international cartels. Both general investigations about cartels (Barjot 1994; Kudo 1993; Schröter 1996; Fear 2008) and empirical case studies (Barbezat 1989; Wurm 1988; Schröter 1993; Gupta 2005; Cerretano 2011; Bertilorenzi 2014) find them pervasive between the wars. Yet this does not mean that cartels were either dismissed afterward or that they were insubstantial before 1914. Internationally, in the 1920s and the 1930s, they had great credibility as tools for economic and political governance. On the one hand, many governments endorsed their nation’s firms participating in international cartels. On the other hand, managers from various industries believed cartels were powerful tools to manage their industries. Between the wars, cartels were part of the ‘business philosophy’ (Hannah 1976) of policy makers, businessmen and administrators whereby the international cooperation of private business actors were viewed as supporting public policies and international political actions.

This chapter focuses on the process of legitimisation of cartels. Two important issues are linked to this process. The first is that cartels became part of a specific narrative concerning their desirability for international economic governance. The second is that this narrative opposed the creation of an official international register. As Hansen (2014: 608) has recently pointed out, ‘the interesting thing about narratives ... is that they are performative. This means that narratives co-construct and legitimise social reality.’ This vision perfectly fits with the narrative about cartels in the inter-war period. Not only was it performative for the business community, it also shaped the way in which cartels were tackled by governments and international organisations. In spite of the constant diffusion of information between national governments and international organisations, the creation of an international register to survey the activity of international cartels was hampered throughout the whole interwar period. As we will show, a type of register was

formed at the end of the 1930s, but it aimed neither to control cartels nor to survey their activities. The International Industrial Cartel Committee, or *Comité des ententes industriels internationaux* (hereafter CEII), which was a joint observatory of the League of Nations (hereafter LoN) and the International Chamber of Commerce (hereafter ICC), undertook to study cartels and to gather information about them. Their ‘register’ was designed only to promote a positive attitude towards cartels. The CEII is almost forgotten today, despite the important role it played in the dissemination of a specific narrative about cartels during the interwar period. Cartels achieved their general acceptance thanks mainly to the CEII’s efforts, which was diffused through both economic practitioners and public servants.

Even if the CEII has not been examined by international scholarship, historians have explored the LoN and its cartel policies during 1920s, often focusing their attention on the Economic Conference of 1927. These studies typically agree that cartels emerged as tools of international governance in the LoN. For instance, Terushi Hara (1994) examined how the Economic Conference members started to consider cartelisation as a way to promote the recovery of European economy after the Great War. Recently, Dominique Barjot (2013) provided new materials about the birth of this discussion in the LoN, retracing Loucheur’s proposal to place cartels on the international economic agenda. In 1925 the French manager and politician Louis Loucheur proposed that cartels be used to promote European economic integration. Eric Bussière (1994) showed that the cartel debate was linked with the proposal to reduce barriers and to promote effective market integration in Europe till the early 1930s. Michele D’Alessandro (2007) has also reviewed the impact of the LoN economic committee on public opinion during 1920s, exploring in detail how it worked as a ‘consultative body’ from 1925 to 1929. Focusing on the place of Italy in the LoN’s cartel debates, Barbara Curli (1990) claimed that in the 1920s cartels were considered a specific European form of business organisation, alternate to the American firm model. These studies found that the 1920s arguments for cartels progressively lost their attraction after the failure of the LoN to use cartels to reduce trade barriers and promote economic integration in the early 1930s.

Two aspects, however, were overlooked in these former researches. First, the cartel debates continued in the following decade, obtaining international political endorsement. Second, the LoN did not stop studying cartels; rather it continued to work in strong collaboration with the ICC, creating the CEII, the joint-committee on cartels. This chapter argues that the narrative of the benefits of cartels was disseminated with much efficacy by the official adoption of the idea that cartels were an optimal solution for the problem of international economic governance. The role of a specific organisation in this process was critical because ‘experts’ from cartelised industries were called to serve among scholars and policy makers in the CEII, which acted as an international technocracy. The quality of this joint-committee, situated between two of the main international organisations of the interwar era, was able to play a semi-official level role in linking businessmen to civil servants in both national and international organisations. It worked actively

between the wars to argue for the utility of cartels and preserve them from public control. This chapter examines this ‘positive attitude’ toward cartels as it was settled within the joint-study group of the LoN and the ICC, focusing also on the interplay of these two institutions and on the role of their members.

The ICC was not a political body. Its members were mainly entrepreneurs who joined the Chamber as individuals, and its focus was on economic issues. The main role of the ICC was, and is still, to define the international rules of commercial arbitration. Arbitration is a key tool to resolve contractual conflicts in matters related to trade. Yet, during interwar period the ICC also played a less defined political role. Similarly to the LoN, the ICC was an international organisation created to recast peaceful international relationships after the First World War. Since its creation in 1919, it had two main differences from the LoN. First, the ICC had a personal membership. Even though it was organised into national committees during the early 1920s, the ICC was relatively independent from public authorities and was not representative of national interests. Its main purpose was to gather businessmen together to coordinate their actions. Second, the ICC welcomed American businessmen. Its foundation meeting was in Atlantic City in 1919 and while US membership to the LoN was not ratified by the American Congress, ICC membership did not need ratification and it was a truly global institution (Ridgeway 1938).

The nature of the ICC and its ability to gather businessmen from all countries made this institution a key partner in the economic section of the LoN when it studied the cartel problem. The involvement of the ICC highlights some commonly overlooked issues: the first was the global nature of cartels. Often believed to be merely European institutions, cartels frequently involved American firms. This participation could be either legal, thanks to the Webb–Pomerene Act, or less legal, if done by other means. How much of the claimed ‘European’ nature of cartels was the result of rhetorical argument from the Cartel Committee remains an open question. The second issue is related to the links between public authorities and private business and their changing relationship. While during the 1920s cartels were viewed as private mechanisms to integrate markets, during the 1930s the involvement of governments in the establishment and administration of cartels swiftly changed their scope and working methods. This change emerged, in part, from the debates held in the Cartel Committee, which themselves can be used to explore the Great Transformation (Polanyi 1944) of the capitalistic economy during the 1930s.

### **Legitimisation of the international cartel movement, the 1927 League of Nations economic conference.**

The original Loucheur’s proposal, which called on cartels to play a role of public utility, was launched in the context of the return to economic normalcy after the shock of the Great War. After the progressive political rehabilitation of Germany, following the Locarno Agreement, and the rebuilding of an international payments system, (especially through the Dawes Plan and the restoration of British Pound

convertibility to gold), the role of the state in the economy progressively faded. For example, until the mid 1920s many governments still exercised control over international trade with licenses and high tariffs, while after 1925 a general appeasement started. This did not mean that a free-trade system suddenly reappeared, but rather, tariffs continued to hamper the development of freer international trade. There was much political resistance to change. Yet the general trend was toward a reopening of capitals flows and commodities (Svennilson 1954; Aldcroft 1977; Liepmann 1938). From the mid-1920s the actions of the LoN and the ICC aimed to encourage the return to freer trade.

The Loucheur's proposal sought to use cartels to overcome the political reluctance to open markets. The core of this proposal was to use cartels to achieve political goals that policy makers were not able to carry out freely (Hara 1994; D'Alessandro 2007). The 1924 French–German potash agreement to share quotas in the American market, and the 1926 formation of a full cartel are considered to be decisive in the recasting of normal economic and political relationships between France and Germany (Schröter 1993). At the same time, many other cartels were settled in this period. In 1924 the international calcium carbide cartel was formed; in 1925 the international cartel of the electric lamps, the 'Phoebus' was settled, and a year later the Entente Internationale de l'Acier together with a series of agreements in the iron and steel industries were achieved. In 1926 the Aluminium Association and the Copper Exporters Incorporation were formed. Before 1929 many other agreements, in the chemical industry, and in almost all the raw and industrial materials sectors were also signed (Conte 1928; Domeratzky 1928; Ballande 1937; Hexner 1946; Mason 1946).

Almost all these cartels involved German producers. American firms did not figure in the list of the participants, in spite of the connexions that they often had with these cartels. The Americans only openly entered into the agreements foreseen by the Webb–Pomerene Act, which granted special immunities to participate in particular cartels, such as in copper. The new institutional features brought by American participation in international cartels meant a rupture of the anti-trust attitude prevalent before the First World War and could be considered a consequence of President Wilson's subsequent policies following the end of the war (Eddy 1912; Notz 1918; Cuff 1973). It is not surprising that many observers characterised the cartels of the 1920s, especially the ones in the chemical, iron and steel industries with two main features: 'European', on the one hand, and 'private', on the other hand. These qualities were intrinsically linked: over-investment in these industries created by military demand and political decisions during the Great War had left the international balance between demand and production in many industries deeply altered. Subsequent monetary policies and inflation made the rapid transition to more competitive markets troublesome. The international cartels represented the success of private producers, without the help of national governments, in coping with this difficult environment. The chief of regional information of the US Department of Commerce, Louis Domeratzky, wrote of the cartel movement:

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While before the war it was essentially an economic movement ... in its postwar phase it is looked by its chief exponents as a means for readjusting the whole economic structure of Europe ... The postwar international cartel movement is taken much more seriously and had more political attributes than its predecessor before the war.

(Domeratzky 1928: 38)

The ICC was an advocate of the debate about cartels as political tools. During 1925, as a consequence of the Locarno Agreement, the first German delegates were welcomed in the Chamber. Their inclusion gave the impetus for a special committee on the *Restauration économique*, whose works were divided among three sub-committees: one on international payments, one on trade barriers and a third on international cooperation. Their goal was to help the LoN organise a conference to study the difficulties of the international economy. During a meeting on trade barriers, Etienne Clementel, *président-fondateur* of the ICC and former minister in France during the First World War mobilisation (Kuisel 1981; Godfrey 1987; Rousseau 1998), declared that the tariff question has to be analysed from the standpoint of international cartels, recommending them as a way to avoid excess in tariffs.<sup>1</sup> During 1926, a *comité de liaison* between the ICC and the LoN helped the organisation of the International Economic Conference; and cartels were presented as possible tools to open up international trade and to rationalise world industrial production (International Chamber of Commerce 1926). The ICC, moreover, charged Roger Conte, who was coordinating a special ICC group on trade barriers, to prepare a specific publication to support these ideas.

When the International Economic Conference of the LoN began in 1927, the cartel movement was at its apogee. Scholarly accounts of the LoN conference claim it failed to give a clear message on cartels (Hara 1994; D'Alessandro 2007). It can be argued, however, that the Conference provided the first institutional legitimisation of international cartelisation because it aimed to seize the role of the cartels in the process of rehabilitation of European economy. Many publications that went along with the preparation of the conference underpinned this point, sharing two common threads (De Rousiers 1927; MacGregor 1927; Wiedenfeld 1927; Conte 1928; Oualid 1926; Person 1927; Spitzer 1927; Hirsch 1927). First, they rejected the idea that cartels were intrinsically negative; any judgement on their value depended on the specific case. Second, they argued that additional studies on the actual working cartels were necessary to provide a judgement about the impact of cartels on the European recovery. In a few cases, they raised second-order criticisms of the cartel movement. Oualid (1926), for instance, emphasised the anti-syndicalism activity of many cartels. Hirsch (1927) drew attention to the potentially negative outcome that some cartels could have on the free circulation of goods, claiming that cartels could work as indirect forms of protectionism. MacGregor (1927) pointed out that national cartels were less efficient than trusts to rationalise outputs and that a mismatch could exist between the strategies of cartels and national policies. Only the study of Gustav Cassel (1927) in this group of LoN's publications showed cartels as harmful to the general welfare.

The second thread in these publications deserves particular attention. Emerging from the conference, the call for further studies and information about cartels represented a potential threat for the cartel movement. A formal request for more information from the international organisations could have led to more extensive measures to control cartels, or at least to monitor their activities. Hypothetically, this need for more information could have led national powers and international organisations to agree to an international register of cartels. During the conference this risk was countered by the claim that cartel agreements were essentially 'private' and that they should remain autonomous and as independent as possible from both political powers and international organisations.<sup>2</sup> As a consequence the study of the cartel problem never resulted in the view that their operations should be monitored through a specific register. Instead, a study group of businessmen from cartelised industries was formed to investigate 'the cartel problem'. Soon, this group became the principal vehicle for the legitimisation of the international cartel movement.

### **The aftermath of the LoN conference: the creation of the CEII, the international cartels study group**

After the conference, the ICC continued to cooperate with the LoN to study international cartelisation avoiding any activity could have been turned into a public survey. In particular, they studied whether cartels were helping rehabilitate economic conditions and reduce tariffs. During 1928 a special joint-committee of the LoN and ICC created the CEII to undertake this work. It was committed to gathering as much information as possible about cartels. The ICC members were actively involved in the work which ultimately settled the 'discourse' concerning cartels. In the first meeting, Paul de Rousiers, who also worked at the LoN and was as a great supporter of the cartel movement, was appointed as the ICC expert (de Rousiers 1901; Savoye 1988). He argued the work of the CEII should be a simple economic survey, and to avoid any international regulation of cartels, baffling the risk to creating special international sanctions. In his opinion, national sanctions were sufficient to preserve the public order and, moreover, he argued that the choice of the Economic Conference of Geneva underpinned the refusal of any study that could have led to an international regulation of cartels.<sup>3</sup>

The CEII adopted and disseminated this liberal position toward cartels. All the officers and experts involved in the CEII shared the same opinion that theoretically justified cartels: as cartels were similar to other forms of industrial activity they needed the freedom to set agreements without any regulatory controls. Cartels were not evil *per se* for the public welfare, and so no particular deterrent or control was required. Even registering cartel activity was always viewed as impacting negatively on their ability to rationalise industrial production. Cartels were 'voluntary' institutions merely responding to economic issues. Thus any mandatory involvement by political powers in national or international cartels had a negative influence on the rationalisation of industry. This opinion was publically defended by some famous managers of the time, such as Alfred Mond (1927), chairman of

the Imperial Chemical Industries (and formerly managing director of Mond, Bruner and Co.). The business philosophy of the CEII epitomises Fear's insights, according to which cartels were 'not necessarily the opposite of liberalism and competition, but a variation on them' (Fear 2006: 3).

In 1929, this opinion became the intellectual backbone of the CEII because the members of the ICC were able to modify the methods with which the LoN began the study of cartels. The Economic Secretariat of the LoN started to prepare tables, to describe the general reach of the international cartel movement and to provide material to the CEII. The aim was to collect data on existing cartels, such as date of foundation, duration, members, headquarter, and scope. Individual firms were not identified as members, but their nationality was recorded to measure the geographical extent of agreements. The indication of a headquarters, when it existed, also served to reveal if the agreements were only verbal or if they involved contractual enforcements or specific organisations. The addition of few lines to describe a cartel's scope allowed a general taxonomy of cartels (quotas, prices, territorial divisions, and so on) to be created. Data were gathered into specialised economic publications. The LoN then sent this to each government for feedback and to complete or modify the information.<sup>4</sup> Even though this process did not rely on information coming from the cartels but only from the economic press, Pietro Stoppani, the secretary of the Economic Section of the LoN who organised the CEII in Geneva, claimed to the officials of the Board of Trade that it was 'the most complete inventory concerning international cartels'.<sup>5</sup>

The ICC did not appreciate this work by the LoN. In several meetings the ICC argued the LoN should have taken a deeper economic analysis of the specific working of cartels, instead of relying on information from the press. To achieve this the CEII sought to involve businessmen directly to work as 'experts'. This was not motivated by the desire to survey cartels activities, but to promote cartels through a wider circulation of their work. Even though the specialised press contained much information on cartels, it did not describe the internal workings of such organisations. The decision to involve some managers of cartelised industries was intended to disclose information about the internal working of cartels and to diffuse it publically. It also gave businessmen the opportunity to establish a consultative chamber and share opinions on improving their organisations.<sup>6</sup> The LoN endorsed the ICC's outlook because it considered it useful to gather more information about the cartel movement instead of expressing general assertions. In this way, the CEII also acknowledged the need to accumulate information about the cartel movement, so as to assist governments legislating on cartels. The LoN formed two groups of experts: the first examining the nature of cartels, the second the different national legislation.<sup>7</sup>

In December 1929, thanks to the intermediation of the ICC, the CEII invited several prestigious industrialists from cartelised industries to undertake the first task. Aloys Meyer was invited because of his chairmanship of the Entente Internationale de l'Acier. Louis Marlio as chairman of the Aluminium Association, the international aluminium cartel, was also involved. Harry McGowan, chairman of Imperial Chemical Industries and board member of many cartels in the chemical industry, replaced Alfred Mond on the CEII and the ICI after his death.<sup>8</sup> Among

these businessmen, Marlio was most influential because as well as being a prominent businessman he was a member of the French academy. Marlio was also a professor of international economics in some Parisian business schools and the successor of the eminent French liberal economist Clément Colson. Having been a French civil servant before and during the Great War, he became the chairman of Pechiney, the leading French aluminium and chemical producer of the 1920s (Morsel 1997). Gino Olivetti, who was a preeminent Italian industrialist and president of the ICC, also served as an expert in this committee as did Clemens Lammers and Antonio Stefano Benni. Both already worked in several committees at the LoN economic conference (Curli 1990; D'Alessandro 2007). They were selected for the CEII because both Lammers and Benni were representative of industrial organisations: the first was a leading member of the German Reichsverband der deutschen Industrie, and the latter was the president of the Confederazione Generale Fascista dell'Industria Italiana.<sup>9</sup>

For the second task, the study of cartel legislation, the LoN invited in other experts. Even here, the leading experts were directly linked with the cartel movement. Among them, was Siegfried Tschierschky, a reputed German legal expert, and also director of the Kartellrundschaу. This was the official publication of the Kartellamt, the German government's office of cartels. The Kartellrundschaу was not simply a legal review. Since its foundation in 1924, it published information about the formation and modification of cartel agreements that involved German enterprises. Its creation followed the enactment of the Kartellamt, which also served to register cartels. Tschierschky's ideas about cartelisation had already been published in 1911, 1927 and 1930 when he joined the cartel study group. He had a positive attitude toward cartelisation, which aligned with German legislation of that time. The ICC also included other two scholars in this project; Robert E. Oldset, who was a member of the American delegation, and Henry Decugis, a preeminent French expert in commercial law and incorporation, who worked as a legal consultant for many French enterprises.<sup>10</sup>

During 1930 and 1931, the CEII organised four conferences to study the problem of cartels, the outcome of which was the publication of three reports. Edited by the LoN, these included one with specific case studies, called *Etude* (Benni *et al.* 1931a); one on the general nature of cartels, called *Rapport Général* (Benni *et al.* 1931b); and one on national cartel legislation (Decugis *et al.* 1930).<sup>11</sup> This last study provided a review of all national cartel legislation, but without expressing any views on future policies. The central idea of this report was that national legislation, following the German example, should neither hamper the participation of firms in cartels, nor scrutinise their behaviour. In other words, they claimed that, even if control over cartels was established, this should be done *ex post*, and without any *ex ante* control.<sup>12</sup> The group of experts made more detailed descriptions of some leading cartels, claiming to present cartels from an objective viewpoint. It was argued that the experts' reputation, along with their internal knowledge of cartels, guaranteed the quality of the provided information. At the same time, these experts were able to define what could be released to the public and what had to be kept confidential.<sup>13</sup>



The initial choice of industries could have included: steel, aluminium, rail materials, linoleum, rayon, bone glue, zinc, copper, tin, lead, mercury, potash, dyestuffs, electric lamps, matches, glass, bottles, banks and petroleum. The study aimed to include those industries that either experienced effective cartelisation (steel, aluminium, glass, potash, mercury, copper, zinc, tin, and rail materials) or were examples of international trusts (matches, linoleum, bottles<sup>14</sup> and SOFINA, the Belgian bank trust). The aim was not to limit studies to pure cartels, but also to include other forms of industrial organisation with a comparative goal. The Committee sought to use Marlio's 1930 article, which had a positive view about the desirability of cartels for the rationalisation of the European economy, on these studies and so serve as the basis for further analysis.<sup>15</sup> The final choice of case studies, however, was limited to an arbitrary potpourri that only included the sectors directly under the experts' control: steel, rails, aluminium, zinc, copper, tin, lead, lamps, rayon, mercury, linoleum, potash and dyestuff (Benni *et al.* 1931a).

The information gathered on these specific cartels were prepared by one expert and commented on by the others. Lammers prepared the studies on rayon, linoleum and potash, and these were commented on by Marlio, Benni, Meyer and McGowan. Originally Marlio was to write about the European aluminium cartel, electric lamps, SOFINA and the metals industries during 1929, but he ultimately only prepared one on aluminium and served as a referee for others.<sup>16</sup> Benni prepared the study on mercury and Meyer authored the one on steel. The CEII then argued these studies provided evidence that cartels were not only a private form of rationalisation of international business, but that they also served to reduce costs, stabilise prices and help balance demand and supply. For instance, in this study, the definition of a cartel was 'les cartels sont des associations entre des entreprises indépendantes de la même branche ou de branche analogues, créées en vue d'une amélioration des conditions de la production ou de la vente' (Benni *et al.* 1931b: 8).<sup>17</sup> Cartels were thus a tool of the economic 'rationalisation' in vogue during the 1920s. Cartels were also beneficial to public welfare because they sought to 'éviter les conséquences désastreuses de la concurrence déréglée entre de très grandes usines qui, dan les périodes de dépression économique ou en cas de surproduction, ne peuvent plus marcher qu'à allure réduite' (Benni *et al.* 1931b: 36–37).<sup>18</sup>

Thanks to the work of the CEII, between 1925 and 1930 cartels changed from being obscure and almost secret organisations to being displayed publically as 'common actions in the international field', and part of the international economic and political debate about the organisation of the international business.<sup>19</sup> The views of the group of experts concerning 'their' cartels received the imprimatur of the LoN. It was a mutually beneficial process: on the one hand, the expert members gave the LoN authority in the debate about international cartels; on the other hand, the official publications of the LoN served to give objectivity to the personal views of the industrial and legal experts. Thus individual opinions of the Committee members such as Benni, Marlio, Meyer, Mond and Tschierschky received official endorsement. This was the main public relations outcome from the committee of experts. This confirms earlier research that the LoN served as an international technocracy in the public debate on the economic situation and legal regulation

(D'Alessandro 2007; Thiery 1998; Bussière 1997; Clavin and Wessels 2005; Berger 2006). The important novelty is the link between the LoN and the ICC, which enabled the settlement of this specific technocracy, through the businessman who served as experts in the public debate.

### **The internal debate of the CEII during the Great Depression: the first 'private' international register**

During the 1930s, the ICC gave new tasks to the CEII, beyond those of its original role as a consultative board. The international crisis again reshaped the committee's view on cartels. Many members of the CEII sought to do more than the simple consultative task decided after the LoN conference. Since the study group members were convinced that cartels were useful in balancing demand and supply at less social cost than free competition, cartels became an issue in debates during the Great Depression. One of main arguments of cartel supporters was that these institutions were useful both to prevent over-production and to cope with it once it appeared. These ideas emerged in the board of the CEII at the end of the 1920s and, after a few modifications, were put forward during the following decade. External change and, especially, the emergence of governments as possible regulators of the economy during the international economic crisis had challenged the core belief that cartels as private business organisations could operate without political controls (Staley 1937; Davis 1946; Mason 1946).

The reconfiguration of the study group's action plan acknowledged the lack of effectiveness that cartels had in opening up trade in the real economy. According to Bussière (1994), in spite of the great expectations that emerged after the conference of 1927, the LoN achieved only minimal reductions to trade barriers. The Great Depression played an important role in delaying this project and international organisations were not able to achieve free-trade policies in a period of rising economic nationalism (James 2001; Clavin 2013; Decorzant 2011). After October 1931, the CEII initiated a broad discussion into the failure of policies to eliminate trade barriers, and the role of cartels were again considered as effective tools to achieve these aims. Rather than re-think the desirability of cartels, efforts were made to modify the *modus operandi* of the study group. Several members of the CEII considered that they had little impact on the action of governments, and that to act as a simple consultative board was not sufficient. Both the LoN and the ICC were considered ineffective in proposing policies to national governments, and the CEII sought a more active role for these organisations for the future.<sup>20</sup>

The international economic crisis gave new weight to the idea, already expressed in the 1920s, that cartels were more effective than public policies and diplomatic channels in coping with economic difficulties. The CEII tried to play a more decisive role once again calling on cartels to promote international trade inter-connexions. In its lexicon, cartels represented a 'trilateral' (or more generally multilateral) approach to international trade, as opposed to the 'bilateral agreements' between governments that were reshaping international economic relationships. Unlike the 1920s, several members of the ICC and the CEII aimed

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to transform their study group into a consultative board, to assist the formation of new cartels directly, rather than simply study them. The direct connection between the most influential cartels and the CEII supplied important intelligence to distribute to non-cartelised industries. This view was expressed during the October 1931 council of the ICC, which discussed the proposal to re-cast the study group into a consultative board for the settlement and administration of cartels. René Duchemin, Vice-President of the ICC and the president of the French employers association (Fraboulet 2007) endorsed the CEII proposal, claiming

La Chambre de Commerce Internationale exprime l'opinion que les ententes industrielles internationales, bien conçues et soucieuses des intérêts des consommateurs des différents pays, peuvent avoir des résultats hautement bienfaisants et que leur extension pourrait contribuer sensiblement à une amélioration de l'organisation de la production. ... Le Conseil de la Chambre du Commerce Internationale estimant au surplus que l'extension du principe des cartels à branches d'industries non touchées jusqu'ici peut conduire à des nouveaux rapprochements internationaux, charge le Secrétariat Général de poursuivre l'étude de la question des cartels et, le cas échéant, d'offrir de se mettre à la disposition des industries privées, si elles désirent se réunir sur un terrain neutre, afin d'examiner les moyen de réaliser une amélioration de la coopération internationale.<sup>21</sup>

The language of the debates reveals it was considered obvious that the crisis imposed new responsibilities on the CEII. The failure of the international economy to achieve more open trade was considered to be the result of the 'moderation' of CEII delegates. As a consequence, a more radical approach was demanded; one which promoted the formation of cartels and created an office to provide the legal and economic knowhow needed for their formation.<sup>22</sup> The American members, who could not endorse this scheme because of the American law against cartels, opposed the specific proposal on cartels. After discussion, a compromise was reached and the committee agreed to a partial endorsement of this new objective. Only Europe was to be involved with these actions and they would not apply to the American economy or to American firms. Despite the participation of American firms in international cartels, they were presented as a specific form of European business organisation. The divide between Europe, as the land of cartels, and the United States as the land of trusts, was a rhetorical construction to create agreement among the experts of the committee.<sup>23</sup>

After this resolution, the ICC started to explore how to create the bureau of cartels that Duchemin sought to build. Lammers suddenly undertook its formalisation, as chief expert in the ICC on cartel matters. The problem was to form a register of all existing cartels without putting them under the control of a public authority. Lammers and Duchemin wished to avoid a public register; they preferred a private register located in the ICC rather than in the LoN, to keep confidential the information that cartels would have shared with this bureau. While claiming cartels useful to cope with the international depression, the ICC was convinced that the

solutions adopted in various cartels could be harmonised to create a common strategy for the whole industrial world. To achieve this, the CEII had to be less consultative than before, acting as a general director of international cartelisation. The formation of an observatory of experts would have been a way to use cartels for political purposes. For example, they could fight inflation, through the stabilisation of commodity prices, and restrain the adoption of trade barriers and bi-lateral agreements. Lammers, Marlio and Duchemin recognised that the ICC was also attractive for the businessmen of cartelised industries. The problem of cheating, which was later defined theoretically (Stigler 1964; Suslow and Levenstein 2006), was already a practical issue at that time. The existence of a cartel bureau could reduce these problems through a special arbitrage process for cartel contracts, and the harmonisation of fines and rules.<sup>24</sup>

The establishment of such an organisation, however, appeared unworkable. A consultative board required numerous legal experts with comparative knowledge of the different laws on cartels. It also required economic and statistical experts able to enter into the mechanisms of all industrial agreements. The task was simply not possible for a relatively small agency such as the ICC. It appeared preferable, therefore to start with the simpler task of gathering information and to work progressively toward becoming an embryonic register during 1934. In this case, the privacy of the ICC made it preferable to the LoN, which would have found it easier to attract the collaboration of managers.<sup>25</sup> Changes to national laws made it too difficult to suggest a common policy. In two countries, Germany and Hungary, new cartel registration legislation and national preventive supervision of agreements were settled during 1932, attracting the LoN's curiosity (Tschierschky 1932). The ICC debate was quickly enlarged to include both private cartels and the new national versions of state intervention in the economy.<sup>26</sup>

The main problem with establishing a private register for cartels was the rapid change in the nature of cartels during the 1930s. Cartels were no longer mere 'private agreements'; in many cases, political intervention was evoked as a necessity for international economic governance. This emerged during the economic conference of London in 1933. Although the conference did not devote the same attention to cartels as the conference of 1927, it focused mainly on monetary issues, it recognised the necessity to formulate international plans to reduce global industrial output, and the need for firms and government to cooperate to achieve this goal (Société des Nations 1933: 75–80). The main novelty was that, for the first time, the cartel problem was not presented as a solution to be adopted only by private producers. Instead it was argued that, along with the desirability to create a Bureau des Cartels, the ICC had to consider the existence of two types of agreements, one of which involved governments. While the usual industrial cartels were presented as the outcome of private actions, raw materials agreements required the intervention of governments, given these materials underpinned national economies. From this point, until the 1940s, the division of the cartel problem into two became mainstream in the debate (Mason 1946; Lovasy 1947).<sup>27</sup>

### **The artificial divide between industrial cartels or raw materials agreements**

The theoretical debate was supported, as it was during 1926–1927, by specific examples. During this same period some cartels were being reshaped either directly by governments or through public bodies contributing to their administration. The direct involvement of public administrators helped create compromises. The perfect example was the International Steel Cartel (ISC), which replaced the former Entente Internationale de l'Acier. Both the British and the German governments played key roles in reshaping the agreement following the use of 'home-markets' reservation and export quotas (Wurm 1988; Berger 2000). Similarly a proposal to substitute general quotas with 'home-market' reservations and export quotas was discussed in the board of the aluminium cartel around the same time (Bertilorenzi 2014). In another two cases, the difficulty of particularising general plans made by private actors pushed the public authorities to intervene. In the case of tin and rubber, new types of agreements emerged, which were written under the control of political authorities to reduce outputs and stockpile excess (Hillman 2010; Coates 1987). These two cartels were not only innovative because governments played a new role, they also acted as buffer stock schemes, meaning that instead of only reducing production, the governments administered the stocks and their buffering on the market. This kept some of the unsold stocks outside the market, allowing price manipulation and minimising output.

The main problem for programmes of output restriction was that the general economic crisis of the 1930s made accepting sacrifice difficult. Governments' new role also emerged as a problem within the study group and created issues concerning the ICC's role in the arbitrage of international cartels. The earlier definition of cartels as voluntary and private did not suit the new environment. Louis Marlio argued the CEII should promote only private cartels, while Lammers argued that the role of government in the economic regulation was not negligible because it made these organisations more cohesive and effective. Benni summarised that the crisis was changing the range of cartels. In his opinion, while during the 1920s cartels served to provide international governance in the international markets, the crisis of the 1930s meant involving new regulations at a national level. This necessitated the involvement of governments in the general discussions on international cartelisation.<sup>28</sup> The division between private cartels and public interventions had been progressively reshaped by the artificial distinction between 'industrial cartels' and 'raw material agreements.' This divide continued and another category of agreements was created; 'International Commodity Agreements'. From our present standpoint they could be considered cartels as well, but their key feature was the involvement of governments in their formation and administration (Davis 1946; Mason 1946). At the end of 1934, Stoppani called on the CEII to broaden its work to include these forms of agreements, seeking the creation of a specific study group on raw materials. The LoN again asked for the collaboration of the ICC, the expertise of which was considered a critical factor in achieving impartial but penetrative studies.<sup>29</sup>

The work of the CEII was reshaped by these double components. During 1935, various reports claimed advances in gathering information about existing cartels, and associated with this, the LoN's study group on raw materials continued. It seems that the ICC and the LoN had a division of tasks; the ICC became the centre for private cartels assessments, while the LoN made inspection of commodity agreements. This does not mean the two spheres were completely separated. For example, the work of the LoN included private cartels, such as aluminium (Oualid 1938). Similarly, the 1937 congress of the ICC, which was largely devoted to Lammers's group on cartels, discussed various forms of cartelisation using three case studies. The aluminium industry, described by Louis Marlio, was presented as the *idealtypus* of the private cartel. The tin and rubber industries, by contrast, were described by Sir John Campbell, who according to Hilman (2010) was their leading crafter, as examples of agreements under strict governmental control. Between these two categories, Meyer described the steel industry as a combination in which public powers endorsed and helped the establishment of the cartel (International Chamber of Commerce 1937).

The ICC adopted this conceptual framework in its 1937 congress, during which Lammers proclaimed the need to continue his original idea of a private register for cartels. However, the idea of providing expertise was never invoked again. Rather the ICC was expected to gather information about cartels and to share this in confidence, with the CEII. Thus, the original idea to form a private *organon* was adapted to the existing possibilities and limited to those businessmen who believed in the necessity to harmonise the works of cartels.<sup>30</sup> On the other hand, the LoN continued its activities on commodity agreements, periodically producing reports. These were distributed to governments to keep them informed about the principal agreements, both private and intergovernmental that were evolving. The intention was not survey cartel activity. Rather, because these agreements were viewed as tools of public interest, they constituted important data for the formulation of the international economic policy of each government. The documents suggest that the LoN wanted to harmonise national political actions with the international agreements.<sup>31</sup>

Besides gathering confidential information about cartels, the specific role of the CEII was to perform a public relationship exercise to enhance cartels' reputation and public awareness of them. In this context, the 'Bureau d'information privé des Ententes Industrielles Internationales' (BEII) was formed as a financially autonomous section of the ICC. The BEII was the final outcome of the on-going debates held within the CEII. Its tasks were to collect available documentation and to publish a special review (*Ententes internationales: Revue du Bureau des Ententes industrielles internationales*) in English, French and German. Two issues appeared before the war and their content reflected the central paradigm of presenting private cartels and ICAs as two faces of the same economic and political governance problem in the industrial world. The publication of this review was an evolution in the cartel study group's strategy; while confidential information was not disseminated, the review tried to spread the debates on cartels, their achievements and their transformations outside the CEII. It was not possible to

determine the real significance of the information on cartels gathered by the BEII. When war stopped the activities of the ICC, however, Lammers declared that

Le BEII est la seule organisation qui soit habilitée internationalement pour grouper des renseignements sur tous les cartels existants et suivre l'évolution des législations en cette matière. ... Les cartels ont un rôle à jouer à l'égard non seulement de la production, mais aussi de la consommation. Ils peuvent éviter des perturbations sociales, assurer un certain équilibre, et faciliter la reconstruction économique internationale.<sup>32</sup>

It is unclear whether this work continued during the war, and in particular what role was played by either the ICC or the LoN. During the final phase of war, a proposal to create an International Trade Organisation emerged, with the task, among others, of surveying international cartels and commodity agreements (Wells 2002; Freyer 2006). Many features of the debate about the cartel problem, as settled during the final part of the 1930s, were to be revitalised to cope with the same issues after the end of hostilities. Even if their recognition and desirability was dramatically reshaped during the war, the long lasting debated of the 1920s and the 1930s was a legacy for future policies. Many economists during the 1940s thought that the good side of the cartel experience, (the intergovernmental agreements), could have helped public welfare and growth and stabilisation policies after the war (Mason 1946; Hexner 1946; Bennett 1949). Schumpeter (1942) himself was not immune to this debate. This evolution was underlined in 1947 by one of the few official reports of the United Nations on international cartels, which eventually had access to the cartel documentation gathered by the CEII during the 1930s. The chief economist of the UN, Gertrud Lovasy, explored the old-fashioned distinction between private industrial cartels and public raw material agreements. She claimed that the first were essentially schemes to reduce production in response to market conditions, while the latter aimed to use stocks as anti-cyclical tools to keep price and employment stable. In other words, the desirability of economic tools to cope with business cycle was saved, while private interests had been replaced by governments in the settlement of public policies (Lovasy 1947: 24).

## Conclusions

The CEII produced the first international chronicle of cartels, even though it was created neither to survey the cartel activity nor to regulate it. Its ability to obtain the direct involvement of businessmen from cartelised industries was critical in helping it gather information about cartels, but it also affected the political vision of the desirability of cartels that emerged from this review. In fact, the private review was designed to promote cartels and their impact on the international economy. This suggests that the reputational credit that cartels received during interwar period was not only the outcome of the lack of an anti-trust policy (or ideology). It was also the direct consequence of a discourse, imposed by both

businessmen and civil servants who shared the same positive opinion about of cartels and their success in overcoming discordant voices. Its main creators, who served the CEII as experts, would not have critiqued the cartel movement.

The discourse about cartels during the interwar period aimed to transform private and secret organisations into instruments of public utility. In this process of recognition, a key role was played by the acquisition of power and authority by a network of people, initially elected as neutral expert representatives. The permanence of figures such as Marlio, Meyer, Lammers, Benni, De Rousiers, Duchemin, Oualid, McGowan, Stoppani and Tschierschky in this network of experts influenced the way in which the cartel problem was approached by the LoN and the ICC and necessarily the way it was disseminated outside. These organisations were the creators of a positive discourse about international cartelisation, which legitimised cartels both economically and politically. The need for cartels was a paradigm self-legitimised by the expert authors who were also key supporters of international cartels of the time. The outcome of the cartel committee can be described as a process of induction, which went from the practice to the theory, and through which cartels were legitimised.

This study has focused on the evolution of the debates of the CEII. It has basically ignored the factual corroborations of what exactly cartels did; this could be done through a comparative analysis of some case studies. The aim of this study is not to assess whether the CEII was correct in proposing cartels as an optimal tool of economic or political governance. Rather, the main argument is that, whatever the real nature of cartels (aside from any moral dimensions), the CEII existed as an official channel for the flow of information and ideas. This channel was able to propose a bloc of coherent arguments, which were globally used and adopted in almost all subsequent discussions on cartels. In other words, the way in which 'the cartel problem' was settled passed through official spheres to become a consistent ideological paradigm. Business practitioners, policy makers, scholars, and civil servants compromised to make cartels neither a standard political tool, nor an enemy of public interests, but a practical and tolerable fact. The construction of this rhetoric was shocked only by the Second World War and by the settlement of another discourse, born in the United States, that presented cartels as an evil *per se* (Maddox 2001; Taylor 1981).

It would be naïve to imagine, however, that the paradigm of competition replaced the cartelised view in a few years. The marriage of public utility with private cartels was progressively questioned during the 1930s, when the main attributes of the cartel movement of the 1920s were placed under criticism. It has been shown that the 1920s view, which presented cartels as a 'private and voluntary' tool of economic management, was progressively eroded during the 1930s. Cartels were not replaced with competition policies, but with a change in the role of public powers as administrations of international trade reduced the private and voluntary aspects of cartels. In other words, it was not the tool but the administrator of this tool that changed. The new economic dimension of the state in international trade reshaped the nature of cartels and made them less desirable than before. The invention of a new category of cartels (i.e. the International



Commodity Agreements) denotes this institutional and cultural transformation, which is the starting point of a new paradigm. Even if the 1920s view of the members of the cartels committee, had left cartels free to act without any political control, this idea would have changed during the 1930s. At that point, states would have no more allowed international trade free to be self-regulated, than they would have allowed cartels to remain uncontrolled.

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### Notes

- 1 Procès-Verbal du 21 Conseil, 25 June 1926, Archives ICC, n.c.
- 2 L'Oeuvre économique de la SDN. Rapport et projet de résolutions présentés par la Deuxième commission à l'assemblée, Genève 1931, document A.75: 4, Archives LoN, R.2830, file 31254.
- 3 Procès-Verbal, 27 Conseil, 29 June 1929, Archives ICC, n.c.
- 4 Cartels. Memorandum du Secrétariat préparé sur les indications du Comité consultatif économique, 1929, Archives LoN, R.2828, file 6890. Société des Nations, Tableau provisoire des ententes ind. et com. Internationales. E.713, 20 June 1931, Archives Historiques du Ministère des Affaires étrangères, B39, Dossier 1, Folder 1931.
- 5 Pietro Stoppani (LoN) to Sydney Chapman (Board of Trade), 1 June 1929, The National Archives, BT/64/388.
- 6 Procès-Verbal 29 Conseil, 29 March 1929, Archives ICC, n.c.
- 7 Procès-Verbal, 8 May 1929, Comité Consultatif Economique, Sous-Comité I, Industrial Questions, Archives LoN.
- 8 Consultation d'Experts en matière d'ententes industrielles. Service d'un expert Français, 29 December 1929, Archives LoN, R.2857, file 16770.
- 9 Ententes Industrielles, Collaboration de MM Lammers et Benni, 1929, Archives LoN, R.2829, file 13731.
- 10 Cartels. Memorandum du secretariat préparé sur les indications du Comité Consultatif économique, 1929, Archives LoN, R.2828, file 9989.
- 11 Ententes Industrielles. Publications de Monographies, 1930, Archives LoN, R.2830, file 20773.
- 12 Cartels. Memorandum par les trois experts juristes, 1930, Archives LoN, R.2829, file 9989.
- 13 Procès-Verbal du 32 Conseil, 4 March 1930, Archives ICC, n.c.

- 14 Libbey-Owens.
- 15 Procès-Verbal, Comité des Ententes Industrielles Internationales, 15 July 1931, LoN Archives, R.2857, file 21575.
- 16 Joseph Avenol (LoN) to Louis Marlio, 27 January 1930, Archives LoN, R.2857, file 16770.
- 17 'Cartels are associations in which independent firms, either of the same industrial branch or of similar branches aim to ameliorate production or sales conditions'.
- 18 'Avoid the ruinous consequences of cutthroat competition amongst large producing units that, during periods of economic depression or during periodical over-production crises, can no longer work at economics of scale.'
- 19 Note on list of International industrial agreements, 12 January 1929, The National Archives, BT/64/388.
- 20 Note explicative du Secretariat général sur la preparation de la 36ème session du Conseil, 23 October 1931, Archives ICC, n.c.
- 21 'The ICC expresses the idea that international industrial cartels, when well settled and when they are respectful to the interest of consumers from all countries, are able to provide highly satisfying outcomes and their further diffusion can contribute to ameliorate the actual situation of the productive system. ... The Council of the ICC, considering it helpful to extend the adoption of cartel to all industries not yet touched by this form of organisation, charges the General Secretariat to put forward the study of cartels and, in case of need, to offer to be at disposal of private industries, if they would like to meet in a neutral field, to examine the means to achieve new international cooperation.' Procès-Verbal du 36 Conseil, 23 October 1931, Archives ICC, n.c.
- 22 Note explicative, 23 October 1931, Archives ICC, n.c.
- 23 Procès-Verbal du 46 council, 30 July 1931. Archives ICC, n.c.
- 24 Comité Executif. Doc. 4580, enclosed to the Procès-Verbal du 46 council, 30 July 1931, Archives ICC, n.c.
- 25 Procès-Verbal du 46 council, 29 June 1934, Archives ICC, n.c.
- 26 Procès-Verbal du 34 council, 30 October 1932, Archives ICC, n.c.
- 27 Procès-Verbal du 34 Comité Executif, 20 July 1933, Archives ICC, n.c.
- 28 Procès-Verbal de la Commission des Ententes Industrielles Internationales, 27 and 28 Jun. 1934, Archives LoN, serie 11803, file 13855.
- 29 Stoppani (LoN) to Vasseur (ICC), 2 October 1934, Archives LoN, Section 10A, file 13855.
- 30 Procès-Verbal du 36 Comité Executif, 30 May 1938, Archives ICC, n.c. In this meeting the settlement of the charter of a 'Bureau des Ententes Industrielles Internationales' was discussed.
- 31 Note, La Situation actuelle des cartels internationaux, 20 November 1939, Archives LoN, section 10A, file 13855. International Economic Collaborations, regional agreements, producers agreements. A note by the LoN secretariat, 1 July 1938, The National Archives, BT/64/388.
- 32 'The BEII is the only organisation internationally qualified to gather information about all existing cartels and to follow the evolution of the legislation about them. ... Cartels have a big role to play not only in concerning production but also in regards to markets. They can help us avoid social diseases, to ensure certain economic equilibrium, and to promote the recasting of the international economy'. Procès-Verbal du 61 conseil, 30 October 1939, Archives ICC, n.c.