



Alain Beltran (ed.)

A Comparative History of National Oil Companies

Oil is undoubtedly rather more than a mere hydrocarbon. It is a development factor, an essential element in energy balances, a strategic weapon, a resource characterized by unequal distribution, and also by unequal consumption. For more than a century now, it has showed its importance, whether during periods of crisis, or at times of strong growth. Under such circumstances, few countries have allowed mere market laws to operate freely. Whether visible or discreet, the hand of the State has been present in many cases, depending on different purposes and taking various forms. Hence national companies developed, if only in order to deal with the Majors and their greatly feared power. One finds examples of national companies both in Western Europe and in certain developing countries that have substantial resources on their soil. Those companies did not all experience the same destiny, but they have sometimes influenced the rules of the oil game.

The colloquium held in Paris in 2003 ("National oil companies: history, characteristics, comparisons from the inter-war period to the end of the 20th century") provided some new facts and viewpoints in connection with this history, still relatively unknown.

You will read contributions here from various horizons making it possible to illuminate the present and the near future, since oil industry issues continue to challenge the world.

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A Comparative History of National Oil Companies

Introduction

Alain BELTRAN

Research Director at the CNRS

The history of hydrocarbons does not relate only to economic questions or to the technical domain. It is largely a political matter, or to be more exact a geopolitical matter, insofar as no other energy or raw material raises – to that extent – strategic questions concerning commercial relationships, economic independence and the volume of financial flows. Rather than giving a free hand to the market alone, or to the international companies (the Majors, stigmatized as the “Seven Sisters”), a certain number of countries preferred to obtain control, to a variable extent, of the oil market by setting up national (or nationalized) companies, with a major role going to the State by definition. This desire for self-assertion and to avoid experiencing an outside influence has taken numerous forms, ranging from powerful monopolies – sometimes considered as “a State within the State” – to companies that, on the contrary, are obediently integrated into the mechanisms of the oil economy. Wars, oil shocks and geopolitical ups and downs have generally given rise to such interventions by the “visible” hand. On the other hand, the last years of the 20th century, marked by strong mistrust of State power, brought some wide-ranging denationalizations. But that does not mean that States abandon public policy, but rather that they think that it can be exercised in ways other than through a national company.

To the same extent as results from ownership of a major oil company, the State, particularly in Western Europe, has surrounded itself with other means for exercising influence. Certain countries have developed specific legislation enabling the authorities to intervene on the domestic market, emphasizing the national interest. People in power in those great national companies have been chosen from among the most high qualified, often with very precise profiles, as “great servants of the

State”, people motivated by the national interest more than by profits. There was an oil *nationalism*. The capitalistic characteristics of trade in hydrocarbons did not prevent the emergence of a desire to protect the essential interest of the nation and to develop a real long-term policy. Certain countries consider that energy independence is too important to be entrusted to the market alone. Others – for instance, the producing countries of the South – are so mistrustful of the oil giants that they attribute hidden neo-colonialist designs to them. Certain national companies in the consumer countries have taken up such ideas to put proposals to the producing countries for new relationships, new and fairer forms of sharing, thus breaking up the existing monopolies. We may point here to the Italian example with the “condottiere” Enrico Mattei, or Franco-Algerian cooperation in 1965.

Hence some complex situations have emerged from 20th century oil history. It would be impossible to sum them up in just a few formulas. The colloquium held in November 2003, the procedures of which can be read here, covers a large part of this abounding reality. But that initial conference could not be exhaustive. Even if there are approaches here that are new, original and sometimes surprising, other meetings will have to be held. One must hail the various authors for their research, often original, and for their broad indulgence in new fields of investigation. They show how concrete one must remain in connection with the theories, and at the same time, when the data are there, try to make the first syntheses – fragile but vital. History is built step by step, modestly and empirically, but not without a certain focus and real ambition. We may be sure that a reading of the following pages will raise questions, give rise to other work, and weave a link among international researchers who have a lot to tell each other.

PART I

FOUNDING ELEMENTS

The Sources of Oil History

Total Group's Historical Archives

Anne-Thérèse MICHEL

Total Archives

This presentation of Total Group's historical archives owes a great debt to our predecessor, Hervé l'Huillier, who did pioneering work on a solid foundation, helped by Steffen Deutschbein for more than 20 years.

In presenting these sources, we will highlight their interest and their importance for understanding oil and energy history.

We will first brief you on the structure and nature of the documentary holdings, recalling the way they were developed and their main characteristics: periods and sectors covered, specific features, and gaps, if any. We will then mention the way all this has been used, both externally by historians and researchers and for in-house initiatives in connection with communication operations, the difficulty of using such records and the archivist's role in trying to make them more accessible. Finally, with our knowledge of those holdings, we will try to suggest possible lines of research in a field of history that has not yet been much explored in France.

1. Development of the Holdings

1.1. The Importance of the Group's History in the History of the Petroleum Sector

It is first of all because of their relative longevity that these records need to be used to understand French oil history in the 20th century.

The history of Total Group as it stands just after two important mergers, the one of Total and Petrofina, and then Total Fina and Elf, is a long development, going back to 1920 – the date of PetroFina's creation – and even farther:

- to the 18th century with Pechelbronn – North Alsatian bituminous sands exploited as early as 1745, which was one of the base of the *Société des Huiles Antar*, which was integrated into Elf in 1970,
- in the 19th century, for Desmarais Frères, or Hutchinson (1853), which joined Total group in 1965¹ and 1974;
- at the end of the 19th century in Romania and in the first years of the 20th century in Turkey, for the OFP (Omnium français de Paris, previously Steaua Romana and Omnium international des Pétroles) and the IPC (Iraq Petroleum Company, previously Turkish Petroleum Company).

So throughout its history, Total Group and the companies constituting it have been attached to territories, to names that have marked history more broadly: the business went through periods of crises and wars, experienced substantial technological changes, adapted to shifting trade patterns, resisted competitors' covetousness, legislation and the restructuring programmes imposed by the State or shareholders – the archives making it possible to describe all of these events.

1.2. The Development of the Holdings and their Characteristics

The Group now has about 1,300 linear meters of historical records. Those holdings are identified and structured as a whole and are the object of research instruments (except for the archives kept at the Pau and Boussens sites).

Total-CFP

The holdings were built up organically:

Before 1949, the correspondence record books make it possible to follow all operations and activities, since the entire correspondence was recorded by the correspondence department. Then the records are classified by series, in chronological order of holdings. And then some corresponding series are developed.

The year 1982 brought establishment of the central archives department and of rules for interim record storage, facilitating the periodic operations relating to review, analysis and control destruction.

What do these holdings contain?

We will make a quick mention of the very traditional files contained in business records such as collections of minutes concerning meetings of the board of directors, minutes concerning executive committee

¹ Merger of Desmarais Frères with Total-Compagnie française de distribution (Total-CFD).

meetings, reports to meetings, capital increases... which are essential, but are to be found in all collection of company records.

When it comes to the economic and oil environment, we have a collection of periodicals concerning oil economics, such as *Le Journal des carburants* (The Fuels Journal), le *Raffineur français* (The French Refiner), le *Bulletin de l'industrie pétrolière* (Oil Industry Bulletin), etc., as well as the publications put out by two entities, the Association for promotion and protection of investments in foreign territories (established following the Suez crisis in 1956) and the Union of employers' syndicates of the oil industry, a look at which can provide some precious indications about the oil industry's concerns and the topics about which its members were thinking at a given time.

With respect to the upstream exploration activities, the holdings are particularly rich for the Middle East, whether in connection with the IPC or with respect to the Iranian consortium and the NIOC (National Iranian Oil Company). The industrial refining activities can be followed thanks to the records of the Omnium français des Pétroles or of Desmarais Frères, which maintained close links with *Compagnie Française de Raffinage* (French Refining Company). Distribution is represented by the inventoried documents making it possible to track establishment of the African network and of the European network, and their extension and consolidation.

Finally, when it comes to pipeline transport, there are a few of records coming from Total Construction or from the departments that supervised pipelines. On the other hand, sea shipment is not much mentioned in the documents.

Elf

The approach is completely different when it comes to developing Elf's historical archives: the majority of those holdings were constituted a posteriori, by the historians, who developed large thematic sets of organised, identified or orphan documents. They were gathered by Christophe Babinet, who collected the records and who was entrusted with his files by Pierre Michaux, Secretary-General. There were also some other collections, such as the Méo one coming from the president of the Union Générale des Pétroles pour le Raffinage Distribution.

Those files, while amounting to less in volume terms than the Total-CFP ones, are extremely interesting all the same. The filing is structured by major types of activity: Group (organisation, structures), Exploration-Production, Refining-Distribution, Chemicals and Health. This breakdown does not cover the organisation of the structures, so it is possible to find records of one and the same company in several divisions.

We must also add some 400 files marked as historical that are still kept in the interim records, and which have not yet come in for special treatment.

Fina

Petrofina's historical records are still kept on our Brussels premises. Centralising them with the rest of the Group's historical archives is among the assignments to be carried out in the coming years.

The collections of historical records are characterised by a few deficiencies, particularly when it comes to diversification activities – the mining sector (coal and uranium), solar energy and chemicals are relatively poorly represented in the records, on one hand because such activities are less important than the Group's traditional business, and on the other hand because those sectors developed rather recently, so the documents have not yet been integrated into the historical archives.

2. Exploitation of the Holdings

2.1. Externally

Among the studies made by using these holdings – we will not mention all of them here, even though they are not legion – there is the work by André Nouschi: his thesis on the *origins of the CFP before 1924* and his numerous works and articles on French oil history, such as *Pipelines and politics in the Near East in the 1930s*², *From dependence to independence? France, oil and the Algerian 1956-1965*³.

Concerning the complex relationships between oil companies and political authorities:

– The work by Armelle Demagny, particularly her DEA (Diploma in Advanced Studies) on the subject of *France and the oil market in the European space: strategies of companies, political authorities and institutions 1945-1974*.

– André Philippon is preparing a doctorate in connection with *The development of State supervision of the French oil industry since 1945: the delegated monopoly in the face of globalisation and the demands of sustainable development*.

Regional history was touched on by Morgan le Dez, in his DEA on *Oil trade and industry in Basse-Seine (1860-1939)* relating to the oil industry impact on the development of Normandy, and the transforma-

² *Relations internationales*, No. 19, Autumn 1979.

³ *Cahiers de Tunisie*, No. 117-118, 1981.

tions of the landscape and of the region's economic structure resulting from the establishment of refining companies.

Christophe Briand offers a perspective on regional development with the industrial strategy of *La Société Nationale des Pétroles d'Aquitaine 1949-1969 between national interests and local expectations*.

Didier Bensadon is preparing a doctorate in management Sciences, directed by Yves Lemarchand in connection with *the Distribution of consolidation of accounts before the law of 3 January 1985*. The fact is that with Péchiney and Saint Gobain, Total is among the three pioneering groups in introduction and distribution of the use of consolidated financial statements in the financial balance sheets attached to annual reports.

2.2. Internally

Anniversaries are often an occasion for historical articles, either in house organs or in reviews specialising in the energy sector:

The 30th anniversary of the CFP brought publication of a work called *La Compagnie Française des Pétroles 1924-1954*, distributed to staff;

Energy No. 39, Total's international magazine (Spring 1999): *1924-1999 – on the occasion of Total's 75th birthday, which coincided with the Total-Petrofinas merger*.

Certain subsidiaries have also written up their history, such as Hutchinson on the occasion of its hundredth birthday.

Such histories, often abundantly illustrated with photographs of platforms or derricks, rather well done, describe the major events marking their careers and the developments in the various activity sectors. They are generally built up from general company documents.

Internally, the two groups, Total and Elf, launched some broader initiatives in connection with their history:

For Total, Emmanuel Catta, who worked in particular in the External Relationship Department, traced the Group's history in the "Trente Glorieuses" by way of the career of V. de Metz, CFP president from 1945 to 1971, *Victor de Metz: from CFP to Total Group* (1990).

For Elf, the "Group history" project goes back to the start of the 1980s, the project being led at that time by *École Normale* graduate Christophe Babinet, who wrote a history of Elf group in 1986, unpublished.

In 1995, the project was relaunched under Emmanuel Terrée, sponsored by Gilbert Rutman, former Group vice president and director, at the request of the Elf Aquitaine president. The purpose of that project was production of a historical and communication work (for internal use

first of all, but also external) and to encourage a university approach to Elf's history. The basic work was done by Sophie Chauveau for chemicals and Alain Beltran: *Elf Aquitaine, from the origins to 1989*.

The very recent history of the new group after the two mergers in 1999 and 2000 was turned out by François Roche⁴, an economic and financial journalist, in a work for internal distribution that appeared in the spring of 2003: *TotalFinaElf, a French major*, describing the two successive takeover bids from press articles and interviews with group senior executives and other figures involved in those events. The work is interesting, but hardly provides any further information than what is available by way of the press communiqués and public or official documents that appeared on this subject. History taking a more objective look at those mergers must still be written.

2.3. The Reasons for the Small Number of Works Based on these Holdings: the Difficulty of the Archives

There is a technical difficulty in exploiting these archives, due to the ever greater complexity of the files, relating to differentiated levels of decision-making and action, as well as because of the strong growth of the volumes of documents produced.

In addition there are the difficulties resulting from the internal growth of the business, the very rapid changes in organisation charts, changes of people, the introduction of international factors, external growth: the abandonment of entire segments of activity, continuous disposals and acquisitions of companies, mergers – all this making research and analysis of the files all the more complex.

3. Prospects

3.1. On the Track of Subjects for Study

The easiest holdings to consult and the most accessible ones are the long uniform series consisting of documents produced at General Management levels, the long and uniform series of figures: the balance sheets and financial appendices to the annual reports, balance sheet analysis of the financial and accounting departments, the social audits, the forecast documents: budget-plan, annual budgets, and preliminary studies for major decisions accompanied by their financing dossiers.

Two series are of special interest:

– the “documents concerning the financial year”, which are much more complete than the annual reports, offering for each year a pano-

⁴ François Roche in particular headed the editorial staffs of *La Tribune* and *L'Expansion*.

rama of the world oil industry (statistics, prices, investments, etc.), and presentation of the Group by activities, financing and staff.

The contracts concluded by the Group kept since 1924, consultation of which is an interesting and original way to approach and learn about the company's activities.

Looking beyond the corporate monograph, the fields of exploration – as we have seen by way of the studies already made – are broad and varied, since energy history is part of complex and diverse dynamic systems: the market, the activity sector, the geographical area, the network of capital and of alliances, the technological domains, relationships with the authorities, and the economic and social policies.

The history of the two oil shocks remains to be written: an analysis of how the oil companies contemplated those shocks. Did they expect a non-linear increase in production and consumption in the context of the very strong growth characterising the “Trente Glorieuses” (the Thirty Years following the Second World War)? How did they react in dealing with the crisis?

Regional history, touched on by Morgan le Dez, still offers many prospects: the history of the Lacq basin or of sites containing factories and refineries (for instance, the impact made by the Grande Paroisse plant on the Toulouse region).

One could also work on the history of and changes in drilling and refining techniques, making it possible to drill down to ever greater depths and to handle subjects such as and its implications for company strategy and financial policy, and one may consider how an oil group's success is determined by its technological lead.

The history of gas has also not been much developed: the origin and development of the gas networks, comparison of structure, market, operations between gas and oil networks.

Finally, the field of diversification activities, development of renewable energies, the increasing concern with the environment, sustainable development and the Group's social and environmental responsibility must still be explored.

3.2. *Making the Archives more Accessible – Facilitating Access to the Records for Historians*

When it comes to new work, I hope to have an opportunity to develop joint work by the archivist and the historian in the coming years.

One must first concentrate on limited objectives: an advance definition of the kinds of archives suitable for meeting the expectations of the various customers (historians, sociologists, journalists, internal requests,

etc.), aiming at the preservation of archives that are smaller in volume terms but are high quality.

The archivist has to take part in producing summary materials: access to the raw document is a risky exercise, as such document may be incomprehensible, especially for the historian who does not have the necessary technical knowledge. The archivist has to produce products or semi-products facilitating the historian's work: partial statements of events and putting them in order when a major change occurs, plus the note-taking activity.

In this connection Total's experiment with Creapress is of interest: at Total's request, Creapress held a series of 15 interviews with former gas players, aimed at preserving the memory of the gas sector. The objective was to use those interviews to create tools for understanding so as to have easily accessible reading keys available.

To conclude, we hope that we have contributed to showing the wealth and the interest of Total's historical archives, which, needless to say, have to be used in conjunction and be compared with other sources, such as the records of such agencies as the Finance Ministry or the Quai d'Orsay (French Foreign Ministry).

The French Example. The 1928s Laws

Longevity and Effectiveness of the Approach to Creating and Maintaining a National Oil Industry in a Consumer Country – Appearances and Realities

André PHILIPPON (†)

Ingénieur en chef de l'Armement

The “Delegated Monopoly” and French Oil Policy

The strategic importance of the oil sector led French governments as early as the First World War to take legislative and regulatory steps to supervise the country's supply and that industry's activity on the national territory.

After creation of the *Compagnie française des pétroles* in 1924 to receive the German holding in Turkish Petroleum, the French system was developed around the ONCL¹ (to which the Direction des Carburants (Fuels Department), DICA succeeded in 1939) and the laws of 1928, after a decade of political debate.

The fact is that we have to talk about the 1928 laws, because the oil law of March 30 was preceded by the Customs law of March 16 enshrining a customs regime that was favourable to national refining, reestablished in 1921 after the disastrous laws of 1881 and 1903 that destroyed any national industry. The effect of the customs protection established in this way gradually faded with the installation of the European institutions. Thus the installation of the single market in 1992 was of little importance for customs legislation, which was extended almost as is in 1992.

The general framework of the “delegated monopoly” for imports and refining instituted in 1928 under Poincaré made it possible for France to follow policies that were aggressive, but compatible with the private initiative by the CFP, and above all by the majors (Esso/Exxon, Shell,

¹ Office National des Combustibles Liquides (National Liquid Fuels Office), 1925-1939.

BP, Mobil) as well as – subsequently and to a smaller extent (since they concluded only refining agreements) – by two European companies (Fina & Agip).

After the Second World War, a more active policy, first of all at the level of exploitation and production (hence outside the framework of the 1928 law), was followed by creation of oil entities (RAP and BRP) that were strictly governmental but relatively competing and merged into ERAP in 1965. The creation of downstream outlets for the national producers thanks to a position reserved on the French market under the law of 1928 (particularly the 1961 decree concerning national crude oil and the Leblond decrees in 1963) led to formation of Elf-Aquitaine group.

Gradual Europeanization took place, in spite of the sustained efforts by the DICA and the French government, because of the Commission's struggle (with its recommendations in 1962, 1963 and 1969) aided by the Luxembourg Court (Court of Justice of the European Communities) against the "delegated monopoly", against the background of the role played by the independents and the majors (appeal to the Council, steps taken *vis-à-vis* the Industry and Brussels).

The elimination of all quantitative restrictions on production and distribution led the French authorities to discard the 1928 law on the occasion of installation of the single market with the law of 1992.

Here we will mainly discuss the effective role played by the legislative and regulatory provisions in this construction and the changes in it: import authorisations with quotas and approval of supply plans, authorisations for establishment and closing of installations, stocks, flags, information, indicative list (national obligation).

In a second part, we will first try to make a short survey of the other aspects of oil policy, whether independent or not of that legislation concerning refining and distribution, since the delegated monopoly instituted under the 1928 laws did not, in itself, account for all State actions in the oil domain: mainly measures concerning the upstream sector (exploration and production), specific actions in connection with oil technology (example: the IFP pole), but also taxation aspects (products and exploration-production), price controls and the inclusion of oil in a general energy policy.

In conclusion, we will try to sketch out a summary of the instrument represented by the law of 1928, which must be judged in terms of energy independence, or rather of the safety of supplies at competitive prices, and in terms of constitution of national operators.

1. The “Delegated Monopoly”: the Law of 1928, an Effective, Adaptable and Durable Approach

1.1. The Origin of the Law of 1928: an Approach Based Less on State Inspiration than it Seems

Until 1914 France's small needs for hydrocarbons as well as the lack of national production explain the non-existence of an oil policy on the part of the authorities, whose only interventions were in the customs and taxation fields. Thus the customs laws of 4 June 1864, 8 July 1871 and 30 December 1873 had the effect of encouraging the establishment of refineries by instituting a duty affecting only imports of refined products, to varying extents. On the other hand, the laws of 7 May 1881 and 30 June 1893 reduced that protection, which almost disappeared in application of the law of 31 March 1903, thus favouring imports of refined products².

This dry legal description by the *Comité Professionnel du Pétrole* (Professional Oil Committee, CPDP) shows the slight political interest attached by the French authorities to oil at the outset, oil for lamps and lubricants.

After the First World War and Clemenceau's famous appeal to Wilson in 1917 concerning the “blood of battles”³, the most powerful country in continental Europe could not stand being dependent on the goodwill of the trusts in the English-speaking countries, Standard, Shell and Anglo-Persian⁴.

Thus this awareness led to measures for controlling oil supplies on national bases.

In this connection, if we take a look at the state of mind of the protagonists taking part in the development of decisions on installation of the 1928 law, it turns out that the historians are not yet well informed about the interventionist nature of their approach.

With respect to senator Henry Bérenger, Chairman of the *Comité général du Pétrole* (General Oil Committee) (July 1917), and then general

² CPDP *Réglementation pétrolière*.

³ See, for instance, Takashi Hotta, *The oil industry in France, from the origins to 1934*, Thesis Prof. Maurice Lévy-Leboyer (Paris X), 1990, p. 164.

⁴ By analysing the mentalities of that time, one obtains a better understanding of General de Gaulle's attitude in the following decades: “... It is only one of the numerous cases in which the power of the companies known as multinationals, which are actually enormous ‘Anglo-Saxon’ machines, crushed us, the French in particular, and the Europeans generally”, the General said in 1963 to Alain Peyrefitte (*C'était de Gaulle*, Paris, Quarto/Gallimard 2000). See also A. Nouschi, *France and oil from 1924 to our own time*, Paris, Picard, “Signes du temps”, 2001, p. 56 and ff.

Commissioner for petrols and fuels in August 1918, that committee⁵ holding real execution powers, his interventionism was expressed in a context demanding firm coordination in war time and in the face of the problems that had not been settled all the same by the armistice (*cf.* Béranger in 1919). In our opinion, Béranger's mistrust related more to the traders-importers without any great financial and industrial resources than to the industrial world⁶. Obviously, in the case of oil, the sticking point is the nationality of the manufacturers.

The political negotiations that took place between 1919 and 1925 did indeed result in a confrontation between the liberals and the interventionists. A project for a State monopoly on purchases thought up by the government in 1919 did not see the light of day, and the law of 1925 constituted the first stage in the final system: elimination of the manufacturing tax of 1903, obligation to maintain stocks, price controls in a context of price wars, subsidies for tankers, and creation of the ONCL.

Art. 53 of the law of 4 April 1926 (modified in 1927) announced the installation of the monopoly, specifying that:

[...] the operations relating to imports of crude oil and of its derivatives or residues may be carried out only by the representatives of the State or by the persons accredited by the State... A special law will lay down the general rules regarding organisation of the importing monopoly by the State or concerning a concession to a company on a profit-sharing basis...

After the defeat of the "Cartel des Gauches", the 1928 project, reported by Etienne Charlot, was along other lines than the monopoly projects by Baron and Margaine, which had inspired the 1926 law.

Even if the party calling for complete freedom did not carry the day, to be sure, the balanced approach represented by the law of 1928 may be considered as realistic from the political and economic viewpoints. To explain the motivation for the realism, one must acknowledge the fact that the choice of moderate liberalism was based in part on the fact that indemnification of the manufacturers in place would have been very expensive to the taxpayer and diplomatically adventurous.

⁵ Attached to the ministry of Agriculture and Supply, holding authority over various competent departments in the other ministries (War, Trade and Industry, Armament). We are still far from industry here (*cf.* above).

⁶ In her book called *War parliamentarianism 1914-1919* (Paris, Belin, 2002), Fabienne Bock writes, for instance, concerning the Army Commission's attitude toward industry, that "[in]... statements... [that] do indeed look like pleas, Henry Béranger, reporting on 13 March 1915 on the manufacturing of Powders, criticises the department heads of the Ministry of War, who want to recognise only the State establishments ..." (p. 170).

Hence we may adopt the conclusion offered by L. Pineau⁷ in 1934 in a lecture given at HEC⁸:

The law of 16 March 1928, suddenly producing, thanks to the total revamp of the customs regime relating to mineral oils, creation of the refining industry, necessarily and inevitably led to quotas and to distribution by the State of imports. The customs reform alone having been carried out, the goal of attaining a balance at which it was aiming and continues to aim was not reached. Even worse, it had become inaccessible. The fact is that only the big foreign companies, guaranteed of their supplies and equipped with immense technical and financial reserves, would have been in a position to draw increased powers from the law, at the time of its promulgation... If balance was maintained between the various types of interests, if the fall or disappearance of the French companies was checked, this is due to the law of 30 March 1928 concerning the oil importation regime.

That law, now judged and imitated by many major countries – Japan, Italy, Germany – proved to be the flexible instrument that was required and is still required by a task that remains complex. I think that this flexibility is the key to its value and its merit. Able to adapt to a changing situation, it no doubt makes long-term plans possible and justifies them...

I add that homage should perhaps be paid to all responsible for applying it, because they made efforts to use the law in a spirit of liberalism. No untimely interventions, no interference in commercial initiatives, no attack on their part on the laws regarding healthy competition...

But we must still consider the use that was made by this tool by governments in the following 64 years.

1.2. The Law and its Obligations: a Rather General and Lasting Framework

Before describing, over those many years, the functioning of the “delegated monopoly”, as it was christened, it is important to see what the law required in concrete terms.

⁷ A more exhaustive appraisal is provided in his 1934 report concerning the *Organisation of the oil import monopoly* within the framework of the oil Commission instituted under art. 117 of the finance law of 31 May 1933 and placed under the authority of the premier (*Official Journal*, 11 July 1933). That summary does indeed indicate that the majority of the Commission members ruled out solutions entailing direct State control or a profit-sharing approach, or national importing and refining companies. To be sure, Charles Baron, a strong advocate of the monopoly and who was a commission member, was surely not of that opinion.

⁸ Mentioned in a study of the CFP, *Approval of the law of 30 March 1928*, made by E. Catta and E. Lemasson (internal Total document DIRE/DID/DOC of 7 November 1977).

The law of 1928 is an old-style law (two pages in the *Official Journal*, the one succeeding it consisting of three pages even though it was supposed to streamline the system).

It institutes the regime of special import authorisations⁹ in application of art. 53 of the law of 1926 (*cf.* above) in accordance with precise procedures (decree issued by the Council of Ministers), after receiving the opinion of a special commission chaired by the director of the ONCL and consisting of representatives of the administrations concerned: Finance, Foreign Affairs, War, Navy and Public Works, and the premier's opinion (by way of the higher Council of national defence).

Those provisions survived almost as is until 1992, following the administrative changes with a few modifications of the procedures introduced by the decree of law of 8 August 1935 (market control and generalisation of the regime corresponding to the special authorisations) and a few more recent decrees of less importance: 80-347 (decree concerning the commission composition), 87-215 (elimination of the consideration by the Council of Ministers, reformulation of the commission's powers), and 91-1999 (change of holder).

The details introduced by ordinance 58-892 of 24 September 1958 (national duty, extension of the authorisations) as well as by the decree of 2 February 1955 (variation of one-fifth of the amount of the authorisations) had a greater impact on the economics of the import regime.

In addition to the obligation of holding a special import authorisation, the holder is subject to the following obligations: reserve stocks (the law refers to the 90 days under the 1925 law¹⁰), execution of contracts of national interest that may exist for acquisition of crude or of derivative products (in proportion to deliveries on the domestic market), and provision of the requested guarantees.

The remainder of the provisions deal with sanctions (forfeiture) and conditions regarding a change of holder.

The law enshrines the double supervision by Commerce and Industry and by Finance, granting them full powers for inspection of establish-

⁹ Beyond 300 tonnes per month. We disregard the administrative ups and downs regarding the coexistence of the laws of 1925 and 1928, which were gradually settled by the decree of 1935 and other texts, the last one dated 1938, and which bore mainly on the wholesale trade.

¹⁰ Art. 2 of the law of 1925 speaks more exactly about one-fourth of the quantities declared for consumption, but in the oil world one uses the more concrete formula of 90 days.

ments and communication of information¹¹, as well as the application to Algeria and to the Colonies.

It will be noted that there is no explicit trace of an obligation to ship under the French flag, but those concerns existed as of the 1920s¹².

*1.2.1. The Operation of the Delegated Monopoly:
Allocation of Authorisations and Quotas by Products*

Actually, the law granted full powers to the administration, which could impose its will on the holders, which had to submit under penalty of having their authorisations withdrawn.

And here the advocates of State control required (favoured) by reconstruction after the Liberation were able to give full expression to their talents in the oil sector for two decades, encouraged by an intellectual context of revenge after the humiliation of defeat, unfavourable to American economic imperialism (oil is a good example of this), a rather interventionist Gaullist political context, and two oil shocks calling for measures able to deal with the problems.

Paradoxically enough, it was the return of the Left to power that, after a short period of ideological zeal, marked the withdrawal under the pressure of European realities until the end of the delegated monopoly in 1992.

What were those full powers assumed mainly by the DICA? We must distinguish between the refiners' and the importers' universe.

*The "Special Authorisations Regarding Imports, Reception
and Processing of Crude, Derivatives and Residues"*

The first authorisations allocated¹³ by the decrees of 1 April 1931 were granted for a duration of twenty years (A20) corresponding to long-term investments. The eleven holders were today's operators, in a different form: CFR (CFP), the four majors – Standard (Franco-Américaine de raffinage) the future Exxon, Shell (Jupiter), Anglo-Persian (SGHP) the future BP, Vacuum Oil the future Mobil –, plus the

¹¹ We draw your attention to the importance of this information obligation, a measure appearing to be merely technical, but which turned out to be cumbersome for the holders and effective for supervision.

¹² See, for instance, the report by L. Pineau drawn up for the Higher Council of National Defence in May 1923 [AEF Trésor B32313].

¹³ The name varied slightly over the years from the A20 (special authorisation for importing and processing crude oil, derivatives and residues) to A10 strictly for refining of 1970 and the following ones: special authorisation for importing, reception and processing of crude oil, derivatives and residues.

refineries of the North (Fina), of Berre and Donges (Pechelbronn and Consommateurs de pétrole)¹⁴.

The authorisations included quotas on the majority of products: petrols, refined mineral oils, heavy oils and gas oils. Only fuel oils, pitches and coke, paraffins and vaselines were unlimited. The delivered products had to come to an extent of more than 50% from the holder's refineries (art. 6.2). The other obligations spelled out the ones set forth in the law of 1928 (reserve stocks, national duty, surety) or detailed them (French nationality of the senior managers and of part of the supervisory staff, advance authorisations for capital increases and for the investments purchased from foreign suppliers, sanctions etc.). The refiners had to charge to their A20 all of their deliveries on the domestic market for themselves or on behalf of customer importers (A3).

Those quotas varied slightly over time in a proportional way for everybody as a function of the needs.

The renewal of the authorisations was suspended during the Second World War (law of 27 April 1941), and the DICA, established in August, was made responsible for managing the situation with the ad hoc entities (GAC in 1941). The due dates of the A20 and A3 were re-established in 1948 until 31 December 1949 (Actually until 3 September 1951) and the 1950 renewal¹⁵ shortened the duration to 13 years¹⁶ (A13) for the eight survivors with quotas only for petrols (the restrictive product) and heavy oils, and what was known as an "Atlantic" delivery obligation relating to a fraction (35%) of petrols from a refinery on the Atlantic Coast and a non-uniform increase of quotas favouring, in terms of market share (+ 20%), the *Raffineries de l'Atlantique* [Lesourd Guide 1952] at the expense of the majors and of CFR.

One sees the confirmation, as in the A3 decrees of 1950, of the flag obligation now bearing¹⁷ on 2/3 of imports (art. 7) and the paired obligation relating to delivery on their A3 and the ones of their members of products coming to an extent of 90% from the French refineries (art. 10).

¹⁴ The SAEM de Pechelbronn also had a refinery at Merckwiller which never subsequently reached the size of the others and was closed in 1964. A twelfth holder, Sarnaphta, appeared in 1937, without a refinery and whose authorisation was transferred in 1948 to the pétroles de l'Atlantique group (the future Antar).

¹⁵ Decrees of 18 October 1950.

¹⁶ A duration considered sufficient by the authorities (J.-M. Louvel), once the initial investments were made (the majority of the refineries were built between 1932 and 1935).

¹⁷ A 50% obligation was introduced in 1937 (decree of 23 April 1937).

This made, as a whole, a rather restrictive approach, that was applied in a less liberal spirit than the balance, already strongly supervised, praised by L. Pineau (*cf.* above).

At the time of the 1963 renewal, the A13 were shortened to 10 years and the A10 were extended in 1973 and 1983 with that duration. We must add the modifications made in 1970 following the European Commission's recommendations, in a way uniform with those of the A3 at the same time. Later we will provide details concerning those modifications, mentioning national oil and the creation of Elf for the decrees of 1961 (national oil) and of 1963 (Leblond decrees)¹⁸, and mentioning the Commission's recommendations for the 1970 decrees. The same applies to what are known as the "25% CFR" decrees.

We should point out that even if the quotas on oils had been eliminated in 1970 (as of 1968 for the A3), the quotas on petrols, despite the EEC recommendations, remained in 1970 and 1973, though with an increase, to be sure. They were finally eliminated in 1983 after their suppression in 1980 for the A3 (they could be reestablished by special decree).

Finally, there was an explanation of a provision that had substantial practical importance, the one relating to "economic installation of products as far as the consumer"¹⁹... "by way of exchanges or of grouping" (art. 11), and which was a good indication of the organised side of the oil market and the dangers that might arise in terms of respect for competition (*cf.* below, chapter IV).

Moreover the year 1973 brought the introduction of a provision (art. 19) to which the authorities attached great importance at the time of the first oil shock, according to which the A10 could be "suspended, reduced or withdrawn if the elements ... in the light of which the said authorisation was granted are modified to a notable extent due to circumstances beyond the holder's control". That precarious aspect, which accentuated a provision adopted in 1963, maintained afterward both in the A10 and in the A3 and stipulating in art. 25 that "the present authorisation is independent of the ones that are granted to other persons and does not constitute an obstacle to the grant of other special authorisa-

¹⁸ We will then deal with the provisions concerning national oil (decrees of 1955 and 1961) and Saharan oil (decrees of 1956).

¹⁹ This term of "economic installation" appears as of 1948 (decree 48-1559 of 7 October) announcing the reestablishment of the authorisation allocations, but it concerns only the receiving and storage installations.

tions during the period of validity of the present decree” was not such as to please the majors²⁰.

The 1973 decrees brought the appearance of three new modest refiners, Fina-France and the French Agip company, which operated by processing in confreres’ refineries, and SCC (*Société Chimique des Charbonnages*, which became CDF-Chimie EP, hence belonging to CDF group), which needed an authorisation for its own needs (Carling refinery).

The 1983 decrees (valid in principle until 1995) did away with the quotas, as we have mentioned, and ratified the regrouping of the Elf components.

We will not say anything about the provisions of lesser importance, of a technical nature, or even relating to questions of wording (between the A10 and A3 texts), or the ones due to transfers between companies²¹: however, they may have consumed some of the energy of the administration and of the holders.

After having toured the keep of the fortress (A10), we will now explore the ramparts, that is, the A5/A3.

The “Special Authorisations for Imports and Delivery for Internal Consumption of Products Derived from Oil” (A5/A/3)

It would take too much time to make a detailed analysis of the various texts that succeeded each other since 23 March 1929, the date of the first series of authorisations based on the law of 1928.

We will only indicate a few characteristics of the change in content of those authorisations, which, in certain respects, in view of their shorter periodicity, make it possible to get a clearer view of the key dates and indicate (*cf.* above) the innovations to be translated in their time into the A10.

First of all, those authorisations, which are granted in accordance with the procedure indicated above to all importers, including the refiners, concern making products available for consumption on the domestic market (it is at that level that the duties and taxes are paid, including VAT) and are much more numerous: from 1946 in the year 1929 they went to 227 (including 145 for petrols) in 1939. Since the end of the

²⁰ Art 25 (A10 of 1963), 26 in the A10 of 1973; see in particular the report on presentation of the decrees to the French President (20 June 1973) [AEF Douanes Z11916 and Z11918].

²¹ The last one, in March 1992, concerned Esso, which had decided to turn its refining activities over to a subsidiary for “corporate” reasons, the holder becoming Esso Raffinage SAF (decree 92-242).

Second World War, their number has oscillated around the level of 200²² (with a peak at 400). The number of operators at present (the authorised operators, *cf.* below) is markedly less (54 in 2001 for the interior activities concerning the CPDP).

It will be noted that the procedure under the law of 1928 was joined, before 1992, by gradual reductions, the ones relating to control of foreign trade (AC import licences, export licences), which presupposed – and this was the case²³ – good cooperation with the Finance departments (DREE and Customs).

During the forty years following the war, one can note the following main developments²⁴, in a way consistent with what has been seen in connection with the A20 (which became A10).

- in 1950, the flag obligation was increased to 2/3 of imports, and the delivery obligation by the A3 of products coming to an extent of 90% from the French refineries (for the refiners and their members, art. 12),
- in 1963 (application in 1965) the possibility of granting other special authorisations during the period and the explanation of the economic installation of the products (art. 8),
- the modifications in 1970 resulting from the Commission's recommendations (products of national origin, etc. *cf.* below).
- the allocation starting in 1976 of the consumers' authorisations for their exclusive use (EDF, chemical companies, etc. as well as for the consumer-A10 of the SCC/CDF-Chimie),
- the elimination of the petrol quotas in 1979 (effective on 1 July 1980), the system being replaced by the one of supply plans²⁵ in connection with the main products (decree 79-1139), constituting a better response to the concerns arising from the oil shocks, and including an 80% supply obligation in the Community refineries

²² In 1979: 398, including 70 for petrol; 1968: 213; in 1987 the last wave of authorisations: 189.

²³ See below for the thinking of the Lauré Commission in 1975 concerning the oil regime and in chapter V concerning the DICADHYCA relationships with the other ministerial departments.

²⁴ We disregard the provisions of a strictly administrative nature required by installation by the customs authorities of the procedures governing the entry of the products consistent with the obligations of the special authorised parties (charging of the authorisations and then of the supply plans): the cooperation of the DICA/DHYCA and of the Customs authorities does not seem to have raised any problems during those decades.

²⁵ In the corresponding decrees, law 74-908 of 29 October 1974 relative to energy savings appears as the legal basis, after the 1928 law.

- (rule of the 80-20: only 20% remained free for importing or with respect to an A10),
- the suspension in 1985 of those plans and of the 80-20 rule (order of 11 December, extended sine die on 30 December 1986),
 - the last measures in 1987 relating to simplification of the allocation procedure and definitive elimination of the 80-20% and 90% rules (decrees 87-216 and 217 of 27 March); this “reform” of the oil regime, highly “cosmetic” including a press kit, which inaugurated the A5, was followed by a more important reform in 1988 concerning the reserve stocks (*cf.* below).

As far as the duration of authorisations is concerned, there were many changes because of the extensions. Before 1939, the A3 were in fact extended every three years. The system, suspended in April 1941, was resumed in 1950: after 3 years, the A3 in 1953 were extended to 6, 9 and then 12 years. Similarly, the extensions took place in 1968-1976. In 1980, order was restored to all this. The first explicit loosening appeared in 1987 in a more liberal atmosphere, with Minister A. Madelin: the A3 became A5 until their disappearance at the end of 1992²⁶.

An important remark must be made concerning the interpretation of quotas in connection with market shares: at least for the refiners, an additional analysis would be needed of the real shares (on bases strictly comparable with the quota criteria (which is not so simple) so as to determine, in the light of the real shares, whether the quotas were more or less restrictive depending on the companies. That must have been the case for the American companies, and no doubt for the other majors, but the contrary would apply to the national companies undergoing development.

1.2.2. Supervision in the Other Sectors: Distribution, Transport and Storage

Actually, in the name of the law of 1928 and of its power to allocate special authorisations, the DICA/DHYCA was fully empowered to grant authorisations for all oil activities relating to refining and distribution.

Directly provided for under the authorisation decrees as of the outset, the obligation to keep reserve stocks made it possible to check the stocks and storage, and we will come back to this point later on. To exercise its full powers, the DICA/DHYCA led a commission, the CIDH (Commission Interministérielle des Dépôts d'Hydrocarbures),

²⁶ For administrative reasons, the A5 had to be extended in September 1992 until the end of the year. The last authorisations (Repsol and two other companies) came out in December (decree 92-1227 of 18 December), a few days before the new law of 31 December 1992 that abrogated them!

grouping the administrations concerned, particularly Defence (SEA: Service des essences). This was almost the only sector in which there was no erosion of the supervisory powers.

Another major sector for intervention, since it affected commercial development of the fuels sector and was particularly strategic during the growth years between 1950 and 1980, was the one concerning allocations of service stations, particularly along the motorways as the network was built.

The checks on creation of service stations (and more generally of all distribution points since 1969) was instituted in 1959 (decree 59-95 of 3 January²⁷). That system for allocation of "DICA points" was, according to the operators, even more restrictive than the petrol quotas in the special authorisations.

DICA/DHYCA having initially favoured the "serious" operators, that is, the ones able to invest, the network was reserved for them to a large extent, no doubt all the more easily in that the large stores had, as a priority, their hypermarket and supermarket stations (a come-on price policy, the refiners said): the expansion desire came later, when the refiners were not much inclined to invest along the less used motorways. Control of the DICA/DHYCA points was eliminated by an order dated 4 October 1985 (only advance declaration) after an initial stage in 1981 (supply freedom), and it disappeared completely in 1998²⁸.

In the transport field, independently of the technical rules and regulations (RTMD, ADR), incidentally assigned to Transports, and not to Industry, the DICA/DHYCA played a major role in creating the network of oil pipelines in France, which includes in a nutshell: the major oil pipelines of general interest (southern European pipelines SPLSE²⁹ and the Ile-de-France pipeline for crude oil, SPMR for finished products), local private oil pipelines (storage company CIM in Le Havre and the refining companies, the mining pipelines at certain deposits), the Le Havre-Paris Trampil³⁰ oil pipeline, and the pipelines built for the State

²⁷ This is the decree that was unsuccessfully attacked by the majors (*cf.* below).

²⁸ DIMAH (ex. DHYCA) circulars explaining the 1992 law, dated 8 June 1998 and 7 September 1998.

²⁹ The SPLSE: Southern European crude oil pipeline, Lavera-Karlsruhe, which went into operation in 1962, has as shareholders the big European refiners (including Total (with Elf) 27.8% at present). For finished products, the SPMR, the Mediterranean-Rhone pipeline, went into operation in 1968 (French shareholders, including 29% for Total in 2002).

³⁰ Created by law 49-1060 of 2 August 1949, the *Société des transports pétroliers par pipeline* built (1953-1992) and operates the network of pipelines for finished products between Basse-Seine and the Paris region. It also operates the ODC and PMR networks.