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**EVOLUTION OF TRANSPORT POLICY**

**IN THE EUROPEAN COMMUNITY**

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I. The common transport policy as a factor in European economic integration

A. Legal and institutional bases

1. The European Community at present comprises Belgium, the Federal Republic of Germany, France, Italy, Luxembourg and the Netherlands. In 1973 these will be joined by Denmark, Ireland, Norway and the United Kingdom of Great Britain and Northern Ireland.
  
2. The principal legal bases of integration are constituted by:
  - (a) the Treaty establishing the European Economic Community (EEC) (Rome 1957);
  - (b) the Treaty establishing the European Coal and Steel Community (ECSC) (Paris 1951);
  - (c) the Treaty establishing the European Atomic Energy Community (Euratom) (Rome 1957);
  - (d) the Treaty establishing a single Council and a single Commission of the European Communities (Brussels 1965);
  - (e) the Treaty concerning the accession of the Kingdom of Denmark, Ireland, the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland to the European Economic Community and the European Atomic Energy Community and Decision of the Council of the European Communities concerning the accession of the said States to the European Coal and Steel Community (Brussels 1972).
  
3. The legal bases for the common transport policy are contained in the EEC Treaty <sup>(1)</sup>. The ECSC Treaty lays down provisions on transport which are designed to ensure the functioning of the common market for coal and steel <sup>(2)</sup>.

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(1) Articles 75 to 84 EEC Treaty

(2) Article 70 ECSC Treaty

4. The Community institutions are the Council, the Commission, the Parliament and the Court of Justice. There is also an Economic and Social Committee.

The Community has in addition a large number of specialized committees, such as the Monetary Committee, the Medium-Term Economic Policy Committee, the Agricultural Structures Committee, and the Transport Committee.

5. The Council consists of representatives of the Member States. It is the institution which passes measures of Community policy.

The Council ordinarily acts by way of Regulations, Directives and Decisions. Regulations are the Community equivalent of national laws: they are of general application, binding in their entirety and directly applicable in all Member States.

Except where otherwise provided, the Council acts by a majority of its members, each Member State having one vote.

Measures in connection with the common transport policy, however, are adopted by the "qualified majority" procedure, under which the Member States' votes are weighted differently in terms of population, etc.

There is one major exception to the qualified-majority rule: provisions concerning the principles of the regulatory system for transport which would be liable to have a serious effect on the standard of living and on employment in certain areas and on the operation of transport facilities have to be adopted unanimously <sup>(3)</sup>.

6. The Council can act only on proposals from the Commission.

The Commission is independent of the Member States. It has at present nine Members, but following the Community's enlargement it will have fourteen - two British, two German, two French, two Italian, one Belgian, one

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(3) Article 75 EEC Treaty

Danish, one Irish, one Luxembourg, one Dutch and one Norwegian. In addition to its right of proposal, the Commission has in certain cases legislative and administrative powers of its own; it is also responsible for supervising the implementation of Community law.

7. The European Parliament consists of members of the national Parliaments designated by the latter. Its powers are very limited.

It has certain restricted rights in connection with the adoption of the Community budget, and it can compel the Commission to resign as a body.

It also renders "opinions" on Commission proposals to the Council - in fact the hearing of its views is usually a prescribed part of the procedure - but these opinions are not binding on either the Council or the Commission.

The Parliament's opinions in regard to transport matters are drawn up by a special Transport Committee.

8. The European Court of Justice has at present seven Judges; upon the enlargement of the Community the number will be increased to eleven.

The Court has comprehensive powers of review. Actions can be brought before it by private individuals as well as by States and corporate bodies.

9. The Economic and Social Committee consists of representatives of the various categories of economic and social activity, and in particular of producers, farmers, carriers, workers, dealers, craftsmen, the liberal professions and the general public.

The Committee is an advisory body. It usually has to be asked for its views on Commission proposals, in the same way as has the Parliament, but, again, its opinions are not binding on the institutions.

The Committee has a specialized section on transport.

10. An Advisory Committee on Transport, consisting of experts from the civil services, the carriers, other sectors of the economy and the trade unions, is attached to the Commission <sup>(4)</sup>. The Commission may consult the Committee in the preparation of its proposals, but is not bound by the opinions rendered.

D. The economic mechanisms

11. Economic integration is proceeding along four main lines:

- establishment of the "four freedoms" of the common market;
- ensuring of workable competition in the common market;
- elaboration and implementation of common policies for particular sectors, notably so as to make it specially possible for certain economically and politically sensitive sectors to be integrated into the common market: it is in this context that we must see the common transport policy;
- progressive approximation and coordination of the general economic policies of the Member States, with a view to economic and monetary union.

12. The hard core of the common market is made up of the four economic freedoms:

- free movement of goods (customs union, i.e. abolition of internal duties and quantitative restrictions, and establishment of the common external tariff) <sup>(5)</sup>;
- free movement of persons (i.e. free movement of labour and freedom of establishment) <sup>(6)</sup>;

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(4) Article 83 EEC Treaty; Statute: Journal officiel des Communautés européennes (J.O.) 1958, n° 25, p. 509; 1964, n° 102, p. 1602

(5) Articles 9 to 37 EEC Treaty

(6) Articles 48 to 58 EEC Treaty

- free movement of services (7);
- free movement of capital (8).

The nub of the four freedoms is that no national of a Community Member State must be discriminated against on grounds of nationality.

13. The means employed to ensure workable competition are the prohibition of unfair and restrictive practices (9) and the harmonization of national legal and administrative provisions (10).

Thus certain practices on the part of the State (subsidies and dumping) and of private enterprise (cartels and abuse of market dominance), which have the effect of distorting competition and of interfering with trade between member countries are barred, though in the case of subsidies and of cartels some exceptions are made, principally in consideration of structural circumstances.

The harmonization process extends over a very wide field, from foodstuffs and pharmaceuticals to taxation, and from air and water pollution to commercial law.

14. The requirement that common policies be pursued in given sectors has very specific implications:

- The common commercial policy (11) is the counterpart of the single internal market, and particularly the customs union, in the field of foreign trade. Power to conclude trade agreements with non-Community countries has in principle passed from the Member States to the Community.
- The abolition of tariff barriers and quotas also applies to trade in agricultural products. The purpose of the common agricultural policy (12) is to ensure the functioning of a common agricultural market by organization of the farm sector and structural reform. The cost of the policy is met from the Community budget.

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(7) Articles 59 to 66 EEC Treaty  
 (8) Articles 67 to 73 EEC Treaty  
 (9) Articles 85 to 94 EEC Treaty  
 (10) Articles 95 to 102 EEC Treaty  
 (11) Articles 110 to 116 EEC Treaty  
 (12) Articles 30 to 47 EEC Treaty

- The purpose of the common transport policy is to establish a common market for transport operations and ensure fair competition in the transport markets.

15. The approximation and coordination of the Member States' general economic policies <sup>(13)</sup> has been directed in the first instance to short-term economic policy and to balance-of-payments equilibrium and monetary stability. The Community also lays down medium-term programmes which set the guidelines for its own and the Member States' economic activities.

The more recently adopted concept of economic and monetary union <sup>(14)</sup>, to be established by stages and completed by 1980, goes further:

- The Community is to form an area within which the economy can operate unimpeded and without distortions of competition.
- It is to be an autonomous monetary area with its own system of central banks, but dovetailed into the international monetary system. The currencies are to be fully and irrevocably convertible, and the margins of fluctuation are to be eliminated.
- Community authority is to extend to:
  - i the internal monetary and credit policy of the Union;
  - ii the monetary and credit policy of the Union vis-à-vis the rest of the world;
  - iii internal and external capital market policy;
  - iv budget and tax policy;
  - v structural and regional policy, where this is necessary for the balanced development of the Community and the effective handling of major problems.

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(13) Articles 103 to 109 EEC Treaty

(14) Resolution: J.O. 1971, n° C 28, p. 1

II. The legal framework of the common transport policy

16. The EEC Treaty declares transport policy a common concern of the Member States.

This means that the common transport policy does not have to be formulated in international multilateral negotiations and agreements.

It falls within the jurisdiction of the Community as a legal person in its own right, the Community institutions acting in accordance with the same apportionment of powers as is prescribed for other fields of economic integration. Rules laid down under the common transport policy are rules of Community law and not of international law.

17. In transport as in every sphere of common policy the dividingline between the Community's and the Member States' jurisdiction falls according to the objectives of the Treaty. There is in fact no fixed division of powers between the two: as economic integration proceeds the individual countries' powers are steadily contracting and the Community's expanding.

18. The common transport policy is the means for pursuing the aims of the EEC Treaty in the transport sector, both on the consumer and on the producer side: that is, to amalgamate the national economies and raise the standard of living.

This involves three tasks:

- A common market for transport services must be set up. That is to say, there must be freedom of establishment and freedom to provide services for carriers, and also, with the conditions for access to the market duly aligned among the Member States, scope must be afforded for intra-Community division of labour in the transport sector.
- Steps must be taken to eliminate distortion in conditions of competition between modes of transport and between carriers within the common transport market. State and private arrangements militating against intra-Community division of labour must be eliminated.

- The common transport policy must ensure that there are no distortions of competition in the transport markets that could interfere with the functioning of the common market for industrial and agricultural products. The Treaty itself makes some provision for this, by banning discriminations in the field of rates and support tariffs. In addition it is necessary that rules enacted subsequently in pursuance of the Treaty concerning market access and pricing in this sector should be geared to the safeguarding of the goods market.

19. As part of the common policy the Community may introduce specific measures for the transport sector. These concern in particular:

- access to the transport market;
- the relations between carriers and public authorities, particularly States;
- rates and conditions of carriage;
- competition between carriers;
- specific taxes on carriers and transport services, and attribution of infrastructure costs;
- specific terms of employment and working conditions in carrier firms;
- infrastructure investment;
- traffic safety.

20. Economic measures concerning transport along with other sectors, such as general measures of commercial, fiscal and social law, do not fall within the Community's jurisdiction specifically in regard to transport; in these cases general Community law applies, as and where appropriate, to the transport sector.

21. The EEC Treaty provisions on the common transport policy apply to rail, road and inland water transport <sup>(15)</sup>.

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(15) Article 84 EEC Treaty

The Council is empowered to decide, however, whether, to what extent and by what procedure appropriate provisions should be enacted for sea and air transport <sup>(16)</sup>. This special right extends in particular to coordination of infrastructure investment for these modes of transport (i.e. port and airport facilities).

Transport by pipeline is subject only to general Community law applying to all economic activities, e.g. the requirements on freedom of establishment, abuse of market dominance and approximation of legislation.

22. Ancillary operators and middlemen (forwarding agents, freight brokers, stevedores, warehousemen, etc.) also come under general Community law and not, as such, under the specific transport arrangements. Forwarding agents in particular, however, as parties to contracts with carriers, may be subject to special obligations in connection with the common policy.

### III. The principles of the common transport policy

23. At the time that the EEC Treaty was concluded the political, economic and legal position with regard to transport varied widely from country to country; the extent of State intervention in the functioning of the transport markets, and the forms which it took, were highly diverse. The object of the common transport policy is gradually to iron out these differences.

The pursuit of a common transport policy has thus sometimes been described as the pursuit of the Treaty negotiations on transport under the authority of the Community institutions. However, given the structure of the Treaty and the fact that the institutions are required to work for definite practical objectives laid down in it, the comparison is valid only up to a point.

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(16) Article 34 EEC Treaty

All the same, it is true enough that, in contrast for instance to the establishment of the common market for industrial products, with the common transport policy the process is not one of wielding instruments already afforded by the Treaty, but of first devising appropriate instruments and then applying them.

24. The Commission's basic principles in the common transport policy have been:

- all market operators to be on an equal footing;
- carriers to have financial autonomy;
- transport users to have freedom of choice as to means of transport;
- coordination of investment by the public authorities is necessary.

The Commission has sought to ensure that the transport policy too reflects the general emphasis on free competition that is such a feature of the EEC Treaty. It has not, however, banned official intervention in the operation of the market outright: in particular, it has taken the view that in certain circumstances transport policy should be made to serve social and regional ends where the play of market forces alone is not sufficient.

Up to now the common transport policy has in fact been largely market-oriented. Nevertheless, more recently structural considerations have been coming to the fore; steadily increasing attention is being given in particular to the matter of the competitive capacity of the railways.

25. A major issue in the transport debate has been the matter of the so-called

distinctive features of transport. The EEC Treaty provides that the Community institutions in implementing the common policy must take these distinctive features into account <sup>(17)</sup>. The main such features, in economic theory and practice, are as follows:

- transport services cannot be produced for storage;
- the demand is subject to seasonal fluctuations;

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(17) Article 75 EEC Treaty

- traffic flows are liable to <sup>be</sup> asymmetric (problem of possible empty running on the return trip);
- in the event of declining demand, production cannot be switched to other facilities;
- the market patterns of the competing modes of transport are different;
- there are a great many regional and product-related sub-markets;
- transport investments have high fixed costs and a long life;
- the means of production are mobile;
- the transport sector is internationally interlinked.

These characteristics are taken in some Member States as justification for State interference with competition (in particular capacity limitation and rate-fixing arrangements) and private restrictive practices (in particular cartels).

To this it must be objected that in fact competition in the transport markets is only to a limited extent affected by these idiosyncracies. The same or similar structural features do, after all, exist in other sectors also. Impairment of competition is caused mostly by faulty market behaviour on the part of carriers, and more especially by faulty investment decisions. And such decisions are often specifically the result of State intervention in the operation of the market, alleged to be necessary by reason of the "distinctive features of transport".

In requiring the Community institutions to take due account of these features in implementing the common policy, the Treaty does not tie them to a particular economic theory or policy approach. They have a free hand in assessing the substance and implications of the features in question: they do have to bear them in mind in issuing regulations, directives and decisions, but not to the extent of inhibiting progress on the establishment of a common transport market with undistorted conditions of competition.

26. The common transport policy is still badly behindhand in comparison with the integration process in other sectors. So, inevitably, this paper has in various important matters to record only Commission proposals and not enactments actually in force.

There are two main reasons for the lag:

first, progress on the common transport policy means for each Member State not only a forfeiture of powers but also the whittling-away of long-standing policy concepts. Up to now none of the Member States has had a vital interest in pressing ahead with transport integration despite these obstacles.

Second, the Commission's first major proposals on transport came in 1963, just at the time when the Community was entering upon a succession of political crises. This troubled state of affairs has only been gradually sorting itself out again since 1969.

There are good prospects that the common transport policy will now be caught up in the new forward surge of European economic integration, marked by the launching-out towards economic and monetary union and the enlargement of the Community.

The new Member States have at all events the advantage, so far as transport is concerned, that they will have a very considerable say in moulding the future course of developments from a comparatively early stage.

IV. The procedure of previous examination of, and consultation on, draft national legislative measures in the field of transport

27. In consequence of the slow progress on the common transport policy, the procedure whereby relevant parliamentary bills and other projected instruments of the Member States <sup>(18)</sup> are examined and discussed beforehand has assumed steadily increasing importance. The procedure was instituted by the Council in 1962 with a view to ensuring close Council/Commission cooperation on transport and seeing to it that Member States' own individual transport policies did not diverge any further from one another before the common policy was introduced.

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(18) Decision: J.O. 1965, n° 23, p. 720

28. The procedure concerns draft laws, regulations and administrative provisions of the Member States of a nature substantially to affect the implementation of the common policy. The Council left it to the Commission and the Member States to give practical effect to the arrangement; it has come to work very smoothly.

The rule is that the Member States must give the Commission and the other Member States the necessary particulars well in advance. The Commission must then address an opinion or a recommendation to the Government concerned within thirty days of receiving them. During this time the Member State must not promulgate the instrument in question.

By the terms of the Treaty, however, Commission opinions and recommendations are not binding.

The Commission must consult with the Member States on proposed instruments if any Government so requests; it may also do so on its own initiative.

29. The most important consultation so far has been on the German Government's programme of transport reforms in 1967<sup>(19)</sup>. Four bills were up for debate, which provided inter alia for a ban on the haulage of certain bulk goods by road and a special tax on long-distance transport on own account. The Commission took exception to these, and sent the Federal Republic a recommendation accordingly. In the outcome, the ban was not imposed; the tax went through notwithstanding.

V. Integration of transport by road, rail and inland waterways

A. Access to the market

a. Starting situation

30. There is need of a single set of Community rules on access to the market in regard both to carriage of passengers and goods by road and to carriage of freight by inland waterways.

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(19) Recommendation 60/96 CEE : J.O. 1 968, n° L 35, p. 1.

In most of the Member States there are restrictions on permanent establishment by foreign carriers.

In addition, participation by foreign carriers in the internal transport of a Member State is pretty well ruled out altogether in the road sector, and is severely restricted in the inland waterways sector, though in the case of the Rhine, the most important waterway in the Community, a good deal of freedom exists under the revised Rhine River Navigation Acts of 1868.

Cross-frontier road transport between Member States is also subject to admission restrictions. As concerns goods haulage most Member States operate quotas in respect of foreign hauliers, usually relating to the number of vehicles which may ply from the other State concerned.

31. Admission to national road transport is subject to the satisfying of personal requirements (e.g. professional qualifications) and to its being shown that there is a real economic need for the proposed services. For goods haulage, France, Germany and Italy have long-term admission quotas. In some countries, such as Belgium and Germany, a distinction is made between short- and long-haul goods traffic, admission to effect short hauls being usually left free of quantitative restriction.
32. The restrictions on foreign carriers are explained as being needed to protect the country's own transport system, those on domestic road hauliers as serving to protect the railways, and also to set limits to competition among the numerous comparatively small haulage firms.
  - b. Elimination of restrictions on carriers of other Member States
33. The Council's General Programme for the introduction of freedom of establishment, drawn up in pursuance of the Treaty in 1961 for all sectors of the economy <sup>(20)</sup>, explicitly includes transport in its timetable, requiring restrictions on the establishment of foreign carriers to be done away with by the end of 1967. This deadline has not been met: the necessary Commission

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(20) Programme: J.O. 1962, n° 2, p. 36

draft Directives (21) were not submitted until 1970, and have still not been adopted by the Council.

Freedom of establishment will entitle Community nationals to set up transport undertakings, and also to open agencies, branches or subsidiaries, in any other Member States without being liable to discrimination or other restrictions on grounds of nationality, under exactly the same conditions as nationals of that State.

34. The lifting of protectionist restrictions must be accompanied by measures to prevent economically unjustified shifts in the transport markets due to disparate conditions of admission in the different Member States. The field of freedom of establishment thus overlaps with that of alignment of conditions of competition in the common transport market.
35. As part of this alignment of conditions of admission, rules have also to be worked out to cover transient participation by other Community carriers in the transport (both domestic and cross-frontier) of any Member State (22).

c. Alignment of conditions of access

aa) Road transport

i) Passenger carriage

36. A Regulation of 1966 aligned and simplified the conditions of admission for occasional bus services between Member States (23). The Council this year adopted similar Regulations for regular and commuter bus services between Member States (24).
37. Commission proposals for a comprehensive alignment of conditions of admission for passenger transport within and between Member States have been pending before the Council since 1968 (25).

(21) Proposals: J.O. 1970, n° C 72, p. 10

(22) Article 75 EEC Treaty

(23) Regulation n° 117/66/CEE: J.O. 1966, n° 147, p. 2688

(24) Regulation (CEE) n° 517/72: J.O. 1972, n° L 67, p. 19;  
Regulation (CEE) n° 516/72: J.O. 1972, n° L 67, p. 13

(25) Proposal: J.O. 1968, n° C 95, p. 38

## ii) Goods haulage

38. Some easing of conditions in regard to road haulage of goods between Member States was effected by two Council Directives:

first, a Directive of 1962 providing inter alia for the abolition of reservations of approval and quantitative restrictions in respect of cross-frontier haulage in the actual frontier areas between Member States, haulage in small vehicles, and certain special hauls <sup>(26)</sup>;

second, a Directive of 1965 eliminating a number of particularly irritating elements of red tape from the administrative approval procedure for haulage between Member States <sup>(27)</sup>.

39. More important is the system of Community licences in force since 1 January 1969 <sup>(28)</sup>.

A quota of 1200 licences is available, in the first instance for three years. These are apportioned among the Member States as follows: Belgium 161, Germany 286, France 286, Italy 194, Luxembourg 33, and the Netherlands 240.

Community-licensed operators may effect haulage between any Member State and any other, and in particular may do so between two Member States in which they are not themselves domiciled. To put it more simply, 1200 lorries can ply freely between Community countries.

Cross-frontier haulage on own account, however, has not yet been liberalized. This causes complications mainly in transport to and from France.

40. The quotas agreed between the Member States continue to apply alongside the Community quota. A further Commission proposal of 1968 seeks to have these adjusted to the actual demand <sup>(29)</sup>: the idea is not that they should be automatically made up to a number fixed in advance, but that the States should be required by law to examine them in the light of market considerations and increase them where appropriate.

(26) Directive: J.O. 1962, n° 70, p. 2005

(27) Directive 65/269/CEE: J.O. 1965, n° 88, p. 1469

(28) Regulation (CEE) n° 1018/68: J.O. 1968, n° 175, p. 13

(29) Proposal: J.O. 1968, n° C 123, p. 2

41. The Commission has also proposed to the Council a set of Community rules on goods haulage within Member States <sup>(30)</sup>. This proposal, submitted in 1967, provides for action in three main respects:

- national rules as to the personal reliability and professional skill of applicants for licences to effect the haulage of goods by road to be aligned;
- the rigid quotas to be relaxed (the Commission is aiming at a system geared more to the market, which would allow the authorities to react promptly to demand for more carrying capacity);
- provision to be made for participation by non-resident nationals of other Member States in the internal goods haulage of the country concerned.

42. The proposal is not altogether designed to do away with the principle of capacity limitation. For long-haul traffic it provides for two classes of transport zones, A Zones with a radius of about 115 miles, and B Zones covering the whole territory of the countries with two or more A Zones, i.e. Germany, France and Italy. A Zone licences would be on the basis of case-by-case scrutiny of the need, and B Zone licences on the basis of quotas under national programmes; the great advantage over the present arrangements would be that the quotas would be reviewed annually.

The Commission wants these rules on capacity to be regarded no longer as a means of coordination as between rail and road, but as a means of balancing supply and demand within the road haulage sector itself.

43. This approach is open to a number of searching questions. Some of them may be stated here:

- Is a supply/demand balance macro-economically necessary? And could not a satisfactory supply/demand relationship be better secured by the operation of the price mechanism than by competition-reducing State interference with supply?

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(30) Proposal: J.O. 1967, n° 254, p. 3

- Moreover, experience in various countries with the working of road haulage quotas has shown that capacity limitation can serve to funnel carrying capacity towards the areas of congestion and away from the off-centre regions: thus keeping haulage services artificially in short supply is liable to have adverse effects on regional policy.

bb) Inland water transport

44. The possibility of capacity limitation in the inland waterways sector has been under discussion among the Governments and among the national carriers' federations for more than ten years, notably in consequence of overcapacity in Rhine shipping and the resulting depression of prices.

In 1965, Belgium, France, Germany, the Netherlands, Switzerland and the United Kingdom drew up a scheme for dealing with the problem of Rhine shipping capacity, involving State-approved amalgamation of carriers. The Commission, however, objected on economic and institutional grounds to the Community countries' joining in the proposed arrangements.

45. In 1967 the Commission submitted to the Council a proposal of its own for arrangements in regard to market access for the transport of freight by inland waterways generally (31).

It provides in particular for short-term laying-up and large-scale facilities for breaking up unremunerative and obsolete tonnage, and also some social provisions for the benefit of masters and crew who would have to cease operating.

46. In the case of Rhine shipping this could conflict in law with the freedom of navigation underwritten by the international Rhine charter. The terms of the charter are embodied in the Revised Rhine River Navigation Acts (the "Mannheim Acts") of 1860, which in turn originate from the Final Acts of the Congress of Vienna of 1815.

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(31) Proposal: J.O. 1968, n° C 95, p. 1

By an agreement of 1963, the signatories of the Rhine Charter are regarded as being Belgium, Britain, France, Germany and Switzerland. Community rules on Rhine shipping which affect the Charter cannot therefore be introduced without Switzerland, which is not a member of the Community. Adherence by Switzerland to rules on capacity in the inland water transport sector as a whole is, however, also in the general economic interest of all.

The Commission last summer asked for the Council's authorization to negotiate a Community agreement with Switzerland on temporary laying-up of vessels plying on the Rhine and Moselle <sup>(32)</sup>. The Council had earlier agreed on the broad outlines of such action as a partial solution of the problem of inland shipping capacity in its discussions on the Commission proposal of 1967.

47. The proposal for arrangements to regulate inland shipping capacity is open to the same objections as the proposal concerning goods haulage by road.

B. Relationship between States and carriers

a. The starting situation

48. In all the member countries there are close ties between the State and the major railway undertakings.

The Italian Railways are actually a branch of the civil service, the German Railways are a public agency, and the French, Belgian and Luxembourg Railways are State-owned companies with a special legal code (sociétés nationales); only the Dutch Railways are run as a joint-stock company, and even there the great bulk of the stock is held by the State.

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(32) Proposal: J.O. 1971, n° C 107, p. 1

49. Most of the Governments have made extensive use of the railways as instruments of policy, and of a wide range of policies at that, such as defence policy, economic policy, social policy. The result used formerly to be blanket coverage of the railways' deficits and protection for them vis-à-vis competing modes of transport.

However, the progressive establishment of a common transport market with undistorted conditions of competition has favoured a trend that had already set in earlier in the Member States, and was well advanced in the Netherlands, towards increasing the railways' independence and strengthening their competitive position.

50. In Belgium, France, Germany and the Netherlands there exist in addition to the major railways various regional- and local-scale rail undertakings. Even where these are operated as private companies, however, the influence, direct or indirect, of regional and local authorities, or indeed of the State itself, is fairly substantial. The integration process here discussed does not at present include these lines.

b. Reduction of public service obligations

51. A Council Regulation of 1969 requires the Member States to terminate the railways' public service obligations and to impose no new ones. Public services obligations - defined as obligations which the transport undertaking in question, if it were considering its own commercial interests, would not assume or would not assume to the same extent or under the same conditions - comprise the obligation to operate, the obligation to carry, and tariff obligations <sup>(33)</sup>.

The requirement does not apply:

- to special passenger tariffs for particular categories of persons (e.g. students, workmen, large families);
- where public service obligations are essential to the provision of adequate transport services.

(33) Regulation (CEE) n° 1191/69: J.O. 1969, n° L 156, p. 1

The adequacy of transport services is to be assessed in consideration of:

- the public interest (regional policy);
- the possibility of having recourse to other forms of transport and the ability of such forms to meet the transport needs concerned;
- the transport rates and conditions which can be quoted to users.

Financial burdens placed on the carriers by reason of public service obligations maintained or subsequently imposed are to be compensated from State funds, the compensation to be determined by common procedures.

These provisions also apply to interregional regular bus services.

c. Normalization of railway accounts

52. A Council Regulation of 1969 lays down in detail common procedures for normalizing the railways' accounts <sup>(34)</sup>. The railways' books are to be made to show financial burdens borne or benefits enjoyed by railway undertakings, in consequence of laws, regulations or administrative provisions, in comparison with their position if they operated under the same conditions as other transport undertakings. Burdens of this nature are to be compensated by the State.

d. The financial relationship between the railways and the State

53. A Council Decision of 1965 establishes in principle that the member countries' laws, regulations and administrative provisions on the financial relations between the railways and the State are to be aligned, with a view to making the railways financially autonomous <sup>(35)</sup>.

A draft Decision put forward by the Commission in 1971 embodies this principle in a comprehensive reconstruction programme having binding force <sup>(36)</sup>.

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(34) Regulation (CEE) n° 1192/69: J.O. 1969, n° L 156, p. 8

(35) Decision 65/271/CEE: J.O. 1965, n° 88, p. 1500

(36) Proposal: J.O. 1971, n° C 106, p. 42

54. A clear dividing-line is to be drawn between the powers of the State supervisory authorities and the powers of the railway executives.

The railways are to have power, in particular, to determine for themselves their general plan of operations and their development programmes, to draw up their budgets and to fix their rates and conditions of carriage; they are to have unfettered disposal of their capital assets; they are to make their own decisions concerning their staff regulations and the terms of employment and recruitment of personnel.

Their development programmes are to be subject to State approval. The State may have a say in the appointment of directors and the adoption of the budget.

The Government and the railway executive are to settle between them how far investment projects are to be covered by capital increases or increases in the endowment fund, how far by self-financing and how far by borrowing.

In matters of importance, the Member States are to have no right to accord the railways a less favourable position than industrial and commercial concerns.

The railways' budget and annual balance sheet are to be severed from that of the State.

Railway executives are to be given, and are to retain, the right to operate transport services of other kinds; those engaging in, for instance, road haulage operations are, however, to be subject to the same provisions of law as any other haulier.

Technical and economic cooperation between the Member States' respective railways is to be promoted by abolishing existing legal and administrative impediments. The end objective is a European Railways undertaking: The Commission is to submit to the Council before 1 January 1978 a report on long-term targets and measures relating to partial or full integration of the railway systems.

C. Goods transport rates and conditions

a. Bans on discrimination and on support rates

55. The bans on discrimination (37) and support rates (38) are designed to safeguard the free movement of industrial and agricultural products in the common market. Protectionistic rates and conditions of carriage are capable of nullifying, or at the least impairing, the freedom of movement achieved by the abolition of customs duties and quantitative restrictions on goods transported within the Community.

56. Discrimination whereby carriers applied different rates and conditions to consignments of the same goods travelling by the same routes according to the country of origin or destination were required to be abolished by the end of 1965, and it was forbidden to introduce new discrimination in their place.

This is not in fact a blanket ban aimed at equal treatment of all users, but a prohibition specifically to safeguard trade between the Member States.

It was promulgated by a Council Regulation of 1960 (39).

The Regulation in question is a milestone in the admittedly short history of European Community law inasmuch as it was the first instrument to empower the Commission to investigate carriers' operations and impose fines.

No real difficulties have been encountered in practice in securing compliance with the ban.

57. State-imposed rates and conditions of carriage in intra-Community traffic which are intended in any way to assist or protect one or more enterprise or industry have been forbidden since the beginning of 1962.

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(37) Article 79 EEC Treaty

(38) Article 80 EEC Treaty

(39) Regulation n° 11: J.O. 1960, n° 52, p. 1121

The Treaty expressly provides, however, that this ban is not to apply to rates fixed to meet competition, i.e. rates lower than the regular rates which are quoted by the carrier to the user in an effort to obtain his custom. Competition in this connection may be potential competition against contenders not yet actually present in the market concerned -- usually where there are plans for the construction of alternative facilities, such as a canal or pipeline.

58. Unlike the ban on discrimination, the ban on support rates allows for exceptions, which may be authorized by the Commission at the request of the Member State concerned or on its own initiative.

The guidelines laid down in the EEC Treaty for the authorization of exceptions make allowance for considerations of regional and of transport policy. The Commission is required to take account of:

- the requirements of an appropriate location policy and the needs of underdeveloped areas;
- the problems of areas seriously affected by political circumstances (i.e. those bordering on the Iron Curtain);
- the effects of the rates and conditions of carriage in question on competition between the different modes of transport.

59. Support rates are in fact less and less regarded by the Member States as an effective help to depressed areas. They are now applied only by the Italian and French Railways for the carriage of certain agricultural products from Southern Italy and from Brittany. Nevertheless it is possible that in the enlarged Community they will play a more prominent part, for a time at all events.

b. General rate policy

60. Discrimination by origin or destination of consignment and support rates is only conceivable where the State intervenes in the rate fixing process. At the Community's inception there was a good deal of such intervention, only the Dutch authorities confining themselves to fixing maximum rates.

The railways had for the most part to charge set State-imposed or State-approved rates; in Germany these were also the rule in long-distance road haulage and inland water transport. France has minimum/maximum rates for the road haulage and inland waterway sectors, a system which has latterly been gaining ground in Germany also.

61. In 1963 the Commission submitted to the Council a proposal for a system of minimum/maximum rates in respect of goods traffic by rail, road and inland waterways. This was a comprehensive compromise which in its view was calculated to ensure the fullest possible measure of competition on rates in the common transport market as a whole. The proposal fell through, however, largely because the Netherlands opposed the introduction of minimum rates for Rhine shipping, which could have harmed the competitive position of the port of Rotterdam.
  
62. A Council policy package in 1965 <sup>(40)</sup> produced a formula, the gist of which as regards rates for goods traffic within the common market is as follows:
  - There are to be either compulsory bracket rates or reference rates.
  - Compulsory bracket rates are scales of maxima and minima; separately agreed charges outside the limits set are, however, to be permitted in certain circumstances.
  - Reference rates are also maxima and minima, but differ from the compulsory bracket rates in that charges outside the range indicated are quite in order: the upper and lower limits are thus for guidance only.
  - In order to ensure market transparency, most rates are to be made publicly known.
  - The system is to be introduced by stages.

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(40) Bulletin EEC 1965, n° 8

63. So far, only a small part of this programme has been implemented: in 1968 the system of compulsory bracket rates was introduced for cross-frontier road haulage of goods between Member States <sup>(41)</sup>.
64. Bracket rates are bounded by an upper and lower limit: the "bracket" is the margin between the two, amounting to 23% of the upper limit charge.

Each such rate is calculated from a guide rate in the middle of the bracket: this must represent the average cost of the haulage services concerned for competently run haulage firms with a normal volume of business, taking account of the state of the market and assuming that the hauliers can obtain reasonable returns.

The tariffs have to be published by the Member States.

65. Within the brackets the charges for the services can be freely settled between haulier and user; they must not go beyond the upper and lower limits. Exceptions are permitted in certain market circumstances, but special rate agreements of this kind may be concluded only in respect of substantial tonnages (at least 500 tons in three months), and must be notified to the authorities of the Member States.
66. The rates are fixed by mutual agreement between the Member States, The Commission may sit in on the negotiations between the Governments in a consultative capacity. If the two sides fail to agree the Commission may arbitrate at the request of a Member State; its ruling may be subject to appeal to the Council, which then decides the matter by a qualified majority.
67. The Member States are responsible for controlling compliance with the rates and punishing any infringements.

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(41) Regulation (CEE) n° 1174/68: J.O. 1968, n° L 194, p. 1;  
Regulation (CEE) 293/70: J.O. 1970, n° L 40, p. 1

68. As time goes on the principle of unfettered rate fixing ought ultimately to prevail for all three modes of transport in the Community. Quite apart from the economic desirability of the "true charging" that would result, it would then also be possible to dispense with a supervision machinery for rate fixing which the present writer is not alone in considering to be of doubtful effectiveness.

#### D. Rules governing competition

##### a. Private restrictions on competition

69. Both with the bracket rate system and with other much freer modes of rate fixing, certain measures are needed to safeguard competition. The elimination of State intervention must not be counteracted by restrictive practices on the part of the carriers themselves, that is to say, cartel-fixed rates must not be allowed to develop in place of State-fixed ones.
70. The rules of competition in force for rail, road and inland waterway transport since 1968 <sup>(42)</sup> are largely modelled on those applying under the Treaty to the rest of the economy.

They forbid all agreements between undertakings, decisions by associations of undertakings, and concerted practices designed to fix rates and conditions of carriage. In addition, any agreements to limit or control the supply of transport services, to share markets or to allow of certain forms of technical cooperation and joint financing too. This ban operates where these practices may affect trade between Member States and have as their object or effect the prevention, restriction or distortion of competition within the common market.

They also forbid abuse of a dominant position in the common transport market or part thereof where this could affect trade between Member States.

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(42) Regulation (CEE) n° 1017/68: J.O. 1968, n° L 175, p. 1

The Commission is empowered to carry out spot checks to see that those bans are being duly observed, and to impose fines if it finds they are not.

71. The main difference between the rules of competition for transport and the rules for the economy generally is that the former make an exception in favour of concerted arrangements between small and medium-sized road haulage and inland shipping firms. In the hauliers' case the group so formed must have a combined carrying capacity of not more than 10,000 tons and the affiliated operators a capacity of not more than 1000 tons each; in the case of inland navigation the figures are 500,000 and 50,000 tons respectively.
72. Some justification for this exception is provided by the divided market structure of the two sectors concerned. Otherwise the only possible reason why the general rules of competition should not apply but these others closely modelled on them should apply to transport is that it was wished to pay some lip-service to "the distinctive features of transport".

b. State aids

73. The Treaty's general ban on State aids <sup>(43)</sup> applies equally to aids to carriers. The relevant passage says that save as otherwise provided in this Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain services shall, in so far as it affects trade between Member States, be incompatible with the Common Market.

The exceptions to the ban, permitting structural and in particular regional aids, likewise hold good for transport. In addition the Treaty contains a special provision concerning aids specifically to carriers, which are compatible with the Treaty if they meet the needs of coordination of transport or if they represent reimbursement for the discharge of certain obligations inherent in the concept of a public service <sup>(44)</sup>.

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(43) Article 92 EEC Treaty

(44) Article 77 EEC Treaty

74. A Council Regulation of 1970 lays down how this saving clause is to apply <sup>(45)</sup>.

It includes under the heading of coordination aids - i.e. lawful aids to meet the needs of coordination of transport - State aids to carriers which have to bear infrastructure costs that other carriers have not (principally the railways), and aids towards research and development work on new transport systems and technologies, during the R. & D. period proper. Also included are temporary aids towards a reconstruction programme designed to eliminate excess capacity (principally in inland water transport).

In the category of public service aids to be similarly allowable are aids in connection with rate obligations which do not qualify under the general system of compensation for burdens incurred through the discharge of public service obligations.

#### E. Specific taxes and attribution of infrastructure costs

75. A Council Decision of 1965 establishes the basic principles for tax harmonization in the field of transport <sup>(46)</sup>. These are as follows:

- Double taxation of motor vehicles for commercial passenger carriage and goods haulage between Member States is to be abolished.
- Provisions regarding duty-free admission of fuel contained in the fuel tanks of commercial motor vehicles and inland waterway vessels are to be standardized.
- A uniform basis is to be adopted for the calculation of tax on goods vehicles and cargo-carrying inland waterway vessels.
- The common system of turnover tax - i.e. the value-added-tax - is to apply also to transport services, and specific transport taxes are no longer to be allowed, from the time that VAT is finally in force in all the Member States. (This has not yet happened, as Italy is continuing to defer the introduction of VAT).

<sup>(45)</sup> Regulation (CEM) n° 1107/70: J.O. 1970, n° L 130, p. 1

<sup>(46)</sup> See footnote n° 35

- As soon as transport has been integrated into the common tax system, any specific taxes in respect of transport on own account are to be scrapped.

76. The only instrument so far issued by the Council in implementation of these provisions has been a Directive to standardize the rules on duty-free admission of fuel in the fuel tanks of commercial vehicles <sup>(47)</sup>. This requires the Community-prescribed duty-free minimum of about 13 gallons to be increased in step with the phased alignment of taxes on diesel fuels.

77. A Commission proposal for the abolition of double taxation of motor vehicles <sup>(48)</sup> has been pending before the Council for several years.

Another proposal for the adjustment of the national systems of motor vehicle tax is intended by the Commission to combine harmonization of specific transport taxes and charging for the use of infrastructures.

78. In regard to the application of the common VAT system to transport, the Commission has this to say concerning the combination of the two aims:

"For the purposes of this approach the specific taxes on road transport are designed to establish a system of charging for the use of infrastructures, which will at the same time ensure that the infrastructure users bear the cost to which they put the general public and that optimum utilization of infrastructure capacity is achieved" <sup>(49)</sup>.

79. Only the railways are required to meet their infrastructure costs in full themselves - though it should not be forgotten that in a number of cases this burden is in turn taken over, at any rate in effect, by the State by way of deficit offsetting. Toll roads are as yet largely unknown in Europe, the main exception being the Italian motorways. So far as Rhine shipping is concerned the charging of dues is forbidden by the Revised Rhine River Navigation Acts.

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(47) Directive 68/297/CEE: J.O. 1968, n° L 175, p. 15

(48) Proposal: J.O. 1968, n° 95, p. 41

(49) See footnote n° 19

The attribution of infrastructure costs has been the subject of detailed practical research and investigation by the Commission, in cooperation with the Member States, for quite a number of years (50).

80. 1971 saw the introduction in the Member States, under a Council Regulation, of a standard accounting system for expenditure on infrastructure in respect of transport by rail, road and inland waterways (51). Infrastructure expenditure accounts now have to be kept for all railways, roads and inland waterways open to public traffic, with the exception of certain minor roads and of waterways (estuaries and canals) used by both seagoing and inland shipping.

The Commission last year submitted to the Council a draft Decision setting forth the principles of a common system of charging for the use of infrastructures (52). Under this, in the road sector vehicle tax and fuel tax would comprise the infrastructure charges, and it would also be permitted to charge road tolls, while in the inland waterway sector dues would be payable generally. The charges would be differentiated as far as possible by classes of transport with differing marginal social costs.

F. Specific social rules for transport

81. A Council Decision of 1965 establishes the basic principles for social harmonization in the field of transport (53). These are as follows:

- The Member States' laws, regulations and administrative provisions relating specifically to working conditions in transport by rail, road and inland waterways are to be aligned, both within each mode of transport and, taking due account of the technical differences in their respective operations, between them.

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(50) Decision 64/389/CEE: J.O. 1964, n° 102, p. 1598;  
Decision 64/449/CEE: J.O. 1964, n° 123, p. 2064;  
Decision 65/258: J.O. n° 82, p. 1405;  
Decision 65/270/CEE: J.O. 1965, n° 68, p. 1473;  
Decision 70/108/CEE: J.O. 1970, n° L 23, p. 24

(51) Regulation (CEE) n° 1108/70: J.O. 1970, n° L 130, p. 4

(52) Proposal: J.O. 1971, n° C 62, p. 15

(53) See footnote n° 35

- The manning provisions for each mode of transport are to be standardized on a Community basis.
- Provisions concerning working periods and rest periods in each mode of transport are to be harmonized.
- Special control arrangements are to be introduced in the road and inland waterway sectors.

82. Two implementing Regulations have so far been adopted by the Council, both concerning road transport. The first contains rules on driving periods and rest periods and on the manning of vehicles (driving periods not to exceed eight hours per day and 48 hours per week, drivers on long hauls to be either accompanied or, on completion of a certain mileage, relieved by another driver) <sup>(54)</sup>; the second requires vehicles to be fitted with a mechanical recording device in order to keep a check on the driving and rest periods <sup>(55)</sup>.

83. The Community's right to make these provisions in regard to working conditions in transport derives legally from its obligation to ensure undistorted conditions of competition, which the Treaty requires it to do in such manner as to promote social progress. At the same time the fact remains that in enacting arrangements of this kind it is perforce assuming sovereign functions in respect of public safety, which were not originally assigned to it in its role as an economic grouping. A similar position will arise when, as part of the process of aligning economic legislation, the Community enacts rules on environmental conservation.

#### G. Infrastructure investment

##### a. Coordination at Community level

84. A start was made on Community-wide coordination in the matter of infrastructure investment by a Council Decision of 1966 <sup>(56)</sup>.

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(54) Regulation (CEE) n° 543/69: J.O. 1969, n° L 77, p. 49;  
Regulation (CEE) n° 514/72: J.O. 1972, n° L 67, p. 1;  
Regulation (CEE) n° 515/72: J.O. 1972, n° L 67, p. 11

(55) Regulation (CEE) n° 1463/70: J.O. 1970, n° 164, p. 1

(56) Decision 66/161/CEE: J.O. 1966, n° 42, p. 583

This instituted a procedure for consultation between the Commission and the Member States on infrastructure investment projects of Community interest, the object being to promote the coordinated development of transport links within the Community and the removal of any obstacles and breaks in continuity at the Community's internal frontiers.

The projects concerned are those for either building new communications (road, rail or inland waterways) or substantially expanding the capacity of existing ones.

Projects of interest to the Community are assessed according to their expected impact on the development of transport and trade between Member States or between the Community and third countries. Their regional implications have also to be taken into account, that is, their effect on the economic development of one or more areas of the Community.

Member States notify relevant projects to the Commission before they are put in hand, giving all necessary technical and economic details. The Commission then informs the other Member States. It must consult them on the matter if a State so requests, and may if it wishes do so of its own initiative. It must inform them of the result of the consultation, and may in conclusion issue an Opinion or Recommendation to the State concerned.

85. Quite a number of consultations have taken place in the last few years. They have not, however, given any great fillip to Community coordination or even joint planning on infrastructures; by and large all that has happened is that the parties have duly kept one another informed.

Accordingly there has been growing pressure of late to establish, over and above mere consultation, a procedure with elements of binding force for the coordination of major infrastructure investment activity in the Community.

b. Regional policy aspects

86. Moves toward more extensive Community powers on transport infrastructure are being generated and encouraged by the progressive evolvement of a Community regional policy.

As long ago as 1967, in its First Medium-Term Economic Policy Programme (57), the Council laid down guidelines as to regional aspects in the matter of transport infrastructure investment. These look well beyond mere consultations that commit nobody: they place the accent squarely on developing those European traffic routes which would give the peripheral regions of the Community the opportunity to take more part in intra-Community trade.

87. In 1969 (58) and 1971 (59) the Commission put forward sweeping proposals for a Community regional policy, concerning which the Council will be deciding in the coming months.

The proposed Decision on means of Community action regarding regional development provides for Community scrutiny of regional development plans for underprivileged areas whose betterment is in the Community interest. These are areas on the periphery of the Community, areas with an over-large agricultural population, industrial areas in process of structural change, and frontier areas between Member States.

In assessing these plans, particular attention is to be paid to the Community's needs in the matter of infrastructure improvement.

Here the usual concentration, purely by reason of the narrow existing rules, on rail, road and inland water transport only is discarded in favour of a broad economic approach, it being expressly stated that the actions also apply to seaports, airports and oil and gas pipelines.

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(57) Programme: J.O. 1967, n° 79, p. 1513

(58) Proposal: J.O. 1969, n° C 152, p. 6

(59) Proposals: J.O. 1971, n° C 90, p. 14

The Commission takes the line that infrastructure projects figuring in regional development plans should be assisted by means of a European interest subsidy fund and a European system of guarantees. These forms of aid would be available in respect of loans both from the European Investment Bank and from other credit institutions. This would mean that, for the first time, Community budget funds would be appropriated to the financing of capital spending on transport infrastructures.

c. Action by the European Investment Bank

88. By the terms of the Treaty, it is the function of the European Investment Bank <sup>(60)</sup> to facilitate, by means of loans and guarantees, the financing of:

- projects for developing less developed regions;
- projects for modernizing or converting undertakings or for developing fresh activities (i.e. creating new jobs);
- projects of common interest to several Member States.

The Bank is a Community financial establishment independent of the Community institutions proper. Its capital is furnished by the Member States themselves and by bonds raised in the markets of the member countries and in the international market.

89. Between 1958 and 1970 <sup>(61)</sup> the Bank provided loans totalling over 1400 million units of account (1 u.a. = 1 US dollar) for projects in the Member States. Rather more than 50% of this went to Italy. This is in accordance with the Treaty's annexed Protocol declaring the economic development of Southern Italy to be in the common interest.

Infrastructure projects account for over 60% of the Bank's total activity. Of these, the majority are concerned with rail, road and inland waterway transport, and with telecommunications and energy and water supply.

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(60) Article 130 EEC Treaty

(61) E.I.B. report 1970

VI. Prospects for the integration of air and sea transport

A. Preliminary note

90. In the process of European integration sea and air transport have, it is argued, to be tackled separately from the other modes of transport by reason of their worldwide links.

The Commission did try years ago, in 1960-61, to get them included in the transport debate, in the hope of arriving at a single unified approach for the whole transport field. But the Council opposed this and the attempt came to nothing.

91. In 1962 the Council exempted them from the provisions implementing the ban on cartels and on abuse of market dominance <sup>(62)</sup>. It wished to allow the Community shipping companies and airlines to continue as full members of the shipping conferences and of IATA respectively.

The present writer has never been able to see why abuse of market dominance should be looked on with any more favour in the transport field than it is elsewhere.

92. The enlargement of the Community will afford a fresh stimulus to the integration of sea and air transport.

B. Sea transport

93. Britain and Norway in particular can be expected to find a common policy on sea transport very much in their interest.

But in the present Community too there will shortly be good reason for pressing ahead towards common action in the matter of shipping policy. As from 1973, treaty-making power in respect of trade relations with the rest of the world will pass from the Member States to the Community. It

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(62) Regulation n° 141: J.O. 1962, n° 124, p. 2751

would not be practicable in the long run for negotiations on external economic relations to be conducted under two separate sets of powers, one for trade agreements and the other for shipping agreements. Moreover, it is to the interest of all Member States to take a common stand against flag discrimination.

94. The European Parliament in 1967 <sup>(63)</sup> passed a Resolution calling for a common seaports policy, and in particular for:

- such policy to be competition-oriented (this to be reflected both in the carriers' and in the ports' scales of charges);
- port authorities to keep one another informed of investment activity (especially major capital projects connected with technical innovations);
- measures to be undertaken to improve transport infrastructures between port and hinterland;
- port statistics to be comparable.

The Resolution makes a number of points concerning general economic aspects, notably external trade and development policy. On regional policy, it contains this passage:

"In the context of Community regional policy special attention must be paid to extension of port facilities in the development areas. Small and medium-sized ports are of special importance in this connection. They can be assigned a special function in regional development programmes, which could necessitate building up the infrastructures".

A new initiative by the Parliament in favour of a European seaports policy may be expected shortly. Preparatory studies have been going on for some time.

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(63) Resolution: J.O. 1967, n° 307, p. 12

C. Air transport

95. The main airlines of the Member States were in negotiation from 1957 to 1960 for a merger to form "Air Union", a supranational company with its own status in law. However, the talks ended in failure.

Even before the negotiations were broken off, an institutional clash developed between the Commission and the Council: the Member States had been holding an intergovernmental conference to negotiate a treaty of international law which was to provide the framework for the airline merger. But the Commission pointed out that the EEC Treaty required the rules in question to be drawn up by the Community institutions.

96. The European Parliament has twice called for a common policy on air transport, in Resolutions of 1961 and 1965<sup>(64)</sup>. Preparations for a new Parliamentary move in this connection are now in hand.

VII. The Commission's initiative for further improvement of the common transport policy

97. In the autumn of last year the Commission submitted to the Council a programme of further advances in the matter of the common transport policy to be achieved by 1976.

98. The programme incorporates earlier Commission proposals still pending (including those on access to the market, reconstruction of the railways' finances, rates and conditions of carriage, and infrastructure costs), and adds some new ones on matters in regard to which the Council has already undertaken to act, namely tax and social harmonization.

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(64) Resolution: J.O. 1963, n° 3, p. 70 1965, n° 96, p. 1702

99. In addition the Commission wants the Council to consider proposals on various subjects with which the common transport policy has so far been concerned only marginally or not at all: such as road safety, coordination of infrastructure investment, technological research and development, and environmental conservation.

100 It remains to be seen whether the Council will commit itself to endorsing the programme, and in particular the timetable set by the Commission. Nobody will be too surprised if it does not. It did not accept the Commission's 1962 action programme and timetable for the common transport policy. It has not even kept to its own deadlines, in its Decision of 1965, for harmonizations in State/carrier relations, transport taxes and social provisions.

Further progress on the common transport policy will be governed primarily by the overall progress of the European Community. Happily, the prospects for European integration now look more promising than they have for years.

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Appendix IIStatistics

	EEC	Future Member States	Total
1. Population 1970(in millions) as percentage of world population	190 5.2	67 1.9	257 7.1
2. Gross national product 1970 ( in billion U.S. \$) per capita gross national product (U.S.\$)	485 2555	152 2253	637 2476
3. Trade 1970(EEC and future Member States) as percentage of world trade			25
4. Trade between EEC countries - tons - value	(1958 = 100) 1969 = 276) 1969 = 535		
5. National transport in EEC coun- tries (in million tons) - railway - road - inland waterway	1963 509 . 221	1969 533 . 292	
6. Transport between EEC coun- tries (in million tons) - railway - road - inland waterway - total	68 92 27 187	77 157 60 294	
7. Transport between EEC and other countries(in million tons) - railway - road - inland waterway - total	42 16 16 74	41 16 21 78	
8. Gross national product of EEC countries 1959 (in billion U.S.\$) - total - proportion of agriculture - proportion of transport	1959 168(100%) 15.3 (9.1%) 11.8 (7 %)	1969 427,4(100%) 24.5(5.7%) 19.6(4.5 %)	1959/69 + 154 % + 60 % + 66 %

9. Proportion of transport to gross national product

- Belgium	5.4%	(1966)
- Denmark	7.0%	(1964)
- France	3.6%	(1966)
- Germany	4.4%	(1966)
- Great Britain	6.3%	(1964)
- Ireland	.	
- Italy	5.2%	(1966)
- Luxembourg	7.4%	(1966)
- Netherlands	7.0%	(1964)
- Norway	15.0%	(1964)

	EEC	Future Member States	Total
10. Private cars (in millions) 1958	10,0	5,3	15,3
1970	41,2	14,1	55,3
1958/70	+31.2 %	+16.6 %	+ 22.1%

11. Tonnage of the mercantile marine 1970 (in 1000 tdw)	28,056	48,661	76,717
as percentage of world mercantile marine	12.5 %	21.7 %	34.2 %

12. Losses of the state-owned rail-ways EEC 1969 (in billion U.S.\$)	2,7
Proportion covered by government subventions	1,7