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Report

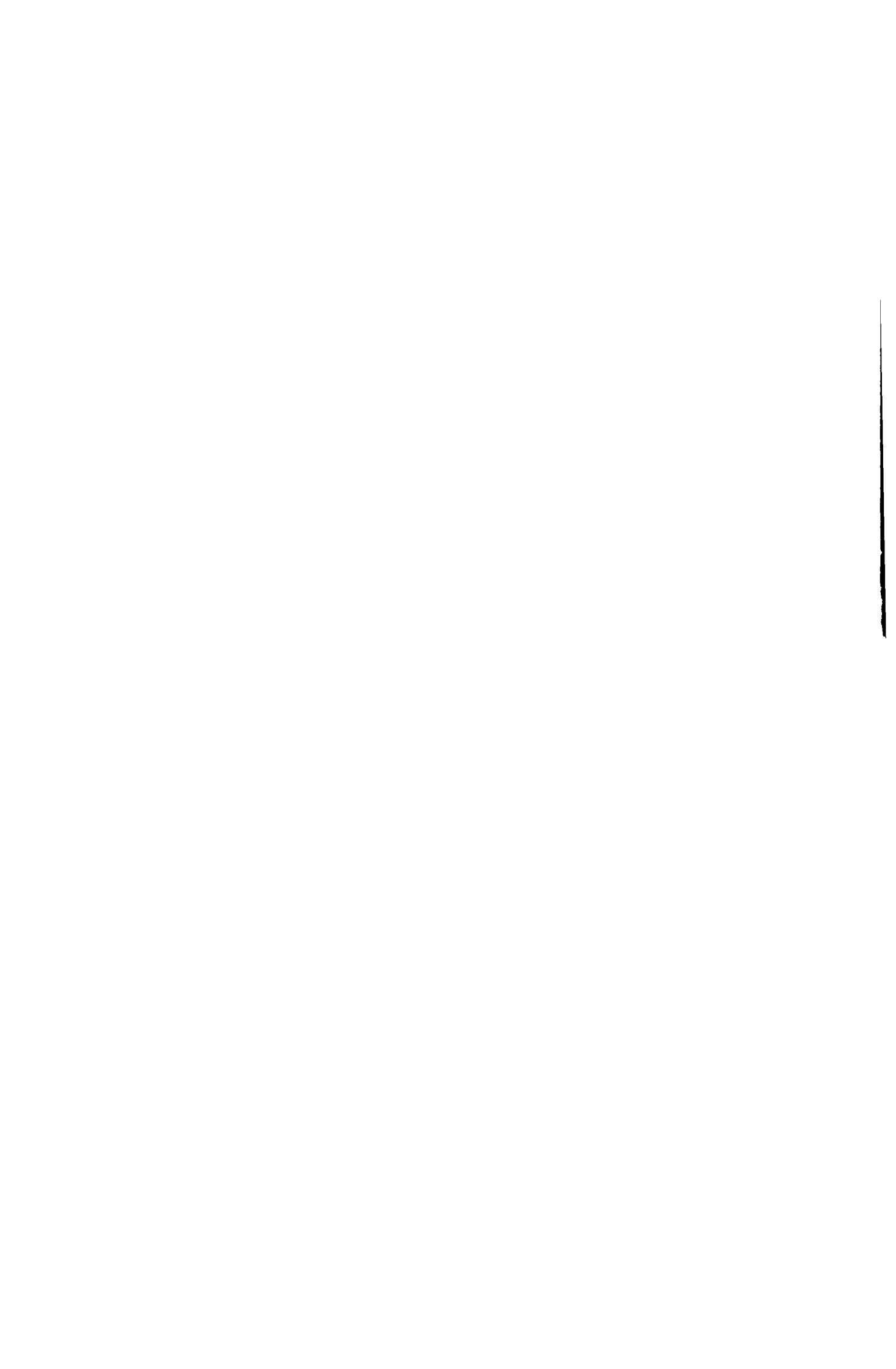
drawn up on behalf of the Committee on Regional Policy, Regional Planning and
Transport

on the present state and progress of the common transport policy

Rapporteur: Mr H. SEEFELD

1.2.3

PE 54.492/fin.



On 5 July 1976 Mr Mursch, Mr Albers, Mr Delmotte, Mr Früh, Mr Gerlach, Mr Giraud, Mr van der Gun, Mr Hamilton, Mr Härzschel, Mr Klepsch, Mr McDonald, Mr Knud Nielsen, Mr Noè, Mr Nyborg, Mr Schwörer, Mr Seefeld and Mr Vandewiele tabled a motion for a resolution on an action against the Council of the European Communities because of the latter's failure to act in respect of measures in the field of the common transport policy (Doc. 202/76).

On 5 July 1976 the motion for a resolution was referred to the Committee on Regional Policy, Regional Planning and Transport as the committee responsible and to the Political Affairs Committee and the Legal Affairs Committee for their opinions.

The Legal Affairs Committee delivered its opinion on 20 January 1977. The Committee on Regional Policy, Regional Planning and Transport and the Political Affairs Committee decided to consider the motion for a resolution in a wider context.

By letter of 26 April 1977 the Bureau of the European Parliament authorized the Committee on Regional Policy, Regional Planning and Transport to draw up a report on the present state and progress of the common transport policy.

At its meeting of 26 May 1977 the committee appointed Mr Horst Seefeld rapporteur.

On 24 November 1977 the Commission of the European Communities forwarded to the Council a document entitled 'Priority business for a Council working programme to 1980' (COM (77) 596 final, 24 November 1977), which was also forwarded to the European Parliament for its information. This working programme refers to the 1973 'Communication from the Commission to the Council concerning the development of the common transport policy' (Bulletin of the European Communities, Supplement 16/73) and to the resolution adopted by Parliament on the basis of Mr Mursch's report (Doc. 215/74) (OJ No. C 127, 18.10.1974, p. 24). Although no consultation was envisaged, the following report states its view on the working programme.

The Committee on Regional Policy, Regional Planning and Transport considered the report at its meetings of 22 September, 26 October and 28 November 1978.

At the meeting of 28 November 1978 the motion for a resolution and explanatory statement were adopted unanimously with two abstentions.

Present: Lord Bruce of Donington, chairman; Mr Nyborg, vice-chairman; Mr Seefeld, rapporteur; Mr Albers, Mr Delmotte, Mr Fuchs, Mr Haase, Mr Hoffmann, Mrs Kellett-Bowman, Mr Osborn and Mr Schyns.

The opinion of the Legal Affairs Committee is attached.

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A

The Committee on Regional Policy, Regional Planning and Transport hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

on the present state and progress of the common transport policy

The European Parliament,

- having regard to the communication from the Commission to the Council on the development of the common transport policy,¹
- having regard to the communication from the Commission to the Council on priority business for a Council working programme to 1980²,
- having regard to the report of the Committee on Regional Policy, Regional Planning and Transport and to the opinion of the Legal Affairs Committee (Doc. 512/78),
- whereas it wishes to maintain the degree of integration so far achieved within the Community and to make further progress towards economic and monetary union,
- whereas it is an indisputable fact that the present position and further development of the Community will be placed in jeopardy without a common transport policy,
- whereas it realizes that as a result of the lack of a common transport policy economic decisions even now constantly lead to misplacements of capital and labour, ill-judged regional distribution of economic activities and structural distortions in Europe's economy, since although tariff barriers have been removed distorted transport costs have come to play a role in international trade similar to that formerly played by customs duties,
- whereas it recognizes that it will become increasingly important in the next few years for the Community to be capable of taking action on transport policy matters vis-à-vis third countries,
- whereas it recognizes the need to restore the confidence of the public and of interested economic circles in the achievement of a common transport policy, this confidence having been badly shaken by developments in the years since the foundation of the Community.

1. Calls for the immediate introduction of a coherent common transport policy having regard to the groundwork completed by the Commission and Parliament over the period 1973 - 1978 and to the individual measures so far adopted by the Council;

¹ Doc. 226/73

² COM (77) 596 final, 24 November 1977

2. Welcomes the fact that the Commission has followed up its 1973 Communication on the development of a common transport policy by submitting to the Council in November 1977 a programme of priority actions for the period 1978 - 1980, and supports the Commission in this initiative;
3. Regrets, however, that the Commission did not follow up this communication along the lines suggested in the European Parliament's resolution of 25 September 1974¹;
4. Regrets also that the Council's discussions on the fundamental principles of transport policy have as yet produced no results and that at its meeting of 20/21 December 1977 the Council merely 'took note' of the working programme and the priority actions and said that it intended 'to take them into account as far as possible in its future proceedings', thereby doing nothing to dispel the uncertainty that prevails with regard to transport policy during the coming years;
5. Welcomes the fact that at its meetings in the second half of 1977 the Council at least took steps to avoid a complete absence of legislation in some sectors in the Community, and that once again some modest progress was made in extending Community regulations;
6. Calls on the Council at one of its forthcoming meetings to draw up a working programme based on Parliament's proposals and the Programme of priority actions, proposed by the Commission in 1977;
7. Calls on the Commission to take new steps to prepare the ground for these decisions and furthermore to submit to the Council, on the basis of its 1973 communication and the 1977 programme of priority actions, a coherent network plan for the introduction of a balanced common transport policy and, as early as possible, a Council work programme for the years after 1980, in the form of a proposal for a resolution, on which the Council could consult the directly elected Parliament as soon as possible after the latter's constitution;
8. Urges that priority be given to the following transport policy objectives, which are of immediate importance:
 - improvement of the financial situation of the railways, inter alia by encouraging cooperation between them;
 - improvement of the situation of transit traffic through Austria and Switzerland, in particular by allocating road costs fairly, improving infrastructures and encouraging combined transport methods;
 - defence of the EEC's sea transport interests against the expansionist

¹ OJ No. C 127, 18.10.1974, p. 24

policy pursued by some third countries;

- promotion of air transport safety and adaptation of Community policy to the major changes about to be made to international air transport policy;
- regularization of the Community's foreign relations in the inland waterway transport sector, in particular through the Community's accession to the Mannheim Convention;

9. Calls on the Council and Commission to review the Community's working methods in the transport sector, taking particular account of the following proposals:

- the staff of the Commission's Directorate-General for Transport should be increased;
- the Commission should take more collective action on transport questions;
- there should be permanent contacts between the Commissioner responsible for transport questions and the Transport Ministers outside Council meetings ('hot line');
- the Council of Transport Ministers should meet more frequently, at least four times a year;
- the Council should not meet only to discuss documents which are ready for signature but also to take general policy decisions on the basis of Commission proposals;
- the Permanent Representatives Committee (transport working party) should be given clear directives and allowed greater freedom of negotiation within the framework of an overall approach;
- the Council should expand its own secretariat in the transport sector to prevent the occurrence of bottlenecks;
- the Permanent Representatives' work on transport policy should be performed more rapidly in several specialist groups (e.g. for (a) sea transport, (b) ports, (c) air transport, (d) transport taxes and importation of road costs, (e) transport safety, etc.);

10. Reserves the right to reconsider, immediately after direct elections, the question of instituting proceedings against the Council before the Court of Justice of the European Communities under Article 175 of the EEC Treaty for failure to take action in the transport sector;

11. Calls on the appropriate bodies of the parties, political groups and governments to ensure that a sufficient number of transport specialists are Members of the European Parliament and the Economic and Social Committee;

12. Impresses urgently on the Council, the Commission and the public that unless the Community succeeds in the very near future in establishing an intra-Community common transport system and makes itself capable of effective action in the field of transport policy vis-à-vis the outside world it will be beset by grave dangers that will undermine its entire economic position;
13. Instructs its President to forward this resolution and the report of its committee to the Council and Commission of the European Communities.

EXPLANATORY STATEMENT

1. This report forms part of the series of outline reports submitted to the European Parliament on the question of the introduction of a common European transport policy. Your committee has been able to draw upon the earlier reports mentioned below; unfortunately so little progress has been made on a Community transport policy that the facts set out and the conclusions drawn in them are still valid. Your committee will try to repeat as little as possible of the material already set out in these earlier reports.

2. There does not now seem to be very much need to discuss aims and objectives, as these have been clearly spelled out by Parliament in its earlier reports and resolutions. This report is therefore more concerned with the ways and means of implementing these objectives.

3. The report accordingly begins with a brief critical analysis of the present situation with regard to Community legislation in the transport sector and attempts to outline as clearly as possible the reasons for the inadequate progress on a common transport policy (Section I).

It then goes on to explain once again the need for a common transport policy and the drastic consequences that could ensue in the next few years if such a common transport policy is not established in the near future (Section II).

An attempt is then made to work out a strategy for the implementation of a common transport policy (Section III) and to demonstrate, at least in broad outline, how an appreciation of the interaction between all transport policy measures - which may be illustrated by means of a network plan - can help to show which important basic decisions on transport policy must be taken with the utmost dispatch, as without these cornerstones no progress or expansion is possible (Section IV).

Finally, your committee puts forward proposals for improving the institutions' working methods, as it has become clear that many important decisions have not been taken because of shortcomings in the Community's decision-making machinery (Section V).

SECTION I

The present position with regard to Community legislation in the transport sector

4. This section follows more or less the same order as that adopted by the Commission in its Documentation Bulletin B/3: 'Transport bibliography, 1978'. In an effort to prune the text of footnotes, we shall refer to this publication when quoting Community legislation.

1. Outline of existing Community regulations and Commission proposals submitted to the Council and not yet dealt with

5. After the last meeting of the Council of Ministers in November 1978 the position with regard to Community legislation on transport questions was as follows:

Legal basis in the Treaties

6. The legal basis for the common transport policy consists of Articles 3(e), 61 and 74-84 of the EEC Treaty, together with all general provisions of the Treaty, insofar as they are not declared by special provisions to be inapplicable to the transport sector. A further legal basis is Article 70 of the ECSC Treaty and Article 10 of the Convention on the Transitional Provisions of the ECSC Treaty. The period of validity of these provisions has expired, but the Court of Justice of the European Communities has ruled that they still remain valid, as far as points of fact are concerned.

7. Without wishing to analyse this legal basis in the Treaties more closely, as this has already been adequately done in earlier reports by your committee and by the Commission of the European Communities, it should be clearly pointed out once again that, while the Treaties set out no clear legal basis for a transport policy, they make it very plain that they are charging the Community's institutions with the task of introducing such a common policy.

Discussion of the basic principles of a common transport policy

8. The Commission has made several attempts to steer the Community towards the broad outlines of a common transport policy. The most important steps taken in this connection were the memorandum of 1961, the action programme of 1962 commissioned by the Council of Ministers, which still kept an open mind on the ideas set out in the memorandum, and the Commission communication of 1973, which was followed in 1977 by a new working programme.

9. The Council has never approved an overall plan; in fact, so far it has devoted to the Commission's views, which still remain valid, only a number of extremely vague discussions, which have led to no practical results.

10. For its own part, it has adopted a limited number of decisions of principle, which, however, have likewise failed to yield any practical results.

11. Possibly the nearest approach to a breakthrough on a common transport policy was made on 22 June 1965, when the Council adopted a resolution on a prices policy. This resolution was made possible by the fact that the advocates of a controlled transport market agreed to a somewhat greater degree of price flexibility within the framework of a tariff margin, while the advocates of a transport sector organized as far as possible along free enterprise lines agreed to a somewhat greater degree of price control. Unfortunately, however, only a few days after this resolution was adopted the Community's work was brought to a halt for completely different reasons, namely, because of the 'empty chair' policy pursued by the French representatives. During the ensuing standstill on transport policy it was realized that the price policy agreed upon could not be implemented unless a common capacity policy was worked out at the same time. On 20 October 1966 the Council adopted a resolution on the organization of the transport market, which was not only never published but, in fact, never achieved any positive results. At any rate all the proposals drawn up by the Commission on the basis of these resolutions simply remained stuck in the Council pipeline.

12. Later still, for example on 14 December 1967 and 7 December 1970, the Council adopted various other resolutions on transport policy in general and on cooperation between the railways, but these also failed to yield any practical results.

13. The only time in all these years when the Council laid down a solid foundation for future legislation was when it adopted an outline decision on harmonization; this was also in the year 1965.

The decision in question is that of 13 May 1965 on the harmonization of certain provisions affecting competition in transport by rail, road and inland waterway. Like the action programme that preceded it, this decision is only a collection of instructions to the Commission and dates by which the Council undertook to adopt the relevant proposals. It is extremely rare for legislators in the Member States to enact legislation of this kind; however, in view of the nature of the Community's institutions and the way in which agreements are reached and decisions taken in the European Community, it would appear to be a feasible approach, if - and this is the difference between a successful decision of this kind and unsuccessful action programmes - the Council is sufficiently convinced of the value and appropriateness of the measures proposed. At all events, this outline decision could possibly serve as a model for future legislation in the transport sector.

The decision gave clear instructions with regard to a fairly wide range of issues and became the basis for all future work on social harmonization, the revitalization of the railways, competition rules in transport and, less successfully, fiscal harmonization.

14. The European Parliament has made important contributions to the debate on developing the basic outlines of a common transport policy. As far back as 1957 the Common Assembly submitted the first Kapteyn report, which contained a fully elaborated common transport policy. This was followed in 1961 by the second Kapteyn report (Doc. 161/61), a report by Mr Müller-Hermann (Doc. 18/21/62) containing an opinion on the Commission memorandum and a report by Mr Brunhes (Doc. 132/62) containing an opinion on the Commission's action programme. After more than ten years these were followed by Mr Mursch's report (Doc. 215/74), which contained an opinion on the 1973 communication from the Commission.

15. The European Parliament adopted all the resolutions in question with the utmost unanimity, and in Mr Mursch's 1974 report it is expressly stated that the guidelines laid down in the pioneering Kapteyn reports of 1957-61 are still valid even now.

16. The present report draws also on these earlier reports. Your committee notes with regret that the basic principles of transport policy are still being discussed and that the principles laid down earlier by Parliament have never been explicitly adopted by the Council of Ministers. In view of radical changes in the membership of Parliament it has once again become useful and necessary to reaffirm the line to be taken on transport policy, which must strike a balance between control and free enterprise. Your committee considers it important that this general line be reaffirmed, even if the majority in favour of it might not be as overwhelming today as it was previously.

17. The Commission has indicated on various occasions that it feels that a kind of 'tacit agreement' has emerged on the line on transport policy proposed by the Commission and Parliament. Unlike your committee, it no longer considers that any useful purpose would be served by discussing these basic questions in the Council.

18. Your committee does not feel that a tacit agreement, which is only presumed to exist, can be an adequate basis for the speedy introduction of a common transport policy. It feels that unless the direction to be taken is clearly indicated, there can be no question of winning the confidence of those sections of the population and those economic undertakings directly concerned, or of expecting them to make the sacrifices and concessions that a common transport policy will require.

19. In this report therefore your committee puts forward a proposal for a new strategy for the further development of a common transport policy. This strategy will provide a means of escaping from the dilemma caused by the fact that the Council has compelled the Commission to pursue a policy of small steps.

Consultation procedures

20. The agreement under the Treaty to pursue a common transport policy made it necessary, in the transitional period until this transport policy was established, a period which unfortunately seems to be prolonged indefinitely, to take steps to ensure that at least the Member States' regulations on transport policy did not diverge any further from each other than was the case when the Treaty was concluded. In order to prevent this happening, a consultation procedure was established as far back as 1962, in accordance with which the Member States are obliged to notify the Commission of all new measures in the field of transport policy before they enter into force. The Commission then adopts an opinion on these measures and gives its recommendations. On the basis of this consultation procedure, the last amendment to which was made in 1973, the Commission has delivered a relatively large number of opinions together with recommendations (83 opinions in all at 15.5.1978).

21. By and large the Member States seem to have followed the Commission's recommendations; at any rate no actions have been brought before the Court of Justice as a result. It must be admitted, however, that in making its recommendations the Commission was operating from a position of extreme weakness. In evaluating new draft legislation in the Member States it had to state its case on the supposition that there would be in future a common transport policy, something that has never been confirmed by the Council. If it objected to one proposed measure or another on behalf of the Community's general interests, it did so in the absence of any Community legislation and merely on the basis of the presumed tacit agreement with regard to the form any future common transport policy would take.

22. Consultation procedures for infrastructure policy were also agreed upon in 1966 (these were substantially revised in 1978) and for sea transport in 1977.

From 1966 to 1978 the consultation procedure on infrastructure policy functioned extremely inadequately, as the Member States normally notified the Commission of their projects for building transport links only at a very late stage in the planning, when virtually nothing could be changed. In at least one spectacular case (the Channel Tunnel) the Commission was obliged to learn from the newspapers, notwithstanding the consultation procedure, that the British Government had abandoned the project. It cannot as yet be predicted whether the new procedure, involving a special committee to advise on infrastructure projects, will produce any better results.

23. On 13.9.1977 a consultation procedure for sea transport was introduced to deal with relations with third countries and international organizations. This procedure was widely welcomed as the first step towards a common shipping policy, but the Community's position in all efforts to cooperation vis-à-vis the outside world is bound to remain extremely weak, unless at the same time a greater degree of internal unity is achieved in the form of a common shipping policy within the Community.

Advisory committees

24. In order to assist the Commission and the Council a number of advisory committees have been set up since 1958 in which interested parties can make their views known or the Commission is able to maintain permanent contact with experts.

25. The advisory committees set up by virtue of the Treaty itself should first be mentioned. These are the Economic and Social Committee, which is helping to draw up the blueprint of the common transport policy through its section for transport and communications, and the advisory committee mentioned in Article 83 of the Treaty.

26. On the basis of its own decisions the Commission has set up three joint committees to advise it on social matters relating to transport - one in 1965 for road transport, one in 1967 for inland waterway transport and one in 1972 for rail transport. There is still a crying need for a committee of this kind to deal with social questions in the sea transport sector, but one will presumably be set up shortly to supplement the consultation procedure, particularly in view of recent shipping disasters, which to some extent have social implications.

27. On the basis of various Council regulations advisory committees have also been set up for cartels (1968) and subsidies (1970) in the transport sector, as well as advisory committees on international road transport tariffs (1968) and the aforementioned committee on transport infrastructures.

28. For many years now the committees dealing with ECSC railway tariffs have been functioning smoothly - the committee for direct ECSC tariffs since 1955 and the committee on cooperation with Switzerland since 1956 and the committee on cooperation with Austria since 1957. Apart from these committees the Commission is empowered at any time to convene ad hoc groups of experts to advise it.

Competition rules

29. After ten years during which the application of the Community's general rules on competition had to be repeatedly suspended for transport matters, a regulation on special competition rules in the transport sector was finally

adopted in 1968. Although various mergers and practices specified in the Council regulation of 19 July 1968 are forbidden, the number of derogations and concessions that may be granted by the Commission is so large that in practice this piece of legislation merely provides a check on abuses.

Fiscal harmonization

30. A common transport policy is pointless unless it is accompanied by harmonization of the most important taxes peculiar to the transport sector, namely taxes on oil and motor vehicles, and this is precisely the area in which the Community has as yet completely failed to make any progress.

The 1968 Council directive concerning the duty-free importation of fuel contained in the ordinary fuel tanks of commercial motor vehicles is inadequate and in continual danger of being circumvented. It is evident even from this relatively unimportant measure that no progress is possible unless the overall context is borne in mind. Unless rules are adopted to regulate the charges for the use of transport infrastructures and to deal with competition between ports, no further progress can be achieved in this field.

The Commission proposal to raise the duty-free fuel allowance from 50 to 100 litres failed because the Commission had not taken into account the implications for competition between ports.

31. The question of harmonizing motor vehicle taxation has been in abeyance since 1965 in spite of the decision to adjust the tax assessment criteria, and the Commission's implementing proposals have not yet been adopted by the Council, even though they were submitted in 1968. The Commission has not yet plucked up the courage to consider harmonizing taxation rates, and Commission proposals on the harmonization of taxes on oil, or at any rate taxes on fuel, seem just as utopian today as they did in 1958. Nevertheless they are an absolute necessity, if we are ever to have a free transport market.

Harmonization of State interventions

32. Under this heading the Commission includes all Community measures dealing with transport requirements and subsidies or, to be more precise, with problems mainly affecting the railways.

Articles 77 and 78 of the EEC Treaty indicate that the Community must help to shoulder the burdens that the railways have to bear because they provide a public service, and must contribute to the aids granted to them for the discharge of these obligations and for the coordination of transport.