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Progress on Trans-European Networks

Report to the Madrid European Council

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the European Council, the Council and the European Parliament

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1. The development of Trans-European Networks (TENs) has long been a priority for the European Union. The importance of TENs was included in the Treaty on European Union, underlined in the Commission's White Paper on Growth, Competitiveness and Employment and confirmed at a series of European Councils. Action at the Union level to develop TENs aims at bridging the missing links in Europe's networks to make its economy more competitive, bring jobs and reinforce cohesion.
2. There has been progress, particularly on implementing the TENs priority projects, but too many problems remain. The Commission considers that more effort needs to be made to solve these problems. Member States should give higher priority to TENs projects, especially in view of their "Community benefit" which is more than originally thought. There are financial problems for several priority projects, implying the need further to encourage public/private partnerships, as well as having consequences for the necessary decisions, requested at Essen, to "top up" the funds currently available for TENs.
3. This report outlines the progress achieved and the problems encountered in developing TENs, followed by a series of conclusions and recommendations. These issues are dealt with more extensively in the TENs Annual Report.

1. Progress achieved

4. There has been progress over the past year in the implementation of trans-European networks (TENs) involving Community support in 1995 under various headings of 1.5 BECU in grants and almost 3 BECU in loans and guarantees.
5. The TENs financing regulation governing Community financial support in terms of co-financing of feasibility studies, interest rate subsidies, guarantees and direct grants, was agreed in September this year allowing the 1995 Community budget TENs funds of 274 MECU to be committed. This instrument allows Community support in addition to existing structural assistance. See annexes 1 and 2 for summaries of legislative progress and budget spending.

1.1 Energy

6. Six out of the ten energy priority projects costing 4350 MECU are under construction, the five natural gas projects and one of the electricity projects. In 1995 particular progress has been achieved concerning the natural gas projects in Spain and Portugal. Since 1993 775 MECU of grants have been committed for priority projects out of the Community budget, almost 1.4 BECU of Community loans, as well as guarantees for 200 MECU from the European Investment Fund (EIF). Construction has also begun in a few cases on the other projects of common interest identified in the TEN energy guidelines, which it is hoped will be adopted in December 1995.
7. For energy networks, there exist a number of "mutual interest projects" involving

third countries. In particular, the CENTREL electricity grid, involving Poland, Czech Republic, Slovakia and Hungary, will be permanently linked to the UCPTE grid (the main European electricity grid) this year. Extension of the UCPTE grid to the Balkan countries and interconnection with the CIS countries are the subject of Community funded studies, as are East-West gas interconnections in Europe.

1.2 Telecommunications

8. Trans-European telecommunications and services form the backbone of the information society. Spending in this area from the Community budget since 1993 has amounted to over 300 MECU, of which a substantial part has gone to TENs projects. Preparatory actions are under way involving 22 MECU on feasibility studies and pilot projects in the domains of EURO-ISDN ("Integrated Service Digital Network", involving health care, teleworking, education, applications for small and medium-sized enterprises and desktop multimedia services) and of broadband communications (involving on-demand services, multimedia e-mail, scientific networks, city information highways, and transfer of radiological images). Progress has also been made in the system for the interchange of data between administrations (IDA) for which a legal basis has been agreed.

1.3 Environment

9. Following the mandate from Essen concerning environment networks, the Commission established a high level group that has defined criteria for "Joint Environmental Projects" (JEPs). These would consist of actions by Member States together to develop projects of common interest for environmental protection or improvement. A series of examples of possible JEPs was identified, including waste management (collection, treatment and recycling) and water management (flood prevention, river basin management, wastewater treatment).

1.4 Transport

10. Since 1993, over 5 BECU have been spent on the trans-European transport network from the Community budget, of which 182 MECU for the 14 priority projects is set to be committed in 1995, 6.4 BECU have been lent by the European Investment Bank and 160 MECU guaranteed by the European Investment Fund. Since 1993, work has started on adding or upgrading more than 2,000 kms of railways and 2,500 kms of roads within the TEN.

11. The fourteen priority transport projects are clearly huge international infrastructural schemes and assessing progress on them is, consequently, not a simple task. Building new or upgrading existing large-scale transport infrastructure is a process that takes place in stages over many years. Also numerous technical, financial and environmental feasibility studies are required. Sometimes one part of a project can be progressing well while another faces problems. Nevertheless, it is clear that *progress has been made on many of the priority projects* mentioned in Essen (see Annex 3 for an overview).

12. The Commission believes that the definition of several of the priority projects should be adapted to reflect better the needs of the trans-European network. In particular, the High Speed Train (HST) East could be extended to the east and renamed the HST Paris-Munich-Vienna. The rail/combined transport north-south route in Ireland could be extended to Londonderry in the north. The Lisbon-Valladolid motorway in Portugal could be re-routed. The definition of the Ireland-UK-Benelux corridor could be extended to cover combined transport. These adaptations should be carried out in the context of discussion on the TEN guidelines.

13. The Commission considers the development of TEN links to central and eastern Europe as a fundamental part of the pre-accession strategy for these countries and is therefore concentrating efforts on these tangible connections. The Commission chairs the G24 group on these matters. In the transport area, Community support is geared to the nine 'Crete Corridors' in line with the conclusions of the Pan-European Conference in 1994. Memoranda of Understanding for the Berlin-Moscow and the Helsinki-Moscow-Alexandroupolis corridors have been signed (extending the latter into Greece). The Barcelona Euro-Mediterranean Conference is expected to create a framework for the identification and further promotion of infrastructure projects in that region to intensify links with the TENs. Interoperability of traffic management systems with those in third countries has been a concern, especially in the railway sector; this is being taken into account in the creation of a European Global Navigation Satellite System (GNSS).

2. Problems encountered

14. In spite of the progress achieved in developing the TENs, there are still substantial problems.

2.1 Energy

15. The implementation of several priority energy projects is facing problems. The Italy/Greece, France/Italy and France/Spain electricity interconnections are all facing problems related to planning authorisation. Problems concerning economic appraisal and/or financing are still affecting, amongst others, the Italy/Greece electricity interconnection, the Denmark East-West electricity connection and the Greek natural gas project

2.2 Telecommunications

16. The bottleneck in the field of telecommunications concerns mainly the interoperability of generic services and the development of applications. The liberalisation of the telecommunications market means that projects tend to have their origin in market initiatives or due to social needs. There are a number of challenges relating to implementation:

- Raising awareness of users to the advantages of Information Society tools.
- Organisation of private/public partnerships to realise services and applications

responding to public interest needs.

- Limited budgetary resources requiring maximisation of their leverage effect.

2.3 Environment

17. In the environment field, Joint Environmental Projects (JEPs) are not yet at an operational stage. Such projects are held back by difficulties as to the sharing of costs and benefits in relation to territorial impact, concerning the promotion of public/private partnerships, over administrative and regulatory procedures and related to decentralisation. The Commission considers that there is a case for incentive financing from the Community of feasibility studies, pilot projects and demonstration plants. Although limited, some incentive financing could be considered through the LIFE budget line or from structural assistance. Also, provisions should be considered so that JEPs could receive administrative and financial support analogous to that provided for TENs. Further progress will depend on the degree of involvement of the EU in such projects.

2.4 Transport

18. While there has been progress (outlined above) on many aspects of the trans-European transport network and especially the priority projects, there are also numerous problems in their implementation that need to be brought to the attention of the European Council (see Annex 4 for details of problems related to the priority projects)

2.4.1 TENs transport guidelines

19. The guidelines for the trans-European transport network on a multi-modal basis have been proposed by the Commission and are subject to the co-decision process (Article 189b). They are at present proceeding only slowly through the legislative process, blocked by disagreement between the Council and the European Parliament on whether to include the priority projects agreed at Essen and on whether to include an article on the need for environmental assessments.

20. These blockages obviously give a negative signal to those involved and to public opinion. The Commission has said directly to the Council and the Parliament that both should make more effort to resolve their disagreements, which are relatively minor compared to the benefits that development of the TEN will bring.

2.4.2 Level of prioritisation in the Member States

21. A first category of problems in the implementation of TEN projects relates to the reluctance of Member States to adapt their national priorities to take account of the trans-European networks. While welcoming the concept of TENs and their advantages for Europe in terms of jobs and competitiveness and economic cohesion, many countries take the attitude that it is up to other countries to develop the network while they concentrate on national priorities without adapting their planning.

22. Methods used by national authorities to evaluate the socio-economic benefits of their sections of large scale cross-border infrastructures substantially underestimate the true gains because they each exclude the benefits to non-nationals. Such methodology may be quite appropriate when deciding the level of national subsidy for a national project, however it means that, taken together, the national measures of socio-economic benefit miss out at least half of the international benefits.

23. For instance, research done for the Commission in the context of the Paris-Brussels-Cologne-Amsterdam-London (PBKAL) High Speed Train working group and endorsed in their report shows that including these neglected benefits increases the socio-economic return of the project by a quarter taking it up from 7.2% to 9.5%.

24. This international element of the socio-economic return of a particular priority project can be thought of as the 'Community benefit'. Work is currently underway to measure how much has been neglected for other priority projects, although figures as large as that found for the PBKAL are unlikely since that project concerns so many Member States.

25. Failure to take account of the 'Community benefit' of the priority projects is one aspect of a recurring problem of low or conflicting national priorities for many of the priority projects. This is reflected in terms of slow progress in defining projects (e.g. Brenner), conflicting scheduling on the part of national authorities each side of the border (e.g. PBKAL, HST-East), failure to resolve financing questions (e.g. PBKAL, Brenner, HST-East) and inability to form multinational project authorities to coordinate work on projects (e.g. PBKAL, Brenner). The "TEN Annual Report" provides a more detailed analysis of problems concerning the priority projects. In view of the missing calculation of Community benefit, the Commission believes that Member States should re-examine the prioritisation at present given to TEN projects and especially those endorsed as priority projects at Essen.

2.4.3 Financing for transport TENs

26. Financing is inevitably a difficult issue for large infrastructure projects. There are various approaches to it in which the Commission is involved. The first is to reduce the costs of a project without compromising its economic viability. The second is to encourage private/public partnerships in order to bring private finance and, just as important, private initiative and ideas into play. Third, there is the role played by Community financial support, particularly from the budget and through the European Investment Bank (EIB) and European Investment Fund (EIF).

- **Reducing costs**

27. The Commission was asked at the Cannes European Council to re-examine the financial estimates for the priority projects to see whether costs could be reduced without affecting their viability. This has been carried out in co-operation with the Member States concerned. Apart from the Munich-Verona (Brenner) project for which a major study is in preparation, the result is that *there are no possibilities of significant cost reductions without severely affecting the viability of the projects concerned*. The Commission is

prepared, with the help of expert advice, to go more deeply with the Member States into the question of possible cost reductions; however, it considers this matter primarily a responsibility of the authorities in the Member States concerned.

- **Private/public partnerships**

28. In line with the requests of the European Council, the Commission has spent much effort encouraging private/public partnerships (PPP). These would bring not only new sources of finance, but also fresh ideas and methods into the provision of infrastructure. Progress in their implementation has not been particularly good. The reasons for this are varied, but in most Member States, in spite of support for the principle of PPP, there still seem to be considerable obstacles to their implementation for particular projects.

29. Of the 14 priority projects most are purely public, but some have left some scope for the involvement of private partners (Malpensa, TAV Turin-Venice, NL and UK sections of PBKAL, WCML, IRL-UK-Benelux road links, PATHE and Ignatia roads). Of those priority projects still at a more conceptual stage, the Lyon-Turin HST, the Munich-Verona (Brenner) HST/CT, Lisbon-Valladolid, the second stage of HST-East and the HST South projects are all serious potential candidates for private/public partnerships.

30. Administrative and regulatory procedures in the public sector are still ill-suited to this relatively new way of providing transport infrastructure, thus diminishing the prospects of attracting private sector participation. This requires action at the EU level. For its part, the Commission has now approved its own guidelines on the application of Community competition¹ and public procurement rules with a view to facilitating private/public partnerships (see annexes 5 and 6). The Commission has also set up a One-Stop Help Desk (fax: 32 2 295 6504) on these matters encouraging early consultation by project promoters to give better guidance and support. Parallel action on the application of national procedures is now necessary to provide a friendlier framework for PPP.

31. The lack of financial profitability that is an obstacle to PPP in many projects often relates to the insufficiency of project-related revenues. This underlines the need to consider the application of direct user charges. These would help to improve the structure of pricing and to internalise transport's external costs (congestion, noise, air pollution, accidents). The issue of fair and efficient pricing will be the subject of a Commission Green Paper that also deals with the Cannes European Council's request to examine how to establish fairer competition between modes of transport.

32. There is no doubt that public funds (national or Community) are needed to fill the financial profitability gap inherent in most of the priority projects, but there is also a 'confidence gap' related to the risks attached to projects. This can be most efficiently filled by provision of various forms of public equity rather than grants. Public equity support would attract investors and would introduce new forms of flexibility in the financial structure of PPPs. Member States should consider their involvement in providing

¹ The competition guidelines apply to all TENs sectors

public equity and the Commission will investigate whether part of the TENs budget line could usefully be channelled into public equity, probably through the European Investment Fund (EIF). In that context, the Commission supports allowing at its next general meeting the EIF to undertake equity operations. The Commission is also examining other ways of reducing the confidence gap by helping counter non-commercial risk, since this is identified by the private sector as a particular obstacle to its involvement. The Commission will report on its work in 1996.

33. In some Member States there are legal obstacles preventing private sector participation in certain projects. The Member States concerned should consider changing that legislation where necessary.

34. A strong message from the private sector concerns the cautious, if not negative, attitude to private/public partnerships of many public administrations. This underlines the need for continued political pressure to promote PPPs. In addition, procedures need to be developed within administrations to encourage the PPP option to be examined at an early stage in a project's development.

- **Community budget**

35. Member States in 1995 have put in requests for 1600 MECU of support on the TEN budget line involving over 500 projects, which is more than six times the available funds for transport for 1995 (240 MECU). Requests for the priority projects came to 600 MECU, over three times the amount set aside for them (180 MECU). Yet only 5% of these requests have been for interest subsidies and guarantees, which are foreseen in the TENs financing regulation in order to promote public/private partnership during the construction phase, as opposed to the traditional direct grants. The Treaty, however, does not specifically mention direct grants. Moreover, the Commission considers that direct grants are not always the most efficient form of Community support, given that interest rate subsidies and guarantees are designed to provide flexible tools to attract additional finance from the private sector.

36. The Commission has drawn up a multi-annual framework for the financing of the priority projects covering public, private and Community funding. Analysis of this based on figures provided by the Member States shows severe financing problems for two projects in particular that have been examined in depth, Paris-Brussels-Cologne-Amsterdam-London HST (PBKAL) and HST-East. For the PBKAL there are financing shortfalls requiring Community support over the period 1995-1999 for the Belgian section (200 MECU), the Netherlands section (120 MECU) and the UK section (240 MECU). For the HST-East the shortfall has been estimated at 200 MECU.

37. Although requests for Community support could in these cases be justified, it would not be possible to cover the shortfalls through the TEN budget line at its current size. The shortfalls, together with the analysis showing that the Community interest has not been properly measured, should be taken into account by the institutions concerned when taking the necessary decisions, requested by the European Council at Essen last December, to "top up" funds currently available for the trans-European networks.

- **Project authorities**

38. The Commission takes the view, based on its experience of the implementation of large multinational infrastructure projects, that a project authority should be created - at least temporarily - to organise and implement any such project. A project authority would include the various public sector bodies involved, as well as private partners where appropriate; it would therefore facilitate private/public partnerships.

39. Successful examples are those already set up for the Oeresund link, the HST Lyon-Turin and the HST South, though their development is held back by the lack of a European Company Statute, which would allow their development into profit-making bodies once construction starts. At present no suitable legal vehicle exists at Community level, thus unnecessarily increasing project costs and hampering development.

40. The Commission has set out a framework for how project authorities could operate in Annex 7. It supports the speedy adoption of the European Company Statute in the light of recent progress regarding information and consultation of workers.

2.5 The Commission's work on TENs projects

41. With a view to helping accelerate the implementation of TENs projects, the Commission for its part intends to achieve a greater focus of effort of its services working on TENs projects and to intensify its day-to-day cooperation on project-related issues with national authorities, the EIB, the EIF and private promoters. It will also examine the possibilities to invite national authorities to second officials temporarily to the Commission as and when justified to help tackle problems on specific priority projects in the Member States concerned.

3. Conclusions and Recommendations

42. Trans-European networks are vital to jobs, competitiveness and cohesion in the European Union. Considerable progress has been made since Essen, but there remain substantial problems related to the level of priority of TENs projects in Member States and, especially in transport, their financing requires greater effort.

43. For **energy** TEN, the Commission considers that there is a need for Member States to speed up the examination of requests for authorisations. Similarly, the EIB should continue the examination of requests for financing for priority projects. The rapid adoption of the TEN energy guidelines is essential so that the Commission can implement them soon. The creation of the Internal Energy Market should also be a priority.

44. As far as **telecommunications** TEN is concerned, speedy adoption of the proposed TENs Telecom Guidelines is needed, together with confirmation of the importance of the IDA Programme as an essential component of TEN-Telecom.

45. The development of **environmental** network infrastructure requires approval of the definition of Joint Environmental Projects (JEPs) and their selection criteria. The

Commission also supports moving forward into an operational phase in which a limited number of pilot projects in the waste and water sector will be selected and launched. Provisions should be considered so that JEPs could receive administrative and financial support analogous to that provided for trans-European networks.

46. For the **transport** TEN, the Council and European Parliament should compromise in order to adopt the transport network guidelines as quickly as possible.

47. Progress has been slower than anticipated on parts of some priority projects. The Member States concerned need to make concerted efforts to solve the problems that are holding up these projects, which will require national priorities to be adapted in consequence. Unfortunately, the national authorities concerned see no potential for substantial cost reductions without severely affecting the scope and viability of most of the priority projects. Research done for the Commission shows that the socio-economic return of international transport infrastructure projects is greater than previously thought. This should be taken into account when adopting the necessary decisions, requested by the Essen European Council, to "top up" the funds currently available for TENs.

48. Although the examination of individual priority projects shows substantial scope for enhancing the involvement of the private sector, very few public-private partnerships (PPPs) are being set up. In order to help in their promotion, the Commission has set up a "One-Stop" Help Desk on the application of Community public procurement and competition rules in relation to PPPs. It urges Member States to keep up political pressure to implement PPPs and, where there are legal or administrative barriers to the implementation of PPPs, to make any necessary changes. There is a need to develop public support mechanisms, including public equity, particularly for projects involving mixed sources of financing. Therefore the Commission supports the widening of the activities of the EIF to equity operations.

49. Unfortunately, Member States' funding for the priority projects has not always been made available as anticipated, resulting in delays in progress. Clear financial shortfalls are revealed so far for two priority projects, for which the Member States concerned are seeking Community financing:

<u>Project</u>	<u>Financial shortfall (1995-99)</u>
PBKAL. Belgian section	200 MECU
Netherlands section	120 MECU
UK section (CTRL)	240 MECU
HST East	200 MECU

50. The Commission urges the Member States concerned to complement the measures they have already taken and try to identify additional support to help meet these shortfalls. The current TEN budget line cannot accommodate these requests, and if Member States'

action were to fail to make up the financial shortfalls, this would lead to serious delays to these already mature projects. Given the strong element of Community interest in these projects, additional Community support would be justified.

51. The Commission welcomes the establishment of "project authorities" in the form multi-national European Economic Interest Groupings (EEIGs) for the promotion phase of certain links to ensure better coordination and promote the possibilities of PPPs. It notes the particular problems that have arisen in some railway projects and urges the Council to adopt a European Company Statute, which would provide a legal vehicle for cooperation during the construction phase.

52. The Commission will focus its own work on TENs projects more sharply to help **accelerate progress on the ground.**

Annex 1: PROGRESS OF TEN LEGISLATIVE PROCEDURES

Field	COM. Prop	ESC Opinion	Opinion of Committee Regions	EP: 1st reading	Common position	EP: 2nd reading	Councilation	Adoption
Financial Regulation	2 March 1994	28 April 1994	9 May 1994	30 November 1994	31 March 1995	13 July 1995	n.a.	18 September 1995
TRANSPORT								
Multimodal	29 March 1994	23 November 1994	27 September 1994	18 May 1995	28 September 1995	pending	Spring 1996	mid-1996
HST interoperability	15 April 1994	23 November 1994	28 September 1994	19 January 1995	28 September 1995	pending	n.a.	end 95' beginning 96
TELECOMS								
Global approach	31 May 1995	pending	pending	January 1996	? beginning 1996			? mid January 1996
ISDN								
Guidelines	12 March 1993	21 December 1993	17 May 1994	19 April 1994	22 December 1994	13 June 1995	n.a.	11 October 1995
Actions	12 March 1993	21 December 1993	17 May 1994	19 April 1994	(1)			
IDA (3)	12 March 1993	7 June 1993	17 May 1994	17 November 1994	21 December 1994	20 September 1995	n.a.	7 November 1995
TNA	12 March 1993	7 June 1993	17 May 1994	17 November 1994	(2)			
ENERGY								
Gas and electricity								
Guidelines	19 January 1994	27 April 1994	17 May 1994	18 May 1994	29 June 1995	26 October 1995	? Dec. 1995	? 14 Dec.
Connected measures	19 January 1994	27 April 1994	17 May 1994	18 May 1994	29 June 1995	26 October 1995	n.a.	? 14 Dec.

- (1) The Council has suspended discussion of the "Actions" proposal pending agreement on the financial regulation.
- (2) Change of legal basis resulting in deletion of TNA (Article 235 in place of 129(c))
- (3) The TEN Financial Assistance Regulation does not apply to IDA.

Annex 2: EU FINANCING of TENS (MECU)

Field	Type of assistance	Instrument	1993-1994	1995	TOTAL
TRANSPORT	Loans	EIB (1) (2)	4 342	2 075	6 417
	Guarantees	EIF (2)	75.9	85.2	161.1
	Aids	Structural Fund (1) (3)	884.0	115.0	999.0
		Cohesion Fund	2 383.0	1 026.6	3 409.6
		TEN heading	385	240(4)	625
		(14 priority projects)	180	182.5	362.5
ENERGY	Loans	EIB (1) (2)	1 077	304	1381
	Guarantees	EIF (2)	207.7	0	207.7
	Aids	Structural Funds (1) (3)	675.7	87.8	763.5
		TEN heading	0	12 (4)	12
TELECOMM.	Loans	EIB (1) (2)	3 787.8	506.6	4 294.4
	Guarantees	EIF (4)	156.1	0	156.1
	Aids	Structural Funds (1) (3)	294.7	0	294.7
		TEN heading	21	22 (4)	43

(1) TEN and TEN-related projects

(2) Signed contracts

(3) Appropriations committed

(4) Proposals having received a positive opinion from the TEN Financial Assistance Committee at its meetings on 10, 11 and 12 October, 9 and 20 November last.

Annex 3: PROGRESS ON TRANSPORT PRIORITY PROJECTS

For the **North-South High Speed Train (HST)/Combined Transport** (Berlin-Nürnberg-München-Verona) (450 MECU spent in 1995) work to upgrade for high speeds is proceeding as planned on a 200 km long section between Berlin and Nürnberg. Signalling work has been undertaken on the Inn Valley section in Austria.

For **PBKAL** (Paris-Brussels Cologne-Amsterdam-London HST) (500 MECU spent in 1995) the high speed train links from Brussels to Paris and to the Channel Tunnel are progressing, with the building and upgrading of links underway and proceeding according to the revised schedule. For the Channel Tunnel Rail Link (CTRL) in the UK, two bidders have been shortlisted and a winner is expected to be announced by the end of the year. A Commission chaired working group was established for the PBKAL project, which has drawn up a report on the scope for financing the project.

The Spanish and French Governments have concluded an agreement to build the **HST South** (Madrid - Montpellier/Dax) (150 MECU spent in 1995) with the possibility of involving the private sector in the cross-border section from Figueras to Perpignan. A European Economic Interest Grouping (EEIG) has been established for this, under the supervision of an Intergovernmental Committee.

The Dutch Parliament has authorised the starting of the procedures necessary to obtain a building permit for the **Betuwe Railway Line for combined transport** (80 MECU spent in 1995). This process should take about two years, after which construction may start.

The Italian and French Governments have agreed to undertake the necessary studies to complete preparatory work for the building of the cross-border section of the **HST Lyon-Turin** (40 MECU spent in 1995), the tunnel between St-Jean de Maurienne and Susa. An EEIG has been established to carry out technical studies and an Intergovernmental Committee will start work in early 1996 on preparing a concession for this link.

The **Greek motorways** (290 MECU spent in 1995) have been under construction since 1990 and are progressing as scheduled. Tendering has been completed for about 40% of the PATHE branch and 25% of the Via Egnatia. Work on the 200km Igoumenitsa-Panagia link started this year. Several sections of these projects will be built by private concessions.

The **Cork-Dublin-Belfast-Larne-Stranraer conventional rail link** (62 MECU spent in 1995) is on schedule and should be completed by 1999.

The construction of the **Malpensa airport** (Milan) (180 MECU spent in 1995) is largely complete and its connection to the railway network is progressing well.

For the **Øresund** fixed link, (450 MECU spent in 1995) work started on the tunnel under the Drogden Channel in July 1995, as did dredging and reclamation work. Work on the high bridge across the Flinte Channel and approach bridges for this is due to start in November 1995.

For the **Nordic Triangle** (360 MECU spent in 1995), major work has been carried out on the Swedish Malmö-Göteborg and Malmö-Stockholm rail links. Work on the Swedish road sections Malmö-Göteborg(E6), Malmö-Stockholm (E4) and Stockholm-Norwegian border (E18) is progressing. In Finland, the road sections east of Turku and the Helsinki bypass are progressing. Major upgrading of the rail line between Turku and Helsinki is underway and some work has started on other sections such as Kereva-Lahti.

For **Traffic Management** projects, work is in hand on the civilian satellite European Global Positioning and Navigation System (GNSS) and the first transponders have been ordered from Inmarsat. The implementation of the ground network started in Summer 1995. A bilateral agreement with our US partner, the Federal Aviation Administration, was successfully concluded at the end of October. An EEIG has also been established by the operators of the high speed train services, which is working on a common European Rail Traffic Management System. A radio-based digital road traffic warning system (RDS-TMC) is shortly to be initiated, coordinated between 11 Member States, with support from the TENS budget line.

Annex 4: PROBLEMS CONCERNING TRANSPORT PRIORITY PROJECTS

Little progress has been made on a decision to build the **Brenner base tunnel** through the Alps, an essential part of the **HST/combined transport North-South** (Berlin to Verona, via München and Brenner). The economic benefits of this project will largely accrue to Southern Germany and Northern Italy, as most of the traffic will only transit through Austria. Austria's overwhelming interest is to promote a switch from road to rail for transit traffic, in order to limit the negative impact on the environment, however this interest is not sufficient to justify Austria's financing its share of the costs of the tunnel alone. Additional economic evaluation is being undertaken, which will not be completed until the end of 1996. This will be complemented by a Commission study on traffic forecasting for the whole Alpine region. The Austrian Government have created an infrastructure management company, in which they would like to include international partners, but this is also proving difficult.

Most of the work on the **PBKAL** (Paris-Brussels Köln-Amsterdam-London HST) project is now seriously behind original schedules, which is having a significant financial impact on the completed French section, causing estimated losses to SNCF of 300 MECU. The report of the PBKAL working group, chaired by the Commission, identified significant problems with the financing of the links to the north of Antwerp and east of Liege in Belgium, highlighting a financing shortfall currently of the order of 1 BECU. Using the figures identified for this working group, after taking into account UK support, there is also a shortfall of some 240 MECU for CTRL. It is thus clear that a lack of resources could create major financial problems for this project. The absence of European-level companies to build and operate railway infrastructure is emerging as a major obstacle to financing.

The **HST East** (Paris-eastern France-southern Germany, including Luxembourg link) remains a project requiring substantial public support. Under the current French legal system private sector involvement is very difficult, however the French Government have agreed to examine the possibility of public-private partnership financing for the second phase. In 1994, the French Government officially requested a large Community subsidy for this project (530 MECU of which 360 MECU over the period 1995-99). A working group, established by the Commission and French Ministère des Transports, has reported that the current scarcity of resources in the TEN budget line will result in a project financing gap in the range of 200 MECU.

The Portuguese Government has indicated that it wishes to realign its section of the **Lisbon-Valladolid** motorway. On the Spanish side, progress is slow with major technical studies lasting three years still needed before construction can start.

Little progress has been made on the **Ireland-UK-Benelux road link**, in spite of its crucial importance.

Although the French and Spanish governments have agreed in principle to its construction, no date has yet been agreed for work to start on the **HST South** (Madrid - Montpellier/Dax).

The **Betuwe conventional rail/combined transport line** has been delayed because of planning and political problems; previously due to start in 1995-96 it is now likely to be two years later.

Annex 5: COMPETITION ASPECTS: MEASURES TO BE TAKEN

I. Need for information

The Commission will use the annual Report on Competition Policy to provide parties involved in the financing of TENs with all the information on the competition rules that would allow them to qualify for exemption decisions.

II. Procedures

Once agreements relating to the financing of TENs have been notified, and provided that the parties have contacted the Commission departments before the agreements are finalized, the Commission will endeavour to take a final decision within a maximum of six months.

III. Relationship between financial equilibrium and the right of access to infrastructure in the transport sector

In dealing with TEN transport projects submitted to it, the Commission will apply the following basic criteria:

- Where the infrastructure manager wishes to allow transport undertakings to reserve capacity as from the launch of the project, all Community undertakings that might be interested should be given the chance of doing so.
- The capacity reserved to an undertaking should be in proportion to the direct or indirect financial commitments entered into by it and should be in line with planned operational requirements over a reasonable period.
- A new infrastructure is generally not congested right from the start of operation. Consequently, an undertaking or a grouping of undertakings within the meaning of Article 3 of Directive 91/440/EEC should not be able to reserve all of the capacity available. Some of the capacity should remain available so as to allow competing services to be operated by other undertakings.
- Undertakings holding user rights may not oppose the reallocation of such rights if they are not used.
- The period covered by capacity-reservation agreements must not exceed a reasonable period, to be determined on a case-by-case basis.

This list is not exhaustive and is without prejudice to the Commission's final position, which will be determined in the light of the specific features of each project.

IV. For any further information on the competition rules, project managers may contact the "One-Stop Help Desk" (fax 32 2 295 65 04).

Annex 6 : PUBLIC PROCUREMENT RULES FOR THE TRANSPORT TEN

(1) At Community level, existing public procurement rules lay down a framework for selecting, on a competitive basis, the contractors for the execution of a given piece of transport infrastructure. Either of two distinct sets of rules apply, Directives 93/37 for public authorities or 93/38 for the so-called utilities. The aim of the Directives is of course not to be an obstacle but to ensure value for money under the best possible conditions.

(2) In order to clarify the possibilities offered by the existing legal texts with regard to their application in TENs and public/private partnerships, the Commission examined the compatibility of existing public procurement rules with:

- i) The technique of *project financing (concessions)* that allows the participation of the private sector on a risk basis in building and operating infrastructure projects in partnership with the public sector;
- ii) The need to *associate the private sector as early as possible in studying the feasibility* of an infrastructure project and participating in its conception.

(3) The conclusion drawn is that the Directives do permit such activities and that consequently **no legal action is required**. The Commission view is that existing provisions on concessions under Directive 93/37 are an adequate framework for the participation of the private sector in the award of concessions by public authorities in the TENs priority projects. As for pre-tender discussions the Commission view is that, in so far as effective competition is guaranteed in the tender phase, the principles of Community law do allow such preliminary technical discussions.

(4) In order to inform all parties concerned about the possibilities for public/private sector co-operation offered by public procurement rules more detailed analysis of this issue will be included in the Commission's Communication to the Council and to the European Parliament on Public procurement in the European Union. The Commission will issue specific guidelines as appropriate in the course of 1996.

(5) In order to reduce any misunderstandings and delays in projects related to public procurement rules, it is recommended that for the priority projects Commission services are consulted before the publication of tender documents. For this purpose a One-Stop Help Desk (fax 32 2 295 65 04) is established in the Commission to channel such requests.

Annex 7: PROJECT AUTHORITIES FOR TRANS-EUROPEAN NETWORK PROJECTS

1. The Christophersen Group and the Essen European Council agreed that European level legal vehicles would greatly facilitate the coordination and financing of complex trans-national infrastructure projects. Ideally, a company should be created to own the project - at least temporarily, and to implement and manage it.
2. The Project Authority for a cross-border infrastructure project should consist of four elements:
 - a project **Agreement** between the Member States involved
 - a project **Commission** consisting of delegates of the Member States
 - a project **Promoter**
 - a project **Company** which acts as infrastructure manager

The *project agreement* will normally be a memorandum of understanding during the promotion phase, but may need to be a treaty during construction. It should cover the project definition and details such as a description of the work to be undertaken, a timeschedule, and the financial and organisational arrangements.

The *project commission* makes the day-to-day decisions during the execution of the project, keeping in contact with the national administrations and delegates. It must be empowered to do the necessary for granting the concessions. It may be appropriate to delegate part of its power to the project promoter and to the project company at some stage.

The *project promoter*, could be an association or better a EEIG, involving at least all the public sector parties. Since large infrastructure projects are mostly carried out in the public domain, political backing is crucial for their successful implementation. During the promotion phase the project promoter will initiate first technical, economic and environmental studies, particularly on the economic viability and financial feasibility of the project. During the execution of the project it acts as moderator and facilitator for the project.

The *project company* is a business undertaking which acts as an infrastructure manager. For railway infrastructure such an entity is defined in Directive 91/440/EEC as "any **public** body or undertaking responsible in particular for establishing and maintaining railway infrastructure, as well as for operating the control and safety system". The legal form of the project company may change at the different stages of a project; it may start as a EEIG, but for detailed design and construction it must be a business company

² The Commission believes that public private partnership entities can be considered as public bodies for this purpose, as they fulfill a public service by providing railway infrastructure