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Problems and Perspectives of European Transport Policy

by Dr Christian Woelker, Bonn *

The article offers a survey of the different international bodies concerned with European transport policy, their relative competencies and special problems. Furthermore, some fundamental guidelines are provided which should be followed in order to achieve more efficiency in traffic.

This survey of an important sphere of European cooperation requires first of all a clear definition. The present situation and the future development can only be understood if they are integrated into the given political framework. The partition of Europe into different, politically and economically separate, areas has left its mark also on traffic and transport in Europe. The situation can most clearly be described by transferring the general delimitation to the sphere of transport: cooperation between East and West within the framework of the United Nations, in the major "Western" organizations of Europe (OECD, Council of Europe), and in the more immediate circle of the European Community. The corresponding bodies in the field of transport are the Economic Commission for Europe of the United Nations (34 countries), the European Conference of Ministers of Transport (19 countries), and the European Community (9 countries).

ECE: Cooperation between East and West

The cooperation in the *Economic Commission for Europe of the United Nations* (ECE), that means between countries with different economic systems, is by its nature concentrated mainly on the technical and administrative areas. Naturally, an exchange of ideas on measures of transport policy takes also place here, e.g. on how to cope with the problems of urban transport, for everybody wants to see how the individual countries are tackling these questions, the solution of which is very urgent indeed, and to learn from each other's experiences. But it is quite obvious that no agreements can be reached in fields which concern regulatory and competition policy in the transport sector, for example, especially since this is not easy even among the Western countries. This is a fact which we have to put up with, and it does not present too much difficulty, since the above-mentioned technical and administrative sector, which in general does not have any "ideo-

logical" references, is quite suitable for concrete agreements. These possess, moreover, the positive aspect of a common effort, which is much more convincing than verbal declarations without any real background.

Thus, within the framework of the ECE Inland Transport Committee and its subsidiary bodies, 39 agreements on a great variety of subjects in the field of transport have been concluded since 1949. In addition to that, there is a multitude of resolutions which the member countries have to a very great extent included in their national legislation. The results of the activities of the ECE concern uniform road signs and signals as well as road markings, the standardization of motor vehicle technology, liability regulations in goods transport by road, regulations concerning the transport of dangerous goods, container transport, technical and legal arrangements in the field of inland navigation, and far-reaching infrastructure projects as regards E-roads and inland waterways. They are, as we can see, for the most part no spectacular global measures, but concern rather important individual questions, the solution of which is indispensable for the unhampered international transport of goods and passengers, however.

Intensification of Activities

The significance of the ECE for the transport sector has been enhanced by the fact that in the Final Act of the Conference on Security and Cooperation in Europe (CSCE) it has expressly been mentioned as the organization concerned with the treatment of those items of the CSCE-Resolution relating to transport. This applies above all to the following spheres:

☐ Development of the international goods and passenger transport by land. Commensurate par-

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ticipation in this transport on the basis of mutual advantage, which means, for example, that in East-West transport by road and on inland waterways in Europe both sides shall obtain adequate access to the freight to be carried.

☐ Further development of the European road network and cooperation in the field of waterway transport in order to create an uninterrupted waterway network in Europe.

☐ Elimination of disparities arising from the legal provisions applied to traffic on inland waterways which are subject to international conventions. For this reason, the member states of the Central Commission for Navigation on the Rhine, the Danube Commission, and other bodies shall continue their current work, especially within the framework of the ECE.

☐ Improvement of international rail traffic.

☐ Simplification and harmonization of the administrative formalities in international transport, especially at border crossing points.

☐ Intensification of the exchange of information in the various fields of traffic and transport.

Finally, the participating states of the CSCE have been requested to accede to the concluded conventions, to put ratified conventions into practice, or to become members of the organizations working in the field of transport.

On the whole, it can be said that on account of the resolutions of the CSCE an intensification of the activities of the ECE can be expected.

ECMT: Harmonization of Western European Transport Policies

The transport policy organization of the extended Western European area is the *European Conference of Ministers of Transport* (ECMT), to which 19 countries including Yugoslavia belong. It may be compared to the OECD which is concerned above all with research work in the fields of road construction, of road safety, and environment protection in the transport sector. The characteristic feature of the ECMT is above all the fact that it serves the Ministers of Transport as a political forum for an exchange of opinions and for approximation of views. The transport policy problems of the individual countries and the measures they have planned are extensively discussed, and the Ministers endeavour to come to a harmonization of the steps they intend to take. It is quite obvious that this is not in all cases necessary, for the situation in Turkey — to give a geographic example — is different from that in Ireland, so that it would be inappropriate to insist on harmonization at all costs.

An especially topical objective of the ECMT is the improvement of the European traffic connections, above all an intensified coordination with respect to the traffic infrastructure. Special bilateral or multilateral working parties are concerned with the planning and the establishment of important connections across borders. The problem of the infrastructure on the European scale is more and more gaining in importance, if we consider the discrepancy between the funds that will be available in the longer term and the increase in motorization in goods and passenger transport. This has become particularly obvious on account of the budgetary difficulties during the past years. Without such a harmonization the construction and development of the European traffic arteries might entail extraordinary misinvestments. One need only imagine that one country would neglect its railways in favour of the construction of roads, while one of its neighbours builds new railway lines in order to direct the modal split to a greater extent to the rail, because the roads are overloaded.

The transit problem in road traffic becomes more and more difficult as well, if we look at the increasing transit traffic through countries like the Federal Republic of Germany, Austria, and Switzerland. They have been joined in recent years by the countries of South-Eastern Europe, e.g. Yugoslavia and Turkey, which have to cope with the rapidly growing volume of goods bound for the Middle East. Of course, no country likes anybody else to interfere with its own plans and far less even with the allocation of its financial means. This has never been intended by anybody, anyway; but the forecasts on the growth of the volume of traffic in Europe simply leave no other choice than to try to find a way of better coordinating the planning and the realization of the plans than is at present the case. The ECMT should take a leading role in the solution of these problems.

Learning from Other Countries' Experiences

Things are similar with the improvement of international railway traffic. The national railways must work much more closely together, in order to be able to face the competition of road and inland waterway transport on the international level. This does not only apply to the technical harmonization which exists already to a high degree, but in the first place to the commercial activities of price formation and marketing. It has become apparent that the railways are not in a position to fulfil these demands alone, but that they need the joint initiative of the Governments. This does not mean an interference with the competition between the various modes of transport by the Governments, it is rather intended to promote

the tendency to increase the market share of the railways above all in transport over great distances, not least in view of the increasingly critical situation on the transit roads, which is due to the ever growing volume of traffic. The promotion of international combined transport, that means the transport of containers, lorries and trailers as well as swap bodies on railway wagons, can play an important role in this connection. These techniques are also to help relieve the road network and to lead to a better utilization of the capacities of the railways. Since the transit countries are all members of the ECMT, the latter presents itself as a suitable platform for the solution of these urgent questions.

Another field of activity of particular significance is the improvement of road safety. The ECMT is very active here: agreement on the obligation to wear safety belts, which only a few years ago seemed unattainable, agreement on the speed limit of 100 km.p.h. for passenger cars on roads outside built-up areas (with the exception of motorways), a number of joint traffic enlightenment and education campaigns as well as measures to protect pedestrians and cyclists and above all children. Another goal is the harmonization of the speed limit for motor coaches and lorries. Of great importance is also the exchange of experience on the causes of accidents. Thus it has become evident that the introduction of speed limits in the member states of the ECMT — no matter what the reasons were — has led to a reduction in the number of accidents.

An important topic in the exchange of ideas of the Ministers of Transport is the solution of the problems posed by traffic in urban agglomerations. Although we do not have a panacea here, because the situation in each town and in each congested area is different and, therefore, requires special measures in each individual case, the "learning factor" from the experiences made by other countries plays nevertheless an important role for the political decisions of the Ministers.

Thus, in the ECMT all problems of transport economy and transport policy can be brought up for discussion. The ECMT need not concern itself with questions of technical detail, but it can in the first place act as a coordinator between the international organizations of the various sectors of the transport industry, of the transport operators, and of the trade unions. It is also working as a coordinating agency to achieve a common attitude towards certain subjects of discussion in the major European and in worldwide organizations, e.g. in the ECE and the United Nations Conference on Trade and Development (UNCTAD).

EC: Lack of Regulations in the Transport Sector

A particularly complex affair is the concrete realization of the cooperation in the field of transport, that means the realization of a common transport policy, within the framework of the *European Community* (EC). In contrast to other subjects of the Treaty of Rome, the provisions relating to transport contain — with a few exceptions — only a sort of skeleton, because it was not possible to reach an agreement as to the concrete subject matter when the treaty was elaborated. Thus the transport sector is one of those areas where important regulations for the realization of a common market are still lacking. The emphasis lies, therefore, on measures to promote cross-frontier transport. Agreement has been reached on a number of questions, so for example on rules governing competition and aids, which complement the general provisions of the treaty with respect to the sphere of transport, the Community quota for the carriage of goods by road, making it possible to use only one licence for transport between all member states, the elimination of discrimination in the conditions of transport, the harmonization of social legislation relating to road transport, which, it is true, still requires supplementation and amendment, the compensation of public service obligations, especially of the railways.

The most difficult problems, however, could not yet be overcome: this is in the first place the relation "harmonization — liberalization", especially in international goods transport by road. What this means is this: the countries situated on the periphery are interested, as everybody will understand, in bringing their export goods as quickly and smoothly as possible to the big European markets, which are, for example, France and the Federal Republic of Germany. For this purpose they prefer mostly the lorry, since — as was mentioned above — international transport by rail is for various reasons, both in technical and in commercial respect, not in a position to react as quickly as its competitor goods transport by road. International waterway transport, above all on the Rhine with the ports in its delta area, can also work under more favourable conditions owing to the extensive or complete exemption from duties and absence of rate regulations. Furthermore, the various controls at the borders are to some extent easier in inland waterway transport and transport by road than with transport by rail and thus permit a smoother passage. The consequence is that the road networks in the countries situated in the centre, for instance that of the Federal Republic of Germany, have to carry an ever increasing volume of traffic, unless the number of lorries entering these countries is

limited by the introduction of quota systems, as is being practised nowadays.

This trend is even intensified by the fact that most road transport operators in our neighbouring countries have to pay taxes on their vehicles and on mineral oil that are far below those to be paid in the Federal Republic of Germany. In France, the motor vehicle tax for a lorry-trailer combination of 38 metric tons amounts to DM 325 per year, whereas in the Federal Republic of Germany it is more than DM 9,000. In the present economic situation it will hardly be possible, however, to effect a compromise by means of tax reductions or tax increases.

Closely connected with the problem of taxes and other duties is the question of subjecting the users of the traffic routes (lorries, motor coaches, river ships) to the payment of the infrastructure costs imputable to them. There is first of all the method, on which agreement has not yet been reached. The smallest common denominator is the application of the principle of the marginal cost of use (cost of wear, maintenance, operation, road safety), which make only a fraction of the total expenditure, however, and it is this what matters in the end. A solution must also be found for a few other spheres which ought to be harmonized: the weights and measures of lorries, further social legislation in the field of road transport and corresponding regulations for inland navigation. The underlying idea of these deliberations is that competition can only work well on the basis of, at least to some extent, adapted starting conditions, in so far as they have been set by the State.

Difficult Liberalization

The term "liberalization" signifies — according to its advocates — the elimination of the quotas in international goods transport by road and unrestricted price formation for all modes of transport. The EC-Commission has submitted proposals to that effect, the conception of which is to gradually arrive at a complete exemption of these transports from any interference by the State, with the proviso, however, that state intervention shall be possible in economically difficult situations. This seems to be a tough job to realize in practice, however.

The tendency with respect to price policy in transport is similar. The initial situation of the member countries has so far been very different; the price system of the Federal Republic of Germany, for example, was the one most strongly influenced by the State, but this interference has in the meantime been increasingly relaxed. One realizes more and more that price regulations, above all on the international level, are difficult to control and

that it is more expedient, therefore, to keep tab on the development of transport, above all transport by road, by means of capacity regulations. The goal is a so-called reference rate system which uncommittedly gives transport operators a clue how to formulate their price policy in consideration of the situation on the market.

New activities will arise as a result of the inclusion of ocean shipping and air traffic in the common transport policy. But this is only possible on the basis of an unanimous resolution of the Council. Besides, most member states hesitate to regularize ocean shipping and air traffic with their worldwide activities through the European Community. The same applies to the demand for a common seaport policy. Joint action, it is true, could in certain cases be advisable, for example: a joint attitude towards flag discrimination, the harmonization of the manning of ships, and the harmonization of taxation. Besides, the European Court of Justice has, in a judgment passed a short time ago, declared the general provisions of the Treaty of Rome, e.g. the right of domicile, applicable also to air and sea-borne traffic, so that an influence towards a common policy will in the long run make itself felt also from that direction.

Guidelines for Future Policies

An assessment of the future opportunities and limits of the common transport policy in the EC is not easy. The problem must be seen in the overall framework. The so-called Tindemans Report of 29 December, 1975, shows already the necessity to tread new paths in the Community, but at the same time to take realities into account. The special problematic nature of traffic and transport lies in the fact that decades before the Community was constituted the individual states had introduced regulations which were tailored to each country's individual situation, and they reflected their respective national interests. This makes it the more difficult now to replace these firmly established systems by a new Community order. It must in this connection also be taken into consideration that unrestricted freedom in the sphere of transport cannot be favoured if one cannot fail to see that in the case of a further increase in the exchange of goods which must be expected in the longer term the traffic infrastructure can no longer cope with the volume of traffic, and the funds for the necessary development of the infrastructure are not available. Here a *modus* must be found, which is free from ideological concepts of liberalization and also from protectionist pretexts.

Thoughts and actions in European transport policy ought to take the following three fundamental considerations for the perspective of its future into account:

□ Transport is neither an end in itself nor the "servant" of the economy. It has to fulfil an independent function within the whole economic process. This overall view is particularly necessary in European traffic and transport, in order to avoid isolated action which would be detrimental to the whole community.

□ At the same time the part traffic and transport play in the spheres of regional planning, regional policy, social policy, and environment protection must be defined. Here, too, the overriding significance of a global view becomes evident. Since the conceptions of the importance of the factor traffic and transport are very often still rather hazy and even exaggerated, science and practice

are called upon to deepen their knowledge of the problems and to come to appropriate conclusions.

□ The fact that traffic and transport have to fulfil an important international function must lead to the European transport policy being more and more characterized by the aspect of Europe as a whole, which means that it should be so conceived as to comprise as many countries as possible, even if every question has to be examined as to whether and in how far absolute uniformity is necessary.

If we follow these guidelines, we shall be able to create a realistic basis for more efficiency in traffic within Europe and shall at the same time also strengthen its worldwide connections.

Economic Concentration

Some Aspects of Merger Control in the EC

by Dr Heinrich Hölzler, Berlin *

The author elucidates the basic features of the EC Commission's guidelines proposal for a European merger control and examines the various problems which may arise.

The Commission of the European Communities July 20, 1973, submitted to the Council of Ministers a "Proposal for a Regulation (EEC) of the Council on the Control of Concentrations between Undertakings"¹, and this was approved by the European Parliament and the Economic and Social Committee in February 1974. Since then the draft has been discussed several times in committees, but it has evidently given rise to such wide differences of opinion, and not only on questions of detail, that the guidelines proposal cannot be expected to pass the Council of Ministers in the near future.

In view of the progressive trend towards concentrations in Europe since the beginning of the sixties it is, on the other hand, realized that the European merger control must be rendered effective as quickly as possible if this instrument of merger control is not to prove futile when it is eventually adopted because the market structures in important sectors will by then have been oligopolized and the control will come too late. The

situation may be illustrated by an example: in Great Britain, as also in the Federal Republic, the 100 largest industrial enterprises were in 1970 already accounting for over 50 p.c. of all industrial sales².

The Explanatory Memorandum which accompanied the proposal contained (on page 6) this passage about the need for a European merger control: "This development should not continue uncontrolled. . . . The effects of business concentrations are particularly serious because the concentration brings about an irreversible alteration of the market structure. If a dominant position is attained, no real competition from the other suppliers is, as a rule, any longer to be expected, unless there are far-reaching changes in market

* Federal Cartel Office. The author expresses his personal views which are not necessarily identical with the official opinion.

¹ COM (73) 1210 final, Brussels, July 18, 1973.

² Cf. F. M. Scherer, *Europäische Fusionskontrollpolitik. Die Rule of Reasons und die Regel der Verschwiegenheit* (European Merger Control Policy. The Rule of Reasons and the Rule of Secrecy), International Institute of Management (ed.), Berlin 1973, p. 2.