Chapter Five

SINGLE MARKET ROADS

INTRODUCTION

Road haulage has been described by the Commission as the "life blood of intra-Community trade". Despite the escalating problems of congestion and growing environmental pressures, it continues to provide vital services guaranteeing the free movement of goods within the Community, and hence the smooth functioning of the single market. Changes in operational and manufacturing processes in industry in recent years, including the decline of heavy industry, have heightened the importance of road freight, over rail in particular. The introduction of just-in-time delivery strategies has increased demand for rapid, flexible and reliable transport systems. Still the most flexible mode available, road transport has steadily increased its share of the growing freight market, and it now stands at some 70% of the total. Commercial passenger transport by road, while less significant from an international perspective, plays a vital role in ensuring urban sustainability and economic and social cohesion on a regional basis.

Jobs in the road transport sector

The scale of Community employment in the roads sector is massive. According to figures published by the European Commission in 1997, it accounts for at least 6.5m jobs. These include some 2.1m in road haulage for hire or reward; 3-3.5m in own-account transport, mainly in the chemicals, oil products, agri-food, construction and retail industries; and some 1.2m in passenger transport. The international haulage sector is also highly competitive. This can create problems where differences exist between the laws of the Member States, notably in terms of technical rules and fiscal matters. Given that, for example, the size of a load can significantly affect the profitability of road transport services, and fuel costs are among the most significant running costs of hauliers, variations in terms of weight limits or excise duty levels can severely distort competition. Harmonisation is therefore considered a necessity for the single market.

As in other modes, a significant single market in road transport is a relatively recent innovation of the Community, and owes much to developments in the 1980s such as the European Parliament's Court action against the Council and the Single European Act. Nevertheless, since the Community's early days, there have been attempts to open up the markets. In the 1960s, a small range of specialised services were liberalised; in the 1970s, Community quotas were introduced for multilateral transport authorisations; and, in the 1980s, own-account haulage was liberalised. In preparation, then, for the single market, the Council passed legislation to eliminate all quantitative restrictions on international road haulage transport as of 1993.

To complement the single market, the Community introduced, during 1989, an important Regulation providing for the elimination of controls performed at road and waterway frontiers of Member States. This allowed cross-border transport to be carried out much more quickly and efficiently than previously. Other laws introduced to complement the liberalisation process included a wide array of technical standards, rules on access to the profession, and the troublesome Eurovignette Directive on road charges.

The 1993 Committee of Enquiry

In June 1993, amidst fears that liberalisation would produce severe social and economic impacts, the Commission set up and chaired a Committee of Enquiry, comprising nine experts in the field, to assess the state of the haulage market and to make recommendations on future action. Presenting its findings in July 1994, the group stated that deregulation had indeed created problems in some sections of the market, which had also been strongly affected by the economic crisis of the early 1990s. It concluded, though, that those problems had not been general throughout the Community but had been largely connected to conditions in individual Member States.

The Committee report endorsed the Commission's liberalisation efforts as being "fundamental to the efficient operation of the road haulage sector". However, it noted that competition in the market was not always fair and thus called for further complementary actions to complete the single market, including more harmonisation of rules on access to the haulage professions, on road user charges, on technical standards for vehicles, and on the social framework in which hauliers should operate. The Transport Council subsequently endorsed many of the committee's findings in a Resolution and this provided the impetus for a number of subsequent actions.

Opening up the passenger sector has been less of a priority for the Community as a whole, but, nevertheless, equally fraught. The nature of the market, in which many important services are

subject to public service obligations, means that while international services have been liberalised to a great extent (although regular services still need permission from the Member States involved), domestic markets remain partially closed. One key Regulation concerning cabotage was first emasculated by the Council, and then overturned by the Parliament.

This chapter examines in detail the development of the single market in both the freight and passenger segments of the road sector. It looks at the complementary measures which have been implemented in a bid to ensure the full benefits of liberalisation are reaped, and to prevent the imposition of new kinds of barriers to market access (measures concerning the social framework, i.e. working time, are discussed in Chapter Eleven). This chapter also describes the Commission's intensifying efforts to police the single market through the application of competition law. (Some of the basic competition laws, however, apply to all the inland sectors - road, rail and waterway - and are, therefore, described in Chapter Two). It focuses, in particular, on the Commission's attempts to prevent Member States from favouring their own freight operators with subsidies or tax incentives, at the expense of hauliers from other Member States. A final section looks at external aspects of the single market.

LIBERALISATION OF INTERNATIONAL AND DOMESTIC FREIGHT MARKETS

Historically, international lorry traffic in Europe was administered by a system of bilateral licences negotiated between the individual Member States, and allocated by them according to reciprocal quotas. This system had a number of inbuilt inefficiencies and disadvantages, however. It could, for example, be manipulated by the Member States to act as a non-tariff barrier to free trade. It also tended to discriminate against hauliers based in peripheral Member States, because such countries tended to lose out in bilateral negotiations with their larger or more central neighbours. In addition, although hauliers using the licences were able to make deliveries in other Member States, they were generally prevented from picking up return cargoes. This meant that a large number of lorries circulating on Europe's roads were empty, with unacceptable consequences in terms of congestion and pollution.

Early attempts at liberalising the market

Attempts to improve the system began as early as 1962, with the adoption of the First Council Directive on international road transport, which liberalised a very small selection of specialised services, such as localised frontier traffic and mail distribution. A more significant step was taken in 1972, with the introduction of a temporary limited quota of Community authorisations, carefully shared out between the Member States, to supplement the bilateral quotas, a move particularly of benefit to smaller States. Subsequently, with the system having proved effective, the Council consolidated the rules in 1976 and made them permanent from 1977 onwards. The Community quota was periodically increased thereafter, rising slowly at first from 2,363 in 1977 to 7,400 by 1986. Subsequently, as preparations for full liberalisation began in earnest the quota system was expanded, with 24,021 authorisations available by 1989 and 67,000 by 1992.

As the Community quota system developed, further specialised services were liberalised through amendments to the First Directive. Most of these were of comparatively minor significance. However, in 1980 all own-account services (i.e. where a manufacturer, supplier or retailer operates its own transport fleet as part of an overall logistics chain) were liberalised. This had the unwanted effect of escalating the growth in own-account transport - predominantly one-way - and the number of empty lorries on the road. By 1988, own-account transport constituted a fifth of all haulage services.

The abolition of quotas for international traffic

As in other areas, the late 1980s saw the Community take more determined action towards opening up the roads sector. Despite some opposition from France, Italy and Germany, who wished to protect their own dominant haulage industries, the Member States adopted a Regulation, in 1988, which established that "Community quotas, bilateral quotas and quotas for transit traffic to and from non-member countries shall be abolished on 1 January 1993 for Community hauliers". This was complemented by a second Regulation in 1989, which dismantled Member States' restrictions on the prices charged by hauliers for cross-border freight services, making them fully negotiable as of January 1990.

A third Regulation, adopted in 1992, set out common rules on access to the haulage market. It provided for the introduction of a new system of Community authorisations for international traffic based on qualitative, rather than quantitative, criteria. Such authorisations, it stated, would be granted subject to hauliers complying with rules on access to the haulage professions set by the Community and the Member States. With the adoption of these three Regulations, the single

market in international haulage services was effectively created, although restrictions on access to cabotage (domestic) markets took several more years to dismantle.

Road haulage cabotage and crisis measures

The Commission's attempts to open up domestic haulage markets to international competition began during the 1980s. A 1987 proposal failed initially to make progress in the Council, amidst fears from several Member States, notably Germany and France, that their national markets could be swamped by operators from countries with low wage costs, such as Spain, Greece and Portugal, who would enjoy a competitive advantage over their own haulage operators. In March 1989, the then Transport Commissioner, Karel van Miert told, an international industry gathering that: "*The practice of cabotage . . . is far from being accepted despite the obligation contained in the Treaty and despite the admonition of the Court of Justice. A political decision has not yet been taken in this field, but progress will nevertheless be made. I shall employ all the means at my disposal to this end.*"

A Regulation giving non-resident hauliers the right to operate services within another Member State was eventually adopted in December 1989. This law ensured that, as of July 1990, a limited number of cabotage operations could be carried out in each Member State, subject to limited-period Community authorisations allocated on the basis of national quotas. The number of authorisations, initially set at 15,000, was meant to increment at a rate of 15% annually. This paved the way for the adoption, three years later and following further lengthy discussions, of a replacement Regulation extending the quota to 30,000, with annual increments of 30%. More importantly, however, the Council agreed at the same time that cabotage quotas should be abolished altogether as of 1 July 1998.

The abolition of cabotage quotas from 1998

In order to mitigate some of the potential economic problems facing a previously heavily regulated sector in a period of recession, the Council agreed, in 1990, a further Regulation on crisis measures. It defines a crisis as a period during which unequivocal overcapacity exists in the market for a long period, a significant number of undertakings face severe financial problems, and no improvement can be expected in the short or medium term. It requires the Commission, assisted by the Member States, to collect information on market developments; and, in the event of a crisis, allows the Commission to impose temporary restrictions on market access, and on the activities of existing undertakings, for a six month period, extendible for a further six months if necessary, but no longer. It can be assisted in this respect by a Member States' advisory committee.

Little use made of cabotage freedom, except in Germany

In a report on the haulage cabotage market, presented in January 1998, the Commission noted that by July 1998 the penetration of cabotage services into national hire-or-reward markets was expected to have reached 0.45%, from 0.07% in 1990. Earlier fears of national markets being swamped by operators from countries with low wage costs had proved unfounded, it suggested, with those countries having made relatively little use of their cabotage authorisations. Indeed, most cabotage during the period studied (1990-95) had been carried out by hauliers from the Benelux countries, most of whom had chosen to operate in Germany. The Commission concluded that, although the cabotage sector was growing, its overall economic influence was likely to remain very limited, even after the liberalisation process had been completed.

Economic impact of cabotage likely to be very limited

To help the Commission monitor the functioning of the haulage market as a whole, meanwhile, the Council adopted a Regulation (replacing an earlier Directive dating from 1978) in May 1998

Goods transport in the EU during 1997 (bn tkm)

Aus	Bel	Den	Ger	Gre	Fin	Fra	Ire	Ita	Lux	Net	Por	Spa	Swe	UK
Road haulage on national territory (national and international)														
15.7	36.0	14.7	301.8	16.5	25.4	237.2	5.5	207.2	1.9	45.0	13.5	96.2	33.1	152.5
Railways														
14.2	7.5	1.6	72.7	0.3	9.9	53.9	0.5	23.0	0.6	3.4	2.2	11.5	19.1	16.9
Inland waterways														
2.1	6.1		62.2		0.5	6.0		0.2	0.3	41.0				0.2

Source: Transport DG

on statistical returns in respect of carriage of goods by road. The new measure was designed to extend and improve the quality of information made available to the Community's statistical office (Eurostat) by the Member States, and to take account in particular of the liberalisation of haulage cabotage.

The disruptive effect of weekend lorry bans

By the late 1990s, a significant obstacle to the single market had developed because of restrictions introduced by Member States on the use of heavy goods vehicles (HGVs), usually during weekends and public holidays (although Austria had also established additional limits on night time driving for noisier vehicles). Those countries with such bans - half of the Member States in 1998 - justify them on numerous grounds, notably as a means to limit congestion, to reduce accident levels during periods of high traffic density, and to counter air and noise pollution.

However, the bans are generally imposed without reference to the legal situation in other Member States, and are subject to frequent alterations on a unilateral national basis. Because their dates and times vary, as do their scope and the nature of the exemptions allowed (e.g. for lorries carrying perishables), journey planning is difficult for international hauliers. They are also blamed for increasing transport costs, by forcing lorries to make long diversions around individual States, by increasing weekday congestion, and by obliging operators to hire extra vehicles to carry out deliveries while others are 'blocked' because of a ban.

The Commission's proposal to harmonise lorry bans

In response to considerable pressure from those Member States whose haulage industries are badly affected by lorry bans, and from within the haulage sector itself, the Commission put forward, in March 1998, a proposal to minimise these problems on principal transit routes within the EU. In justifying the scheme, the Commission said such bans could be costing the EU Ecu3bn/yr.

Under the terms of the draft Directive, the Member States would be free to impose traffic restrictions within their national territory, except on routes making up the trans-European roads network, as defined in the trans-European networks Guidelines. On these roads, restrictions would only be allowed between 7am and 10pm (midnight in summer) on Sundays and on specified public holidays. Night time bans could only be applied to those older vehicles exceeding the EU noise standards agreed in 1996 for new lorries (and equivalent to the 1987 standards for coaches and motorbikes). A list of bans in force would be published each year to provide the transparency required by operators, the draft Directive proposed.

New rules on bans opposed by France, Germany, Italy and Austria

Under pressure from Austria and Germany particularly, the Commission included, within the provisions of the draft law, scope for additional restrictions: ad hoc driving bans on days when particularly dense traffic was expected, for example at the beginning and end of holiday periods; at times when essential infrastructure maintenance was needed; and where restrictions were needed to cope with special weather conditions or environmental problems such as smog. It would, though, allow some products, such as perishable goods, to be transported during any ban. The rules, the Commission stressed, would apply only to international traffic, and would not prevent more stringent rules applying to national traffic.

The proposal received short shrift in the Council. A powerful blocking minority, including France, Germany, Italy and Austria, all of which impose regular restrictions on lorry traffic, considered that any move to relax the bans would provoke a public outcry nationally and prove politically damaging. Successive Presidencies of the Council proved unwilling to tackle the issue, although Finland, when it took over the Council chair in the second half of 1999, announced it would promote new discussions on the issue, particularly looking at amendments to the proposed 'window' within which the bans could be applied, as well as changes to the list of exempted cargoes. No progress, however, had been made by the end of that year.

Insufficient support for CT lorries to circumvent weekend bans

A related proposal also received a cool response from the Council, and from the Parliament. In July 1996, the Commission proposed amending the existing common rules on combined transport to exempt lorries involved in a combined transport operation from the scope of Member States' bans. The Commission said the scheme was justified by its potential contribution to a reduction in overall road traffic through the promotion of combined transport. However, it met with strong opposition from a number of Member States, notably Italy and France, who considered it would make policing the bans more difficult, and it was also opposed by the Parliament which thought it would actually promote road transport (Chapter Thirteen).

LIBERALISATION OF THE PASSENGER TRANSPORT MARKETS

Common rules on the international carriage of passengers by bus and coach within the EU were first laid down in three Regulations adopted between 1966 and 1972, before being consolidated and updated in a Regulation adopted in 1992. The latter measure provides operators with the right to carry out regular international passenger services subject to authorisations given, on a non-discriminatory route-by-route basis, by agreement between the authorities of the Member States concerned. Such authorisations can only be refused on certain specific grounds, for example if the planned service would seriously affect the viability of a comparable rail service, or if the operator has previously committed serious breaches of national or international road transport legislation. The 1992 Regulation also fully liberalised a limited range of services by exempting them from authorisations. These include some non-regular (occasional) services, such as tour buses; various "special regular services", such as cross-border school buses; and some own-account services.

The three early Regulations consolidated in 1992

Limited impact of Regulation on international carriage

In response to criticisms from operators that the existing system was not working efficiently, and to a requirement under the 1992 Regulation to review the law, the Council adopted an amending Regulation in December 1997. Procedures for granting authorisations were simplified, and the categories of service to which EU rules applied were rationalised. The 1997 Regulation also removed the need for authorisations for all remaining own-account services and for all non-regular services. Moreover, the grounds on which an authorisation could be refused were restricted. The amended Regulation also introduced, starting in 1999, a Community model licence to replace existing national market access certificates. Such licences are granted subject to the operator's compliance with national licensing laws as well as with Community rules on access to the occupation of road transport operator (see below).

The impact of the Regulation has, however, been limited. The most economically important international operations are not yet fully liberalised (although the restrictions on them are comparatively minor), and they remain subject to administrative formalities. Unlike its predecessor, the 1997 Regulation made no reference to an eventual abolition of authorisations; however, it called on the Commission to provide the Council with a report by the end of 1999.

Few complaints over use of authorisation system

It is worth noting, though, that the authorisation system has proved relatively uncontentious in practice, and that the Commission has received few complaints from operators denied access to routes. Where a dispute does arise, the Community rules provide for consultations between the Member States' competent authorities, and, if an agreement cannot be found, for arbitration by the Commission. This mechanism was used, for example, in early 1999, when the Commission was asked by the Netherlands to intervene in a case involving an international service carried out by the Dutch firm Atlas Reizen. The service was initially intended to cross nine Member States, but France and Italy both refused to allow it to operate on their territory. The Commission adopted a Decision enjoining both Member States to authorise the service.

Passenger cabotage laws make insignificant impact

A first, cautious Regulation on bus and coach cabotage was one of many transport sector initiatives adopted by the Council in 1992. It provided for the opening up of all occasional (non-regular) domestic services as of 1 January 1996. Special regular services established to carry

Passenger transport in the EU during 1997 (bn pkm)

Aus	Bel	Den	Ger	Gre	Fin	Fra	Ire	Ita	Lux	Net	Por	Spa	Swe	UK
Passenger cars														
67.0	94.0	65.5	740.5	64.4	51.5	685.1	45.0	633.2	4.8	151.2	109.0	350.0	93.6	632.5
Powered two-wheelers														
1.32	1.35	0.63	12.80	8.60	0.95	16.69	0.26	53.13	0.04	2.78	3.95	13.65	0.71	4.41
Buses and coaches														
12.5	11.9	11.4	68.0	20.7	8.0	42.0	5.5	88.1	0.4	14.5	13.1	44.0	9.4	43.2
Tram and metro														
1.56	0.80		8.30	0.75	0.42	9.80		5.20		1.40	0.50	1.40	1.40	6.80
Bicycle transport*														
1.15	3.3	4.7	23.5	0.3	1.3	4.4	0.67	9.0	0.02	13.3	0.3	0.8	2.4	4.5

Source: Transport DG

* 1995 figures

employees between home and workplace, and to carry school pupils and students between home and place of study were liberalised from that date in frontier zones (within 25km of a frontier), subject to certain restrictions. The Council suggested that the situation could be reviewed once the effects on national markets of these limited freedoms had been examined by the Commission.

Passenger cabotage Regulation annulled by Court

However, the Regulation was later challenged in the Court of Justice by the European Parliament, which claimed it had been inadequately consulted during the legislative procedure, and that it had not been given the opportunity to comment on substantial changes made by the Council to the Commission's initial proposal. Indeed, the original text proposed by the Commission, on which the Parliament had given its formal Opinion, had envisaged an almost complete liberalisation of cabotage services, while the actual Regulation adopted by the Council was clearly far more restrictive. In June 1994, the Court ruled in the Parliament's favour and annulled the Regulation, while allowing it to remain in force until a new legal instrument could be adopted.

A revised Regulation was adopted in December 1997. The new measure was largely based on the annulled Regulation, but, as of June 1999, it liberalised all specialised regular services "covered by a contract concluded between the organiser and the carrier", as well as regular domestic services carried out in the course of a regular international service. The law explicitly states, though, that "cabotage transport cannot be performed independently of such international service". Most notably, it enables Member States to retain for national operators the rights to all non-specialised regular urban and suburban routes. The Parliament proved willing to accept the new measure as an improvement over the previous legislation.

Rules on harmonised documents

In October 1998, the Commission adopted new rules for harmonised documents to be carried by bus and coach operators involved in international passenger transport, as well as those carrying out non-regular cabotage services. The Regulation, which amended both the 1992 international market Regulation, as updated in 1998, and the 1997 cabotage Regulation, introduced a new harmonised journey form and standard documents for authorisation requests and permits.

In a report on the market, published in July 1999, the Commission noted that, in the period to December 1996, the impact of cabotage on the Member States' national markets had been "insignificant and residual", and, despite the further liberalisation agreed in 1997, the situation was unlikely to change radically. It noted that most companies wishing to enter a foreign market had preferred to do so by buying or setting up a subsidiary in the market concerned - as provided for under EU rules on freedom of establishment - rather than by operating services from across a national border.

New approach to deregulating domestic markets needed

In view of this trend, and observing that all operations, with the exception of regular scheduled services, had been liberalised, the report suggested that a new approach to deregulating domestic markets was required. In a number of Member States, access to regular scheduled routes was restricted, even for companies operating within those States, by the imposition, without a public contracting procedure, of public service obligations of local or regional character. Community policy, the report suggested, should therefore focus on amending EC rules on public service obligations, rather than on the further derestriction of cabotage (Chapter Two). In this context, the report noted that several Member States, such as Spain, France and Denmark, had already established systems of competitive tendering for public service contracts, while other States were contemplating similar changes.

ACTIONS TO COMPLEMENT THE INTERNAL ROAD TRANSPORT MARKET

As quantitative, administrative and price barriers to the free provision of transport services have progressively been dismantled, attention has focused on harmonising the conditions under which transport operations are actually carried out, with a view to ensuring that those within the industry are properly qualified and able to offer high quality, safe services.

Minimum training standards for commercial drivers

The question of driver competence was tackled by a Directive adopted in 1976, which remains in force today. It sets out harmonised minimum standards for the training of commercial vehicle drivers, listing the subjects with which drivers must be familiar, and stipulating that training and examinations must be either carried out or supervised by the Member State authorities, which must issue the necessary certificate of competence. Key areas in which drivers should display competence include: the construction and main component parts of the vehicle; administrative procedures; the driver's responsibilities; and driving ability and experience.

In 1984, the Council adopted a Directive on "the use of vehicles hired without drivers for the carriage of goods by road". The aim is to remove restrictions on companies, based in one Member

State, hiring vehicles in another State in order to carry out international transport operations. Such hiring practices can help with the optimum allocation of resources and improve an organisation's flexibility, the Directive says. It was amended slightly in 1990 so that now only own-account vehicles with a laden weight over 6t are exempted. In 1995, the Commission proposed replacing this Directive with a more liberal version, one in which the weight restriction on own-account transport operations was removed entirely, and only allowing Member States to impose hiring time restrictions for periods of over two months. Transport ministers, however, only discussed the proposal once, in mid-1995. Some States said there should be harmonisation of fiscal and social aspects first; and, since then, the dossier has been largely forgotten.

Harmonised system of registration document

Much more recently, the Council has agreed to put in place, by the middle of the next decade, a harmonised system of vehicle registration documents. Although minimum standards for such documents are laid down in the 1968 Vienna Convention, these standards, in general, are poorly applied, and not all Member States are parties to the Convention. For this reason, the Council adopted a Directive in April 1999 introducing minimum criteria for such documents. The Directive, due to take effect in June 2004, obliges the Member States to issue documents containing codified information, in standard form relating, inter alia, to the make, model, ownership and dimensions of each vehicle. It allows States to issue documents either in two parts, each taking a specified form, or in a single part containing all the requisite information. The Council believes the harmonised documents will help States to verify the eligibility of an individual to drive a given vehicle, and, in conjunction with the driver licensing Directive (Chapter Eleven), will facilitate re-registration of vehicles in a new Member State, and will help prevent illegal trade in stolen vehicles.

Community rules on access to the road professions

The development of rules covering the road transport companies themselves has played a significant part in the creation of the single market. Basic principles covering admission to the occupations of road haulage operator and passenger transport operator, and on the mutual recognition of diplomas, certificates and evidence of formal qualifications, were first laid down in three separate Directives adopted in the mid-1970s. Recognising the need for more clarity and stricter harmonised rules within the newly-created single market - and following the 1994 recommendations of the Committee of Enquiry on road freight (see above) - the Council adopted a new consolidated Directive in April 1996.

Harmonised requirements for the competence of operators

The Directive sets out harmonised requirements for testing the knowledge and professional competence of would-be commercial road transport operators and provides for the mutual recognition of certificates within the Member States. It requires operators to have available capital and reserves of at least Ecu3,000/vehicle or Ecu150/t of load (or Ecu150/seat), and stipulates that they should be of "good repute", not having been convicted of serious criminal offences, or serious repeated offences against various sectoral laws. Its key aims are to prevent so-called 'cowboy operators' from gaining cost advantages through ignoring safety requirements, and to protect against bankruptcies. The Commission discovered, however, that the Directive offered scope for varying interpretations, and did not prevent wide discrepancies in the national rules applied by the different Member States. It also did not apply to vehicles with a total laden weight of below 6t.

In early 1997, therefore, the Commission put forward a proposal to strengthen the Directive. Talks within the Council proceeded smoothly, although there were long discussions over procedures for testing professional competence: several Member States, including Finland, Ireland and the Netherlands, wanted to retain stricter national requirements than those provided for in the Directive. Formally adopted in October 1998, the new law extends the provisions of the existing Directive to the operators of all vehicles with a maximum laden weight of over 3.5t. Against the advice of the Commission, the Council allowed national derogations for operators of vehicles, weighing between 3.5t and 6t, engaged exclusively in local transport.

New standards for the competence of road transport operators

Under the terms of the revised law, all operators are required to hold capital and reserves of at least Ecu9,000 for their first vehicle and an additional Ecu5,000 for each additional vehicle, as of October 2001 for existing vehicles, and from October 1999 for new vehicles. The somewhat ambiguous rules on good repute contained in the original Directive were tightened up, so that operators convicted of "serious offences" (rather than "serious, repeated offences") against road transport law are now excluded. The provisions on examination of professional competence are also stricter and more prescriptive than those contained in the original Directive. An exemption allowing Member States to impose additional examinations on operators from other Member States expires in September 2002.

Chapter Five

The role of vehicle taxation and fiscal harmonisation

Taxes and charges on heavy goods vehicles operating within the Community are subject to fiscal charges worth over Eur30bn annually. Much of this revenue is derived from excise duties on diesel fuel, the rates of which can vary sharply between the Member States, and affect competition in the single market. Attempts to harmonise duty rates across the EU have so far proved unsuccessful, and while the Council did lay down minimum rates in legislation on excise duties for mineral oils adopted in 1992, these have since proved too low to be effective. The Commission's energy tax proposal seeks further reform, but it has proved politically difficult to make progress in the Council (Chapter Two).

Along with fuel excise duties, hauliers are subject to a range of other levies, including vehicle taxes, road tolls and time-based user charges. The imposition of different taxes and charges in the Member States creates confusion for hauliers, as well as providing a means by which States can discriminate against non-national hauliers. The Commission brought forward, as early as 1968, a first proposal aimed at solving this problem by creating a common framework for the taxation of commercial vehicles. However, reflecting the inertia affecting transport policy at the time, the Member States were too divided to reach agreement. In January 1988, the Commission presented a proposal, on the charging of road infrastructure costs to heavy goods vehicles, which was eventually adopted by the Council, after much discussion, in 1993.

The first, and illegal, Eurovignette Directive

This Directive (known as the Eurovignette due to its relationship with the common user charging scheme operated by several of the northern Member States) set a minimum level for taxes on vehicles of over 12t throughout the Community, established conditions under which Member States could introduce periodic road user charges for the use of their trunk networks, and ensured that where tolls were charged they should be directly linked to the costs of the infrastructure concerned. It also established minimum vehicle tax rates as a first step towards harmonisation. They were set at a level exceeded by most Member States, while a lower minimum was allowed for France, Greece, Italy, Portugal and Spain until January 1997.

In a legal case parallelling that of the original cabotage Regulation applying to the road passenger transport market, the Eurovignette Directive was subsequently annulled by the Court of Justice in July 1995, on the grounds that the European Parliament had not been consulted properly during the legislative process. The Court stipulated, however, that its provisions would remain in force until a new Directive could be adopted. The Commission put forward a new proposal in September 1996, which shared the same basic harmonisation objectives as the original legislation, but with important changes. It sought to promote differentiation of vehicle taxes and of user charges on the basis of vehicles' environmental characteristics, and it proposed allowing charges to cover external costs to be imposed on vehicles using "sensitive routes", principally to take account of the problems of the alpine region.

Proposal to replace annulled Eurovignette Directive

The Commission's proposal was to prove highly contentious. In the Council, consideration of the Eurovignette became tied up with negotiations on a land transport agreement with Switzerland, itself intricately linked with the issue of the alpine environment (of great concern to the then new Member State Austria) (Chapter Eleven). The Parliament, too, found much to amend in the draft Directive. After protracted negotiations, the Council reached agreement on the proposal in December 1998. The Parliament, keen to see the new measure in force, resisted the temptation to insist on changes, and the new Directive was formally adopted in June 1999.

The revised, and slightly environmental, Eurovignette Directive

The final text of the Directive bears only a passing resemblance to the Commission's proposal. In particular, all references to sensitive routes and charges for external costs have been dropped. For vehicle taxes, the Directive defines a scale of minimum rates based on the number of axles and the weight of the vehicle (see box), with a separate category for articulated vehicles and road trains. Exemptions allow Greece, Portugal and Spain to apply reduced rates, down to 65% of the established minimums, until June 2001. A mechanism is also provided for enabling the Council to authorise further exemptions or reductions within a Member State "on the grounds of specific policies of a socio-economic nature or linked to that State's infrastructure".

Exemptions for Greece, Portugal and Spain

The Directive further states that, as a rule, "tolls and user charges shall be imposed only on users of motorways or multi-lane roads with characteristics similar to motorways, or users of bridges, tunnels and mountain passes". In countries lacking a general network of motorways, charges can

Maximum user charges (Eur/yr)

	Max. three axles	Min. four axles
Non-Euro	960	1,550
Euro I	850	1,400
Euro II and cleaner	750	1,250

NB: Maximum monthly and weekly rates are in proportion to the duration of the use made of the infrastructure. The maximum daily user charge is equal for all vehicle categories and amounts to Eur8.

Source: OJ/99/L187

Minimum rates of tax to be applied to vehicles (Eur/yr)

Maximum gross laden weight (t)		Air[1]	Other[2]
Not less than	Less than		
Two axles			
12	13	0	31
13	14	31	86
14	15	86	121
15	18	121	274
Three axles			
15	17	31	54
17	19	54	111
19	21	111	144
21	23	144	222
23	25	222	345
25	26	222	345
Four axles			
23	25	144	146
25	27	146	228
27	29	228	362
29	31	362	537
31	32	362	537

NB: There is a second and similar table of values for articulated vehicles

[1] Driving axle(s) with air suspension or recognised equivalent; [2] Other driving axle(s) suspension system.

Source: OJ/99/L187

be applied to the "highest category of road". Such charges, it states "may not discriminate, directly or indirectly, on the grounds of nationality of the haulier or the origin or destination of the vehicle". Tolls and user charges, it states, should not both be imposed at the same time for the use of a single road section, subject to the proviso that "Member States may also impose tolls on networks where user charges are levied for the use of bridges, tunnels and mountain passes".

Although the Directive does not set minimum rates for time-based user charges, it does establish maximum levels, differentiated on the basis of the emissions characteristics (expressed using the so-called Euro-norms) and number of axles of the vehicle in question (see box). These rates are to be reviewed in July 2002 and every second year thereafter. Member States operating a user charge should, until June 2001, "apply a 50% reduction in the rates of user charges for vehicles registered in Greece because of its geopolitical position". Tolls must be "related to the costs of constructing, operating and developing the infrastructure network concerned", although they can be varied, within set limits, according to a vehicle's emission characteristics and the time of day.

Eurovignette rates to be assessed in 2002

Extensive array of technical harmonisation and operational rules

In addition to operational rules that govern the single market, the Community has also built up an extensive array of type approval legislation, to ensure that vehicles placed on the market or entering into service within its borders fulfil minimum technical, safety and environmental standards in their construction (Chapter Eleven). Directive 70/156/EEC introduced an overall Community type approval system for motor vehicles and their trailers, and a series of further framework Directives approximated laws relating to different specific features of those vehicles. These have included, for example, measures relating to exhaust systems and sound levels, fuel tanks and rear underrun protection, steering equipment, braking systems, interior fittings and lighting.

This legislation, which is regularly updated and in line with technical progress, provides the foundation for establishing a comprehensive type approval regime covering the technical aspects of vehicles themselves and all their equipment, from lights to security devices, to ensure that vehicles and parts can be sold throughout the Community on the basis of a single Community approval, and that approvals cannot be denied if the relevant criteria are fulfilled. By late 1999, whole vehicle approval was not yet available for buses and coaches, although a proposal to complete the type approval specifications was put forward by the Commission in mid-1997, and was endorsed by the European Parliament in late 1998.

Bus/coach vehicle type approvals not yet available

The EU is not the only body preparing technical standards for vehicles in Europe. The contracting parties to the United Nations Economic Commission for Europe (UN-ECE) Revised Agreement on Wheeled Vehicles, which include 14 of the 15 Member States, also collaborate in developing uniform technical specifications for vehicles, equipment and spare parts, and provide reciprocal recognition for approvals granted on the basis of those specifications. In order to prevent

unnecessary duplication of technical regulations at a European level, the Council agreed, in November 1997, that the Community should accede to the Revised Agreement, a process which was formally completed in March 1998. This gives the Community the right to participate in preparing future UN-ECE standards and to participate in votes. Since then, the Community's position on draft technical regulations has been decided in advance by means of a Council Decision.

The Parallel Agreement on global technical regulations

In June 1998, the US, Japan and the Community signed the so-called Parallel Agreement on global technical regulations for wheeled vehicles and parts used on them. The Agreement, which was designed principally to allow the US to participate in the development of technical regulations, operates in conjunction with the UN-ECE accord, expanding international harmonisation beyond the scope of that agreement, although with less far-reaching legal implications. In January 1999, the Commission put forward a draft Council Decision aimed at endorsing the accord on behalf of the Community.

Harmonised rules on weights and dimension of vehicles

Closely related to the production standards established within the type approval framework are the circulation standards laid down in other EC legislation. Of particular importance in this context are rules on weights and dimensions. A degree of harmonisation is necessary to ensure that operators can use their vehicles throughout the Community, and that equitable conditions for competition are maintained between them. However, the issue is complicated by Member States' varying standards of infrastructure, and by social, economic and political pressures, as well as environmental considerations.

Maximum weight and length dimensions for international traffic

A minimum level of harmonisation for HGVs and buses in international traffic was established in the mid-1980s. Following frequent modifications, the legislation was updated and consolidated with a new Directive in December 1996. This extended legislation on maximum authorised dimensions to cover national, as well as international traffic (although legislation on weights continues to apply only to international transport). The maximum length for lorries ranges from 12 metres to 18.75 metres (for so-called road trains). The maximum laden weight varies according to the size and number of axles, but, somewhat controversially, cannot exceed 40t for the largest vehicles (i.e. those with six axles). An exception was made for combined transport vehicles carrying the largest commonly used containers, to which a 44t limit applies. The Commission had proposed a 44t norm for all six-axle vehicles, but this was rejected by the Council under pressure from the European Parliament. However, on all the maximum dimensions, except height (4 metres for any vehicle), Member States do not have to apply the law until 2007 for vehicles registered prior to implementation of the Directive.

In July 1998, the Commission put forward a proposal to modify the Directive, as part of a drive to promote combined transport. It suggested that the maximum laden weight for all combined transport vehicles using three-axle traction units and two or three-axle semi-trailers should be increased to 44t, while the limit for vehicles using two-axle traction units should be 42t. The Council came close to agreement on the proposal in 1999, but encountered serious opposition from the Parliament (Chapter Thirteen).

Support for use of 15 metre buses on international journeys

The question of maximum lengths for buses was left partly open when the 1996 Directive was adopted. While it stipulated a maximum of 12 metres, or 18 metres for articulated buses, in international transport, it allowed Member States to use longer vehicles on national territory. Indeed, non-articulated buses of up to 15 metres circulate freely in some States. In May 1998, the Commission published a report suggesting that 15 metre buses should be allowed to circulate throughout the Community on international journeys, but that Member States should be permitted to establish lower limits for national traffic if necessary.

Prompted by Germany in particular, the Council adopted Conclusions in March 1999 inviting the Commission to draft an amendment to the Directive "aimed at harmonising the maximum authorised dimensions . . . of non-articulated buses and coaches in national and international transport", while taking account of issues such as the effects on road safety; "the suitability for existing infrastructures"; and environmental implications. By the autumn 1999, no such proposal had yet appeared.

REDIRECTION OF STATE AID IN THE HAULAGE SECTOR

State aid has become an important issue in the road sector since the start of the single market. However, whereas the Commission has needed to intervene to avoid abuses in the haulage industry, the passenger transport business, especially urban transport, has been characterised by

fairly lax laws allowing state aid, without notification, in compensation for public service obligations. In its 1992 competition report, the Commission warned: "*The opening up of the (freight) transport market as of 1 January 1993 will have consequences for competition in the road transport sector. The Commission will have to increase its monitoring of subsidies that could unfairly benefit particular operators. At the same time, the assessment of specific aid measures is becoming increasingly complex.*"

The influential 1994 report from the Committee of Enquiry on road freight then discussed the subject in detail. It noted that prior to liberalisation, the Member States with more heavily regulated national haulage markets had attempted to control the evolution of the sector by using subsidies widely, for example to help small businesses restructure or to reduce excess capacity by encouraging operators to leave the profession. In the past, it explained, this practice had been acceptable because, prior to liberalisation, aid to hauliers operating in predominantly local markets would have been unlikely to cause distortions of competition.

The greater potential of state aid to distort the market

However, the report also argued that, with the evolution of a liberalised market, the position was changing: small operators were able to operate in international markets, often as subcontractors to larger firms, while non-domestic operators were entering cabotage markets and offering competition to local operators. As a result, state aid to hauliers had greater potential to distort competition. It recommended that future subsidies should be geared towards the establishment of training schemes and local organisations able to further the efficiency and structure of the sector, and suggested that approvals should be linked to effective enforcement of Community rules in the sector. Subsequently, these ideas formed the basis of the Commission's aid policy in the sector.

The various aid cases dealt with by the Commission during the 1990s reflect the divided nature of Europe's haulage markets prior to EU-wide deregulation. While the comparatively liberal national markets of northern Europe were relatively unaffected by the changes, the more heavily regulated haulage sector in the Mediterranean States encountered problems of overcapacity and falling prices, which were exacerbated by the general industry recession of the early 1990s.

Italian manoeuvres to subsidise haulage industry restructuring

The Italian haulage sector was among the worst affected by recession and the gradual liberalisation of the market, suffering serious industrial unrest in the early years of the decade. The Italian government responded to these problems with state-funded restructuring programmes, leading to a number of disputes with the European Commission. In 1990, for example, the Commission began to investigate, under Article 88-2 (Article 93-2 at the time), an incentives scheme notified by the Italian authorities. The investigation was extended when Italy passed a law in 1992 containing almost identical measures, and continued through to April 1996, when the Commission adopted a Decision ordering Italy to provide it with missing information, and to suspend payment of aid. Italy responded by amending the scheme to take account of competition concerns, and the investigation was finally closed in November 1996. Although there was no formal Decision, the Commission subsequently published, in the Official Journal, its letter to Rome closing the proceedings.

Illegal tax credits for Italian hauliers

In late 1992, the Commission opened a further investigation under Article 88-2 regarding an Italian decree introducing, for the 1992 financial year, a tax credit for Italian hauliers. The credit system was aimed at compensating operators for substantial levies on consumable products such as fuel and lubricants. It was deductible from a variety of taxes, and was calculated on the basis of the prevailing difference between Italian gasoline prices and the EU average. It was introduced as a direct response to industrial unrest within the sector, which had had a significant social and economic impact.

The scheme, originally intended to last for 1992 only, was outlawed by the Commission in June 1993, on the grounds that it did not meet the conditions for approval under the Treaty Articles on state aid, and did not qualify for special treatment under the provisions of Regulation 1107/70 on aid for inland transport. The aid, the Commission said, must be recovered. Italy responded by modifying the scheme to allow non-Italian EU hauliers to benefit, thereby removing a discriminatory element. It also extended the modified scheme for the period 1993-94, with a budget of approximately Ecu466m. The Commission began investigating the revised scheme in late 1995, and decided, in October 1996, it too was illegal.

By August 1995, Italy had still not recovered the original illegal aid payments. The Commission, therefore, brought a case in the Court of Justice alleging a failure by the Member State to fulfil its

obligations under the Treaty. In Court, Italy argued that recovery would have been practically impossible: to demand the return of a subsidy from a sector which had fought hard to secure it would risk reopening an industrial conflict, with serious consequences, it said. Moreover, it would entail significant administrative difficulties due to the variety of fiscal incentives on offer. The Court's judgement, however, given in January 1998, pointed out that the mere anticipation of industrial unrest was not sufficient grounds for failing to attempt recovery of the aid, and it suggested Italy had overestimated the administrative difficulties involved.

Further procedures and Court cases against Italy

In a further Court case, the Commission's negative Decision of October 1996 was itself contested by Italy. The latter claimed that the tax credit scheme did not constitute illegal state aid because there was no allocation, direct or indirect, of state resources which distorted or threatened to distort competition in intra-Community trade. The Court, however, disagreed, ruling in May 1999 that the aid scheme discriminated against own-account operators and foreign hauliers.

Incentives to hauliers in the Friuli-Venezia Giulia region

The Commission adopted another negative Decision in July 1997, concerning a subsidy scheme benefiting the Friuli-Venezia Giulia region of Italy. Dating back to 1985, the scheme provided a variety of incentives to hauliers based in the region acting as carriers of other parties' goods. Funding was available to help pay for investments in equipment and infrastructure, with a large part of the available budget subsidising the leasing of new vehicles and information technology. The Commission began to investigate the scheme, which had never been notified, in early 1997, on the basis of information it had received during the previous two years. Its July 1997 Decision declared that the aid was, indeed, non-notified, and thus illegal, and could also potentially distort the single market, because it only benefited one type of operator in one region. Other operators within the region, hauliers elsewhere in Italy, and non-Italian EU hauliers carrying out cabotage services within Italy could all be placed at a disadvantage, the Commission said. It therefore ordered all illegal aid paid from 1 July 1990 onwards (the date Community rules on haulage cabotage first came into force) to be repaid. This did not, however, include aid provided exclusively for equipment to be used for combined transport, which was approved.

The Commission launched yet another investigation into Italian haulage subsidies in early 1998, but with markedly different results from those achieved in previous cases. The Italian government had notified Brussels, in April 1997, of its intention to adopt a draft law on "the restructuring of road haulage and the development of intermodality". It would provide, Italy said, for state subsidies to support efforts to develop the sector in line with combined transport needs, aid for the purchase and adaptation of vehicles, training subsidies, early retirement grants, and aid to promote mergers and associations.

Brussels approval, eventually, for Italian aid scheme

In a letter, the Commission informed Italy that the proposed measures could not be approved under the terms of Regulation 1107/70 on aid for inland transport, and nor did they fulfil the conditions for exemption contained in the general Treaty rules on state aid. In particular, it noted, there were doubts that the subsidies formed part of a coherent restructuring plan for the haulage industry, or that they would genuinely promote combined transport, as claimed by Italy. At the time, the Commission said its concerns were aggravated by Italy's past record with regard to aid in the haulage sector. However, following further contacts between the two sides, Italy appeared to display a more cooperative approach than previously, and agreed to revise the aid programme substantially in the light of the Commission's comments. Subsequently, in May 1999, the Commission was able to approve the amended scheme on the grounds that some of the proposed measures would not constitute state aid within the meaning of EC law, and the remainder would be compatible with the single market.

Spain's legitimate restructuring programme, and its illegal aid scheme

In Spain, the Commission was able to give a green light, in May 1993, to a Spanish programme of subsidies, worth Ecu81m during 1993-95, for restructuring in the haulage sector. The authorisation was based, inter alia, on the understanding that the programme would reduce overcapacity by at least 8%, thereby helping to "remedy a serious disturbance in the economy of a Member State" and fulfilling the conditions laid down in the Treaty's state aid rules. Subsequently, the Commission approved extensions of the scheme in 1995 and 1996.

However, a separate Spanish scheme to promote the renewal of the country's ageing commercial vehicle fleet was partly rejected by the Commission in July 1998. The so-called Plan Renove Industrial ran from August 1995 to December 1996, during which time some Ecu48.4m in aid was granted to help operators buy new lorries, coaches and buses. The Commission decided that the

aid distorted competition in the single market and Spain was ordered to recover the subsidy. The Spanish government subsequently lodged an appeal against the Decision in the Court of Justice. That case was still pending when, in October 1998, the Commission warned Spain that a successor scheme, operating from February 1997 onwards, could also be illegal. In autumn 1999, enquiries were continuing.

Commission approval for French restructuring plans

Two schemes benefiting the French haulage sector were approved by the Commission in 1995 as part of a major restructuring programme. The total aid concerned was comparatively small, Ecu26.5m, and was earmarked to help small businesses adjust to the liberalisation of the sector, which had affected them worst of all. The first scheme, approved in July, involved the payment of premiums to hauliers if they voluntarily ceased trading; and the second, authorised in October, subsidised the grouping together of businesses, provided it resulted in a reduction of capacity.

Austrian toll relief scheme challenged by Brussels

The Commission began a formal investigation into a completely different type of state aid scheme - concerning toll reliefs on the Tauern motorway in Austria - in February 1998. The scheme was first notified to the EFTA Surveillance Authority in 1994 before Austria had joined the EU, but it was not until October 1996 that the Commission wrote to Vienna asking for more details, some of which were provided by Austria in its reply a further year later, in October 1997. The investigation uncovered three types of toll on the motorway - passenger vehicles (category A), vehicles up to three axles (category B), and vehicles over three axles (category C) - and the fact that exemptions were provided for all vehicles registered in the surrounding Lungau region. The Commission said it accepted that the Treaty imposed no restrictions on toll relief for private individuals, but it questioned the Austrian assumption that all passenger vehicles belonged to private individuals, and it demanded a breakdown of journeys undertaken by business vehicles, and by other vehicles.

Transit firms encouraged by toll relief scheme

Austria put forward several arguments to justify the toll relief for local residents, but, in its February 1998 letter to the Austrian government, the Commission countered each one. Austria said, for example, that companies established in the Lungau district generally did not take part in transit business. The Commission argued, though, that such companies did in fact have a cost advantage over companies established elsewhere and that this was distorting competition: "*Such a financial advantage may even prompt companies with activities involving a high number of transit journeys between Germany and Italy to establish themselves in the district of Lungau.*" Moreover, it said, as far back as October 1994, Austria had admitted to a "dramatic growth of the number of companies with major transport activities (haulier and others) newly established in the district".

In March 1999, the Commission proposed that Austria should terminate the scheme of existing aid with regard to business vehicles by 31 December 1999, and, at the same time for procedural reasons, temporarily suspended the investigation. Subsequently, Austria agreed to the proposed measure and the Commission was able to close the file.

Portuguese and Dutch schemes approved

Other non-controversial aid programmes are occasionally approved by Brussels under the various guidelines for different types of aid (Chapter Two). In April 1995, the Commission authorised, under its guidelines on environmental aid, an Ecu60.9m, five year Portuguese subsidy programme for numerous measures aimed at transferring capacity to the most efficient carriers and reducing noise and gaseous emissions. The following year, an Ecu3.3m/yr Dutch collective passenger and goods transport scheme was given a green light, under the guidelines for RTD aid.

ANTITRUST INTERVENTIONS LARGELY ROUTINE MERGER APPROVALS

Compared to other transport sectors, the Commission has intervened relatively infrequently over antitrust violations in the road haulage or passenger transport industries, and its interventions have generally been limited to the control of mergers. A substantial proportion of the market for hire-or-reward haulage is carried out by small operators, meaning that mergers and cooperation arrangements between them fall outside the thresholds for Commission intervention. However, a number of large logistics and freight forwarding firms have extensive road transport businesses. Transfers of such businesses can potentially have major effects on the road haulage markets, and therefore fall within the scope of the merger Regulation.

One such case involved the acquisition by Stinnes, a subsidiary of the German conglomerate Veba (with interests in road and air freight forwarding), of a controlling interest in the Swedish transport and logistics company BTL. The effects of the venture were principally confined to international transport by road, and to a lesser extent by rail. The question was raised as to whether road and

rail forwarding were separate product markets, or part of a larger overall market for land-based transport services, but this point was not resolved, as it became apparent to the Commission that the merger would not create or reinforce a dominant position even on the narrowest market definition. The venture was cleared in February 1998.

Commission views domestic and international markets as distinct

The same question was raised shortly afterwards in the context of the takeover of the Swedish road freight forwarder Inter Forward by the Danish intermodal freight and logistics firm Dan Transport, although it was again left unanswered. Examining the venture, the Commission reconfirmed its opinion, also expressed in the Stinnes/BTL decision, that the markets for domestic and international road forwarding were distinct and separate, despite the effects of liberalisation. It noted that the takeover would lead to a combination of market shares on the domestic Swedish market, as well as on a number of international road forwarding routes. However, it again concluded, even with the narrowest possible definition of the market, the merged venture would not be placed in a dominant position.

One significant passenger transport venture, approved in February 1998, involved the takeover of the Swedish company Linjebuss, which operated bus lines in Sweden, Denmark, Finland, Belgium and Germany, by France's Compagnie Generale d'Entreprises Automobiles. The latter already had a number of public transport interests in the UK, Portugal and Germany. Reviewing the case, the Commission noted that even in Germany there were no geographical overlaps between the companies' activities, and that there would be no regional or national network effects arising from the takeover. Because the takeover would not create or reinforce a dominant market position, therefore, the Commission saw no reason to oppose it.

The Ducros/DHL agreement authorised for three years

In 1994, the Commission did look carefully at one non-merger antitrust case in the haulage industry. This concerned a cooperation agreement, pursuant to Regulation 1017/68 (Chapter Two), between Ducros, DHL and its German subsidiary Elan International which was set up to establish a European network of rapid road delivery services with guaranteed deadlines.

The Commission took the view that the cooperation did significantly restrict competition between the two parties. Nevertheless, it underlined the positive aspects of the agreement in terms of the quality of services that would be provided by the network to the customer. Consequently, it authorised the agreement for a three year grace period. The methodology of the approval was similar to that given for other cooperation agreements, at about the same time, based on rail distribution agreements, such as Night Services (Chapter Six), although, unlike in that case, no formal Decision was published.

EXTERNAL RELATIONS GIVE THE COMMISSION A TOUGH RIDE

Among the more pressing external road transport issues for the Community during the 1990s has been the position of Switzerland. Although at the geographical centre of Europe, it remains outside the EU and consequently outside the liberalised haulage market. Moreover, by effectively blocking the Swiss alpine routes to laden EU trucks, the 28t maximum weight limit imposed by Switzerland on international road traffic for environmental reasons has been a source of tension throughout the decade. The restriction has forced hauliers to take other routes, notably increasing traffic through Austria. A transit agreement signed in 1992 failed to solve this problem.

Following the 1992 referendum decision by the Swiss against joining the European Economic Area, negotiations began between Berne and Brussels on a range of bilateral agreements, including a new, more extensive, land transport pact. Discussions on the latter proved somewhat critical with the alpine transit issue holding up the entire EU-Swiss agreement (Chapter Eleven). An agreement was eventually signed in June 1999 alongside six other linked bilateral treaties (Chapter Sixteen). This was scheduled to enter into force around 2001, following the completion of Switzerland's complex ratification procedures.

The Switzerland-EU land transport agreement

In terms of road transport, the agreement provides for the liberalisation of passenger and goods services between the EU and Switzerland on the basis of the Community acquis (it also covers rail - basically reciprocal extension of network access on the basis of the Community acquis). This binds Switzerland to adopt legislation on, for example, access to the professions, driving time, dangerous goods, fuels and emissions. The controversial issue of lorry weights was solved by a complex compromise made up of transition charges and quotas for 40t trucks and charges for 34t trucks. According to the deal, the Swiss weight limit will be raised to 34t as of January 2001, and charges will vary between SFr145 and SFr205 for a 330km journey across the Alps, depending on

the pollution category (Euro norm) of the truck in question. Charges for shorter journeys or for empty or lightly laden vehicles will be reduced proportionately.

The Swiss weight limit will then be raised to 40t as of January 2005. In the meantime, a quota system will allow 250,000 40t trucks access to the Swiss road network as soon as the agreement enters into force, rising to 300,000 annually in 2001 and 2002 and 400,000 in 2003 and 2004. For these 40t trucks the charges will be: SFr180 in 2000, SFr178-252 in 2000-02, SFr210-300 in 2003-04, again depending on the Euro norm. As of 2005, the main charges for each truck category will be calculated on the basis of a census of vehicles circulating in Switzerland, with the maximum charge not exceeding SFr380 and the weighted average being equal to Eur200. (However, a maximum rate of SFr350 and an average of Eur180 will apply from 2005 until the first of the planned alpine rail tunnels opens or 2008, whichever is the earlier.) For journeys less than a 300km trip across the Alps, lesser proportional charges will apply. Although the Swiss can levy up to 15% of this charge as a special toll for alpine passes, the remainder must be levied on a per kilometre basis.

Quotas and charges for transiting Switzerland

The agreement includes a significant concession giving Swiss hauliers so-called 'grand cabotage' rights, allowing them to transport goods between Member States. Initially, as of 1 January 2001, they will be allowed only to conduct one such operation on the return leg of a bilateral journey between Switzerland and an EU Member State. As of 1 January 2005, however, full grand cabotage rights will enter into force.

Significant land transport agreements with CEEC prove elusive

Since the collapse of the iron curtain at the beginning of the decade, new markets and trade opportunities within the countries of Central and Eastern Europe (CEEC) have grown rapidly and have resulted in a rapid expansion of international road transport. Although the political and economic links between the Community and the CEEC have mushroomed through the 1990s (via Phare, the accession negotiations, and the Europe Agreements), haulage links remain largely based on bilateral arrangements between the Member States and the individual countries involved. A very limited quota of multilateral transit permits is provided by the European Conference of Ministers of Transport (ECMT) to all its members, which include the 15 EU Member States, the CEEC and some of the former Soviet states.

In the early 1990s, the Community signed small-scale transit and land transport agreements, concluded by the exchanges of short letters, with Hungary and with the Czech and Slovak Federal Republic. With Hungary in particular, the transit agreement made special arrangements, giving Hungarian permits to Greek hauliers in exchange for Community permits which could only be used by Hungarian hauliers in Greece.

Land transport agreements with Slovenia and Fyrom

More significantly, the Community has signed two land transport agreements, one with Slovenia in 1992, and the other with the Former Yugoslav Republic of Macedonia (Fyrom) in 1997, which provide a framework for cooperation and the development of infrastructure (particularly the important transport Corridors - Chapter Twelve) and rail/combined transport policies. They also require the partner country, in each case, to take on some of the EU's social and environmental legislation. Most importantly, though, both provide mutual and unrestricted transit rights for HGVs, while respecting existing bilateral agreements. The agreement with Slovenia was especially adapted in 1997 to ensure compatible treatment of Slovenian hauliers with their EU rivals within Austria's unique ecopoint system (Chapter Eleven), while the later Fyrom agreement took account of the ecopoint system from the beginning.

In the mid-1990s, interim trade agreements with some of the CEEC came into force, for the period between the signature of the Europe Agreements and their ratification, but these related to trade only and did not make any arrangements for transport. The Europe Agreements themselves, though, do contain provisions concerning transport, but none concerning the liberalisation of inland transport specifically (Chapter Fifteen). They simply say that mutual market access will be dealt with by "special transport agreements", call on both sides not take any measures or actions "which are more restrictive or discriminatory" as compared to the situation existing when the Agreement entered into force, and require partner countries to progressively adapt legislation to that of the Community.

Plan for multilateral accord with CEEC whittled away

The Commission first asked the Council for a mandate enabling it to begin talks on both road freight and passenger transport with its neighbours to the east in 1992. However, the general issue

of improving access to the CEEC haulage markets became overshadowed by the conflict in the Balkans and by the problems the situation posed for transport between Greece and the rest of the Community. The issue affected other Member States because the alternative land-sea route via Italy put pressure on the sensitive alpine passes (the Brenner if travelling northward, e.g. to ports in Germany or the Netherlands; and the Mont Blanc if travelling to ports in France or Spain). The only alternative route was through Bulgaria, Romania and Hungary. In December 1995, therefore, the Council decided to give the Commission a mandate to conclude a freight transit agreement with these three countries.

Multilateral agreement with CEEC proves problematic

The Commission expected to negotiate a multilateral deal for the three countries, with the Community gaining a quota of authorisations valid throughout their territory, and the three dividing a supply of EU transit licences between them equally. The Community wanted a quota roughly three times the size of that of the three CEEC. However, Hungary, with its central location, argued that it was not only the main transit country between the EU and Greece but also between Romania and Bulgaria and the EU. Because of the higher level of traffic which would pass across its territory, it demanded a greater share of the CEEC quota than either Romania or Bulgaria. With no multilateral compromise acceptable, particularly on the size and distribution of quotas, the Commission reluctantly accepted the need to negotiate bilateral agreements with individual quotas for each country. Final details of these agreements were still being negotiated in the latter half of 1999.

In the light of the accession negotiations, interest in the idea of a broad multilateral agreement with the remaining CEEC waned. During informal talks with a number of countries, though, the Commission began to look at the possibility of supplementing the existing country-to-country bilateral quotas with a new multilateral Community quota, along the lines of the ECMT system. Such a system, it was thought, might improve market access on both sides, reduce discrimination between large and smaller states, and help the CEEC haulage sector to adapt gradually to a free market. During 1999, the International Road Transport Union suggested that the EU's market should be opened up to CEEC hauliers on the basis of quotas allocated with respect to each country's success in applying the Community acquis, whereas EU operators should be allowed to set up business in the applicant states "as citizens of the host country, free of bureaucratic barriers".

The Interbus accord to take over from the Asor Agreement

When granting the Commission its mandate to conduct negotiations on haulage transit in 1995, the Council also authorised it to begin negotiations with 14 countries for a new international agreement on non-regular (occasional) bus and coach transport, to replace the existing Asor Agreement. This agreement was signed in 1982 by the then ten EU Member States, Spain, Portugal, Sweden, Finland and Austria, as well as Switzerland, Norway and Turkey. However, by the mid-1990s, the growth of the single market, and restrictions on new membership had rendered it largely obsolete.

Liberal framework for non-regular services

The new instrument, to be known as the 'Interbus Agreement', will draw on the key principles of the Asor Agreement to create a liberal framework for so-called 'closed door tours' (i.e. non-regular services where the same vehicle is used to carry a group of passengers throughout a journey and to bring them back to the place of departure). It will also liberalise non-regular services which make the outward journey laden and return unladen, and vice versa (pick-up and set-down services). Regular scheduled services, however, will remain subject to authorisations granted by the governments concerned on a route-by-route basis. During the negotiations, though, there was some dispute about the degree of Community acquis that signatories of the Interbus Agreement would be expected to take on, particularly with regard to the level of capital and reserves required by Community rules for access to the road transport professions. Nevertheless, by autumn 1999, the talks - between the Community, the ten accession countries, Turkey, Moldova, Bosnia-Herzegovina and Croatia - were nearing a conclusion, and there was hope the agreement could be signed before the end of the year.