# SELECTED ARTICLES EC TREATY

## TITLE V

#### **T**RANSPORT

#### Article 70

The objectives of this Treaty shall, in matters governed by this Title, be pursued by Member States within the framework of a Common Transport Policy.

#### Article 71

- 1) For the purpose of implementing Article 70, and taking into account the distinctive features of transport, the Council shall, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions, lay down:
- a) common rules applicable to international transport to or from the territory of one or more Member States;
- b) the conditions under which non-resident carriers may operate transport services within a Member State;
- c) measures to improve transport safety;
- d) any other appropriate provisions.
- 2) By way of derogation from the procedure provided for in paragraph 1, where the application of provisions concerning the principles of the regulatory system for transport would be liable to have a serious effect on the standard of living and on employment in certain areas and on the operation of transport facilities, they shall be laid down by the Council acting unanimously on a proposal from the Commission, after consulting the European Parliament and the Economic and Social Committee. In so doing, the Council shall take into account the need for adaptation to the economic development which will result from establishing the common market.

#### Article 72

Until the provisions referred to in Article 71-1 have been laid down, no Member State may, without unanimous approval of the Council, make the various provisions governing the subject on 1 January 1958 or, for acceding States, the date of their accession less favourable in their direct or indirect effect on carriers of other Member States as compared with carriers who are nationals of that State

#### Article 73

Aids shall be compatible with this Treaty if they meet the needs of coordination of transport or if they represent reimbursement for the discharge of certain obligations inherent in the concept of a public service.

#### Article 74

Any measures taken within the framework of this Treaty in respect of transport rates and conditions shall take account of the economic circumstances of carriers.

#### Article 75

- 1) In the case of transport within the Community, discrimination which takes the form of carriers charging different rates and imposing different conditions for the carriage of the same goods over the same transport links on grounds of the country of origin or of destination of the goods in question shall be abolished.
- 2) Paragraph 1 shall not prevent the Council from adopting other measures in pursuance of Article 71-1.
- 3) The Council shall, acting by qualified majority on a proposal from the Commission and after consulting the Economic and Social Committee, lay down rules for implementing the provisions of paragraph 1. The Council may in particular lay down provisions needed to enable the institutions of the Community to secure compliance with the rule laid down in paragraph 1 and to ensure that users benefit from it to the full.
- 4) The Commission shall, acting on its own initiative or on application by a Member State, investigate any cases of discrimination falling within paragraph 1 and, after consulting the Member State concerned, shall take the necessary decisions within the framework of the rules laid down in accordance with the provisions of paragraph 3.

### Article 76

- 1) The imposition by a Member State, in respect of transport operations carried out within the Community, or rates and conditions involving any element of support or protection in the interest of one or more particular undertakings or industries shall be prohibited, unless authorised by the Commission.
- 2) The Commission shall, acting on its own initiative or on application by a Member State, examine the rates and conditions referred to in paragraph 1, taking account in particular of the requirements of an appropriate regional economic policy, the needs of underdeveloped areas and the problems of areas seriously affected by political circumstances on the one hand, and of the effects of such rates and conditions on competition between the different modes of transport on the other.

After consulting each Member State concerned, the Commission shall take the necessary decisions.

3) The prohibition provided for in paragraph 1 shall not apply to tariffs fixed to meet competition.

#### Article 77

Charges or dues in respect of the crossing of frontiers which are charged by a carrier in addition to the transport rates shall not exceed a reasonable level after taking the costs actually incurred thereby into account.

Member States shall endeavour to reduce these costs progressively.

The Commission may make recommendations to Member States for the application of this Article.

#### Article 78

The provisions of the Title shall not form an obstacle to the application of measures taken in the Federal Republic of Germany to the extent that such measures are required in order to compensate for the economic disadvantages caused by the division of Germany to the economy of certain areas of the Federal Republic affected by that division.

#### Article 79

An Advisory Committee consisting of experts designated by the governments of Member States shall be attached to the Commission. The Commission, whenever it considers it desirable, shall consult the Committee on transport matters without prejudice to the powers of the Economic and Social Committee.

#### Article 80

- 1) The provisions of this Title shall apply to transport by rail, road and inland waterway.
- 2) The Council may, acting by a qualified majority, decided whether, to what extent and by what procedure appropriate provisions may be laid down for sea and air transport.

The procedural provisions of Article 71 shall apply.

# TITLE VI - CHAPTER 1

#### RULES ON COMPETITION

#### Rules applying to undertakings

#### Article 81

- 1) The following shall be prohibited as incompatible with the common market: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the common market, and in particular those which:
- a) directly or indirectly fix purchase or selling prices or any other trading conditions;
- b) limit or control production, markets, technical development, or investment;
- c) share markets or sources of supply;
- d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts
- 2) Any agreements or decisions prohibited pursuant to this Article shall be automatically void.
- 3) The provisions of paragraph 1 may, however, be declared inapplicable in the case of:
- any agreement or category of agreements between undertakings;
- any decision or category of decisions by associations of undertakings;
- any concerted practice or category of concerted practices,
- which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:
  (a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;
- (b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

#### Article 82

Any abuse by one or more undertakings of a dominant position within the common market or in a substantial part of it shall be prohibited as incompatible with the common market insofar as it may affect trade between Member States.

Such abuse may, in particular, consist in:

- (a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
- (b) limiting production, markets or technical development to the prejudice of consumers;
- (c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

(d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

#### Article 86

- 1) In the case of public undertakings and undertakings to which Member States grant special or exclusive rights, Member States shall neither enact nor maintain in force any measure contrary to the rules contained in this Treaty, in particular to those rules provided for in Article 12 and Articles 81 to 89.
- 2) Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly shall be subject to the rules contained in this Treaty, in particular to the rules on competition, insofar as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the interests of the Community.
- 3) The Commission shall ensure the application of the provisions of this Article and shall, where necessary, address appropriate directives or decisions to Member States.

#### Aids granted by States

#### Article 87

- 1) Save as otherwise provided in this Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with the common market.
- 2) The following shall be compatible with the common market:
- a) aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned;
- b) aid to make good the damage caused by natural disasters or exceptional occurrences;
- c) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, insofar as such aid is required in order to compensate for the economic disadvantages caused by that division.
- 3) The following may be considered to be compatible with the common market:
- a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment;
- b) aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State;
- c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;
- d) aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Community to an extent that is contrary to the common interest;
- e) such other categories of aid as may be specified by decision of the Council acting by a qualified majority on a proposal from the Commission.

#### Article 88

- 1) The Commission shall, in cooperation with Member States, keep under constant review all systems of aid existing in those States. It shall propose to the latter any appropriate measures required by the progressive development or by the functioning of the common market.
- 2) If, after giving notice to the parties concerned to submit their comments, the Commission finds that aid granted by a State or through State resources is not compatible with the common market having regard to Article 87, or that such aid is being misused, it shall decide that the State concerned shall abolish or alter such aid within a period of time to be determined by the Commission.

If the State concerned does not comply with this decision within the prescribed time, the Commission or any other interested State may, in derogation from the provisions of Articles 226 and 227, refer the matter to the Court of Justice direct.

On application by a Member State, the Council may, acting unanimously, decide that aid which that State is granting or intends to grant shall be considered to be compatible with the common market, in derogation from the provisions of Article 87 or from the regulations provided for in Article 89, if such a decision is justified by exceptional circumstances. If, as regards the aid in question, the Commission has already initiated the procedure provided for in the first subparagraph of this paragraph, the fact that the State concerned has made its application to the Council shall have the effect of suspending that procedure until the Council has made its attitude known.

If, however, the Council has not made its attitude known within three months of the said application being made, the Commission shall give its decision on the case.

3) The Commission shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. If it considers that any such plan is not compatible with the common market having regard to Article 87, it shall without delay initiate the procedure provided for in paragraph 2. The Member State concerned shall not put its proposed measures into effect until this procedure has resulted in a final decision.

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CoJ ruling on Italian ports legislation (C-170/90)	Dec 91	OJ/93/C33
Commission Decision, based on Article 90, concerning tariffs at the Port of Genoa	Oct 97	OJ/97/L301
Commission Decision to impose antitrust fines on Deutsche Bahn	Mar 94	OJ/94/L104
CoFI ruling upholding Decision to fine Deutsche Bahn (T-229/94)	Oct 97	OJ/97/C387
CoJ ruling concerning nationality restrictions in Italian docks (C-179/90)	Dec 91	OJ/92/C10
Commission Decision concerning Italian port labour law	Oct 97	OJ/97/L301
CoJ ruling in La Spezia Container Terminal case (C-163/96)	Feb 98	OJ/98/C113
CoJ ruling in case over pollution surveillance services at Genoa (C-343/96)	Mar 98	OJ/97/C142
CoJ ruling in Corsica Ferries case over charges at Genoa and La Spezia (C-266/96)	Jun 98	OJ/98/C278
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Directive 95/28/EC on fire resistance of coaches	Oct 95	OJ/95/L281
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(NB: above is just a sample of the many technical laws for vehicles as mentioned in the ch Directive 96/96/EC consolidating roadworthiness tests for vehicles	Dec 96	OJ/97/L46
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Communication on promoting road safety in the EU, 1997-2001	Apr 97	COM/97/131
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Draft Directive on roadside checks for HGVs	Mar 98	COM/98/117
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#### CHAPTER SIXTEEN

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Common Position on the EU's objectives towards Ukraine (94/779/CFSP)	Nov 94	OJ/94/L313
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Commission Communication on relations with Russia	May 95	COM/95/223
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Communication on strengthening the Mediterranean policy	Oct 94	COM/94/427
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#### **Notes**

All Directives, Decisions, Regulations, Resolutions and Common Positions listed are those of the Council alone, unless otherwise stated (i.e. 'Commission Decision', 'Commission Regulation', 'EP Resolution', 'Council and EP Decision', etc.) These should all have a reference in the Official Journal (OJ) - legislative texts are contained in the L series, while proposals, notices and other non-legal texts are published in the C series.

All laws and formal decisions have a specific reference number. The listing above follows the style of the EU's own law directory in most cases (except that the year has been abbreviated to two digits and 'No' has been left out of the middle of the number of Regulations). Confusingly, in the case of Decisions taken by the Council or the Commission on their own, the reference number is written either before or after the name of the law (rather than with the word 'Decision'), but in the case of Decisions taken by the Council and the EP together under the codecision procedure, the reference number is written straight after the word Decision (as is the case with all Regulations and Directives).

Communications, reports, proposals, <u>draft</u> Directives/Decisions/Regulations are those presented by the Commission. These have a COM or SEC number. COM documents are publicly available, while SEC documents are usually considered to be for internal use.

In most cases, the date given for each decision or document is that of when the decision was taken or the document formally adopted (and not that of publication of the Official Journal reference given). In some cases, however, concerning competition actions (state aid notices, for example), the date given is that of publication in the Official Journal (even though the actual procedure will have been launched earlier).

All COM documents and Official Journals should be available at European Commission document centres, located in most regions of the European Community.

In general, documents/decisions are listed just once, in the section where they are first mentioned; however, occasionally for clarity, a document may be mentioned a second time. Only documents/decisions for which a formal reference is available are included in this list. Some documents (a brochure or consultation paper, for example) may not have been listed because they were given no formal reference number at the time. A few competition cases (and Council Resolutions) have no reference because they were never published. Further references may be missing where the relevant decision had not appeared in the Official Journal by the time this book was sent for printing.

# GLOSSARY

ACEA Association of European Automobile Manufacturers

ACI Airports Council International

**ADNR** Regulation on the Transport of Dangerous Goods on the Rhine

**ADR** European Agreement on International Transport of Dangerous Goods by Road

AEA Association of European Airlines

**AEIF** European Association for Railway Interoperability

UN-ECE Agreement concerning the work of crews of vehicles in international transport **AETR** 

**APAS** bridging programme of preparatory and support RTD measures

air traffic control ATC ATM air traffic management Belgian francs BFr billion (1,000 million) bn

CAEP ICAO's Committee on Aviation and Environmental Protection

**CARE** Community databank on road traffic accidents common and coordinated policies and measures **CCPMs** CEEC Countries of Central and Eastern Europe CEN European Committee for Standardisation

Cenelec European Committee for Electrotechnical Standardisation

**CFSP** Common Foreign and Security Policy

CH<sub>4</sub> methane

CIS Community Information System

carbon monoxide CO CO<sub>2</sub> carbon dioxide CoFI Court of First Instance CoJ Court of Justice

COST European cooperation in the field of scientific and technological research

**COTIF** Convention on International Carriage by Rail

**CRS** computer reservation systems **CSF** Community Support Framework

CTcombined transport **CTP** Common Transport Policy

DFl **Dutch** guilders

DG Directorate-General of the European Commission

DM Deutschmarks Dr Greek drachmas

**EASA** European Aviation Safety Authority (only in planning stage) **EBRD** European Bank for Reconstruction and Development

EC. **European Community** 

**ECAC** European Civil Aviation Conference **ECMT** European Conference of Transport Ministers **ECSC** European Coal and Steel Community

**EEA** European Economic Area **EFC** electronic fee collection **EFTA** European Free Trade Association environmental impact assessment FIA

**EIB** European Investment Bank EIF European Investment Fund EP European Parliament

joint test programme of the automobile and oil industries **EPEFE** 

**ERDF** European Regional Development Fund **ERTMS** European rail traffic management system

**ESA** European Space Agency Esc Portuguese escudos

**ESDP** European Spatial Development Perspective

**ESF** European Social Fund EU European Union French francs FFr

Fifth FP Fifth RTD Framework Programme Fourth FP Fourth RTD Framework Programme

FP Framework Programme FTI. flight time limitation

gram

g G7/8 Group of seven (or eight plus Russia) industrialised nations

Galileo European project for GNSS2

**GATS** General Agreement on Trade in Services

gross domestic product **GDP** 

GJ gigaJoule

Glonass the Russian global navigation satellite system

**GNSS** global navigation satellite systems

GNSS2 second generation global navigation satellite systems

**GPA** Government Procurement Agreement

**GPS** Global Positioning System

#### Transport policies of the European Union - Paul K Lyons

grt gross registered tonnage

gt gross tonnage
HC hydrocarbons
HFCs hydrofluorocarbons
HGV heavy goods vehicle
HST high-speed train
Ir£ Irish pounds

IATA International Air Transport Association
ICAO International Civil Aviation Organisation
ILO International Labour Organisation
IMO International Maritime Organisation

INCO RTD programme of international cooperation (Second Activity)

ISM International safety management

Ispa Instrument for Structural Policies for Pre-Accession

ITC Integrated transport chains
JAA Joint Aviation Authority
JARs Joint Aviation Requirements
JRC Joint Research Centre

kg kilograms
km kilometres
kWh kilowatt hours
L Italian liras
LFr Luxembourg francs
LPG liquefied petroleum gas

m millions

Meda programme for cooperation with Mediterranean countries

MEP Member of the European Parliament

mg milligrams ml millilitres

MoU Memorandum of Understanding

mt million tonnes

NIS New Independent States
NOx nitrogen oxides
OBD on-board diagnostics

OECD Organisation for Economic Cooperation and Development

OJ Official Journal

PACT Pilot actions in combined transport PCA Partnership and Cooperation Agreement

pcu passenger car units PFCs perfluorocarbons

Phare Programme of technical assistance for Central and Eastern Europe

pkm passenger kilometres (passenger-km)

PPP public-private partnership

Pta Spanish pesetas

 $R\&D \qquad \qquad \text{research and development (although not strictly accurate, used synonomously with RTD in this book)}$ 

RID annex to Cotif on dangerous goods

ro-ro roll-on/roll-off

RTD research, technological development and demonstration

SAFA Safety Assessment of Foreign Aircraft

SDR Standard Drawing Rights SEA strategic environmental assessment

SF6 sulphur hexafluoride SFr Swiss francs

SME small and medium-sized enterprises

SO2 sulphur dioxide Solas Safety of life at sea

STCW Standards on Training, Certification and Watchkeeping for Seafarers

t tonnes

Tacis Programme of technical assistance for the NIS

TABD Transatlantic Business Dialogue TENs trans-European networks

TERFN trans-European rail freight network
TINA Transport infrastructure needs assessment

tkm tonne kilometres (tonne-km)
TPE transportable pressure equipment

Traceca transport Corridor from Central Asia to Europe
TSI technical specification for interoperability
UIC Union Internationale des Chemins de Fer

UN United Nations

UNCED UN Conference on Environment and Development UN-ECE United Nations Economic Commission for Europe

VAT value added tax
VTS Vessel Traffic Systems
WTO World Trade Organisation

**GLOSSARY** yr year