

ECONOMIC AND SOCIAL COMMITTEE  
OF THE EUROPEAN COMMUNITIES

**EEC'S TRANSPORT PROBLEMS  
WITH  
EAST EUROPEAN COUNTRIES**



**OPINION**

**Brussels**

The European Communities' Economic and Social Committee, chaired by Mr Basil de FERRANTI, approved this opinion at its 153rd Plenary session, which was held on 23 and 24 November 1977.

The preliminary work was done by the Section for Transport and Communications and the Rapporteur was Mr Werner HENNIG.

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French, German and Italian.

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## Introduction

The steadily mounting competition from the Eastern Bloc in the fields of maritime shipping and road haulage - and possibly in the field of waterway transport, too, in future - is a cause for grave concern on account of the conditions under which it is flourishing.

Because they are able to operate freely in the West, Eastern Bloc countries are succeeding to an increasing degree in changing the pattern of East-West goods traffic in their own favour.

Accordingly, the Economic and Social Committee points out that not only may Eastern Bloc carriers' penetration of the markets threaten employment in transport but, in the long run, there may be grave drawbacks for industry in the Community as a whole, at the very latest once the Eastern Bloc has succeeded through a deliberate policy in building up a strong position on the various transport markets.

For this reason, the Committee calls on all the institutions responsible for East-West transport questions to tackle this matter with the utmost vigour in order to ward off developments that would be disastrous for the economy and have grave social consequences.

Such are the conclusions reached in an additional Opinion which the Committee adopted at its 153rd Plenary Session on 23 November 1977 with Basil de FERRANTI in the chair.

It had been decided by the Committee's Bureau on 24 May 1976 that the Section for Transport and Communications - chaired by Mr HOFFMANN - should be authorized to study the burning issue of East-West transport and set out its findings in an Opinion delivered at the Committee's own initiative.

The Bureau also gave the Section permission to invite several guest speakers to address its members (\*).

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(\*) The following guest speakers were invited :  
Mr ANDRE-DUMONT, Director of the European Communities' Organization of Shipowners' Associations and Chairman of the Board of the DEPPE Shipping Company, Antwerp;  
Mr Carl-Heinz LURCH, Vice-Chairman of the Liaison Committee of the International Road Haulage Union, Brussels; Dr Johan HAUF, Section Secretary responsible for Inland Shipping at the International Transport Workers' Federation (ITF), London;  
Mr Giorgio MARIANI, Alitalia Deputy Director of Marketing; Mr Henri ROCHEREAU, President of the Association for the Development of French Ports, Paris;  
Mr POSTHUMUS, Chairman of the Government Commission for the Expansion of Dutch Ports.

Copies of the speakers' statements are obtainable from the Committee's Secretariat.



Because of the start in June 1977 of the Helsinki review conference, the Committee delivered a preliminary Opinion on the matter prior to the completion of its work. The Rapporteur for the Opinion was Mr HENNIG, with Mr BERNAERT, Mr FREDERSDORF, Mr KIRSCHEN, Mr PICARD, Mr RENAUD and Mr de VRIES REILINGH assisting as Co-Rapporteurs.

PART I

OPINION ON TRANSPORT PROBLEMS IN RELATIONS WITH EASTERN BLOC COUNTRIES (June 1977)

The Committee would press the appropriate EEC and Member State authorities to take steps at the Helsinki follow-up conference in Belgrade to improve co-operation in the field of transport. Care should be taken to ensure that no serious harm is done in this field and that there are no disturbances or disruptions of the market.

ADDITIONAL OPINION (November 1977)

General Comments

The Committee has ascertained that it is primarily sea transport, inland shipping and road haulage and also to a lesser degree port activities and ancillary services that are affected by the expansion of Eastern Bloc countries' share of traffic, which is threatening the survival of Western operators.

Less disquieting it would seem, is the situation in air and rail transport. These sectors, in which traffic is controlled in the main by a regulatory framework, were also examined by the Committee. This does not mean,

however, that it will not be necessary in future to keep a very careful eye on air and rail transport in order to prevent rates, for example, from diverging. The Committee thinks, nonetheless, that any problems can be settled within the framework of existing agreements.

The Committee hopes that an effective solution for other modes of transport (sea transport, inland shipping and road haulage) can also be negotiated.

It considers that concrete grounds for such action are to be found in the Final Act of the Helsinki Conference of 1 August 1975, where it is stated in Section II that :

"The participating States ... consider that their trade in various products should be conducted in such a way as not to cause serious injury - and should the situation arise, market disruption - in domestic markets for these products and in particular to the detriment of domestic producers of like or directly competitive products ...".

The participating States also agreed to "encourage the development of international inland transport of passengers and goods as well as the possibilities of adequate participation in such transport on the basis of reciprocal advantage". And at a general level reciprocal measures to develop commercial and economic relations by improving "business contacts and facilities" were promised.

The conclusion regarding trade drawn here from the major differences between the two sides' economic systems should, the Committee thinks, also serve as the guiding principle for the policy to be pursued with regard to transport.

The practical successes not scored so far on this front must be made a certainty in future by using more suitable methods than have been used so far.

The Committee is, however, aware that - as the Helsinki Agreement shows - agreements by themselves are no guarantee that an intolerable situation will be terminated. The Committee therefore calls on the Community bodies to equip themselves as soon as possible with suitable legal instruments for taking counter-action in the event of serious disturbances on the transport market.

Such legal instruments, however, do not rule out negotiations between the Community, represented by the Commission, and the COMECON or COMECON States - negotiations which might thereby prove to be more fruitful.

#### Specific Comments

Subject to its basic comments on what form action should take and where the responsibilities lie, the Committee holds the views set out below :

It is in the transport industry's interest, the Committee thinks, to work towards the following common targets in international traffic between the Community and East European State-trading countries :

- . Community land and sea operators should have a fair share of East-West traffic. The purpose of efforts here must be to prevent the COMECON countries from

reaping all the benefits and to work towards effective and - at all events - evenly matched reciprocity. It would appear advisable to do something about the cif and fob clauses in supply contracts so as to ensure equal access to the market;

- Workers employed by Community operators should be ensured legal and social protection when in Eastern Bloc countries;
- Consideration should be given to the social aspects of the problems posed in East-West transport by unfair competition and especially to the employment question and the repercussions on other sectors of the economy;
- The administrative formalities in international transport - and especially at frontiers - should be simplified and aligned;
- The special taxes and discriminatory charges in COMECON countries should be abolished;
- The transport activities of COMECON countries should be monitored in order to guarantee reciprocity with regard to the right of establishment, the acquisition of holdings and the access to cargoes/loads;

- . The setting-up of businesses and acquisition of holdings in the Community by COMECON firms should be regulated.

These general objectives can be attained most effectively if efforts are concentrated primarily on ensuring that both sides have fair access to markets and to cargoes/loads. On a general level, it must be emphasized once more that the competitive disadvantages of Western operators stem from the fact that the State-owned transport organizations in the COMECON countries restrict the customer's choice through their trading and transport policies.

A Community-wide solution includes ipso facto appropriate checks at Community level to verify the observance of agreements.

It is imperative, the Committee thinks, for the targets set out below to be achieved in the separate transport sectors :

- Sea Transport

In the field of sea transport, the appropriate bodies must take suitable action to ensure the following :

- . COMECON countries should be made to drop freight rates that are in no balanced relation to the normal terms in Western countries;
- . Community shipowners should be given a balanced share of bilateral traffic between Community and COMECON ports in both directions, at adequate rates and without carriers from other countries being excluded;
- . West European shipowners should be given the chance to acquire a share of traffic between COMECON ports and ports outside the Community;
- . Eastern Bloc shipping lines should be allowed to accede to existing agreements between Western shipowners.



- International Road Haulage

The following are the main measures that spring to mind for giving Western road hauliers an equal share of traffic between Member States and Eastern Bloc countries :

- . Agreements on equal access to the market through a system of licences for bilateral and transit traffic;
- . Agreements on access to loads by ensuring the freedom of establishment coupled with possibilities for securing loads (if need be, traffic-sharing agreements could be concluded);
- . Ban on exorbitant road tolls and transit levies;
- . Rules governing the picking up of return loads or additional loads in transit;
- . Reduction in the high visa fees charged by COMECON countries and introduction of permanent visas for lorry crews;
- . Recognition of the green insurance card by all COMECON countries, thus putting an end to the need for separate insurances to be taken out for vehicles;

- . Simplification and acceleration of customs procedure;
- . Guarantee of adequate stop-overs for lorry crews;
- . Legal protection for lorry crews involved in accidents.

- Inland Waterway Shipping

The Rhine's special status is a central factor here.

Competition in inland shipping is determined primarily by the legal regimes applicable to the international waterways. Here, too, there is need for protection against cut-throat competition from East European operators; such protection will be needed even more after the completion of the Main-Danube Canal.

Experience has shown that inland waterway operators cannot protect themselves. The appropriate public authorities must, therefore, come to the necessary arrangements and agreements on East-West traffic.

- . Top priority must be given to amending the Act of Mannheim so that it will be possible to restrict

navigation on the Rhine by vessels from countries other than EEC Member States and Switzerland.

Navigation on the Rhine by vessels from COMECON countries should be restricted to two-way traffic between a Rhine riparian State and the COMECON country in question;

- It is necessary to retain the complete ban on cabotage applicable to waterway vessels operating outside the Rhine area;
- The requisite arrangements could best be laid down in trade agreements incorporating transport clauses or in special transport agreements of equal value.

If transport clauses in trade agreements do not suffice, detailed rulings on the questions of bilateral traffic, cabotage, transit traffic, the picking up of return loads or additional loads in transit and third-country traffic will be necessary in the special transport agreements;

- In addition, agreements should be drawn up on the alignment of technical matters (vessel registration, certificates, navigation licences) and on safety aspects.

Suitable monitoring procedures, e.g. quota restrictions, must be introduced to ensure that treaties and agreements are observed.

- Air Transport

It can be concluded from the Committee's studies that as they are guided by different motives and avail themselves of different opportunities, East European airlines obtain different results to their West European counterparts.

As a result, East European airlines have a larger share of traffic and a stronger foothold on the market.

The Committee thinks, however, that existing agreements still provide an adequate basis for proper cooperation and desirable improvements in the areas mentioned above. Work should continue on this matter.

- Rail Transport

Distortions in traffic distribution at the expense of West European railways are the result of the COMECON countries' endeavours to use their own means of

transport as far as possible. Rail transport must be included in any East-West traffic-sharing agreements.

- Transport Users' Interests

The Committee notes that the industrial users of transport represented in its midst show an understanding for the ideas for restoring competition from COMECON carriers to normal. Here, too, there is an awareness of the longer-term risk of a growing dependence on Eastern Bloc transport operators.

Therefore, a better balance and a certain reciprocity should be sought with regard to the distribution of goods traffic. This would be for the benefit of the Community's carriers, though the interests of industrial transport users would also not be disregarded.

- Preventing Abuse of the Freedom of Establishment in General and in Sea Ports in Particular

The Committee has noted that Eastern Bloc operators have established permanent agencies in neighbouring Western countries (e.g. in sea ports), whereas Western carriers and forwarding agents are not able to set up such establishments in COMECON countries. Eastern Bloc operators can thus not only compete freely for cargoes, but

also keep a direct eye on developments in the different markets; full use is also made of the business opportunities they find. This gives Eastern Bloc operators a major competitive advantage.

In view of this situation and the fact that (a) it is difficult for Western firms to set up branches in COMECON countries, (b) even if they do succeed, these branches are restricted in their freedom of movement and (c) genuine reciprocity is therefore unattainable, the establishment by COMECON countries in the Community of agencies or firms coming under their control should be supervised.

This restriction or ban should include firms which are controlled directly or indirectly by natural or legal persons from a COMECON country or by such a country itself. Control here means the de jure or de facto influencing of the firm's decisions with regard, in particular, to the use of transport means or market strategy.

Special attention should be paid not only to vessels whose home ports are in COMECON countries but also to vessels which are registered in a West European country but whose owners are either citizens of a COMECON country or under such a country's control.

Finally, freedom of establishment in COMECON countries would have to be backed up by appropriate freedom to secure cargoes in these countries and by improved access to cargoes before it could be said that Western carriers were given the same treatment as their Eastern Bloc counterparts.

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The Committee would ask all the competent institutions to tackle this matter with the utmost vigour in order to ward off developments that would be disastrous for the economy and have grave social consequences.

PART II

REPORT OF THE SECTION FOR TRANSPORT AND COMMUNICATIONS

- General Comments - Study of the Current Situation in Transport between the Community and Eastern Bloc Countries

For some time now unions, trade and industry and public authorities at Community and Member State level have been concerned about competition from Eastern Bloc countries in the field of transport on account of the conditions under which it is flourishing.

Although most of the criticism has been levelled at the situation with regard to sea transport, inland waterway shipping and road haulage, voices have also frequently been raised in warning about the foothold Eastern Bloc countries are gaining in ports.

In view of this situation, the Section decided to take all the transport sectors, including international air and rail transport, one by one and examine in detail whether there were any difficulties or imbalances in competition between East and West.



The findings are set out in full in six separate documents (\*) appended to this Report. A number of the points made have been singled out by the Section below :

The steady growth in Community trade with Eastern Bloc countries (\*\*) has automatically led in recent years to a corresponding increase in East-West traffic. Generally speaking, Western carriers have a smaller share of this increased trade, and of the total volume of East-West transport, than their Eastern Bloc counterparts for a number of reasons :

- . In the Eastern Bloc's centrally-controlled economies foreign trade and international goods transport are in the hands of State monopolies. By comparison, most firms in West European countries are organized on a decentralized basis and form part of the private sector. This general difference in organization places Western transport operators at a competitive disadvantage. Operating at their own risk in line with the principles of private enterprise, they must cover their

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(*) - Sea transport	(Appendix 1)
- Road haulage	(Appendix 2)
- Inland Waterway Shipping	(Appendix 3)
- Air transport	(Appendix 4)
- Rail transport	(Appendix 5)
- Port operations	(Appendix 6)

(\*\*) See Tables 1 - 3.

full costs with the rates obtainable on the market, whereas the monopolies in the State-trading countries apply completely different principles when determining their costs and risks and fixing their rates;

- . The running of international transport operations in State-trading countries has to fit in with national economic plans. The constant aim is to give the State the power to control transport and transport capacity, which it can use to attain the targets set in such national plans and which it can exercise in the fields of international trade and traffic, too. The Eastern Bloc countries do this by selling their exports cif and purchasing their imports fob. As a result of this practice, they retain full control over the carriage of these imports and exports since, as the payers of the freight, they are free to choose the carrier.

The growing competition in sea transport from Eastern Bloc countries (\*) and, in particular, the Soviet Union, is particularly serious, especially in liner shipping and in general cargo services.

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(\*) By Eastern Bloc countries - also referred to as State-trading, COMECON or CMEA countries or simply the "Eastern Bloc" in this Report - is meant the socialist countries of Eastern Europe, viz. Albania, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania and the Soviet Union.

For a proper assessment of the specific nature and impact of this competition, it must be borne in mind that liner shipping is based on liberal principles. This applies both to the organization of such shipping and to the system of trade.

Thus, the fleets of the CMEA countries can gain a foothold in Western ports and in all important general cargo trades, an occurrence which has been made easier by the network of agencies and representatives built up by the Eastern Bloc in the West. The market penetration of the CMEA countries is, moreover, aided by the fact that Eastern Bloc shipping companies differ radically from their Western counterparts in their structure and operate under completely different commercial conditions.

The confrontation between Eastern Bloc and Western shipping companies would not have reached the pitch it has reached today if the Eastern Bloc countries had not started several years ago on a large-scale programme for expanding and modernizing their merchant fleets. Once the new container tonnage appears on the market, competition will most likely be stepped up further and could very soon threaten the existence of Western liner companies.

Similar problems exist in inland waterway shipping. On the waterways covered by the Act of Mannheim (Rhine Shipping Act) passenger and cargo vessels

have complete freedom regardless of the flags they fly. In cross-frontier traffic there are neither Government regulations on rates nor restrictions on access. Thus, shipping lines from COMECON countries are still allowed by the Rhine riparian States' free market economies to freely canvass for cargoes and push their way into traffic with the Rhine riparian States.

Once the Main-Danube Canal has been completed, this problem will grow much worse, since Eastern Bloc vessels, which have so far operated only on the Danube, will then be able to penetrate West European markets unimpeded unless counter-measures are taken in good time.

Western Europe would then become increasingly dependent on Eastern Bloc vessels for a large portion of its traffic. Furthermore, employment in inland shipping in Western Europe would very likely be adversely affected.

To a large extent, Eastern Bloc transport organizations have already gained a stranglehold on road haulage between the Community and Eastern Europe. In this sector, just as in sea transport, the conditions of competition are unevenly balanced and have led to the sustained expansion of Eastern Bloc transport capacity in bilateral traffic between Eastern Bloc and Community countries and in third-country traffic.

The problems with regard to goods traffic by air between Community and COMECON countries are less dramatic.

Air traffic is controlled in the main by bilateral and multilateral agreements. This is quite natural, for here a balanced solution to the questions of landing rights and rates is more readily attainable.

Rail transport is marked chiefly by the cooperation that exists, between East and West European railways. The problems already being encountered by West European railways - as well as other West European carriers - stem from the COMECON countries' centralized control of transport and the fact that the West European railways have to compete with the low rates being charged by COMECON carriers. If anything, this situation will probably grow worse.

Finally, special mention should be made in this connection of the position with regard to sea ports, as a number of companies (shipping agents, forwarding agents, etc.) financed with Eastern capital but constituted under Member States' laws have been set up in the West. These may exert a considerable influence on traffic and the transport user's choice especially if they should succeed in future in acquiring even more influence in ports. Here, too, Western Europe's industry will be in imminent

danger of being relegated to a position of dependence, if it is not possible to monitor the setting-up of these hybrid enterprises satisfactorily.

As a result of these developments, the transport user is confronted with decisions which cannot be taken on the basis of purely commercial considerations.

In the short term, Western transport users could benefit from this situation, since freight rates are for them cost factors which go towards making up their selling prices and they naturally do not want to be forced by higher transport costs to raise their prices. This is especially the case if the transport costs cannot be passed on to the final customer in full.

In the long term such a situation will, however, become dangerous. If Western carriers are gradually pushed out of the market, there is every likelihood that Eastern Bloc transport organizations will eventually be able to acquire a monopoly hold. It must then be feared that higher freight rates will be dictated to the customer, especially as Eastern Bloc carriers are in need of as much foreign currency as possible.

Finally, it should be pointed out that Eastern operators' penetration of the markets may indirectly threaten employment in transport and have repercussions on other sectors of the economy - a factor which is already disquieting workers' representatives.

- Necessary Measures and Initiatives

General Conclusions

The immediate question is therefore : How is such a situation to be tackled, in both the long and short term, in the interests of Western Europe's economy and workers, i.e. which measures or initiatives are deemed to be necessary to deal with the problems?

In the Final Act of the Helsinki Conference reference was rightly made to the considerable differences between the different types of economies.

There are also differences in the levels of centralization and especially in the ways foreign trade is organized. The Section thinks that these facts should guide the future course of transport policy, which has strong links with foreign trade policy.

Against this background, the Section has taken a close look at the practices of Eastern Bloc countries in international goods traffic with the West and has attempted to analyze the situation. It sees its task as being to provide pointers and proposals which will help to outline (a) a basis for foreign trade policy and transport policy, (b) a number of guiding principles for selective improvements to the organizational structure of trade

transport and relations and (c) a possible programme of action for the Community and its Member States in 1978.

Considering the results obtained in the fields of rail and air transport, the Section is wholly in favour of seeking solutions within the framework of agreements as far as possible, that is to say through negotiations. It has also been found that negotiations produce tangible results more easily if conducted against the backcloth of existing regulations.

The guidelines for a common policy could be worked out at the following levels :

- a) At national level
- b) At Community level (e.g. under Articles 75, 84(2) and 113 of the EEC Treaty)
- c) Within the OECD and other international governmental and non-governmental organizations.

If and where it should prove impossible in the short term to reach a Community-wide settlement, consideration should be given to bilateral or multilateral agreements between individual countries which could later help a Community solution to be found.



In the field of shipping, for example, agreements could be concluded directly between East and West European shipping companies.

It must be pointed out, however, that arrangements between individual countries (see Appendix 1) are not enough in themselves, because there is the danger of such action being uncoordinated and piecemeal, which should be avoided at all costs. Therefore, a Community-wide solution should be sought, come what may. There are seen to be two starting points for such a Community solution, namely the

- Helsinki Conference on Security and Cooperation in Europe (CSCE) and its Final Act of 1 August 1975, and the
- recently contemplated opening of negotiations between the Chairman of the COMECON Executive Committee and one of the Vice-Presidents of the EC Commission.

It should be borne in mind here that the Helsinki Conference has provided important pointers for international trade in the future. In the Final Act of 1 August 1975, all the participating States agreed to renounce practices which were harmful to trade or disturbed markets. This agreement also applied to practices injurious to inland transport (including waterway shipping). Section II of the Final Act entitled "Commercial Exchanges" states that :

"The participating States ... consider that their trade in various products should be conducted in such a way as not to cause serious injury - and should the situation arise, market disruption - in domestic markets for these products and in particular to the detriment of domestic producers of like or directly competitive products ...".

The participating States also agreed to "encourage the development of international inland transport of passengers and goods as well as the possibilities of adequate participation in such transport on the basis of reciprocal advantage". And at a general level, reciprocal measures to develop commercial and economic relations by improving "business contacts and facilities" were promised.

If these intentions set out in the Final Act have not yet borne fruit, then more work should be done in this direction. A Community Regulation containing suitable protective and defensive measures is an urgent requirement. After all, agreements must be observed (pacta sunt servanda).

A further, parallel line of approach to the problem should be pursued in the negotiations between COMECON and the EC Commission, as the sole Community negotiator.

It would seem that the Eastern Bloc countries are now interested in agreements with the Community. Recently, the COMECON States have been taking every opportunity to point out that, in the long term, COMECON offers a stable, expanding and exclusive market. COMECON is, therefore, interested in concluding a ten-year trade agreement which would also cover transport (\*).

In the light of experiences in individual transport sectors (e.g. air transport), the Section hopes that, above all, agreements are to be sought which make allowance for the nature and special structure of the individual modes.

Sea transport is a special problem. Although the Commission is responsible for negotiating bilateral trade agreements with non-member countries (Article 113 of the EEC Treaty), Council decisions on sea transport have to be unanimous (Article 84(2) of the EEC Treaty). Nevertheless, it is clear as demonstrated most recently at the Council meetings on 4 November 1976 and 28-29 June 1977 that there is an increasing readiness to reach agreement in this area. This has been shown, for example, by the Council Decision setting up a consultation procedure

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(\* ) See also European Report No. 447 of 24 September 1977, ER/page 6

on relations between Member States and third countries in shipping matters and on action relating to such matters in international organizations (\*).

OECD action could be taken in support of the Community measures which, it is felt, have top priority.

- Action in Individual Fields of Transport

Subject to its basic comments on what form action should take and where the responsibilities lie, the Section holds the view set out below.

It is necessary, the Section thinks, to work towards the following common targets in international traffic between Community and East-European State-trading countries :

- Community land and sea transport operators should have a fair share of East-West traffic, due regard being paid to the special structure and conditions of transport in the Member States. The purpose of efforts here must be to prevent the CMEA countries from reaping all the benefits and to work towards effective and - at all events - evenly matched reciprocity. It would appear advisable

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(\*) See OJ No. L 239 of 17 September 1977, page 23

to do something about the cif and fob clauses in supply contracts so as to ensure equal access to the market.

- Workers employed by Community operators should be ensured legal and social protection when in Eastern Bloc countries.
- Consideration should be given to the social aspects of the problems posed in East-West transport by unfair competition and especially to the employment question and the repercussions on other sectors of the economy.
- The administrative formalities in international transport - and especially at frontiers - should be simplified and aligned.
- The special taxes and discriminatory charges in CMEA countries should be abolished.
- The transport activities of COMECON countries should be monitored in order to guarantee reciprocity with regard to the right of establishment, the acquisition of holdings and the access to cargoes/loads.

- The setting-up of businesses and acquisition of holdings in the Community by COMECON firms should be regulated.

A Community-wide solution includes ipso facto appropriate checks at Community level to verify the observance of agreements.

It is imperative, the Section thinks, for the targets set out below to be achieved in the separate transport sectors.

- Sea Transport

The objectives in the field of sea transport and the measures to be taken to achieve them might be defined as follows :

- COMECON countries should be made to drop freight rates that are in no balanced relation to the normal terms in Western countries.
- Community shipowners should be given a balanced share of bilateral traffic between Community and COMECON ports in both directions, at adequate rates and without carriers from other countries being excluded.

- West European shipowners should be given the chance to acquire a share of traffic between COMECON ports and ports outside the Community.
- Eastern Bloc shipping lines should be allowed to accede to existing agreements between Western shipowners.
- International Road Haulage

The following are the main measures that spring to mind for giving Western road hauliers an equal share of traffic between Member States and Eastern Bloc countries :

- Agreements on equal access to the market through a system of licences for bilateral and transit traffic.
- Agreements on access to loads through ensuring the freedom of establishment coupled with possibilities for securing cargoes (if need be, traffic sharing agreements could be concluded).
- Ban on exorbitant road tolls and transit levies.

- Rules governing the picking up of return loads or additional loads in transit.
- Reduction in the high visa fees charged by COMECON countries and introduction of permanent visas for lorry crews.
- Recognition of the green insurance card by all COMECON countries, thus putting an end to the need for separate insurances to be taken out for vehicles.
- Simplification and acceleration of customs procedures.
- Guarantee of adequate stop-overs for lorry crews.
- Legal protection for lorry crews involved in accidents.
- Inland Waterway Shipping

The Rhine's special status is a central factor here.

Competition in inland shipping is determined primarily by the legal regimes applicable to the international waterways. Here, too, there is need for protection against cut-throat competition from East European



operators; such protection will be needed even more after the completion of the Main-Danube Canal.

Experience has shown that inland waterway operators cannot protect themselves. Regulation of East-West transport through the appropriate public authorities is therefore necessary.

- Top priority must be given to amending or supplementing the Act of Mannheim, so as to make it clear which vessels are to have freedom of navigation on the Rhine.
- The requisite arrangements could best be laid down in trade agreements incorporating transport clauses or in special transport agreements. If the transport clauses in trade agreements do not suffice, detailed rulings on the questions of bilateral traffic, cabotage, transit traffic, the picking up of return loads or additional loads in transit and third-country traffic will be necessary in the special transport agreements.
- In addition, agreements should be drawn up on the alignment of technical matters (vessel registration, certificates, navigation licences) and on safety aspects.

Suitable monitoring procedures, e.g. quota restrictions, must be introduced to ensure that treaties and agreements are observed.

- Air Transport

The main issues in this sector have been settled on the basis of reciprocity. To this extent, existing agreements form a satisfactory basis at the moment for proper cooperation, though they should be used in future to make further improvements, especially with regard to the fixing of prices and airlines' footholds on markets.

- Rail Transport

Distortions in traffic distribution at the expense of West European railways are the result of the COMECON countries' endeavours to use their own means of transport as far as possible. Rail transport must be included in any East-West traffic-sharing agreements.

- Transport Users' Interests

The Section notes that the industrial users of transport represented in its midst show an understanding for the flow of ideas for restoring competition from COMECON carriers to normal. Here, too, there is an

awareness of the longer-term risks of a growing dependence on Eastern Bloc transport operators.

Therefore, a better balance and a certain reciprocity should be sought with regard to the distribution of goods traffic. This would be for the benefit of the Community's carriers, though the interests of industrial transport users would also not be disregarded.

- Preventing Abuse of the Freedom of Establishment

The Section has noted that Eastern Bloc operators have established permanent agencies in neighbouring Western countries, whereas Western carriers and forwarding agents are not able to set up such establishments in COMECON countries. Eastern Bloc operators can thus not only compete freely for cargoes, but also keep a direct eye on developments on the different markets; full use is also made of the business opportunities they find. This gives Eastern Bloc operators a major competitive advantage.

In view of this situation and the fact that (a) it is difficult for Western firms to set up branches

in COMECON countries, (b) even if they do succeed, these branches are restricted in their freedom of movement and (c) genuine reciprocity is therefore unattainable, the establishment by COMECON countries in the Community of agencies or firms coming under their control should be supervised.

This restriction or ban should include firms which are controlled directly or indirectly by natural or legal persons from a COMECON country or by such a country itself. Control here means the de jure or de facto influencing of the firm's decisions with regard, in particular, to the use of transport means or market strategy.

Special attention should be paid, not only to vessels whose home ports are in COMECON countries, but also to vessels which are registered in a West European country but whose owners are either citizens of a COMECON country or under such a country's control.

Finally, freedom of establishment in COMECON countries would have to be backed up by appropriate freedom to secure cargoes in these countries and by improved access to cargoes before it could be said that Western carriers were given the same treatment as their Eastern Bloc counterparts.

It is clear from the above comments that the Section has taken a close look at the considerable anxieties besetting transport circles on account of developments in East-West transport.

It would ask all the competent institutions to tackle this matter with the utmost vigour in order to ward off developments that would be disastrous for the economy and have grave social consequences.

Table No. 1

EEC imports from the COMECON countries in 1965, 1970 and 1974 in '000 tonnes

To From	Year	West Germany	France	Belgium Luxembourg	Nether- lands	Italy	United Kingdom	Ireland	Denmark	EEC Total
Bulgaria	1965	126	11	5	15	182	•	•	•	339
	1970	174	62	39	45	260	•	•	•	580
	1974	124	32	15	9	261	63	1	10	521
Rumania	1965	977	732	31	37	1,195	•	•	•	2,972
	1970	1,454	680	62	66	1,231	•	•	•	3,493
	1974	1,428	476	57	312	1,075	123	28	74	3,273
Hungary	1965	474	26	25	34	240	•	•	•	799
	1970	765	42	28	31	548	•	•	•	1,414
	1974	703	63	39	51	752	270	2	34	1,919
Czechos- lovakia	1965	2,096	109	66	189	428	•	•	•	2,888
	1970	3,052	134	77	236	536	•	•	•	4,035
	1974	3,682	188	313	240	626	209	19	78	5,355
Poland	1965	1,593	603	356	332	661	•	•	•	3,545
	1970	2,925	1,948	680	618	2,698	•	•	•	8,869
	1974	3,479	3,811	1,945	1,203	3,288	2,484	691	3,632	20,536
USSR	1965	3,034	3,968	935	671	10,130	•	•	•	20,738
	1970	8,264	5,120	2,135	1,181	15,468	•	•	•	32,168
	1974	11,948	3,955	2,112	2,044	10,895	2,878	353	1,454	35,639
GDR	1965	• (1)	30	269	222	151	•	•	•	672
	1970	•	72	328	277	164	•	•	•	841
	1974	•	161	230	223	232	425	71	265	1,607
Total	1965	10,300	5,479	1,687	1,500	12,987	•	•	•	31,953
	1970	16,634	8,058	3,349	2,454	20,905	•	•	•	51,400
	1974	21,369	8,686	4,711	4,082	17,135	6,452	1,165	5,550	69,150
Percentage Change	1965/	+ 61.5%	+ 47.1%	+ 98.5%	+ 83.8%	+ 61.0%	•	•	•	(+ 60.9%)
	1970/	+ 6.334	+ 2,579	+ 1,662	+ 954	+ 7,918	•	•	•	(= 19,447)
	1974/	+ 28.5%	+ 7.8%	+ 40.7%	+ 66.3%	+ 18.9%	•	•	•	(+ 34.5%)
1974	= 4,735	= 628	= 1,362	= 1,628	= 3,770	•	•	•	= 17,750	

(1) No data available on trade between the Federal Republic of Germany and the German Democratic Republic  
 Source : NIMCER Statistics of the European Communities, 1974, Breakdown of Goods According to Countries.

Table No. 2

## EEC exports to the COMECON countries in 1965, 1970 and 1974 in '000 tonnes

To	Year	West Germany	France	Belgium Luxembourg	Nether-lands	Italy	United Kingdom	Ireland	Denmark	EEC Total
Bulgaria	1965	109	70	12	26	122	.	.	.	339
	1970	182	126	13	17	86	.	.	.	414
	1974	219	126	61	34	89	42	1	3	575
Rumania	1965	216	55	21	13	97	.	.	.	402
	1970	295	163	58	49	202	.	.	.	767
	1974	872	162	76	73	294	64	0	7	1,548
Hungary	1965	167	110	14	15	117	.	.	.	423
	1970	257	87	43	53	233	.	.	.	673
	1974	692	97	43	76	239	106	3	33	1,289
Czechoslovakia	1965	202	265	43	37	157	.	.	.	724
	1970	1,056	72	28	50	80	.	.	.	1,286
	1974	762	78	37	69	103	30	1	26	1,106
Poland	1965	409	376	75	70	175	.	.	.	1,105
	1970	568	548	65	66	114	.	.	.	1,754
	1974	2,301	421	555	167	233	189	13	177	4,956
USSR	1965	1,1	227	32	34	303	.	.	.	767
	1970	932	481	47	110	330	.	.	.	1,900
	1974	2,638	692	964	164	1,109	160	23	43	5,793
GDR	1965	. (1)	932	28	77	44	.	.	.	1,081
	1970	.	39	45	569	71	.	.	.	724
	1974	.	82	109	269	91	.	.	.	721
Total	1965	1,274	2,055	225	272	1,015	.	.	.	4,841
	1970	3,617	1,572	299	914	1,116	.	.	.	7,518
	1974	7,484	1,658	1,845	892	1,158	656	61	374	15,088
Percentage Change	1965/1970	+ 183.9%	- 23.5%	+ 32.9%	+ 236.0%	+ 10.0%	.	.	.	(+ 55.3%)
	1970/1974	= 2,343	= 483	= 74	= 642	= 101	.	.	.	= 2,677
	1974	+ 106.9%	+ 5.5%	+ 517.1%	- 6.8%	+ 93.4%	.	.	.	(+ 100.7%)
		+ 3,867	= 86	- 1,546	- 62	- 1,042	.	.	.	= 7,570

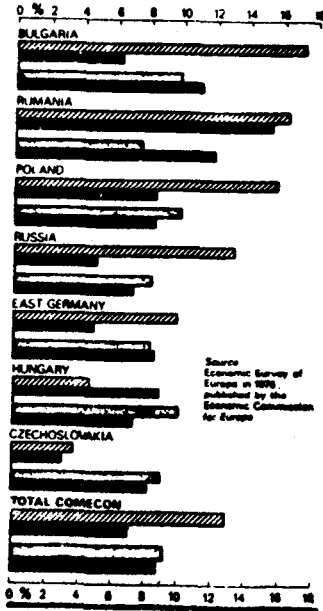
(1) No data available on trade between the Federal Republic of Germany and the German Democratic Republic

Source : NIMEXE Statistics of the European Communities, 1974, Breakdown of Goods According to Countries

**More east-east trade**

Comcon countries average annual % change  
in volume of trade with  
the west each other

▨ 1971-75      1971-75  
■ 1976-80 (planned)      1976-80 (planned)



Source:  
Economic Survey of  
Europe in 1979,  
published by the  
Economic Commission  
for Europe



PART III : APPENDICES TO THE REPORT

SEA TRANSPORT

- General Comments

Western merchant fleets are faced with a problem that is placing them in very great difficulties, namely, the growing competition from the Eastern Bloc countries (\*) and in particular the Soviet Union.

This competition is particularly keen in the liner trades, i.e. mainly in general cargo services.

For a proper assessment of the specific nature and impact of this competition, it must be borne in mind that, despite a recent trend, liner shipping is still based on liberal principles. This applies both to the organization of such shipping and to the system of trade.

The seas are free - at least in the West - and Western ports are open without any particular restrictions to all the world's merchant fleets, including of

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(\*) By Eastern Bloc countries is meant the socialist countries of Eastern Europe, viz. Albania, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania and the Soviet Union.

course those of the Eastern Bloc countries, which are free to come here and engage in commercial activities of all kinds.

Thus the fleets of the COMECON countries can gain a foothold in Western ports and in all important cargo trades. Their advances are, moreover, made easier by the fact that Eastern Bloc shipping companies differ radically from their Western counterparts in their operational set-up and the commercial conditions to which they are subject.

- Specific Comments (\*)

Organization of the Sea Transport Operations of the Eastern Bloc Countries

The entire sea transport operations of the Eastern Bloc countries are controlled by State agencies which from the legal point of view probably rank as independent, self-administered bodies but which in fact are part and parcel of the economic machinery of the Eastern Bloc countries and as such have to conform strictly with State economic planning.

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(\*) Cf. pages 61-88.

The following are examples of the Eastern Bloc's State-run international shipping lines : Polish Ocean Lines (POL) based in Gdynia, VEB Deutsche Seereederei in Rostock and Navebulgar in Sofia. The Soviet Union has several State enterprises each covering a certain sector of sea transport : The Baltic Shipping Company in Leningrad, Black Sea Shipping in Odessa, Estonian Shipping in Tallinn.

Furthermore, the Soviet Union's liner operations are coordinated by the Sovinflot agency, which organizes agency services in foreign ports and is the sole intermediary through which foreign lines can be represented in Soviet ports. Dry cargo tramping and oil transport are controlled by another State agency, Sovfracht, which determines the chartering of foreign vessels and the freighting of Soviet tramp vessels abroad.

Among the decisive advantages Eastern Bloc shipping companies derive from their set-up, one can single out their low operating costs. The State, as shipowner, bears inter alia the capital costs, amortization, the cost of

research and insurance (particularly hull insurance). Furthermore, crew costs (wages plus social security contributions) are significantly lower than those of Western shipping companies operating fleets under European flags. On top of this, Eastern Bloc fleets enjoy special low rates particularly as regards bunkers and port dues in home ports.

- Growth of Eastern Bloc Fleets

The confrontation between Eastern Bloc and Western shipping companies would not have reached the pitch it has reached today if the Eastern Bloc countries had not started several years ago on a large-scale programme for expanding and modernizing their merchant fleets. When competition from Eastern Bloc lines was confined to a few unimportant trades its impact was relatively slight and the Western shipping companies were able to adapt to it. With the rapid growth of COMECON fleets in recent years and particularly with the prospect of further expansion, the problem has taken on a new dimension and the threat these fleets pose to Western lines is now of a different magnitude.

According to Lloyd's Register of Shipping, Eastern Bloc fleets totalled 27,557,000 tonnes as of 30 June 1976. This represents 7.4% of the entire world fleet of 372,000,000 GRT.

Whereas the world's tonnage doubles on average every ten years, the carrying capacity of Eastern Bloc merchant fleets has increased tenfold since 1955, rising from 2.8 million GRT (2.8% of the world tonnage) to 27.556 million GRT in 1976.

The Soviet Union's merchant fleet is the sixth largest in the world with a total of 20.668 million GRT (5.6% of the world's tonnage). Therefore, the Soviet fleet completely overshadows those of the other COMECON countries, for only Poland and the GDR have merchant fleets of more than one million GRT (Poland : 3.263 million GRT; the GDR : 1.437 million GRT).

Unlike the Liberian, Japanese and Scandinavian fleets, where the emphasis is on oil tankers and bulk carriers, the socialist countries of Eastern Europe and in particular the Soviet Union have sought above all to build up large fleets of liners. Statistics are revealing on

this point - since 1970 the world's total liner tonnage, i.e. conventional vessels, ro/ro vessels and container ships, has increased by only 8% from 74.3 million GRT in 1970 to 80.3 million GRT in 1976, whereas over the same period the Eastern Bloc countries' liner tonnage has shot up by something like 32.9% from 7.9 to 10.5 million GRT. What is even more characteristic is the fact that the Eastern Bloc's share of the world's liner tonnage rose from 10.6% in 1970 to 13.1% in 1976. Another significant feature is the rise in the Soviet Union's share of world ro/ro tonnage, which has increased from 2% to 10% in the space of two and a half years, according to the British specialist publication "Westinform Directory of Ro/Ro Vessels". And today the Soviet Union leads the world in the field of dry cargo vessels with its 7.7 million GRT. The vessels the Eastern Bloc countries have on order are proof of their resolve to pursue this course and to become involved in all trades and all categories of vessels.

Thus, according to the journal "Fair Play", Eastern Bloc countries had on order on 28 January 1977 321 liners (excluding container ships) of more than 1,000 tdw, representing a total of 1,645,754 tdw. Practically

two thirds of these vessels under construction or on order (viz. 202 vessels totalling 1,006,032 tdw) are for the Soviet Union, which thus ranks third in the world behind Greece and Liberia in this category of vessels. The units under construction for Eastern Bloc countries account for 10.3% of world orders. On 1 November 1975 this figure had been only 8.6%.

Whilst continuing to equip their fleets with conventional cargo vessels, the COMECON countries are also placing more and more emphasis on modern specialized vessels. It should be noted in particular that Soviet orders account for roughly 30% of the rc/ro units under construction or due for delivery shortly in the world.

A comparable effort is being made in the field of container ships. Hitherto, only the Soviet Union and Poland have operated container ships and then only on a limited scale. The vessels so far have been of very small tonnage and low capacity and have not enabled these countries to play a significant role in world trade.

At the moment, the Soviet Union and Poland have 25 and 9 such vessels on order, respectively, totalling 515,114 tdw all told or 14.6% of world orders.

The Maritime Policy of the Eastern Bloc Countries and  
the Objectives of this Policy

A comparison of the expansion in foreign trade and merchant fleets between the OECD countries and the Soviet Union shows that not only is the Soviet Union's fleet growing at a much faster rate than the fleets of the OECD countries, but this rate of growth outstrips the expansion in the country's foreign trade. Thus, taking 1965 as the base year (index 100), the OECD countries' foreign trade index had reached 187 by 1974, compared with an index of 163 for the Soviet Union. In contrast, the 1974 index for the fleets of the OECD countries was only 157, whereas the figure for the Soviet Union was 212.

According to Mr A. ANDRE-DUMONT, a representative of Common Market shipowners, the liner tonnage of the Soviet Union would be capable of carrying six times the country's national trade in general cargo.

It seems that one of the basic objectives of the shipping companies of the Eastern Bloc countries as a whole is to make a maximum profit in hard foreign currencies and thereby help to reduce these countries' large balance-of-payments deficits, vis-à-vis Western industrialized countries.



With regard to bilateral traffic, Eastern Bloc countries tend to secure their fleets a monopoly of liner traffic both to and from their ports.

This situation has prompted Western countries which want to have a share of this bilateral traffic, to conclude government agreements with Eastern Bloc countries. Most of the EEC's seafaring nations have concluded such agreements.

It is possible to seek through these bilateral agreements either (a) a general trade balance or (b) - on a more specific level - the balanced sharing of cargoes in terms of freight value. In the maritime shipping sector, this second approach seems to have been adopted in most agreements. However, it seems that such a balance is rarely achieved in the application of these agreements.

Another of the limitations of these agreements is the fact that they apply only to bilateral trade. Consequently, they do not allow a non-Soviet vessel to pick up cargo in a Soviet port for a third country. On the other hand, Soviet vessels are completely free to load or discharge cargoes in all EEC ports as cross traders.

These restriction on the operation by Western shipping companies of regular services between the Soviet Union and third countries are due either to unilateral Soviet control of the ports of call of non-Soviet vessels or to the existence of bilateral agreements for the 50/50 sharing of cargoes between the Soviet Union and third countries. Such agreements have already been concluded between the Soviet Union and eleven countries (Argentina, Brazil, Cuba, Algeria, Morocco, United Arab Republic, Guinea, India, Indonesia, Pakistan and Sri Lanka).

Western shipping companies have no freedom at all to set up offices in Eastern Bloc countries. In particular, they cannot establish independent agencies to represent them in these countries. On the other hand, the Eastern Bloc State bodies, such as SOVINFLLOT, can set up offices in Western countries and thus build up a commercial network which enables them to acquire cargoes for their vessels.

In addition, State-owned companies in Eastern Bloc countries can buy outright, or acquire majority holdings in, Western forwarding agencies, shipbrokers or shipping lines, and thus exercise control over firms which are outwardly still in national hands. Examples of this can be found in Belgium, France, the Federal Republic of Germany, Italy and the United Kingdom.

Finally, since Eastern Bloc countries' foreign trade is controlled entirely by the State, mainly through central purchasing or selling offices, the latter have such a strong negotiating position that they can demand, often with success, that contracts for the sale or purchase of goods give them a monopoly of the transport of the goods.

These demands of suppliers in Eastern Bloc countries are coupled with the attraction of a low price, which purchasers find hard to resist. If, however, these demands are not accepted, it very often happens that, when the time comes for the transport contract to be awarded, Eastern Bloc shipping lines undercut the market to such a great extent with their freight rates that it becomes impossible for Western companies to acquire a share of the sea traffic.

In the case of goods sold to Eastern Bloc countries, the latter tend to make the sale conditional upon inclusion in the contract of a clause reserving the carriage of the goods to themselves. The fact that trade is a State monopoly gives these countries a negotiating advantage over individual companies keen on winning an export order.

The gravest threat facing world shipping at the moment as a result of the spectacular growth in the merchant fleets of Eastern Bloc countries, and especially the

Soviet Union, is caused by abnormally high undercutting or "dumping" as it is generally called.

The general practice seems to be that liner operators from the socialist countries set up joint services for the purpose of gradually ousting Western shipping lines by charging much lower freight rates. There is no shortage of examples to illustrate this point. Thus, since October 1975, Eastern shipping lines have been operating a joint service between the North Continental ports and East Africa, in particular Mombasa, Dar Es Salaam and Lourenço Marquês. The rates on this joint service are 20-30% below those charged by Western shipping companies. In the trade between Japan and the West Coast of the United States and Canada, a Soviet company is offering freight rates 40% below those applied by Western companies. Such undercutting has already caused various Western lines to withdraw from these routes.

To give a further example, another Soviet company is quoting a rate 38% below that of other shipping lines for the shipment of tobacco from Manila to Le Havre.

On the North Atlantic route, Eastern Bloc shipping lines carry high-rated cargoes at between 18 and 38.5% below the rates applied by Western lines.

This systematic large-scale undercutting is putting in jeopardy the continued existence of the regular services run by Western shipping lines and is making the operation of liner companies serving these routes at all events a precarious business.

This problem of competition from Eastern Bloc countries is therefore one of the main dangers with which Western shipping lines have to contend, and suitable means of defence must be worked out. It is, in fact, the independence of the foreign trade of countries with free market economies and the survival of Western European fleets which are at stake, and it would be dangerous for the future if the full implications of this problem were neglected. Above all, it would be dangerous to consider this problem as being one of a number of cyclical elements in the international crisis which is currently ravaging sea transport, like the emergence on the world shipping scene of Third World flags and the considerable role played by flags of convenience, two problems which deserve to be discussed elsewhere with special emphasis on their social implications.

- Objectives and Suggested Measures for the Attainment Thereof

It would seem that the objectives may be defined as follows :

- a) COMECON countries should be called on to refrain from quoting freight rates that bear no relation to those

normally applied in Western countries and are incompatible with a shipping line's normal costs;

- b) EEC shipowners should be given an equal share of bilateral traffic between EEC and COMECON ports in both directions and at sufficiently remunerative freight rates, without excluding carriers from third countries;
- c) Western European shipowners should be given the chance to acquire a share of traffic between COMECON ports and ports outside the Community;
- d) Eastern Bloc shipping lines should be allowed to join existing agreements between Western shipowners provided that they undertake to respect the clauses of these agreements;
- e) Reciprocity with regard to the right of establishment should be guaranteed.

The following recommendations have been made by some members for attaining these objectives : Firstly, it would be desirable - though this is something that cannot be done by legislating - to instil a frame of mind in each Member State and in the Community as a whole that will ensure that the furtherance of immediate individual interests does not hamper the pursuit of an overall policy that will safeguard the general interest.

In addition, defensive measures must be worked out without delay. It is generally agreed that such measures presuppose the active intervention of the Governments of the Member States concerned.

There is already legislation in each Member State which permits defensive measures to be taken. However, these legal provisions are disparate (see pages 59-82) and should be aligned at EEC level. In addition, there must be a readiness to implement such provisions. Hitherto, it must be acknowledged, there has been no such readiness. It is clear, in fact, that Member States take an overall view of their strict national interest and are wary about adopting measures in aid of sea transport which are likely to have repercussions on other aspects of their relations with their State-trading partners. The extent to which caution prevails here depends on the policy which Member States want to follow towards these countries.

It is consistent with the line of action recommended by the Economic and Social Committee to call on the Community to take this matter in hand. However, it must be remembered that, all other considerations aside, this presupposes that all the Member States agree to give the Commission powers in the field of sea transport under Article 84(2) of the Treaty of Rome.

However desirable Community action may seem to be, it may be asked whether a move by one Government in the right direction must be delayed until general agreement has been reached or whether, on the other hand, it might not spur other Governments into action.

A State's clearly expressed intention of taking the necessary action to protect its shipping lines also seems to be a factor conducive to the success of any Government negotiations. Thus, it is generally considered that the negotiations held between the United States and the USSR - whose results are contested in some quarters - would not have been possible but for the tabling of the INOUYIE BILL in the United States.

If, however, owing to the special structure of Eastern Bloc countries, the methods used for negotiating with them have to differ from the methods normally used by Western countries among themselves, and if the Member States have to be involved, does this mean that solutions of a commercial nature can and must be worked out only within the framework of Government agreements duly concluded in advance? This is a question on which opinions may differ. It would seem that the answer must be based on the chances which the method chosen offers of finding a rapid remedy to a situation which has become a matter of grave concern.



Other members have made the following recommendations for attaining the objectives set out under

a) - e) above :

"Present conditions in the field of sea transport and the danger of the continuous expansion of Eastern Bloc fleets call for immediate defensive action.

It is generally agreed that the Governments of the Member States have an active role to play here. There is already legislation in most Member States which permits defensive measures to be taken. However, these legal provisions are disparate. Since uncoordinated measures applicable to only a specific area are not likely to have any effect, it is necessary :

- a) to align legal provisions at Community level, and
- b) to coordinate their application.

In keeping with the line of action recommended by the Economic and Social Committee, the Community should be called upon to take this matter in hand. Article 84(2) of the Treaty of Rome gives the EEC Member States the opportunity to take limited action of this kind in the field of sea transport.

As long as a Community-wide solution cannot be found, the individual Member States will, of course, have to take steps for the effective protection of their interests. When they exercise their legislative powers, however, they will have to pay attention to their EEC Treaty obligations".



The defensive powers created, which are defined in detail, are generally a combination of one or more of the following powers :

- to regulate the carriage of goods in ships and freight rates;
- to approve/restrict the making of chartering contracts;
- to approve/reject shipping agreements;
- to regulate the import and export of cargoes and the admission and departure of ships to and from the Member State's ports;
- to impose charges on vessels of the discriminating country.

These powers are intended primarily to compensate the detriment caused to the Member State's shipping interests, with a view to recreating a situation of reciprocity with the discriminating country.

Italy and the United Kingdom also make specific provision for consultation with representatives of shipping

and trade interests before implementation of their respective measures.

Extracts from national laws counteracting flag discrimination

BELGIUM

No anti-discriminatory legislation.

DENMARK

Act on measures against discrimination in international shipping (Act No. 253 of 8 June 1967).

Section 1

If transport by Danish ships to or from a foreign state is subject to less favourable treatment than transport by ships registered in that state or in any third state, the Minister of Commerce, for the purpose of protecting Danish interests in international shipping, may issue provisions which prohibit or restrict the making of contracts for chartering of, or for transport by, ships registered in the foreign state.

Section 2

- 1) Provisions made under Section 1 may prescribe that infringement of the provisions shall be punishable by fine or mitigated imprisonment.
- 2) Where such infringement has been committed by a joint stock-company a cooperative society or the like, the company or society as such may be liable to fines.

FRANCE

The customs code, dated 10 June 1965 :

Article 20

When a country applies discriminatory measures of such a nature as to prejudice the operation of ships flying the French flag, the Government shall be authorized to take, by a decree of the Council of Ministers, any measures appropriate in the circumstances against ships flying the flag of that country and also against cargoes transported by such ships or coming from that country.

GERMANY

Extract from the foreign trade law dated  
28 April 1961 :

Section 6 - Protection against harmful actions by foreign  
countries

1) Legal transactions and activities in foreign trade may be made subject to restrictions with a view to preventing or counteracting harmful consequences for trade or individual sectors of the economy, if such consequences arise or are threatened as the result of measures in foreign countries, which :

1. restrict, distort or hinder commercial competition,  
or
2. lead to restrictions of trade with the Federal  
Republic of Germany.

2) Legal transactions and actions in foreign trade may be made subject to further restrictions with a view to preventing or counteracting the effects on the FRG of conditions which exist in foreign countries which are not compatible with the liberal situation in the Federal Republic of Germany.

Section 18 - Ocean shipping

If international trade by sea is affected by measures which restrict the participation on a competitive basis of the German merchant fleet in the carriage of goods, the conclusion of freight contracts for the movement of goods on foreign flag ocean-going ships and the chartering of such ships by persons resident in the Federal Republic of Germany may be made subject to restrictions in order to counteract considerable detrimental effects to the economic situation of the German merchant fleet.

Section 44 b) (\*) - Restriction in accordance with Section 6, paragraph 1 of the Foreign Trade Law

The conclusion of agreements between national and foreign shipping companies shall require approval where such agreements contain provisions concerning the distribution of cargoes and freights.

Section 46 - Restrictions in accordance with Section 18 of foreign trade law

- 1) The conclusion of freight contracts for the carriage of individual cargo lots (sundries) on foreign flag

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(\*) Amendment of foreign trade order (of 22 August 1961), dated 31 August 1973.



ocean-going ships between FRG nationals and non-nationals, who are not resident in one of the countries in lists F1 or F2 (Appendix I), shall require approval if the payment for the service exceeds one thousand German marks.

- 2) The chartering of foreign flag ocean-going ships shall require approval if the charter party is concluded between FRG nationals and non-nationals who are not resident in one of the countries in list F2.

#### IRELAND

No anti-discriminatory legislation.

#### ITALY

Law No. 388 of 4 March 1963 (as amended in 1976)  
- Defensive Measures Against Flag Discrimination :

#### Article 1

Where a foreign Government restricts free competition in international trade by sea by measures (such as traffic reservation, non-commercial competition, port

or fiscal preferences, controls and customs measures designed to influence the choice of flag, etc.), operating to the detriment of the Italian merchant marine, the Italian Government shall have the power to subject to authorization the carriage of cargo carried on ships flying the flag of the discriminating country, and on ships which do not fly the flag of the discriminating country but which benefit from the aforementioned measures.

### Article 2

The action mentioned in Article 1 shall be taken by the Ministry of Foreign Trade, after consultation with the Commission set up under Article 3.

### Article 3

A Commission shall be appointed by order of the Ministry of Foreign Affairs, together with the Ministries of the Merchant Marine and Foreign Trade. The Commission shall consist of :

- A representative of the Ministry for Foreign Affairs, who shall act as Chairman;
- A representative of the Ministry of Finance;
- A representative of the Ministry of Industry and Trade;

- A representative of the Ministry of the Merchant Marine;
- A representative of the Ministry of Foreign Trade;
- A representative of the State Holdings Ministry;
- Four representatives of the Italian shipping industry, designated by the Ministry of the Merchant Marine at the proposal of Italian shipping organizations;
- Two experts representing ship users, designated by the Ministry of the Merchant Marine after consulting the Ministry of Industry and Trade and the State Holdings Ministry.

Each of the above members shall have an alternate.

The Commission may consult outside specialists, on an ad hoc basis.

A civil servant from the Ministry of the Merchant Marine shall act as the Commission's secretary.

Article 4

The Commission referred to in Article 3 shall meet every four months and at any other time on the request of one or more of the ministries represented with the following aims :

- a) to examine, where appropriate, the extreme situation under Article 1, i.e. whether any foreign state is adopting discriminatory measures to the detriment of the Italian merchant marine;
- b) to suggest the application or recession of retaliatory measures provided for in Article 1, and to formulate proposals concerning their implementation;
- c) to give advice under Article 2.

Article 5

The present law shall come into force on the day following its publication in the "Gazzetta Ufficiale".

The present law, bearing the state seal, shall be included in the official list of laws and decree-laws of the Italian Republic. All those concerned shall observe the present law, and see that it is observed.

NETHERLANDS

Act of 4 May 1977 Regulating Retaliatory Action  
in the Field of Maritime Shipping (Maritime Shipping  
Retaliation Act).

Article 1

1. For the application of this Act :

"Our Minister" : shall mean Our Minister for Transport  
and Water Control;

"Tribunal" : shall mean the Industrial Appeal Tribunal  
(College van Beroep voor het bedrijfs-  
leven);

"Ocean-going ship" or "Dutch ocean-going ship", as the  
case may be, shall be as defined in Articles 310 and 311  
of the Commercial Code.

Article 2

1. If the protection of Dutch merchant shipping's  
economic interests or an international agreement or a  
decision of an international organization relating to sea  
transport is deemed by us to demand such action, we may,  
by means of an administrative order, hereinafter call a  
retaliatory order :

a) prohibit, unless a permit has been issued by Our  
Minister

- the master of an ocean-going ship flying a flag specified in the order from carrying goods on his ship in Dutch waters;
  - the owner of a firm from taking deliberate steps to have goods carried on an ocean-going ship flying a flag specified in the order;
  - a Dutch ocean-going ship from being made available to a natural or legal person domiciled in a country specified in the order, for the execution of a lease or a time charter;
- b) fix a levy to be imposed by or on behalf of Our Minister in accordance with a scale to be laid down in the order, on ocean-going ships sailing in Dutch waters under a flag specified in the order.

2. It may be laid down in a retaliatory order that the order is also to apply to ocean-going ships which are sailing under a flag not specified in the order but which in virtue of a lease or a time charter are at the disposal of a natural or legal person domiciled in the country of the flag specified in the order, if that country grants such ships the same privileges as ships flying its own flag.

3. A prohibition or levy, within the meaning of paragraph 1, subparagraphs a) 1 and b), shall not apply to a ship sailing in Dutch waters solely :

- a) in transit, or
- b) because there is a threat to the safety of the ship or the persons on board, or
- c) because there is a threat to the life or health of the persons on board, or
- d) for the purpose of undergoing maintenance or repair work or taking on bunkers or provisions.

4. The proposal for the adoption, amendment or repeal of a retaliatory order shall be submitted to us by Our Minister in agreement with Our Ministers for Foreign Affairs, for Economic Affairs, for Agriculture and Fisheries and for Development Cooperation.

5. Before proposing the adoption, amendment or repeal of a retaliatory order, Our Ministers shall consult the Social and Economic Council or a committee within the meaning of Article 43 of the Organization of Industry Act (Staatsblad 1950, K 22).

6. Upon receipt of the opinion requested under paragraph 5, Our Minister shall give notice of receipt of the opinion and the date thereof in the Staatscourant.

### Article 3

1. A retaliatory order, as well as an order amending or repealing a retaliatory order, shall not enter into force until two months after the date of publication of the Staatsblad in which the order appears.

2. Provided it is not repealed earlier, a retaliatory order shall cease to apply three years after entering into force, unless it is laid down otherwise by law.

### Article 4

1. Our Minister may grant a waiver in respect of a prohibition or levy imposed by a retaliatory order, or, in response to an application, may grant exemption therefrom.

2. Decisions granting a waiver or amending or withdrawing a waiver shall be taken by Our Minister in agreement with Our Ministers for Foreign Affairs and for Agriculture and Fisheries.



3. Decisions granting a waiver or amending or withdrawing a waiver shall be published in the Staatscourant.

#### Article 5

Permits, waivers and exemptions may be granted subject to restrictions. Permits, waivers and exemptions may be made conditional upon the observance of certain rules.

#### Article 6

1. It may be laid down in or by virtue of a retaliatory order what information is to be supplied by applicants for a permit or an exemption. The information required may include documentary evidence.

2. If an application for a permit or an exemption is refused, the applicant shall be informed in writing of the refusal and the reasons therefor.

#### Article 7

1. Our Minister may withdraw a permit or an exemption if the information supplied to obtain the same is found to be so inaccurate or incomplete that a different

decision would have been taken on the application, had the precise facts been known at the time of its consideration.

2. The person or persons affected by a decision taken under paragraph 1 shall be informed in writing of the decision and the reasons therefor.

#### Article 8

1. Our Minister may withdraw en bloc the permits or exemptions granted to a group designated by him, if he deems this necessary on important grounds.

2. A decision taken under paragraph 1 shall be published in the Staatscourant.

3. Article 4(2) shall apply, mutatis mutandis, to a decision taken under paragraph 1.

#### Article 9

1. The master of the ocean-going ship shall be notified in writing by or on behalf of Our Minister of a levy imposed under Article 2(2) b). This notification shall include a statement of how the amount of the levy has been calculated.

2. The provisions of Chapter IX and X of the General Customs and Excise Duties Act (Staatsblad 1961, 31), shall apply, *mutatis mutandis*, to this levy. This levy shall be considered to be a tax for the purpose of these provisions.

3. The master of the ocean-going ship may not leave Dutch waters before the levy has been paid or security has been provided for its payment.

#### Article 10

1. Whenever Our Minister is contemplating proposing the adoption, amendment or repeal of a retaliatory order and deems that there are important grounds for immediate action, he may in agreement with Our Ministers for Foreign Affairs, for Economic Affairs, for Agriculture and Fisheries and for Development Cooperation, lay down by decision (hereinafter referred to as retaliatory decision) provisions that accord with the action under consideration and suspend the provisions contained in the existing order.

2. A retaliatory decision shall not be taken or amended until an opinion has been requested in accordance with Article 2(5).

3. Article 2(3) and Articles 4 to 9 inclusive shall apply *mutatis mutandis*.

Article 11

1. Provided it is not repealed earlier, a retaliatory decision shall remain in force until a retaliatory order dealing with the same matter enters into force, but for no longer than eight months after the day on which the opinion requested under Article 2(5) is received.

2. Retaliatory decisions, as well as decisions amending or repealing the same, shall be published in the Staatscourant.

Article 12

1. Any person directly affected by a decision of Our Minister :

- a) granting or refusing a permit or an exemption, or
- b) withdrawing a permit or an exemption under Article 7(1),  
or
- c) imposing a levy,

shall be entitled to lodge an appeal against this decision with the Tribunal.

2. Except where this Act provides otherwise, Articles 3 and 5 of Title IV of the Administrative Jurisdiction (Organization of Industry) Act (Staatsblad 1954, 416) shall apply mutatis mutandis.

Article 13

Insofar as the nominations referred to in Article 13 of the Administrative Jurisdiction (Organization of Industry) Act cannot serve as a basis for the appointment of special members of the Tribunal for the application of Article 12, persons not included in the said nominations may be appointed as such members by us for a four-year period on the proposal of our Minister of Justice and our Minister. Article 14(3) of the said Act shall apply, *mutatis mutandis*, in respect of these members.

Article 14

1. Article 41 of the Administrative Jurisdiction (Organization of Industry) Act shall not apply.
2. Our Minister may, in the public interest, specify when submitting documents to the Tribunal that the other party is not to have knowledge of these documents. The Tribunal shall not take note of these documents unless the other party declares that it has no objection.
3. The Tribunal may request our Minister to supply specified information in writing and submit specified documents by a set date.

Article 15

1. Articles 58-60 of the Administrative Jurisdiction (Organization of Industry) Act shall not apply.
2. The Tribunal may declare a decision null and void. Such a declaration shall take effect from the moment it is made.
3. If an appeal against a decision as provided for in Article 12(1) a) or against failure to take a decision is allowed, the Tribunal may fix a date by which our Minister is to decide (afresh, or for the first time) on the application.

Article 16

If for the proper execution of this Act it is necessary to regulate in more detail the matters dealt with therein, this may be done by administrative order.

Article 17

It is forbidden to supply inaccurate or incomplete information in connection with an application for a permit or an exemption.

Article 18

The Economic Offences Act shall be amended as follows :

- to Article 1(4) shall be added "The Maritime Shipping Retaliation Act, Articles 2(1), 5, 9(3), 10(1) and 17".

Article 19

This Act may be referred to as "The Maritime Shipping Retaliation Act".

UNITED KINGDOM

Part III of the UK Merchant Shipping Act 1974 - Protection of Shipping and Trading Interests.

Section 14

1. The Secretary of State may exercise the powers conferred by this Section if he is satisfied that a foreign government, or any agency or authority of a foreign government, have adopted, or propose to adopt, measures or practices concerning or affecting the carriage of goods by sea which :

- a) are damaging or threaten to damage the shipping or trading interests of the United Kingdom, or
- b) are damaging or threaten to damage the shipping or trading interests of another country, and the Secretary of State is satisfied that action under this Section would be in fulfilment of the international obligations of Her Majesty's Government to that other country.

2. The Secretary of State may by order make provision for requiring persons in the United Kingdom carrying on any trade or business to provide the Secretary of State with all such information as he may require for the purpose of enabling him :

- a) to determine what further action to take under this Section, and
- b) to ensure compliance with any orders or directions made or given under this Section.

3. The Secretary of State may by order provide for

- a) regulating the carriage of goods in ships and the rates which may or must be charged for carrying them;
- b) regulating the admission and departure of ships to and from United Kingdom ports, the cargoes they may carry, and the loading or unloading of cargoes;
- c) regulating the making and implementation of agreements (including charter-parties) whose subject matter relates directly or indirectly to the carriage of goods



by sea, and requiring such agreements to be subject to the Secretary of State's approval in such cases as he may specify;

d) imposing charges in respect of ships which enter United Kingdom ports to load or unload cargo.

4. In a case falling within subsection (1)(a) above, an order under subsection (3) above shall specify the measures or practices which, in the opinion of the Secretary of State, are damaging or threaten to damage shipping or trading interests of the United Kingdom.

7. Before the Secretary of State makes an order under this Section, he shall consult such representatives of the shipping or trading interests of the United Kingdom, and such other persons, as appear to him appropriate.

11. In this Section "foreign Government" means the Government of any country outside the United Kingdom, and references to ships are to ships of any registration.

12. Schedule 4 to this Act shall have effect for supplementing this Section, which in that Schedule is called "the principal Section".

Section 15

1. No order shall be made in exercise of the powers conferred by subsection (3) of the last preceding Section unless :

- a) a draft has been approved by resolution of each House of Parliament, or
- b) it is declared in the order that it appears to the Secretary of State that by reason of urgency it is necessary to make the order without a draft having been so approved.

GROWTH IN THE FLEETS OF THE EASTERN BLOC COUNTRIES  
1955 - 1976 (GRT)

TABLE 4

Year	ALBANIA	BULGARIA	CZECHOSLOVAKIA	GDR	HUNGARY	POLAND	RUMANIA	USSR	T O T A L
1955						310,000		2,500,000	2,810,000
1962				450,000		910,000		5,430,000	6,790,000
1965		230,000	90,000	590,000		1,030,000	100,000	8,230,000	10,270,000
1969	30,000	630,000	70,000	890,000	30,000	1,530,000	330,000	13,700,000	17,210,000
1972	60,000	740,000	100,000	1,200,000	30,000	2,010,000	440,000	16,730,000	21,310,000
1974	50,000	860,000	110,000	1,220,000	40,000	2,290,000	610,000	18,170,000	23,350,000
1975	57,000	937,000	116,000	1,389,000	48,000	2,817,000	777,000	19,236,000	25,317,000
1976	57,000	933,000	149,000	1,437,000	55,000	3,263,206	994,000	20,668,000	27,556,206

Source : Lloyd's Statistical Tables.

TABLE 5

COMPARATIVE DEVELOPMENT OF THE MERCHANT FLEETS USED BY COUNTRIES WITH MARKET ECONOMIES  
AND COUNTRIES WITH PLANNED ECONOMIES FOR FOREIGN TRADE

Year	DEVELOPED COUNTRIES WITH MARKET ECONOMIES				COUNTRIES WITH PLANNED ECONOMIES, INCLUDING THE USSR				SOVIET UNION			
	Foreign trade cargoes other than oil		Development of dry cargo fleet (excluding oil tankers)		Foreign trade cargoes other than oil		Development of dry cargo fleet (excluding oil tankers)		Foreign trade cargoes other than oil		Development of dry cargo fleet (excluding oil tankers)	
	'000 000 t	% change	'000 000 DWT	% change	'000 000 t	% change	'000 000 DWT	% change	'000 000 t	% change	'000 000 DWT	% change
1970	1,590	100	95.4	100	121	100	14.7	100	57	100	11.4	100
1971	1,586	99.7	96.4	101	122	100.8	16.1	109.5	55	96.5	12.6	110.5
1972	1,704	107.2	99.1	103.8	138	114	17.2	116.9	68	119.3	13.1	114.8
1973	1,955	122.9	104.3	109	143	118.1	18	122.3	68	119.3	13.8	120.9
1974	2,044	128.5	108.2	113.3	153	126.4	19	129	66	115.8	14.5	126.9
1975	1,951	122.6	109.3	114.4	166	137.1	30.9	139.2	77	135.1	15.5	135.6

Source : Statistics published by the United Nations

TABLE 6

ANALYSIS OF THE FLEETS OF THE EASTERN BLOC COUNTRIES ACCORDING TO TYPES OF VESSELS  
(as of 1 July 1976)

	Oil Tankers		Bulk Carriers		General cargo Vessels		Container Carriers		Passenger Vessels	
	No.	GRT	No.	GRT	No.	GRT	No.	GRT	No.	GRT
ALBANIA	18	278,925	20	205,991	18	57,068			6	24,200
BULGARIA			5	102,589	72	303,518				
CZECHOSLOVAKIA			18	238,451	9	46,100			14	40,808
GDR	19	294,406			177	681,875				
HUNGARY					18	54,926				
POLAND	25	557,553	62	1,055,263	249	1,266,153			14	31,122
RUMANIA	9	246,095	22	337,865	76	285,147			1	6,672
USSR	507	4,168,153	43	822,387	1,829	7,704,811	13	90,946	204	582,927
TOTAL	578	5,545,132	170	2,762,546	2,448	10,399,598	13	90,946	239	685,729

Source : Lloyd's Statistical Tables - July 1976.

TABLE 7

VESSELS BY ORDER BY EASTERN BLOC COUNTRIES

January 1977

	Dry cargo vessels (other than bulk carriers)		Container Carriers		Oil Tankers		Dry Bulk Carriers		Passenger vessels/ ferries	
	No.	TDM.	No.	TDM.	No.	TDM.	No.	TDM.	No.	TDM.
BULGARIA	3	15,300	2	10,600	4	345,500			2	23,940
GDR	18	103,154			2	197,400			1	3,450
HUNGARY	8	69,600								
POLAND	40	201,760	9	190,000	11	1,088,300	19	1,073,500	8	46,000
RUMANIA	50	250,408			1	150,000	16	487,252		
SOVIET UNION	202	1,006,032	25	325,114	78	2,779,190	26	986,320	37	249,161
CZECHOSLOVAKIA					1	150,000				
TOTAL Eastern Bloc Countries	321	1,646,254	36	525,714	97	4,710,390	61	2,547,072	48	328,551
WORLD TOTAL	1,634	15,941,407	266	3,526,056	615	52,630,588	830	35,493,509	142	699,060

Source : FAIRPLAY INTERNATIONAL

ROAD TRANSPORT

- Introduction

Road haulage to and from the Eastern Bloc countries shows a similar pattern to that observed in other modes of transport.

But international road haulage differs from sea transport in being closely regulated and from rail transport in that one and the same firm carries the goods throughout the journey.

The Eastern Bloc countries are thus able to keep traffic under very close surveillance. Because their foreign trade agencies try to obtain control over the carriage of goods at the time of the negotiations of the contract or by applying specific pressures, the bilateral agreements between them and Western European countries designed to ensure that each gets its fair share of traffic are relatively or completely ineffective.

A description is given below of the main features of road haulage between the EEC countries and Eastern Europe, looking in turn at the statistical and commercial aspects and the regulatory framework.

- Statistics (\*)

The Growing Importance of Road Haulage

Although still a relatively small part of the total, the volume of EEC-Eastern Europe traffic carried by road has in recent years been increasing at a faster than average rate.

In the case of France, the proportion is seldom more than 20% (GIR), and with several trading partners (Yugoslavia, Czechoslovakia, Hungary and Bulgaria) it lies between 10 and 20%. In traffic to and from the USSR it is under 1%. With Poland and Rumania, road haulage's share of traffic is under 3%, owing to the importance of sea transport in trade with these countries.

The proportion of traffic carried by road in West Germany's total trade with Eastern Europe is 7% (a more detailed picture of the situation with regard to West Germany is afforded by Table 8).

It is noteworthy, however, that the statistics of the German authorities show a 100% increase in lorry

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(\*) The road haulage statistics available differ from country to country. The Rapporteur did not have access to complete statistics for the whole EEC.



movements in trade with Eastern Europe (including Yugoslavia) between 1970 (62,100 entries and exits) and 1975 (125,000) (see Table 8).

Statistics published by the French Customs also show an increase in the tonnage transported by road to and from Eastern Europe over the same period, both in absolute terms and as a proportion of the total traffic volume (see Table 9).

This situation reflects an increase in general goods traffic and in "turnkey" construction work, for both of which road transport is the ideal medium. It also indicates the importance Eastern Bloc countries attach to developing their road haulage industries.

The development of trade with Eastern countries obviously depends on decisions taken in the five-year plans, which show these countries' efforts to correct the current imbalance in their foreign trade. In this context, there may be a greater flow to the West of finished goods manufactured with the help of Western capital in Eastern countries. A more balanced pattern of trade, particularly as regards finished goods, should

also lead to a better balance in the transport of goods best suited to carriage by road.

Distribution of Traffic between National Operators

These purely quantitative data must, however, be filled out by a study of the shares of the various countries' operators in this traffic.

The share of French hauliers in trade with Yugoslavia, USSR and Rumania is around 30%. They have more than 30% of traffic with the GDR, Poland and Hungary, and less than 30% of that with Czechoslovakia and Bulgaria. Only 13% of imports from the last two countries are moved by French carriers. In the case of the USSR, the only return loads are goods for exhibitions and trade fairs.

In the case of traffic in which Western Germany is involved, EEC hauliers' share of transport to and from Rumania and Hungary is about 15%. In traffic with Czechoslovakia and Poland the proportion is higher (around 40%), while with Bulgaria and USSR it is under 10%.

In the case of Denmark, the proportion is almost nil in traffic with the GDR and Rumania, 5% in that with USSR, 15% in that with Czechoslovakia and between 30 and 50% in traffic with Hungary and Poland. The pattern is the same in traffic involving the Benelux countries, except that USSR traffic is even more lopsided. Over a two-year period, Belgian lorries made only three trips to Russia.

### Third-Country Traffic

The East Europeans are taking an increasing share of third-country traffic between the EEC and the Middle East.

Bulgaria is particularly involved here. Thanks to its geographical location, it can carry goods in transit through its own territory. This also allows it to obtain preferential tax treatment for transit traffic through Yugoslavia and Turkey. For these various reasons, Bulgaria is building up its lorry fleets and making efforts to penetrate not only third-country traffic to the Middle East but also all intra-European and even African traffic. In 1973, West German third-country

traffic represented 15.3% of all Bulgarian-carried traffic originating in West Germany; this had shot up to 57.1% by 1974 and to 86.9% by 1975.

- Commercial and Social Conditions

In road transport, as in the other modes, the East European State-run undertakings make their foreign suppliers and customers sell fob or "ex-works" and buy cif or delivered to destination. In this way they bring carriage of the goods under their control, and impose their own forwarding agents, or agents acting for them in the EEC, and their own haulage contractors on Western exporters and importers.

Difficulties for Users

The progressive abandonment of the road transport of goods to the East European buyers has led, according to the French Foreign Trade Centre, to the carriage being taken completely out of the consignor's control. Before being paid, the exporter generally has to produce a certificate from the mandatory agent to the effect that the latter has taken charge of the consignment. This

generally results in a monopoly situation which is reflected in higher transport costs. For example, when the selling price is stipulated "free frontier", the charge made by the mandatory agent for carriage from factory to frontier is often exorbitant, and in specific instances has been found to cover carriage to the destination.

With EEC firms excluded from the handling of consignments, users also face excessive commission, packing and storage charges, etc. Investigations carried out particularly by German chambers of commerce and the French Foreign Trade Centre have shown the drawbacks suffered by exporters and importers, whatever the form of transport used. In the case of road transport the difficulties are made more serious by the fact that the goods exported from the EEC are generally better suited to road transport than the goods imported. Thus, the loss of control over the carriage of his goods handicaps the exporter in carrying out his export contract.

#### Difficulties for Hauliers

The forwarding agents put loads first and foremost on Eastern Bloc lorries, except when the quota has

been used up. In that case they give the loads to EEC operators either as far as the frontier, where they are reloaded on to other lorries, or right to the destination. But the EEC operators are only acting here as sub-contractors, and have no hope of finding a return load at their destination.

It has proved impossible (except in one known case between French and Hungarian operators) to establish cooperation for the purposes of obtaining return loads in the foreign country, as is common practice between operators in the Community.

In COMECON countries the foreign trade agencies have sole authority for road transport. They ignore bids by EEC operators, and other bodies, such as ministries of transport and road haulage associations, refuse to intervene.

The cases of EEC lorries obtaining loads in Eastern Europe concern purchases "ex-works" by Community importers who bear the cost of carriage. EEC lorry operators cannot be paid in convertible currency by Eastern Bloc consignors.

Social Aspects

The social aspect of the situation as regards competition in East-West transport arises principally in relation to employment.

As a result of the increased activity of the East Europeans in this market, several thousand East European lorries now travel to and from EEC countries.

Further market penetration by East European State-run undertakings therefore has disquieting implications for employment in the Community.

The social protection obtained by trade organizations under collective agreements must be backed up by vigilance on the part of the governments to prevent a recurrence of abnormal incidents (e.g. problems relating to accident insurance, medical care and attention, social insurance matters, imprisonment of drivers without trial, etc.).

- Factors Affecting Settlements

Bilateral Agreements

Bilateral licensing procedures have already been laid down in administrative agreements at Government level.

International road transport between EEC Member States and Eastern Bloc countries is - in all but a few cases - governed by bilateral agreements (see Appendix III). These agreements follow the same pattern as other agreements concluded between European States. They stipulate in each case that the Governments of the two signatory States are to grant an equal number of licences to carriers from each State, giving access to the other signatory State's territory. As a general rule, these licences cover bilateral transport operations and transit journeys undertaken by freight and passenger transport vehicles.

The carriage of goods is authorized on both the outward and return legs of bilateral services.

The bilateral agreements concluded between some West European States allow a vehicle on its homeward journey to carry between a State through which it passes in transit and the State in which it is registered.



Thus, a French vehicle returning home from Eastern Europe can carry between the Federal Republic of Germany and France. On the other hand, the same vehicle is forbidden to carry on its outward journey between the Federal Republic of Germany and an Eastern Bloc country. Similarly, the vehicle is forbidden to operate between an Eastern Bloc country and the Federal Republic.

### Third-Country Traffic

Third-country transport operations, i.e. between two States other than that in which the vehicle is registered, are, in principle, banned. For example, a vehicle from a West European State cannot carry between the East European State which is the vehicle's destination on its outward journey, and a Central European State.

However, such journeys are permitted by way of exception when the vehicle passes in transit through the country in which it is registered.

Thus, Polish, Hungarian, Czechoslovakian, Rumanian or Yugoslavian carriers can carry between EEC Member States and the USSR when the bilateral agreements

allow them to. French or German transport operators can pick up goods in Spain for carriage to Eastern Europe. And Benelux operators can undertake similar hauls from Britain. Similarly, goods can be carried between the EEC and the Middle East by undertakings from the Eastern European States which lie on the route.

#### Disguised Penetration

Because of the commercial policy of their governments described above, East European carriers are often able to take up quotas more fully than their EEC counterparts. Once these quotas have been exhausted, the East European authorities may sometimes put their loads on Western lorries.

However, it has been found that by using semi-trailers drawn by tractor units from a country on the route it is possible to get round the quota. For instance, Russian semitrailers coupled to Belgian tractor units have managed to get into Holland after the quota had been reached. The same type of operation is planned with German tractor units hauling Bulgarian semitrailers.

Some governments are clamping down on articulated vehicles made up of units of different nationalities, and are requiring a permit for the trailer unit if it is from a different country than the tractor unit.

In addition, transport operators from some countries belonging to the European Conference of Ministers of Transport are able to operate freely between these countries under the terms of multilateral authorizations. These operators occasionally provide tractor units for Eastern Bloc countries, whose vehicles thus find easier access to the countries of the ECMT and the EEC.

- The Commercial Presence of Eastern Bloc Countries in the EC

Whatever the nationality of the carrier, carriage is on the whole in the hands of the official agents of the socialist countries (USSR, Poland, GDR, Czechoslovakia, Hungary, Bulgaria), acting directly or indirectly (\*) in the West. The big Eastern Bloc agencies have set up

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(\*) To take a specific instance, the organization of the road transport for a construction contract in the USSR was placed in the hands of a shipping agent controlled by SOYUVNESTRANS after direct pressure had been put on the builder.

branches in West Germany, Belgium and the Netherlands. In countries where their establishment is restricted by the government (e.g. in France only Poland has an official agency), the East European official agencies have Western agents acting for them.

The activities of these Western agents are still preferable to those of the direct representatives of the State agencies, though it does not alter the situation much. The key factor in this worrying trend for the Community transport industry is the abandonment of control over the carriage of their goods by EEC exporters and importers.

This commercial network in the West means that the agents of the State-run organizations in Eastern Bloc countries know immediately when contracts are concluded. The agents then approach the Community firm involved in the transaction and if necessary quote an uneconomic rate when there is any danger of competition.

Practices amounting to cut-throat competition are also used to penetrate third-country traffic, to which the transport undertakings of some Eastern Bloc states are

increasingly turning their attention. EEC agents now have no hesitation in doing business with Eastern Bloc transport undertakings in this traffic in which tax discrimination destroys any semblance of healthy competition. A report on this problem drawn up in the Netherlands reveals the concern of the profession at this trend.

- Measures taken by the Community and the Member States

The Section has ascertained that, in the field of cross-frontier goods traffic, the principle of reciprocity determines the basic objectives and tasks first and foremost. The EEC transport industry demands a greater share than at present of East-West transport. In making this demand, it subscribes to the principles of free choice of carrier, non-discrimination and apportionment of work on the basis of uniform conditions of competition. Experience in the field of transport integration in Europe also shows that the principle of reciprocity has also helped to reduce tensions and prevent conflicts.

These principles should also be borne in mind in the development of road transport with Eastern Europe.

Measures dealing with access to the market and to loads will have to be adopted in the main if Western road hauliers are to be given an equal share of cross-frontier traffic to and from Eastern Bloc countries. Both the Community and the individual Member States could resort to compulsory licensing for foreign vehicles engaged in inter-state and transit traffic.

The Section has noted that the provisions of the bilateral agreements with the Eastern Bloc countries, which were concluded on the same basis as the bilateral agreements between Member States of the European Economic Community or the European Conference of Ministers of Transport, are applied under very special economic and commercial conditions. This leads to lopsidedness in the two parties' shares of traffic and to an increasing monopoly of the Eastern Bloc countries State trade agencies because of the control they have over the carriage of goods.

Therefore, the Section calls upon the political authorities to take steps to correct the present unfavourable and dangerous situation regarding competition in this sector.

Measures at Community Level

The Community has a twofold mission. Firstly, it must encourage coherent action for the promotion of EEC transport, and, secondly, it must coordinate the specific measures taken by Member States.

The establishment of a balance in road haulage must, therefore, be one of the aims of the Community's policy on trade relations with Eastern Europe. The idea of reciprocity, which was also mentioned in the Final Act of the Helsinki agreements, now remains to be put into practice.

There must be a balance in transport services to prevent monopolies from emerging and impairing the competitiveness of the EEC's economy in the long run. Accordingly, loads must be shared out equitably between each international trading partner's carriers. The Community authorities must ensure that on both the import and export markets, EEC carriers can operate under commercial, technical social and legal conditions comparable to those on other international transport markets.

### Alignment of National Policies

The Commission is able to intervene and align specific aspects of Member States' transport policies by encouraging the Member States to take coordinated action on problems posed by traffic to and from Eastern Bloc countries.

This coordinated action could embrace the alignment of rules on bilateral traffic through the introduction of transport licences in all Member States.

### Transit Traffic

Joint action should be planned to deal with transit traffic, which poses special problems for the EEC countries travelled through. These countries could be given a share of certain traffic flows, especially in the case of stock-reduction measures under the CAP which usually involve EEC financial assistance. This joint action could also cover transport operations to Member States which could be carried out by vehicles returning from Eastern Europe and not passing in transit through their country of registration.



### Restrictions on Traffic

This joint action might also enable a common position to be reached on restrictions on traffic. These restrictions are particularly severe in the Soviet Union, where many roads are out of bounds for foreign vehicles. As a result vehicles have to travel further to reach their destinations, and Soviet territory cannot be crossed by EEC vehicles en route to the Middle East.

In addition, visa formalities (especially in the USSR) and transit taxes (as in Poland) are barriers which slow journeys down and make them more expensive.

The Community must take stock of these various difficulties and raise them in the negotiations it conducts as an entity with Eastern Bloc countries.

### Measures at Member State level

#### General Introduction of Transport Licensing Schemes

Should political difficulties arise on account of the nature of relations between the EEC and Eastern

Bloc countries or the organization of the latter within COMECON, the Member States will continue to bear full responsibility for the organization of transport with Eastern Bloc countries.

A particular medium for such action would be bilateral road transport agreements with these countries. These agreements must give the public authorities the power to ensure a greater share of transport for EEC operators on the basis of reciprocity through the threat of retaliatory action.

#### Restriction on the Use of Licences

Furthermore, the scope of these licences should be restricted and permission to put loads on East European vehicles in EEC countries should be made conditional on reciprocal treatment being accorded in Eastern Bloc countries to EEC hauliers.

#### Clamp-Down on Circumvention of Quotas

It has been seen how quotas can be circumvented by using semitrailers hauled by EEC tractor units.

The French Government has now introduced for Eastern Bloc countries a system of permits based on the country of registration of the semitrailer. This method should be adopted by all Member States for this type of traffic if effective control is to be exercised over the activities of Eastern Bloc operators.

Eastern European operators are of course also making efforts to penetrate transport between the EEC and third countries. Here, too, the exemptions for triangular traffic should be restricted, or indeed suspended altogether, if reciprocity is not effectively granted for traffic originating in East European countries.

Reciprocity must include payment of EEC hauliers in convertible currencies by the consignors in Eastern Europe and abolition of the de facto monopoly of East European State forwarding agents and the agents acting for them in the West.

STATISTICS FOR ROAD HAULAGE BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND  
EASTERN BLOC COUNTRIES

Carriage of goods by road between EEC countries  
and Eastern Bloc countries, 1975 totals in t<sup>1)</sup>

EEC country	Bulgaria	GDR	Yugoslavia	Poland	Romania	USSR	Czechoslovakia	Hungary	Total
Belgium	6,270	.	43,672	24,072	5,836	4,136	87,167	27,175	198,328
Denmark	395	.	1,863	2,832	259	29	1,725	1,716	8,819
France	6,150	.	14,334	53,738	15,393	11,121	31,972	13,770	146,478
Great Britain	2,295	.	24,172	18,096	10,572	352	53,741	18,187	127,415
Italy	28	.	-	20,204	85	189	3,735	190	24,131
Luxembourg	20	.	305	131	21	21	104	297	899
Netherlands	5,557	.	77,038	25,522	11,168	13,833	172,822	54,161	360,101
Federal Republic of Germany	66,510	211,511	383,521	185,300	48,176	99,779	761,785	163,234	1,919,816
Total	87,285	211,511	544,905	329,895	91,510	129,460	1,113,051	278,730	2,786,287

1) Based on transit traffic passing through the Federal Republic of Germany and hence incomplete. The actual tonnages carried to and from Italy, Denmark and Great Britain in particular are probably much higher.

.) No data available.

Source : German Federal Statistical Office, Wiesbaden.

Carriage of Goods by road between West Germany and State-trading countries  
in 1975, showing West Germany's share

Country	Total traffic in t			German share of total in t			German share of total as %		
	Import	Export	Total	Import	Export	Total	Import	Export	Total
Bulgaria	52,392	14,118	66,510	2,232	2,529	4,761	4.3	17.9	7.2
Romania	28,321	19,855	48,176	3,648	4,243	7,891	12.9	21.4	16.4
Hungary	97,142	66,092	163,234	14,407	7,287	21,694	14.8	11.0	13.3
Yugoslavia	182,075	201,446	383,521	38,326	61,326	100,054	21.3	30.4	26.1
Czechoslovakia	607,629	154,156	761,785	281,570	16,245	197,815	46.3	10.5	39.1
Poland	118,102	67,198	185,300	45,638	27,964	73,602	38.6	41.6	39.7
USSR	51,561	48,218	99,779	1,177	2,396	3,573	2.3	5.0	3.6

Source : German Federal Road Vehicle Office

Vehicles from third countries' percentage shares of traffic between West Germany  
and South East European countries in 1975

Country	Imports			Exports		
	German lorries	Lorries from partner countries	Lorries from third countries	German lorries	Lorries from partner countries	Lorries from third countries
Bulgaria	4.3	90.7	5.0	17.9	49.8	32.3
Romania	12.9	72.9	14.2	21.4	70.0	8.6
Hungary	14.8	63.8	21.4	11.0	78.3	10.7
Yugoslavia	21.3	60.9	17.8	30.4	55.0	14.6

Source : German Federal Road Vehicle Office

TABLE 9

Statistics for Road Haulage between France and Certain Eastern Bloc Countries

Road transport's share of traffic between France and certain Eastern Bloc countries for which data are available has developed as follows between 1969 and 1975 :

		1969	1970	1971	1972	1973	1974	1975
BULGARIA	(1) (2)	5,456 6.4	9,502 4.6	4,330 4.0	5,274 7.7	6,311 6.9	9,478 7.2	27,600 17.4
HUNGARY	(1) (2)	10,750 12.4	9,912 9.3	9,400 6.0	15,700 9.1	18,750 13.0	11,780 7.8	15,000 12.0
POLAND	(1) (2)	7,500 0.7	8,421 1.2	15,254 1.6	12,831 1.4	19,926 2.9	19,265 3.5	17,977 2.9
CZECHOSLOVAKIA	(1) (2)	7,700 4.3	10,861 6.5	13,927 7.1	13,000 6.9	22,900 12.8	22,200 11.7	26,370 10.4
RUMANIA	(1) (2)	7,519 0.7	8,480 1.2	15,254 1.5	12,830 1.4	19,925 2.9	19,265 3.5	18,000 2.9

(1) Tonnes carried by road

(2) Traffic carried by road as a percentage of total traffic.

TABLE 10

Bilateral Road Haulage Agreements  
concluded between EEC and COMECON Member States

EEC State	COMECON State	Licences	Domestic Traffic	Taxes
<u>Germany</u>	Bulgaria	3,000 + additional quota of up to 2,300	Prohibited	n.s. *)
	Poland	8,000 + special licences (x)	Prohibited	n.s.
	Romania	6,000 + special licences (700 additional, 400 port licences)	Prohibited	n.s.
	Bulgaria Hungary	300 500 + time licences	Prohibited Prohibited	Reciprocal exemption -- in Belgium : Exemption -- in Hungary : Motor Vehicle Tax Reciprocal exemption
<u>Belgium</u>	Poland	900	Prohibited	" "
	GDR	n.s.	Prohibited	" "
	Romania	450 + time and special licences	Prohibited	" "
	Czechoslovakia	2,200	Prohibited	" "
	USSR	800	Prohibited	" "
	Bulgaria Hungary	n.s. + special licences n.s. + special licences	Prohibited Prohibited	" " " " for transport operations performed within the quota
<u>Denmark</u>	Poland	n.s. + special licences	Prohibited, except with special licence	Reciprocal exemption (some restrictions)
	GDR	--	Prohibited	n.s.
	Romania	--	Prohibited	Reciprocal exemption

\*) n.s. = not specified x) 11,400 Transit, 3,000 Cooperation and + 1,300 port licences

EEC State	COMECON State	Licences	Internal Traffic	Taxes
	Czechoslovakia	n.s. + special licences	Prohibited	Reciprocal exemption for transport operations performed within the quota
<u>France</u>	USSR	n.s.	Prohibited	Reciprocal exemption
	Albania	n.s.	Prohibited	" "
	Bulgaria	n.s.	Prohibited	" "
	Hungary	n.s.	Prohibited	" "
	Poland	n.s.	Prohibited	" "
	GDR	n.s.	Prohibited	(some restrictions)
	Rumania	n.s.	Prohibited	Reciprocal exemption
	Czechoslovakia	n.s.	Prohibited	" "
<u>Ireland</u>	-	-	-	-
<u>Italy</u>	Bulgaria	1,700 + special licences	Prohibited	n.s.
	Hungary	2,500 + time and special licences	Prohibited	n.s.
	Poland	1,000 + time and special licences	Prohibited	n.s.
	Rumania	1,400 + special licences	Prohibited	n.s.
<u>Luxembourg</u>	Czechoslovakia	900 + special licences	Prohibited	n.s.
	-	-	-	-

EEC State	COMEECON State	Licences	Internal Traffic	Taxes
<u>Netherlands</u>	Bulgaria	n.s.	Prohibited, except with special licence	Reciprocal exemption
	Hungary	n.s.	Prohibited, except with special licence	"
	Poland	n.s.	Prohibited	"
	GDR	n.s.	Prohibited	"
	Rumania	n.s.	Prohibited	"
	Czechoslovakia	n.s.	Prohibited	"
	USSR	n.s.	Prohibited, except with special licence	"
<u>Great Britain</u>	Bulgaria	-	Prohibited	" (except for fuel and highway taxes)
	Hungary	n.s.	Prohibited	"
	Poland	- + special licences	Prohibited, except with special licence	Competent authorities can agree to a reciprocal exemption
	GDR	n.s.	Prohibited	No exemption in principle, but partners can agree to reciprocal exemption
	Rumania	-	Prohibited	"
	Czechoslovakia	n.s.	Prohibited	(except for fuel and highway taxes)

SOURCE : Directorate-General VII (Transport) of the Commission of the European Communities.



APPENDIX 3

INLAND WATERWAY SHIPPING

- Problems of Competition in Inland Waterway Shipping

Since the beginning of the 1960's, the inland shipping industry in Western Europe has had to face increasing competition from the Eastern Bloc. But the degree of competition at present varies depending on the waterway and sometimes on the Eastern Bloc country involved.

- Since the end of the war, Czechoslovakian vessels have been able to transport goods on the Elbe between Hamburg and their own country. Such traffic is permitted quite independently of the question whether the Elbe Shipping Act of 1921 is still valid. Czech vessels are also allowed to use the Mittellandkanal as far as Brunswick and the Elbe-Lübeck Canal to Lübeck.

However, vessels from the Federal Republic of Germany are not allowed to go into Czechoslovakia. An attempt is being made to have traffic with Czechoslovakia regulated by means of a bilateral treaty.

- Inland waterway traffic between West Germany and Poland was regulated by an inter-ministerial agreement between the two countries on 5 February 1971.

Under the agreement, transit traffic and inter-State traffic is free. But the contracting parties are also supposed to split cargoes fifty-fifty in inter-State traffic and transport goods at rates that are commensurate with costs. Neither of these two requirements has yet been met, and at present German vessels carry only the smaller portion of cargoes at rates that do not cover costs.

Cabotage is subject to licence in both countries under the agreement, but so far Polish vessels have received only a limited number of licences to transport cargoes within Germany, since there are usually enough German vessels available to do the job. German vessels are not involved in Polish domestic transport as yet.

Polish vessels are basically not allowed to transport goods between other West European countries and West Germany but the competent authorities may grant temporary licences in exceptional cases.

However, such authorization is not necessary for vessels carrying goods from other West European countries to West Germany on the way home to Poland from a transit journey.

- . Inland waterway traffic between East and West Germany was regulated by the Transport Treaty of 26 May 1972. Under this agreement, inter-State waterway traffic is free and there are no provisions on sharing cargoes or on rates. Cabotage is subject to licence, but third-country traffic is not regulated and thus not allowed.

Polish and East German vessels are allowed under the Act of Mannheim of 1868 to take part freely in international traffic on the Rhine, though they are excluded from third-country traffic between West European countries and West Germany by the bilateral agreement.

The present situation on the Rhine and Danube is dealt with in point 2.

The West European inland shipping industry is therefore already facing growing competition from East European vessels. Although such competition is still on a limited scale when seen in an overall context, it can be expected to increase more and more in some sectors of the market, with all the consequences this will entail for the level of freight rates in the inland shipping industry as a whole. When, as expected, the Rhine-Main-Danube Canal comes into service in the 1980's, the problem will grow much more acute with Western Europe becoming increasingly dependent on East European vessels for some of its traffic.

It can be assumed that this canal is not intended to be used solely for domestic German traffic but will also provide an international link between the North Sea and the Black Sea. The difficulties that the Rhine shipping industry has had to face for some time now will increase considerably if the East European inland shipping industry is allowed to extend its area of operation without restriction to the Rhine and its tributaries. The schemes for scrapping or laying up vessels, which were supported by the Economic and Social Committee and were designed to counteract the present structural over-capacity and the temporary and regularly recurring cyclical over-capacity, would thus become completely ineffective, and many jobs in the West European inland shipping industry would be threatened. The necessary precautions must therefore be taken in good time.

- The regimes applicable to the Rhine, the Danube and the Rhine-Main-Danube Canal

The Regime applicable to the Rhine

Article 1 of the Act of Mannheim of 1868 lays down that there shall be freedom of navigation on the Rhine and its outlets between Basle and the open sea, whether

upstream or downstream, for the vessels of all nations for the carriage of goods and passengers, subject to the provisions of the Treaty and any measures taken in the interests of general safety. Apart from these provisions, there is to be no obstacle of any kind whatsoever to freedom of navigation.

As a result, international traffic on the Rhine is not subject to any limitation nor covered by any rules regarding rates. The freedom of navigation means that vessels are not only allowed to sail on the river but are also allowed to transport persons and goods freely. Moreover, since all the countries bordering the Rhine have a market economy all shipping companies, whatever their nationality, are free to obtain any cargo.

Also important is Article 4 of the Act, which requires equal treatment to be accorded to all vessels participating in navigation on the Rhine.

#### The Regime applicable to the Danube

Shipping on the Danube is governed by the Act of Belgrade of 1948, Article 1 of which states that "navigation on the Danube shall be free and open for the nationals, vessels of commerce and goods of all States on

a footing of equality in regard to port and navigation charges and conditions governing merchant shipping".

This Danube Convention is in force between ULR and the Black Sea. Germany is not a party to the Convention and so is not obliged to apply its provisions to the stretches of the Danube under West German jurisdiction. For historical reasons, however, the Federal Republic accords foreign vessels de facto the freedom of navigation laid down in Article 1 that it would have to grant if the Danube Convention applied on its territory.

West German vessels can, therefore, on the basis of reciprocity, sail freely on stretches of the river under the jurisdiction of other States.

The Act of Belgrade expressly excludes cabotage (Articles 1 and 25). Such traffic is therefore covered by the national rules of each riparian State.

In addition, the obligation to grant equal treatment to foreign vessels in the Belgrade Convention (Article 1) is not as sweeping as in the Act of Mannheim, which calls for equal treatment in all operations (Article 4).

The Regime Applicable to the Rhine-Main-Danube Canal

The Rhine-Main-Danube Canal joins two river systems that are both covered by international convention, but legally it is itself an independent waterway situated on the territory of only one State, the Federal Republic of Germany. The Federal Republic is building the canal on its own initiative and with its own resources. No international treaty exists obliging the canal to be built.

Thus, the Federal Republic of Germany considers that in international law - subject to the provisions of the EEC Treaty - it is "not obliged to make the Main-Danube Canal, which lies entirely within its territorial boundaries, subject to an international regime, nor to grant traffic rights on this waterway to other States" (\*). The EEC Treaty lays down that a common transport policy is to be worked out and prohibits discrimination on the grounds of nationality, thereby supporting the principle of equal treatment for vessels from EEC countries. The Rhine-Main-Danube Canal can, to this extent, be treated no differently from any other German waterway outside the Rhine area. But this legal position is in no way an obstacle to vessels from other States being allowed to sail on the canal. It

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(\*) Zemanek : Die Schifffahrtsfreiheit auf der Donau und das künftige Regime der Rhein-Main-Donau-Grossschiffahrtsstrasse: this view is also held by Jaenicke : Die neue Grossschiffahrtsstrasse Rhein-Main-Donau.

merely means that the granting of traffic rights is to be settled by treaty. In the final analysis the economic purpose of the Rhine-Main-Danube Canal is to make international traffic possible between the Rhine and the Danube.

- Particular Problems of Competition on the Danube

Differences in the Organization of Inland Shipping

As has already been stated, the Danube Convention grants carriers complete commercial freedom, except as regards cabotage. Because of the differences in economic systems, however, it is extremely difficult in actual practice for West European shipping companies to acquire cargoes in Eastern European countries.

Danube shipping companies from the West find that their negotiating partners are exclusively State agencies. Direct contact with the actual consignor is impossible except in a few isolated cases. To try to get around the disadvantages arising out of this state of affairs Austria has signed cargo-sharing agreements with East European countries on the Danube. Under the agreement with the Soviet Union, Russian vessels carry 2/3 of all cargoes and Austrian vessels 1/3. The Austrians are allocated mainly the goods with the lowest rates during the periods when water levels are least favourable.



In their application the cargo-sharing agreements with Hungary and Yugoslavia have similar drawbacks for the Austrians. The agreement with Rumania, which at first sight seems to be the most advantageous since cargoes are split fifty-fifty between the two countries, is just as disappointing in practice as the others.

Bayerischer Lloyd, the only German operator on the Danube, has also concluded a number of traffic-sharing agreements with shipping firms in the Eastern Danube States. In the agreement with the Czech. firm CSPD, traffic was shared 70 : 30 in 1975, in that with the Hungarian firm Mahart 2/3 for the acquiring partner and 1/3 for the other partners, in that with the Russian firm SDP 70% : 30%, in that with the Rumanian firm NAVROM 60 : 40, and in that with the Yugoslavian firms 50 : 50. A quota allocation was not agreed on with the Bulgarian firm ERP until 1976.

But these agreements have been fulfilled only in part, except in traffic with Russia. Notwithstanding this fact, Bayerischer Lloyd has great difficulty in carrying out its agreed share of traffic in view of the fact that rates do not cover costs. The agreements with the Austrian Company DDSG and the Czech. firm CSPD have also been adhered to. Elsewhere, the quotas have not been reached. In traffic with Yugoslavia, Bayerischer Lloyd's share has been only 13% instead of 50%, in traffic with

Hungary it has been 25% instead of 33.3%, in traffic with Rumania 7% instead of 40% and with Bulgaria it has been only 18%.

The above examples show that many obstacles which prevent the agreements from being fulfilled still have to be surmounted. Of special importance here is rate formation and the level of rates.

### Statistics

In 1974 the Danube fleet consisted of around 4,400 units with a carrying capacity of 3.2 million tonnes. Motor vessels accounted for 222 units with a carrying capacity of 260,000 tonnes, or only 8% of overall tonnage. But it has been revealed that the Soviet Union is concentrating on expanding its motor-vessel fleet. The breakdown of the Danube fleet in 1973 was as follows :

Soviet Union		830,000 t
Yugoslavia		700,000 t
Rumania	almost	600,000 t
Hungary		270,000 t
Bulgaria		250,000 t
Czechoslovakia		184,000 t
Austria (DDSG)		210,000 t
Germany (Bayerischer Lloyd)		68,000 t

Between 1962 and 1969 the carrying capacity of the Danube fleet grew from 1.8 to 2.7 million tons, or by around 50%. Between 1969 and 1974 the fleet grew by another 15%.

### Freight Rates

Fixed rates have been used for shipping on the Danube since 31 December 1955, when the Bulgarian, Czechoslovakian, Rumanian, Hungarian and Soviet Russian operators signed the so-called "Bratislava Agreement". Later, the Yugoslavian and Austrian shipping companies operating on the Danube acceded to this agreement. Since the agreement came into force, the rates, which are expressed in roubles, have never been changed, in spite of many Austrian efforts to get this done. This means that no account has been taken of the revaluations of the German mark and the Austrian schilling or of the rise in costs that have taken place in the meantime (\*). What is more East European shipping companies undercut these rates by 20 to 25% in practice, since there are no sanctions against non-application of the official rates.

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(\*) The Danube shipping companies which have signed the Bratislava Agreement agreed in September of this year (though one of the national companies still has to give its final approval) to increase the freight rates on 1 January 1978 by the amount the rouble has dropped in value since 1955. Accordingly, there is no talk yet of compensation for the rise in costs since 1955.  
(This planned increase in freight rates has been made possible by the increase in the MTT international rail tariffs of the Eastern Bloc countries).

### Working Conditions

Although there are no exact data available on the working conditions of East European crews, there are many indications that wages and social security benefits are a lot lower than is normally the case in Western Europe. Moreover, in contrast to the situation in Rhine shipping, there are no international rules in force applying to working conditions in vessels on the Danube (qualifications and composition of crews, working and rest periods, social security, etc.). It has been discovered by the International Transport Workers' Federation, for example, that Soviet soldiers can do their national service on vessels operating on the Danube, which, naturally, reduces costs.

### Other Problems

In practice, East and West European vessels also receive different treatment in such matters as port charges and laytime in Danube ports. In East European countries, East European vessels do not have to pay port charges and they are given priority over Western vessels when loading or discharging. Thus, Western vessels have to wait longer, which means extra costs.

Consequences for West German and Austrian Operators on the Danube

Although according to the law West and East European operators have equal opportunities to procure cargoes on the Danube, Austrian and West German shipping companies operate under considerably less favourable conditions in practice since they cannot operate on a commercial basis along the Eastern part of the Danube. Because of this, the Austrian and West German Governments and the State of Bavaria have had to give their operators a good deal of aid to keep them in operation.

In the case of the Austrian DDSG, vessels in the Western and domestic trades are operated at rates that fully cover costs because they can adjust to the changed competitive conditions. But heavy losses are incurred in transport to and from South-East Europe.

According to provisional calculations, the Austrian Government will have to contribute 55 million schillings, i.e. 19.45% of gross turnover, in respect of South-East traffic in 1976.

The German Federal Republic and the State of Bavaria, as the joint owners of the Bayerischer Lloyd, paid the 4.6 million DM losses made by the latter in 1976.

In the summer of 1974, COMOS (the second Austrian inland shipping company) found that competition from East Europe was too much for it, and gave up its concession. A number of East European countries attempted to buy up COMOS; this would have given them an Austrian inland shipping concession, if the DDSG had not stepped in in time to purchase the company. In order to meet the danger of shipping companies from Eastern Bloc countries setting up business in Austria, a ruling based on the Austrian maritime shipping law now stipulates that in future concessions will be given only to firms which are at least 75% really Austrian-owned. In 1974, Brandner became the third Austrian firm to withdraw from the waterway freight market.

#### Consequences for West European Inland Shipping

It is clear from what has been said above that :

- unless countermeasures are taken, East Europeans will be able to operate freely on the Rhine, as well as on all stretches of water between the Rhine and the open sea or Belgium and on all the tributaries of the Rhine provided that they are within the territory of the parties to the Convention applicable to this waterway;
- West European operators will be ousted from this market. Consequently, either governments will have to give financial aid to these operators or employment in inland shipping will suffer seriously and West European transport capacity will be hit;
- the West will become increasingly dependent on East European vessels;
- if the freedom of navigation of East Europeans is unrestricted, a West European transport policy will become very difficult to implement, if not impossible.

- Measures

The inland shipping industry in the EEC Member States demands a fair share of East-West transport at reasonable rates and conditions of carriage.

The position with regard to competition in inland waterway shipping is largely determined by the regimes applicable on international waterways. Here, too, the industry calls for protection against cut-throat competition from East European fleets. The principle of reciprocity poses a problem especially in traditional shipping on the Rhine and when it comes to finding a settlement to the question of the Rhine-Main-Danube Canal which is to the satisfaction of all parties.

The opening of the Rhine-Main-Danube canal will have a major impact on shipping on the Rhine and other waterways in the Community if East European fleets can use the Rhine freely. Since this problem affects the entire inland shipping market, a solution will have to be found under international law which takes into account both the Act of Mannheim and the ESC Treaty.

**Traffic within the Community and between the Community and Switzerland**

The Act of Mannheim will have to be amended on lines consistent with the EEC Treaty. Accordingly, there are three alternatives for limiting the freedom of navigation on the Rhine within the Community and between the Community and Switzerland :



- allowing only vessels from the EEC countries and Switzerland;
- introducing a licensing system for vessels from third countries;
- introducing a general licensing system for all vessels (this system could also be used to control capacity).

It appears that the first possibility - limitation to vessels from EEC countries and Switzerland - would require the simplest amendment of the Act of Mannheim and would be the most effective solution for the present. At all events, an effort should be made to regulate cabotage (small-scale and large-scale) e.g. along the lines of what the Danube Convention already stipulated with regard to small-scale cabotage. (It should be pointed out in this connection that the Commission has been trying since 1968 to work out a solution to the problem of cabotage) (\*).

#### Traffic between the Community and East European Countries

Appropriate agreements should be worked out for sharing cargoes on the Rhine-Main-Danube route between the Community and East European countries. The sharing

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(\*) See OJ No. C 95 of 21 September 1968, page 16, Article 49.

of these cargoes will have to be laid down in bilateral or multilateral trade, traffic or cooperation agreements concluded with East European countries.

The arrangements should take account of the statement in the Final Act of the Helsinki Agreement that encouragement is to be given to the development of international inland goods and passenger transport, and to appropriate participation in that transport on the basis of mutual advantage.

In addition, international rules on working conditions in particular will have to be laid down for traffic between the Rhine and the Danube countries, on the basis of the rules already applicable to shipping on the Rhine.

APPENDIX 4

AIR TRANSPORT

- General Comments

The Section's study of the problems resulting from the development of transport to and from the Eastern Bloc countries included an examination of the situation in the air transport sector.

Of special importance in this connection is the fact that at its June 1977 Session the Council of Ministers agreed to investigate certain questions in the field of air transport.

The middle sixties saw the start of a major drive for expansion and modernization in the COMECON airlines. Numerous new destinations in Western Europe, the Near and Middle East, Africa and Asia were added to the timetables.

This expansion, however, made excessive demands on the airlines, and the situation was made worse by shortcomings in capacity and efficiency in some important air transport sectors. As a result, the above-average rate of growth in COMECON air traffic slowed down, independently of the recession in the West.

Today the considered view of experts is that there is bound to be a fresh upswing. This is based mainly on the efforts being made to boost tourism in the Eastern Bloc countries. Considerable growth is therefore forecast for the East European airlines CSA (Czechoslovakia), MALEV (Hungary), TAROM (Rumania), JAT (Yugoslavia)(\*), BALKAN AIR (Bulgaria), LOT (Poland), INTERFLUG (GDR) and AEROFLOT (Soviet Union).

A major factor here is the vigorous action being taken to extend the route network. In the opinion of experts, extension of the network over ever-increasing distances will ultimately mean that over 50% of the operations of the Eastern Bloc airlines will lie outside Eastern Europe. This will lead to keener competition between Western and Eastern Bloc airlines. North America will, probably also be affected by this trend.

It is interesting in this connection to take a look at the objectives of the last Five-Year Plan of the Soviet Union, and here one is struck by the different approach to air transport. Whereas in the West air transport services are operated according to commercial principles, in the Soviet Union - and other Eastern Bloc States - the prime consideration is the utility of air

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(\*) Yugoslavia is not a member of COMECON

transport to the economy as a whole, regardless of profitability. The support given to the domestic aircraft industry is of particular importance too. One can also see today that special efforts are being made to increase the influence wielded in the field of international air transport.

- The Basic Legal Position (\*)

The legal position of international air transport differs quite considerably from that of the sectors dealt with in the first three chapters of this report (sea, road and inland waterway transport) and shows certain parallels with that of international rail transport.

International air transport is in fact based on a series of multilateral and bilateral agreements between governments or carriers. It would seem that to date these agreements have on the whole regulated air transport satisfactorily.

- The Development of Air Freight in East and West

The following figures are to be noted in connection with the last Five-Year Plan of the Soviet Union :  
in 1972 AEROFLOT carried 83 million passengers on domestic

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(\*) See pages 141-147

and international flights. The goals for 1973 were 90 million passengers and about 2 million tons of air freight. The overall objectives for the 1972/75 Five-Year Plan were 550 million passengers (average : 110 million passengers) and 11 million tons of air freight (average : 2.2 million tons).

In 1972 Eastern Europe accounted for only 4.9% of the Federal Republic of Germany's total European air freight traffic. Air freight traffic in the same year between the Federal Republic of Germany and Spain was 50% higher than air freight traffic between the Federal Republic of Germany and all East European countries. The following table shows (in absolute figures) the development of air traffic between the Federal Republic of Germany and (i) all of Europe and (ii) Eastern Europe.

Between FRG and all of Europe			Between FRG and Eastern Europe	
Year	Tons	Increase in %	Increase in %	% share of air freight traffic between the FRG and all of Europe
1965	50,705.6	-	-	2.5
1968	74,521.4	46.9	137.1	4.1
1971	99,662.7	33.7	32.3	4.0
1972	111,422.7	11.8	35.5	4.9

Source : Federal German Statistical Office.

The figures for air freight traffic between Eastern Europe and other West European countries are of a similar order of magnitude. For example, the goods imported by the UK by air from the COMECON countries in 1971 account for only 7.3% of the total value of world imports carried by air.

Of the UK's exports carried by air, as little as 1.3% in value terms went to Eastern Europe. The figures for other West European countries will probably not differ appreciably from those from the Federal Republic of Germany and the UK.

Possible reasons for the so far comparatively small role played by air freight in East/West trade are outlined below with specific reference to Lufthansa :

- It was not until the middle sixties that air traffic between Eastern and Western Europe began to assume interesting proportions. All services are operated in close cooperation with the East European airlines, CSA, MALEV, TAROM, JAT, BALKAN AIR, LOT and AEROFLOT. This cooperation, which covers practically all areas of commercial air transport (e.g. planning, marketing, handling), made it possible to present air carriage as a genuine transport alternative in trade with Eastern Europe and thus achieve the abovementioned rates of increase in air freight traffic between the Federal Republic of Germany and Eastern Europe.

- Although the airlines of other West European countries were able to fly to destinations in Eastern Europe much earlier, it was only in the last 5-6 years that they too achieved a breakthrough.
- The aircraft at present in service between Eastern and Western Europe are purely passenger models and are unable to carry greater freight loads, if only for technical reasons. (The Boeing 727 C and 737 C and the Airbus may provide a remedy here).
- A further impediment to air freight traffic between Western and Eastern Europe lies in the structure of the trade flows. (Eastern Europe is still largely a supplier of raw materials and semi-manufactures to the West European market).
- In the opposite direction there are limits to Western exports of goods suitable for air carriage (e.g. electronic and electrical products), since the East European countries are increasing their efforts to boost domestic production of consumer goods.
- The existence of highly-developed road, rail and waterway networks in the comparatively small economic area formed by Europe allows rapid and smooth movement of goods by surface transport.



Nevertheless, experts consider that there are good prospects for air freight between Western and Eastern Europe, in view of the following facts :

- . COMECON's share in world industrial production rose over a period of 20 years from 16.6% (1950) to 30.9% (1970). An intensified export effort on the part of the COMECON countries is revealed here;
- . The air freight traffic of the COMECON countries increased from 25,600 tons in 1960 to 84,400 tons in 1970;
- . The volume of trade with Eastern Europe is on the increase;
- . Lufthansa achieved an increase of 18% in air freight to West European countries (1971-72). The increase in air freight to Eastern Europe in the same period amounted to 45.6%. In the opposite direction, the air freight carried by Lufthansa was up by 7.9% (from the West European countries) and by 18% (from East European countries).

- Conclusions

International air transport is regulated in the main by a host of multilateral and bilateral agreements between governments and carriers.

Even if passenger and goods traffic by air between the Nine and the Seven (COMSECON) has not yet reached the proportions attained in other transport sectors, it has been on an upward path for some years. East European airlines obtain a larger portion of this traffic than their West European counterparts, for which there are certainly several reasons :

- . In this sector, too, the Eastern Bloc is able to use its own transport industry for outgoing traffic to countries where transport is run privately and can do the same for incoming traffic for which it has to pay. However, this can be put right by concluding pool agreements.
- . Although rates between Eastern and Western Europe are the subject of agreement between the airlines, East European airlines are apparently happy with lower load factors.

- Abroad, airlines usually try to put themselves over as their specialist for flights to their home countries and concentrate their efforts on capturing that traffic. Whereas East European airlines can make unlimited use of this opportunity in Western Europe, West European carriers are restricted in Eastern Europe by their lack of freedom, which hampers advertising.

The overall situation in air transport therefore does not seem to be evenly balanced.

Existing agreements, however, clearly provide an adequate foundation for present cooperation in the field of aviation as well as for further improvements, e.g. as regards price fixing.

Awareness of the problems and frequent consultations at government and carrier level should in the long run also contribute to further improvement of the situation.

The study of the problems posed in the aviation sector has shown that crucial issues (landing rights, shares of traffic, establishment of offices) have been settled on the basis of reciprocity and that the agreements in this sector could serve as a starting point for action in other sectors.

COUNTRIES' AND CARRIERS' MEMBERSHIP OF INTERNATIONAL ORGANIZATIONS

Country	Carrier	ICAO	IATA	ECAC	AEA	OTHERS
Belgium	Sabena	x	x	x	x	*
Bulgaria	Balkan	x				+
Czechoslovakia	CSA	x	x			+
Denmark	SAS	x	x	x	x	*
East Germany	Interflug					+
France	Air France	x	x	x	x	*
Great Britain	British Airways	x	x	x	x	*
Hungary	MALEV	x				+
Ireland	Aer Lingus	x	x	x	x	*
Italy	Alitalia	x	x	x	x	*
Luxembourg	Luxair	x		x		*
Poland	LOT	x	x		x	+
Rumania	TAROM	x				+
The Netherlands	KLM	x	x	x	x	*
USSR	Aeroflot	x				+
West Germany	Lufthansa	x	x	x	x	*

\* = The Nine

+ = The Seven

World-wide air transport is regulated at government level through the International Civil Aviation Organization (ICAO), whose membership stood at 138 nations on 30 April 1977, and at carrier level through the International Air Transport Association (IATA), which has 108 members.

The ICAO was founded in Chicago in 1944. Since October 1947 it has been a UN-affiliated specialist agency. Its purpose is to organize international civil aviation at a world level in accordance with standard rules.

The ICAO encompasses the technical, economic and legal aspects of all forms of civil aviation, whether commercial, private or for sporting purposes.

In the economic and legal fields, with which we are most concerned here, ICAO constantly examines all changes in commercial air transport so as to prevent dangerous competition and help the industry develop in a healthy manner. To do this it studies traffic regulations, provides information, prevents discrimination when charges are fixed, keeps an eye on airport and other

charges, analyses statistics and surveys, simplifies customs and entry formalities, investigates the economic impact of technical changes, and so on.

In addition, the ICAO coordinates bilateral air transport agreements between its Member States, issues recommendations and mandatory regulations, represents its members at talks on international agreements affecting air transport, and is involved in codifying and amplifying international air law.

The IATA was formed in Montreal on 18 December 1945 under Canadian law as an international body representing the world-wide interests of commercial aviation.

Membership of IATA is voluntary and open to all airlines licensed by a country belonging to or eligible to belong to the ICAO. Since 27 February 1975, IATA members have no longer been obliged to operate scheduled air services. Active members can now either operate international scheduled services on routes specified in bilateral agreements between governments or provide charter services on

international routes. (Airlines are eligible if they fly 10 million kilometre/tons during the 12 months before applying, or operate aircraft with a maximum start-up weight of more than 20,000 lbs.).

Carriers which operate only domestic services can become associated members of IATA.

IATA is a non-political organization whose goals are :

- to promote safe, regular and economic air travel for the benefit of all the peoples of the world;
- to develop aerial trade links;
- to develop cooperation between airlines, and
- to ensure cooperation with the ICAO and other international organizations.

All IATA decisions are taken unanimously. Each member has one vote.

At European level, there are corresponding organizations with basically the same tasks. These are :



- the European Civil Aviation Conference (ECAC), which was founded in 1954, has its headquarters in Strasbourg, has 20 members (\*) and operates at government level, and
- the Association of European Airlines (AEA), which was founded in Munich in 1973, has its headquarters in Brussels, had 20 members on 1 November 1975, and operates at carrier level.

None of the Eastern European countries belong to the ECAC and only LOT among the COMECON airlines belongs to the AEA.

Among the ECAC's tasks are : (i) the exchange of traffic rights, (ii) simplifying formalities for cross-frontier air traffic, (iii) working out guidelines for bilateral agreements, (iv) investigating the effects of jet and supersonic air travel, (v) standardizing training requirements for airline personnel, (vi) the mutual recognition of qualifications, and (vii) licensing aircraft to operate.

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(\*) Austria, Belgium, Cyprus, Denmark, Finland, France, Great Britain, Greece, Iceland, Ireland, Italy, Luxembourg, Norway, Portugal, Spain, Sweden, Switzerland, the Netherlands, Turkey and West Germany.

All ECAC decisions are in the form of recommendations and require ratification by Member States' governments.

With the Multilateral Agreement of 30 April 1975 on the commercial Rights of Non-Scheduled Air Services in Europe, the ECAC was able to chalk up its first big success, which was all the more significant since it meant that part of the commercial aviation industry in Europe was regulated by a multilateral agreement.

The tasks of the AEA are carried out by three committees :

- . the Airline Industry Affairs Committee (AIAC), consisting of the airlines' top management, discusses fundamental air transport matters and works out common positions;
- . the Economic Research Committee (ERC), consisting of planning specialists and economists, deals with cost analysis, market research and the exchange of information between member airlines;
- . the Technical Affairs Committee (TAC) is responsible for furthering cooperation between member airlines on technical matters.

The AEA represents its member airlines in dealings with international organizations, especially the ECAC and the ICAO, but also the European Community and (in matters regarding competition) non-European countries.

Organizations such as those mentioned above do not exist in the Eastern European countries, but this does not mean that aviation there is not subject to a regulating framework.

In these countries, as a rule, there are bilateral or multilateral agreements between carriers (AEROFLOT, for instance, is party to 65 agreements), and recently there have been annual meetings between representatives of Aeroflot (USSR), Balkan Air (Bulgaria), Tarom (Rumania), and Malev (Hungary) on the one hand and the IATA carriers on the other. Representatives of CSA (Czechoslovakia) and LOT (Poland) have attended these meetings as observers.

APPENDIX 5

RAIL TRANSPORT

- How the Situation in Rail Transport Differs from that in Other Modes

The situation in the international transport of goods by rail between the European Community and the Eastern Bloc differs substantially from that in other modes of transport. In the case of international transport by water, road or air, each individual consignment is carried by a single operator (leaving aside terminal services). International rail freight traffic on the other hand involves cooperation between the various railway undertakings over whose systems the goods are carried. The undertakings concerned are not in competition with one another but jointly conduct an international transport operation.

- Cooperation between Western and Eastern Bloc Railway Undertakings

All the railway undertakings of Western Europe and the Eastern Bloc states, apart from that of the Soviet Union, belong to the International Union of Railways (\*), an organization whose chief aim is to foster cooperation among its members in all areas, particularly in the technical and commercial fields. This tradition of close

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(\*) Union Internationale des Chemins de Fer (UIC); East European railways are also members of a similar organization with headquarters in Warsaw, the ORGANIZIJA SODRUSHESTWA SHELESNYCH DOROG (OSSLD), which controls cooperation between the railways in the USSR and six other Eastern Bloc States.

cooperation has survived the diverging political and economic development in East and West. The principal areas of cooperation are summarized below :

### Provision of Services

Since its development in the 19th century rail transport has been organized, inter alia, as an international long-distance service. Specifications and standards for rolling stock and permanent way have been designed to eliminate technical barriers to through rail traffic between East and West.

With the exception of the USSR, goods train schedules have also been drawn up on a joint basis. Cooperation is of vital importance to the quality of rail transport, though further improvements could be made by making it easier to cross frontiers (shortening of waits, elimination of bottlenecks).

### Rate Structures and Commercial Cooperation

In principle the frontiers between East and West do not create any obstacles in this area either. The various international rail freight rates enable railway undertakings in all Community and European COMECON States (except the USSR) to quote for the total distance to be travelled in both East and West. Freight can be despatched directly between the various systems, and a

tried and tested clearing system makes it possible to settle freight accounts in either the Eastern or Western country, despite all currency problems.

In East-West rail freight traffic, just as in intra-Community traffic, special rates can be quoted which take account of the specific characteristics of individual shipments. From the commercial angle, however, East-West transport differs considerably from West European rail transport. The chapters on the other modes of transport refer to the fact that in both imports and exports, Eastern Bloc countries try as far as possible to ensure that it is they who pay the freight, because in that way they gain control of the carriage operation. This applies unreservedly to rail transport also. The major State forwarding agencies of the Eastern Bloc countries select the mode of transport to be used in a given operation. Direct contact with consignors and consignees is extremely rare. The central transport planning by the Government departments concerned and the State forwarding agencies makes it extremely difficult to secure contracts for individual shipments. In general, tenders and quotations by Western railway undertakings (in conjunction with their Eastern counterparts) are not directly acceptable for specific contemporary shipments. They can, however, influence future arrangements made within the framework of central transport planning.

### Uniform Law on the Carriage of Goods

Finally, it should be pointed out that all international rail freight traffic between Western Europe and the COMECON countries (excluding the USSR) is subject to a uniform system of law embodied in the International Convention concerning the Carriage of Goods by Rail (CIM). This Convention regulates the legal relationships between customers and the railway undertakings involved in transport operations.

### Special Features of Traffic with the Soviet Union

Since the Soviet State Railway has wide-gauge tracks, Western European and other COMECON goods wagons generally cannot be used on the Soviet network. Goods leaving or entering the Soviet Union have therefore to be transferred to wagons of the appropriate gauge at the border. This considerably restricts rail traffic with the USSR.

In addition, rate formation and the despatch of rail freight between Western Europe and the USSR is not as well organized as in rail traffic between the West and the other COMECON States.

Finally, the fact that different rules of carriage apply is also important. Unlike the other COMECON States, the Soviet Union has not acceded to the International Convention concerning the Carriage of Goods by Rail (CIM).

- The Exceptional Instances of Competition between Western and Eastern Railways

In certain exceptional cases, Western and Eastern railways compete with each other. Where there are several alternative routes between the point of departure and the destination, the railways located along these routes will attempt to have the traffic routed either entirely or as far as possible via their network. For journeys through Eastern Bloc countries, Eastern railways can resort to the ITT/MTT international through tariffs applicable to transit journeys and expressed in rubles. There is thus competition between different routes. Such competition is frequent in traffic along the North-South axis to and from South-East Europe. (For example, traffic from Austria to Hamburg can be routed either via Salzburg and the Deutsche Bundesbahn network or via Czechoslovakia and the GDR). The railways compete here with both their rates and services. Western railways are generally at a disadvantage when it comes to rates. The points made in the chapters on transport by sea, road and inland waterway also apply to competition between railways in East and West, viz. higher wage bills and social security contributions, the need for Western undertakings to calculate their rates in accordance with commercial principles, currency problems and the operation by Eastern Bloc States of their own means of transport without regard to normal business principles.



The significance of such instances of competition between the railways of East and West should not be exaggerated for the moment. They are, however, interesting as aspects of a phenomenon which also occurs in other modes of transport.

- The Impact on Rail Transport of the Problems Outlined in the Chapters on the Other Modes

East-West rail transport has to compete with transport by sea, road and certain inland waterways (at the moment only the Mittellandkanal and the Elbe). When the Main-Danube inland waterway link has been completed, the railways will have to face competition from inland waterway shipping between the Rhine riparian States and the State-trading countries of South-East Europe.

Whereas in the Community's free market economy the inherent advantages of each mode of transport are allowed free play, in East-West transport the allocation of traffic between modes is decisively influenced by the fact that the COMECON States do their utmost to ensure that both their imports and exports are carried by their own operators as far as possible. For example, some East-West shipments are carried by rail through Eastern Bloc countries before being reloaded onto waiting Eastern Bloc lorries at the border - an occurrence which not only places Western railways at a disadvantage but is also responsible for the emergence in the West of additional road haulage

capacity which keeps on the lookout for return loads and indeed in some cases operates for the most part only in Western countries. This endeavour by COMECON States to use their own means of transport also holds good for rail transport (which the COMECON States consider as their own within their territories).

From the point of view of these States, however, that part of East-West rail transport conducted on Western networks is just as undesirable as transport effected by Western road haulage and inland waterway carriers. The present size of the COMECON States' road haulage and inland waterway fleets and the limited capacity of their transport infrastructures have so far prevented them from using their own vehicles and vessels more widely to the detriment of rail traffic. But even today Western rail networks and other Western carriers are having to face price competition from transport operators in COMECON countries, which do not operate according to market economy principles and do not have to worry about covering costs. This unequal competition is reflected in price levels, which strongly curtail the profitability of rail transport.

In the medium and long term the situation will deteriorate considerably. As outlined elsewhere, the COMECON States are carrying out a planned expansion of their own transport capacity. This will reduce the importance of railways in East-West transport.

The completion of the Main-Danube inland waterway link can be expected to have particularly serious consequences for rail transport. The chapter on inland waterway shipping eloquently describes the various implications of the penetration of COMECON inland waterway fleets into traffic between South-East Europe and the Rhine riparian States, and possibly even into Western European waterways. Without effective measures to regulate (a) the access of COMECON fleets to this waterway and (b) the rates applied to them, not only will the Western European inland shipping industry be faced with cut-throat competition, but rail traffic from the canal's catchment area and with the Danube riparian States, and indeed all rail traffic in the Rhine's catchment area, will be affected. The railways would not only have to face competition from inland waterway shipping, which is already difficult enough under the conditions which prevail in the West, but like Western inland waterway undertakings, they would also have to bear the consequences of the rates policy pursued by COMECON inland waterway shipping, a policy which does not conform to any verifiable criteria. Considerable losses (both in terms of volume of freight and income) would be certain to occur but it is not possible to put a figure on them at this stage.

APPENDIX 6

PORT OPERATIONS

- General Comments

For some time now trade circles, industry and public authorities in the European Communities have been concerned about competition from Eastern Bloc Carriers.

Shipowners are increasingly insistent in their appeals for action to be taken in the face of the growing penetration of the market by Eastern Bloc fleets. They believe that if the COMECON shipping lines cannot be persuaded to compete on terms that accord with Western thinking, it will be more and more difficult to avoid introducing quota restrictions or other measures for controlling Eastern Bloc vessels engaged in bilateral traffic or cross trades to or from Community ports.

Port circles (in the widest sense) and transport users take a less stark view of the situation. It was recently stated in these quarters that, as far as ports

are concerned, East-West transport did not pose any problems. It was, however, conceded that there was no guarantee that the situation would not change in the future.

When confronted with the undisputed problems of the traditional carriers in the field of East-West transport, port representatives take the view that since time immemorial ports have been, and are by definition, trans-shipment centres where traditional carriers load or discharge goods. Ports are therefore not to be seen in the same light as carriers, for whom East-West transport causes, or may cause, problems; they provide carriers with ancillary services as either the first or the last link in the transport chain. To put it in another way, ports are trans-shipment centres and, in their own interests, they seek to carry out this role to the best of their ability, irrespective of where carriers come from or what flag they fly.

It is therefore understandable that ports adopt a neutral stand on East-West transport problems, or regard them as something which does not directly concern them.

It is against this background that the Section has the difficult task of investigating whether any aspect of the problems raised in its overall study of East-West competition in the field of transport could be solved by a Community or national policy on ports.

When considering this question, the Section also had to consider whether national or Community legislation on the right of establishment could be used to tackle the problems caused when Eastern-Bloc carriers set up branches in Western ports.

The Section wonders, however, whether the achievement of evenly matched competition between East and West with regard to each mode of transport (sea transport, inland waterway transport, road haulage and railways) would not simply reduce the problem of East-West ports policy to a problem of competition between ports in the Community. This outstanding problem would then have to be resolved by an initial Community policy on ports.

- Specific Comments

In September 1977 "hearings" were held at which the Section for Transport and Communications was addressed by distinguished, internationally recognized port experts (\*). The information which these guest speakers provided served as a basis for the Section's deliberations on the issues referred to above.

From the Section's discussions and the views expressed at the "hearings", the following points emerged :

If the COMECON countries were to continue to increase their share of the transport market, goods transport would, to a large extent, be controlled by the State-trading organizations of these countries. In the Baltic, there has already been a clear shift in growth away from West German ports towards those in COMECON countries.

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(\*) The guest speakers who addressed the Transport Section on 21 September 1977 were Mr POSTHUMUS, Chairman of the Netherlands Government Committee for Port Development, and Mr ROCHEREAU, President of the Association for the Development of French Ports.

There is keen competition between Community ports and this makes it difficult at the present time to work out a common approach to port problems in the Community posed by East-West competition.

Sea transport currently has to cope with severe competition from Eastern Bloc fleets, a fact which shippers using maritime ports cannot afford to ignore in the long term. It is strongly emphasized that the continued provision of services can be guaranteed only if transport enterprises are self-supporting. However, this continued provision of services is threatened by Eastern Bloc competition in the three modes of surface transport which is based on a cost price concept quite different to that prevalent in Western countries.

Too great a dependence on Eastern Bloc carriers is not in the interests of either the ports or port users.

It must be noted, nonetheless, that the ports are not to blame for the difficulties facing the three modes of surface transport and in particular sea transport.



Nor are the ports in a position to propose solutions through measures in the area of ports policy.

From the point of view of the ports, it would be preferable if the problems could be solved without their direct involvement. Bilateral or Community negotiations, for example, could be an appropriate line of approach.

However, it is the duty of the authorities, as the guardians of the public interest, to assess the gravity of the actual and potential difficulties facing transport and to take the necessary measures to obviate the dangers for the economy as a whole.

If it is possible, through negotiations or by other means, to achieve (a) a balanced distribution of transport between East and West and (b) Eastern Bloc fleets' participation in Community traffic with third countries on a truly balanced footing and in keeping with commercial principles, East-West transport will no longer pose any problems specifically relating to ports.

The Section does, however, see one problem remaining in the Community as a whole, namely, the question of a common policy on ports, i.e. the distribution or

location of transport in the Community. The Section therefore urges the Community authorities to tackle these problems swiftly and seriously.

Finally, the Section notes that up to the present time, there has been a general right of establishment in ports. The Section is aware that monopoly situations in this area may jeopardize the orderly flow of transport in Western Europe and consequently pose a threat to the common transport market. The Section wonders whether it would not be advisable to introduce special rules for the establishment of Eastern Bloc transport enterprises, even independently of a proper common ports policy, which is bound to take some time to achieve.

European Communities - Economic and Social Committee

"EEC's Transport Problems with East European Countries"

Opinion of the Economic and Social Committee

Brussels : General Secretariat of the Economic and  
Social Committee

1977 - p. 164

DK, D, E, F, I, N

The Committee pointed out that the steadily mounting competition from the Eastern Bloc had been a source of concern for some time. Because they are able to operate freely in the West, Eastern Bloc countries are succeeding to an increasing degree in changing the pattern of East-West goods traffic in their own favour.

Employment in transport might be threatened by the Eastern Bloc operators' increasing penetration of the transport market. In the long run, that penetration might have a damaging impact on the entire Community economy.

The Committee urged the relevant institutions to tackle the matter with all requisite vigour, in order to ward off developments that would be disastrous for the economy and have grave social consequences.



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