

**Legal status
of rail, road and inland
waterway transport
in the Member States of the
European Economic Community**

SITUATION AT 1 JULY 1962

Bruxelles, le 31. 10. 1972

EMBARGO :

- 01.001

Question écrite n° 224/72

de MM. Oele et Kollwelter
à la Commission
des Communautés européennes.

Objet : Aperçu de la législation des transports des Etats membres
et des Etats candidats à l'adhésion.

1. La Commission a publié, à la fin de 1962, une synthèse extrêmement utile de la législation des transports des Etats membres sous le titre : "Régime juridique des transports ferroviaires, routiers et fluviaux dans les Etats membres de la Communauté économique européenne". Ce document, publié dans toutes les langues officielles, donnait la situation au 1er juillet 1962 et était imprimé sur feuillets mobiles réunis dans un classeur.

Depuis lors, aucun complément n'a malheureusement été publié. Dix années se sont entre-temps écoulées et la législation des Etats membres a été considérablement modifiée. Il serait très utile d'avoir une vue d'ensemble de ces modifications. En outre, à l'heure actuelle, la commission des transports du Parlement européen et les milieux spécialisés des Etats membres doivent s'intéresser de très près à la législation des transports des pays adhérents. Or, il n'existe presque aucune documentation sur cette législation, et certainement pas dans toutes les langues officielles de la Communauté.

Comme il est naturel, la Commission des Communautés européennes s'occupe dès à présent de l'établissement d'un recueil des législations des transports des pays adhérents. La législation des six Etats membres est présumée connue grâce aux procédures de consultation en cours.

La Commission dispose-t-elle d'une documentation qui permette d'avoir un aperçu de la législation des transports des six Etats membres et des quatre pays adhérents ?

2. La Commission est-elle disposée à publier cette documentation sous forme d'une édition revue et augmentée du document de 1962 et à la mettre à la disposition de la commission des transports du Parlement européen et du public intéressé, afin que les données nouvelles puissent être prises en considération lors des discussions ultérieures sur la politique des transports ?

1. 2. La documentation concernant les dispositions législatives, réglementaires et administratives en vigueur dans les six Etats membres en matière de transports dont dispose actuellement la Commission a été établie par les propres besoins de celle-ci.

Jusqu'à présent, la Commission n'a, en raison de grandes difficultés de nature pratique, procédé ni à la publication de mises à jour ni à une nouvelle édition de la brochure intitulée "Régime juridique des transports ferroviaires, routiers et fluviaux dans les Etats membres de la CEE", parue le 1er juillet 1962.

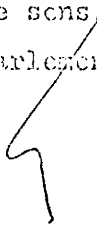
En effet, il ne suffit pas que la Commission connaisse les dispositions dont il s'agit et procède à leur énumération; elle doit aussi effectuer un travail de systématisation considérable dont il importe d'assurer la traduction, l'impression et la diffusion dans toutes les langues de la Communauté. Ce travail entraîne des coûts particulièrement élevés, tant en ce qui concerne le personnel qui en est chargé qu'en ce qui concerne les frais matériels.

Ces difficultés seront encore plus importantes en cas d'élaboration d'un document qui couvrirait les dispositions en vigueur dans la Communauté élargie.

En outre, l'expérience acquise avec l'édition du 1er juillet 1962 a fait ressortir que cette brochure n'a pas recueilli auprès du grand public le succès escompté. S'agissant d'une synthèse de textes législatifs et réglementaires, elle n'était pas suffisante à elle seule pour permettre d'effectuer des études approfondies sur des problèmes déterminés, et le recours aux textes de base eux-mêmes restait toujours nécessaire.

Par conséquent, tout en étant consciente du fait qu'en raison de l'élargissement de la Communauté, un intérêt pourrait se manifester pour une nouvelle édition revue et amplifiée de la brochure de 1962, la Commission estime de ne pas pouvoir décider présentement dans ce sens.

Bien entendu, la Commission fournira au Parlement Européen toutes les informations qu'il souhaiterait en la matière.



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INTRODUCTION

Purpose of the report

Article 74 of the Treaty establishing the European Economic Community requires the Member States to apply a common transport policy. Articles 75 to 84 of the Treaty deal with the various aspects of this common policy and the procedure by which it is to be introduced.

In accordance with these articles the establishment of the common transport policy will be a gradual process. As the Community develops, regulations in the various Member States will be co-ordinated in the transport as in other fields and superseded wherever necessary by provisions which will be mandatory for the Community as a whole.

Attention is here drawn to Article 76 of the Treaty, which requires that pending the enactment of provisions to introduce the common transport policy no Member State shall, as a general rule, apply the provisions governing transport at the time when the Treaty entered into force in such a way as to make them less favourable in their direct or indirect effects for carriers of other Member States than for its own carriers.

The decision taken on 28 November 1961 by the Council of the European Economic Community on a proposal from the Commission is also of special importance for Member States' transport policies. It concerns a procedure for prior examination and discussion of their transport laws and regulations. This will ensure close collaboration between the Member States and the Commission and avoid any tendency for the economic policies of the former to develop on divergent lines.

An overall view of the present laws and regulations of Member States in the transport field is of twofold importance.

First, it shows what conditions a carrier must observe to be able to operate in a Member State or in international transport between Member States or with non-member countries.

Secondly, a knowledge of the existing laws in Member States is indispensable in working out the common transport policy, since all measures to implement this policy must take account of the existing legislation which they are designed to amend or supersede.

Subject of the report

The report accordingly presents a review of the Member States' most important laws and regulations on the various types of transport and on the co-ordination of transport media. It also examines the regulations governing admission to and pursuit of the various classes of transport occupations. In addition to these questions concerning access to and organization of the markets, which are vital for the common transport policy, the report covers technical and fiscal provisions in so far as they affect the operation of transport services.

This is consequently a description of the legal system. It is not possible within the compass of the report to examine how strictly or liberally the existing provisions are interpreted and the procedure followed accordingly. It will only be possible to study this question, which is certainly important in practice, in relation to each specific case in the course of discussions on the common transport policy.

The report covers the three types of internal transport—rail, road and inland waterway—and the activities of forwarding agents and other intermediaries in inland transport.

In view of their special features, such forms of short-distance passenger transport as trams and cable-cars or rack railways are not included.

No account is taken of the provisions of the Treaty establishing the European Economic Community. Measures already enacted under the Treaty find a place in the report only if they have been followed by implementing provisions in a Member State.

The same applies to the Treaty setting up the Benelux Economic Union, the effects of which on the regulations governing transport in Belgium, Luxembourg and the Netherlands will be felt only in the future. Several important provisions are due to come into force on 1 October 1962.

The provisions of this Treaty affecting transport and the decisions of the Committee of Ministers on transport matters will be found in Annex III.

Method of work

The Directorate-General of Transport drew up the reports by countries in 1961 on the basis of the data then available and sent them for review to the relevant government departments in the Member States. Wherever necessary the addenda and corrigenda proposed by these departments were incorporated in the final version of the reports.

These reports on the different Member States are available in the language of the country in question and in the other official languages of the Community.

Plan of the reports by countries

After a foreword the body of each report reviews the legal system governing transport in the Member State concerned.

The reports follow an identical plan in order to facilitate comparison between the regulations of Member States on any given subject.

This also applies to comparison between the three forms of transport considered.

Each country report is divided into five parts:

- Part I Bases of transport policy: institutions and organization
- Part II Rail transport
- Part III Road transport
- Part IV Inland waterway transport
- Part V Forwarding agents and other intermediaries in inland transport.

Annex I outlines the organization of the Transport Ministries in the Member States; Annex II sets out the maximum weights and dimensions of vehicles; Annex III reproduces the provisions of the Treaty establishing the Benelux Economic Union which have a bearing on transport; and Annex IV gives the sources of the legal provisions, regulations and administrative practices of the Member States in this field.

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PART I

**BASES OF TRANSPORT POLICY:
INSTITUTIONS AND ORGANIZATION****I. LEGISLATIVE POWERS**

Under Belgian administrative law transport is traditionally linked to the idea of public service and, for this reason, is governed by laws and decrees applicable over the entire territory of the Kingdom.

Transport is a service which must give satisfaction to the collective needs of the public in a regular, continuous fashion, while respecting the law of equality among all users.

This is why all powers relating to public transport are very highly centralized.

II. ADMINISTRATION

a) MINISTRIES

The administrative authorities responsible for all matters relating to transport are the Ministry of Communications and the Ministry of Public Works.

The Ministry of Communications is responsible for all matters relating to the provision of transport by rail, road, inland waterways, sea and air.

This Ministry comprises the following departments, each of which is headed by a Director-General (on this subject see the organizational chart in Annex I):

The General Department comes directly under the authority of the Secretary-General, who is the highest official in the Ministry of Communications. This department deals with general legal questions and general questions concerning administration, organization and finance. In co-operation with other departments concerned, it also deals with international questions.

The Transport Department is the competent authority for all legislative and administrative matters concerning transport by rail or road, including questions of a technical nature. The Road Traffic Office is also attached to this department.

The Merchant Navy and Inland Navigation Department is responsible for all matters connected with the merchant navy and inland navigation.

The Air Transport Department deals with all air transport matters, including ground organization and safety in flight.

There is also a Commissariat General for Tourism.

Among public bodies under the oversight of the Minister of Communications, special mention must be made of:

The Airways Board, which is responsible for the building and operation of airports and for safety in flight.

The Inland Navigation Control Office (French abbreviation ORNI), which operates the freight sharing system and supervises the rates charged for waterway transport inside Belgium. International waterways transport charges are not controlled.

The Office is headed by a Commissioner, appointed by the Minister of Communications. Freight offices have been set up at all the main inland ports.

The Belgian Towing Federation (French abbreviation GBR) is the competent authority for towing inside Belgium only; there are no controls over towing on international routes. This Federation applies the rota system for inland waterway tugs and also supervises towing charges. Offices for this purpose have been set up at all the main inland ports.

In addition, there are Regional Directorates at Antwerp, Ghent and Liège. A Commissioner appointed by the Minister of Communications manages this Federation under the supervision of the Ministry.

The Minister also supervises the national transport companies and the partly state-owned urban transport companies:

The Belgian National Railway Company (SNCB);

The National Local Railway Company (SNCV);

The Belgian Airways Company (SABENA).

The SNCB headquarters at Brussels is divided into seven Directorates, each of which deals with particular economic, technical or administrative matters, and examines all questions of principle. The complete SNCB network is divided into 8 operational groups:

Antwerp, Brussels, Charleroi, Ghent, Hasselt, Liège, Mons, Namur.

The SNCV headquarters is also in Brussels. The network is administered by operational groups in the provincial capitals.

The Ministry of Public Works is the competent authority for matters relating to the road system and waterway. Within the Ministry, the Bridges and Highways Department, comprising:

the Waterways Department,

the Highways Department,

the Bridges Section,

examines all economic, technical and administrative questions arising in this field.

In addition, there are a number of public bodies acting under the supervision of the Public Works Department:

The Inland Navigation Office, with the powers described in the chapter on "Inland Waterway Transport";

The Road Fund (1955-69) responsible for the construction of motorways and the improvement and modernization of State roads, on behalf of the State.

b) ADVISORY BODIES

1. *The Central Transport Council*

This body advises the Government on all matters relating to transport, with special reference to the co-ordination, development and modernization of the different means of transport. To this end, the Council draws up an investment plan and advises on all economic and technical aspects of several means of transport or international transport.

The Council is made up of representatives of the main Ministeries. Its Chairman is the Minister of Communications and its Vice-Chairman the Secretary General of the Ministry of Communications.

Its members are 5 officials from the Ministry of Communications, 2 officials from the Ministry of Public Works and 1 official each from the Ministry of Economic Affairs, the Ministry of Finance, and the Ministry of Foreign Affairs and External Trade. Representatives of transport undertakings, transport workers and users and also independent experts may be consulted.

2. *The Road Transport Commission*

This Commission was set up by the Act of 1 August 1960 and the related Royal Decree of 22 September 1960, laying down general regulations for the transport of goods for reward by motor vehicle.

Prior to the new regulations, there was a "Road Transport Office" with wide powers over the licensing procedure for goods transport by road.

By contrast, the new Commission is merely a consultative agency of the Ministry of Communications, dealing with all matters relating to goods transport by road, and particularly the licensing procedure.

The Commission is made up of the Chairman, appointed by the Crown, 2 representatives of government transport departments, 1 representative of SNCB and 3 representatives each of road transport undertakings, transport workers and users, appointed by the Minister of Transport on the proposal of their organizations. Deputies are appointed for the Chairman and all members.

3. *Advisory Committee on Tramways and Public Transport by land*

This Committee, set up in 1897, advises the Minister of Communications on matters within its field of competence.

4. *Central Road Council* (set up by Royal Decree of 24 December 1927, superseded by that of 7 June 1950).

This Council advises the Minister of Public Works and makes recommendations on road problems. It consists of representatives of various Ministeries and other authorities, together with representatives of users' associations, bodies of public interest and employers' and workers' associations.

5. *Standing Road Traffic Commission* (set up by Royal Decree of 31 December 1953).

This Commission advises the Minister of Communications on all matters concerning road traffic regulations. It includes representatives of the Ministries concerned, the police, various operating companies and trade associations.

6. *Advisory Committee for Road Passenger Transport* (set up by Royal Decree of 30 December 1946).

This Committee makes recommendations to the Minister of Communications on all matters relating to passenger transport by motor vehicle. The Chairman and Vice-Chairman are officials of the Ministry of Communications. Other members represent the various groups concerned with road passenger transport.

7. *Central Council for Inland Navigation* (set up by Royal Decree of 20 August 1912, superseded by that of 18 November 1939).

This Council advises on all questions concerning inland navigation, submitted either by the Minister of Public Works or by one of its members.

It has 40 members, comprising officials of the Ministries and representatives of the economic interests concerned and of inland navigation, appointed by the Minister of Public Works.

8. *Commission for Waterway Transport on Own Account* (set up by Ministerial Order of 23 March 1960).

This Commission, set up within the Ministry of Communications, is consulted before the withdrawal of any licence for transport on own account. The Commission has two sections at Liège and Antwerp respectively. Each section has a Chairman and 4 members, who must include 2 representatives of inland waterway transport on own account and 1 representative of the waterway transport industry.

c) PROVINCIAL ADMINISTRATIVE BODIES

Provincial administrative services include a number of special transport departments. As regards road transport, the provinces play a part in the procedure for issuing licences for public omnibus services, taxi services and the transport by road of very large objects forming a single piece. The provinces also approve the additional traffic regulations made by local authorities.

On the other hand, the provinces play no part either in the management of navigable waterways, or in transport by waterways.

III. TRADE ASSOCIATIONS AND OTHER BODIES REPRESENTING TRANSPORT INTERESTS

a) CHAMBERS OF COMMERCE AND INDUSTRY

In Belgium, Chambers of Commerce come under private law and have no duties under public law.

They deal with transport matters as part of their general work in the economic field.

The Antwerp Chamber of Commerce, for instance, is particularly concerned with transport matters, and more especially with maritime transport.

b) TRADE ASSOCIATIONS

There is no railway trade association since there are no longer any private companies.

1. *Road transport associations*

There is a special association for each type of transport.

Carriers operating motor-bus and motor coach services are grouped together in the Belgian National Federation of Motor Bus and Motor Coach Operators, with headquarters in Brussels.

There are two federations for taxi undertakings: The National Federation of Licensed Taxis and the National Association of Unlicensed Taxis, both of which have their headquarters in Brussels.

The Belgian National Federation of Road Hauliers, with headquarters in Brussels, comprises regional associations of road goods hauliers operating within Belgium, the Union of International Road Hauliers and the Belgian Furniture Removers Association.

Finally, agents and charterers engaged in goods transport by road are grouped in the Belgian Association of Road Freight Agents with headquarters at Grivegnée.

2. *Inland waterway associations*

To protect their interests, inland waterway transport and towing undertakings have formed themselves into national and regional federations, the most important of which are:

the General Action Committee of Belgian Inland Waterway Transport Organizations, with headquarters at Antwerp, covering a number of regional and trade federations;

the Federation of Belgian Barge Owners, the Association of Ship and Barge Owners and the Independent Barge Owners' Association (*Onpartijdige schippersunie*), all with headquarters at Antwerp.

The following federations exist in the field of international transport by waterways:

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the Belgian Waterways Committee (Belgisch Comité voor de binnenvaartbelangen), with headquarters in Brussels, representing Belgian interests in the International Federation of Transport by Waterways; the Belgian Union of Rhine Shipowners, at Antwerp, which is an association of shipowners providing transport on the Rhine; the Belgian Shipowners' Union for Transport by Inland Waterways and on the Rhine (Vereniging van Belgische reders der binnen- en Rijnvaart), at Antwerp, representing many small Rhine Shipowners and also private individuals.

c) TRADE UNIONS

There are three trade union bodies representing workers, each with a different ideological outlook:

The Belgian Transport Workers' Union, with headquarters in Antwerp, and affiliated to the Belgian General Federation of Labour (Socialist); The Christian Central Organization of Transport Workers belonging to the Confederation of Christian Trade Unions. Its headquarters are in Brussels.

These two bodies are divided into sections corresponding to the different kinds of transport.

Finally, there is also a Transport Section, of the General Central Organization of Belgian Liberal Trade Unions.

PART II

RAIL TRANSPORT

Section A — General provisions

I. LEGAL STATUS, STATE AUTHORIZATION AND CONTROL

a) RAILWAYS IN GENERAL

By the terms of the Act of 10 May 1892 any concession for a railway over 10 km. in length must be sanctioned by legislation. The transfer of any concession must be approved by the Government.

The rights and duties created by the concession are recapitulated in the Contractual Clauses annexed thereto. Standard Contractual Clauses were enacted by the Order of 20 February 1866.

By virtue of Article 3 of the Royal Decree of 21 March 1961, defining the articles of association of the Belgian National Railway Company (SNCB), the provisions of the Standard Contractual Clauses are binding upon that company, always provided that they are not contrary to the laws, statutory rules and provisions which govern it.

When the SNCB was set up several private companies still operated standard gauge railways; today, the entire network is managed and operated by SNCB.

The entire network of local railways is operated by a single company, the Belgian Local Railway Company (SNCV).

b) BELGIAN NATIONAL RAILWAY COMPANY (SNCB)

1. *General legal position and aims of railway legislation*

The SNCB was set up by the Act of 23 July 1962. Its charter was defined by the Royal Decree of 7 August 1926 and amended by the Royal Decree of 21 March 1961.

When the national company was set up, the Belgian State transferred to it the right to operate, for a period of 75 years, the lines hitherto operated by the State as an independent authority and constituting the greater part of the main railway network in Belgium. All remaining concessions have since been bought out and transferred to the SNCB.

In return, the new railway company made over to the State shares to the nominal value of 11 000 million Belgian francs, made up of 10 million inalienable registered ordinary shares, each of 100 francs and 20 million preference bearer shares, each of 500 francs, divisible into 5 parts of 100 francs each.

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A fixed rate of interest was guaranteed to holders of preference shares. Furthermore, all shareholders are entitled to share in the company's profits. Ordinary shares do not bear a fixed rate of interest and are all the property of the Belgian State.

The main purpose of the Act setting up SNCB was a sounder financial structure, but it also sought to enable the national railway network to operate on business lines, while safeguarding the interests of the national economy.

The SNCB is a legal entity, vested with the temporary right to operate the railways owned by the Belgian State. It is a commercial company in form but has a legal status *sui generis*, which gives the State overriding powers. This legal status is laid down by the law and by the Company's charter, which can be modified only by legislation or regulation.

The State remains the owner of the railway network. It has however transferred to the SNCB, for a period of 75 years, the right to operate and to use the existing fixed properties.

On 1 January 1959, the SNCB had nearly 70 000 employees.

2. *Governing bodies of the SNCB*

The General Assembly is made up of the shareholders, with 1 ordinary share, or 10 preference shares, giving the right to 1 vote. The State, which holds the inalienable shares, always has a majority at the General Meeting.

The General Meeting examines the annual balance sheet and the profit and loss account.

The Board of Directors consists of members appointed for 6 years, of whom 18 are appointed by the Crown and 3 by the staff.

10 members are chosen by virtue of their special qualifications;

5 are chosen jointly by the Ministers of Finance and Communications;

3 are representatives of railway staff and 3 others are representatives of transport users.

The Chairman of the Board of Directors is the Minister of Communications, whenever present; he has a vote but his deputy has not.

Thus, the Board of Directors normally represents the SNCB for all legal purposes.

The Board approves any changes in Staff Rules, in agreement with the Joint Committee, and makes appointments.

It also fixes and modifies tariffs in accordance with the appropriate legal provisions; nevertheless the Crown has at all times the right to demand reductions or forbid increases.

The Board of Directors may elect from among its members, a Standing Committee of 4 persons, including one staff representative, to prepare questions for submission to the Board.

It also selects, from outside its own members, the Company's Director-General. Within limits laid down by the Board of Directors, the Director-General may delegate his powers.

3. *State supervision*

The Board of Auditors consists of 6 members, 3 of whom are appointed by the Chamber of Deputies and 3 by the Senate. The Auditors exercise the supervisory functions specified in the Royal Decree of 18 December 1957. In particular, they check that the SNCB's accounts are duly rendered and check its inventory. Every year they draft, for the Minister of Finance and the SNCB's administrative departments, a report on the position shown by the balance sheet and the overall trading account. The Auditors must immediately report any irregularities of financing difficulties which may come to light. In the performance of their duties the Auditors hold very wide powers for obtaining information and carrying out inspections.

The Government may require the Board of the SNCB to reduce tariffs or may forbid increases.

The Minister of Communications may require any necessary maintenance or repair work to be carried out.

Many important decisions by the Board of Directors must be approved by the Minister of Communications.

This applies, for example to:

The sale, purchase or exchange of real estate property or rights exceeding Bfrs. 3 million in value;

Contracts placed by tender, for a period of more than 10 years or exceeding Bfrs. 3 million in value and private-treaty contracts, exceeding Bfrs. 1.5 million in value;

Leases or concessions exceeding 9 years in length;

Powers delegated to the Director-General on tariff matters.

In addition, it is also the responsibility of the Minister of Communications:

To lay before Parliament each year the Balance-Sheet and Profit and Loss Account approved by the General Assembly;

To table bills authorizing the raising of loans or the extension of the railway system;

By agreement with the Board of Directors, to approve grants to the fund for the replacement of buildings, installations and rolling stock.

At the request of the Board of Directors, the State acquires all land necessary for the operation or extension of the railway system.

c) OTHER RAILWAY COMPANIES (NARROW GAUGE)

1. *General regulations*

By an Act dated 28 May 1884, superseded by the Act of 24 June 1885, which is still in force, powers to operate the entire system of local railways, previously operated by a large number of companies, were vested in a single company known as the Belgian Local Railway Company (SNCV).

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The SNCV, though set up as a limited company of a special kind, is in fact an association of public authorities providing and managing public transport services. Its status as an association of public authorities is confirmed by the following features:

Its capital is variable and the number of shareholders never final;

Its capital is divided up by lines or groups of lines;

The partners are the State, the provinces, local authorities and a few private persons.

The following provisions underline the SNCV's special character:

The life of the Company is unlimited;

Its articles of association can be altered only with the sanction of the legislative authority;

The SNCV operates each line under a Government concession and has priority rights for any concession in respect of a local line;

The Company may be wound up only by an Act which must simultaneously lay down terms for its liquidation;

The share capital is equal to initial outlay on the construction of lines and, where appropriate, the cost of rolling stock;

The Chairman, half the members of the Board of Directors and the Director General are appointed by the Crown.

The SNCV's articles of association were approved by a Royal Decree dated 6 July 1885.

The legislator's intention was to ensure that areas with scattered populations were properly served, particularly with short distance transport, and to complete the existing system for that purpose.

The grant of concessions to operate local railways is subject to prior consultation with the appropriate provincial and local authorities and to an enquiry into the desirability of the undertaking and the operation of a line.

Legislation confers on the Company, subject to prior authorization, the right to operate trolleybus and motor-bus services, or to replace rail by road services.

2. Governing bodies of the SNCV

The SNCV is administered by a Board of Directors, comprising in addition to the Chairman and three members appointed by the Crown, three members elected by the General Assembly. The Board of Directors represents the company for all major legal purposes. Its freedom of action is restricted only as regards fixing tariffs and raising loans.

A Director-General, appointed by the Crown, directs the Company and carries out the Board of Directors' decisions. He is assisted by the central administrative departments which concern themselves with matters of principle and co-ordinate the work of the regional operating groups.

The Supervisory Committee consists of 9 Commissioners appointed by the General Assembly, one for each province, with unlimited powers of scrutiny.

To assist them with their supervisory duties, the Ministers of Finance and of Communications each appoint a Government Commissioner.

The General Assembly consists of the shareholders, who are usually representatives of local and provincial authorities, the members of the Board of Directors, the Director-General and the members of the Supervisory Committee.

The Assembly's decisions are normally taken by a simple majority.

3. *State supervision*

The State exercises permanent supervision over the SNCV and acts directly in the following matters:

1. Concessions are granted to the SNCV by Royal Decree;
2. Tariffs drawn up by the SNCV are subject to approval by the Government, which has the right to demand increases or forbid reductions;
3. The Government has powers to scrutinize all the company's transactions and to this end it may object to the implementation of any measures which it considers would be contrary to the law, the company's articles or the interests of the State; it may demand production of any information necessary for such supervision.
4. The Government approves the form and conditions of loans raised by the SNCV; it is empowered by the legislative authority to guarantee interest and repayment to third parties;
5. The Chairman of the Board of Directors, appointed by the Crown, may suspend implementation of any measure which he considers contrary to the law, the company's articles or the interests of the State; he duly notifies the Government which must reach a decision within fifteen days of such notice;
6. Under the articles of the SNCV the Board of Directors must forward a yearly Balance-Sheet to the Minister, together with a Report on the Company's position. It is the Minister's duty to table, in both Chambers, the Balance-Sheet and Report submitted by the Board.

In addition to the above cases, the State may take action under the terms of the Act of 16 March 1954 on the supervision of certain bodies of public interest, and the amending Royal Decree dated 18 December 1957.

II. PROVISIONS CONCERNING OPERATION AND FINANCIAL MANAGEMENT

a) GENERAL ASPECTS

The basic provisions concerning finance and the financial management of the railways are embodied in the Act setting up the SNCB, in its articles and in the Contractual Clauses and general conditions for the building and operation of railways under concession in Belgium, dated 20 February 1866.

Similar provisions apply to the SNCV.

1. SNCB

The SNCB is financially independent of the State budget. The Company itself is required in principle to meet the full cost of building, maintaining, operating and managing the lines it was authorized to operate. To this end, the SNCB is empowered to fix its own tariffs as were the private concession-holding companies. Nevertheless, the Government may demand reductions or forbid increases.

There is no statutory provision that any losses of the SNCB shall be met from the State budget. This is why the losses first appearing in 1930 were initially covered out of legal reserves. Once the latter were exhausted, the SNCB lacked the necessary funds and the Government had to grant various credit facilities, mainly to meet certain extraordinary expenditures.

Following World War II, things went from bad to worse. Succeeding Governments were forced to seek palliatives. Several commissions were set up, but a series of plans for a sounder financial structure ended with the State assuming responsibility for certain expenditure.

On 31 December 1960 the cumulative deficit not covered by these measures still amounted to Bfrs. 1 349 million.

In 1958, the Belgian Government reviewed the problem as a whole and in January 1959 approved a plan of reforms to improve the financial position of the railways. This plan contains the following features:

Increased financial and commercial yield from the systems;

Lower costs by converting from steam to diesel and electric traction;

Simplified operation and structural reorganization.

Under this plan, the State paid the SNCB Bfrs. 7 385.5 million in 1959. Of this total, Bfrs. 1 830 million represented compensation for cheap passenger rates, including Bfrs. 1 387 million for workmen's fares and Bfrs. 150 million for school fares.

An additional sum of Bfrs. 1 741.7 million was paid by the State as compensation for special charges, including Bfrs. 1 457 million for pension charges.

Finally, the State contributed Bfrs. 3 559 million for investment purposes and replacement purchases.

The SNCB has its own budget, drawn up by its Board of Directors in accordance with commercial management principles. This budget is then forwarded to the Ministers of Communications and Finance. The Minister of Communications lays the SNCB budget before Parliament as an appendix to his own Ministry's budget.

The Parliamentary Budget Committee sees to it that SNCB adjusts its income reduces its expenditure if either is likely to prejudice the State's financial policy.

The SNCB submits progress reports and a yearly report on its work to the Ministers of Finance and Communications. It also supplies these Ministers with any other information they may require.

The accounts are kept by the management departments and are forwarded to the Ministers of Communications and Finance.

The SNCB keeps accounts of all expenditure incurred, in respect of credits for expenditure on supplies, work or transport. Quarterly reports on such expenditure are submitted to the Ministers of Communications and Finance.

The SNCB may only raise loans with special legal sanction (for other requirements, see I b).

2. SNCV

The SNCV has its own share capital, independent of the budgets of the various public authorities. It is required to finance its own expenditure and cover any losses. To this end, it is permitted to fix its own tariffs, which must, however, be approved by the Government.

As previously stated, the SNCV's share capital is divided into a number of share issues equal to the number of authorized lines; the main shareholders are the State, the provinces and local authorities.

An ingenious arrangement enabled the public authorities to meet their financial contribution not by a cash payment equivalent to their shareholding, but in the form of 90-year annuities including interest and amortization.

Each issue of shares is entitled to the profit earned by the line concerned and thus constitutes a separate business with its own accounts. In this way, a commune with a holding in a particular line is not affected by the good or ill luck of other lines. However, each line bears its part of the Company's overheads in proportion to its gross earnings.

Profits are shared as follows: to begin with, a first dividend is paid equal to the amount of the yearly instalment due to pay off the subscribed capital (in the case of partly paid up shares). The first dividend on shares held by private individuals is that fixed by the Board of Directors when the shares were issued, but must never exceed 4% of the capital paid up.

If profits are insufficient to meet these various payments in full, a proportionate payment is made to the various classes of shareholders.

Any surplus is shared as follows, after deduction of percentages due to the members of the Board and the Director-General:

1/4 to set up a Provision Account for extensions and improvements to the line;

3/8 as a second dividend to shareholders;

3/8 to the National Company to be allocated to a Reserve Fund to cover possible losses and enable the system to be extended and improved.

Subject to Government permission, the SNCV is empowered to raise loans to extend its railway lines; the State guarantees interest and repayment. To meet its operating costs, the SNCV may, subject to Government approval, issue debentures guaranteed by the State.

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The SNCV's Board of Directors is required to submit a yearly Balance-Sheet and a Report on its work to the Minister of Communications, who lays both documents before Parliament.

b) OBLIGATION TO OPERATE, TO TRANSPORT AND TO FIX TARIFFS

1. SNCB

By the terms of the Act dated 23 July 1926 and Article 45 of the SNCB's Articles of Association (Order dated 21 March 1960) the Crown lays down regulations and ensures the safety of all rail and motor bus services operated by or on behalf of the SNCB, without prejudice to legislation in force, and, in particular, the General Road Traffic Regulations.

The SNCB is required, in principle, to transport all passengers and goods for which transport is requested under the conditions laid down in the tariff. To this end, it must permanently operate and provide transport in the quickest and most efficient manner possible and without special privileges to any user.

The requirements to operate was limited by the Amending Act dated 1 August 1960 which empowered the SNCB, with the approval of the Crown, to suspend or permanently cease operation of certain railway lines. This Act further empowers the SNCB to participate in national or foreign bodies and companies, if such holdings are in conformity with the aims of the Company or likely to further their achievement.

By the terms of the Act of 25 August 1891, on transport contracts, transport by rail must be provided in accordance with the charges and conditions specified in the legally issued tariffs and regulations.

Any departure from the published transport tariffs and conditions is prohibited and contrary to the law.

Under its Contractual Clauses, the SNCB must provide certain classes of transport of direct public interest under specific conditions, particularly at reduced fares. In order to solve problems arising in this respect, the SNCB concluded a number of agreements with other Government departments, including in particular the Post Office, the Air Transport Department, the Merchant Navy and Inland Navigation Department and the Ministry of National Defence.

2. SNCV

Transport on local railways is governed by similar provisions.

III. PROVISIONS CONCERNING INVESTMENTS

The SNCB is normally required to finance all investments and replacement purchases necessary for operation and takes its own decisions on such matters. The existing system may not, however, be extended without Royal sanction.

A Renewal Fund has been set up to cover the expense of renewing permanent installations and rolling stock for operational purposes. An allocation, fixed by the Board of Directors, is made yearly to this Fund from the trading account. The Fund obtains further resources from sales of old equipment and, if necessary, from State subsidies.

Any expenditure resulting in a true increase of the system's assets, particularly in respect of permanent installations, new lines or tracks or rolling stock in excess of replacement needs, comes under a special "New Outlay" account. Expenditure on this account is covered by advances from the State or permitted loans.

The Act dated 22 January 1932 ratified an agreement reached between the Belgian State and the SNCB, whereby the State assumed responsibility for the service and repayment of any loan raised by SNCB for the partial renewal of its passenger stock. Similarly, the State guaranteed a loan raised abroad by SNCB under a Royal Decree of 8 March 1935.

Under the financial reform and modernization plan of 9 January 1959, to which reference has already been made, the State has made available to the SNCB Bfrs. 3 559 million for investment, of which 1 900 million have been allocated to replacement, and 1 659 million to modernizing permanent installations and rolling stock.

This State subsidy forms part of a Ten-Year Programme which, with State aid, should enable the SNCB to improve its operating conditions, so as to lessen and progressively do away with the present subsidies.

The SNCV has set up a similar fund, which receives annual allocations and is used for the renewal or extension of existing permanent installations and rolling stock.

IV. TAX TREATMENT OF RAILWAYS

Under Article 14 of the Act of 23 July 1923, amended by the Act of 1 August 1960, the SNCB is in principle placed on the same footing as the State as regards the application of legal provisions relating to direct or indirect taxation.

Nevertheless, the SNCB is subject to taxation in the form of stamp and similar duties. Consequently, rail transport in principle pays a 3% tax on turnover (the normal rate of turnover tax is 6%).

For several years, however, the SNCB has been exempted from payment of this tax.

In addition, the SNCB is exempt from all taxes and duties payable to provinces or local authorities.

By contrast, all motor transport services operated by the SNCB, except the collection and delivery of consignments by rail, and vehicles used for that purpose, are subject to the general fiscal provisions for road transport and motor vehicles.

Similarly, contracts between the SNCB and EUROFIMA are free of tax.

Similar provisions apply to transport provided by the SNCV.

Section B — Provisions relating to passenger and luggage transport

I. GENERAL TERMS AND CONDITIONS

a) PROVISIONS COMMON TO PASSENGER AND GOODS TRANSPORT

As far back as 1891, the Act of 25 August of that year laid down uniform conditions applying compulsorily throughout Belgium to all passenger and goods transport by rail. These conditions apply to transport provided by both the SNCB and the Local Railway Company, i.e. the SNCV.

The following essential provisions apply to both passenger and goods transport:

The management of any railway open to the public is required to provide the passenger and goods services for which the railway was built (general obligation to transport). Transport contracts are negotiated in accordance with official tariffs and conditions and with the duly published regulations. Tariffs and conditions for transport come into force not less than 48 hours after their publication in "Le Moniteur belge".

It is forbidden to make exceptions to the published tariffs and conditions of transport.

The Act settles in detail the question of responsibility for damage or loss caused during transport by rail. The basic principle is that the management of a railway is responsible for all damage or loss, including that resulting from delay in transport or refusal to provide transport. Responsibility may not be refused or limited. Nevertheless, railway managements may, when charging certain reduced tariffs, impose restrictions upon compensation for damage, loss or longer delivery times than usual.

b) CONDITIONS APPLYING TO THE CARRIAGE OF BOTH PASSENGERS AND LUGGAGE

These conditions are set out in the General Regulations for the transport of passengers and luggage, which apply compulsorily to all transport provided by the SNCB inside Belgium. However, these Regulations only apply to international transport in so far as it is not governed by the CIV.

The railways are required to provide transport for passengers and their luggage, provided the passenger complies with the regulations and the tariff, and in so far as transport can be provided by ordinary means, i.e. by means of transport sufficient to meet normal needs and in so far as grounds of *force majeure* do not render transport impossible.

The Regulations contain general provisions relating to transport contracts and responsibility, together with special provisions concerning tariff reductions granted to certain classes of passenger (tickets and season-tickets).

Similar provisions apply to the SNCV.

II. RATES

The charge for transport provided by the SNCB is laid down in the tariffs for passenger and luggage transport.

The standard tariff is degressive for transport inside Belgium over distances exceeding 75 km., for return tickets only, but is proportionate for all international transport. In the public interest, provision is also made for a number of greatly reduced rates and season-tickets, mainly for workmen and school children. The reductions range from 20 to 92% of the standard rate.

In 1960, only about 20% of total passenger-mileage was travelled at the standard rate, as compared with 39.5% at reduced, weekly season-ticket rate.

In 1959, the transport of workmen alone showed a deficit estimated by the Minister of Communications at more than Bfrs. 1 600 million. In 1957, the total deficit on passenger transport amounted to Bfrs. 2 300 million while total receipts were roughly Bfrs. 3 300 million. The Belgian State, however, makes up part of the losses incurred on such transport by the SNCB. For instance, the 1960 Budget allocated Bfrs. 1 148 million to the SNCB to cover part of the earnings lost on workmens' season-tickets.

Similarly, for the same financial year, the State allocated 133.5 million and Bfrs. 90 million to the SNCB to offset reductions granted to certain classes of users (large families, war pensioners, school childrens' season-tickets).

III. INTERNATIONAL TRANSPORT

International transport of passengers and their luggage is governed by: The International Convention (CIV) dated 25 October 1952, ratified by the Belgian Act of 23 April 1955;

The Common International Tariff (TCV) dated 1 October 1958.

Section C — Provisions relating to goods transport

I. GENERAL TERMS AND CONDITIONS

In addition to the common provisions outlined under B I a) above, the following provisions of the Act of 25 August 1958 also play an important part.

The railway administration is required to carry goods in the order in which they are received, unless preference must be given on grounds of public interest or operational necessity.

The conditions under which goods may be accepted or refused are laid down by the General Regulations.

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The General Regulations for goods transport contain provisions designed to cover all the individual problems arising from the transport of goods by rail.

The Regulations apply compulsorily to all transport provided inside Belgium by the SNCB and to international transport not governed by CIM.

The railways are required to carry all goods, provided that the consignor complies with the regulations and scale of charges and in so far as transport can be provided by ordinary means, i.e. by means of transport sufficient to meet normal needs and in so far as grounds of *force majeure* do not render transport impossible.

Among the other conditions for transport, special mention must be made of:

The provisions relating to the conclusion of transport contracts, the content and wording of bills of lading, delivery times, packing, loading and unloading, collection and delivery by lorry, prohibition or conditional acceptance of certain consignments and subsequent alterations to the transport contract. Responsibility and compensation for damage or loss are other matters dealt with in detail.

Similar provisions apply to transport provided by the SNCV.

II. RATES

The Act of 25 August 1958 on Transport Contracts stipulates that the payment for transport and additional charges must be calculated on the basis of duly published tariffs, which must be applied in all cases. Any private agreement, the effect of which is to reduce the tariff, is prohibited and automatically null and void.

On the other hand, reduced rates duly published and available to all on the same terms are permissible.

Reduced rates for railway or Government service transport and for transport for charitable purposes are also permitted.

Under Article 16 of the Act of 23 July 1925, and Article 24 of the SNCB Articles of Association, the SNCB Board of Directors has powers to fix tariffs without submitting them for special approval by the Minister of Communications. The Government may, however, forbid proposed increases in tariffs or demand reductions in existing tariffs. The Board of Directors has retained the right to fix tariffs of general economic interest, but has delegated its powers in all other cases.

The current SNCB tariffs for goods transport by full truck-load is graduated by both distance and quantity to take account of costs.

The tariff includes no special rates for particular products or economic areas. Special rates are essentially competitive.

The standard tariff, applicable to all other than ECSC products, comprises 4 classes in which the differential transport charges increase with distance, but remain degressive. In the 1st and 2nd classes of goods, the main division covers consignments of 15 metric tons; in the

3rd and 4th classes, consignments of 20 metric tons. There are also secondary divisions for consignments of 10 and 5 metric tons. There are two special slow and fast tariffs for consignments by full truck-load. This latter makes no distinction by value, but differentiates between the main division of 15 metric tons, and the secondary divisions of 10 and 5 metric tons.

Goods in separate consignments may be despatched either "express" or "fast".

The full truck-load tariff applies without distinction to all routes and includes no index figure for stations based on the volume of their traffic; the "fast" tariff for goods in separate consignments varies according to the profitability of the route.

In 1960, the standard tariff for full truck-load consignments was charged for 9.5%, of total tonnage, representing 8% of total traffic in ton-kilometres. These percentages do not include the transport of ECSC goods.

On 1 March 1961, there were 255 special tariffs, comprising 35 for goods in separate consignments, 80 for ECSC products and 170 for other products despatched by full truckload.

In addition to tariffs for specific routes, there are special tariffs for the transport of certain goods to or from EEC countries. The application of certain special tariffs is subject to guarantees that a minimum amount of goods will be carried. Tariffs for consignments consisting of several trucks or a complete train show large reductions.

There is a mixed SNCB-SNCV tariff, but the extent of its use is constantly diminishing, since SNCV's goods traffic has virtually disappeared in recent years.

There are special tariffs for transport exclusively on SNCV local lines. The SNCV itself draws up these tariffs and submits them for approval by the Government, which may forbid tariff reductions in order to protect the SNCB against possible competition from local railways.

III. INTERNATIONAL TRANSPORT

International transport over the SNCB system is governed by the International Convention concerning the Carriage of Goods by Rail (CIM) dated 25 October 1952, ratified by the Belgian Act of 23 April 1955.

The provisions of the General Regulations for the transport of goods and the Belgian internal tariffs do not apply to matters governed by this Convention.

The SNCB works to various international tariffs and belongs to a number of tariff groups.

Finally, the transport of ECSC products by the SNCB is subject to the tariff provisions ordered by the European Coal and Steel Community.

PART III

ROAD TRANSPORT

Section A — General and technical provisions

I. STATE ADMINISTRATION AND CONTROL

a) ADMINISTRATIVE COMPETENCE

In Belgium, road transport, like other means of transport, is subject to regulations, compulsorily applicable without distinction over the whole territory of the Kingdom.

These regulations are enacted in Acts approved by both Chambers of Parliament, and in implementing orders issued by the Crown, or, in some cases, by the Minister of Communications. The implementing orders lay down provisions of a practical nature within the limits set by the Acts.

The Minister of Communications, and more specifically the Transport Department, is responsible for the administration of road transport. Its technical and administrative sections deal with all technical, economic and administrative problems connected with road transport.

The Bridges and Highways Department of the Ministry of Public Works is responsible for administration of the road system and deals with all matters related to the building and maintenance of main roads.

The transport administrative departments are assisted by several consultative bodies and committees (see the list in Part 1, II b).

b) SUPERVISION OF ROAD TRANSPORT UNDERTAKINGS

In order to ensure permanent technical supervision of motor vehicles, technical supervisory services have been set up, under the authority of the Minister of Communications; these services carry out statutory inspections and issue the appropriate certificates, as prescribed in the Ministerial Order of 10 August 1947.

The Act provides that every road transport vehicle plying for hire or operated on own account must normally be inspected before it goes into use, and every 6 months subsequently; motor buses and motor coaches are checked every 3 months.

The compliance of road transport contractors and drivers with the legal and economic provisions governing public transport services is supervised not only by the gendarmery and the local police, but also by various classes of officials.

By virtue of Article 79 in the Royal Decree of 22 September 1960 the authorities empowered to supervise the transport of goods by motor vehicle for reward include not only the police and gendarmery, but also officials of the Transport Department, the Central Supervisory

Committee set up within the Prime Minister's department, the Bridges and Highways Department, the Ministry of Labour (supervision of working hours) explicitly vested with police powers, and also Customs officials in the performance of their duties. Police and gendarmery are required to assist all such officials.

Supervisory bodies have various powers, including access to any vehicle used for the transport of goods by road.

The owner of any vehicle used for transport on own account must, on request from an inspecting official, furnish proof that the goods in the vehicle belong to him or are directly connected with his trade, industry or occupation.

Inspecting officials report any infringement of the regulations which they may discover. They may seize the vehicles concerned in the infringement.

They are further empowered to compel vehicle drivers to unload any part of a load exceeding the total permitted weight for the vehicle in question. Loads are weighed, if necessary. If the driver refuses, the vehicle may be detained.

With a view to putting into effect Regulation No. 11 dated 27 June 1960, concerning the abolition of discrimination as regards transport charges and terms, issued in implementation of Article 79, section 3 of the Treaty setting up the European Economic Community, the following provisions apply to goods transport for reward.

Carriers are required to inform the Minister of Communications, or his representative, of any tariff or agreement which lays down different transport charges and terms for the same goods over the same routes, but going to or from different countries.

If so requested by the Minister of Communications or his representative, carriers must, within the time-limit fixed by him, supply any necessary additional information concerning transport tariffs, agreements and arrangements relating to charges and terms.

In the same way, forwarding and other transport agents are required to supply the Minister with full information concerning their services, charges and terms.

The same applies to undertakings directly providing ancillary transport services, if their payment is included as one sum with the carrier's payment.

Ministry of Communications officials may check the books and business records of undertakings subject to these provisions.

The information obtained may, however, be used only for the purposes specified in Article 15, section 2 of Regulation No. 11 mentioned above.

c) PENALTIES

Infringements of the legal provisions relating to transport are punishable by fine or imprisonment.

The same is true of the provisions governing the transport of passengers for reward. Furthermore, in case of serious infringement of the provisions relating to licences, confiscation of the vehicle may be ordered.

Under Article 10 of the Act of 1 August 1960, infringements of the provisions governing the transport of goods by motor vehicle for reward are punishable by a prison sentence of from 8 days to 6 months and a fine of from Bfrs. 50 to 10 000 or by either of these two penalties. In cases of infringement of the licencing regulations, the judge may order the vehicle used to be confiscated or immobilized.

Both types of case are heard before a police-court magistrate.

II. TECHNICAL PROVISIONS

The provisions governing road transport and licences, with the exception of transport by tramway, are consolidated in the General Regulations for Road Traffic. The text at present in force forms an Appendix to the Royal Decree of 10 December 1958.

The Ministers of Communications, of Public Works and of Defence, are responsible for implementing this Decree, each within the limits of his own competence. The Minister of Communications has the widest powers and has charge of the Road Traffic Office. The Standing Road Traffic Committee deals with all matters of principle relating to road traffic.

The General Regulations for Road Traffic are divided into 3 parts, dealing respectively with the rules for transport users, provisions relating to the state of vehicles and road signals.

As regards road transport undertakings, the provisions relating to the state and equipment of vehicles are particularly important since they affect the supply of transport. The regulations for vehicle weights and sizes are set out in Annex 2 of the document attached to Part II.

The Regent's Decree dated 22 May 1947, and later amended, orders regular compulsory technical inspections for vehicles with not less than 9 seats (excluding the driver's seat) used for passenger transport, and for vehicles used for goods transport.

The Regent's Decree dated 10 June 1947, and later amended, orders compulsory technical inspections for vehicles with not more than 8 seats (excluding the driver's seat) used to carry passengers for reward.

Under the Act dated 1 July 1956, which came into force on 1 January 1957, insurance is compulsory for all motor vehicles.

III. PUBLIC INVESTMENT

Roads of general importance, excluding provincial and local roads, belong to the Belgian State. There are at present about 10 000 km. of main roads, as against some 1 300 km. of provincial roads.

The cost of maintaining, managing and extending the road system is borne by the State. The cost forms part of the budget of the Ministry of Public Works, which is responsible for all matters relating to road building.

A Special Road Fund was set up by the Act dated 11 July 1952 to finance all schemes for extending or improving the existing road system. The Act dated 9 August 1958 considerably amended its predecessor. It set up a "Road Fund 1955-1969", wholly independent of the State Budget. This fund is financed by loans up to a sum of Bfrs. 30 000 million guaranteed by the State, which also makes an annual grant, used mainly to pay the interest on the loans.

Bfrs. 18 000 million are to be spent on the building of motorways, Bfrs. 7 000 million on improving main roads and Bfrs. 5 000 million on extending provincial and local roads.

The Road Fund budget for 1959 showed income as Bfrs. 5 800 million and expenditure as Bfrs. 5 900 million.

Belgium, like other countries, has still to find an answer to the question of how much transport undertakings contribute, through taxes particularly affecting road transport, towards the expenditure chargeable to them for the construction, maintenance and management of the road system.

IV. TAX TREATMENT

Passenger and goods road transport undertakings are subject to the same general taxes as all other privately-owned undertakings. Consequently, their turnover is subject to turnover tax at the rate of 6%. There are no special taxes on transport.

Nevertheless, there are special fiscal charges in the form of fuel taxes, purchase tax and road tax.

a) FUEL TAXES

Petrol used as fuel for internal combustion engines is subject to a general customs duty of Bfrs. 14 per 100 litres (hl.) and to an EEC duty of Bfrs. 9.80 per hl.; diesel oil is exempt from customs duty.

Petrol and diesel oil used as fuel for internal combustion engines are also subject to both excise and special duties, viz:

	<i>Excise duties</i>	<i>Special excise duties</i>
	in Bfrs.	
Petrol per hl.	370	75
Diesel oil par hl.	30	10

In addition, these fuels are subject to a fixed rate duty (ranking as stamp duty) of 12% and 14% respectively of the value of the product imported or sold by the producer. Subsequent sale of these goods is subject only to the invoice tax of 6%.

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b) PURCHASE TAX

There is a 16% tax on sales of motor cars; sales of motor buses and lorries are subject to a special tax of 13%. This tax is not payable when the vehicles are purchased by public authorities and undertakings such as the SNCB and SNCV.

c) ROAD TAX

An annual tax, known as road tax, is payable on motor vehicles, at a rate based on official horse-power rating or on tare, as appropriate. The rate increases if the vehicle runs on heavy oil or on gaseous petroleum hydrocarbons.

Nevertheless, petrol-driven vehicles used solely by any State, provincial or local authority, and such vehicles used solely for public passenger transport under a permit issued for the operation of either public or special bus services, are exempt from this tax.

Similar vehicles using heavy oil or gaseous petroleum hydrocarbons pay only the additional "diesel oil" tax.

Section B — Provisions relating to passenger transport

I. LICENSING

a) GENERAL

Passenger transport by motor vehicle for reward is governed by the Decree-Law of 30 December 1946, amended by the Law of 20 December 1957 and by several implementing regulations.

As compared with earlier legislation, the Decree-Law of 30 December 1946 defined the various classes of passenger transport for reward mainly by making a distinction between regular services and occasional services, which had proved necessary in the interest of all sectors of the economy. As a result, uniform rules of a compulsory nature throughout the Kingdom, were laid down to govern the licensing procedure.

Passenger transport is divided into four classes:

Public motor bus services, i.e. public passenger transport services provided regularly, following a fixed route either between two places or around a circuit, and available to all;

Special motor bus services, i.e. regular passenger transport services, which, though generally the same as public motor bus services, are restricted to specific classes of passengers, for instance, workers to and from their home and place of work, with the workers paying all or part of the cost of transport, and school children's services;

Motor coach services, i.e. passenger transport services for the purpose of tourism subject to certain conditions, and also all suburban and inter-

urban services organized on special occasions for periods not exceeding fifteen days in length;

Taxi and hackney-carriage services, i.e. passenger transport services by motor vehicles with seats for six persons or less (excluding the driver) and available to the public either on public thoroughfares or at any other place.

In addition to these classes of public transport for reward there are various kinds of transport provided free of charge, subject to certain, mainly technical, conditions which can be fixed by Royal Decree. No licence is, however required for such transport.

This group comprises free transport, provided by an undertaking for its own benefit and with its own vehicles, for instance, for hotel and airline customers, or for the employees of industrial undertakings. The same applies to transport by ambulance or the like.

b) PRINCIPLES AND PROCEDURE

The operation of public passenger transport services by motor is subject to licence. Licences are granted for a period of not more than ten years.

The licensing procedure is laid down in detail by the Regent's Decree of 15 March 1947, as later amended.

By the terms of this Decree and of the Decree-Law of 30 December 1946, the issue of licences is subject to the following essential conditions.

For all four classes of transport, a licence is granted only if the applicant can provide guarantees for his good character and financial status and if the vehicles comply with certain minimum technical requirements. Licences may be transferred only with the approval of the issuing authorities.

A licence may be withdrawn in the event of serious infringement of the conditions set forth in the licensing document. Similarly, the Crown may, in the public interest, withdraw licences or order their withdrawal on certain conditions.

The SNCB, the SNCV and public undertakings operating tramway services are in general subject to the same provisions as private companies as regards motor bus services. The companies have the right to lease out such services. Under the Act of 29 August 1931 the SNCV may, with royal sanction, operate motor coach services to replace rail services, on the conditions in force for the latter.

The various classes of public passenger transport are subject to the following rules:

1. *Public motor bus services*

The licensing authorities are:

The local authority, when the route does not go outside the local authority's area;

The Standing Committee of the Provincial Council, when the route passes through the area of more than one local authority in the same province;

The Crown, when the route runs over the territory of more than one province.

In all cases, licences are submitted to the other licensing authorities for opinion and to the Crown for approval.

In all cases, a licence is issued only after an inquiry concerned mainly with the need for a service, and the proposed route, scale of charges and operating conditions.

Temporary licences, valid for not more than six or nine months, may be issued by the Minister of Communications.

Under the normal procedure, licences are granted by way of competitive tender. The aim is to ensure that licences are granted to undertakings offering the best guarantee for the provision of regular services in the interest of the public and of transport users.

However, tenders are not called for in the case of routes already mainly operated by an existing public transport service.

This provision also applies under certain conditions to the extension of an expired licence for an existing service.

In practice, in order to ensure that the systems operated by the public transport undertakings (SNCB, SNCV and tramway companies) are properly served, these undertakings hold most of the licences for motor bus services.

2. Special motor bus services

The Minister of Communications issues such licences, which are granted only after an investigation into the need for the proposed service and its desirability from the standpoint of transport co-ordination.

In other respect, the provisions for regular motor bus services apply by analogy. Licences are, however, usually granted without competitive tender.

3. Motor coach services

Licences are granted by the Crown without public tender. An investigation is carried out to establish whether a licence should be granted and whether the applicant offers the requisite guarantees for the operation of the proposed service.

4. Taxi and hackney-carriage services

Local councils are the issuing authority for such licences.

Before issuing a licence, the local authority investigates the public need for the new taxi service and the guarantees provided by the applicant, who must be listed in the Register of Commerce and must lodge a surety.

Taxis using ranks on the public highway and so-called "garage" taxis are subject to different rules as regards operation.

One copy of the licensing document is forwarded by the local authority to the Standing Committee of the Provincial Council and a second copy to the Minister of Communications.

If a licence is refused or no decision is reached, the applicant may appeal to the Standing Committee of the Provincial Council.

No licences are required for transport provided on certain occasions such as weddings and other ceremonies.

c) FOREIGN OPERATORS

There are no special regulations for foreign operators. They may operate passenger road transport services on the same conditions as Belgian nationals if their registered office is in Belgium, and provided their country or origin grants reciprocal rights to Belgian nationals.

II. GENERAL CONDITIONS

Compulsory provisions applicable throughout Belgium were laid down for the operation of motor bus services, by the Regent's Decree dated 20 September 1947, and subsequent amendments, implementing the Decree-Law of 30 December 1946. In addition, by a Ministerial Decree dated 25 September 1947, the Minister of Communications laid down model provisions regarding special conditions for the operation of motor bus and motor coach services.

These provisions specify that a licence confers no monopoly rights upon the holder, nor any rights in respect of the competent authorities. It does not empower him to provide goods transport.

The holder must pay an annual fee to cover the cost of supervision and administration.

The Minister of Communications may require private motor bus companies to pay compensation to offset losses caused by competition with the SNCB, the SNCV or companies holding concessions for tramway services in which the State has an interest.

All passenger transport undertakings are required to take out adequate insurance, unless authorized to provide their own insurance.

The most important conditions for transport provided by undertakings operating public and special motor bus services are laid down when the licence is issued. Such conditions relate mainly to the route, stopping places, time-tables and fare schedules.

These conditions of transport may be altered only with the sanction of the supervisory authorities. Public motor bus services are further subject to the obligation to operate and transport.

Under certain conditions, public motor bus services replacing railways may carry small consignments of goods.

In order to protect the public services as a whole, the Minister of Communications may impose restrictions upon public and special motor bus services. For the same reason, motor coaches providing occasional services are required, with a few defined exceptions, to bring passengers back to their point of departure.

Local councils or local government authorities lay down operating and transport conditions for taxis and hackney-carriages. The vehicle must be hired complete and not by separate seats.

A route sheet must be kept whenever passengers are carried.

The income and expenditure returns of undertakings providing passenger transport for reward must be submitted at regular intervals for inspection by the competent authorities, and any information needed for compiling statistics must be supplied on request.

III. RATES

The tariffs to be applied by public motor bus services are laid down in the licensing documents. Any alterations must be approved by the licensing authority and by the Minister for Economic Affairs, whose duties include the general oversight of prices.

All tariffs must be applied without discrimination.

Undertakings are required to grant tariff reductions on conditions laid down by the State.

Motor bus services replacing railway services are subject to the tariff conditions of the latter.

The tariffs applied by special motor bus services are also those laid down in the licensing document, unless the Minister of Communications allows the matter to be settled by agreement between the contracting parties.

Tariffs for motor coaches are freely negotiable, but may be fixed by the Crown.

The maximum tariffs for taxi services are also laid down by the Minister for Economic Affairs, but local authorities have the right to fix their own set tariffs within these maximum rates.

IV. INTERNATIONAL TRANSPORT

The Belgian Government has concluded an administrative agreement with the Federal Republic of Germany regulating international passenger transport.

This agreement is based upon the principle of reciprocity.

Under the EEC "Freedom of the Road" agreement, no licence is required for international "locked-door" motor coach services.

Furthermore, various administrative agreements govern the issue of licences in a number of specified cases.

Section C — Provisions relating to goods transport

I. LICENSING

a) GENERAL

Goods transport by road, excluding transport on own account, is governed by the Act on goods transport by motor vehicle for reward, dated 1 August 1960, and by the Royal Decree laying down general regulations for goods transport by motor vehicle for reward, dated 22 September 1960, implementing the above Act and amended by the Royal Decree of 28 June 1961.

Detailed executive instructions are laid down in the Ministerial Order of 23 September 1960, implementing the Royal Decree of 22 September 1960, amended by the Ministerial Order of 29 June 1961.

These legislative and statutory provisions came into force on 30 September 1960.

They completely changed the licensing procedure for the transport of goods by motor vehicle for reward, which had previously been governed by the Royal Decrees of 5 March 1936 and 9 May 1936, as amended. These measures also introduced new provisions for the operation of undertakings transporting goods by road.

All transport on behalf of third parties for any form of reward comes under the Act on the transport of goods by road, and its implementing regulations.

Where lorries or trailers are hired, the hirer is regarded as providing transport for reward unless the vehicle hired is used for transport on the hirer's own account. In that case, the legislative provisions apply to the lessor.

Transport on own account is defined as the transport of goods owned by the hirer of the vehicle, or forming the object of his trade, industry or occupation, whether or not the vehicle is driven by the lessor or his employee.

The above legislative and statutory provisions do not apply to transport by vehicles with a pay load of less than 500 kg., or to certain special kinds of transport, such as the removal of household refuse, the delivery of telegrams and postal packets, funeral hearses and breakdown lorries.

All other transport for reward may be provided only in vehicles holding the appropriate certificate or licence for the type of transport. This applies equally to lorries and trailers.

Certificates and licences are issued by the Minister responsible for road transport or by his representative.

These documents may be refused or withdrawn if the applicant's or holder's main operational centre is not, or is no longer, in Belgium. Certificates or licences may also be refused or withdrawn if the applicant or holder has been sentenced in Belgium or abroad for certain infringements of the Belgian regulations governing the transport of goods by road or for certain criminal offences (dishonest acts) such as theft, false pretences, fraud, etc.

The appropriate administrative instruments must be published in the "Moniteur belge".

When a vehicle, for which a transport certificate or licence has been issued, is temporarily unserviceable, the holder of one of these documents may use a substitute vehicle, under certain conditions and for a limited period.

By virtue of Article 9 of the Act, in conjunction with Article 77 of the General Regulations, the Belgian National Railway Company may, on application, be granted an unlimited number of licences, enabling it to provide transport over the entire territory of Belgium.

A *Road Transport Commission* has been set up to advise the Minister of Communications on all matters relating to goods transport by road. This body advises on all matters connected with the application of the Act on the transport of goods by road for reward, with particular reference to transfers of licences, required qualifications for carriers, transport documents and insurance terms. The Commission discusses not only matters referred to it by the Minister of Communications, but also any question which it considers appropriate. It then reports to the Minister of Communications.

The latter must consult the Commission before rejecting any application for a licence or withdrawing any licence on moral grounds.

The Commission consists of 12 members. The Minister of Communications appoints two officials of the Transport Department and one representative for the SNCB. He also appoints three delegates each for road transport firms, road transport employees and users, on the nomination of the most representative trade organizations.

The Chairman and his Deputy are appointed by the Crown by reason of their special qualifications on the subject.

The Commission may co-opt any person whose opinion it wishes to hear. It possesses unlimited power to obtain information and may call on experts.

b) PRINCIPLES AND PROCEDURE

The Act on the transport of goods by road defines three classes of transport:

Short distance transport;

National transport;

International transport.

Each of these classes is covered by special provisions.

1. *Short-distance transport*

Short-distance transport is defined as the transport of goods for reward within a radius of 25 km. from the centre of the locality in which the carrier's centre of operations is situated; any locality through which the circumference of this hypothetical circle passes is included in the permitted area.

Short-distance transport also covers transport at seaports or inland waterway ports.

Any lorry or trailer used for short distance transport requires a transport certificate, issued, on application, by the Minister of Communications. These certificates are valid for three years from the date of issue.

Together with the certificate, the owner of the vehicle is issued with a plate bearing a registration number which must be fixed to the vehicle. The certificate and plate may not be transferred. A certificate is issued only if the applicant has his main centre of operations in Belgium and is of good repute. In addition, he must prove that he is listed in the Register of Commerce and that the vehicle in question fulfils the necessary technical requirements.

When a vehicle finally ceases to be used for the short-distance transport of goods by road for reward, the certificate and plate must immediately be returned to the Ministry of Communications. Please refer to I a) above for the provisions governing the refusal or withdrawal of short distance transport certificates.

Holders of short-distance transport permits pay an annual fee of Bfrs. 1 000 for each certificate, and Bfrs. 100 for each renewal, to cover the cost of administration, control and supervision.

2. National transport

National transport is defined as the transport of goods for reward beyond the limits laid down for short-distance transport, but within the Kingdom of Belgium.

To operate this type of service, the carrier must hold a national transport licence for the lorries or trailers used. Licences are issued by the Minister of Communications or the duly-appointed department. They must be issued in the name of a natural or moral person.

Licences are issued for a limited period, not exceeding six years, and for a specific vehicle. Their validity is restricted to the maximum working load laid down in the licence.

Normally, only general licences are issued, authorizing all kinds of goods transport by road for reward over the whole territory of Belgium. Special national transport licences may be issued however, either to provide transport which cannot normally be provided under existing licences, or to provide transport requiring the use of specialized equipment, or transport of a seasonal nature.

There are six classes of general transport licences, issued respectively for:

Traction vehicles;

Vehicles with a maximum permitted working load not exceeding 2 000 kg.;

Vehicles with a maximum permitted working load not exceeding 10 000 kg.;

Vehicles with a maximum permitted working load not exceeding 15 000 kg.;

Vehicles with a maximum permitted working load exceeding 15 000 kg. but not exceeding the maximum for that vehicle laid down by Article 67 of the General Road Traffic Regulations;

Vehicles with a maximum weight exceeding the limit laid down by Article 67 of the General Road Traffic Regulations (normally 32 metric tons).

The issue of licences is subject to the following conditions:

The applicant must have his main centre of operations in Belgium and have continuously and regularly operated as a short distance transport carrier for not less than three years.

He must not have been sentenced for any transport offence or any criminal offence (dishonest acts) such as theft, false pretences, fraud, etc.

No short-distance transport certificate or any other national transport permit must ever have been withdrawn from the applicant.

Article 21 in the General Regulations specifies the following procedure:

Any carrier, who on not less than 120 days, in each of three consecutive years, has provided daily short-distance transport by means of a vehicle for which a short-distance certificate has been issued, shall, on application, be granted a general national transport licence of the class appropriate for the maximum permitted working load of the vehicle used for short-distance transport during the previous two years; should the vehicle have been changed, permitted working load shall not exceed the maximum working load previously authorized.

Any carrier, who for each of two consecutive years has provided goods transport by road for reward over a distance of not less than 40 000 km. per year, by means of a vehicle for which a general national transport licence has been issued, shall, on application, be granted a further general national transport licence for a vehicle of the same class.

Any carrier, who for two consecutive years has regularly provided goods transport by road for reward, by means of a vehicle for which a general national transport licence has been issued, shall be granted every two years, on application, in lieu and instead of that licence, a general national transport licence of the class immediately above that issued for the vehicle in question.

Finally, any carrier who for six consecutive years has regularly provided goods transport by road for reward, by means of a vehicle for which a general national transport licence has been issued, shall, on application, be granted an unlimited number of general national transport licences without restriction upon the vehicles' working load.

For the purposes of the licensing regulations, transport provided regularly is defined as transport provided on not less than 150 days per year.

Great importance attaches to Article 75 of the General Regulations under which, as a transitional measure, holders of transport certificates and licences issued under previous legislation enjoy the same rights as holders of the transport certificates and licences covered by the new legislation.

This means that any carrier who, for six consecutive years, has regularly provided goods transport by road for reward inside Belgium by virtue of a general licence of the old type can, if he fulfils the required conditions, apply for, and be granted as many general national transport licences as he deems necessary in the interests of his undertaking.

The remainder of the foregoing provisions regarding applications for additional licences are applied on the same basis.

Article 77 puts the SNCB on the same footing as a carrier fulfilling all the conditions required for the grant of an unlimited number of licences. The SNCB may thus provide goods transport by road inside Belgium without restriction.

To avoid any abuses which might arise from the flexibility of these rules, very stringent conditions are imposed upon the transfer of licences.

Licences are normally personal to the holder.

The Minister of Communications, or his representative, may transfer some or all licences, together with the rights attaching thereto, in the following cases only:

To the spouse of the holder of the licence, his blood relations to the second degree or his relations by marriage to the first degree;

To natural persons who, for not less than six years, have participated actively in the management of an undertaking carrying goods by motor vehicle for reward;

To legal entities, of which not less than one-third of share capital has been subscribed by the transferor or transferors, and provided the latter retain this percentage for as long as the licence is valid and, in any case for not less than three years. In such cases, if the transferor has held a general national transport licence for not less than six years, he must permanently cease operating as a carrier of goods by motor vehicle for reward.

The Minister of Communications may authorize exceptions to these provisions, on conditions to be laid down by him, with a view to promoting the amalgamation of existing undertakings and the setting up of specialized subsidiaries.

Licences must in all cases be surrendered when the holder ceases to have his main centre of operations in Belgium.

Licences must also be surrendered immediately the holder gives up business.

To cover the cost of administration, control and supervision the holder of a national transport licence pays an annual fee of Bfrs. 1 000 per traction vehicle and a fee of Bfrs. 150 per metric ton of maximum permitted working load for each other vehicle, subject to a maximum of Bfrs. 15 000 per vehicle. The fee payable for the issue of a special licence is Bfrs. 200.

3. International transport

The special provisions on this subject are dealt with in section V under the heading "International transport".

c) FOREIGN OPERATORS

In order to obtain a certificate for short-distance goods transport or a national transport licence, the applicant must have his operational headquarters in Belgium. It is, therefore, not enough for a foreign operator to have an agency or a subsidiary in Belgium. There are, however, no other special conditions governing the entry of foreign operators to the Belgian inland transport industry. It should, however, be noted that transport services operated on the basis of licences issued abroad, whether the holder be of Belgian or foreign nationality, do not count towards fulfilling the requirements laid down in Article 21 of the General Regulations for the issue of licences.

II. GENERAL CONDITIONS

a) OPERATING CONDITIONS

The General Regulations issued in pursuance of the law on the transport of goods by motor vehicle for reward contain several provisions which must be taken into account in the operation of goods transport by road: Any holder of a short-distance goods transport certificate or of a licence is required to supply all statistical information called for by the Ministry of Communications.

The permitted working hours for lorry drivers are laid down in detail. Normally, the total number of hours a driver may drive must not exceed 9 per 24 hours, and 5 hours continuous driving must be followed by a break of not less than half an hour. Measures to verify that these provisions are complied with are taken jointly by the Minister of Communications and the Minister of Labour.

Goods carriers by road are normally required to insure all goods accepted for carriage against certain risks. However, goods valued at less than Bfrs. 2 or more than Bfrs. 200 per kg, need not be insured; furthermore, no insurance is required when the consignor explicitly forgoes it.

A transport document, in accordance with the model laid down by the Minister of Communications in his Order of 23 September 1960, is required for all goods carried by motor vehicle for reward. This document must contain all essential information concerning the transport provided.

The first copy accompanies the consignment. The second is kept by the carrier and must be consecutively numbered by vehicle and by year; it must be kept until the end of the sixth year following that in which the document was drawn up. This document must show the number of the invoice, state the mileage covered and the actual charge made, any rebate and all other conditions affecting the rate and terms for transport.

However, carriers whose registered offices are not in a Member State of the European Economic Community and who transport goods taken over or delivered at any place in Belgium, must forward this second copy to the Minister of Communications before leaving Belgian territory.

b) GENERAL CONDITIONS

Detailed regulations for contracts are laid down in the Act on transport contracts of 25 August 1891. Part I of this Act contains general provisions applying to all carriage of goods by all means of transport, with particular reference to the bill of lading, the right of disposal, responsibility and compensation for loss or damage.

III. RATES

By the terms of Article 8 of the Act of 1 August 1960 on the transport of goods by motor vehicle for reward, the Crown has powers to make statutory regulations for transport charges and conditions whenever circumstances so require.

Since no use has yet been made of the powers granted by the said Article 8, rates for goods transport by road may still be fixed by mutual agreement. The carrier must show on the transport documents the price actually charged and the elements used as a basis for calculating that price; the documents must be filed so that they can be checked.

Under Article 8 of the Act on the transport of goods by motor vehicle for reward, the Crown may set up a Consultative Commission for Road Transport Charges and establish an appropriate procedure.

IV. TRANSPORT ON OWN ACCOUNT

There are no special rules for motor transport on own account. Such transport, which does not come under the Law on the transport of goods by motor vehicle for reward, is defined as the transport of goods belonging to the owner of the vehicle or forming the object of his trade, industry or occupation.

The carrier on own account has to prove that he is not providing transport on behalf of third parties.

V. INTERNATIONAL TRANSPORT

Without prejudice to any special licence required for running over foreign territory, any vehicle registered in Belgium and used to carry goods by road for reward beyond the Belgian frontier must be issued with a general licence for international transport. Vehicles registered abroad and used to transport goods across the Belgian frontier must have a special international transport licence.

Such licences are not required for frontier transport, provided there is a reciprocal agreement with the neighbouring country concerned.

The Belgian frontier area is defined as the territory situated between the Belgian frontier and an imaginary line parallel to the frontier at a distance of about 10 km.

International transport licences are issued by the Minister of Communications, or his representative, for a fixed period not exceeding 6 years. They are not transferable.

To obtain a general licence for a vehicle registered in Belgium, the applicant must hold a general national transport permit for that vehicle and fulfil the conditions laid down by the Minister of Communications in respect of technical qualifications.

The issue of special licences for vehicles registered abroad is subject to the conditions laid down by administrative or other international agreements. In the absence of such agreements, a licence may be refused. Such licences do not entitle their holders to operate as carriers within Belgium.

The withdrawal of licences is governed by provisions similar to those for Belgian national transport. In addition, licences will in all cases be withdrawn when the holder no longer fulfils the conditions laid down by the Minister of Communications in respect of technical qualifications. The rules regarding fees are also the same. The only carriers exempt from payment of these fees are those from States granting reciprocal treatment.

Holders of an international transport licence are specifically required to comply with the provisions of international agreements as regards the financial and technical conditions for the provision of transport.

Entry into international transport is further subject to the rules laid down in administrative agreements with neighbouring States. These agreements fix quotas specifying the number of licences, or permitted tonnages.

In the matter of transit traffic Belgium complies strictly with the provisions of the Geneva Agreement (1947-49) and issues transit permits through Belgium automatically on application and without quota restrictions.

Belgian carriers can normally pass freely in transit through other countries.

Exceptions:

1. Germany: transit permits come under a special quota.
2. France: there is a special quota and France limits long-distance transit through her territory.

Belgium has signed international transport agreements with the following countries:

Federal Republic of Germany:

300 permits for German carriers,

300 permits for Belgian carriers, with a further 60 permits for transport through Germany;

France:

For Belgian contractors: 246 permits (3 700 metric tons);

For French contractors: 104 permits (1 400 metric tons);

Grand Duchy of Luxembourg:

For Luxembourg contractors: 100 permits;

No restrictions on Belgian contractors holding a Belgian general national transport licence;

Netherlands:

For Netherlands contractors: 5 700 metric tons. Belgian carriers require no special permits to provide transport starting or ending in the Netherlands;

Italy:

A reciprocal quota of 45 permits;

Switzerland:

For Swiss contractors: 20 permanent permits and about 200 permits for single trips;

No permit is required for Belgian contractors.

Other agreements have also been signed with several States not Members of the European Economic Community.

There are no special provisions regarding charges and conditions for international transport.

PART IV**INLAND WATERWAY TRAFFIC****Section A — General and technical provisions****I. STATE ADMINISTRATION AND CONTROL****a) ADMINISTRATIVE COMPETENCE**

The Minister of Communications is mainly responsible for laying down general policy in respect of inland navigation, issuing rules for inland waterway transport, protecting the interests of the Belgian inland waterways fleet, and resolving international problems which arise in this field, while the Public Works department deals with all matters concerning infrastructure and regulations for navigable waterways.

The Merchant Navy and Inland Navigation Department of the Ministry of Communications has an "Inland Navigation Section" and specializes in all matters concerning waterway transport. In addition, it has set up two special agencies with offices in all the main waterways ports, viz:

The Inland Navigation Control Office (ORNI), which administers the regulations governing freighting (allocation of available freight and control of rates) in respect of transport inside Belgium, international transport being unrestricted.

The Belgian Towing Federation, which has duties similar to those of the ORNI in respect of towage inside Belgium, international towage being unrestricted.

Although these two agencies have their own budget and administrative services, they take instructions from the Minister of Communications and are under his control.

Details of the work of these State supervisory bodies are given in Section C.

The competent authority for all matters concerning inland waterway infrastructure is the Waterways Department of the Ministry of Public Works. This department deals with all technical problems relating to the construction, maintenance and use of waterways. The greater part of the navigable waterways system (1 160 km.) comes directly under this department.

Twelve Regional Directorates are responsible, under the supervision of the Ministry, for the local administration of navigable waterways. The Navigation Office manages and operates the Albert Canal and the Campine canals (332.4 km.), under the supervision of the Waterways Department, which is represented on its Board of Directors.

The Inland Navigation Central Council (CSNI) is an advisory body set up by the Ministry of Public Works; it advises on all questions

concerning inland navigation, submitted by either the Minister or its members. The main matters within its competence are the operation and improvement of the system, and the national and international, legal and statutory aspects of inland navigation.

Certain canals (about 100 km.) are managed and maintained by the provinces, local authorities or mixed companies. The provincial administrations, therefore, have special departments for this purpose.

b) SUPERVISION OF INLAND WATERWAY TRANSPORT UNDERTAKINGS

In addition to the various branches of the police force, the following officials are responsible for checking that inland waterway transport undertakings comply with the regulations for inland navigation: engineers from the Bridges and Highways Department responsible for the navigation section and all other officials of that department specifically assigned to supervision; officers of the water police and pilot services; officials specifically responsible for supervision in the Navigation Dues Department.

These bodies may order all appropriate measures to ensure the safety of inland waterway transport and may enforce them, if necessary.

The same officials are responsible for seeing that waterway carriers comply with the legal provisions governing the sharing of internal freight traffic and towing inside Belgium. If any infringement is observed, they are empowered, where necessary, to detain the craft used until the infringement ceases.

c) PENALTIES

Any infringement of the Royal Decree of 15 October 1935, laying down general regulations for navigable waterways, or of the detailed rules in implementation of that Decree, any refusal to obey a statutory order by any of the above-mentioned officials and any fraud or attempt at fraud concerning navigation dues is punishable by 8 to 14 days' imprisonment and a fine of from Bfrs. 26 to 200 or either of those penalties.

Any infringement of the Decree-Law of 12 December 1944 concerning the organization of inland navigation, of the Decree-Law of 12 December 1944 setting up the Belgian Towing Federation, or of the rules amending and supplementing those Decree-Laws, is punishable by 15 days to 3 years' imprisonment and a fine of from 100 to Bfrs. 100 000 or either of those penalties.

In addition, disciplinary action may be taken against the offending party.

II. TECHNICAL PROVISIONS

The Royal Decree dated 15 October 1935, enacting general regulations for the navigable waterways of the Kingdom, as later amended, incorporates many provisions concerning the safety of inland water transport.

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These include, in particular, requirements concerning the condition, fitting out and crews of both craft and tugs. The provisions relating to the measurement of craft are also important.

The regulations call for the preparation of various documents which must accompany the consignment and be produced on request to inspecting officials. The regulations also govern the use of navigable waterways and include, in particular, rules and times for navigation. In addition to the general regulations, there are many specific regulations for navigation on the various navigable waterways.

III. PUBLIC INVESTMENT

The Belgian State owns the greater part of the navigable waterways. The cost of improvement, maintenance and management is included in the budget of the Ministry of Public Works.

The Navigation Office, referred to earlier was set up specially to look after waterway routes between the Liège industrial region and the port of Antwerp. This Office has its own budget; its income is derived from navigation dues, public subsidies and contributions by private individuals. Any surplus after a reserve fund has been set up, is passed on to the State.

Finally, there are still a few canals owned by provinces, local authorities or mixed companies with financial autonomy.

Navigation dues are payable for the use of the State's navigable waterways, except those which are tidal or have international status. The appropriate procedure is laid down in Chapter II of the General Regulations for the navigable waterways of the Kingdom.

The dues vary according to distance covered and cargo weight from Bfrs. 0.02 to 0.075 Bfrs. per ton/kilometre.

There are fixed rates for unladen craft. The navigation dues collected from the use of navigable waterways managed by the Waterways Department amounted to Bfrs. 38 801 982 in 1957 and Bfrs. 43 147 693 in 1960.

IV. TAX TREATMENT

Inland waterway transport undertakings are subject to general taxation in the same way as all commercial, industrial or craft undertakings. They must therefore pay the transport contract of 6% of gross takings on all passenger or goods transport.

Certain kinds of transport are, however, exempt:

International transport;

Transport by inland waterway inside Belgium, from a seaport, of grain and oilseeds in bulk imported by seagoing vessels;

Towing operations in respect of the class of transport defined in the second item above.

Exemption from customs and excise duties and sales taxes on liquid and solid fuels and lubricants is granted, under specified conditions, for certain imports or exports for use on board.

Section B — Provisions relating to passenger transport

Introduction

Passenger transport by inland waterway craft is not very important in Belgium.

I. LICENSING

There are no special provisions on this subject. Passenger transport by inland waterway craft is subject to the general conditions for entry into industrial, craft and commercial occupations.

The technical aspects of passenger transport by waterway are also covered by the provisions of the General Regulations for navigable waterways.

Craft of less than three tons displacement are accepted only under certain conditions.

Special safety regulations apply to regular services.

II. GENERAL CONDITIONS AND RATES

Transport contracts are governed by the general provisions of civil law. Undertakings operating regular services must display departure and arrival times by public notice.

Section C — Provisions relating to goods transport

I. LICENSING

a) GENERAL

Entry into the inland waterways goods transport industry is normally free and not subject to the grant of a special licence. Nevertheless, a licence from the Commissioner of the Belgian Towing Federation is required for towing operations inside Belgium. Inland waterway carriers must of course operate in compliance with the technical provisions relating to the condition of craft and to navigation.

All craft, of whatever type, used on inland waterways, must, after inspection and measurement, be registered in a Government Register of Craft containing essential information about the condition of the craft and the identity of its owner.

The owner is issued with a registration certificate, and when any changes are made to the craft, must submit it for fresh inspection.

b) FREIGHT-SHARING SCHEME

The procedure for sharing freight was instituted by the Decree-Law of 12 December 1944, setting up the Inland Navigation Control Office (ORNI) as a legal entity.

Its duties are:

To regulate the freighting by trip and time charter, of all inland waterway craft subject to the aforementioned rules;

To ensure strict compliance by all concerned with the waterway freight rates and the charter rates for craft;

To perform, or assist with, all other duties connected with inland navigation delegated to it by the Minister of Communications.

The Office is directed by a Commissioner, appointed by the Minister of Communications, and assisted by a Deputy. The Commissioner has the necessary powers to perform the duties delegated to the Office, but is bound by any instructions from the Minister of Communications.

With the approval of the Minister, the Commissioner may transfer certain powers to officials in his department.

A report on the work of the Office is submitted to the Minister of Communications every six months.

In pursuance of its duties, the ORNI has set up Freighting Offices at the main waterway ports to regulate inland navigation.

The Minister of Communications has made a number of Orders regulating the freight-sharing procedure and the bulking of consignments for transport. The following may be regarded as the essential provisions:

1. The rules do not apply to craft with a carrying capacity of less than 25 metric tons, or to tankers and craft used solely to provide regular goods transport services.
2. Craft subject to the rules, even if owned by nationals of other countries, may not be freighted or chartered for transport inside Belgium on behalf of third parties, except through the ORNI.
3. Any craft which is in Belgium, may as soon as it is unloaded and ready for reloading, be registered on the list of available craft kept on a rota basis by the Freighting Office for the area in which the craft happens to be. Consignments are offered to those concerned in the order in which their craft is registered.
4. So that checks may be made, a freighting book containing the essential information is issued to all watermen.
5. Freight charges and freighting conditions are fixed by the Minister of Communications (Details of the rate-fixing procedure are given under C III).

The cost of running the ORNI is covered by income from a levy, at present fixed at 2.5% of the transport charge (only 2% for consignments of grain imported through a Belgian port).

c) TOWAGE-SHARING SCHEMES

A towage-sharing procedure similar to that for freight was introduced by the Decree-Law of 12 December 1944, setting up the Belgium Towing Federation as a legal entity.

Its duties are:

to organize the towing of inland waterway craft inside Belgium;

to ensure that the parties to towing contracts comply with the charges laid down;

to perform, or assist with, all other duties connected with the towage or haulage of inland waterway craft delegated to it by the Minister of Communications.

The Federation is directed by a Commissioner appointed by the Minister of Communications, to whom the Commissioner is solely responsible and to whom he submits half-yearly reports on the work of the Federation.

Regional Directorates have been set up at Antwerp, Ghent and Liège, with offices in the main waterway ports. They organize towage in accordance with instructions from headquarters at Antwerp.

The Minister of Communications has issued several Orders on the procedure for sharing towage. The provisions are basically the same as those for sharing freight.

Every towage firm operating in Belgium prior to the publication of the Order was allocated to one of the three Regional Directorates. No change of region may be made without permission from the Commissioner of the Belgian Towing Federation. Permission is also required for putting a new tug into service.

No towage contract may be concluded except through the Towage Office for the waterway system in which the undertaking's operational registered office is situated, whether the tug is owned by Belgian or foreign nationals. The rota system is applied in this case also. The rates of payment and the conditions for towing laid down by the Minister of Communications are compulsory.

A levy of 6% on the towage charge is paid to cover the cost of running the Belgian Towing Federation.

d) FOREIGN OPERATORS

Foreign operators are admitted to the inland waterway industry on the same footing as Belgian nationals.

II. GENERAL CONDITIONS

The freighting of inland waterway craft is governed by the Act on waterway transport freighting dated 5 May 1936, the provisions of which apply, unless otherwise stipulated, to all agreements concerning the use of waterway craft to transport or store goods.

In particular, this Act regulates the conclusion of charter-parties, the issue of bills of lading, loading and unloading, including times for loading and unloading, and the carrier's responsibility.

Regular goods transport by inland waterway (not on a large scale in Belgium) is governed by the provisions of the General Act on transport contracts dated 25 August 1891.

III. RATES

Rates for international waterway transport and towage for international traffic may be freely negotiated.

With a few exceptions (regular and tanker services), rates for inland waterway transport and towing inside Belgium are subject to regulation.

Freight and towage rates are fixed by the Minister of Communications under the powers vested in him by the Decree-Laws of 12 December 1944.

At present, there are a Central Freight Charges Committee (with headquarters in Brussels) and seven Regional Committees throughout the country. Shippers and carriers have equal numbers of representatives on these Committees, which advise the Minister of Communications on the fixing of charges and terms for freighting and towage.

Subject to approval by the Minister, these Committees may also, in particular cases and under certain conditions, fix rates varying from the statutory charges by up to 25% (i.e. they may vary from 75 to 125% of the statutory charges).

All generally-applicable freight and towage rates are published in "Le Moniteur belge".

Freight rates are at present calculated on the basis of the cost of transport, but there are increases or reductions for certain types of transport;

- i) Transport by craft of small or large tonnage;
- ii) Transport at less than normal draught because of certain features of the route;
- iii) Transport of special goods (dangerous for the crew or harmful to the craft).

In addition, the Minister of Communications usually increases rates at the approach of winter.

Under the rules for freighting, the freighter, i.e. the person acting as agent for the conclusion of the freighting contract is entitled to a commission amounting to 5% of the transport charges.

For international traffic, a higher commission may be agreed up to a maximum of 10% of the transport charge.

IV. TRANSPORT ON OWN ACCOUNT

The Ministerial Orders of 23 March and 26 August 1960, together with that of 26 January 1961, detail the conditions under which craft used for transport on own account are exempted from the official procedure for sharing freight.

The essential provisions are as follows:

Transport on own account is defined as transport operated by an undertaking for its own requirements in a craft owned by itself or manned by its employees. If the craft is chartered, it must be placed at the sole disposal of the undertaking for not less than two years. Furthermore, any transport so provided must be a subsidiary activity, and the goods transported must be owned, sold, bought, produced or processed by the undertaking.

A Ministerial Order of 23 May 1962 lays down special regulations excluding barges used on own account from the freight-sharing procedure.

Any foreign national wishing to operate transport on own account, must purchase his craft, or have it built, on the Belgian market. A craft is regarded as being Belgian if it is owned not less than 50% by Belgian nationals or legal entities under Belgian law.

To operate transport on his own account by inland waterway craft, the owner must obtain a permit issued by the Minister of Communications, on application, in the form of a certificate of transport on own account. This certificate, which is not transferable, must be kept on board and produced to inspecting officials.

Applications for certificates for transport on own account must be submitted to the Inland Navigation Control Office together with an extract from the Register of Commerce, proof of ownership and a measurement certificate.

In the event of conviction and sentence for any offence against the provisions governing transport on own account by waterway craft, the Minister of Communications may withdraw, temporarily or permanently, the offender's certificate for transport on own account.

An undertaking holding a certificate for transport on own account may operate transport for reward on behalf of third parties on waterways inside Belgium only if it refrains from using any part of its fleet of inland waterway craft for transport on own account for a period of three years. The regulations for inland waterway transport for reward also apply in such cases.

If warranted by transport requirements, the Minister of Communications may authorize exceptions to this rule.

All holders of a certificate for transport on own account must submit a chronological table to the Inland Navigation Control Office each year,

showing all the main facts about transport provided on own account, such as loading and unloading, description and amount of goods transported and addresses of consignees.

Holders of certificates for transport on own account issued under earlier legislation are covered by transitional rules, stipulating that such holders shall be issued with certificates for transport on own account under the new legislation, or permits under the earlier conditions.

All holders of certificates for transport on own account by waterway craft pay yearly navigation dues of Bfrs. 10 per metric ton of load capacity for tugs and 15 per metric ton for powered craft.

Ministerial Orders have set up a Commission for Transport on Own Account by Inland Waterway Craft, with two sections, at Antwerp, and Liège respectively.

Each Section consists of a Chairman and four members, including one representing firms operating waterway transport for reward and two representing waterway transport on own account. The Commission gives an opinion prior to the withdrawal of any certificate for transport on own account.

In 1959, 362 inland waterway craft with a load capacity of 105 000 metric tons, i.e. 4 % of the total tonnage, were used for transport on own account.

V. INTERNATIONAL TRANSPORT

Belgian and foreign craft may engage without restriction in international transport by waterway craft to and from Belgian ports.

Obviously, the technical safety regulations for waterway transport must be complied with on Belgian navigable waterways.

Belgium is a member of the Central Commission for the Navigation of the Rhine.

By virtue of the Ministerial Order of 24 March 1953 the Inland Navigation Control Office deals with all matters concerning the improvement of inland navigation between Belgian seaports and the Rhine basin. It is assisted in this task by a Special Committee. All proposals are subject to approval by the Minister of Communications. With a view to implementing decisions taken by the Central Commission for the Navigation of the Rhine and approved by the Belgian Government, a Commission for the issue of Rhine navigating licences and an Inspection Commission for Rhine craft have been set up. These bodies, order the necessary administrative measures on instructions from the authorities.

As a Member of the Central Commission, Belgium was also represented at the First and Second Economic Conferences on Navigation of the Rhine.

Following these efforts to organize Rhine navigation, private Belgian ship and boat-owners have concluded a large number of agreements.

Whereas rates and conditions for international transport by waterways are in general freely negotiable, these agreements seek to enforce fixed rates or the sharing of available traffic. Special mention should be made of the AVER Agreement, the Duisburg Convention on Freight Rates, the 1955 Swiss Convention, the Kettwig Pool and the Agreement concerning the Transport of grain on the Rhine.

Under these agreements, freight rates are fixed by Committees, on which shippers are also represented.

The Agreement of freight rates and conditions for the transport of coal and steel on the Rhine, concluded by the European Coal and Steel Community and effective as from 1 May 1958, also has a considerable influence on Belgian boats' share in Rhine traffic.

PART V

**FORWARDING AGENTS AND OTHER INTERMEDIARIES
IN INLAND TRANSPORT**

Section A — Provisions relating to forwarding agents

I. LICENSING

There are no special legal provisions governing the activities of inland forwarding agents.

No operating licence is required by either Belgian or foreign nationals.

II. GENERAL OPERATING CONDITIONS AND RATES

Forwarding agents' contracts are subject to the general provisions relating to commission in Chapter VII of Volume 1 of the Commercial Code, together with the specific provisions of Chapter I of the Act of 25 August 1891 on transport contracts. The Act specifies the rights and duties of forwarding agents, with particular reference to the conclusion of contracts, the shipper's right to give instructions, the forwarding agent's responsibility and statutory limitations.

These rules apply to forwarding both by rail and road and in conjunction with regular inland waterway services.

There are no special provisions concerning rates chargeable under forwarding contracts.

**Section B — Provisions relating to other inland transport
intermediaries**

Reference need only be made to the Act of 5 May 1936 on inland waterway freighting, the provisions of which apply to all occasional transport by inland waterway craft.

This Act defines a freighter as any person acting as intermediary in the conclusion of a freighting contract.

The freighter's office is regarded as the waterman's domicile when the latter's address is not mentioned in the freighting contract.

The waterman may have all communications sent to the freighter except those addressed to the consignee.

Normally, the freighter is entitled to a commission equal to 5% of the freight charge as payment for his work as agent. By agreement, however, his commission may be increased up to 10% of the freight charge.

Commission must be paid to the freighter by the waterman. It is payable on production of the bill of lading to the waterman and no repayment can be claimed, whatever the amount in fact paid to the waterman after transport has been provided.

If, however, the freighter has demanded commission exceeding 10% of the freight charge, he loses all right to commission and must repay any sums received.

**FEDERAL REPUBLIC
OF GERMANY**

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PART I

BASES OF TRANSPORT POLICY
INSTITUTIONS AND ORGANIZATION

I. LEGISLATIVE POWERS

Under an Act of the Federal Republic of Germany the Bund (Federation) alone is empowered to legislate on the subject of federal railways and air transport.

As regards non-federal railways, road-building, road transport and inland waterway traffic, legislative power is exercised by both the Bund and the Länder (Lands or States), both of whom can therefore pass laws in these sectors. If the Bund has legislated on a particular subject, federal law takes precedence over any legislation by the Länder covering the same subject. The Bund has laid down general legislation on road transport and inland waterway traffic, whilst the Länder have legislated for the non-federal railways. The latter are nevertheless subject to the skeleton provisions of the General Railways Act.

In accordance with the federal structure of the Federal Republic of Germany, power to issue decrees is governed by a special procedure—the Federal Government, a federal minister or the Governments of the Länder can be empowered by law to issue decrees. In many cases, however, Federal Government acts are subject to approval by the Federal Council (*Bundesrat*), representing the Länder, particularly as regards decrees on principles and duties (tariffs) for the use of federal railways installations and on railway building and operation. This includes decrees issued under federal laws, for which the constitution stipulates approval by the *Bundesrat*, and decrees applied by the Länder on behalf of the Bund or themselves.

Bundesrat approval is, for example, required for economic legislation on road transport of passengers and goods. The legislator may nevertheless decide that approval is not required for decrees.

The Federal Republic has no basic law establishing common rules for all means of transport and laying down principles for co-ordinating transport, but there are a number of economic laws dealing with rail and road transport and inland waterway traffic which are based on an overall conception of transport policy. In the better interests of traffic, these laws contain identical provisions requiring the Federal Government to act so that conditions of competition between various means of transport are equalized and traffic is economically and rationally apportioned by virtue of realistic charges and fair competition between different forms of transport.

The Minister of Transport is responsible for co-ordinating transport services and charges as necessary to prevent unfair competition, and he can issue directives on the approval of transport tariffs.

II. ADMINISTRATION

a) FEDERAL ADMINISTRATION

For railways, federal waterways, shipping and inland navigation, there is a federal administration with its own departments. In addition, the senior federal authorities and bodies responsible direct to the Bund deal with other aspects of transport administration.

The supreme federal authority on transport is the Federal Minister of Transport, who as regards general principles of policy is subject to the decisions of the Federal Chancellor. The federal Minister of Transport is also required to co-operate closely with other federal departments, particularly the Federal Ministers of Economic Affairs and Finance.

The Federal Ministry of Transport consists of the following branches (see chart forming Annex 1):

Central branch; general transport policy and transport economy; railways; road transport; inland waterway traffic; road-building; water engineering; shipping; aviation.

The following authorities are subject to the Federal Ministry of Transport:

1. German Federal Railways (Deutsche Bundesbahn)

The central administrative organ is the Central Administration of the Federal Railways, situated at Frankfurt-on-Main, which is responsible, pursuant to the instructions and decisions of the Board of Management (Vorstand), for dealing with the fundamental problems which arise in various sectors.

The entire Federal Railways system is divided into sixteen regional boards (*Bundesbahndirektionsbezirke*)—Augsburg, Cassel, Cologne, Essen, Frankfurt-on-Main, Hamburg, Hanover, Karlsruhe, Mainz, Munich, Münster, Nuremberg, Regensburg, Saarbrücken, Stuttgart and Wuppertal. These regional boards rank as intermediate authorities. In addition there are headquarters (*Bundesbahn-Zentralämter*) at Minden and Munich, the Welfare Department (*Bundesbahn-Sozialamt*) at Frankfurt-on-Main, the Central Rolling Stock Department (*Hauptwagenamt*) at Frankfurt-on-Main, the Workshops and Stores Department (*Zentralstelle für Betriebswirtschaft im Werkstattendienst*) at Offenbach-on-Main, the International Passenger Traffic Department at Frankfurt-on-Main and the Advertising Department (*Bundesbahn-Werbeamt*) for passenger and goods traffic at Frankfurt-on-Main. Lastly, there are two operating headquarters (*Oberbetriebsleitungen*) for the south at Stuttgart and the west at Essen.

At an intermediate level between the regional boards and the outside departments are the Operating, Traffic and Motive Power Departments (*Betriebs-, Verkehrs- und Maschinenämter*) responsible for supervising local activities. Where necessary, there are special departments such as the Building Departments (*Neubauämter*).

At a lower level are to be found the various components of the outside departments, e.g. railway stations, goods offices, permanent way districts, operating offices and rolling stock maintenance sections.

2. *Federal Road-Building Department, Cologne-Raderthal*

Responsibilities: supervision, inquiries and advice on technical aspects of road-building, underground work and road materials.

3. *Federal Motor Transport Department (Kraftfahrtbundesamt), Flensburg*

Responsibilities: censuses of motor vehicles and power-assisted bicycles; approval of motor vehicles and spare parts; collating and making use of experience acquired in inspection and technical supervision; registration of refusals and withdrawals of driving licences and convictions for infringements of the highway code; information to judicial and administrative authorities; vehicle statistics; traffic statistic.

4. *Federal Long-Distance Road Haulage Department, Cologne, with branch offices in the Länder*

Responsibilities: supervision of long-distance goods road transport, advisory capacity to Federal Minister of Transport, co-operation in drawing up tariff measures for long-distance goods transport, statistics of long-distance goods transport traffic.

5. *Federal Water Engineering Institute, Karlsruhe*

Responsibilities: this is a central body responsible to the Federal Government for technical development and practical and theoretical research on water engineering.

6. *Waterways and Shipping Departments (Kiel, Hamburg, Bremen, Aurich, Hanover, Münster, Duisburg, Mainz, Würzburg, Stuttgart, Regensburg and Freiburg) and subsidiary offices, Water Engineering Departments (Wasserbauämter) and others*

Responsibilities: planning, construction and upkeep of federal waterways, ports and dams, operation of related installations, administration of federal waters, inspection of channels and supervision of flow in the federal navigable waterways, including the administration, operation and upkeep of buoys, quantity and quality of water supplies, development of water power on federal waterways, legal questions concerning federal waterways, exercise of sovereignty over them (river police), inland navigation policy, exercise of authority over shipping (shipping police), especially control of traffic on waterways and sea routes, pilotage services, the supply of nautical information, life-saving service, economic, social, tariff and currency questions, international aspects and problems of international law concerning shipping and inland

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navigation, the management of federal shareholdings in shipping companies, technical and nautical questions concerning the shipping and river fleets and shipping and inland navigation statistics.

7. Federal Canal Towage Department (headquarters at Münster, Westphalia)

The Towage Offices at Duisburg, Minden and Emden and the Mechanical Department at Bergeshövede are responsible to the Federal Canal Towage Department.

Responsibilities: providing tugs for non-motorized barges on West German canals.

8. Federal Water Engineering Office, Coblenz

Responsibilities: supervision of quantity and quality and flow metering of federal waterways, general hydrographic planning.

9. German Meteorological Office, Offenbach-on-Main

Responsibilities: control and management of the entire German meteorological service (Federal Republic of Germany and West Berlin).

b) LÄNDER ADMINISTRATION

By order of and on behalf of the Bund, the Länder administer federal motorways and federal roads, and on their own behalf Class I state roads (*Landstraßen*) and some Class II state roads (*Kreisstraßen*). In addition, the Länder are responsible for supervising local roads.

The Ministries of the Länder are the supreme authority for road-building, but they delegate some powers to intermediate authorities.

The Länder are responsible for administering road transport and non-federal railways.

The Ministries of Transport of the Länder are the supreme authority for transport within the Länder. Below them come the intermediate central authorities, i.e. the regional administrations (*Bezirksregierungen*). On a lower level, powers are exercised by county administrations (*Kreisverwaltungen*) and by municipal authorities not responsible to a rural district (*Landkreis*).

c) ADVISORY BODIES

The federal structure of transport administration in the Federal Republic entails various kinds of co-operation between the authorities of the Bund and those of the Länder, e.g. the Federal Railways Act and the Road Haulage Act expressly stipulate that the Länder are entitled to co-operate with the federal administration.

In addition, various mechanisms have grown up as a result of administrative practice, in particular the conference between the Federal Minister

of Transport and ministers and senators of the Länder responsible for road-building and traffic and the periodic meetings of transport officials of the Bund and the Länder.

III. TRADE ASSOCIATIONS AND OTHER BODIES REPRESENTING TRANSPORT INTERESTS

a) CHAMBERS OF INDUSTRY AND COMMERCE

Pursuant to the Act on the Temporary Regulation of Chambers of Industry and Commerce of 18 December 1956 (BGBl. I, p. 920) (*Bundesgesetzblatt*, Federal Law Gazette), the latter are public corporations. The Act states that all industrial, commercial, transport, banking and insurance undertakings shall belong provided they pay the trade tax (*Gewerbesteuer*). The main aim of these chambers is to safeguard the whole body of interests of the local enterprises which are members and to encourage the development of commerce and industry, while at the same time weighing up and co-ordinating the economic interests of the different activities represented. Particular tasks are to assist the authorities by submitting proposals, opinions and reports and to ensure the observance of the rules of courtesy and propriety to which every businessman must conform.

The chambers also perform important functions as regards vocational training and organizing examinations.

Other powers can be transferred to them by special legislation, e.g. they are required to give their opinion on all cases of granting road transport licences.

Transport interests are generally looked after by departments specially responsible for transport.

The "Deutsche Industrie- und Handelstag" (DIHT), Bonn, is a private body comprising the 80 Chambers of Industry and Commerce in the Federal Republic as voluntary members. Its aim is to promote co-operation between the chambers and to ensure the regular exchange of experience between them. It also aims at securing respect for the chambers' viewpoints on all questions falling within their sphere. An important duty is to represent the interests of the chambers to federal authorities and other institutions at federal level.

One of the ten departments of the "Deutsche Industrie- und Handelstag" is concerned with transport. It is responsible for all economic, legal and technical questions concerning transport, in particular the integration of transport on a European level. It is assisted by a transport committee.

b) TRADE ASSOCIATIONS

1. Railways

The non-federal railways (formerly called private railways and local railways) are represented by the Association of German Non-Federal Railways (*Verband Deutscher Nichtbundeseigener Eisenbahnen*)

(VDNE), Cologne, with a voluntary membership of 193 undertakings running 171 public railways and 44 private railways. 83 railway administrations also operate bus routes. In addition, 18 independent bus undertakings and 50 funiculars are affiliated to the association.

The aim of the association is to safeguard and promote the interests of non-federal German railways and associated transport undertakings and to represent these interests to authorities and other bodies. It also advises the latter in the interests of certain of its members when the general interest is at stake.

The association includes 12 technical committees, including the rates and traffic committee, the tax and finance committee and the technical committee. A specialised group has been set up for railways in public ports and another group for funiculars. Regional sections are concerned with developing the association's work by exchanging experience with kindred bodies.

2. Road Transport

Federal associations of road carriers are represented by the Central Road Transport Working Association (*Zentralarbeitsgemeinschaft des Straßenverkehrsgewerbes*) (ZAV), Frankfurt-on-Main. This central organization, which includes the Passenger Transport Working Association (*Arbeitsgemeinschaft Personenverkehr*) (AGP), the Long-Distance Goods Transport Working Association (*Arbeitsgemeinschaft Güterfernverkehr*) (AGF), the Short-Distance Goods Transport Working Association (*Arbeitsgemeinschaft Güternahverkehr*) (AGN), the Furniture Transport Working Association (*Arbeitsgemeinschaft Möbeltransport*) (Ämö) and (as regards its road traffic interests) the Forwarding Agents' and Warehouse Owners' Working Association (*Arbeitsgemeinschaft Spedition und Lagerei*) (ASp), exists to defend the general interest of road transport undertakings.

The Passenger Transport Working Association, Frankfurt-on-Main, is a central organization representing passenger transport associations which exist at Land level. It includes a taxis and hire vehicles section and a bus section. The association represents the industry's interests to the federal authorities. In addition, in co-operation with the Länder federations, it advises its members on passenger transport. The Association is a member of the International Road Transport Union (IRTU), Geneva.

The Long-Distance Goods Transport Working Association, Frankfurt-on-Main, embraces long-distance goods carriers' associations existing at Land level. The aim of the group is to defend, both technically and commercially, the general interests of long-distance goods carriers in so far as they exceed the scope of an association at Land level. It acts as spokesman for its members, particularly on rate-fixing. These interests are represented by the Association not only to authorities and other bodies but also on the Central Association (*Zentralarbeitsgemeinschaft*). The Long-Distance Goods Transport Working Association is also a member of the International Road Transport Union.

The Short-Distance Goods Transport Working Association, Frankfurt-on-Main, includes carriers' associations existing at Land level, each being represented by its specialized association for short-distance goods transport (*Fachvereinigung Güternahverkehr*). In addition it is the duty of the above-named Association to defend the supra-regional interests of its sector and to represent the interests of its members not only to authorities and other bodies but also—and above all—within the central association.

The Furniture Transport Working Association, Frankfurt-on-Main, embraces the Land associations of furniture removers. Its object is to represent the supra-regional interests of this sector, particularly to the authorities and public opinion, to encourage co-operation, both economic and technical, within the sector and to advise its members. It also lays down furniture removal practice and provides an arbitration body. The association is a member of the Federation of International Furniture Removers (FIDI), Brussels.

The interests of undertakings engaged in transport on own account are safeguarded by the Federal Association for Private Transport (*Bundesverband für den gesamten Werkverkehr*), situated at Düsseldorf. In addition, the central industrial and commercial organizations safeguard the interests of those sectors of the economy which undertake transport on their own account.

The Union of Public Transport Undertakings (*Verband öffentlicher Verkehrsbetriebe*) (VÖV), Cologne, based on voluntary membership, includes local authority and joint (part-public, part-private) undertakings operating tramways, urban high-speed railways (*Stadtschnellbahnen*), special railways (e.g. underground and mountain railways) and bus and trolleybus services. The Union comprises 70 local authority undertakings, 56 municipal companies, 27 joint undertakings and 10 private undertakings.

The aim of the Union is to safeguard and promote the interests of its members by means of advice and exchange of information, to set up joint bodies and to represent the interests of public transport undertakings to the authorities and other bodies and also to advise them.

The Union is divided into sections at Land level. It has eleven technical committees, including planning, legal and financial aspects, fares, management and technical questions.

3. *Inland waterway traffic*

Regional associations of shipowners, independent boatmen and port undertakings operating on the navigable waterways of the Rhine, Weser, Elbe, Danube, the Bavarian lakes and the West German canals combine to form the Central Committee of German Inland Waterway Traffic (*Zentralausschuß der Deutschen Binnenschifffahrt*) at Beuel-on-Rhine.

The Central Committee's aim is to represent the collective interests of German inland waterway traffic to the authorities, particularly the Federal Minister of Transport, the central organizations of the economy and other forms of transport.

The Central Committee also has technical committees, including charges, finance and tax questions, legal problems and questions concerning independent boatmen.

The Central Committee belongs to the International Union for Inland Navigation.

In addition to the Central Committee there is the Central Association for German Inland Waterway Traffic (*Zentralverein für deutsche Binnenschifffahrt*) also at Beuel-on-Rhine, comprising undertakings and associations in business and industry, shipowners, shipyards, scientific institutes, learned societies, municipalities and authorities concerned with navigable waterways and inland waterway traffic. Private individuals in business, shipping, scientific and administrative circles are also members.

The aim of the Central Association is to ensure that the value of efficient traffic on navigable and well-equipped waterways should be appreciated.

The Central Association has regional federations in various waterway areas, as well as technical committees.

The Central Committee (*Zentralausschuß*) and the Central Association (*Zentralverein*) jointly co-operate in the Central Office for German Inland Waterway Traffic (*Zentralbüro der deutschen Binnenschifffahrt*).

4. Forwarding agents and warehouse owners

The associations which cover forwarding firms at Land level are voluntary members of the Forwarding Agents' and Warehouse Owners' Working Association (*Arbeitsgemeinschaft Spedition und Lagererei*) (ASp), with its headquarters in Bonn.

The aim of the association is to maintain contacts between the trade associations at Land level and to represent to the federal authorities and other organizations and institutions the joint interests of the forwarding agents and warehouse owners who are members of such associations.

The association has a number of technical committees (e.g. rail groupage traffic, lorry traffic, inland trans-shipment traffic, international consignments and warehousing) as well as committees on rates and other questions (e.g. on the general conditions applied by German forwarding agents and on management).

The Forwarding Agents' and Warehouse Owners' Working Association is a member of the International Federation of Forwarding Agents' Associations (FIATA), Berne.

c) TRADE UNIONS

Amongst the unions of transport workers, mention should first of all be made of the Public Services and Transport Union (*Gewerkschaft Öffentliche Dienste, Transport und Verkehr*) (ÖTV), with temporary headquarters at Stuttgart, and the Union of German Railwaymen

(*Gewerkschaft der Eisenbahner Deutschlands*) (GdED), Frankfurt-on-Main. These two unions belong to the Federation of German Unions (*Deutscher Gewerkschaftsbund*) (DGB), Düsseldorf. The Public Services and Transport Union includes workers in short-distance public transport, non-federal railways, road transport, ocean-going and coastwise shipping, inland waterway traffic, airlines, forwarding agents, port undertakings, harbour boards, dock railways, pilotage services and water engineering.

The Union of German Railwaymen embraces not only officials, trainees, workers and employees of the German Federal Railways and the Berlin railways but also the entire staff of the social institutions of the Federal Railways and the staffs of the private and local railways.

Amongst Christian unions there is the Union of Public Services Workers in the Christian Union Federation of Germany (*Gewerkschaften Öffentliche Dienste im Christlichen Gewerkschaftsbund Deutschlands*) (GöD), Essen, and the Christian Union of German Railwaymen (*Christliche Gewerkschaft der Gewerkschaft Deutscher Eisenbahner*) (GDE), Saarbrücken.

The Union of German Railway Officials (*Gewerkschaft Deutscher Bundesbahnbeamten und Anwärter*) (GDBA), Frankfurt, and the Union of German Locomotive Drivers (*Gewerkschaft Deutscher Lokomotivführer und Anwärter*) (GDL), Frankfurt, are affiliated to the German Officials' Confederation (*Deutscher Beamtenbund*) (DBB), Bad Godesberg.

A number of employees in the transport sector belong to the German Employees' Union (*Deutsche Angestelltengewerkschaft*) (DAG).

The objective of the unions is not merely to safeguard the economic, social, cultural and occupational interests of their members but also to discuss and handle economic, technical and legal aspects of transport organization.

d) OTHER BODIES

Industrial, commercial, agricultural and craft organizations also pay particular attention to transport policy and in some cases have their own specialized sections and departments. Naturally they are primarily concerned with consigners' interests.

Particular mention must be made of the Federation of German Industries (*Bundesverband der Deutschen Industrie*) (BDI), Cologne, which embraces thirty-nine industrial associations in various sectors in defence of their joint interests. A specific transport department set up under the federation's steering committee deals with transport problems from all the affiliated associations. There is also a transport committee composed of representatives from different industrial associations.

Many industrial associations have special transport departments, or sections.

The Central Association for the German Wholesale and Foreign Trade (*Gesamtverband des Deutschen Groß- und Außenhandels*), the Central

Association for the German Retail Trade (*Hauptgemeinschaft des Deutschen Einzelhandels*), the Central Federation of German Artisans (*Zentralverband des Deutschen Handwerks*) and the Federation of Chambers of Agriculture (*Verband der Landwirtschaftskammern*) are also actively concerned with transport problems.

Mention should also be made of the German Tourist Office (*Deutsche Zentrale für Fremdenverkehr*) (ZFV), Frankfurt-on-Main, whose object is to encourage tourism. The ZFV represents bodies interested in tourism, notably the German Federal Railways, the Federal Minister of Telecommunications and Lufthansa. The ZFV is, among others, a member of the International Union of Official Travel Organizations (IUOT) and the European Regional Travel Commission (ERTC). It works in close collaboration with the tourist organizations of other European States.

Finally, we should note the activities of the organizations which are members of the Federal Union of Central Municipal Organizations (*Bundesvereinigung kommunaler Spitzenverbände*), Cologne, i.e. the *Deutscher Städtetag*, Cologne, the *Deutscher Städtebund*, Düsseldorf, the *Deutscher Gemeindetag*, Bad Godesberg, and the *Deutscher Landkreistag*, Siegburg. These also play a part in transport policy, especially as regards road-building.

e) ADVISORY BODIES

The trade associations and unions play an essential part in formulating transport policy in the Federal Republic. A large number of laws expressly stipulate that they must be consulted before the promulgation of certain statutory decrees and regulations.

In addition, before approving a bill or decree, the Federal Government and the Länder Governments consult the organizations concerned. Representatives of trade associations and unions are heard as experts by parliamentary committees. Views on various points are constantly exchanged between the authorities on one side and trade associations and unions on the other. Joint committees are set up to advise the authorities. Finally, representatives of private organizations are appointed to the administrative boards of federal offices (*Bundesanstalten*).

PART II

RAIL TRANSPORT

Section A — General provisions

I. LEGAL STATUS : STATE AUTHORIZATION AND CONTROL

a) GENERAL

By the terms of the Basic Law of the Federal Republic of Germany of 23 May 1949, the Federal Railways are managed by a federal administration with an administrative framework of its own, whilst railways which do not belong to the federation are managed and controlled by the Länder. By virtue of the Basic Law, only the federation has power to legislate for the Federal Railways; in the case of the non-federal railways this power is shared with the Länder.

The railways—both federal and non-federal—are governed by a skeleton law, the General Railways Act of 29 March 1951 (*Bundesgesetzblatt*) (BGBl. I, p. 225, 438). This is supplemented as regards the Federal Railways by the Federal Railways Act of 13 December 1951 and as regards the non-federal railways by the railway acts of the Länder.

The General Railways Act concerns all railways serving public and private transport. It does not apply either to tramways and similar forms of transport or to mountain railways and other railways employing special systems.

The provisions of the act mainly relate to railways destined for public traffic, i.e. railways which by virtue of their purpose can be used by all for the conveyance of passengers and goods.

The aim of the General Railways Act is to settle general questions concerning the railways in a uniform way and at federal level without prejudicing the administrative powers of the Länder as regards non-federal railways. It provides the legal basis of the Federal Government's power to issue decrees concerning railways and it shapes the legal status of the railways to the new situation which arose after the second world war. One of the essential provisions of the Act is para. 1 of sec. 8, whereby the Federal Government, in the better interests of traffic, is required to act in such a way that conditions of competition between various means of transport are equalized and traffic is economically and rationally apportioned by virtue of realistic charges and fair competition between different forms of transport.

The General Railways Act contains fundamental provisions on the rights and duties of public railways. These include a stipulation that the public railways must develop their networks to keep pace with the demands of traffic and expand them in the general interest. They must carry passengers and goods in accordance with public needs. Every

public railway is obliged to allow its network to be connected to that of neighbouring public railways and consequently to permit its installations to be used by the latter. Conditions and expenses must be determined equitably.

The Länder themselves can make use of the right to build and operate a new railway line for public use or can concede this right to a private undertaking, so long as the need for transport exists, although they can only do so if the Federal Minister of Transport has stated that the Federal Railways would not exercise such right within a reasonable period.

Control of the railways is as follows:

Pursuant to the Federal Railways Act the latter are under the control of the Federal Minister of Transport; control of the non-federal railways is in the hands of the Länder. The Länder Governments can transfer their right of control to the Federal Railways, which then act as instructed by and on behalf of the Land concerned.

State Railways

b) THE GERMAN FEDERAL RAILWAYS (*Deutsche Bundesbahn*)

1. *General legal status of the Federal Railways and objectives of the Federal Railways Act*

By the German Federal Railways' Property Legal Status Act of 2 March 1951 (*Gesetz über die vermögensrechtlichen Verhältnisse der Deutschen Bundesbahn* — BGBl. I, p. 155) the property of the Reichsbahn in the Federal Republic of Germany was transferred to the Federation as "separate assets of the German Federal Railways" with effect from 24 May 1949. The legal status of the Federal Railways is governed by the provisions of the Federal Railways Act of 13 December 1951 (BGBl. I, p. 955). The Federal Railways are a separate asset of the Bund without legal capacity but possessing economic and financial autonomy. The Bund is not answerable for obligations incurred by the Federal Railways beyond the extent of the latter's property.

From a legal point of view the federal railways have to a large extent the status of an independent institution.

The discharge of the Federal Railways' duties is a public service. The departments of the Federal Railways are federal authorities. Their officials, employees and workers are in the service of the Bund.

The Federal Railways must be run on commercial principles and the interests of the national economy must be safeguarded. Consideration must be given to traffic requirements.

In this way the Federal Railways Act aims at achieving a synthesis between the idea of the free commercial management of the Federal Railways and that of their obligations to the public authorities.

All the provisions of the law are thus based on the fact that the property of the Federal Railways forms an integral part of the patrimony of the German State, that the activities of the Federal Railways concern all sectors of the economy and finally that the Federal Railways employ nearly half a million people.

2. *Organs of the German Federal Railways*

The Board of Management (*Vorstand*) manages the railways and represents them both in judicature and extra-judicially.

It consists of a chairman and three members, who are appointed for five years by the President of the Republic pursuant to a decision of the Federal Government. The Federal Minister of Transport proposes candidates to the Government, in agreement with the Administrative Board. The members of the Board of Management are officials. They can be relieved of their posts on serious grounds.

Decisions of the Board of Management are taken by a majority vote. The administrative work of the Federal Railways is carried out by the central administration at Frankfurt-on-Main.

The Administrative Board of the Federal Railways consists of twenty members. These must be experienced figures in the business world or experts on railway matters. They cannot belong to governments or be members of administrations responsible to the Bund or the Länder. They can receive neither orders nor instructions. They are appointed by the Federal Government on the proposal of the Bundesrat, the central business associations, the trade unions and the Federal Minister of Transport, five members being allowed in each case. The length of their mandate is five years and they are eligible for re-appointment.

The Administrative Board of the Federal Railways has power to make decisions on the following main points:

1. Administrative regulations.
2. Budget, operating programme and annual financial statement.
3. Participation in other undertakings.
4. Requests for credits and loans.
5. Proposals for the appointment and dismissal of members of the Board of Management.
6. Proposals for managerial appointments.
7. Basic staff questions.
8. Rail charges which affect the financial situation.
9. Building new lines and major modernization or conversion schemes for technical installations.
10. Permanent closures of lines or important stations, permanent changes from single to double-line working or vice-versa and the creation, transfer or closing-down of important departments.

The Administrative Board can also take decisions on certain questions of general interest, and by a two-thirds majority on certain important questions.

3. *Right of supervision of Federal Minister of Transport*

The Federal Minister of Transport is responsible for supervising the Federal Railways. His principal concern is to see that the fundamental principles of the Federal Republic's policy prevail, particularly in the field of transport, economics, finance and social affairs, and to co-ordinate the interests of the Federal Railways and other forms of transport. He also has a right of supervision as regards fares and rates. In addition he is bound to ensure that the Federal Railways are administered according to the law, and he is responsible for their operation and for technical improvements to their installations.

The Federal Minister of Transport is also responsible, *inter alia*, for approving:

1. The Budget and annual financial statement.
2. The administrative regulations.
3. The building of new lines and major modernization or conversion schemes for technical installations.
4. The permanent closure of a federal railway line or an important station, permanent changes from single to double-line working or vice versa and the transfer or closing-down of an important department.
5. The creation or acquisition of other undertakings.
6. Any participation in other undertakings which amounts to more than one million DM.
7. Any disposition of other items forming part of the fixed capital of the separate assets of the Federal Railways and having a value exceeding one million DM in each particular instance.

The conclusion of collective labour agreements by the Federal Railways is subject to approval by the Federal Minister of Transport, in agreement with the Federal Minister of Finance, if such contracts are likely to have substantial financial repercussions on the undertaking itself or appreciably modify pay and working conditions by comparison with other sectors of the federal administration.

The Federal Minister of Transport can call for the provision of any information by the Federal Railways and by agreement with the Board of Management can visit any installations and departments.

The Federal Minister of Transport can, for reasons based on the law, oppose the decisions of the Administrative Board within fifteen days from the time of notification. If no agreement is reached the Federal Government shall reach a decision.

The Federal Railways are obliged to submit draft passenger time-tables to the Federal Minister of Transport in good time. They must as far as possible take account of proposals submitted regarding alterations.

4. *Relations between the Federal Railways and the Länder*

The Federal Railways and the supreme transport authorities in the Länder are obliged to inform each other of all matters of essential importance. In addition the supreme transport authorities in a Land can call upon the Federal Railways to provide any information necessary

for the performance of their duties. The Federal Railways, for their part, are likewise bound to supply the required information. Every important organizational measure and any decision on appointments to posts of chairman of railway boards must be taken by the Federal Railways in conjunction with the Länder Government.

The Länder must be allowed to express their opinions on the drafting of passenger time-tables and also on the planning of major railway projects. In addition industry, transport, crafts and trade in the various Länder must participate in an appropriate manner in services and supplies involving the Federal Railways.

Any disagreement between the Federal Railways and the Länder regarding the application of the Federal Railways Act shall initially be resolved by the Administrative Board of the Federal Railways, whose decision can be the subject of an appeal to the Federal Government. Any disagreement between the Federal Government and a Land on a question concerning the Federal Railways shall be resolved by the Federal Constitutional Court (*Bundesverfassungsgericht*).

c) OTHER RAILWAY COMPANIES

The basic provisions of the General Railways Act (see I a) are applicable to all public railways, even if they do not form part of the Federal Railways.

The Länder railway laws contain other economic and transport provisions, particularly as regards approval procedure, operation, economic management and central supervision. These are partly old Länder laws adapted by decree to the new situation.

It is the Länder who grant concessions. Supervision is the responsibility of the supreme Land transport authorities.

The non-federal railway undertakings are mostly trading companies whose principal members are generally public corporations. They also sometimes constitute a separate asset of a local corporation.

II. PROVISIONS CONCERNING OPERATION AND FINANCIAL MANAGEMENT

a) GENERAL ASPECTS

In the better interests of traffic, the Federal Railways must be run like a business on commercial principles so that receipts cover expenditure, including the necessary reserves; they must endeavour to pay a suitable rate of interest on their capital. The Federal Railways must discharge their duties for the general good on this basis.

The Federal Railways themselves raise the necessary funds for discharging their duties. If they are not in a position to do so, it is up to the Federation to increase their capital or grant them a loan from public funds.

The budget and operating programme of the Federal Railways are drawn up by the Board of Management and passed by the Administrative Board. Both must be approved by the Federal Minister of Transport in agreement with the Federal Minister of Finance.

The Federal Railways are entitled to seek loans themselves. Federal Railways securities (certificates of debt, treasury bonds, bills or acknowledgements of indebtedness) rank as Federation securities.

Interest-bearing certificates of debt and treasury bonds of the Federal Railways can only be issued with the consent of the Federal Government. Other liabilities are subject to authorization by the Federal Minister of Transport in agreement with the Federal Minister of Finance if they fall outside the normal limits of management of the Federal Railways.

The Board of Management of the Federal Railways is obliged to draw up an annual financial statement, consisting of a balance sheet and a profit and loss account, for each financial year.

The annual financial statement must give a clear picture of the financial situation of the Federal Railways. The profit and loss account must show receipts and expenditure concerning interest separately. The Federal Minister of Transport can, by agreement with the Federal Minister of Finance, have the financial situation of the Federal Railways examined, at their expense, by an auditor or certified public accountant. The annual financial statement is approved by the Federal Minister of Transport in agreement with the Federal Minister of Finance. The Federal Government is required to notify the annual financial statement to the Bundestag and the Bundesrat before publication. The annual financial statement must be published within six months of the end of the financial year.

Any surplus from the annual balance sheet must be used to form an equalization reserve up to a maximum sum of DM 800 million. In addition, surpluses of this sort can be used to form special reserves for technical developments and improvements on the railways. It is the Federal Government which decides, on the proposal of the Federal Minister of Transport and the Federal Minister of Finance, after consultation with the Administrative Board of the Federal Railways, upon the use to be made of any surplus remaining after these operations.

The Federal Government, upon the proposals of the Federal Minister of Transport and the Federal Minister of Finance, after consultation with the Administrative Board of the Federal Railways, is responsible for deciding on deficit covering or carrying forward to another year.

The annual financial statement must be audited by the Central Audit Office (*Hauptprüfungsamt*) of the Federal Railways, whose report thereon must be submitted to the Board of Management, the Administrative Board, the Federal Minister of Transport and the Federal Audit Office.

The audit department of the Central Audit Office is independent and can receive no instructions. The Federal Minister of Transport and, by agreement with him, the Federal Minister of Finance, can call for

any information from the head of the audit department and can make suggestions and express their wishes. They can also call for audits. The budgetary, financial, accounting and other federal economic management regulations are not applicable to the Federal Railways.

No coercive proceedings concerning the separate assets of the Federal Railways can be taken without the consent of the Federal Government.

The Federal Railways possess, both for themselves and their staff, the same status as federal administrations and undertakings and their staff as regards economic legislation, work, housing, assistance and insurance.

The federal railways are responsible for ensuring the safety of their operations, for maintaining in good condition and supervising the security of their installations, rolling stock and accessories and for renewing, replacing and developing them in keeping with technical progress. They are personally responsible for their operation, installations and rolling stock. Permits and authorizations granted by other authorities do not apply to railway installations and rolling stock.

b) OBLIGATION TO OPERATE, TO TRANSPORT AND TO FIX TARIFFS

By the terms of sec. 4 of the General Railways Act, it is the duty of public railways to develop their network in keeping with the needs of traffic, to expand it in the general interest and to ensure that the carriage of passengers and goods meets the demand. Under the Federal Railways Act, the working of a Bundesbahn line can only be decided on with the authorization of the Federal Minister of Transport.

Sec. 3 of the Railway Traffic Regulations (*Eisenbahnverkehrsordnung*) prescribes that the railways are bound to carry passengers and goods provided that general conditions of transport are fulfilled and if transport can be ensured by normal means.

By the provisions of para. 1 of sec. 6 of the General Railways Act, the charges policy of public railways must, whilst safeguarding the economic situation of the railways concerned, aim at setting up uniform charges for the railways as a whole and at adjusting them in the general interest, particularly as regards areas which are poor or badly served by transport.

By virtue of the provisions of sec. 6 of the Railway Traffic Regulations the railways must draw up and publish tariffs containing all relevant traffic particulars and all details necessary for calculating transport and subsidiary charges. Tariffs must be applied uniformly without distinction. Any private arrangement granting reductions or privileges of any kind by comparison with official tariffs is forbidden and invalid.

III. PROVISIONS CONCERNING INVESTMENT

As a general rule, the Federal Railways are responsible for their own investments and for renewing their installations and equipment, and must finance them from their own resources.

Prior approval by the Federal Minister of Transport is nevertheless necessary for building new lines and modernizing or converting technical installations.

In all cases of construction of new installations or modification of existing installations, plans must be drawn up in advance.

These plans must contain a decision in respect of all the interests affected by the plans.

The Board of Management of the Federal Railways, or a department of the federal railways authorized by such Board, is entitled to draw up plans of this kind. These plans must be submitted in advance, for advice and co-ordination with all departments concerned, to the senior administrative authorities of the Land in question. In the event of disagreement, the Federal Minister of Transport is responsible for deciding on plans submitted to him.

To discharge their duties, the Federal Railways possess a certain right to expropriate land belonging to others. The Federal Government gives a ruling, at the request of the Federal Railways, on whether expropriation is permissible.

When awarding tenders for supplies and services, the Federal Railways must consider industry, transport undertakings, crafts and trade in each Land, with a view to ensuring healthy economic development in the Länder.

The Federal Railways meet their investment requirements from their own resources. When these are insufficient the Federal Railways are entitled to seek loans.

If the Federal Railways cannot raise the finance they need to maintain their services and operational safety out of their own resources or by resorting to loans, the Bund will grant them loans for this purpose in so far as the budgetary situation allows.

IV. TAXATION

a) GENERAL

The German Federal Railways are exempt from property tax, corporation tax and trade tax (*Gewerbesteuer*). In lieu of the trade tax they pay to the Länder, for transfer to the local authorities in whose areas they maintain operating establishments of an industrial type, a lump sum contribution to administrative costs at present amounting to DM 6.6 million.

Like all other public means of communication, the permanent way of the Federal Railways is not subject to land tax. The landed property owned by the Federal Railways is also exempt from land tax in so far as it is used for administrative purposes. When used for operational purposes the landed property is liable to half the land tax.

In addition, the Federal Railways are in all cases liable to transfer taxes and consumption taxes, especially the transport and mineral oils taxes. For diesel-driven rolling stock, however, they benefit from a rebate of

the mineral oils tax an operating aid, this tax being mainly intended to finance road-building.

The other public railways are, as a general rule, liable to taxes like any business undertaking, but they are exempt from property tax when they are the sole property of a local corporation. Permanent way used for public transport is also free of land tax.

b) TRANSPORT TAX

The transport tax is a particular form of turnover tax. It is levied by virtue of the Transport Tax Act of 13 June 1955 (BGBl. I p. 366) and of the Transport Tax Implementing Regulation of 8 October 1955 (BGBl. I p. 659). Meanwhile the law and regulation have undergone modifications in regard to certain provision.

The following are subject to transport tax:

1. The carriage of passengers by rail, motor vehicle, funicular and chair-lift.
2. The carriage of goods by rail and motor vehicle, with the exception of short-distance transport of goods either for reward or on own account.

The carriage of passengers free of charge is only taxable if it is performed in the interests of an undertaking and by motorbus. The tax is not payable, however, on the free carriage of workers by an undertaking to and from their place of work.

The following are exempt from the tax:

1. The carriage of workers, school children, military personnel and military baggage if performed at a reduced rate.
2. The carriage of goods intended for the carrier's own use.
3. The carriage of express parcels by rail and the carriage of letters and parcels by the Federal Postal Administration.
4. The carriage of coal and coke by rail.
5. In the case of regular local and neighbourhood traffic:
 - a) The carriage of passengers on federal and non-federal railways;
 - b) The carriage of passengers by tramway or similar means and by trolleybus and motorbus.

The tax is calculated on the price payable to the carrier for the carriage or, in the case of private transport, the price which would have had to be paid in identical or similar circumstances. If the transport is performed on the basis of public tariffs, the transport tax is to be included in such tariffs.

For the carriage of passengers by rail, the tax varies between 12 and 14 % of the fare. As regards tax exemption for regular local and neighbourhood services, see No. 5 above.

For the carriage of luggage, the tax is 12 % of the charge for carrying the luggage.

For the carriage of goods by rail, the tax is 4 % of the carriage rate for distances up to 49 km. and 7 % in all other cases, except where exempt from tax (see above).

In addition, certain exemptions are also provided for private carriage of goods by rail.

The Bund's revenue in the form of transport tax collected by the railways as part of its fares and rates in 1958 was DM 185.5 million on goods traffic and DM 182 million on passenger traffic.

Section B — Provisions relating to passenger and luggage transport

I. GENERAL TERMS AND CONDITIONS

The private law basis of the carriage of passenger and goods by rail is the Commercial Code. The latter, however, only contains skeleton provisions for goods traffic and stipulates that the Reich Transport Minister (now the Federal Minister of Transport) is entitled to issue other provisions relating to the carriage of goods and provisions relating to the carriage of passengers by rail in the form of Railway Traffic Regulations.

The Railway Traffic Regulations (*Eisenbahnverkehrsordnung*) (EVO) of 8 September 1938 are largely mandatory.

Part III of the Regulations contains a large number of individual provisions as to the content of contracts for passenger carriage. Part IV deals with the carriage of luggage and Part V with express parcels.

Particular mention should be made of the provisions relating to timetables, fares, reductions, refunds and the carriage of hand luggage and animals.

The Railway Traffic Regulations contain no particular provisions on the railway's liability for accidents to passengers, which is governed by general civil law. The provisions on liability when carrying goods also apply to passengers' luggage.

II. RATES

For the general provisions governing the fixing of rail tariffs, see section C II a) below.

The German Passenger, Luggage and Express Parcels Railway Tariff (*Deutscher Eisenbahn-Personen-Gepäck- und Expresstguttarif*) (DPT) constitutes the basis for calculating charges for carrying passengers, luggage and express parcels on the German Federal Railways and other public railways.

Part I reproduces the provisions of the Railway Traffic Regulations binding on all railways regarding the carriage of passengers, luggage,

express parcels and mortal remains, as well as the relevant implementing provisions. It also contains the basic provisions on fares and reduced rates.

The fares and reduced rates themselves appear in Part II of the Tariff, which is not always uniform for all railways. Consequently Part II of the Tariff for the Federal Railways contains special implementing provisions, especially as regards reduced rates, fare tables, distance tables and distance indicators.

It is necessary to distinguish between standard fares and reduced rates. In 1958 there were 33 types of reductions, particularly for schoolchildren and workers and for social reasons. Only 15 % of all passengers travel at the standard fares; in 1957 they accounted for 21 % of the takings from passenger traffic.

Reductions vary from 33 % to 96 % of the standard fares. In 1957 the average takings from standard fare passengers were 6.5 Pfg. per km; from workers 2.09 Pfg. per km. and from schoolchildren 1.15 Pfg. per km.

III. INTERNATIONAL TRANSPORT

The legal basis for this is the International Agreement on Railway Passenger and Luggage Traffic (CIV) of 25 October 1952. The Common International Tariff (TCV), which came into force on 1 March 1956, governs passenger and luggage rates.

In addition the Federal Railways have subscribed to numerous international tariffs.

Section C — Provisions relating to goods transport

I. GENERAL TERMS AND CONDITIONS

Part VI of the Railway Traffic Regulations governs the transport of mortal remains and Part VII the transport of live animals. Part VIII deals in detail with goods traffic.

Important provisions are those relating to the conclusion of the contract of carriage, the contents of the consignment note and its completion, loading and packing, calculation and payment of freight charges and subsequent modification of the contract of carriage. The liability of the railways and compensation for damage are dealt with in detail.

II. RATES

a) FIXING OF TARIFFS

The Charges Act of 10 April 1948 governs the fixing of rail charges. By virtue of sec. 3 of this Act the Federal Minister of Transport or, in

the case of non-federal railways, the appropriate Land minister, take the necessary steps in agreement with the Federal Minister for Economic Affairs.

Under the terms of para. 1 of sec. 6 of the General Railways Act, the charges policy of public railways must, whilst safeguarding the economic situation of the railways concerned, aim at setting up uniform charges for the railways as a whole and adjusting them in the general interest, particularly as regards areas which are poor or badly served by transport. Para. 2 of sec. 8 of the act stipulates that the Federal Minister of Transport must co-ordinate the services and charges of various means of transport in so far as is necessary to prevent unfair competition. He can issue directives on the approval of transport tariffs.

The railways are obliged to ensure that for passenger and goods traffic on more than one connected network open to public traffic, booking should be direct and based on direct charges.

Under sec. 6 of the Railway Traffic Regulations, the railways are bound to draw up tariffs. These must indicate transport and subsidiary charges and must contain all the details necessary for calculating them.

The tariffs are applicable to all without distinction. Any private arrangement granting reductions or privileges of any kind by comparison with the tariff is forbidden and invalid. On the other hand, the granting of reductions is only permitted if they are officially published and benefit all under equal conditions.

Any private arrangement infringing the tariff does not affect the validity of a contract of carriage. Transport and subsidiary charges must in every case be calculated in conformity with the tariff.

The railways draw up their own tariffs and submit them to the competent authorities for approval.

The Bund is responsible for international tariffs, Federal Railways tariffs and also tariffs common to federal and non-federal railways; the Länder are responsible for internal tariffs and tariffs common to the non-federal railways. Any approval by the Bund is equally valid for the internal tariffs of non-federal railways when the latter have declared the federal railway tariffs to be applicable.

Railway tariffs must be published. Publication is made in the "Tarif- und Verkehrsanzeiger". They come into force at the earliest at the date of publication.

b) FEDERAL RAILWAYS GOODS TARIFF STRUCTURE

Section 16 of the Federal Railways Act contains provisions on fixing and approving tariffs and conditions of carriage.

The German Federal Railways themselves issue implementing provisions on the conditions of carriage contained in the Railway Traffic Regulations, standard rates, including general rate conditions, the classification

of goods, subsidiary charges, international rates, special rates and other tariff concessions within their sphere. This takes the form of a "public tariff" (*Anstaltstarife*), which is submitted to the Federal Minister of Transport for approval.

The Administrative Board is responsible for tariffs of major importance to the Federal Railways' financial situation. In all other cases the preparation of tariffs is a matter for the Board of Management.

Federal Railways tariffs must be approved by the Federal Minister of Transport, in agreement with the Federal Minister for Economic Affairs. Alterations in rates must also be approved by the Bundesrat when they substantially affect the overall level of prices, especially the general cost of living.

A draft tariff, when presented by the Federal Railways, is regarded as approved if the Federal Minister of Transport makes no observations on it within three weeks from its submission. If during this period the Federal Minister of Transport makes observations on the draft, the tariff is still regarded as approved if the Federal Railways do not, within a period of two months from submission of the draft, receive a decision by the Federal Minister of Transport opposing the same.

In the case of tariff measures of very slight importance to the public, e.g. tariffs of local interest or those of minor financial effect, the Federal Minister of Transport can waive his right of approval.

As a result of the obligation to co-ordinate which is incumbent upon the Federal Minister of Transport, the procedure for approval requires him to consult with the Länder and with other forms of transport affected by the Federal Railways' draft tariff, as well as many other institutions, including the German Federal Railways' Permanent Charges Committee. This consists of nine representatives of the Federal Railways and one representative of the non-federal railways, and works in conjunction with a Transport Users' Consultative Committee, made up of twelve representatives from industry, trade, the crafts, agriculture and forestry.

The Permanent Charges Committee's responsibilities include improving the goods tariff structure, but exclude freight rates and special rates.

The Federal Minister of Transport can, under the terms of para. 4 of sec. 16, require the federal railways to revise tariffs where considered necessary in the general interest. Such revisions must not seriously affect competitors in the transport market.

If a reduced tariff is introduced or if, for reasons of general interest, permission to take a specific tariff step is refused and it is proved, in this particular case, that the Federal Railways' expenses are not covered, the Bund makes appropriate compensation to the Federal Railways. In such cases, the introduction or refusal is subject to approval by the Federal Minister of Finance.

The obligation to pay compensation lapses if and when the Federal Railways show a surplus at the end of the financial year.

The Federal Ministers of Transport and Finance can issue joint directives on the calculation of compensation.

Disagreements as to whether and to what extent compensation should be granted are resolved by the Federal Government, at the request of the Federal Railways, on the advice of independent economic experts nominated by the Federal Government.

The provisions relating to the obligation to pay compensation are by analogy applicable to traffic exchanged between the Federal Railways and other railways open to the public.

The main principles of German railway charges policy are as follows:

The obligation to fix and apply tariffs, special arrangements being forbidden;

The obligation to publish tariffs;

Equality of tariffs for all users;

Geographical equality.

The goods tariff at present in force on German railways is a mixed tariff, based mainly on value and loading capacity and also on wagon capacity. It allows for costs, a factor which is expressed in the distance and tonnage scales.

In drawing up tariffs the aim is to cover all costs, but this is rendered difficult by the complementary nature of passenger and goods traffic.

The standard rates for full wagons cover Classes A - G, classified according to the value of the goods. In the last general revision of tariffs, the rates for classes A and B and classes C and D were combined.

As regards weight, the categories are 20 t., 15 t., 10 t., and 5 t. In addition there are special rates for complete mineral fuel and ore trains.

For individual items, charges are based entirely on weight and distance.

A large number of special tariffs (at present about 200) exist to meet particular needs. A large proportion of these are generally applicable. These special rates represent a downwards continuation of the value scale of the standard tariff. A further range of special tariffs enables the Federal Railways to compete with other forms of transport and foreign railways. Finally, some special tariffs have been introduced to assist and encourage particular economic regions or sectors.

In 1959, three-quarters of the ton/miles were charged at special rates, which represented 54 % of the goods takings in that year.

III. INTERNATIONAL TRANSPORT

For the German Federal Railways' international traffic, the legal basis is the International Agreement on Railway Freight Traffic (CIM), of 25 October 1952.

The domestic provisions relating to Federal Railways tariffs and the rate-fixing procedure are also applicable in principle to international traffic. Tariffs must be approved by the Minister of Transport and must be published and applied without discrimination.

The German Federal Railways subscribe to numerous international agreements and tariff organizations. Within the International Union of Railways (UIC), they collaborate with the other railway administrations of Western Europe in the technical and economic spheres. This holds good both for passenger and goods traffic.

For the transport of European Coal and Steel Community goods the German Federal Railways are bound to observe the Community's instructions.

PART III.

ROAD TRANSPORT

Section A — General and technical provisions

I. STATE ADMINISTRATION AND CONTROL

a) ADMINISTRATIVE COMPETENCE

By the terms of the organic law, road transport and motor vehicles fall within the sphere of legislation both of the Bund and the Länder, i.e. the Länder are authorized to promulgate laws to the extent that the Bund does not make use of its own right of legislation. In this domain the Bund has the right to legislate in so far as regulation by federal law is necessary.

The Bund has made wide use of its right to legislate in the matter of road transport and motor vehicles and, by means of laws or decrees, it has passed new legislation for traffic and the industry or has adapted existing legislation to altered conditions.

The application of road traffic law is within the actual competence of the Länder. The Federal Government is able, with the Bundesrat's agreement, to lay down general administrative provisions.

In the Federal Ministry of Transport, the road transport division is responsible for all questions relating to road transport and the road-building division for all questions relating to the construction and upkeep of motorways and federal roads. The methods of regulation differ in the various Länder.

b) SUPERVISION OF ROAD TRANSPORT UNDERTAKINGS

Commercial road transport undertakings are subject to the control of the licensing authorities and, as users of public highways, to control by the traffic police and to technical supervision of their vehicles.

The Road Haulage Act (*Güterkraftverkehrsgesetz*) (GüKG) of 17 October 1952 established a special controlling body, the Federal Long-Distance Road Haulage Department (*Bundesanstalt für den Güterfernverkehr*), to deal with long-distance transport of goods by motor vehicles. This is a public institution directly responsible to the Bund and was set up "to establish and guarantee the regulation of long-distance goods transport in its various branches and in relation to other forms of transport". In addition, it is responsible for keeping statistics of all long-distance goods traffic in conformity with the directives of the Federal Minister of Transport and pursuant to the provisions governing federal statistics.

So far as it is instructed to do so by the Federal Minister of Transport, the Federal Long-Distance Road Haulage Department also participates in fixing tariffs.

As a supervisory body, the Department has to ensure that long-distance transport undertakings, forwarding agents and brokers, as well as all other parties to the contract of carriage, fulfil the obligations required of them by the Road Haulage Act. In particular it has to see that tariffs and conditions of carriage are observed, that the transport tax prescribed by law for long-distance goods transport is paid, that long-distance goods transport is not effected without the necessary approval and that the regulations concerning the hours of work of lorry drivers and their mates are respected.

The Department also exercises control over long-distance transport on own account involving vehicles with a payload of more than 1 t.

By the enactment implementing Regulation No. 11 of the Council of the European Economic Community of 1 August 1961 (BGBl. I p. 1153), the Department is required to ensure that the provisions of the said Regulation are observed by carriers, forwarding agents, brokers and sub-contractors. For this purpose it is provided with wide powers of control and can call for all necessary information on rates and conditions of transport.

The Department is run, under the supervision of the Federal Minister of Transport, by a director aided by an administrative board consisting of 27 members representing the associations of road carriers, customers and unions, as well as a representative of the Federal Railways and six representatives of the supreme Land transport authorities.

To discharge its duties, the Department has set up branch offices in the capitals of the Länder (and also at Münster/Westphalia). The external departments work in close collaboration with the senior and supreme Land transport authorities.

The central administration of the Department at Cologne deals with organization and administration and questions of principle arising from its supervisory functions.

In detail, the procedure for supervising long-distance goods transport and prosecuting infractions is as follows:

All long-distance carriers are required to notify the Department each month of the traffic they have carried and, for the purpose of supervising the rates charged, to submit the transport documents, particularly the consignment notes, which must, together with a journey log book, be carried on the journey. For this purpose they can also apply to a rate audit office. This is what they do in the majority of cases. These—mainly rate audit offices of road transport co-operatives (*Straßenverkehrs-genossenschaften*)—must be authorized by the Department. They make a preliminary examination of the documents on the carrier's behalf and send them to the Department. The preliminary examination has to be carried out in accordance with the Department's directives. The Department is entitled to supervise the work of the audit offices by

inspecting the firms themselves. The object of the preliminary examination is to allow carriers to correct small errors made in calculating rates without the Department having to intervene. By its directives, the Department tries to prevent the preliminary examination serving to conceal infractions of the law through concerted action between the carrier and the audit office. This procedure of a preliminary examination, laid down by law, has the advantage for the Department of allowing it to concentrate on its regular supervisory work and to reduce its working expenses to the minimum.

The Department possesses wide powers to inspect firms. These powers extend to all parties to a contract for the long-distance transport of goods by road. The forwarding agent's principal (the consignor) and the broker who procured the haulage and the goods are both subject to investigation by the Department.

The Department is also entitled to supervise the long-distance transport of goods on the move. Its agents can undertake the necessary enquiries on the road, in lorry parks and at filling stations.

The Department has the right and duty to see that the correct rates are charged after an infringement has been established.

The tariff rate fixed by law is deemed to be the agreed rate for any contract for the long-distance transport of goods. It follows that a carrier who in contravention of the tariff has charged too low a rate can, by law, recover from the party liable to pay for the carriage (consignor or receiver) an additional sum equal to the difference between the tariff rate and the rate actually paid.

Conversely, the carrier is bound to repay any sum he has received in excess of the tariff rate to the party which has paid the same.

The creditor under such a rate adjustment claim (additional payment or refund) is required by law to claim the debt from his debtor. Consequently the debt cannot be waived. If when supervising rates the Department now establishes that such a creditor has inadvertently or negligently contravened the tariff, it is bound to order the creditor to recover his debt within a fixed period and if necessary to enforce his claim through the courts. If the creditor does not comply with this order, the debt is transferred to the Department, which must seek to recover the debt extra-judicially and in case of need in the civil courts. The sum recovered is its property. If the creditor has intentionally contravened the tariff, the Department is bound to transfer the debt to itself immediately by means of an order. The Department must recover the debt thus transferred to it, either judicially or extra-judicially. Again the sum recovered is its property.

The creditor can appeal against an order stipulating a fixed period for recovery or against an order stipulating transfer of the debt. The decision on the appeal can be challenged in the administrative courts.

Moreover, as regards compliance with the law and with the conditions, obligations and traffic restrictions imposed by their licences, long-distance goods carriers are subject to control by the licensing authorities.

The following figures give an idea of the Department's activities in 1959, 1960 and 1961:

	1959	1960	1961
1) <i>Number of vehicles checked</i>	193 900	208 264	261 098
Number of checked vehicles adversely reported on	31 615	35 037	38 777
2) <i>Number of firms inspected</i>	3 393	3 103	2 897
Number of inspected firms adversely reported on	2 466	2 161	2 009
3) <i>Submission of transport documents :</i>			
Number of carriers (on 31.12)	11 438	11 557	11 401
Number of licences (on 31.12)	25 305	26 032	26 079
Number of transport documents	7 144 631	7 573 599	7 877 798
Turnover (in million DM)	1 953.5	2 144.2	2 259.2
4) <i>Total rate adjustments (in DM)</i>	4 645 540	4 644 415	3 910 967
Rate adjustments transferred to Department (in DM)	1 983 176	2 341 480	1 688 907
5) <i>Number of fines inflicted</i>	15 751	15 393	15 719
Total fines (in DM)	982 546	964 264	819 264

c) PENALTIES

Whoever, either wilfully or negligently, carries passengers in trams, trolleybuses or motor vehicles without being in possession of the licence required by the Passenger Carriage Act, will be liable to a fine or imprisonment for not more than six months. The sentence of imprisonment can be reinforced by a fine. Wilful infringement of the regulations (enumerated in sec. 61 of the Passenger Carriage Act) carries a fine of up to DM 10 000 and negligent infringement a fine of up to DM 5 000.

Infringements of the Road Haulage Act in respect of rates, forwarding agency and brokerage are dealt with under the Economic Offences Penalties Consolidating Act (*Gesetz zur weiteren Vereinfachung des Wirtschaftsstrafrechts*, in short *Wirtschaftsstrafgesetz*) of 9 July 1954.

Serious infringements are punishable as economic offences (*Wirtschaftsstraf-taten*) and others as offences against regulations (*Ordnungswidrigkeiten*).

An economic offence committed wilfully is punishable by imprisonment and/or a fine of up to DM 100 000. Economic offences committed negligently carry a fine of up to DM 50 000. Offences against regulations carry a fine of up to DM 50 000.

If the offender has received a higher rate than the official one, the difference must be repaid.

Whoever contravenes the conditions, obligations and duties imposed by his licence or engages in long-distance goods transport without a licence or contravenes the regulations governing transport on own account commits an offence against the regulations, carrying a fine of up to DM 10 000 if wilful and up to DM 5 000 if negligent. This also applies to offences against Regulation No. 11 of the Council of the EEC. The fine is inflicted by the licensing authority, whose decision can be appealed against in the ordinary courts.

II. TECHNICAL PROVISIONS

The federal Road Traffic Safety Act of 19 December 1952 made substantial alterations in the previous technical legislation on road traffic. In addition to this act, the following legislation is important:

1. The Road Traffic Act of 19 December 1952

This contains fundamental provisions on the circulation of motor vehicles on public highways or places. It also deals with liability, damages and penalties for contraventions and infringements. Article 6 of the act empowers the Federal Minister of Transport to issue, with the Bundesrat's consent, implementing and administrative regulations.

2. The Road Traffic Regulations (Straßenverkehrsordnung)

This contains detailed provisions applicable to highway users—pedestrians, riders and all types of vehicles.

3. The Road Traffic Licensing Regulations (Straßenverkehrs-Zulassungsordnung)

This contains detailed provisions as to the licensing of all road users, including drivers of motor vehicles, and also the licensing of vehicles, particularly motor vehicles and trailers.

Particular mention should be made of the provisions on licensing procedure, compulsory third party insurance and authorized size and weight of vehicles and trailers, and also the penal provisions.

The provisions concerning the authorized sizes and weights of vehicles and trailers have recently been modified by a decree (*Verordnung zur Änderung von Vorschriften des Straßenverkehrsrechts*) of 7 July 1960. Details appear in Annex II.

Further road traffic regulations are contained in the following decrees:

International Road Transport Decree;

Tramway Construction and Operation Decree.

Finally, the regulations on the transport by road of dangerous materials should also be mentioned.

III. PUBLIC INVESTMENT

Legally the construction and upkeep of roads for long-distance traffic comes within the jurisdiction of both the Bund and the Länder. The Bund is the owner of the former Reich motorways and Reich roads.

The Bund has exercised its legislative powers in the Federal Trunk Roads Act of 6 August 1953 (BGBl. I, p. 903), governing federal motorways and federal roads, which contains the essential provisions on the apportionment of road-building costs and on the supervision and administration of roads.

Other types of roads are governed by Länder legislation, at present undergoing re-codification. In Bavaria, this has already taken shape in the Bavarian Roads and Highways Act of 11 July 1958 (Bayr. BVBl. 1958, p. 147) (Bavarian Decree Gazette) and in Berlin by the Berlin Road Act of 11 July 1957 (Berliner GVBl. 1957, p. 743) (Berlin Law and Decree Gazette).

Public roads are classified as follows:

1. *Federal motorways and federal roads*

The cost of building and upkeep of federal motorways and federal roads is the responsibility of the Bund. By the terms of the relevant Act these roads are administered by the Länder on behalf of the Bund.

2. *Class I state roads (Staatsstraßen)*

The cost of building and upkeep and the administration is the responsibility of the Länder.

3. *Class II state roads (Kreisstraßen)*

The cost of building and upkeep is met by the district (Kreis); the administration is partly the responsibility of the Länder and partly the responsibility of local bodies nominated by them.

4. *Local roads*

The cost of building and upkeep and the administration is the responsibility of the local authority.

The building and upkeep costs of sections of federal roads and Class I and II state roads passing through built-up areas are the responsibility of local authorities where there are more than 9 000 inhabitants (it is intended to raise this figure to 50 000).

Road-building is primarily financed by the authority responsible for bearing the cost out of its own funds. By the terms of Article 1 of the Road-building Finance Act of 28 March 1960 (BGBl. I, p. 201) the Bund has set aside its revenue from the mineral oils tax to cover the building and upkeep costs of roads for which it is responsible and to grant subsidies for road work carried out by other bodies (mainly local authorities).

At the present time, the motor vehicle tax falling to the Länder is not appropriated by law for financing road work, but the Länder nevertheless utilize part of these funds for this purpose and for subsidies to districts and local authorities.

IV. TAX TREATMENT

Commercial undertaking carrying passengers and goods by road are subject to taxes on possessions, material values taxes and consumption taxes in the same manner as other commercial undertakings. Certain exemptions from general taxes are provided for property built on by railways open to public traffic, for the bus services of the Federal Railways, the Federal Postal Administration and undertakings consisting solely of local corporations.

As regards specific taxation of road transport, three taxes are of particular importance:

The transport tax and the mineral oils tax, which go to the Bund, and the motor vehicle tax, which goes to the Länder.

In 1956 the revenue from these three taxes from the whole field of transport, but mainly from road traffic, amounted to about DM 2.5 milliard, i.e. approximately 5.7 % of the total fiscal receipts for the year. Of this figure,

the transport tax represented approximately DM 253 million, the mineral oils tax approximately DM 1 415 million and the motor vehicle tax approximately DM 837 million.

In 1958 the transport tax on commercial long-distance goods transport produced DM 108 million. The revenue from road passenger transport is not known exactly, but can be estimated at about DM 70 million.

a) TRANSPORT TAX

As with rail transport, the turnover tax is levied in the form of the transport tax. The main provisions have already been dealt with in section A IV Part II, but the following provisions apply specifically to road transport:

On passenger transport, the transport tax represents 12 % of the fare.

No tax is levied on regular local and neighbourhood services.

The tax is reduced to 4 % of the passenger fare in the following cases:

1. The authorized carriage solely of workers by motor bus between their residence and place of work, if not already exempt from tax.
2. Carriage by taxi.
3. Carriage by hired car.
4. Carriage by rural postal vehicles (*Landkraftposten*).

In certain cases an average fare is laid down on which the rate of tax is calculated.

Licensed long-distance goods transport by motor vehicle is subject to a tax of 7 % of the transport charge. In all other cases, particularly on long-distance transport on own account and unlicensed long-distance

goods transport, the tax comes to DM 0.05 per ton/kilometre, and on transport by lorry with an authorized payload of less than 4 000 kg. with no trailer it comes to DM 0.04.

On long-distance transport on own account the tax is reduced to 1 Pfg. per ton/kilometre for milk, dairy products, fish, homegrown fruit, vegetables and fruit juice, mineral waters, exhibitors' animals, equipment and other items and used packagings. Certain traffic to Berlin and areas bordering on the Soviet zone also benefits from reductions. On short-distance goods transport a turnover tax of 4 % is payable.

Fuel taxes:

b) MINERAL OILS TAX

This is levied pursuant to the Mineral Oils Tax of 6 April 1955 (BGBl. I, p. 166).

The tax is levied both on mineral oils produced within the customs frontier and on imported mineral oils at the time of customs clearance. The rate of tax per 100 kg. is at present 22.75 DM for diesel oil and 32.40 DM for petrol.

Road licence:

c) MOTOR VEHICLE TAX

This tax is levied under the Motor Vehicle Tax Act of 2 January 1961 (BGBl. I, p. 2) and the Motor Vehicle Tax Implementing Decree of 12 July 1955 (BGBl. I, p. 243) as amended.

The possession of motor vehicles and motor vehicle trailers intended for traffic on public roads is subject to tax.

Exemptions are provided for motor vehicles used for certain purposes by the central or local authorities and disabled persons. Trolleybuses are exempt.

The annual tax amounts to:

- | | |
|--|----------------|
| 1. For two-wheeled motor vehicles,
for every 25 c.c. cylinder capacity | DM 3.60 |
| 2. For private cars,
for every 100 c.c. cylinder capacity | DM 14.40 |
| 3. For three-wheeled motor vehicles not suitable
and intended solely for the carriage
of persons (excluding tractors),
for every 100 c.c. cylinder capacity | DM 16 |
| 4. For double-decker and articulated omnibuses
used exclusively for regular traffic,
for every 200 kg. of total weight | DM 11.25 |
| 5. For all other vehicles with a total weight
from 2 000 to 24 000 kg. and above,
for every 200 kg. total weight | DM 22 to 56.50 |

For omnibuses in regular service and certain special vehicles the tax is reduced by 50 %, and for semi-trailers by 25 %.

Section B — Provisions relating to passenger transport

I. LICENSING

a) GENERAL

The carriage of passengers by land is governed by the Passenger Carriage Act (*Personenbeförderungsgesetz*) (PBefG) of 21 March 1961 (BGBl. I, p. 241), which came into force on 1 June 1961. It applies to the carriage of passengers for reward or commercially by tramcars (including high-level and underground railways, suspended railways and similar railways with special systems), trolleybuses and motor vehicles.

The law does not apply to carriage by:

mountain railways or funiculars;

rural postal vehicles of the Federal Postal Administration;

private cars, if the overall fare does not exceed the operating costs of the journey and if the driver and passenger have not been brought together by public brokerage or advertising.

The Passenger Carriage Act aims at furthering the measures initiated under the previous act of 1934 to regularize commercial passenger transport by road. For this purpose, it pays attention to the requirements of road safety and the interests both of users and of undertakings running regular services, particularly the railways which, like the Federal Postal Administration, are treated in exactly the same way as other road transport undertakings.

Section 8 of the act, which deals with the balancing of traffic interests, stipulates as follows: "For the purpose of better encouraging transport, the Federal Minister of Transport and the Governments of the Länder are to take steps to see that the interests of different forms of passenger transport are balanced and their services and remuneration co-ordinated. The various forms of transport are to be encouraged to co-operate voluntarily".

In addition to the Passenger Carriage Act, the Passenger Motor Vehicle Undertakings Operation Decree (*Verordnung über den Betrieb von Kraftfahrunternehmen im Personenverkehr*) (BO Kraft) of 7 July 1960 (BGBl. I, p. 553) is of importance.

In addition to tram and trolleybus services, the Act distinguishes between the following types of traffic:

Regular services: this denotes regular connections between fixed points of departure and arrival, in the course of which passengers can enter or alight at fixed stops, although a regular service need not necessarily operate according to a fixed time-table of departure and arrival or possess intermediate stops.

A special form of regular service is that regularly carrying the following to the exclusion of other passengers:

1. Wage-earners between their residence and place of work (transport of workers).
2. School-children between their residence and school (school journeys).

3. Persons going to market (market services).
4. Theatregoers.

Holiday traffic: constitutes another special form of regular service: it refers to journeys to recreational resorts which the contractor offers and undertakes by motorbus or private car, according to a programme drawn up by him, at an inclusive charge for transport and accommodation with or without board. Picking-up or setting-down during the journey is forbidden, although the licensing authority may make exceptions for neighbouring localities or in particular cases. All travellers must be taken to a common destination and be brought back to their place of departure. Only those travellers whom the contractor has transported on the outward journey can take part in the return journey.

Occasional traffic: There are three kinds:

1. *Taxi services*, which are the carriage of passengers by private cars provided by the contractor on public roads and places and used by him to undertake journeys to a destination named by the passenger.
2. *Excursion journeys* are journeys offered and undertaken by the contractor with motorbuses and private cars according to a specific programme drawn up by him for an excursion purpose which is uniform and common to all the participants. In principle it is forbidden to pick-up and set-down during the journey; the journey must return to the point of departure.
3. *Bus hire and car hire services* are the carriage of passengers by motorbuses or private cars hired as whole conveyances and used by the contractor to undertake journeys whose object, destination and duration are stipulated by the hirer. The participants must constitute a homogeneous group of persons and agree as to the destination and duration of the journey. It is forbidden to offer motorbuses and motor cars for hire on roads and public places.

The two kinds of passenger motor vehicles are defined as follows in the Passenger Carriage Act:

Private cars: motor vehicles serving to carry nine persons at the maximum (including the driver);

Motorbuses: motor vehicles serving to carry more than nine persons (including the driver).

b) PRINCIPLES AND PROCEDURE

The licensing authority is the authority designated by the government of the Land. Competent authorities are:

for tram, trolleybus and regular motor vehicle services, the licensing authority in whose region the entire traffic is to take place;

for occasional motor vehicle services, the licensing authority in whose region the contractor has his head office or branch as defined in the commercial law;

for occasional services by the Federal Postal Administration or the Federal Railways, the licensing authority in whose region the main operating office is located.

The law also determines which licensing authority is competent if services are to operate in more than one licensing authority's region in any one Land or in more than one Land.

A licence is required to carry passengers for reward or commercially by tramcars, trolleybuses and motor vehicles. Reward is held to include economic advantages indirectly sought after in the interests of the profit-earning capacity of a gainful activity thus favoured.

An employer who carries his workers between places of work belonging to the same undertaking for purposes connected with the undertaking does not require a licence.

A licence is required:

In the case of regular motor vehicle services, for the institution and operation of the service and for the number, type and capacity of the vehicles;

In the case of occasional motor vehicle services, for the operation and form of the occasional service and for the type and capacity of the various vehicles.

A licence is also necessary for:

Any extension or substantial alteration in the undertaking;

The transfer to a third party of the rights and obligations deriving from the licence;

The transfer of the undertaking to a third party.

The granting of a licence for the categories and sub-categories of traffic governed by the law is dependent on two conditions: the safety and efficiency of the undertaking must be ensured and there must be no evidence that the applicant does not present the reliability required of an operator.

The conditions regarding the safety and efficiency of the undertaking and the reliability of the applicant are deemed to be fulfilled in the case of the Federal Postal Administration, the Federal Railways and public corporations.

Moreover, a licence for regular motor vehicle services must be refused if the traffic is to take place on roads which are unsuitable for reasons of safety or because of their condition or if the service applied for is harmful to public traffic interests. In particular, a licence must be refused if transport can be satisfactorily ensured with the existing transport facilities; if the service applied for, without effecting any substantial improvement in transport facilities, is to serve traffic already served by existing undertakings or railways; and lastly if the undertakings or railways already serving this traffic are prepared to carry out the necessary improvements to services within a space of time stipulated by the licensing authority.

In the matter of road traffic parallel with rail traffic and of road services as a replacement for trains, in so far as regular local or neighbourhood traffic is not concerned, railway undertakings are privileged to undertake the necessary improvements to services.

For holiday traffic a licence can only be granted to undertakings with adequate experience in the travel field.

In the case of taxi services a licence must be refused if the existence of the local taxi service is threatened by the operation of the service applied for.

Prior to deciding on a licence application, a consultation procedure is to take place, in which the authorities concerned, which are enumerated in section 14 of the Act, are entitled to express their opinion within two weeks. A decision by a licensing authority is to indicate the authority's reasons and is to contain instructions regarding appeals, and is to be communicated to the applicant and certain of the authorities enumerated in section 14 of the Act. Decisions are subject to examination by the administrative courts.

If the interests of the Federal Postal Administration or the Federal Railways are substantially involved and no agreement can be reached before the licensing authority, the latter must, upon the application of the Federal Postal Administration or the Federal Railways, seek the opinion of the Federal Minister of Transport and take account thereof in its decision.

The duration of the licence for regular services is to be assessed in the light of public traffic interests, but the maximum is eight years. For occasional services a licence can be granted for a maximum period of four years.

In examining applications for renewals of licences, suitable attention is to be paid to whether the operator has operated the service for a number of years in a manner consonant with traffic interests.

Licences are to be withdrawn if the conditions as to safety and efficiency of the undertaking and reliability of the operator are no longer fulfilled.

c) FOREIGN OPERATORS

The Passenger Carriage Act draws no distinction between Germans and foreigners, but an operator wishing to operate inland traffic must have his operating headquarters in the Federal Republic of Germany.

II. GENERAL CONDITIONS

Operators of regular and taxi services are required to organize their undertaking pursuant to the regulations and maintain the same for the duration of their licence pursuant to the regulations in accordance with traffic requirements and technical progress. Both these forms of transport are also subject in principle to the liability to carry.

Under section 58 of the Passenger Carriage Act, the Federal Minister of Transport is entitled, with the consent of the Bundesrat, to promulgate General Conditions of Transport by decree for regular and occasional services, with the exception of taxi services.

If an operator wishes to apply different transport conditions, he must seek permission to do so from the licensing authority (Special Conditions of Transport). The licensing authority is entitled to require the Special Transport Conditions to be altered if the circumstances which led to their introduction have materially altered or if fresh possibilities of improving services have arisen in a particular area and can be realized by altering the Special Transport Conditions. Before they are introduced the operator must publish the Special Conditions of Transport in the manner customary in the locality and display them to passengers in waiting-rooms. The same applies to time-tables, which are also subject to approval by the licensing authority.

The conditions of transport relating to the regular services of the German Federal Railways are subject to the approval of the Federal Minister of Transport. The stipulation of conditions of transport for the regular services of the Federal Postal Administration is governed by section 14 of the Postal Administration Act.

The conditions of transport for taxi services are laid down by the Land Government in the form of statutory decrees. The latter can delegate this power to the licensing authorities. The provisions relating to the conditions of transport must be carried in the taxi and be exhibited to the passenger at his request.

For occasional motorbus services, the Land Government can lay down conditions of transport by statutory decree if the Federal Minister of Transport has not exercised his right to issue General Conditions of Transport.

For the occasional services of the Federal Postal Administration and the Federal Railways, the conditions of transport are laid down by those bodies themselves. At the request of the Federal Minister of Transport, his agreement is to be sought for this operation.

III. RATES

Fares on regular motor vehicle services require the approval of the licensing authority, whereby they become generally binding.

The licensing authority must in particular examine fares to see whether, in the light of the economic situation of the undertaking, they allow for adequate payment of interest and adequate depreciation of fixed assets, and also for necessary technical development, and whether they are in keeping with public traffic interests and general well-being.

Such fares are invariable and cannot be reduced or exceeded. They must be applied uniformly. Reductions which do not offer the same advantages to all users are forbidden.

Fares must be published by the operator in the manner customary in the locality and must be displayed to passengers in waiting-rooms.

Fares on the regular services of the Federal Railways are approved by the Federal Minister of Transport. The fixing of fares by the Federal Postal Administration is governed by section 14 of the Postal Admin-

istration Act. In both cases the approval of the Federal Minister of Economic Affairs is required.

For occasional motorbus services the Federal Minister of Transport can, with the Bundesrat's consent, promulgate statutory decrees laying down skeleton fare regulations. Where the latter permit, the Land Government can lay down fares by statutory decree and can delegate this power to the licensing authorities.

For occasional taxi services the Land Government stipulates fares by statutory decree; again it can delegate this power to the licensing authorities. The fare regulations must be carried in every vehicle and be shown to passengers on request.

For the occasional services of the Federal Postal Administration and the Federal Railways, the fares are fixed by these bodies themselves, subject to the skeleton regulations issued by the Federal Minister of Transport. At the request of the Federal Minister of Transport, his agreement is to be sought to this operation; the Federal Minister of Economic Affairs is to be consulted.

IV. INTERNATIONAL TRANSPORT

The provisions of the Act are applicable in principle to international traffic handled by undertakings, irrespective of whether their operating headquarters are in Germany or abroad. This also applies to transit traffic.

Licences for the German portion of regular international services are issued by the Federal Minister of Transport in conjunction with the Land transport authority, and in the case of applications by the Federal Postal Administration in conjunction with the Federal Minister of Posts as well. The competent Land transport authority conducts the consultation procedure and notifies the result to the Federal Minister of Transport.

Occasional international services operated by operators resident abroad do not require a licence if corresponding agreements have been concluded with the State concerned. If no such agreement exists or if occasional international services are operated notwithstanding these agreements, the Federal Minister of Transport can deal with applications for such services. As regards local frontier traffic (customs frontier area), this responsibility devolves upon the Land transport authority.

Frontier customs posts are entitled to reject motor vehicles registered abroad if the prescribed licence cannot be produced.

The Federal Minister of Transport has concluded with the other member states of the Community, and also with Denmark, Norway, Sweden, Austria and Switzerland, administrative agreements governing commercial international passenger traffic. As regards tourist traffic, these agreements are based on the ECE "Freedom of the Road" agreement dispensing such journeys from licensing.

The Federal Railways have set up a subsidiary company, Deutsche Touring, G.m.b.H., Frankfurt-on-Main, to handle regular international coach traffic. This undertaking is the holder of a certain number of licences to operate the "Europabus" traffic (regular services). It also operates a large number of occasional international coach services.

Section C — Provisions relating to goods transport

I. LICENSING

a) GENERAL

In the Federal Republic of Germany, all transport of goods by motor vehicle is in principle subject to the Road Haulage Act of 17 October 1952 (BGBl. I, p. 697) as amended by the acts of 3 June 1957 (BGBl. I, p. 593), 26 June 1959 (BGBl. I, p. 399), 27 December 1960 (BGBl. I, p. 1084) and 1 August 1961 (BGBl. I, pp. 1153 and 1157). This act makes no distinction between transport for industry, agriculture, forestry or the carrier's private purposes, nor between traffic on public and private roads. Apart from transport belonging to public authorities, only a few minor operations are excluded from the sphere of application of the act.

The general administrative provisions necessary for the implementation of the act are issued by the Federal Minister of Transport with the consent of the Bundesrat.

The main effect of the Road Haulage Act is to establish and guarantee a regular system for road haulage, both between its different branches and between it and other forms of transport. The old system, whereby long-distance hauliers were controlled by a compulsory association, is replaced by a Federal Department exercising central tariff control and strictly limiting capacity by means of licensing quotas for long-distance haulage.

The fourth amending act of 1 August 1961 introduced, not only into the Road Haulage Act but also into the acts governing the two other forms of inland transport, provisions regarding competition between different forms of transport. With competitive conditions equalized, realistic changes and fair competition should result in a rational apportionment of traffic within the national economy.

The Road Haulage Act distinguishes between commercial haulage and transport on own account.

Commercial haulage is the carriage of goods on behalf of a third party, based on a contract of carriage or on a forwarding contract when the forwarding agent himself affects the carriage.

Transport on own account is the carriage of goods for an undertaking's private purposes on a motor vehicle belonging to the undertaking or purchased by it in instalments and driven either by the owner of the undertaking or by one of his employees.

The act further distinguishes between long-distance and short-distance traffic, both for transport on own account and for commercial haulage.

Short-distance haulage (on own account or commercial) is goods haulage within the "short zone" (*Nabzone*), that is to say within a radius of 50 km. as the crow flies from the centre of the municipality on which the vehicle is permanently based. The centre in question is the main communications centre of the municipality. Municipalities of more than 100 000 inhabitants can be divided into districts, each possessing its own centre. Each of these centres represents the centre of the locality for the whole territory of the municipality. The centres are specified by the Länder Governments or by the supreme Land authorities appointed by the latter.

Long-distance haulage (on own account or commercial) is goods haulage across the boundary of outside the limits of the "short zone".

Every vehicle placed in service for long or short-distance haulage must have a place designated as its permanent base. The carrier must have the headquarters of his undertaking or a permanent branch at that place.

For regions that are poor and badly served by transport, particularly the areas bordering on the Soviet Zone (*Zonenrandgebiete*), the permanent base can be determined by means of an exceptional regulation allowing short-distance carriers established there to extend their "short zone"

For *international* haulage, the municipality in which the initial frontier crossing is situated is regarded as the permanent base for vehicles registered abroad.

b) PRINCIPLES AND PROCEDURE

1. *Long-distance haulage*

The main provisions of the Road Haulage Act are devoted to long-distance haulage, and are primarily aimed at controlling competition between road and rail. The Act provides for two methods of doing this—firstly the number of motor vehicles licensed for long-distance haulage is limited, and secondly rates and conditions of transport are laid down by tariff and are binding on all concerned.

Any long-distance operator must have an official licence. This does not apply to the Federal Railways. The number of motor vehicles owned by the Federal Railways and used by them for long-distance haulage cannot exceed 3.5 % of the maximum laid down for long-distance haulage as a whole. In addition the Federal Railways employ long-distance haulage firms which operate on behalf of the Federal Railways under the conditions laid down in the Reichskraftwagentarif (RKT) (Reich Vehicle Tariff).

A licence for general long-distance haulage is valid for the whole of Germany.

A licence for regional long-distance haulage is valid within an area of 150 km. as the crow flies from the centre of the municipality in which the vehicle has its permanent base.

A licence for long-distance furniture removal is valid for furniture and house removals by special vehicle for the whole of Germany.

Licences are granted for specified vehicles. Trailers do not require a licence, except for long-distance furniture removals. The licence is valid for at least eight years. The rights and obligations deriving from the licence are non-transferable.

The licence can be issued subject to conditions, obligations or restrictions.

The Federal Minister of Transport fixes by decree, with the Bundesrat's approval, the maximum number (quota) of licences for general long-distance haulage, regional long-distance haulage and long-distance furniture removal. The Minister apportions these quotas between the Länder of the Federal Republic. When fixing and allotting the quotas, he must take account of public transport and road safety requirements. These provisions raise certain objections of a constitutional nature, particularly as regards the principle of freedom of choice of occupation. The Federal Administrative Court (*Bundesverwaltungsgericht*) has nevertheless sanctioned the quota system.

At the present time Decrees Nos. 3 and 4 of 28 August 1957 (*Bundesanzeiger No. 170*) and 16 June 1959 (*Bundesanzeiger No. 116*) respectively govern the maximum number of long-distance haulage and long-distance furniture removal vehicles.

The quotas for the whole federal territory are as follows:

General long-distance haulage:	15 907 licences;
Regional long-distance haulage:	5 998 licences;
Long-distance furniture removal:	3 880 licences.

When the quota for a given Land is used up or exceeded, new licences can only be issued in certain exceptional cases specifically defined by law.

These relate to inheritance, transfer of an undertaking to a third party and, under certain conditions, refugees and exiles, repatriated prisoners of war and victims of national socialism.

A licence can only be issued if:

1. The quota is not used up;
2. Evidence is given of the productive capacity of the applicant's business;
3. The applicant is the owner or purchaser by instalments of the vehicle for which he seeks a licence;
4. The vehicle's design and condition is suitable for long-distance haulage;
5. The applicant is reliable;
6. The applicant is experienced;
7. The applicant is insured against all risks for which he is liable under the conditions of carriage.

In certain cases the licensing authority must withdraw a licence, particularly if the carrier has obtained the licence by false statements, if he is no longer insured against damage to goods or if bankruptcy proceedings are started against him.

In other cases the licensing authority can use its discretion in withdrawing a licence, e.g. if the carrier seriously contravenes road safety, tariff, social or tax legislation or if in some other way he appears unreliable.

The senior land transport authority is the authority for issuing and withdrawing long-distance haulage licences.

Before issuing the licence the licensing authority must consult the Federal Long-Distance Road Haulage Department, the Chamber of Industry and Commerce, the transport trade associations and the relevant trade unions. Before withdrawing a licence the authority need only consult the Federal Department.

The rejection of a licence application or the withdrawal of a licence can form the subject of an appeal to the licensing authority. If the appeal is rejected recourse can be had to the contentious procedure of the administrative courts. An appeal can only be made by persons directly concerned, not by the authorities or associations which have the right to be consulted.

The holder of a long-distance haulage licence is subject to general supervision by the licensing authority.

The police authorities and the Federal Long-Distance Road Haulage Department (see Section A I) verify that carriers comply with the rights and obligations arising from their licences. One of their principal duties is to see that no long-distance haulage is undertaken without a licence.

2. *General short-distance haulage*

General (i.e. occasional) short-distance haulage is subject to licensing. The following, however, do not require a licence:

1. Short-distance haulage by vehicles with a payload of up to 750 kg;
2. Short-distance haulage by carriers licensed for long-distance haulage;
3. Short-distance haulage by the Federal Railways;
4. Short-distance haulage by agricultural and forestry undertakings of agricultural and forestry supplies and products under local aid schemes (*Nachbarschaftshilfe*).

A licence can only be granted if the applicant is experienced and reliable.

The grounds for withdrawing a short-distance licence are basically the same as for a long-distance licence.

The junior transport authority is responsible for issuing and withdrawing short-distance licences.

This authority is required to consult the trade associations and the trade unions before issuing the licence.

Appeal provisions are the same as for long-distance haulage. Appeals are to the senior Land transport authority.

The holder of a short-distance licence is subject to general supervision by the licensing authorities. The police are responsible for seeing that no one operates short-distance haulage without a licence.

Unlicensed short-distance haulage can be prosecuted in the same way as long-distance haulage. Prosecutions are dealt with by the licensing authority.

3. Regular short-distance haulage

Anyone operating regular short-distance haulage between specified points of departure and arrival must not only have a short-distance licence but also a regular short-distance licence. This also applies to the Federal Railways and long-distance haulage firms.

The following, however, are exempt from licensing:

1. Regular short-distance haulage by vehicles with a payload of up to 750 kg;
2. Short-distance haulage by agricultural and forestry undertakings of agricultural and forestry supplies and products under local aid schemes;
3. Regular short-distance haulage consisting of collection and delivery services for other means of transport.

The licence is granted to the carrier on a personal and temporary basis. It applies not only to the introduction and operation of the service but also to the number, nature and capacity of the vehicles utilised.

The licence can only be granted if the applicant is experienced and reliable, but proof of this is not required from the Federal Railways.

The licensing authority must refuse the licence if the service applied for would be harmful to public transport interests or would be operated on roads which are unsafe or unsuitable for the traffic concerned.

Regular short-distance licences can be revoked for the same reasons as long-distance licences.

The licence can be issued subject to conditions, obligations or restrictions.

The senior Land transport authority is responsible for issuing and withdrawing regular short-distance licences. Before granting a licence, the licensing authority must consult the trade associations, the relevant trade union, the railway administration for the area in which the proposed service is to be operated and the body responsible for the upkeep of the roads.

Appeal provisions are the same as for long-distance haulage.

The holder of a regular short-distance licence is subject to general supervision by the licensing authority. The police are responsible for seeing that no unlicensed regular short-distance haulage takes place.

Unlicensed regular short-distance haulage can be prosecuted like unlicensed long-distance haulage. The body responsible is the licensing authority.

c) FOREIGN OPERATORS

The Road Haulage Act and the decrees made under it place no restrictions upon establishment in the industry. The general policing, transport industry and commercial legislation is applicable in this connection.

A foreign national domiciled in the Federal Republic can obtain a road haulage licence under the same conditions as a German citizen.

II. GENERAL CONDITIONS

The conditions for long-distance haulage are laid down in a binding manner in the Road Haulage Regulations (*Kraftverkehrsordnung*), first published on 30 March 1936 as part of the Reich Vehicle Tariff (*Reichskraftwagentarif*). It is still in force today, with certain modifications made during the war.

The aim of the Road Haulage Regulations was to establish for long-distance road haulage a system of general conditions of carriage comparable to that introduced by the Railway Traffic Regulations for rail transport and binding for all long-distance road haulage contracts. The main provisions of the Regulations relate to:

Rights and obligations deriving from the contract of carriage;
 Methods of shipment;
 Collection and delivery of goods;
 Rates and additional charges;
 Form and contents of consignment note;
 Conclusion of contract of carriage;
 Calculation and payment of rates and charges;
 Alterations to contract of carriage;
 Liability under contract of carriage.

A further important provision is that the distance according to the railway tariff is to be used in calculating charges.

In the event of an incorrect calculation, any difference between the calculated charges and the tariff must be paid or reimbursed.

For furniture and household removals, the German Furniture Removers' Conditions of Carriage are applied.

For short-distance haulage, there is no government body of conditions, but contracts are to a large extent based on the General Conditions for the Short-Distance Carriage of Goods by Road laid down by the industry.

The holder of a regular short-distance licence is bound to carry, if:

1. The carriage is possible with the vehicles normally used on the service, and
2. The carriage is not prevented by circumstances over which the carrier has no control.

III. RATES

a) LONG-DISTANCE HAULAGE

1. *General provisions*

The conditions and charges for long-distance haulage are laid down in a binding manner in tariffs. The tariffs must contain all details necessary for calculating the charges and all the other conditions of carriage governing the contract.

The text applicable is the Reich Vehicle Tariff (*Reichskraftwagentarif (RKT)* of 30 March 1936 as amended by the decree of 23 December 1958 (*Bundesanzeiger No. 249*), which corresponds in principle to the German Railway Goods Tariff (see Section C 11 b of Part II). The transport charges in the Reichskraftwagentarif are fixed charges, whilst the subsidiary charges are maximum rates. A great many of the Federal Railways' special tariffs are not included in the above-mentioned tariff.

Decree TS No. 1/58 of 19 January 1958 (*Bundesanzeiger No. 15*) relating to tariffs for long-distance road haulage has accentuated the divergencies between the tariffs, particularly by introducing a 20-ton category for railway traffic only and by reducing charges for 5-ton lorry loads.

This tendency has been further strengthened by the Fourth Road Haulage Amending Act of 1 August 1961, whereby the Federal Government is required to act so that conditions of competition between various means of transport are equalized and traffic is economically and rationally apportioned by virtue of realistic charges and fair competition between different forms of transport. The amending act of 1 August 1961 also states that the Federal Minister of Transport is required to co-ordinate transport services and charges as necessary to prevent unfair competition.

Whereas long-distance road haulage charges had previously been exclusively fixed charges, it is now possible under the act of 1 August 1961 to draw up fixed charges or minimum-maximum charges. Charges must allow for the economic situation of road transport undertakings. When fixing minimum-maximum charges, unfair handicaps on agriculture and small and medium-sized businesses must be avoided, as well as on regions that are poor or badly served by transport. Reductions and other benefits which are not published and are not available to all under equal conditions are prohibited.

In the same way any payments and other benefits which would constitute an evasion of the tariff are forbidden.

The validity of a contract of carriage is not affected by private arrangements in contravention of the tariff. In such a case the conditions and charges continue to be governed by the tariff. For the procedure regarding supervision and rate adjustments see A 1 b above.

The compulsory tariff obligation applies not only to the parties to a contract of carriage but also to the parties to a forwarding contract for the long-distance haulage of goods by road.

This rule does not apply to transactions between forwarding agents and their principals involving groupage consignments, the charges for which are covered by special provisions (see Part V, Section II A).

For brokers procuring space or loads, the Federal Minister of Transport lays down maximum brokerage rates, as far as the carrier is concerned, by decree in agreement with the Federal Minister of Economic Affairs, but without the approval of the Bundesrat.

Forwarding agents' charges as regards long-distance hauliers are laid down by the Federal Minister of Transport by decree in agreement with the Federal Minister of Economic Affairs, but without the approval of the Bundesrat. Forwarding agents provide the long-distance haulier with services preparatory to shipment. They must be authorized for this purpose by the senior Land authority. They are then entitled, in each particular case, to reclaim from the carrier a specified proportion of the rate charged for the carriage.

2. Tariff-fixing procedure

The Federal Minister of Transport, by a decree of 17 October 1961 has set up Tariff Commissions in Frankfurt-on-Main for the following:
 General and regional lorry-distance haulage;
 Long-distance and short-distance furniture removals;
 General short-distance haulage; and
 Short-distance forwarding traffic.

The tariff commissions consist of tariff experts from the relevant road haulage sectors. Members and their deputies are appointed for three years by the Federal Minister of Transport from a list of candidates put forward by transport firms or associations.

Each tariff commission embraces a Consultative Committee, consisting of shippers' representatives. Members and their deputies are proposed by industrial, commercial, forwarding, craft and agricultural interests and are appointed by the Federal Minister of Transport for three years.

The tariff commissions and consultative committees adopt their own internal regulations, which are subject to the approval of the Federal Minister of Transport.

The Federal Minister of Transport is entitled to be present at the meetings of tariff commissions and consultative committees or to send a representative. He can delegate officials of the Federal Long-Distance Road Haulage Department to represent him.

The tariff commissions' task is to lay down rates and specify any other details necessary for calculating transport charges, after the consultative committees have had an opportunity to state their views pursuant to the internal regulations. Proposals of tariff commissions need the approval of the Federal Minister of Transport, whose decision requires the agreement of the Federal Minister of Economic Affairs.

The Federal Minister of Transport must make his observations within three weeks of receiving the tariff commission's proposal and must reach his decision regarding approval within two months after receiving

the proposal. By agreement with the Federal Minister of Economic Affairs, he himself, instead of the tariff commission, can lay down rates and specify any other details necessary for calculating transport charges if necessary for the general well-being.

All the other conditions of carriage governing contracts of carriage are laid down by the Federal Minister of Transport.

The tariffs, laid down and approved as above, are promulgated by the Federal Minister of Transport in the form of a decree, not subject to approval by the Bundesrat.

He can, by agreement with the Federal Minister for Economic Affairs, repeal decrees containing rates and other details necessary for calculating transport charges if necessary for the general well-being.

The tariffs must be published either in the *Bundesanzeiger* or in the Federal Ministry of Transport Official Gazette (*Verkehrsblatt*). It is not necessary to publish the complete text of the tariff in the Official Gazette so long as it indicates the dates of entry into force and expiry of the tariff and contains a precise description of the tariff and its source.

In practice, long-distance road haulage tariffs are published in the *Bundesanzeiger* and noted for information in the *Verkehrsblatt*. The Long-Distance Goods Transport Working Association (*Arbeitsgemeinschaft Güterfernverkehr*) publishes an unofficial edition of the Reich Vehicle Tariff (*Reichskraftwagentarif*) containing all modifications and additions. The decree of 23 December 1958 also refers to this edition.

b) LONG-DISTANCE FURNITURE REMOVALS

The rates for furniture and household removals are laid down in the Furniture Removal Tariff on a bulk and distance basis. If the rate charged is lower or higher than the tariff, an adjustment must be made as in the case of long-distance haulage.

The procedure for fixing and approving tariffs is the same as for long-distance haulage.

c) GENERAL SHORT-DISTANCE HAULAGE

Rates are given in the Short-Distance Haulage Tariff. No provision is made for a government-stipulated body of conditions, and short-distance haulage is largely governed by the General Conditions for the Short-Distance Carriage by Road (*Allgemeine Beförderungsbedingungen für den gewerblichen Güternahverkehr mit Kraftfahrzeugen*).

The law is based on the principle that charges for short-distance haulage are maximum charges, except where otherwise prescribed by the tariff. Consequently until 1 February 1959 there were rules for maximum charges only.

The tariff of 29 December 1958 (*Bundesanzeiger 1959 No. 1*), on the other hand, is a minimum-maximum tariff. Any payments and benefits which would constitute an evasion of the tariff are forbidden. Any rates agreed on in violation of the tariff are invalid and are charged

at the minimum rate in the case of undercharging or at the maximum rate in the case of overcharging.

Rates for forwarding contracts involving short-distance haulage are governed in the same way as for long-distance haulage.

Tariffs for short-distance haulage are laid down and published in the same manner as long-distance tariffs.

The Länder Governments can, however, without the intervention of the tariff commissions, lay down short-distance tariffs in agreement with the Federal Ministers of Transport and of Economic Affairs and promulgate them in the form of a decree if they only apply to a Land or part of a Land and if the Federal Minister of Transport has not issued a tariff for the area in question.

There is no tariff supervision or rate adjustment procedure comparable to that for long-distance haulage. Tariff supervision is part of the general supervision exercised by the licensing authority. The Fourth Road Haulage Amending Act nevertheless lays down that settlements of charges or the auditing thereof can be directed by the tariff to be performed by a Settlements Office.

Infringements of short-distance tariffs are dealt with under the penal and disciplinary provisions of the Road Haulage Act and the general law on charges.

The provisions relating to long-distance brokerage traffic are by analogy applicable to short-distance traffic.

d) REGULAR SHORT-DISTANCE HAULAGE

Compulsory tariffs also exist for regular short-distance haulage. The rates are fixed rates. Any payments and grants constituting a violation of the tariff are forbidden.

Tariffs for regular short-distance haulage are not fixed by decree, nor do they have to be published. Each carrier must stipulate his own conditions and rates for each service. The tariffs thus drawn up must be approved by the senior Land transport authority.

There is no tariff supervision or rate adjustment procedure for long-distance haulage. Tariff supervision is part of the general supervision exercised by the licensing authority.

Infringements of regular short-distance haulage tariffs are dealt with in the same manner as for general short-distance haulage.

IV. TRANSPORT ON OWN ACCOUNT

By the terms of the Road Haulage Act, transport on own account is the carriage of goods for an undertaking's private purposes. The carriage must be of goods supplied to or delivered from the undertaking or of goods moved within the undertaking or, for its own consumption outside the undertaking.

The goods transported must also have been acquired for consumption or re-disposal or be or have been intended for the undertaking's own consumption, or for commercial hiring, refining, processing or conversion or be produced, extracted or manufactured by the undertaking.

Transport on own account also covers carriage by commercial representatives, commercial brokers and commission agents provided that it is carried out by private cars with trailers or lorries whose payload does not exceed two tons without trailer.

Transport on own account does not require a licence.

Long-distance transport on own account is nevertheless subject to a particularly high transport tax.

Anyone operating long-distance transport on own account with a motor vehicle whose payload exceeds 1 ton must possess transport documents and a journey log book. Carriers are required to send copies of the transport documents every month to the Federal Motor Transport Department (*Kraftfahrt-Bundesamt*) for statistical purposes and to the Transport Taxation Office for tax purposes.

Vehicles with a payload exceeding 4 tons and prime movers of more than 55 h.p. used for transport on own account must be registered with the Federal Long-Distance Road Haulage Department, where a special index is kept.

This Department and the police authorities are responsible for seeing that operators of long-distance transport on own account comply with their legal obligations.

Infringements of provisions governing long-distance transport on own account are dealt with as offences against regulations by the senior Land transport authority.

V. INTERNATIONAL TRANSPORT

Under the terms of section 103, paragraph 3 of the Road Haulage Act, the Federal Minister of Transport may, by decree and with the Bundesrat's agreement, issue regulations for international and transit traffic and for the implementation of international agreements.

For international transport from a foreign State to the Federal Republic or in transit through the Federal Republic, the foreign operator must be in possession of a German licence. The latter is granted by the senior Land transport authority for the area in which the operator's vehicle is first subjected to customs examination after crossing the frontier. The licence does not entitle the operator to engage in internal traffic.

Frontier customs posts are entitled to reject vehicles registered abroad if the carrier is not carrying the prescribed licence or the requisite transports documents. This provision does not affect the powers of the Federal Long-Distance Road Haulage Department.

Although cabotage is not expressly forbidden, foreign carriers not domiciled in the Federal Republic are excluded from internal traffic,

since by the terms of the Road Haulage Act every vehicle used for short or long-distance haulage must have a permanent base in Germany.

In addition a licence from the State in whose territory the loading or unloading points of the shipments transported are situated, or whose territory is used in transit, is generally required by a German carrier. This applies to traffic with Spain, Portugal, Great Britain, Yugoslavia and the countries of Eastern Europe.

Administrative agreements on commercial international haulage have been concluded with the members of the Community and with Denmark, Norway, Sweden, Austria and Switzerland.

The Federal Republic and Belgium have agreed that each country should grant up to a maximum of 300 licences to carriers of the other country for traffic between the two countries and a further 60 licences for transit traffic.

The Federal Republic and France have agreed on zonal quotas for international haulage (including transport on own account). The following are authorized each year:

- 4 000 journeys in the frontier zone;
- 13 000 journeys in the "small" zone;
- 7 000 journeys in the "large" zone;
- 600 transit journeys.

The Federal Republic and Italy have agreed reciprocally on 150 international licences. Germany grants an additional 20 licences to Italian contractors between 1 June and 15 September every year.

Between the Federal Republic and Luxembourg 100 licences can be granted to carriers in each country.

The Federal Republic and the Netherlands grant 1 050 licences to carriers in their respective countries which are recognized by the other country.

In traffic with Austria, each Government can grant 256 licences.

Switzerland and the Federal Republic have agreed to exchange 250 licences. These are issued for the duration of the agreement, for short periods or for a single journey.

With the Scandinavian States, the Federal Republic has concluded the following agreement:

Each side grants the other 280 licences in traffic with Denmark, 30 licences in traffic with Norway and 80 licences in traffic with Sweden. These are either permanent or for varying lengths of time or for a single journey.

The administrative agreements normally provide for exceptions from compulsory licensing for certain services of minor importance from the point of view of transport policy, especially local frontier traffic and household removals.

International transport on own account is not subject to licensing, except for traffic with the Scandinavian countries and with France, the Netherlands and Austria.

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The administrative agreements strictly forbid foreign carriers to undertake internal transport.

Under the agreements, carriers are required to respect the road traffic, transport and business legislation of the signatory States.

This applies particularly to rates legislation. According to German Law, the rate applicable for the part of the journey within Federal German territory must be calculated in conformity with the Reich Vehicle Tariff. For the part of the journey on foreign territory a reasonable rate must be charged.

PART IV

INLAND WATERWAY TRAFFIC

Section A — General and technical provisions

I. STATE ADMINISTRATION AND CONTROL

a) GENERAL REGULATIONS AND ADMINISTRATIVE COMPETENCE

Under the terms of the Act, the Bund is the owner of the former Reich waterways, which it manages through its own authorities. In the Federal Ministry of Transport the inland waterway traffic and water engineering branches, and for certain waterways the shipping branch, are responsible for all questions relating to federal waterways. The intermediate authorities (at regional level) responsible for exercising federal water engineering and navigation responsibilities are the Waterways and Shipping Departments (*Wasser- und Schiffabrisdirektionen*), and at local level the Waterways and Shipping Offices (*Wasser- und Schiffahrtsämter*).

In the management, equipment and construction of waterways the Bund must, in agreement with the Länder, take account of agricultural and water requirements.

The Bund's powers to the federal waterways and control inland waterway traffic are laid down in detail in the Inland Waterway Traffic (Federal Powers) Act (*Gesetz über die Aufgaben des Bundes auf dem Gebiet der Binnenschifffahrt*) of 15 December 1956.

Under this act the Bund's duties are:

1. To develop the inland waterway fleet and inland waterway traffic in the general interests of the country;
2. To protect and ensure the flow of traffic on federal waterways (water police);
3. To measure vessels on federal waterways;
4. To issue certificates of worthiness and declarations regarding the construction, equipment, crew and operation of vessels and floating craft on federal waterways;
5. To lay down loading and discharging times and demurrage rates, in agreement with the Länder.

In addition, the Bund has duties to discharge under the Commercial Inland Waterway Traffic Act (*Gesetz über den gewerblichen Binnenschiffsverkehr*) (BSchVG) of 1 October 1953.

The Bund's inland waterway duties under the two above-mentioned Acts are primarily entrusted to the Federal Minister of Transport, who can delegate his powers by decree to the Waterways and Shipping Departments. Some powers are entrusted direct to the latter. In

particular, to protect and ensure the flow of traffic, the Federal Minister of Transport is entitled to promulgate decrees on traffic behaviour, vessels' equipment and the qualifications of inland waterway crews.

b) SUPERVISION OF INLAND WATERWAY TRANSPORT UNDERTAKINGS

The division of authority as regards the supervision of inland waterway traffic is governed by the Waterway Police (Exercise of Powers) Agreement (*Vereinbarung über die Ausübung der schiffahrtspolizeilichen Vollzugsaufgaben*) between the Bund and the Länder, under the terms of which the executive organ responsible for nearly all federal waterways is the Land Waterway Police. In addition the Waterways and Shipping Departments and Offices are responsible at their discretion for taking the necessary steps to protect and ensure the flow of traffic on federal waterways.

The Federal Minister of Transport and the Waterways and Shipping Departments and Offices are also responsible under the Commercial Inland Waterway Traffic Act for supervising inland waterway undertakings and their tariffs.

Furthermore, under the terms of the enactment of 1 August 1961 implementing Regulation No. 11 of the Council of the European Economic Community (BGBl. I, p. 1153), the Waterways and Shipping Departments are required to supervise shipping companies, forwarding agents, brokers and transport sub-contractors as regards the obligations imposed by Regulation No. 11. For this purpose, they are endowed with wide powers of control and have the right to demand all necessary information regarding charges and conditions of carriage.

c) PENALTIES AND DISCIPLINARY POWERS

Infringements of inland waterway police regulations are contraventions dealt with under the provisions of Section 366, No. 10 of the Penal Code. Infringements of the identical regulations for Rhine traffic promulgated by the states bordering the Rhine are dealt with under Article 32 of the revised Rhine Shipping Instrument of 27 September 1952. Proceedings are taken pursuant to the provisions of the Inland Waterways and Rhine Traffic (Judicial Proceedings) Act of 27 September 1952.

Infringements of tariffs laid down by decrees are dealt with under the Economic Offences Penalties Consolidating Law (*Wirtschaftsstrafgesetz 1954*) of 9 July 1954.

Serious infringements are punishable as economic offences by a sentence of imprisonment or a fine of up to DM 100 000 or both; lesser offences (offences against regulations) carry a fine of up to DM 100 000. The latter are prosecuted pursuant to the Offences against Regulations Act of 25 March 1952 and the former are the subject of a penal action in the ordinary courts.

If the infringer has charged a rate higher than the one prescribed, the difference is forfeited to the State.

Other infringements of the Commercial Inland Waterway Traffic Act are punishable, if wilful, by a fine of up to DM 10 000 if premeditated, and, if negligent, by a fine of up to DM 5 000 in certain cases. This also applies to infringements of the provisions of Regulation No. 11 of the Council of the EEC.

II. TECHNICAL PROVISIONS

These are mainly intended to protect and ensure the flow of traffic. The following should be noted:

1. The Inland Waterway Regulations (*Binnenschiffahrtsstraßen-Ordnung*) of 19 December 1954 and the Rhine Shipping Police Decree (*Rheinschiffahrtspolizeiverordnung*) of 24 December 1954, the texts of which are generally identical, lay down uniform rules for traffic on all federal waterways with the exception of the Danube. They cover the technical requirements of vessels, behaviour whilst travelling, whilst moored and whilst passing locks and bridges and also passenger transport. Both texts authorize the Waterways and Shipping Departments to take any necessary steps for the security and good order of navigation.
2. Corresponding provisions for traffic on the German course of the Danube are contained in the Danube Shipping Police Decree (*Donauschiffahrtspolizeiverordnung*) of 29 September 1935.
3. The Maritime Waterways Regulations (*Seeschiffahrtsstraßen-Ordnung*) of 6 May 1952 must be observed by inland traffic on maritime waterways of the Federal Republic.
4. For the federal waterways, with the exception of the Rhine and Danube, the provisions relating to security standards for vessels' construction, equipment, crews and operation are covered by the Inland Waterway Vessels Safety Decree (*Verordnung über die Schiffssicherheit in der Binnenschifffahrt*) of 18 July 1956. The Inspection Regulations for Rhine Vessels and Floating Craft (*Untersuchungsordnung für Rheinschiffe und -flöße*) of 30 April 1950 applies to Rhine shipping and the Inspection Decree for Danube Vessels of 23 August 1958 (*Verordnung über die Untersuchung der Donauschiffe*) to Danube shipping. Vessels require a certificate of worthiness issued by special inspection authorities before they can navigate. The minimum crew is also laid down.
5. The carriage of combustible fluids and equipment for the vessels concerned are governed by the International Regulations on the Transport of Combustible Fluids on Inland Waterways of 30 April 1950.
6. The measurement of inland vessels is governed by the Measurement Regulations for Inland Vessels on German Waterways (*Eichordnung für Binnenschiffe auf deutschen Wasserstraßen*) of 23 March 1928, issued pursuant to the Inland Vessels Measurement Agreement (*Abkommen über die Eichung der Binnenschiffe*) of 27 November 1925.

In addition, a series of decrees deals with the procedure for qualifying masters and pilots and granting certificates.

III. PUBLIC INVESTMENT

The Bund being the owner of the federal waterways, whose management it undertakes through its own departments, it must in principle meet for operating, upkeep and administration costs out of its budget.

When new federal waterways are constructed or existing waterways reconditioned, the financing is usually undertaken by mixed-economy (public/private) enterprises in which the Bund is a shareholder. Agreements exist between the Bund (or Reich) and the Länder governing the methods of carrying out such work and the eventual use of new waterways.

Agreements were also concluded in 1956 with France and Luxembourg for reconditioning the Moselle and in 1929 with Switzerland for work on the Rhine between Strasbourg/Kehl and Istein. In the latter agreement it was also stipulated that attempts would be made to make the upper Rhine navigable.

For use of canals and canalized rivers, navigation dues are levied which are put towards depreciation and interest payments on capital. These dues are covered by various tariffs which apply to the different waterways. The classification of goods into six categories determines the calculation in terms of ton/kilometer. There are also special tariffs.

The fixing of dues allows the State, though within narrow limits, to influence the conditions of competition in inland waterway traffic.

The total sum from dues levied in 1957 was roughly DM 29 million.

IV. TAX TREATMENT

Inland waterway undertakings are subject to taxes on possessions and to material values taxes in the same way as other commercial undertakings, but inland waterway transport and towing services are exempt from transport tax and turnover tax.

In principle, taxes and dues are charged for consumption of diesel fuel by inland waterway shipping, but a decree provides for the grant of a State subsidy almost equal to the sum of these taxes and dues.

Rhine shipping is exempted from mineral oil customs duty and the mineral oils tax.

Section B — Provisions relating to passenger transport

Preliminary observations

Passenger transport is only of very secondary importance in German inland waterway traffic. It consists mainly of tourist trips and excursions.

I. LICENSING

There are no special provisions on the licensing of inland waterway passenger undertakings. Exercise of this activity is therefore subject to general commercial legislation only.

The technical regulations mentioned in Section A II must, of course, be observed with regard to vessels' equipment, condition and crews. These impose particularly high standards for passenger transport.

Ferry traffic is the subject of special legislation by Länder or local authorities.

II. GENERAL CONDITIONS AND RATES

Contracts of carriage are governed by the general provisions of civil law and legislation on charges. The competent local or regional administrative authorities have only issued partial regulations in regard to charges. This is especially true of ferry traffic.

Section C — Provisions relating to goods transport

I. LICENSING

..) GENERAL

In principle, the exercise of the activity of inland waterway goods carrier is not subject to any restrictions or special licensing and no special licenses are required for the vessels engaged in it. The waterway carrier is merely required to observe the technical and safety regulations mentioned in Section A II. If he himself is the master, he must hold a corresponding certificate.

Towage on canals and the Saar is the subject of special regulations: the towage of inland vessels is reserved to the State pursuant to the Act of 30 April 1913 on towage monopoly on the Rhine-Weser and Lippe canals, as supplemented by decrees issued by the Reich Minister of Transport. Details for West German canals are the subject of the Regulations of 29 June 1954 on the Federal Canal Towage Department.

b) PRINCIPLES AND PROCEDURE

The Commercial Inland Waterway Traffic Act of 1 October 1953 (BGBl. I p. 1453), as amended by the amending act of 1 August 1961 (BGBl. I p. 1163) governs the carriage of goods on the inland waterways of the Federal Republic.

1. *General provisions*

The act is partly an attempt to prevent ruinous competition in inland waterway traffic by allowing for the diverse forms and sizes of under-

takings, and it seeks to safeguard the interests of the small and medium-sized independent boatmen. This aim is intended to be achieved by the provisions regarding boatmen's associations and the apportionment of freight and towage. In addition its provisions on rates aim at preserving fair competition between water and rail.

By the terms of section 33 paragraph 1 of the Act, the Federal Government is required, in the better interests of traffic, to act so that conditions of competition between various means of transport are equalized and traffic is economically and rationally apportioned by virtue of realistic charges and fair competition between different forms of transport.

The Federal Minister of Transport is responsible for co-ordinating transport services and charges as necessary to prevent unfair competition.

The act does not apply either to transport on own account or in principle to international transport.

The act makes a distinction between boatmen (*Partikuliere*) and shipping companies (*Reedereien*), but only gives a definition for boatmen.

Boatmen (*Partikuliere*) are proprietors or operators of vessels who carry goods for reward as a general rule with three vessels at the most; this corresponds to the small boatmen (section 13 paragraph 1 of Commercial Inland Waterway Traffic Act).

A *proprietor* is the owner of a vessel intended for navigation on rivers or other inland waterways and used by him for such purpose.

An *operator* is one who uses for inland waterway navigation a vessel not belonging to himself and operates it either himself or through a boatman.

A *shipping company* (*Reederei*) is an inland waterway undertaking which as a general rule possesses more than three vessels and controls a commercial organization by means of which it seeks goods for transport and distributes barge space and towing facilities.

2. *Boatmen's associations* (Schifferbetriebsverbände)

The Commercial Inland Waterway Traffic Act set up boatmen's associations for the Rhine, the upper Elbe and the lower Elbe. These associations are public corporations.

For West German canals the establishment of a boatmen's association has not been necessary, since in this case co-operatives or long-term hire contracts prevail.

Membership of the associations is compulsory for boatmen (proprietors and operators of German nationality) who carry goods for reward as a general rule with three vessels at the most (barges, tugs or self-propelled vessels) with their base of operations in the basin of the river concerned and whose commercial activities are those of a small boatman.

This does not apply to proprietors or operators who as a result of their membership of a co-operative comparable to a shipping company or by

virtue of hire contracts for a minimum period of 18 months fulfil the requirements of the law. They can however belong voluntarily without sharing in the contracts concluded by the association.

The associations mentioned above have certain public powers. They can conclude contracts with carriers (particularly shipping companies) and shipowners' associations to ensure adequate employment for boatmen's vessels. Their statutes enable them to make an equitable apportionment of available freight and towage among their members, who can however conclude contracts of their own. Finally, they are entitled to arrange allocations and movements of vessels in order to ensure the orderly execution of hire contracts and apportionments of traffic.

The associations are forbidden to undertake any profit-making activities, especially shipping, chartering and forwarding, but they can perform tasks of a corporate and social nature. The boatmen's co-operatives, on the other hand, are profit-making bodies acting as societies for providing working funds.

The organs of the associations are the general meeting of members, the chairman and the consultative committee (*Beirat*).

These associations are subject to supervision by the Federal Minister of Transport, who can delegate his powers to a Waterways and Shipping Department. In particular, he has authority to approve apportionments of freight and towage, statutes, the appointment of chairmen and their deputies and budgets.

The supervisory authority settles appeals brought by members against measures taken by their association. Decisions by these authorities can be reversed by the administrative courts.

3. Apportionment of freight and towage

Agreements concluded between shipowners' associations or between shipowners and their associations regarding the apportionment of freight and towage traffic must be approved by the State, but only for goods transported wholly or partially on federal waterways. Agreements of this sort for port traffic are exempt. Authorization can only be refused on grounds of transport policy or undue restriction on competition.

As a general rule approval cannot be valid for more than three years, but it can be extended.

Withdrawal of approval can take place if the same was obtained fraudulently or if the parties concerned apply improper conditions.

The authorities responsible for issuing approvals are the Waterways and Shipping Departments, whose decisions can be appealed against. Decisions taken on appeal can be reversed by the administrative courts.

Anyone supplying false information for the purpose of obtaining approval or ignoring the invalidity of an unapproved agreement can be fined up to DM 10 000 by a Waterways and Shipping Department. Such decisions can be reversed by the courts.

4. Right of decree in an emergency

The Federal Minister of Transport or a Waterways and Shipping Department acting as his representative is entitled to apportion freight and towage traffic by decree in the event of an emergency or threatened emergency in inland waterway traffic.

An emergency is deemed to exist if on a given river or part of a river in the Federal Republic an abnormal shortage of freight exists and if in the absence of fair apportionment lasting economic injury would occur to a substantial portion or individual branches of the inland waterway industry. An emergency also exists if the independent boatmen on a given river do not procure a sufficient volume of traffic for their craft or tugs.

A decree can only be promulgated if it is not possible to remedy the emergency by agreement or by any other means.

The Federal Minister of Transport is required to consult the associations concerned with inland waterway traffic and also the relevant trade unions before promulgating an emergency decree. A Waterways and Shipping Department, before promulgating a decree, takes the advice of a council composed of six representatives of shipping companies and six boatmen's representatives, as well as a representative of the trade unions concerned. An emergency decree of this kind was promulgated for the first time for the period from 15 July 1959 to 30 June 1960. It provided that boatmen belonging to the Jus et Justitia boatmen's association of Duisburg-Ruhrort, should have a 25 % share in all transport of specified bulk goods on the German part of the Rhine. As a result of the appreciable improvement in the German shipping position on the Rhine, the decree was not extended after 30 June 1960.

c) FOREIGN OPERATORS

Foreign nationals are in principle free to act as inland waterway carriers. They can set up branch undertakings in conformity with the general commercial legislation and, like German undertakings, are subject to the provisions of Commercial Inland Waterway Traffic Act.

The activities of foreign boatmen are, however, limited by the fact that only German proprietors and operators (by nationality) can belong to the boatmen's associations. In the case of corporate bodies more than 50 % of the capital must belong to German nationals. Consequently foreign carriers are not able to participate in the same way as German boatmen in the apportionment of freight traffic and in the fixing of rates.

II. GENERAL CONDITIONS

The provisions of the Commercial Code apply to contracts for carriage by inland waterway, except for particular provisions in the Act of 15 June 1895 on private law status in inland navigation (*Binnenschiffahrtsgesetz*) (Inland Navigation Act). The latter governs the fol-

lowing: legal status of proprietor, boatman and crew; commercial details such as delivery, demurrage rates and periods, carrier's liability, bill of lading; damage, collisions and salvage; and rights of creditors.

Lay days are laid down for the Rhine, the West German canals, the Weser and the lower Elbe by decree promulgated by the administrative authority responsible for the waterway concerned.

Demurrage is laid down uniformly for all rivers by the freight committees for the Rhine, Dortmund, Hamburg, Bremen and Berlin, whose decisions are subject to official approval.

III. RATES

Whilst access to the market is free in principle, the freedom of decision of those involved in concluding contracts of carriage is partially limited by State control. Tariff-fixing for inland waterway traffic is entrusted to independent organs. The charges fixed by these organs are, however, subject to approval by the Federal Minister of Transport.

Details are governed by the Commercial Inland Waterway Traffic Act, which stipulates that inland freight committees are to fix charges for inland traffic and lighterage between German loading and discharging points affected throughout, or in the case of transit traffic partially, on federal waterways.

Freights for inland traffic include the transport charge, pro rata contribution, towage charge, hire of vessel and payment for other services directly connected with navigation.

Freights are fixed charges or minimum-maximum charges. They must allow for the economic situation of the undertaking concerned. When minimum-maximum charges are laid down, unfair handicaps on agriculture and small and medium-sized businesses must be avoided, as well as on regions that are poor or badly served by transport.

Tariff-fixing is the responsibility of the inland freight committees (*Frachtausschüsse der Binnenschifffahrt*). The members of these committees are appointed by the supervisory authority, on the proposal of the inland waterway traffic associations concerned, for a period of three years. The members are not bound by any orders or directives. The freight committees adopt internal regulations which require the approval of the supervisory authority.

The Federal Minister of Transport sets up, by decree, a freight committee for each area. The committees are placed under his supervision. The Minister can delegate his powers of supervision to Waterways and Shipping Departments, except as regards the freight committee for tanker traffic.

At the present time the following freight committees exist: Rhein (with headquarters in Duisburg), Dortmund, Bremen, Hamburg, Berlin and Regensburg. Each committee is responsible for specific river and canal areas according to the point of shipment of the cargo. The freight

committee for tanker traffic, however, covers the transport of oil on inland waterways throughout the Federal Republic, with the exception of the Danube.

By decree of 27 October 1961 the Federal Minister of Transport has set up an advisory committee for each freight committee. These advisory committees consist of shippers' representatives, proposed by industry, commerce, crafts, inland waterway forwarding firms and agriculture and appointed by the Federal Minister of Transport for a period of three years. The advisory committees are also under the supervision of the Federal Minister of Transport. Before any meeting held for the purpose of fixing rates, the freight committees must seek the opinion of their advisory committees.

By authority or order of the supervisory authorities, the above-mentioned freight committees set up technical committees (*Fachausschüsse*), regional committees (*Bezirksausschüsse*), joint committees, special committees and committees for routine business.

If the freight committees delegate their powers to sub-committees, the advisory committees are authorized, and by order of the supervising authority are required, to set up advisory sub-committees corresponding to these sub-committees.

The decisions of the freight committees and sub-committees must be approved by the Federal Minister of Transport in agreement with the Federal Minister of Economic Affairs. The Federal Minister of Transport has delegated his powers of approval to the Waterways and Shipping Departments, except for tanker freights. Decisions by such Departments are subject to the approval of the Minister of Economic Affairs.

The Federal Minister of Transport must make his observations within three weeks of receiving the freight committee's or sub-committee's proposal and must reach his decision regarding approval within two months of receiving the proposal.

Approved proposals are promulgated by the Federal Minister of Transport in the form of decrees, which must be published in the *Bundesanzeiger* or the *Verkehrsblatt*. It is not necessary for the complete text of the decision to be published in these gazettes. The Minister has the right to refer to the complete text appearing in the bulletin of freights and tariffs (*Frachten- und Tarifanzeiger*) for inland waterway traffic.

The Federal Minister of Transport can, in agreement with the Federal Minister of Economic Affairs, revoke decrees concerning freights if necessary for the general well-being. He can also lay down tariffs by decree if a committee has not stipulated a tariff or if necessary for the general well-being.

It is forbidden to depart from fixed freight rates or to exceed fixed maxima and minima. The validity of a contract of carriage is not affected by private arrangements contravening tariffs. The charge agreed on is replaced by the fixed charge or the maximum or minimum freight rate as appropriate.

If the parties to a contract agree upon a freight different from the stipulated rate, of which they are aware, the difference goes to the Bund. These payments are collected by the appropriate Waterways and Shipping Department.

In order to guarantee the application of nationally economic freight rates for inland waterway traffic and to shield the latter from economic harm, the Federal Minister of Transport, in agreement with the Federal Minister of Economic Affairs, can by decree promulgate an equalization of freights. He can compel a given shipping company or boatman to make payments for the benefit of other carriers or shippers. Before doing so, the Minister is required to consult the associations concerned. A distinction exists between internal and external equalization. For internal equalization, equalization funds are set up. Carriers who operate more profitable services or carry more valuable goods have to pay fixed sums into such funds for the benefit of carriers who operate less remunerative services.

An example of this, although based on voluntary agreement, is the freight equalization fund for South German coal traffic, set up in 1950 by German Rhine shipping undertakings by introducing an equalization levy of 6 % of total freights. The purpose of this fund is to subsidize transport in marginal areas up to the amount of the cost of direct rail transport, and it has been sanctioned by an order of the Federal Minister of Economic Affairs.

The details have been settled by an implementing decree of the Federal Minister of Transport (*Verkehrsblatt* 1950, p. 330). In the same way, an order of the Federal Minister of Economic Affairs in 1950 set up a system of external equalization for the transport of coal and lignite on the Rhine and its tributaries to destinations above Bingen, allowing freight rebates to consignees in the case of non-uniform traffic.

IV. TRANSPORT ON OWN ACCOUNT

Transport on own account, i.e. by an undertaking transporting its own goods in its own ships for its own needs, is not subject to any business controls.

However, if the owner of a vessel operating on own account undertakes the carriage of goods for reward, the provisions in force for public inland waterway traffic are applicable to all his navigation activities. This applies to compulsory membership of the relevant boatmen's association, participation in the procedure for the apportionment and equalization of freights and in particular the obligation to apply fixed tariffs.

V. INTERNATIONAL TRANSPORT

The Commercial Inland Waterway Traffic Act does not apply to traffic to and from foreign countries. This holds good both for German and foreign undertakings, but German carriers are subject to freight equal-

ization decrees and, where they are members of boatmen's transport associations, to the decisions and instructions of the latter.

The greater part of international inland waterway traffic takes place on the Rhine. All the shipping of the States concerned can take part freely in Rhine traffic. This is the result of the Act of Mannheim of 1868 which introduced technical and administrative conditions to facilitate international navigation on the Rhine, but the question of whether and to what extent the Act of Mannheim is applicable to the economic problems of Rhine navigation is a matter of dispute.

The Foreign Trade Act (*Außenwirtschaftsgesetz*) of 28 April 1961 (BGBl. I, p. 481) contains provisions on the participation of foreign boatmen in German inland traffic. By the terms of section 47 of the Foreign Trade Decree of 22 August 1961 (BGBl. I, p. 1381), pursuant to section 20 of the Foreign Trade Act, transport and towage on German inland waterways by vessels not registered on a German register of inland shipping are subject to licensing, but transport beginning and ending in the Rhine area and transshipment traffic between the Rhine area and ports in the West German canal area as far as Dortmund and Hamm are not subject to licensing.

In order to settle traffic and safety of traffic problems in Rhine navigation in particular, the Federal Republic is taking part in the studies of the Central Committee on Rhine navigation. The decisions taken by this committee are published by the Federal German authorities responsible for the German part of the Rhine.

The special economic problems of Rhine navigation are the subject of studies by the First and Second Economic Conference on Rhine Navigation, in which the Federal Government participates. To implement the decisions reached by the First conference the Rhine Navigation Working Association (*Arbeitsgemeinschaft der Rheinschifffahrt*) was set up in 1953 at Duisburg-Ruhrort. Any shipping company and boatmen's association for Rhine traffic can be a member. The Working Association has made a general survey of the Rhine navigation fleet and the traffic which it has to deal with. In addition, it has made a distinction between organized and unorganized traffic: organized traffic is deemed to include traffic regulated by pools, agreements and long-term contracts, and also German inland Rhine traffic which is subject to fixed charges. With a view to organizing other sectors, the following six freight agreements have been signed as a result of the Working Association's efforts:

1. The Duisburg freight agreement on parcels traffic (*Duisburger Frachtenkonvention für den Stückgutverkehr*);
2. The Rheinfeld pool agreement on Basle traffic (*Rheinfelder Poolvereinbarung für den Baselverkehr*);
3. The Strasbourg pool for traffic to and from France (*Straßburger Pool für den von und nach Frankreich gehenden Verkehr*);
4. The agreement on international grain traffic on the German part of the Rhine (*Konvention für den grenzüberschreitenden Getreideverkehr auf der deutschen Rheinstrecke*) (not yet in force);

5. The Kettvig agreement on international coal traffic (*Kettwiger Konvention für den grenzüberschreitenden Kohleverkehr*).

These conventions have, in particular, enabled agreement to be reached on freights. They also contain agreements on apportionment of traffic.

The freights are laid down by committees, of which consignors are also members under some agreements. The compulsory freights thus laid down are—like all freights for international traffic—unaffected by the tariff co-ordination powers of the Federal Minister of Transport.

In addition to these achievements of the Central Committee on Rhine navigation, mention should also be made of the European Coal and Steel Community's attempts to eliminate the present disparities between national and international freights for coal, iron and steel traffic. These have resulted in the "Agreement on freights and conditions of carriage for coal and steel on the Rhine", which came into force on 1 May 1958.

PART V

FORWARDING AGENTS AND OTHERS

Section A — Inland transport agents

I. LICENSING

Business legislation does not provide any particular regulations for forwarding agents. The only aspect subject to legislation is charges.

Generally speaking, the provisions of the Commercial Code, Section IV of which deals with forwarding business, are applicable to forwarding contracts.

According to Article 407 of the Commercial Code, a forwarding agent is one who undertakes to forward goods for reward in his own name on behalf of a third party (the consignor) through a carrier.

No licence is required to carry on the business of a forwarding agent. This also applies to foreign nationals.

The Road Haulage Act recognizes a special type of forwarding agent responsible for the formalities connected with sending goods by road (*Abfertigungsspediteur*). His activities include seeking goods for carriage, placing the same with carriers and attending to the business formalities connected with the carriage, in particular the issuance of shipping documents and the calculation and payment of charges under the tariff.

This type of forwarding agent must be appointed by the senior Land transport authority. Only forwarding agents registered in the Commercial Register who are reliable and whose experience and financial position offer guarantees for the performance of such duties can be appointed as *Abfertigungsspediteur*. The appointment can be cancelled, especially in cases of breaches of the business legislation governing long-distance road haulage.

II. GENERAL OPERATING CONDITIONS AND RATES

Articles 408 to 415 of the Commercial Code govern specific aspects of forwarding business. The following are of particular importance:

The forwarding agent must exercise the regular care of a merchant in dealing with the shipment. He must protect the shipper's interest and comply with his instructions.

Except as otherwise provided, the forwarding agent is entitled to perform the carriage himself, in which case he has the rights and obligations of a carrier at the same time; he can demand commission, normal forwarding costs and the customary rate for the carriage.

Also of importance are the German Forwarding Agents' General Conditions (*Allgemeine Deutsche Spediteurbedingungen*) (ADSp), first published in 1927 as a result of consultations between forwarding agents' associations and shippers' organizations and since then generally applied to forwarding contracts. These conditions were declared obligatory for all forwarding contracts concluded by members of the Reich Forwarding and Storage Traffic Group (*Reichsverkehrsgruppe Spedition und Lagerei*) by an order of the Reich Minister of Transport of 29 December 1939.

Under present legislation, the parties to a contract must expressly state that they will observe these conditions for them to be applicable. Shipping documents generally contain a clause to this effect.

The conditions govern the following in particular: orders and instructions to forwarding agent; services, remuneration and expenses of forwarding agent; acceptance and delivery of goods; insurance of goods; storage; lien; liability of forwarding agent.

Supplements to the ADSp contain insurance policies covering the forwarding and carriage. These stipulate that the goods consigned must be insured at the expense of the principal in order to compensate for the limitations imposed by the general conditions on the legal liability of the forwarding agent.

The forwarding agent may not charge the shipper a higher rate of carriage than that agreed with the carrier. He is entitled to charge commission for his services and to demand reimbursement of his expenses.

Compulsory charges for certain forwarding services and some compulsory maximum and minimum charges are specifically laid down by decrees promulgated, upon the proposal of the Federal Minister of Transport and in agreement with him, by the Federal Minister of Economic Affairs.

Mention should be made here of decree PR No. 73/51 on charges for road and rail groupage traffic. This governs charges to the customer for groupage business. Charges to the forwarding agent by the carrier (railway or road haulage) must in any case comply with the German Railway Goods Tariff (DEGT) for rail shipments or the Reich Vehicle Tariff (RKT) for road shipments. Decree PR No. 24/51 lays down uniform charges for parcels traffic, full loads and express packages. Lastly, decree PR No. 25/52 deals with charges for forwarding agents' services in maritime ports (*Seehafen-Speditionstarife*).

The specially appointed *Abfertigungsspediteur* (see above) are remunerated pursuant to Order PR No. 146/48, which distinguishes between the forwarding charge (*Abfertigungsvergütung*) and the broker's commission (*Werbe- und Vermittlungsprovision*). Both payments differ according to the nature of the goods and, as regards the first, according to the distance also. As commission and forwarding charge the *Abfertigungsspediteur* receives from a maximum of 10 % of the tariff carriage rate for parcels down to a minimum of 3 % of the tariff carriage rate for military goods. There is no payment for traffic coming under the special groupage tariff.

Section B — Provisions relating to other transport agents

Goods transport brokerage is governed by Articles 93 to 103 of the Commercial Code relating to commercial brokers. Special provisions on procurement of loads and space are only to be found in the Road Haulage Act, whereby long-distance haulage may only be engaged in by those normally exercising such activities in the course of their business. A register must be kept of such transactions.

In return for his services, the broker receives commissions from the road haulier. The Federal Minister of Transport, in agreement with the Federal Minister of Economic Affairs, lays down maximum commission rates by decree not requiring approval by the Bundesrat.

Commission paid for brokerage must not in any way whatsoever be passed on to third parties.

By the terms of the Road Haulage Act, it is forbidden for anyone other than an Abfertigungsspediteur or a broker complying with the requirements of the Law to procure loads or space.

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PART I

**BASES OF TRANSPORT POLICY
INSTITUTIONS AND ORGANIZATION****I. LEGISLATIVE POWERS**

Legislative power in transport matters is vested in the Legislative Assembly and, in so far as allowed by law, in the Government. On the other hand, local authorities have no legislative powers.

The provisions governing transport are therefore uniform and are compulsory for the whole of France.

II. ADMINISTRATION

a) MINISTRIES

The supreme administrative authority for all transport questions is the Ministry of Public Works and Transport. This Ministry is the competent authority for all forms of transport, including sea and air travel, and also for the administration, building, and maintenance of the appropriate infrastructures.

The Ministry of Transport consists of the following main administrative departments, directed either by a Secretary General or a Director (see the organization table in Annex 1), while tourism comes under the authority of a General Superintendent.

The Staff, Accountancy and General Administration Directorate is the competent authority for all matters of administration and organization.

The Directorate of Inland Transport deals with all matters relating to rail and road transport services, including social matters, and also with some aspects of navigable waterways. This Directorate is composed of a railways department, an urban road transport department, a working conditions and labour department, and an inland waterways division which concerns itself more particularly with matters relating to transport charges and terms, freight, contracts and agreements, taxation matters, co-ordination regulations, rules for the trade and the economic aspects of measures concerning the make-up of the inland waterways fleet and of the craft in it and the movement and utilisation of vessels.

The problems of building and administering national highways, traffic problems and the technical problems of road transport come under the jurisdiction of the Directorate of Highways and Road Traffic.

The Seaports and Navigable Waterways Directorate deals with all matters of building and administering seaports and navigable waterways and also with inland waterways administration.

The Secretariat General for the Merchant Navy is the competent authority for sea transport and the Secretariat General for Civil and Commercial Aviation for air transport.

Finally there is a Tourist Board, a Public Works and Building Construction Board and a National Geographical Institute.

The following departments, which have some general competence within their own field, come directly under the Minister of Transport:

- a) The Office of the Cabinet and of Legislative Matters;
- b) The Technical Co-operation Department;
- c) An official responsible for labour matters and welfare matters;
- d) A high official (Engineer-General for Bridges and Highways) responsible for representing the Minister at the various European Economic Community bodies. This is to some extent a department responsible for International Relations;
- e) The Economic and International Affairs Department. In this instance this is a special investigational department responsible for ensuring co-ordination within the Ministry and carrying out economic research into transport questions.

b) OTHER ADMINISTRATIVE BODIES

Details of the organization of the Société nationale des chemins de fer français (SNCF) are given in Part II.

The decree dated 14 November 1949, the basic instrument for the co-ordination of transport, provides for the setting up of special agencies to co-ordinate rail and road transport.

Decree No. 61-676 dated 30 June 1961 replaces the provisions of Article 40 in the Decree dated 14 November 1949, previously amended on various occasions, by the following provisions:

1. In each of the areas laid down by Order of the Minister of Public Works and Transport there shall be set up a Road Haulage Association open to public goods carriers included in the register of public carriers to provide long or short distance hauls.
2. For each of the said areas there shall be set up a Forwarding Agents' Association, open to firms holding the appropriate licence. The object of these non-profit-making Associations shall be:
 - a) To collaborate in administration in so far as concerns the implementation of the rules for the co-ordination and alignment of transport;
 - b) To carry out investigations and provide information likely to help their members to follow their trade (for this purpose, the trade associations shall co-operate with the agencies responsible for encouraging technical training);
 - c) To submit to the Road Transport National Committee or the Forwarding Agents' National Committee advice and suggestions on tariffs.

Finally, these Associations are intended to help in the collation of statistics concerning public goods transport by road.

3. Article 40 of the Decree relating to the co-ordination and alignment of rail and road transport also provides for the setting up of a Road Transport National Committee and a Forwarding Agents' National Committee. The members of these committees shall be elected by the representatives of the trade groups.

The object of these national committees is to guide, harmonize and supervise the work of the trade groups.

4. Finally, the Decree dated 30 June 1961 partially amends the provisions of Article 40 of the Decree dated 14 November 1949, relating to the setting up of tariff co-ordination committees. The present text stipulates that Regional Tariff Co-ordination Committees shall be set up and shall, within the region, ensure permanent liaison between the Government, the SNCF, public road carriers and forwarding agents; the committees shall also undertake joint tariff studies.

These regional committees shall have as Chairman an Inspector-General or an Engineer-in-Chief of Bridges and Highways, and shall include representatives from SNCF, the Road Haulage Associations and Forwarding Agents' Associations.

A National Tariff Co-ordination Council shall guide and align the work of the regional tariff co-ordination committees, shall pass opinions on the proposals for tariffs made by the Road Transport National Committee and the Forwarding Agents' National Committee and, when the proposals are likely to affect road transport, on tariff proposals made by SNCF. This Council shall also study the problems raised by bringing road and rail tariffs into line. The National Tariff Co-ordination Council shall have as Chairman a high official appointed by the Minister of Public Works and Transport, and shall include representatives from SNCF, the Road Transport National Committee and the Forwarding Agents' National Committee.

5. The general rules for the organization and operation of trade associations, national committees, regional committees and the National Tariff Co-ordination Council are contained in various decrees dated 30 June 1961. The essential rules are as follows:

The direction and administration of the road haulage associations and forwarding agents' associations shall be the responsibility of a Board elected by the General Assembly. The Board has the widest powers for the management and administration of the Association. More specifically, it appoints the Association's representatives to the Regional Committee of Tariff Co-ordination and co-operates in the setting up of the Road Transport National Committee.

To cover their expenses, the trade associations collect membership fees and annual subscriptions, the rates for which are fixed by the General Assembly.

Supervision of the Association devolves upon the Engineer-in-Chief of Bridges and Highways in the Department where the Association has its registered office.

The Disciplinary Council may be called on by the administration to give its opinion on the application to a company in the Association

of legal penalties for infringements of the transport co-ordination regulations.

The Road Transport National Committee and the Forwarding Agents' National Committee have their headquarters in Paris. Their duties are as follows:

- a) To keep up to date the basic tariff calculation system and the actual tariffs applicable to goods transport by road or the scales of charges for the authorized services provided by forwarding agents and to ensure the publication of these tariffs;
- b) To appoint their representatives to the National Council for Tariff Co-ordination;
- c) To draw up standard rules of procedure for the Trade Associations and to submit them for approval by the Minister of Public Works and Transport;
- d) To instruct the Trade Associations to carry out any necessary studies and investigations, to obtain their views and to obtain copies of all their official papers.

The Committees may be represented in a consultative capacity by one or more delegates at the Trade Associations' General Assemblies and at the meetings of their Boards.

The running costs of the National Committees are met by contributions from the Trade Associations, the share to be paid by each being fixed by the Committees.

The Regional Committees and the National Council for Tariff Co-ordination meet not less than once a month.

The Regional Committees may carry out any tariff studies concerning their area. They may express their views on any questions submitted to them by their members or by the National Council. They may submit any suggestions relating to tariffs to this Council.

The National Council for Tariff Co-ordination may submit any observations or suggestions relating to tariffs; one of its main duties is to carry out any studies which may be requested by the Minister of Public Works and Transport.

The running costs of the Regional Committees and the National Council are payable by the Road Haulage Associations and the Forwarding Agents' Trade Associations represented on them and also by SNCF.

6. In the field of inland navigation, the National Office for Navigation had been set up by an act going back as far as 27 February 1912. The Decree of 26 December 1960 modified the organization of this public body and partially changed its terms of reference.

By the terms of this Decree, the Office for Navigation is a special department under the supervision of the Minister of Transport whose instructions are binding. The Office has its own funds.

Its duties are very wide, not only as regards administration, but also as regards the economic organization of inland navigation. Thus, various acts and decrees have made the Office responsible for dealing with economic, technical and social matters relating to inland naviga-

tion, and for co-ordinating the latter with other forms of transport by preparing for and, if necessary, taking suitable administrative action.

In practice, the Office for Navigation, the sub-offices of which are spread all over the country, is the Minister of Transport's executive body for the economic problems of inland navigation. A notable example of this is the procedure for freight contracts and for inland waterways freight charges which the Office fixes, and the implementation of which it supervises, subject to the new powers of the Directorate of Inland Transport in respect of inland navigation.

The Office for Navigation is responsible for the collection of certain navigation dues; it is, furthermore, the competent authority for carrying out statistical enquiries into inland navigation matters.

Finally, the Office keeps in touch with all matters concerning navigation on waterways under international jurisdiction.

In order to promote inland navigation, the Office for Navigation may set up any necessary bodies, delegate this task to third parties or take shares in operating companies.

The Board, made up of high officials, is the competent authority to take decisions on all matters of principle coming under the Office for Navigation. The Director of Seaports and Navigable Waterways within the Ministry of Transport carries out the duties of Government Agent.

The Office for Navigation's administration devolves upon the Office's Director, who represents it in dealing with third parties. Legal provisions governing inland navigation and transport co-ordination vest the Director of the Office for Navigation with far-reaching powers.

In addition to the central department in Paris, there are 10 regional departments headed by Engineers-in-Chief of the Bridges and Highways department. Each of these regional Directorates has set up a number of freight offices.

7. The Freight and Operation Central Commission was set up by an order dated 21 March 1949. This Commission, an agency of the Office for Navigation, has as its Chairman, the Office's Director. The Commission is made up of 22 members: 5 are representatives of government departments, 13 representatives of the different classes in inland navigation and 4 representatives of transport companies. The Commission acts mainly in a consultative capacity. Nevertheless, it is also empowered to submit proposals for the amendment by the public authorities of freight charges for certain kinds of transport, always provided the alterations do not exceed 20% of the total amount involved.

Attached to each of the Regional Directorates for Navigation are one or two Freight and Operation Regional Commissions performing similar duties within their own territory. In addition, there are also freight offices at the main ports.

The Regional Commissions are made up of not more than 12 members representing the four following classes: boat owners, freight co-operatives and freight brokers, inland navigation transport companies and users of water transport. The Chairman is the head of the appropriate Regional Directorate.

The freight offices constitute the National Office for Navigation's external departments. Their main task is to ensure that inland boat transport is carried out in accordance with legal requirements. To this end, they are the competent authority for the organization of the rota system and the supervision of inland waterway transport, particularly as regards the implementation of the rota system and the fixed freight charges. They also carry out statistical enquiries and collect navigation dues.

c) ADVISORY BODIES

1. *Transport Supreme Council*

The Transport Supreme Council was set up within the Ministry of Transport to advise the Ministerial departments competent in transport matters particularly when legislation was being prepared. It also studies questions of principle arising from transport particularly as regards its co-ordination; it also familiarizes itself with litigation connected with the legal and economic aspects of transport matters. This Council which was set up before the war as a special body for transport co-ordination was brought back into being under the terms of Article 2 of the Act of 3 September 1947. The Finance Act of 14 April 1952 amended or supplemented parts of the original provisions. Membership of the Council and its method of operation are fixed by decree. Within the Council's duties comes the whole field of transport matters, whether economic, technical, financial or social.

The Transport Supreme Council conducts its meetings and enquiries either on its own initiative or on instructions from the Ministers responsible for the various means of transport, including transport by sea and air. Numerous legislative and regulatory provisions governing transport expressly state that the Council must be consulted in its capacity as an expert body.

The Transport Supreme Council is made up of 38 members and a Chairman. The members are:

7 representatives of government departments, 4 of them Ministry of Transport officials, 21 representatives of private bodies, particularly those concerned with transport, including one representative for each of the various means of transport and transport on own account and 4 representatives from trade unions, 10 transport experts, 2 of them representing transport users.

The members of the Council are appointed by the Minister of Transport for a period of 6 years. The Chairman is appointed by decree on the proposal of the Minister of Transport.

The Council's Secretariat consists of a Secretary General, having under his orders an administrative group and a research department.

Under the terms of legal provisions, the Transport Supreme Council is divided up into the following parts:

a) The Assembly,

- b) The Commission for Inland Transport,
- c) The Commission for Air and Sea Transport,
- d) The Lawsuit Committee.

The Assembly is the competent authority for all matters of transport co-ordination and questions of principle arising from inland transport; the Commission for Inland Transport and the Commission for Air and Sea Transport deal with matters affecting their own fields. Finally, the Lawsuit Committee familiarizes itself with litigation over questions of inland transport.

Any matter submitted to any one of the Transport Supreme Council's parts is reported on, and an opinion on the subject is submitted to the Minister of Transport.

2. The Transport Commission for the Equipment and Modernization Plan.

The object of this Commission is to work out the proposals to be made for transport within the framework of the modernization and equipment plan (investment forecast).

The Commission is divided into sections corresponding mainly to the different means of transport. The Chairman is a high official in the Planning Department, who works in close co-operation with the Ministry of Transport.

3. The Accountancy Commission.

This Commission of experts was set up within the Ministry of Transport mainly for the purpose of working out the annual outgoings and income for various means of transport. The Commission furthermore carries out economic investigations into major transport problems.

The Commission, the Chairman of which is a Counsellor-of-State representing the Minister of Transport, is made up of high officials from the Ministry of Transport and other government departments concerned. The Minister of Transport may appoint rapporteurs to carry out the duties entrusted to the Commission. The Commission's Secretariat is managed by the Ministry of Transport's Economic and International Affairs Department.

4. There is also within the Ministry of Transport a Special Transport Studies Commission within the Common Market framework.

5. General Council for Bridges and Highways

This is an Assembly made up of Engineers-General of Bridges and Highways, which must be consulted about draft bills, decrees, orders, and other enactments of general application relating to the building, operation and management of roads, ports and navigable waterways and to the organization of the appropriate department. The General Council, either at the request of the Minister of Transport or on its

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own initiative, gives opinions on specific problems relating to roads, ports and navigable waterways.

The Council is made up of 5 sections, respectively the competent authority for:

- i) Technical matters regarding roads and railways;
- ii) Technical matters regarding navigable waterways and seaports;
- iii) Economic, social, financial and administrative matters;
- iv) State contracts and litigation;
- v) Economic and international affairs.

The General Council, with an additional member from the Council of State and a representative from each of the following services: Inspectorate General of Finance and Directorate General for Prices, performs the duties of an Advisory Commission for Contracts.

6. Advisory Committee within the National Office for Navigation

This Committee was reinstated by the Decree dated 26 December 1960. It is made up of 4 high officials from government departments, 4 representative boat owners and 4 representatives of shipping firms, and a representative of each of the following classes: freight brokers, towing operators and Rhine steamship companies, together with 3 representatives of transport workers and 7 representatives of transport users. The 25 members of the Committee are appointed for 4 years by the Minister of Transport, on the proposal of their various orgæ

The Committee elects its Chairman and Vice-Chairman from among its members other than those representing transport users.

The Director of the Office for Navigation takes part in the meetings but has no vote.

The Advisory Committee is empowered to submit proposals to the Minister of Transport on all matters relating to the provision of transport by inland navigation.

It is obligatory for the Committee to be consulted on the following questions:

- a) Establishment of freight rates and conditions of transport;
- b) Steps regarding the regulation of freighting;
- c) Steps to co-ordinate transport and to regulate international transport;
- d) All steps concerning the regulation of the use of boats and the make-up of the inland waterways fleet.

In addition, the Committee gives its opinion on any other questions submitted to it by the Minister of Transport.

To fulfil these duties, the Advisory Committee has set up sub-committees for freighting, determination of freight charges, transport by waterways and the make-up of the inland waterways fleet.

d) ADMINISTRATION OF TRANSPORT IN THE DEPARTMENTS

1. *Prefects*

In each Department the Prefects undertake the duties relating to transport regulations. In addition, various acts or decrees governing transport have given them certain other powers which however are as a rule delegated to the Department's Engineer-in-Chief for Bridges and Highways.

As far as the railways are concerned prefects possess certain supervisory powers over local railways and tramways.

Decree No. 61-175 dated 30 June 1961, amending Article 44 of the Decree dated 14 November 1949 relating to the co-ordination and the alignment of rail and road transport, vests in the Prefect the powers of decision formerly held by the Departmental Technical Committees. The decisions relate to matters of economic legislation regarding public rail and road passenger and goods transport.

The Prefect reaches his decisions after discussion by the competent Departmental Technical Committee, of which he is the Chairman. The Prefect's decision must be immediately published in the Prefecture's official administrative journal and this publication must include the latest date for any appeal against the decision. An appeal through the proper channels delays the implementation of the Prefect's decision until the Minister has reached his decision.

2. *Engineers-in-Chief of the Bridges and Highways Department*

Engineers-in-Chief perform in the various Departments the duties devolving upon the Ministry of Transport. They are the competent authority for road and navigable waterways matters and for transport by road and waterways. Certain members of their staff also take part in supervision of matters outside the department.

Special departments for navigable waterways exist at Compiègne, Lille, Nancy, Strasbourg, Lyons and Toulouse. These departments are directed by Engineers-in-Chief of Bridges and Highways who are directly responsible to the Ministry of Transport. They are empowered to take any administrative action necessary for the management of navigable waterways and inland navigation.

By contrast, the competent authority for navigable waterways of minor importance are the Departmental Engineers-in-Chief of Bridges and Highways.

3. *Transport Technical Committees for the Departments.*

These transport co-ordination bodies were set up by Decree as from 25 February 1935. The present regulations governing them go back to Article 44 of the Co-ordination Decree dated 14 November 1949 amended by Decree No. 61-675 of 30 June 1961.

Article 44 of the Decree relating to the co-ordination and the alignment of rail and road transport requires a Departmental Transport Technical Committee to be set up in each Department. This Committee,

an advisory body, is the competent authority for the implementation of the regulations relating to the co-ordination and alignment of rail and road transport. It sees that the various parts of the public passenger transport plans and the registers of public goods carriers and hirers of vehicles are all properly kept.

The amended version of Article 44 make the duties of the Departmental Technical Committee purely advisory. The powers of decision which they formerly held are now vested in the Prefect; the latter however consults the appropriate Departmental Committee on all matters about which the Committee is required to concern itself by the regulations now in force.

The Chairman of the Departmental Technical Committee is the Prefect or his deputy.

A Commission for Administrative Penalties, composed of members of the Committee, is the sole authority competent to give opinions in the name of the Committee on matters of administrative penalties.

The organization and operation of Departmental Transport Technical Committees are governed by the Inter-Departmental Order dated 9 July 1961.

Under the terms of this Order, the Departmental Technical Committee shall be made up of:

1. The Prefect in his capacity as Chairman;
2. The Engineer-in-Chief of the usual Bridges and Highways Department and two other high officials representing the local authorities;
3. Four advisers;
4. Four representatives of agriculture, commerce and industry together with one representative of public passenger transport users;
5. Two representatives of SNCF and also two representatives from other railway lines, should there be any;
6. Six representatives of the various classes of road passenger and goods transport companies;
7. One representative of the ancillary transport trades;
8. A Magistrate of administrative or judiciary grade appointed by the Prefect.

The representatives of the road transport firms are elected by firms operating in the Department.

The members of the Departmental Transport Technical Committees shall be appointed for five years.

Within each Committee there shall be set up two sub-committees, one for "passengers" one for "goods". These sub-committees shall be made up of representatives from the Departmental authorities, representatives of passenger and goods transport companies and representatives of transport users. These sub-committees shall be respectively competent to deliberate in the name of the Committee on any matter solely concerning passenger transport or goods transport.

The Committee shall remain the only competent authority for matters simultaneously concerning passenger and goods transport and for matters relating to the operation of such transport.

Finally, the Departmental Technical Committees shall set up Permanent Commissions, for "passengers" or "goods". These commissions shall have delegated powers, on behalf and instead of the Committee, to give an opinion on matters relating to the issue of permits. In addition, the Committee may entrust the Permanent Commissions with other duties.

The Permanent Commissions shall have as Chairman the Engineer-in-Chief of Bridges and Highways and shall be made up of one magistrate, one representative from SNCF and one representative from public transport companies.

A Secretariat under the authority of the Engineer-in-Chief of Bridges and Highways shall be responsible for the operation of the Committee and its subsidiary bodies. The Secretariat's main duties are to keep the register of public goods carriers, the register of goods transport vehicle hirers and the plans for public passenger transport.

The Departmental Transport Technical Committees shall draw up their rules of procedure in accordance with standard rules ordered by the Minister of Public Works and Transport. The rules of procedure shall be submitted for approval by the Prefect.

A Technical Commission set up within the framework of the Paris Transport Executive has the same competence for regular passenger transport services in the Paris area as the Departmental Technical Committees in the Departments. The Commission is made up of representatives of SNCF, of the Paris Autonomous Transport Board and of passenger road transport companies. The conditions for operation laid down by the Commission must be approved by the Board of the Executive.

The Minister of Transport makes decisions on all matters relating to services with part of their itinerary outside the Paris area.

Details of the decentralized sections of the Inland Navigation Department have already been given under II b.

III. TRADE ASSOCIATIONS AND OTHER BODIES REPRESENTING TRANSPORT INTEREST

a) CHAMBERS OF COMMERCE

Chambers of Commerce are public bodies recognized by law covering all industrial and commercial undertakings, including transport operators. It is their duty to protect the interests of undertakings within their particular districts. In so doing they must take into account the different interests of the various branches of the economy which they represent.

On certain problems they put forward recommendations, express wishes and give opinions which are, where required, passed on to regional or national public authorities.

Chambers of Commerce also deal directly with transport matters. For this purpose they maintain special sections which study economic, taxation and technical questions concerning transport, express opinions

on the subject and take part in the work of official Associations in the field of transport.

Chambers of Commerce set up and sometimes administer, even on a management basis, certain transport facilities such as seaports and motor coach stations. They further perform certain duties concerned with technical training.

A special body, with headquarters in Paris, has been set up for co-operation between Chambers of Commerce and the Post Office. This is the National Union of Transport Offices and the Post Office.

b) TRADE ASSOCIATIONS

Generally speaking, regional or Departmental associations have been set up for the various branches and kinds of transport and also for forwarding agents. There are also federations with headquarters in Paris. These federations represent at the national level the interests of members in the associations grouped within them and pass on their opinions and suggestions about transport matters to legislative or administrative bodies. The federations also present their members' views to the general public.

A large number of trade associations belong to the Transport and Management Liaison Committee within the National Council of French Employers. Within the framework of this central employers' federation and also that of the General Confederation of Small and Average-sized Undertakings there are special transport Committees. Most of the associations in the field of road transport and transport ancillary trades belong to the Union of Transport Federations which deals with welfare matters and labour legislation.

The annexed table covers only the major central federations with headquarters in Paris for the three types of inland transport and forwarding agents.

1. *Railways*

French private railways are grouped within the Railways' Association. There is also a National Association of Owners and Users of Private Branch Lines.

French railway contractors are affiliated to the National Federation of Railway Contractors.

Finally, road transport undertakings which provide joint rail-road transport on behalf of French railways are grouped under the National Association of Rail-Road Transport Operators.

2. *Road Transport*

Road Transport operators are grouped into associations within the different Departments. The central federation is the National Road Transport Federation (FNTR). This federation includes national commissions specializing in the main sectors of road transport for passengers and for goods.

There is also a French Association of International Road Transport Operators. A number of road transport undertakings, usually small in size, are organized into federations belonging to the National Union of Trade Associations of Motor Vehicle Road Transport Operators.

The interests of undertakings which hire out motor vehicles are protected by the National Association of Industrial Vehicle Hirers.

Finally, there is a special association dealing with transport on own account. This is the Association of Private Transport Vehicle Users.

3. Inland Navigation

The federation grouping all branches of inland navigation is called the National Council for Inland Waterways Transport. This Council is made up of 3 representatives of the National Association for Inland Waterways Transport and of 3 representative boat owners. The Council's task is to promote inland navigation; to this end it co-ordinates the efforts of the various groups concerned with inland navigation.

The interests of inland navigation undertakings are represented by the National Association for Inland Waterways Transport. This central body was founded in 1956. It covers a number of specialist associations which were formerly independent. It includes a special section for international matters.

Boat owners belong to associations, usually of a regional nature, which protect their interests. The most important of the associations are members of the Combined Ship-owners Associations and Co-operatives with headquarters at Conflans-Sainte-Honorine, which protects the interests of boat owners at the national level.

4. Specialized Transport

Transport undertakings which carry perishable foodstuffs are grouped under the National Federation for the Transport of Perishable Foodstuffs and the Like.

The interests of furniture removers are represented by the Association of French Furniture Removing and Warehousing Undertakings.

Finally there is the National Association of Rail-Road Hauliers and the National Federation of Railway Contractors.

5. Forwarding Agents

In this section there are three federations:

The Federation of Forwarding Agents and Ancillaries, Customs Agents, Transit Agents, Sea and Air Transport Agents;

The National Federation of Trade Associations of Joint Rail and Road Undertakings;

The National Body of Regional Road Transport Agents' and Freighters' Associations.

In order to co-ordinate their work, the three Forwarding Agents' Federations and the National Federation for the Transport of Perishable Foodstuffs and the Like have set up a Forwarding Agents' National Council to protect their common interests in dealing with government bodies.

c) TRADE UNIONS

There are three main groups:

1. Three trade unions form the membership of the General Confederation of Labour (CGT):

The National Federation of Railway Workers, Clerks and Technicians;
The Transport Services National Federation;
The National Union of Transport Engineers and Clerks.

2. The following trade unions are represented on the General Confederation of Labour (CGT-FO):

The Railway Workers, Foreman and Technicians Labour Federation;
The National Federation of Transport Workers;
The Transport Clerks' Federation.

3. The French Christian Workers' Confederation (CFTC) consists of:

The Federation of Christian Railwaymen's Unions;
The Federation of Trades Unions of Christians Road Transport Workers and the Like;
The French Federation of Engineers' and Clerks' Trades Unions.

4. In addition to these groups there exist other organizations which as a rule bring together employees of a specific kind. Among these, mention may be made of the following:

The National Federation of SNCF Drivers;
The Economic Union of French Railway officials;
The National Federation of Heavy Road Vehicle Drivers and the Like;
The National Union of Transport Managing Personnel;
The General Clerks' Confederation.

INTRODUCTION TO PARTS II - V

FUNDAMENTAL PROVISIONS FOR TRANSPORT CO-ORDINATION

I. GENERAL REMARKS

The source of the provisions in force regarding the co-ordination of the main means of transport is the Decree-Law dated 12 November 1938 and the Implementing Decree dated 12 January 1939. These two decrees contain the fundamental provisions for the regulation and the co-ordination of transport inside France.

During the war various decrees largely diverging from the pre-war legislation were issued, but a large number of them has since been annulled. On the other hand, that part of the co-ordinating provisions dating back to 1938-39 which is not contrary to the acts or decrees promulgated since the war ended remains in force.

The present regulations are based on Article 7 of the Act dated 5 July 1949, in the wording of the Decree dated 20 May 1960.

These provisions state that transport by rail, road, inland waterways, sea and air shall be co-ordinated and aligned so as to ensure that:

Users' needs are met;

The country's economy has available at the most advantageous terms both as regards quantity and quality all the means of transport which it may require;

When due allowance is made for the value of the service provided to users and for the special charges inherent in its status as a public service, the use of any means of transport results in the lowest possible true cost price to the nation;

Various means of transport shall co-operate when a single service involves the successive use of several of them.

The steps to be taken to achieve these ends must, where necessary, make due allowance for various other considerations, on the national or the international level.

According to the wording of the law, these steps might include:

Partial or total cancellation of passenger or goods traffic on certain railway lines;

Their replacement by road services;

Regulation of transport and safety measures for the various means of transport so as to bring them into line with each other;

Regulation of the terms for liaison between, and the technical and commercial operation of, the various means of transport, with a view as far as possible to avoid overlapping and to allow for the need of each one of them to achieve a proper operational balance.

The Act dated 5 July 1949 set up the framework for transport co-ordination and stated its objectives. The steps to be taken in each case

are set forth in the Decree dated 14 November 1949, relating to the co-ordination and alignment of rail and road transport, and also in various Orders and Decrees issued with a view to ensuring its implementation.

The Decree dated 14 November 1949, together with its numerous amendments, contains in all 53 articles in three parts. Its provisions lay down detailed requirements for passenger and goods transport and requirements common to both these kinds of transport. The provisions relate mainly to road transport. However, the Order also contains certain essential provisions aimed directly at co-ordinating rail and road transport.

The Act dated 22 March 1941 on the regulated operation of navigable waterways and the co-ordination of rail and inland waterway transport constitutes the basis for the regulations regarding this kind of transport and the co-ordination of navigable waterways and railways.

Sub-divisions II and III below give a general summary of the provisions relating specifically and in general terms to co-ordination of the three means of transport inside France.

On the other hand, the provisions relating to the regulation of road transport are dealt with in detail in Part III, those relating to the regulation of transport by waterway in Part IV and those relating to ancillary means of transport in Part V of the present report.

II. PROVISIONS FOR THE CO-ORDINATION OF RAIL AND ROAD TRANSPORT

These special co-ordination provisions deal with competition between railway and road transport undertakings, co-operation between them and replacement services. Different rules have been laid down for passenger transport and goods transport.

a) CO-ORDINATION PROVISIONS RELATING TO PASSENGER TRANSPORT

1. General Regulations

Article 3 of the Decree dated 14 January 1949 makes the provisions relating to co-ordination applicable to: all railway services, no matter how administered; in general, all regular road services and occasional road services.

Article 4 of the Decree states (with a view to the co-ordination of the various kinds of transport) that there shall be drawn up for each Department a plan for public passenger transport, in different sections, for railway services, regular road services and occasional road services.

2. Existence of both rail and road services on the same transport route

When the same transport route is served by railways and by road transport, Article 14 in the Decree dated 14 November 1949 states

that the itineraries of the two kinds of transport and also the road transport tariffs must be brought into line by the undertakings concerned and submitted to the Departmental Technical Committee. In determining itineraries and tariffs, due allowance must be made for users' needs and the duties incumbent upon the two kinds of transport.

3. Closure of a railway line to passenger services

Article 15 of the Decree dated 14 November 1949 states that such a step shall be decided on only after consultation with the General Council of the Department in question.

When the line concerned forms part of SNCF, the Minister of Public Works and Transport, after consulting the Departmental Technical Committee, shall determine the alterations to be made to the road services so as to ensure that the local public is properly served. When the line concerned forms part of another railway, the Minister of Transport may approve or decide on the replacement of the rail service by a road service under the terms of a concession or a lease contract.

4. Conditions required for the operation of a replacement service

According to Article 8, section 2, of its contract, the SNCF is responsible for any replacement services. It shall submit to the Departmental Technical Committee proposals for the operation by road transport undertakings of road services replacing rail services and for implementing proposed time-tables and tariffs. The latter shall enter into force following approval by the Committee.

Undertakings operating replacement services may be required to charge "social (i.e. uneconomic) tariffs". In this case, they will, as a general rule, be granted compensation.

5. Conciliation procedure

If the railway departments and the road service undertakings fail to reach the required agreement, the matter is referred to the Conciliation Commission.

This commission consists of five members, 4 appointed by the parties concerned, 2 for each, and a Chairman chosen from the members of the Transport Supreme Council and appointed by the Vice-Chairman of that Council.

Should the commission also fail to reach agreement, or should the Prefect concerned oppose its decision, the Minister of Public Works and Transport shall reach a decision after consulting the Transport Supreme Council.

b) CO-ORDINATION PROVISIONS RELATING TO GOODS TRANSPORT

1. Protected railway routes

Article 34 of the Decree dated 14 November 1949 lays down protective measures for railway lines earning high income; however, these measures have not yet been implemented.

These provisions state that the Minister of Public Works and Transports shall, after consulting the Transport Supreme Council, determine the railway routes on which the low transport costs warrant alterations in the road transport arrangements. On these routes long distance road haulage shall be permitted only within the limits of a vehicle tonnage quota corresponding to the transport which the railway cannot provide under conditions equally as good as those offered by road transport. The chosen road hauliers shall reach with SNCF special tariff agreements approved by the Minister of Public Works and Transport. Should no agreement be reached, the matter shall be referred to a Conciliation Commission, according to the procedure laid down for passenger transport (see b) 4 above).

The quotas shall be laid down by the Minister of Public Works and Transport, taking into account the economic position and the needs of users.

To this end, compensation for loss of profit incurred shall be made to the road transport undertakings not chosen, either by providing them with comparable work or by means of an indemnity for exclusion payable by SNCF.

2. Replacement services

Under the terms of Article 8 of its contract, SNCF may be empowered by the Minister of Public Works and Transport to suspend its service on a given line or part of a line and itself to provide a replacement service for this line or part of a line, or to operate such a service either directly or through a road transport undertaking.

Should satisfactory agreements fail to be reached with road transport undertakings, the Minister of Public Works and Transport shall, under the provisions in Article 26 of the Decree relating to co-ordination, issue SNCF with the necessary operating permits. These permits may not be transferred, but at the request of SNCF, identical operating permits may be issued to the undertaking on which it has called to provide the service.

The same shall apply to the permits issued to SNCF for the delivery and collection of goods, in accordance with Article 20 in the terms of its contract.

In the case of other railway lines, the Minister of Public Works and Transport may decide on the replacement of a rail by a road service under the terms of a concession or lease contract.

3. Local Transport

The Minister of Public Works and Transport may endorse any agreements between SNCF and the appropriate trade union organizations concerning the terms for providing railway lorry services within the framework of local transport.

4. *Joint rail-road transport*

By Order of the Minister of Public Works and Transport, SNCF may be empowered, on terms laid down for the purpose, to grant subsidies to professional road transport operators prepared to provide joint rail-road transport.

5. *Co-ordination of Tariffs*

Articles 35 to 37 of the Decree dated 14 November 1949 contain detailed provisions for the working-out and the use of SNCF tariffs and of public road transport goods tariffs.

These provisions require SNCF, on the terms laid down by its contract, to review its tariffs which shall show a minimum and a maximum charge with a sliding scale, where necessary, dependent upon routes and volume of traffic. This sliding scale shall be determined by making due allowance for the cost price of transport on the routes and for the volumes of traffic under consideration.

(Detailed explanations on the method for calculating SNCF tariffs are given in Part II, A, II b) and in C, II.)

The Road Transport National Committee shall for its part prepare a basic tariff for goods transport by road corresponding to the average cost price of the transport in question and including reference scales and plus or minus margins. Within the limits laid down by the basic tariff, the Road Transport National Committee shall draw up tariffs for actual use with a maximum and a minimum charge.

Should the drafts drawn up by SNCF and the Road Transport National Committee be likely to have repercussions upon road transport as a whole, they shall be submitted for an opinion to the National Tariff Co-ordination Council. However, this procedure shall not apply to any proposals for alterations made by SNCF under the terms of Article 18 in the Convention dated 31 July 1937 with a view to achieving financial balance in its operational accounts.

The draft tariffs must next be submitted to the Minister of Transport and enter into force after his approval or endorsement. The entry into force of the basic tariff for goods transport is in addition subject to the approval of the Minister of Economics and of the Budget.

Details of the procedure for endorsement and approval shall be laid down by Decree, on advice from the Transport Supreme Council. (A more detailed explanation on this subject appears in the appropriate sections of Part II and III).

SNCF and the public road transport undertakings may freely fix their transport charges within the limits of the margins laid down by the tariffs.

SNCF and the public road transport undertakings providing regular services are required to publish their charges at least eight days in advance.

The tariffs charged by SNCF and the road transport undertakings must enable them to achieve a financial balance in their operational account with due allowance for all their expenditure and outgoings.

Should the tariff proposals put forward by SNCF or by the Road Transport National Committee fail to comply with the co-ordination provisions and should satisfactory new proposals not be made within the required time limit, the Minister of Public Works and Transport may, after consulting the Transport Supreme Council, lay down tariffs differing from those suggested and from those in force. The same rule shall apply in cases where alterations to the tariff are justified either by some change in the factors governing cost prices or are necessitated by economic considerations.

III. SPECIFIC PROVISIONS RELATING TO CO-ORDINATING RAIL AND WATERWAYS TRANSPORT

Article 19 of the Act of 22 March 1941 states that transport by rail and by inland waterway must be co-ordinated in such a way that all resources are used efficiently and, where necessary, jointly under the best possible conditions for the national economy.

The co-ordination regulations may include the following measures:

For certain loads, traffic shall be divided between the two kinds of transport, or one of the two may be forbidden to transport loads reserved for the other;

Minimum freight charges may be fixed and minimum tariffs drawn up;

Dues may be made payable on the inland waterways transport of goods when the minimum freight charges fixed exceed the cost price plus a normal profit margin;

Provisions may be enacted aimed at limiting competition between inland waterway carriers.

PART II

RAIL TRANSPORT

Section A — General provisions

I. LEGAL STATUS; STATE AUTHORIZATION AND CONTROL

a) RAILWAYS IN GENERAL

A distinction must be drawn between national railways and local railway companies. A third group, secondary national networks, is of minor importance and may be equated with local railways, the regulations for which are in the main equally applicable to this third group.

All railways must have a permit to operate issued by the State. The operating conditions and the main public duties are laid down by contract. In addition the Act of 15 July 1845 on railway regulations and the Decree of 22 March 1942 containing the central government rulings on the regulations, for safety and operation of the national and local railways apply to all railways. These provisions above all regulate safety on the railways, penalties for infringement of regulations and also supervision of the operation of railways by central government departments.

b) SOCIÉTÉ NATIONALE DES CHEMINS DE FER FRANÇAIS (SNCF)

1. Legal status of SNCF: Purposes of the Decree and the Convention dated 31 August 1937.

The SNCF was set up by the Decree dated 31 August 1937. This Decree approves the Convention signed on the same date between the Minister of Public Works, acting on behalf of the State, the representatives of the five private railway companies in existence at the time and the representatives of the two national railway networks. This Decree settles the main financial and other questions arising from the transfer to SNCF of the previously independent railway networks.

Article 5 of the Decree empowers SNCF to make use of the concessions which had been issued to the companies superseded by itself. The concessions were at the same time extended to 31 December 1982. The State also conferred on SNCF the right to operate the two national networks until that date.

The fundamental provisions relating to the constitution and organization of SNCF and to its administration and financial management are contained in the Convention dated 31 August 1937 and its various codicils and also in a number of amendments.

All these transfer to SNCF, with effect from 1 January 1938, the whole of the assets and liabilities of the railway companies in operation before

that date. On that same date the railway companies gave up their concession rights in favour of SNCF.

In return, the companies were given 1 391 024 (49%) SNCF preference shares, the interest rate for which was fixed at 6% per year, and their amortization is to be so arranged as to be completed on 31 December 1982, the expiry date of the concession granted to SNCF.

The remainder of the capital, i.e. 1 447 800 shares (51%), bearing the same interest of 6%, is owned by the State. These shares represent both the total assets contributed by the networks belonging to the State and the credits which the State had made available to the private railway companies operating hitherto.

On the expiry of the extension of its concession rights, fixed for 31 December 1982, SNCF will cease to exist and its assets will revert to the State free of charge. To this end, the private railway companies have explicitly foregone all the compensation payments to which they were entitled under the provisions previously in force.

SNCF is subject to the Commercial Code and to the laws in force regarding limited companies, subject to any exceptions approved or provided for by the Decree dated 31 August 1937. Quite a large number of exceptions to this rule has been provided for in the Convention on SNCF's constitution and in its statutes. For instance, special facilities were granted to SNCF in respect of its constitution procedure.

Its organization and the division of responsibility among its component parts differ widely and in a striking degree from the usual custom in limited companies. The overriding influence is that of the State.

The objects of the company consist mainly in the operation of the national railways already in existence and, if necessary, the laying of new track. Subject to approval by the Minister of Public Works and the Minister of Finance, SNCF may take up any concession lease, direct or indirect shareholding in any form of business whatsoever if connected with the objects of the company.

2. Component parts of SNCF

The company is governed by its Board. This consists of 24 members, 10 of them State officials, 5 representatives of the old railway companies and 5 representatives of railway staff. The Director of Inland Transport is a member of the Board in the capacity of Government Superintendent. The members of the Board are appointed for six years, as is the Chairman, chosen from among State officials and appointed by Decree countersigned by the Minister of Public Works and Transport and by the Minister of Finance and Economic Affairs.

The Board performs or authorizes all the deeds and transactions relating to the objects of the company and represents it in all litigation and in its dealings with the State. The Board may delegate part of its powers to the Chairman.

Thus the Chairman of the Board, who has two Vice-Chairmen to assist him, is vested with the powers necessary to ensure the proper conduct

of the company's day-to-day business and, in particular, the management of its finances. These powers relate mainly to the management of rolling stock and structures. However, in any particularly important business, the Board takes direct action.

The technical, economic and administrative management of day-to-day business and also staff management are the responsibility of a Director General, helped by two Assistant Director Generals. These are appointed by the Chairman on the proposal of the Board, subject to approval by the Minister of Public Works and Transport.

Responsibility for financial management is delegated to the Secretary General, who is appointed in the same way.

The Directorate General consists of six Directorates responsible for the main technical and economic fields, and also a certain number of special central departments. Within the limits of the powers delegated to them, the directors issue the necessary instructions in the fields for which they are responsible to the departments placed under their orders, which departments are grouped into six regions.

The regions are administered by the Regional Directorates. They are subdivided into a rather large number of districts.

The Assembly General consists of the company's shareholders. The State representatives are appointed by the Minister of Finance and the Minister of Public Works and Transport. The Chairman of the Board acts as Chairman of the Assembly. The duties of the SNCF General Assembly are considerably reduced as compared with those of other limited companies. The Assembly General approves the accounts for the past financial year. It must further fix the amount of the fees payable to the members of the Board and those of the Auditor's Commission, as well as the maximum amount of certain sums borrowed for investment.

The Auditors' Committee consists of eight members, four of them representing private shareholders and four State officials. On instructions from the Assembly General, the Committee audits the SNCF accounts for the past financial year.

The Decree dated 26 July 1949 set up a Railway Financial Supervisory Mission, which performs its duties on behalf of the State and holds extensive supervisory powers. The Head of this Mission attends meetings of the Board and, where necessary, of its Committees and he is required to give his opinion on all major financial matters.

3. Supervisory rights of the Minister of Public Works and Transport and of other State bodies.

The overriding position of the State is clearly seen from the distribution of share capital and from the make-up of the bodies which manage SNCF. The State is in a position to take direct action in the management of SNCF.

Furthermore, various legal provisions enable the competent Government departments to exercise certain powers of supervision and to issue directives.

Article 42 in the terms of its contract stipulates that SNCF is subject to supervision and control by the competent administrative departments in everything concerning its fixed property, its rolling stock and its operation. This supervision covers both technical and financial matters.

As previously stated, the Director of Inland Transport in the Ministry of Public Works and Transport performs the duties of Government Superintendent within the SNCF Board. Within that Board he holds extensive powers.

Large orders are authorized only after scrutiny by the Railway Orders Scrutiny Committee, set up within the Ministry of Public Works and Transport and consisting of high officials from various government departments.

All SNCF accounts are audited both by its own Auditors and by the Railways Auditing Committee. The latter is made up of representatives of the Ministries of Finance and of Public Works and Transport together with members of the State Council and the Audit Court.

c) LOCAL RAILWAYS

The basic law goes back to 13 July 1913. Railways regarded as local are those constructed or maintained for the benefit of local or regional communities, whether or not a special platform for them exists (the same provisions apply to tramways).

Any local railways not directly operated by local authorities are subject to the concession system.

Concessions are granted, after detailed examination, either by an Act or by a Decree, depending upon whether or not State aid has been provided for.

The concession holder is subject to the duties laid down by contract. His rights, particularly the collection of charges according to a tariff, are also laid down in the same way.

Theoretically, new concessions may be granted to competing lines.

The building, maintenance and repair of local railways and also their operation are subject to permanent supervision by the appropriate Prefects, under the authority of the Minister of Public Works and Transport.

Concessions may be withdrawn by the authority which granted them subject to payment of suitable compensation. On expiry of a concession the railway's fixed property, which must be in a good state of repair, is transferred to the appropriate local authority.

The Decree of 23 October 1935 and the Act of 4 March 1942 state the conditions under which the Minister of Public Works and Transport may order the partial or total closure of local railways continuously sustaining heavy losses. Suitable measures may be enacted, when so required, for the proper operation of transport.

II. PROVISIONS CONCERNING OPERATION AND FINANCIAL MANAGEMENT

a) GENERAL ASPECTS

The Decree containing the central government rulings on the regulations, safety and operation of national and local railways settles the essential questions relating to the safety of railway fixed property and operation. Supervision of SNCF and other railways to ensure that they comply with the legal provisions, devolves as a matter of principle on certain sections in the Directorate of Inland Transport in the Ministry of Public Works and Transport, and, in the Departments upon the Engineers-in-Chief of Bridges and Highways.

1. SNCF

The fundamental provisions relating to the financial management and the operation of railways at the economic level are contained in the Convention dated 31 August 1937 and in the clauses of the SNCF contract.

SNCF has its own budget, independent from the State budget and drawn up each year by the Board prior to 1 December and revised in the course of the year. When making such revisions, SNCF must submit to the State the steps designed to cover from its own income all the expenditure arising from the maintenance, equipment and fitting out of any railway fixed property in service, and from its operation and management.

Since the codicil dated 10 July 1952, SNCF receives a grant from the State towards the expenditure arising from the maintenance and renewal of its railway tracks and the attendant fixed property.

The State also meets 50% of the costs of keeping attendants at level crossings situated on the national highways.

Finally, starting from 1 January 1952, the State meets the cost of the pensions paid to railway officials retired since 1 January 1949 and not replaced in the total manpower force.

Whenever the Board foresees a loss, which it is impossible to cover by making economies, it suggests increases or alterations in its tariffs which will cover it. These measures become effective if the Minister of Public Works and Transport, in agreement with the Minister of Finance, does not formally oppose them within a time limit of fifteen days.

In the event of opposition, the amount of the loss will be covered by a State subsidy.

Similarly, if the Minister of Public Works and Transport, in agreement with the Minister of Finance, requires SNCF to make a general reduction in its tariffs, he must meet the resultant loss of income by a compensatory payment chargeable to the State budget. A similar regulation, limited to the current financial year, provides for the case of a reduction in tariffs required by the State and affecting certain kinds of transport only.

In both cases, the reduction in tariffs shall come into force only after Parliament has voted the credits necessary for the compensatory payments.

Furthermore, SNCF is entitled to the repayment of expense incurred in loaning transport to the PTT (French GPO) department. The same principle applies to any other transport provided free of charge or at a reduced rate to official departments.

If, despite the various compensatory payments mentioned above, the SNCF annual accounts show a loss, it must be covered from SNCF resources. If the reserves are too small, the loss will be covered by means of a subsidy from the State. Any such subsidies must be repaid by SNCF from any profits it may subsequently make.

SNCF accountancy must follow normal commercial and industrial practice. Separate accounts must be kept for the operation of its transport services properly so called and also for the operation of its ancillary services.

It must submit detailed and separate accounts for goods traffic, for passenger traffic in the Paris suburban district and for passenger traffic in all other districts. The accountancy system used must be such that expenditure can be broken down into its various component parts, the average cost price worked out and the operational results determined for the three types of traffic.

After the General Assembly has passed the resolution relating to the annual end-of-year accounts, the latter are submitted to the Minister of Public Works and Transport for final approval after consultation with the Railway Audit Commission.

SNCF may raise loans only in order to make investments, to cover purchase prices higher than those provided for in the budget, to secure tide-over funds and to convert or to repay other loans. The State guarantees SNCF loans.

2. Local railways

The various railways' contract terms contain provisions relating to both the economic and the technical aspects of operation.

The provisions are mainly concerned with laying down the way in which the concession holder must contribute towards the maintenance of the permanent way in so far as he makes use of it, and the conditions under which he is required to provide transport on behalf of the PTT Department.

Furthermore, in most cases the terms of contract determine the charges and the conditions for transport.

When this is not the case, the concession holder must submit his own tariff proposals to the Minister of Public Works and Transport for his approval. The same procedure is laid down for fixing additional charges.

Article 4 of the Act on Local Railways dated 4 March 1942 states that the charges and conditions for transport must be fixed in such a way as at all times to ensure that the operational accounts are balanced.

Should the appropriate local authority fail to take the necessary steps to this end, the Minister of Transport shall, at the suggestion of the appropriate Prefect, order suitable changes to be made in the tariffs.

b) REQUIREMENT TO OPERATE, TO TRANSPORT AND TO FIX CHARGES

These requirements derive from the terms of contract entered into with SNCF by the Decree of 31 December 1937 and from the subsequent amendments thereto.

1. *Requirement to operate*

SNCF is required as a matter of principle to maintain the permanent way and all its dependencies in good condition so that the needs of commercial traffic and the requisite running of trains can always be easily and safely met by same.

Nevertheless the Minister of Public Works and Transport may authorize SNCF to reduce or even to suspend the service on a line or part of a line when he considers that the reduction or suspension is essential either because of traffic needs or the existence of other means of transport. Similarly the Minister of Public Works and Transport may authorize SNCF to provide or cause to be provided the service on a line or part of a line by another means of transport. SNCF is in all events responsible for such transport. The conditions are laid down by the Minister of Public Works and Transport on a proposal from SNCF.

Furthermore, SNCF is empowered to reach with other transport undertakings any agreements necessary to meet the needs of the public or the requirements of the service for which it is responsible.

As the result of Orders issued to date to increase efficiency and co-ordination SNCF has closed 9 700 km. of passenger lines, out of a total network of 39 500 km.

The Ancillary Transport Supervision and Operation Company (SCETA) is a subsidiary of SNCF which, on behalf of the latter, organizes certain road transport and haulage services. Road transport by means of its own vehicles constitutes only a part of this subsidiary's work. Its main task is to co-operate with road transport undertakings working on behalf of SNCF and to supervise their work. This supervision mainly concerns the door-to-door collection and delivery of goods carried by road transport, and also the transport of passengers by replacement road services. Under all circumstances SNCF is the transport undertaking responsible, and the tariffs used are SNCF tariffs.

2. *Requirement to transport*

The time-tables for ordinary passenger train services must be submitted for approval by the Minister of Public Works and Transport. The trains must contain a sufficient number of seats for all the people requiring them from the railway booking offices.

Nevertheless, the Minister of Transport may authorize SNCF at times of unusually heavy traffic to restrict the number of seats on offer in certain specified trains. SNCF may not refuse to transport any goods which the rolling stock normally allocated to this service is capable of transporting.

SNCF must as a matter of principle continuously, safely, punctually, promptly, and without favour provide transport for passengers, live-stock, commodities, goods and any objects whatsoever which may be entrusted to it.

3. Requirement to fix charges

As the counterpart of the duties incumbent upon it, SNCF is authorized to collect the charge for transport and the additional charges laid down in accordance with Articles 14 to 16 in the terms of contract.

These provisions require SNCF to submit to the Minister of Public Works and Transport tariff proposals or proposals for changes in tariffs which are at the same time sent to Chambers of Commerce and Chambers of Agriculture. These tariff proposals must be published in the *Journal officiel* not later than 10 days from the day on which they were lodged at the Ministry of Public Works.

The tariffs proposed shall enter into force at the expiry of a time limit of a full month starting from the date of their publication if the Minister of Public Works and Transport has not made known his intention to oppose them. In that event, the Minister's final decision must be made within a time limit of two months starting from the date of publication. In the absence of a decision, the tariff shall enter into application on the expiry of this time limit.

In cases of emergency, the Minister of Public Works and Transport may permit the provisional immediate entry into operation of the tariff proposed. He nevertheless maintains his right to oppose it.

Details of the procedure to be followed in the case of tariff changes aimed at covering a deficit, or in the case of tariffs imposed by the State, were given under II a) 1.

The tariffs may show a maximum and a minimum figure. In that case, when the transport charges are at least equivalent to the minimum laid down by the Minister, they may officially enter into operation and the publication procedure is considerably simpler. Charges coming into operation in this way remain in force for a maximum period of one year unless an extension is granted. SNCF is required periodically to supply the Minister of Public Works and Transport with statistical data about tariffs which have benefited from prices put into operation in this way.

Sub-section 1 of Article 17 in the terms of contract requires SNCF to collect transport charges without distinction and without favour.

Notwithstanding, Article 14, section 2, in the terms of contract allows SNCF to enter into tariff agreements with one or more consignors or consignees, taking their special position into account. These agreements nevertheless require the approval of the Minister of Public Works and Transport and their publication is also required.

Furthermore, SNCF cannot refuse the same advantages to other users in a similar position.

The new wording of Article 17 of the terms of contract as given in the Decree dated 27 June 1951 makes the requirements about tariffs considerably more flexible. It authorizes SNCF to enter into tariff agreements with various consignors and consignees likely to maintain or to increase its traffic. This authorization is granted on the express condition that these lower tariffs are likely to improve the financial results of SNCF's operation. Furthermore, any such agreements must be justifiable on commercial grounds or for technical reasons governing the provision of transport.

If, within a time limit of ten days from the date of their communication to him, the Minister of Public Works and Transport has not made known to SNCF his intention to oppose the agreements, they may enter into force for a period of one year, and they may also be extended. At any time after the first period of one year the Minister of Public Works and Transport may terminate the agreement by giving his decision with not less than three months' notice.

c) TRANSPORT BY MOTOR LORRIES AND FREIGHTING OF MOTOR LORRIES BY SNCF

Article 26 of the Decree dated 14 November 1949 empowers the Minister of Public Works and Transport, as soon as it is clear to him that SNCF will be unable to reach agreements with road hauliers satisfactory for public finances and for the provision of a public service, to issue SNCF the permits needed for it to provide the road services which it is itself authorized to undertake under Article 8 of its terms of contract within the service for the replacement of rail by road transport, or those which it is at liberty provide under Article 20 of the same terms of contract.

In all cases SNCF must receive on request and subject to certain conditions all the permits necessary for the door-to-door goods collection and delivery services which it has a duty to provide under Article 20 mentioned above.

The permits thus issued to SNCF may be neither transferred nor hired out but, on request from SNCF, equivalent permit certificates may be issued to the undertakings which it may call upon to provide the service.

The conditions to which the freighting of motor lorries by SNCF is subject have still to be fixed by Decree. Until this Decree appears, SNCF, in freighting its motor lorries, complies with the conditions laid down by the Decree dated 14 January 1957. (For further details consult Section A I in Part V).

III. PROVISIONS CONCERNING INVESTMENTS

SNCF is responsible for the maintenance of the railway and of all its dependencies and it must meet all the expenditure necessary for this purpose from its own resources. To this end a renovation fund has been set up and is replenished yearly.

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All schemes for additional initial construction work and the purchase of rolling stock, real estate and equipment are subject to prior approval by the Ministry of Public Works and Transport if they exceed FF. 50 000 in value. SNCF is empowered to carry out works and make purchases within the limits and under the terms laid down by the Minister of Public Works and Transport. Expenditure incurred in this way must be brought under a special heading in the budget.

In respect of construction work necessitated by railway operation, SNCF ranks as a government department, particularly in the matter of powers of expropriation.

Orders given by SNCF exceeding a certain amount in value must be previously submitted to the Orders Commission.

For any new investments, SNCF may be authorized by a special decision of the Ministers of Finance and of Public Works to raise loans guaranteed by the State.

IV. TAXATION

SNCF, like any other industrial undertaking, is subject to the general taxation system.

For passenger traffic, the transport duties amount to 8.5% of the fare; in addition SNCF must pay receipt stamp duties on tickets and on luggage checks. The duties are proportionate to the amount of the price paid for the ticket or the luggage check. Up to FF. 1, tickets and luggage labels are free of duty. From FF. 1 to FF. 500, the duties are on a sliding scale rising from FF. 0.007 to FF. 1.35. On amounts exceeding FF. 500, an additional duty of FF. 0.23 is payable per FF. 100 or part thereof. A stamp duty of FF. 0.10 per luggage check is payable on the transport agreements.

For goods traffic SNCF must also pay the previously mentioned receipt stamp duties, the amount of which is the same as for passenger traffic. It must further pay a stamp duty on the transport agreement ranging from FF. 0.005 to FF. 0.23 depending on the nature and the weight of the consignment. In 1960 the total amount paid to the State by SNCF amounted to FF. 498 million.

The duties on fuel are the same for railways as for road transport (see section A, IV in Part III).

The special fuel known as "Diesel 13" used in heavy diesel engines for rail vehicles is subject to a lower duty.

On 1 July 1960 the amount per 1 000 kg was:

Customs	FF. 0.342
T.V.A. (Purchase Tax)	FF. 19.60
Petroleum Institute	FF. 0.25
Total	<hr/> FF. 20.192

Section B — Provisions relating to passenger and luggage transport

I. GENERAL TERMS AND CONDITIONS

The provisions of the Act dated 15 July 1845 relating to railways and those of the Decree dated 22 March 1942 govern the entering into and the performance of transport contracts. The provisions deal mainly with safety during transport, the responsibility incurred for harm caused to passengers and goods and with passenger regulations.

The conditions for transport properly so-called are laid down by the corresponding terms of contract and by the general passenger tariff fixed under those terms or by special passenger tariffs.

The implementing conditions mainly lay down methods for calculating and collecting transport charges, for taking passengers on certain specified trains and for the transport of luggage and small animals.

II. RATES

A distinction must be drawn between the general passenger tariff and special passenger tariffs. Parallel with these are tariffs for luggage and for dogs travelling with a passenger.

The general tariff provides for two classes. Rates are fixed on a distance basis. No reduction is allowed for return tickets. Individual luggage not exceeding 30 kg. in weight may be transported free of charge.

Special tariffs, some of which provide for very large reductions in rates, have been laid down mainly on social grounds. The loss of revenue which they may cause is partially covered by the State compensatory payments.

Great importance also attaches to season-ticket tariffs granted to school-children and to workmen.

Finally, mention must also be made of the special tariffs for transport provided within the Paris area.

III. INTERNATIONAL TRANSPORT

The provisions of the International Convention (CIV) of 25 October 1952 relating to the transport of passengers and luggage by rail apply to SNCF's international traffic.

SNCF similarly works to the Common International Tariff for the Transport of Passengers and Luggage (TCV).

Section C — Provisions relating to goods transport

I. GENERAL TERMS AND CONDITIONS

The provisions in the SNCF terms of contract and the tariffs fixed under those terms apply to the entering into, and performance of, goods transport contracts.

The general conditions for the use of the goods tariffs, which form an integral part of Section No. 1 of the General Tariff Summary, contain many detailed provisions. The main ones relate to:

- The various means of transport
- Entering into transport contracts
- Loading and packing
- Responsibility incurred
- Delivery details
- Delivery of consignments
- Calculating rates
- Special transport
- Additional services offered by railways
- Customs operations.

The general conditions for the use of tariffs furthermore determine the conditions for the use of special and of reduced tariffs.

II. RATES

The General Tariff Summary consists of 4 Sections:

Section 1 contains the general conditions for the use of the general tariffs and the tariffs themselves;

Section 2 contains the various tariffs governing such things as fully occupied trains, private coaches, owners of private branch lines, transport of goods in containers;

Section 3 contains a list of names for goods;

Section 4 contains the numbered tariffs.

To this must be added a table of distances. The tariffs are published in the Tariff Bulletin.

A distinction must be drawn between the following tariffs:

Parcels, up to 20 kg., are transported at the tariff for postal packages; up to 50 kg., on the terms of the tariff for small consignments. For the latter there is also a special express parcels tariff.

Bulk consignments between 50 and 5 000 kg. may be sent either at the bulk consignment or at the express parcels rate.

Single truck load consignments, when not subject to special conditions, come under the numbered tariffs each applicable to a certain category of goods; the general tariff for single truck load consignments is only rarely used and then most frequently when the sender requires quick dispatch of goods normally subject to the numbered tariffs. *Parcels*

and bulk consignments are always transported by fast services. Fast services are also used for certain kinds of goods which by their nature require rapid transport.

For postal packages and parcels, distances are calculated by areas, each area corresponding to a Department; for other consignments distances are calculated from the table of distances. The graduated decreases in charges vary according to the tariff.

For single truck load consignments, there are four main classes: the main one of 20 metric tons and three lesser ones of 15, 10 and 5 metric tons. The increase in charges for the lesser classes amounts to as much as 60% for ECSC goods, or 96% for other goods.

A special tariff allows substantial reductions for consignments by made-up trains and by entire trains.

The trend towards paying closer attention to costs when determining the rates payable can also be seen in the tariffs set up in 1951 and known as "Station Index Numbers". The index numbers correspond to the volume of traffic at the dispatching and receiving stations. Rates calculated on this basis vary from case to case according to the length of the journey and the nature of the goods.

However, these differential tariffs do not apply to the transport of very bulky goods or in particular, to ECSC goods as a whole.

The facilities available to SNCF for granting special tariffs and entering into individual agreements were reviewed in detail under II b in Section A. Individual agreements as a rule carry fidelity clauses.

By 1959 about 300 special tariffs had been published. Special rates and conditions for transport had been granted in a slightly larger number of cases, mainly in order to meet competition. The number of secret agreements is not known.

The various measures mentioned above have enabled SNCF more successfully to meet competition from other means of transport.

III. INTERNATIONAL TRANSPORT

The provisions of the International Convention concerning the Transport of Goods by Rail (CIM) generally speaking apply to international transport by SNCF.

Furthermore, SNCF works to a large number of direct international tariffs. It should further be noticed that SNCF's tariff for France provides opportunities for the entry into operation and the publication of special import and export tariffs.

Special regulations have been laid down for transport in transit; SNCF may fix its rates and conditions for transport in this field so as successfully to meet competition from foreign railways.

The conditions fixed in this way are immediately enforceable. The Minister of Public Works and Transport must be informed of them. He may at all times forbid the further use of transit tariffs. He may further order that a transit tariff applicable to a specific port shall apply on the same terms to all the ports situated on the same coast.

PART III

ROAD TRANSPORT

Section A — General and technical provisions

I. ADMINISTRATION AND CONTROL

a) ADMINISTRATIVE COMPETENCE

The provisions regulating road transport, roads and practice of the trade of passenger or goods carrier by road have the same compulsory nature for the whole of France as the provisions governing other means of transport.

The legislative body is Parliament; the Minister of Public Works and Transport and, in road matters, the Minister of the Interior, are empowered to issue by Decree implementing provisions under a legal mandate specially granted in each case. The same powers are vested in Prefects and town councils in respect of safety and regulations.

The Directorate of Highways and Road Traffic in the Ministry of Public Works and Transport is the competent authority for the administration of both the economic and the technical aspects of national highways and also for technical matters relating to road traffic particularly safety. The parallel competent administrative authority for certain roads (Departmental and local roads) is the Ministry of the Interior.

The General Council for Bridges and Highways acts in an advisory capacity on road matters.

In the Departments, the Engineers-in-Chief of Bridges and Highways are responsible for the technical aspects of the administration of roads of all classes and of road traffic.

The administration of road transport and particularly the implementation of the legislative provisions governing the conditions for the provision of road transport and its co-ordination with other means of transport comes under the Directorate of Inland Transport in the Ministry of Public Works and Transport.

The Commission for Inland Transport in the Transport Supreme Council gives opinions on all fundamental matters connected with the co-ordination of road and rail transport. All litigation matters are submitted to its Lawsuit Committee.

At the Departmental level the Prefect is the competent authority for all matters relating to the administration of transport by road. He is advised by the Departmental Technical Committee, of which he acts as Chairman and then settles any dispute or complaint regarding the legal right to the title of road transport or service.

The new regulations which came into force on 1 July 1961 made the duties of the Departmental Transport Technical Committees purely

advisory as from that date. Since, however, they must still be consulted on all important matters relating to the organization of road transport, their work still plays a large part in the co-ordination of rail and road transport. Furthermore, the Departmental Technical Committees see to it that the various parts of the public passenger transport plans, the registers of public goods carriers and hirers of vehicles are all properly kept.

For further details, the reader is referred to section II in Part I. This section also contains the essential information on the organization and duties of numerous bodies set up to co-ordinate and align rail and road transport. These bodies consist of representatives of transport undertakings and forwarding agents and sometimes representatives of SNCF, central government departments and users.

b) SUPERVISION OF ROAD TRANSPORT UNDERTAKINGS

The technical supervision of motor vehicles comes under the Bridges and Highways Departments of the Ministry of Public Works and Transport. These departments also see that the regulations of the Highway Code are complied with.

Supervision of road transport undertakings to ensure that they comply with the provisions decreed under Article 48 of the Co-ordination Decree dated 14 November 1949 relating to the regulation of the passenger and goods carriage trade and to transport co-ordination, is carried out by the Engineers-in-Chief of the Bridges and Highways ordinary department under the authority of the appropriate Prefect.

Article 25 of the Finance Act for the fiscal year 1952 dated 14 April 1952 states that infringements of the legislative and statutory provisions regarding the co-ordination and alignment of road and rail transport shall be reported:

By officers qualified to report infringements of traffic regulations, particularly police officers;

By sworn officials appointed by the Minister of Public Works and Transport;

By sworn officers known as "Technical Assistants" who have been assigned special duties in road transport matters;

By sworn officials and officers of the Economic Inquiries Department, by inspectors from official departments and by excise officers qualified to make official reports.

The technical assistants are the supervisory agents of the Engineers-in-Chief of Bridges and Highways in the Departments.

A draft Decree aimed at the reorganization of the supervisory bodies is at present in the hands of the Council of State. This Decree would replace technical assistants by road transport supervisors. These supervisors are to have wide powers to supervise road transport undertakings both as regards economic legislation and the Highway Code. More specifically they are to supervise the implementation of the road traffic tariff scheme which has recently come into force. Some of these super-

visors are also to carry out their duties in freight undertakings and regional offices. In the course of their road transport supervision, it will be their duty mainly to check whether the entries made on the statutory road sheets and log books are correct and comply with the regulations.

The Engineers-in-Chief, as well as any officials and technical assistants made responsible by them for these duties, are empowered to inspect undertakings subject to the co-ordination legislation. The officials must check whether the accounts are kept in the statutory manner, whether they comply with the Minister's regulations and whether the regulations regarding transport documents have been observed.

The officials responsible for supervision write an official report of any infringements they notice. These official reports are the basis for any administrative or legal penalty.

c) PENALTIES

Infringements of the Highway Code are punishable by imprisonment and by a fine or by only one of these two penalties (Order No. 58-1216 and Decree No. 58-1217 of 15 December 1958).

Infringements of the legislative and statutory provisions regarding co-ordination are punishable under the penal provisions of the Order-in-Council dated 12 November 1938 and the Act of 14 April 1952 in the wording of Order No. 58-1297 dated 23 December 1958.

These enactments make infringements punishable by fines of from FF. 20 000 to 1 000 000; fines of from FF. 40 000 to FF. 200 000 are laid down for deliberately making false statements, for failure to meet the obligation of providing a service with the regularity required by statute, or the obligation so to transport where such regularity is required and for failure to observe the statutory tariffs.

The forgery of permits granted for public or private transport or the deliberate use of falsified documents are punishable by terms of imprisonment of from 6 months to 3 years.

Administrative penalties, parallel to these legal penalties, may also be imposed.

Any vehicle used in the course of an infringement of the co-ordination provisions may, on the orders of the Prefect, be disqualified for a period not exceeding 1 month; the transport permit may also be withdrawn, either for a period not exceeding 3 months, or for good.

The party concerned may appeal against these decisions; the decision rests with the Minister of Public Works and Transport. If a penalty is imposed because of the forgery of documents constituting a transport permit, the permit must be withdrawn.

Furthermore, if, when a permit has been granted, the attendant obligations have not been met, the Minister of Public Works and Transport is empowered to withdraw the permit after seeking advice from the Departmental Technical Committee and the Transport Supreme Council.

Should administrative penalties need to be imposed against members of the Road Transport Operators Associations, the competent department may first of all seek the advice of the Disciplinary Council set up within each Association.

The provisions of the Act of 15 July 1845 on railway regulations apply to infringements by travellers of the provisions governing regular motor bus services.

II. TECHNICAL PROVISIONS

The fundamental provisions relating to road traffic and to the driving of vehicles appear in Part II of the Highway Code at present in force in the wording of the Decree dated 15 December 1958.

Section I contains general provisions relating to road traffic.

Section II contains special provisions applicable to motor vehicles including trolleybuses and composite vehicles before they are allowed to be driven. The provisions relating to the permissible sizes and weights in the road haulage trade are particularly important. The main special provisions can be found in Annex 2.

Section II also governs the registration procedure.

Prefects and Mayors may, by virtue of the powers vested in them by law, lay down, within the limits of their powers and whenever safety considerations or reasons of public order so demand, more stringent measures than those decreed by the Highway Code.

Without prejudice to the general provisions of the Highway Code, all vehicles used by road transport operators are subject to regular technical inspection to ensure the safety of employees and third parties.

III. PUBLIC INVESTMENT

A distinction must be drawn between five classes of roads, each subject to special provisions.

All national highways belong to the French State and are administered by the Directorate of Highways and Road Traffic in the Ministry of Public Works and Transport and by the Bridges and Highway departments which come under it. In each Department the competent authority for all technical, financial and administrative matters regarding roads is the Engineer-in-Chief of Bridges and Highways.

The Departmental roads belong to the Departments who must as a matter of principle provide for their maintenance and administration. Similarly local communities must meet the expenses of the local roads and the urban roads properly so-called belonging to local communities. Since the promulgation of the Act dated 15 October 1940 and the Order dated 26 December 1940, the administration of Departmental and local roads also comes under the Bridges and Highways departments.

The competent local Bridges and Highways departments carry out the necessary administrative duties under the authority of the Prefect or Mayor.

On the other hand, urban roads and rural roads are administered by the competent local authorities. In large towns special municipal departments are responsible for this administrative work.

The funds needed for the administration, maintenance and building of roads of the different classes are usually and for the most part supplied by the local populations to which these roads belong. The Departments, and above all the French State, grant local communities special subsidies for road building. The Departments also receive State subsidies for their road networks. For a long time past plans for modernizing or building Departmental and local roads have been carried out with State aid.

Local communities and Departments are entitled to receive credits and in particular to raise loans to finance road building.

A special Road Investment Fund was set up by the Acts of 30 December 1951 and 3 January 1952 for the purpose of financing the building and modernization of the French road system. This fund receives a grant, the amount of which is fixed by legislative provisions and which comes from the annual receipts from duties on fuels. In this way, a part of the duties is used for this specific purpose. The Finance Act for the fiscal year 1960 assigns 7.7% of the income from the duties on fuels to the Road Investment Fund.

Originally the capital provided from the special Road Investment Fund was intended only for the building of national and Departmental roads; today it is used for the building of all other kinds as well. However, improvements to national roads remain the most important objective.

Under the terms of a First Five Year Plan, in the years 1952 to 1956 the Road Investment Fund received in all FF. 141.5 thousand million, of which 96.6 thousand million were for national, and 44.9 thousand million for other roads. In 1958, out of a total figure of FF. 27.2 thousand million, 25.5 thousand million were spent on national roads.

Plans to build and modernize the highways system are worked out by the Ministry of Public Works and Transport following consultation with the Road Fund Commission. This Commission consists of Members of Parliament and of high officials from the Ministries concerned.

IV. TAX TREATMENT

The road passenger transport trade is subject to a transport tax, amounting to 8.5% of the transport charge.

Road transport of goods, whether professionally or on own account, is subject to a transport tax of a special kind. It affects not the provision of transport but the means of transport used. The tax consists of a general duty, and, where applicable, of an additional duty.

In the case of the transport trade, the general tax amounts to FF. 30 per half-year, per metric ton or part of a ton for all lorries whose permissible fully-loaded weight exceeds 3 000 kg. and also for trailers whose permissible fully-loaded weight exceeds 750 kg. The additional duty of FF 700 per half-year is payable per metric ton or part of a ton by all vehicles with or without trailer of a permissible fully-loaded weight exceeding 6 000 kg. operating outside the short haul area, if the vehicles used belong to an undertaking in a trade association. Where this last condition is not met, the additional duty amounts to FF. 125 per half-year and per metric ton or part of a ton. The duty may also be paid on a daily basis, the rate for which is fixed at 1/50th of the half-yearly rate.

In addition, every transport contract is subject to a stamp duty of FF. 0.23 per consignment.

Exemptions from tax and reduced tax are allowable for vehicles used for certain purposes within the framework of the transport trade or transport for own account.

In transport for own account, the general duty amounts to FF. 27.50 and the additional duty to FF. 100 per metric ton or part of a ton.

Vehicles registered abroad and which provide only international transport on French territory are subject to the general duty and, where applicable, to the additional duty in the same way as vehicles registered in France. Both the general and the additional duty may be paid daily at a rate equal to 1/50th of the half-yearly rate. Wherever suitable agreements exist with the State concerned, exemptions or rebates may be granted.

The stamp duty of FF. 0.23 on the transport contract also applies to vehicles registered abroad.

The tax on internal combustion engine vehicles is payable on vehicles used for business purposes according to their horse-power and age. The tax amounts to FF. 200 for vehicles of 17 HP or more not more than 5 years old and then decreases progressively to FF. 30 for vehicles between 20 and 25 years old.

Duties on fuels

On 1 January 1960 the break-down of fuel prices was as follows: (in old Francs per litre)

	<i>Petrol</i>	<i>Gas-oil</i>
	<i>FF. per litre</i>	
Price at refinery	15.54	13.13
Customs duty	0.03	0.0258
Domestic Duties	68.32	39.7153
Purchase Tax	1.75	1.4815
Support fund	3.16	2.6026
Petroleum Institute	0.18	0.20
Transport cost	3.20	3.20
Retail profit margin	3.25	3.2948
	<hr/>	<hr/>
Total — excluding petrol station profit	95.43	63.65

Section B — Provisions relating to passenger transport

I. LICENSING

a) LEGAL BASIS

Article 7 of the Act dated 5 July 1949 quoted in the wording of the Decree dated 20 May 1960 together with the Decree dated 14 November 1949 relating to the co-ordination and alignment of rail and road transport constitute the essential basis of the regulations governing public road transport. Section I of the Decree dated 14 November 1949 contains the provisions relating to passenger transport.

The kinds of transport listed below are not subject to the Decree:

1. Transport provided free of charge in private cars or in the cab of lorries;
2. Transport provided by ordinary taxis, hired cars, ambulances and funeral carriages, provided these vehicles are used solely for the purpose intended for them;
3. Transport provided by a public department or by an agricultural industrial or commercial establishment to meet its normal operational needs on condition that the vehicles used transport only persons belonging to the department or the establishment; these vehicles may also transport the children of members of the staff of the department or the establishment going to school or to holiday camps and the families of these members going to market.

4. Transport provided with vehicles owned by:

A teaching establishment, provided that such transport is available solely to the students and the staff of the establishment and has an educational purpose;

A properly registered association provided that such transport is available solely to the members of the association and is directly connected with the purpose of the association, which purpose must not be tourism or transport.

All other passenger transport inside France is subject to the Decree and classified as follows:

Railway services, no matter how administered;

Regular road services and occasional road services;

Urban services permitted or organized by local authorities within urban boundaries.

The Decree gives the following definitions:

Regular services are those which ensure the service, at any desired frequency, of a route having a specific itinerary, on dates and in accordance with time-tables published in advance, and which take up and put down passengers at specific points on their itinerary. Certain regular services may be restricted to particular classes of users, especially airline passenger transport services between airports and the towns they serve, and school-children's or workmen's services.

Occasional services are of two kinds; first, those in which single seats are offered and which, in default of special provisions in the transport plan, bring passengers back to their departure point; second, collective services provided by means of a vehicle made available solely to one person or to a party.

Collective taxi services are provided by a vehicle containing not more than six seats in addition to the driver's seat; they may be classified as regular, or as occasional, services depending upon the way in which they are operated.

For each Department a public passenger transport plan is drawn up containing four parts:

- i) A railway services plan
- ii) A regular road services plan
- iii) An occasional road services plan
- iv) A list of urban boundaries.

The Departmental Technical Committees keep the four parts of the public passenger transport plan up to date.

1. Replacement of railway services by road services

The railway services plan is drawn up by the Minister of Public Works and Transport.

In drawing up this plan due attention must be paid to the provisions of Article 15 in the Decree, under which the closure of a railway line to passenger services may be decided on only after consultation with the General Council.

Where the line concerned forms part of SNCF, the Minister of Public Works and Transport, after consulting the Departmental Technical Committee, shall lay down the alterations to be made to the road services so as to ensure that the local public is properly served. When the line concerned is a secondary national line or a local line, the Minister of Public Works and Transport may, according to circumstances, approve or decide upon the replacement of the railway service by a road service under the terms of a concession or a lease contract.

2. Regular road services

The regular road services plan is prepared by the appropriate Departmental Technical Committee. This Committee includes a sub-committee responsible for passenger transport.

The Committee lists the routes to be served and the frequency for the services concerned so as to ensure that the local public is served under the best conditions for the country's economy as a whole and with due regard for the railway services in the plan. An important feature of the plan is road services replacing railway services. The road services plan names the bodies authorized to run the services.

Before any route of interest to several Departments may be included in the plan, it must be closely examined by a Joint Commission made up of the Departmental Technical Committees concerned.

Furthermore, this plan must reserve urban traffic for the urban services of the local authorities concerned.

The plan thus prepared is submitted to the General Council (the competent representative regional authority) and then passed on to the Minister of Public Works and Transport. The latter, after consultation with the Transport Supreme Council, brings it into line, if necessary, with the plans of neighbouring Departments and then approves it by Order.

Changes to plans are made by the same procedure. However, provided there is no objection by the Departmental Technical Committee, the Prefect may provisionally authorize changes to an old, or the setting up of a new, service before approval by the Minister.

3. *Occasional road services*

The occasional road services plan is also prepared by the Departmental Technical Committee. It lists the undertakings with a permit to provide services on a permanent basis and states for each one of them the conditions with which they must comply. It clearly states whether the services concerned are those in which single seats are offered for sale or collective services, the area over which passengers are picked up, the area served and the number of vehicles which may be put into service at one time.

The plan is passed on to the Minister of Public Works and Transport who, after consultation with the Transport Supreme Council, approves it by Order.

Changes to the plan are made by the same procedure; however, provided there is no objection by the Departmental Technical Committee, the Prefect may provisionally authorize changes before approval by the Minister.

4. *Road services within urban boundaries*

An urban boundary may include the area of a town and the built-up areas on its outskirts. Such boundaries are set up and their limits fixed by the Prefect provided agreement exists between the Mayors of the communities concerned and that no objection is raised before the Departmental Technical Committee. If an objection is raised, or if the urban boundary affects several Departments, the decision is taken by the Minister of Public Works and Transport after consultation with the Minister of the Interior.

All road services other than the urban services themselves may be forbidden to enter within any urban boundary. The prohibition is issued by the Mayor if the boundary affects only one commune and by the Prefect if it affects several. Any observations by the Departmental Technical Committee must first of all be obtained; however, if the Committee has made no observations within the time limit of two months starting from the day on which the matter was laid before it, the decision may be taken by the competent authority.

b) LICENSING PROCEDURE

Article 7 of the Decree dated 14 November 1949 makes it a matter of principle that passenger transport services may not be operated unless registered with the Departmental transport plan, with the exception of international services for which Article 20 of the same Decree lays down special regulations.

Registration results in the issue of a registration certificate.

Articles 5 and 6 of the Decree contain the various provisions relating to the licensing of road passenger services.

The following undertakings are automatically registered with the Transport Plan:

Undertakings which were designated in the transport plans put into operation before 1 September 1939 or which, at the time, put forward justified claims for designation;

Undertakings which, in the absence of such plans, provided services before 1 September 1939 within the framework of the regulations then in force;

Undertakings operating services on the date of the publication of the present Decree by reason of a permit granted since 1 September 1939;

Undertakings responsible for operating road services set up to replace railway services by the implementation of Articles 15 and 16 of the present Decree.

Undertakings which were deprived of their right to operate by a decision taken before the publication of the Decree and undertakings failing to obtain the requisite setting aside of the rule governing the nationality of public road carriers are *ipso facto* deprived of their registration right.

Any undertaking which, prior to the enactment of the plan, had disposed of all or part of its business, shall have the registration of its service transferred to the name of the new owner.

Local authorities are automatically registered in the same way for any services which must be registered in their name and come under the classes previously mentioned. Road services operated under a concession or a lease contract are registered in the name of the local authority which entered into this contract. However, should the undertaking holding a concession or a lease agree to operate these road services without subsidy and at its own risk and also to provide the necessary vehicles, the local authority in question may agree to the registration in the transport plan being made in the name of the undertaking in question. Any such undertaking is also registered in the plan should an earlier subsidy contract come to an end.

After the registration of all the foregoing undertakings which are automatically registered, other road services are allocated under conditions laid down by Order of the Minister of Public Works and Transport.

Occasional services are governed by the provisions of the Order dated 23 June 1960 by the Minister of Public Works and Transport. This

Order requires the occasional road services plan precisely to define the scope of the work done by such undertakings. If it is proved that the work actually done by an undertaking is less than that which it is entitled to do, the registration is made on the basis of the work actually done. The plan may then be completed by the registration of undertakings operating occasional services under licences of a provisional nature, undertakings already registered but now assigned additional work and by new undertakings.

These registrations may not as a matter of principle be transferred to another undertaking during a period of 5 years.

A circular from the Minister of Public Works and Transport dated 28 June 1960 contains details relating to the setting up of occasional road services plans. Basically, the plan is to define the areas in which passengers may be picked up, such areas being restricted as a matter of principle to the Departmental boundaries, and also the areas to be served including the long distance area, covering the whole territory of metropolitan France and the so-called "medium distance" area, the boundaries of which are drawn so as to include one-day excursions which may be made with the Department as the departure point.

In registering new transport services, some priority must be given to applications made by enterprises operating regular services which show low profits.

Article 7 of the Decree dated 14 November 1949 furthermore contains regulations relating to the validity of the registration certificate issued following registration with the plan and also to the permissible exceptions to the licensing procedure.

The certificate's validity comes to an end:

If the undertaking surrenders it;

If the service is removed from the transport plan;

If any registration period laid down by law expires;

If the certificate is withdrawn through failure to meet obligations.

Any registration with the transport plan or any licence is automatically cancelled in the event of any interruption to the service not caused by *force majeure* and lasting more than one month where a regular service is concerned, or more than one year where an occasional service is concerned. Restarting a service interrupted in this way is regarded as setting up a new service.

Notwithstanding the regulations governing the above-mentioned procedure, collective services may be operated without registration, provided they do not pass outside a circle 10 km. in radius having as its centre the Town Hall of the community where the undertaking has its registered office; in that event nothing more is needed than a statement to the Departmental Technical Committee. A receipt for the statement is delivered by the Prefect to the undertaking and this receipt is equivalent to a licence. The licence may be withdrawn by the Prefect if the undertaking ceases to fulfill the foregoing conditions. A more extensive area may be laid down by the Minister of Public Works and Transport for large population centres.

When exceptional circumstances so warrant, the Engineer-in-Chief of Bridges and Highways is empowered to issue licences for a single trip either to undertakings registered in the transport plan for services not covered by their permanent licence or even to other undertakings.

Notwithstanding the provisions in section I of the Decree dated 14 November 1949, a special procedure is laid down by the Decree dated 28 November 1959 in respect of services for collecting school-children.

Article 10 of the Decree contains provisions regarding the compensation payable to an undertaking when a road transport service is suspended or markedly affected by the decision approving the transport plan or any changes in it.

When the undertaking cannot be given compensation by means of the allocation to it, in any one of the Departments where it operates, of more or less equivalent services, it shall be granted a compensatory payment for losses incurred. The payment shall be calculated with due allowance for the value of the vehicles and the permanent installations for which the undertaking will have no further use, and for the value of the part of the business represented by the suspended service. The amount of the payment shall be assessed by a Board composed of three experts respectively appointed by the Minister of Public Works and Transport, the undertaking entitled to the payment and by the First President of the Court of Appeal.

If the undertaking accepts the amount of the payment fixed by the Board, it shall cancel its service and may be required to hand over its vehicles and permanent installations.

If the undertaking does not accept, it shall be entitled to lay the matter before the appropriate court within a time limit of two months. In that case a provisional payment at least equal to the sum assessed by the Board of experts shall be paid to the company until the date on which the court gives judgement.

The Minister of Public Works and Transport may make the withdrawal of, or changes in, a service subject to the payment of all or part of the compensation by the railway or road transport enterprises whose operating conditions will be improved by the withdrawal or change. However, in the case of lines set up after the publication of the 1949 Decree, all or part of the compensation, if any, may be made payable by the local authorities concerned.

If the sums of money thus made available are insufficient for the payment of compensation, the whole principle of the withdrawal or change must be re-examined by the Minister of Public Works and Transport and the Minister of Finance and Economic Affairs.

c) FOREIGN OPERATORS

Article 148 of the Decree dated 12 January 1939 stipulates that public road services may be operated only by French companies or subjects, subject to French law and who are French both as regards their registered office and the nationality of the persons who direct them.

Exceptions to this rule may be made by the Minister of Public Works and Transport by agreement with the Minister of the Interior and after taking advice from the Transport Supreme Council in favour of foreign nationals who were operating public services in France on 21 April 1934 and who are subjects of a country granting reciprocal rights to French nationals.

Under the terms of the Decree dated 13 February 1961, other exceptions may be made on behalf of foreign nationals who have rendered services to France within the transport operation field and who have belonged to the trade in France for not less than 10 years.

II. GENERAL CONDITIONS

All undertakings are subject to the requirement to operate; this results from the provisions in Article 7 of the 1949 Decree, under which any registration with the transport plan or any licence shall automatically be cancelled in the event of any interruption to the service not caused by *force majeure* and lasting more than 1 month where a regular service is concerned, or more than 1 year where an occasional service is concerned.

Article 8, section 3 of the Decree lays it down that the Prefect may, on advice from the Departmental Technical Committee and the General Council, request an undertaking to make any changes of benefit to users in its routes, frequency of service, time-tables, condition and capacity of its vehicles and liaison arrangements with other rail or road services. He may, where necessary, compel the undertaking to carry out all or some of such changes. Should the undertaking appeal, the Minister of Public Works and Transport shall give a ruling, after taking advice from the Transport Supreme Council.

Under Article 8, section 1 of the Decree, the Council of State, after seeking advice from the Transport Supreme Council, laid down by Decree dated 25 July 1952 standard operation regulations which defined the rights and the duties of passenger road transport undertakings providing regular services.

Article 2 of this Decree stipulates that the Prefects shall notify each undertaking registered with the Departmental transport plan of its operational regulations conforming to the official standard.

The Prefect shall enclose with the operational regulations for each undertaking a reminder of the legislative and statutory requirements regarding safety (staff, equipment), staff working conditions, users' obligations, the undertaking's civil and commercial responsibilities, supervision of organization and penalties.

The main provisions in the standard operational regulations deal with:

The objects of the undertaking;

Routes;

Frequency of services;

Time-tables;
 Passenger fares;
 The requirement to operate services;
 The size and condition of equipment;
 Required conditions for staff;
 Mail and parcels;
 Luggage;
 Insurance;
 Co-operation with SNCF.

Finally, the standard regulations contain specific provisions regarding provision of transport.

Of these, the following are of special importance:

The undertaking shall put into operation equipment with capacity sufficient to meet the needs of the traffic under good conditions. Passengers shall as a matter of principle be seated during transport. The undertaking shall have sufficient equipment to provide reliefs on days and times of particularly heavy traffic and also during any such seasonal peak periods.

The undertaking shall be required to maintain its equipment in perfect condition. The quality and amenities of the equipment shall meet the needs of passengers.

The undertaking shall observe the route and time-table as laid down and shall be subject to the requirement to transport in the vehicles which he must put into operation to provide the service in so far as seats are available.

If the administration of the Post, Telegraph and Telephone Department thinks fit, the undertaking shall be required to co-operate in the parcels service. In the event of disagreement, a decision shall be taken by the Prefect after seeking advice from the Departmental Technical Committee.

The undertaking shall communicate to SNCF all information useful for the organization of liaison between the road and rail services and, in particular, the time-tables of its road services.

The Prefect may, after seeking advice from the Departmental Technical Committee, require the undertaking, by agreement with the railway services and following the procedure laid down by the Minister of Public Works and Transport, to arrange for the issue of combined tickets and for the direct registration of luggage on mixed rail-road journeys made either to or from certain places served by the road undertaking.

The provisions of the Decree dated 14 November 1949 lay it down that public transport of passengers and of goods must be insured without limitation against the risks arising from civil responsibility and relating to the movement of the vehicles which it uses.

III. RATES

The provisions relating to the determination of tariffs are contained in Articles 11 to 14 of the Decree dated 14 November 1949.

Article 11 states that the Minister of Public Works and Transport and the Minister of Finance and Economic Affairs shall, after consultation with the Transport Supreme Council, fix a national basic tariff for regular road transport passenger services, making due allowance for all the factors in the cost price, and also a national adjustment scale making due allowance for special operational conditions on certain lines.

The Ministerial Order dated 25 June 1956 lays down a National Basic Tariff and also a National Adjustment Scale.

This National Basic Tariff is fixed at FF. 4.85 per passenger-kilometer, assuming that on average 20 seats per vehicle are occupied and that the average weekly distance covered is in the region of 1 000 km.

The National Adjustment Scale varies according to the extent that vehicles are used. It ranges from FF. 3.38, assuming that on average 30 seats or more are occupied, to FF. 8.42 if on average 10 seats or less are occupied. In the same way, the basic tariff is lowered or raised depending upon whether the average weekly distance covered is above or below 1 000 km.

The basic tariff calculated in this way may be reduced by as much as 20% when the vehicles used offer the public amenities far below those normally found in vehicles described as "motor coaches" or when the vehicles are used beyond their normal working life.

The basic tariff may be increased to allow for the higher operational costs resulting from operational difficulties encountered by the line in question. Only in exceptional cases may this increase exceed 25%.

The basic tariffs for lines are revised whenever changes in the line's conditions of operation or changes in general or local economic trends of a permanent and not of a seasonal nature produce changes exceeding 5% in these tariffs.

Undertakings may reduce their tariff charges progressively according to distance.

Each enterprise must draw up for each line separately and with due regard for the provisions of the Decree of 25 June 1956 a basic tariff which is submitted for approval to the appropriate Prefect. If, within a time limit of 10 days after receipt, the Prefect has not raised any objection, this tariff is regarded as approved; in the event of disagreement between the Prefect and the undertaking, the basic tariff for the line is decided on by the Minister of Public Works, Transport and Tourism after taking advice from the Transport Supreme Council.

The tariff actually used for each line may diverge by 10% above or 20% below the basic tariff determined in this way.

When occasional and regular road services cover the same routes, the occasional services may be made subject to special conditions for operation so as to avoid their competing with the regular services.

When two or more regular road services cover the same routes, a tariff agreement must be reached between the undertakings concerned; it may, if necessary, be supplemented by a financial arrangement.

When a railway service and a road service operate on the same traffic route, the road service tariffs must be fixed by agreement between the company operating the railway line and the road transport undertaking, with due allowance for the needs of users and the necessities inherent in each of the two services. This agreement is submitted to the Departmental Technical Committee.

In case of difficulties over the implementation of tariff provisions where;

either, two or more regular public road passenger transport services cover the same routes,

or, a railway service and a road service are still maintained or were set up side by side over the same route,

or, occasional and regular rail or road public passenger transport services exist side by side,

The matter is laid before a Conciliation Commission consisting of 5 members, 4 of them appointed by the parties, 2 by each, and the fifth who acts as Chairman designated by the Vice-Chairman of the Transport Supreme Council from among the officials who are members of that body.

If the Conciliation Commission fails to obtain agreement between the parties, or if the agreement reached with or without conciliation is regarded by the Prefect, on advice from the Departmental Technical Committee, as contrary to the public interest or inadequate for users, a decision is reached by the Minister of Public Works, Transport and Tourism following advice from the Transport Supreme Council.

A local authority may subsidize a road service by signing with an undertaking a contract which lays down the duties incumbent upon the undertaking. Any tariff drawn up in conformity with this contract must comply with all the general regulations in force.

IV. INTERNATIONAL TRANSPORT

Article 20 of the Decree dated 14 November 1949 stipulates that all international services other than frontier services shall require a licence from the Minister of Public Works and Transport under conditions to be laid down by a later Decree. However, no Decree has as yet been issued laying down these conditions.

In practice, international services with France are subject to the regulations of the Geneva Agreement on the "Removal of Restrictions on the Freedom of the Road", which go back to the years 1947-48. France has accepted the part of this agreement concerning passenger transport by exempting all tourist trips from a permit of any kind provided that passengers are not taken up nor put down along the way on any territory other than French territory.

Trips organized by undertakings established in a foreign country, and which are of a kind other than that described above, (for instance, entry and exit of empty vehicles and shuttle vehicles), require a special permit from the French Minister of Public Works, Transport and Tourism.

Section C — Provisions relating to goods transport

I. LICENSING ⁽¹⁾

a) GENERAL

As previously explained in greater detail in the Introductory Outline to Parts II - V in this report, the fundamental provisions regulating road transport of goods are contained in Article 7 of the Act of 5 July 1949, in the wording of the Decree dated 20 May 1960, and also in the Co-ordination Decree of 14 November 1949 and the many amendments made to it. A series of Decrees and a large number of Orders issued on the same subject by the Minister of Public Works and Transport by virtue of the powers vested in him under Article 51 of the Decree dated 14 November 1949 regulate the procedure for obtaining a licence as a goods carrier by road and the conditions required for following that trade.

The legislative provisions make all transport provided by public services subject as a matter of principle to the measures ordered with a view to transport co-ordination.

Notwithstanding, under the terms of Article 23 of the Decree dated 14 November 1949, the following special classes of public transport are not subject to the legislative provisions for co-ordination:

1. Transport provided by non-motorized vehicles;
2. Transport provided by vehicles assigned to very special uses other than those which public transport subject to co-ordination can normally perform and which shall be defined by Ministerial Order;
3. Transport provided in the area made up of the canton of the centre of operation and the adjacent cantons only in so far as the transport in question is provided free of charge by one farmer on behalf of another, or exceptional transport on the grounds of courtesy or mutual aid provided without payment on behalf of a member of the occupation followed by the owner of the vehicle;
4. Certain public transport provided by agricultural co-operatives under the conditions laid down by the legislation relating to agricultural co-operatives.

⁽¹⁾ Detailed explanations are to be found in Part I under II b and II d, which also deal with the matters relating to the licensing procedure.

Public transport in rural areas is subject only to the making of a statement. Within this category comes public transport provided by individuals or legal entities, the centre of operations for which is located in a rural commune and which is only subsidiary to the main occupation of the said individuals or legal entities; transport provided only on the vehicles necessary to following that main occupation when the total weight of the fully loaded vehicles including, if appropriate, a trailer, does not exceed 10 metric tons; transport provided either to or from a rural commune and within the area made up of the canton of the centre of operation and the adjacent cantons; or between a rural commune in the area mentioned above and a normal centre for provisioning or for sale used by the commune.

Finally, private transport and transport on own account are not subject to the legislative provisions on co-ordination.

The definition of private transport and transport on own account is given in Article 23, section 1, of the Decree dated 14 November 1949: Transport provided for his own needs by an individual or legal entity by vehicles belonging to him or placed at his exclusive disposal on hire. Any goods transported must belong to the owner of the vehicle or be directly concerned with his business, trade or occupation. Such transport may only constitute a subsidiary activity to the main occupation of the person or legal entity referred to above.

The addition to any private load of freight subject to the provisions relating to public transport makes the load as a whole subject to the regulations for public transport.

Article 29 of the Decree dated 14 November 1949 distinguishes between three areas for public road transport, each having different rules:

1. A long haul area which covers the whole territory of metropolitan France.
2. Various short haul areas, defined as one per Department and with boundaries lying within circles 100 and 150 km. in radius, with the principal town of the Department as its centre, and laid down by Ministerial Orders following advice from the Transport Supreme Council. The radii thus determined may be increased, particularly when the geographical situation so warrants or where the short haul area thus fixed proves to be smaller than the short-distance area defined by the legislation previously enforced.
3. Various haulage areas, defined as one per commune, which had an urban haulage area under the terms of the Decree dated 12 January 1939. These areas include the Department to which the commune in question belongs and, where appropriate, the communes of neighbouring Departments situated wholly or in part within a circle 40 km. in radius having as its centre the commune in question.

The Minister of Public Works, Transport and Tourism may by Ministerial Order replace the areas mentioned above by new areas which must be the same for all the communes in a Department or part of a Department. The boundaries of each new area shall approximate to the external outline of the areas which they replace.

By Order dated 11 July 1961, the Minister of Public Works and Transport defined the new boundaries for haulage areas. The boundary for each area is either public highways or part of the boundary of the Department in question with adjacent Departments.

The haulage area around Paris is defined by the Ministerial Order of 9 April 1954.

The Minister of Public Works and Transport furthermore determines the working areas for the road services replacing a secondary national railway line or a local line railway service. These areas must be the same as those which the railway line previously operated.

b) PRINCIPLES AND PROCEDURE

At the Departmental level the competent authority is the Prefect. The Goods Transport Sub-Committee set up by each Departmental Transport Technical Committee has important advisory duties. [The make-up of the sub-committee is given in Part I-II d)]. The Departmental Technical Committees keep the register both of public carriers and of lorry hirers. Licensing as a public goods carrier is subject to registration in these registers.

Public transport of goods, other than rural transport, may be provided only by undertakings registered in a special register (register of public carriers).

The registration shows the total working tonnage of the transport vehicles allowable to the carriers in the various areas. Registered undertakings are given registration certificates for vehicles named by them. The tonnage shown on the registration certificate is equal to the vehicle's working tonnage.

Separate provisions may be laid down by Ministerial Order in respect of specialized vehicles and groups of vehicles.

The sum of the tonnage figures shown on the registration certificates simultaneously held by one undertaking shall not in any area exceed the tonnage allowable for the undertaking. Nevertheless an excess not exceeding 20% with a maximum of 10 metric tons may be allowed.

When a properly licensed vehicle is replaced, the additional tonnage allowable, provided certain technical conditions are met, shall be limited to one vehicle per year and to 4 metric tons.

The validity of the registration comes to an end when the undertaking surrenders it, or on the expiry of any time limit laid down by law or on withdrawal enforced as a penalty.

The registration may further be rendered invalid for either the whole or a part of an undertaking's total tonnage if not taken up for vehicles fit to operate for a period of one year.

The registration may be transferred in whole or in part only in the event of the sale or the total or partial lease of the business, in which case the vehicle or vehicles concerned must compulsorily be included among the assets of the business.

A quota, fixed under the pre-war legal provisions, applies to the three areas for public goods transport. A more detailed explanation of this is given in paragraphs 1-3 below.

When economic needs so warrant, the Minister of Public Works and Transport lays down additional tonnages which may be carried in the different areas. These tonnages are divided up in such a way as to permit: new undertakings to enter the trade, particularly undertakings set up by former employees of the trade, an increase in the transport capacity of existing undertakings and an extension to the scope of their work.

The Minister of Public Works and Transport, after consultation with the Transport Supreme Council, lays down the additional tonnages which may be carried in the long haul or the short haul areas and arranges for them to be divided up. The tonnage that may be carried in the haulage areas is divided up by the Prefects.

Furthermore, the Minister of Public Works and Transport may permit a road carrier holding a short haul area registration in one Department to transfer it in whole or in part to an adjacent Department when the needs of the national economy, and particularly the transport market, justify the transfer.

Previous paragraphs have described the provisions relating to the quota procedure in force. Reference should be made to the original text in Article 31 of the Decree dated 14 November 1949 for an analysis of the transport capacities allowable in the different areas and their division among carriers.

The provisions in section 1 of that Article require the Departmental Technical Committees to institute, on conditions laid down by Ministerial Orders, an administrative check on the operational rights of undertakings in regard to the Decree dated 12 November 1938 relating to transport co-ordination. Under the provisions in force at that time, all undertakings having operated road transport goods services on the date of 21 April 1934 could properly claim the right to continue in that work. Furthermore, new undertakings were permitted to follow the trade until the promulgation of the Decree dated 14 November 1949. The following procedure was adopted:

1. *Long haul area*

Carriers holding long distance licences, as they were known in the earlier legislation, were issued with a long haul area registration for the total tonnage shown on the earlier licences. However, when it was proved that their work had never in fact gone beyond the short haul limits, the registration was issued only for that area.

Under the powers vested in him by Article 31 of the Decree dated 14 November 1949, the Minister of Public Works and Transport by the Decree of 25 May 1959 laid down an additional tonnage of 35 000 metric tons for the long haul area. This tonnage is divided up between the various classes of applicants laid down in the Order by the Minister of Public Works and Transport dated 20 February 1959.

This Order distinguishes between 9 different classes of undertakings and of individuals for which the required conditions vary in each case. For undertakings in classes 1-5, what was done was to standardize provisional regulations, while for classes 6-9, the Decree extended the scope of the work done in the field of the long haul road transport trade.

All applications must be accompanied by documents to prove the type of work done prior to the date of application, and must be addressed to the Engineer-in-Chief of Bridges and Highways for the Department. The decision rests with the Minister of Transport.

2. Short Haul areas

Carriers holding short distance licences, as they were known in the earlier legislation, were issued with a short haul area registration for the total tonnage shown on these licences in the short haul area for the Department of their operational centre, or, in certain justifiable cases, for one of the adjacent Departments.

In the same way as for the long haul area, an additional tonnage of 18 000 metric tons was laid down for the short haul area by a Decree from the Minister of Public Works and Transport dated 29 December 1960. This tonnage will be divided up among the 4 classes of applicants given in the Ministerial Order of 3 June 1959. What was done here was merely to standardize provisional regulations. The Minister of Transport thus made the Prefects responsible for dividing up the tonnage.

3. Haulage areas

The Decree dated 12 November 1938 exempted haulage areas from the need for a licence and made them subject only to an official statement. Undertakings received a receipt for the vehicles mentioned in the statement.

Holders of this receipt were, after scrutiny, first of all issued with a registration covering the total tonnage for the haulage area for the Department of their operational centre. As from 1 January 1956, this registration permits transport to be provided in the short haul area for the Department of the operational centre. Undertakings which operated haulage area transport services prior to 14 November 1949 were thus permitted on 1 January 1956 to provide short haul transport. On the other hand, the work of undertakings at present permitted to provide haulage area services only is governed by the provisions in section 6 of Article 31 of the Decree dated 14 November 1949 in the wording of the Decree of 5 November 1952, which has since been annulled. These provisions empowered the Minister of Public Works, Transport and Tourism, after consultation with the Departmental Technical Committee, to lay down annual additional quotas for each Department. Due allowance had to be made for the situation of the various transport markets, and facilities were to be given for the licensing of new undertakings, particularly undertakings set up by

former employees of the trade and for an increase in the transport capacity of existing undertakings.

In his Ministerial Circular of 18 January 1956, the Minister of Public Works, Transport and Tourism empowered the Prefects to allow new registrations of up to 50% of the number of existing registrations.

The Prefects are the competent authorities for the division of the additional tonnages.

c) SPECIFIC CLASSES

1. *Regular services*

Article 32, Section 1, in the Decree of 14 November 1949 states that regular goods services in the various areas may be operated only by undertakings whose registration in the public carriers register shows a special entry stating the total tonnage permitted for these services.

The provisions relating to the licensing procedure, the conditions to be fulfilled for carriers to operate regular goods services and the duties incumbent upon such carriers are contained in the Order by the Minister of Public Works and Transport dated 4 July 1961.

This Order states that regular public goods services shall be defined as public transport services which are provided at a frequency known in advance and at least once a week on a given route which serves the localities situated at both termini and, where applicable, any localities in between. The transport of bulked consignments by a forwarding agent also comes within this class. An exception is made, however, of transport consisting solely of consignments of three metric tons or more, even if such transport is provided regularly on the route in question.

The entry in the register must show the permitted tonnage and the localities to be served. No changes may be made without prior consent from the Prefect of the Department in which the undertaking is registered for the regular service in question.

The Order furthermore contains restrictive provisions about the organization of regular services and the way they are provided. Thus every undertaking operating a regular service is subject to the requirement to provide the service, the requirement to transport and the requirement to use the official tariffs.

The following provisions apply to obtaining a licence for regular services:

Undertakings which, at the time the Order came into force, operated a regular service under Article 32, section 2, of the Decree dated 14 November 1949 or under Article 5 of the Order dated 30 January 1954 had a time limit of one year to comply with the new regulations.

Undertakings registered without the special entry "regular service" had to make an application supported by certain documents to the Engineer-in-Chief of Bridges and Highways for the Department.

2. *Long-term freighting contracts between a forwarding agent and a carrier*

By his Order of 28 June 1961, the Minister of Public Works and Transport laid down the conditions to be complied with by long-term freighting contracts entered into with forwarding agents, and not conforming to the statutory tariff regulations.

The Decree states that the contracts shall be valid for one year and may be renewed for a similar length of time unless terminated by one of the parties with not less than 1 month's notice before expiry. These contracts must be approved by the Minister of Public Works and Transport.

The carrier must specify the vehicle or vehicles which will be contractually freighted by the forwarding agent. The vehicles must be properly covered by public transport registration certificates. The carrier must undertake to maintain the vehicles thus freighted in good condition and, if necessary, to supply replacements for them. He must furthermore cover all the risks attendant upon their use for transport purposes in accordance with the regulations in force.

The forwarding agent must make it his exclusive responsibility to look for clients and to sign the necessary transport contracts. He must ensure efficient use of the freighted vehicles by guaranteeing the carrier a minimum paid mileage for each of the vehicles freighted.

3. *Special services*

In all three areas, the transport of liquids in tankers, household goods, live animals, carcase meat, and goods which can only be carried on vehicles exceeding in size the standards laid down by the road traffic regulations is permissible only by vehicles whose registration certificate specifically mentions the speciality concerned. The same rule applies to transport by vehicles fitted with refrigeration equipment.

A certificate bearing the appropriate entry shall be automatically delivered to any undertaking providing the guarantees necessary for the regular provision of such specialized transport services.

The procedure is governed by several Orders from the Minister of Transport.

4. *Hire of lorries*

The general provisions relating in particular to such things as quotas, registration and facilities for transferring rights, apply equally to transport provided by hired vehicles.

The following special scheme was ordered by the Implementing Decree dated 10 December 1960 for the hiring of vehicles:

The hire of vehicles for the transport of goods, permissible under Article 41 of the Decree dated 14 November 1949, is the commercial transaction whereby a hirer-out makes a vehicle in running order, with or without the necessary drivers, exclusively available to a hirer who uses it to provide public or private transport.

A hirer-out is not an authorized carrier and may not under any circumstances carry goods.

Any hired vehicle must be returned in the condition ⁽¹⁾ in which it was made available to the hirer. The number of hirers that a hirer-out may have during a given length of time is restricted. The precise methods of implementing this restriction are laid down by Order.

The licensing of any undertaking is subject to its registration in the vehicle hirer-outs register. A distinction is drawn between hiring for transport within a haulage area and hiring for transport in all areas.

In the latter, the registration states the tonnage allowable to the undertaking.

Registration is automatically granted to undertakings holding hiring cards issued under earlier provisions and to undertakings which have customarily hired vehicles in the haulage area.

Where the Department's economic needs so warrant, the Minister of Public Works and Transport, after consulting the Transport Supreme Council, lays down the additional tonnage to be carried by hired vehicles in all the areas and divides it up so as to enable new firms to enter the trade and to increase the hiring capacity of existing undertakings.

Article 2 of the Decree dated 10 December 1960, amending the Decree of 14 November 1949, brought a provisional scheme into being. This Article states that undertakings holding hiring cards issued before 1 January 1958 may be registered in the public carriers register, providing they cease to hire out vehicles. The exact procedure is laid down in an Order by the Minister of Transport.

d) THE SETTING-UP OF REGIONAL FREIGHT OFFICES

Decree No. 61-683 dated 30 June 1961 contains important provisions about negotiating and entering into transport contracts in the field of occasional transport, and particularly contracts between a goods carrier by road and a forwarding agent, or through the agency of a freight broker.

According to instructions from the Minister of Transport relating to the said Decree, the organization of the commercial side of transport should operate in a framework which rules out any authoritarian dividing up of freight and should have as its objectives: proper operation of the service, respect for tariffs, improved use of available resources and hence lower cost prices and thoroughgoing reforms in the ancillary transport trades. The main feature of this organization is the setting up of Regional Freight Offices.

Article 1 of the Decree states that Regional Freight Offices shall be set up by Orders from the Minister of Transport with a view to ensuring the proper operation of public road transport services. These Orders

(¹) Translator's note: The German text reads "to the place at" instead of "in the condition in".

determine the district covered by the Office and the headquarters of its main establishment.

Article 2 of the Decree stipulates that the regional freight office shall provide the public haulage trade and its users with information about needs and resources, traffic and applicable charges. It records and matches supply and demand reported to it for transport from a point within its area and records all contracts freely entered into as a result of this matching. It also acts as correspondent for other Regional Freight Offices.

The previously mentioned instructions from the Minister of Transport specifically state that the Regional Freight Offices shall not carry out any commercial transaction. In addition, all contracts shall be freely entered into. The transport rates must naturally fall between fixed upper and lower limits.

The order of listing supply and demand notifications also plays an important part when transport contracts are entered into. Allowance must, however, also be made for the priority which should obviously be granted for the provision of transport to lorries particularly suited for the work, mainly because of the trips they have to make to return to their operational centres.

Transport users, with the exception of large classes of forwarding agents, are as a matter of principle at liberty to use the services of a Regional Freight Office or not; carriers for certain classes of transport are however, required to apply to the Regional Freight Office in their district in order to ensure more efficient use of the transport capacity. In consequence, Decree No. 61-683 lays down the following rules:

For long haul consignments originating from their own district carriers shall not be required to apply to the Regional Freight Office for that district.

On the other hand, applications from forwarding agents and freight brokers shall as a matter of principle compulsorily be made to the appropriate Regional Freight Offices. Forwarding agents and freight brokers shall not directly enter into transport contracts with goods hauliers. This, however, shall not apply to the long term freighting contracts referred to in Article 12 of Decree No. 61-679 of 30 June 1961, entered into between a forwarding agent and a carrier. In that case, each consignment must be declared to the appropriate Freight Office. If the departure point of the long haul consignment lies outside the district of the Freight Office in which the carrier has his operational centre, the carrier shall apply to the Freight Office for the departure point, which shall make the freighting arrangements for him and record any resultant transport contract. This shall not apply to consignments which the carrier has declared to the Freight Office before leaving on his trip.

Further exceptions are all consignments carried on the route of a regular service by vehicles allotted to this service and also transport provided under a long term contract entered into between a carrier and a forwarding agent by implementation of Article 12 in Decree No. 61-679. Such transport must be declared to the Office.

All transport, contracts for which are entered into at the Regional Freight Office, and transport for which a declaration must be made, shall have the appropriate route sheets stamped by the office.

Article 7 in Decree No. 61-683 states that the Regional Freight Office shall be managed by a Board consisting of equal numbers of representatives of public road carriers and of forwarding agents. The Chairman shall be chosen from among the representatives of the public road carriers.

The Chamber of Commerce and Industry for the place of the main establishment's headquarters may be authorized by order from the Minister of Public Works and Transport and the Minister for Industry to provide the necessary premises which shall be made available to the Office.

The Regional Freight Office comes under the supervision of the Engineer-in-Chief of the ordinary Bridges and Highways department of the Department in which the Office has its main establishment. This Engineer may object to any decisions by the Board within a time limit of 3 days from receipt of the minutes of its meeting. Any such objection must be confirmed by the Minister of Public Works and Transport.

A Supervisory Commission is set up within each Freight Office. The members of this Commission are appointed by the Chambers of Commerce and Industry and by the Chambers of Agriculture for the district covered by the Regional Freight Office.

A National Commission co-ordinates the work of the Boards of the Regional Freight Offices. The Commission consists of three representatives of public road carriers and three representatives of forwarding agents together with three other representatives appointed by the Assembly of Chairmen of Chambers of Commerce and Industry, by the Permanent Assembly of Chairmen of Chambers of Agriculture and by the National Association of Transport Offices and the Post Office.

Orders from the Minister of Public Works and Transport state in detail how Regional Freight Offices shall be organized. Rules determined by the National Commission and approved by the Minister of Public Works and Transport determine the locations of branch offices, and regulations for the operation of the office, particularly regarding the matching of supply and demand for transport notified to it. These rules also lay down the basis and the rate for a stamp duty which is collected by the office as payment for its services on all contracts entered into thereat; this duty is paid in equal parts by the two parties to the contract.

e) FOREIGN OPERATORS

Article 148 of the Decree dated 12 January 1939, still in force today, states that public road transport undertakings may be managed only by French nationals or by companies subject to French law and of French nationality as regards their registered office and their directors. Exceptions may be made to this rule by the Minister of Public Works and Transport after consultation with the Minister of the Interior

and the Transport Supreme Council on behalf of foreigners who on 21 April 1934 were operating public transport services by motor vehicle in France and who are subjects of a country granting reciprocal rights to French nationals. However, section 2 of this Article states that any services cancelled or reduced shall preferably first affect undertakings which have been granted a nationality waiver.

Under the terms of the Decree of 13 February 1961, exceptions may be permitted on behalf of foreigners having rendered great service to the French cause and who have been in business for not less than 10 years either in Metropolitan France or in French overseas territories.

II. GENERAL CONDITIONS

a) PROVISIONS RELATING TO THE SUPPLY OF TRANSPORT

The provisions for co-ordinating the various means of transport inside France, and particularly those in the Decree dated 14 November 1949, contain rules laying down conditions for the provision of public goods transport by road.

Article 47 of the Decree of 14 November 1949 states that all vehicles used for public road transport services must be insured without limit against all civil responsibility risks. The insurance must also cover any possible hirers of these vehicles.

Furthermore, undertakings providing public goods transport services by road must provide guarantees against the risks of loss or damage to goods during transport. The Minister of Public Works, Transport and Tourism may permit certain undertakings or groups of undertakings providing public goods transport services by road to cover the whole or part of these risks themselves, providing that they can offer suitable guarantees.

Without prejudice to compliance with the general rules of the Highway Code, public road transport vehicles must undergo periodical examination of their general condition as regards the safety of drivers, users and the public.

Public or private vehicles designed to transport goods by road are required to carry distinctive markings under conditions laid down by Ministerial Order.

Article 48 of the Decree dated 14 November 1949 requires any transport of goods by road, whether public or private, to be recorded in a route sheet or a log-book which must be shown on demand to all officials responsible for supervision, and must also be kept by each undertaking freely at the disposal of such officials for a period of two years. Furthermore, transport undertakings are required to keep their accounts in a manner to be laid down by Ministerial Order.

By Order of 13 December 1952, the Minister of Public Works and Transport has laid down regulations for the printed forms making up log-books and route sheets and has settled the procedure for their use. The Order of 17 July 1961 amended the fundamental rules in the Order of 13 December 1952. For any transport of goods, different

documents must be filled up and shown on demand, depending upon the kind of transport involved. The documents are as follows:

- a) For public transport provided by a privately-owned vehicle, a route sheet;
- b) For private transport provided under the same conditions, a log-book;
- c) For public transport provided by vehicles on hire, a vehicle rent book and a route sheet;
- d) For private transport provided under the same conditions, a vehicle rent book.

Prior to use, the books are stamped by the appropriate Engineer-in-Chief of Bridges and Highways. The pages of these books are numbered.

The guiding principle is that only one book shall be used for each vehicle appropriate to the class to which the vehicle belongs. A new book may be used only when the previous one is full.

Separate transport documents must be drawn up for each consignment and must show the essential points relating to the conditions for transport. Books of transport documents must be kept for two years for inspection purposes.

Public road transport documents must also show the rate paid for freight itself, additional costs and the haulier's charge, if applicable, particularly where some part is played by a forwarding agent. The itemized charge for freight shown as owed by the client may be replaced by reference to an invoice provided the latter shows the freight rate itself and that the haulier's charge which the carrier will collect can be justified by reference to a tariff agreement approved by the Minister of Transport.

Where bulked consignments are transported which require a bulkage voucher to be filled up, a single route sheet may be used provided the voucher is attached to it.

The first and second copies of each route sheet must be respectively given to the consignor and the consignee. The third and fourth copies accompany the vehicle; the third copy is used for the consignee's signature acknowledging delivery of the goods and remains with the transport undertaking; the fourth copy is used for checking that tariffs have been properly used. This copy must be forwarded, on completion of the job, to the road haulage association to which the undertaking belongs, or, if it does not belong to such a group, to the Engineer-in-Chief of Bridges and Highways for the Department in which the route sheet book was stamped. The haulage association checks the route sheets, classifies them, summarizes them and reports on them to the Engineer-in-Chief. It furthermore prepares statistics about transport documents. The fifth copy is used as a counterfoil.

b) GENERAL CONDITIONS

1. *Regular road haulage services*

The Order by the Minister of Transport dated 4 July 1961 contains detailed provisions about the conditions relating to regular road haulage

services. This Order stipulates that every undertaking providing a regular service must have available at both terminal points of the route served and also at any intermediate places served by the regular service, which are not merely a stopping point, a proper commercial and technical organization. The undertaking must submit for approval by the appropriate Engineer-in-Chief of Bridges and Highways regulations of a standard nature appended to the Order. These regulations governing operation must be made known to the public.

Every undertaking operating a regular service is required, within the limits of the permissible tonnage for that service and under the conditions laid down by the regulations governing operation, to transport all consignments handed over to it. Always provided that the provision of such transport is compatible with the proper running of the regular service, the undertaking may use the regular service vehicles for other transport duties on request within the area in which the undertaking is registered.

The regulations governing operation must contain precise details about the route, frequency of service, time-tables, time limits and conditions for delivery and also tariffs.

2. Occasional services

The conditions governing the use of the public road haulage tariffs, which constitute section I of the General Book of Tariffs, were provisionally approved on 26 January 1959 by a Decision of the Minister of Public Works and Transport on the proposal of the National Road Committee. Article 1 of the Decision makes these conditions applicable to all transport subject to a compulsory tariff scale. The provisions of the Civil Code and the Commercial Code which govern transport contracts are not thereby affected.

The governing conditions specifically settle the following fundamental matters:

Definition of a consignment, demarcation of haulage operations, drawing up a haulage contract, unavoidable obstacles to haulage and instructions about changes in the original haulage contract, responsibility, time limits for loading and unloading, delivery of consignments, calculating haulage rates and any additional charges.

Special conditions have been laid down for specialized haulage.

III. RATES

a) DETERMINATION AND APPROVAL OF TARIFFS

The fundamental provisions, laid down by the rules relating to co-ordination, for the procedure of working out and determining tariffs, have already been dealt with in the Introductory Outline to Parts II-V, under II b) 5.

Equally important for the approval procedure for tariffs is the Decree dated 4 August 1958, amended by the Decrees dated 2 August 1960,

16 January 1961 and 26 June 1961. The first-mentioned Decree states that the Road Transport National Committee must submit to the Minister of Public Works, Transport and Tourism proposals for the basic tariff system and the tariffs for actual use together with the views of the National Tariff Co-ordination Council. The proposals must be forwarded at the same time to the Chambers of Commerce and the Chambers of Agriculture. The Minister of Public Works, Transport and Tourism ensures that the proposals are published in the *Journal officiel*.

The basic tariff system must be approved by Decree from the Minister of Public Works, Transport and Tourism and the Minister of Finance after consultation with the Transport Supreme Council.

The proposed tariffs for actual use shall come into provisional operation on the expiry of a time limit of one month starting from the date on which the proposal was published in the *Journal officiel*, if the Minister of Public Works, Transport and Tourism has not made known not less than 6 days before the expiry of this time limit that he intends to oppose it. If he does so, the decision of the Minister of Public Works, Transport and Tourism must be notified to the Road Transport National Committee within a time limit of 2 months starting from the date of publication in the *Journal officiel*. Failing any decision, the tariff will be put into operation on the expiry of the time limit.

In cases of great urgency, the Minister of Public Works, Transport and Tourism may provisionally authorize the immediate entry into operation of the tariffs for actual use proposed by the Road Transport National Committee. When economic conditions so demand, the Minister of Public Works and Transport may postpone or suspend the entry into force of the whole or part of the tariff for actual use and request the Road Transport National Committee to submit new proposals.

The Tables of Distances must be approved by the Minister of Public Works and Transport.

As required by Article 35, section 2, of the Decree dated 14 November 1949, the Road Transport National Committee prepared a basic tariff for goods haulage by road which was approved by an Inter-departmental Order dated 27 October 1958, issued by the Minister of Public Works, Transport and Tourism and by the Minister of Finance. The basic tariff relating to the transport of consignments of not less than 5 metric tons for more than 150 km. was determined from a basic price of FF. 4 600 per metric ton for the transport of a consignment of 10 metric tons over a distance of 400 km. on a normal route.

Provision has been made for different conditions resulting from the weight of the consignment, distance to be covered, special features of the route and nature of the goods, to be met by various maximum and minimum increases within the limits laid down by the basic tariff.

Within the framework of the charges worked out in this way and within the total limits of plus or minus 20% of these charges, the Road Transport National Committee must submit proposals for the tariffs for actual use.

The Road Transport National Committee put forward a first draft for statutory road tariffs in August 1959 and a final draft in August 1960. After making certain alterations, the Minister of Public Works and Transport approved this tariff by a Decree dated 16 January 1961. The tariff came into force on 1 July 1961; to begin with, it will be used on a provisional basis.

b) EFFECTIVE RATES

1. The Statutory Road Haulage Tariff consists of 3 documents:

Document I contains the General Book of Tariffs;

Document II the classification of places;

Document III the table of tariff distances.

Document I of the Statutory Road Transport Tariff consists of 4 sections:

Section I contains the conditions for the actual use of the tariffs (the tariff of additional and complementary operations is held back for the present).

Section II contains the goods list, concordance tables enabling the scales to be worked out by reference to the index figure for the transport route, tariff regulations relating to bulked lots, special regulations for certain loads carried less than 150 km. together with special provisions enabling approval to be sought of private tariff terms for certain consignors or consignees. The tariff regulations relating to separate consignments are held back for the present.

Section III contains specific tariffs relating to various types of goods carried over given routes together with specific tariff provisions relating to specialized haulage by tankers or in refrigerated equipment.

Section IV contains all the scales enabling the transport charges to be worked out.

The guiding principle is that road tariffs must be used only for loads carried not less than 150 km. For transport provided on certain important routes of less than 150 km., the rates to be used must be determined by taking as a basis the charge laid down for 150 km. with certain deductions.

To make allowances for differences in costs on various routes, basically caused by variations in the traffic density, various destinations have been given index numbers which determine the amount of the effective transport charge.

Transport charges are furthermore fixed at progressively lower rates depending upon distance and the weight of the consignments.

The Statutory Road Transport Tariff is a tariff with upper and lower limits. It allows for the following increases and reductions:

For consignments of 5 metric tons, increases up to 13.9%, reductions up to 10.5%;

For consignments exceeding 5 metric tons and up to 19.9 metric tons, reduction up to 9.5% and increases up to 19.1%.

The effective transport charge may be agreed within these limits between transport contractors on the one hand, consignors and consignees on the other.

The Statutory Road Transport Tariff allows for special provisions to benefit consignors and consignees on specified traffic routes and for specified goods whenever the technical conditions for the provision of transport or commercial reasons so warrant.

2. *Private agreements*

Whereas these special provisions form an integral part of the Tariff and apply to all transport provided under comparable conditions, they do not apply to private agreements. The Decree dated 16 January 1961 contains the provisions relating to these secret arrangements.

The Decree lays it down that private agreements must comply with the general conditions to be determined on proposals from the Road Transport National Committee by the Minister of Public Works and Transport.

The draft of any private agreement must be communicated to the Minister of Public Works and Transport either by the contracting parties or by the Road Transport National Committee. The latter must express its opinion in every instance. Private agreements may be put into operation on the expiry of a time limit of 15 days starting from the receipt of the communication, if, before the expiry of this time limit, the Minister has not made known his intention to oppose it. Private agreements are entered into for a period that shall not exceed 1 year; they may then be extended by tacit agreement for further periods not exceeding 1 year, if the Minister of Transport has not made known his intention to oppose the extension. After the first period the Minister of Public Works and Transport may at any time terminate the agreement by notifying his decision with not less than 3 months' notice to the Road Transport National Committee and making the Committee responsible for informing the parties concerned.

3. *Transport provided on behalf of a forwarding agent*

Decree No. 61-679 of 30 June 1961 contains the tariff rules applicable to transport provided by a road haulage firm on behalf of a forwarding agent.

The Decree states that forwarding agents carrying out freighting transactions shall in no circumstances ask of their clients any charges outside the limits laid down by the tariff for actual use. This means that forwarding agents are also required to comply with the Statutory Road Transport Tariff. The rate paid by the client to the forwarding agent for a freighting transaction must be made known to the carrier. The amount of the commission charged by the forwarding agent may not exceed an amount to be laid down in an Order by the Minister of Public Works and Transport; under no circumstances shall the amount paid to the provider of haulage be less than the minimum road transport tariff decreased by 8%.

However, where forwarding agents guarantee carriers regular work by contract, these provisions shall not apply to any transport provided under that contract. In that case, the carrier's payment shall, in accordance with Article 3 of the Order dated 28 June 1961 from the Minister of Public Works and Transport, consist of:

- a) Payment for loaded vehicles on the basis of a metric ton-kilometer rate with a guaranteed load which shall not be more than 10% below the vehicle's working load;
- b) Compensation for journeys with no load;
- c) Daily compensation for failure to use a vehicle, calculated per working day during the whole of which the vehicle is not used, Saturday excluded.

A Decree by the Minister of Public Works and Transport shall lay down the tariff rules applicable to forwarding agents carrying out bulkage transactions.

IV. TRANSPORT ON OWN ACCOUNT

Article 23, section 1, of the Decree dated 14 November 1949 states that private transport or transport on own account shall not be subject to the measures for the co-ordination and alignment of rail and road transport.

Private transport or transport on own account is to be understood as transport provided for his own needs by an individual or a legal entity with vehicles belonging to him or made exclusively available to him on hire for the movement while in control of the transport involved of goods belonging to him or directly connected with his trade, industry or occupation, always provided that such transport is only subsidiary to the occupation of the individual or legal entity.

If when goods are being transported privately, goods subject to the provisions governing public transport are carried in the same vehicle, the entire load will be regarded as public transport.

Vehicles used for private transport or transport on own account are required to carry distinctive markings which will distinguish them from public transport vehicles (Article 48, section 5 of the Decree of 14 November 1949).

Furthermore, Article 48, section 3, of the Decree states that when private transport or transport on own account involves vehicles the working load of which exceeds two metric tons, a route sheet or a log-book must be filled in and produced whenever requested by officials responsible for inspecting route sheets and log-books. The route sheets and log-books used for this purpose must comply with the specimen appended to the Order dated 13 December 1952 by the Minister of Public Works and Transport as amended by the Decree dated 17 July 1961.

Before transporting any load, the undertaking must fill in the route sheet and complete it with the essential information relating to the load.

In certain cases this information may be replaced by reference to a delivery voucher or certificate.

For regular journeys required by its work, any undertaking may send in to the Engineer-in-Chief of Bridges and Highways an application for exemption from making individual entries in the log-book.

Private transport by means of hired vehicles requires such vehicles to have a rent book.

Transport documents must be produced on request for inspection and must be kept by every undertaking for a period of two years so as to be readily available to inspectors.

V. INTERNATIONAL TRANSPORT

a) PROVISIONS RELATING TO FRENCH SUBJECTS

There are no special legislative provisions concerning the licensing of French carriers as international hauliers. The administrative provisions at present applicable to such transport on French territory appear in the Ministerial Circular dated 10 February 1961 issued by the Ministers of Public Works and Transport and of Finance and of Economic Affairs. It is furthermore essential to comply with the provisions laid down by other States for journeys made on foreign territory.

Details of the required procedure under agreements with other Governments are given under c).

1. *Private transport*

International private transport complying with the conditions laid down for this purpose (see IV below) may be operated without restriction or special permit, always provided special provisions regarding the part of the journey on foreign territory do not forbid it.

It must be specially emphasized that though French rules allow for international private transport with hired vehicles, the same is not true in other countries where hired vehicles are regarded as public transport.

2. *Public transport*

French transport undertakings holding a registration in the register of public carriers may, from the viewpoint of the French regulations, provide any international transport without a special permit, provided the return journey into French territory remains inside the area in question. This means that holders of the long haul area registration are exempt from any special permit.

Every public carrier providing international transport, the route of which on French territory goes outside the area for which he is registered, must be in possession of a special permit issued by the Engineer-in-Chief of Bridges and Highways for the Department in

which is situated either the operational centre of his undertaking or the departure or arrival points of the proposed trip. The permit is issued for one return trip and for a specific vehicle and is valid for one month. When the route situated on French territory outside the area for which the carrier is registered does not exceed 200 km., these special permits are issued without restriction. In other cases, they will be granted only when justified by the needs of the transport to be provided.

3. Transport and accompanying documents; documents for check purposes

Carriers must be in possession of the statutory documents laid down for haulage on French territory and must show them for check purposes to the Customs whenever they cross the frontier. They must furthermore fill in a statistical slip to be handed over to the French Customs authorities. This slip is not required for transport provided under a special permit, nor in the case of frontier transport.

b) RULES APPLICABLE TO FOREIGN CARRIERS

The conditions under which foreign nationals may be allowed to provide international road haulage on French territory also appear in the Ministerial Circular dated 10 February 1961. These conditions apply equally to public and to private transport.

Under these provisions, any road haulage provided on French territory requires a permit. This is also true for the arrival and departure of vehicles without load. The only transport exempt from a permit is that where a national of a neighbouring country travels into French territory to a depth of less than 10 km.

The guiding principle is that the permit is issued for one return trip and for a specific vehicle and is valid for one month. It is issued by the Engineer-in-Chief of Bridges and Highways for the Seine Department.

As an exceptional measure, trips intended to meet needs of a semi-permanent kind may be granted a temporary permit valid for from one to three months. These permits, also issued by the Engineer-in-Chief of Bridges and Highways of the Seine Department, enable a specified number of trips to be made with predetermined goods and along predetermined routes.

Permits for transport in transit cover a trip in one direction only.

Customs officials responsible for carrying out checks must verify the genuineness of the permit carried by vehicles on entry and satisfy themselves that the permit in fact relates to the vehicles and the loads stated on the document. When vehicles leave the country, customs officials responsible for carrying out checks will collect the permits, unless they are permanent ones.

c) AGREEMENTS REACHED WITH FOREIGN GOVERNMENTS

1. *France-Belgium*

The Belgian and the French Governments reached an agreement dated 21 March 1952, which was covered by the Decree dated 8 April 1952.

The agreement applies to both international and transit transport provided by French and Belgian nationals between the two countries. Provision of transport within each country remains subject to the conditions of the national rules.

The agreement provides for the issue of licences valid for not more than one year for specific journeys and areas, and the issue of single-trip permits for one or more vehicles to provide transport of a specific kind, along a specific route and with a specific time limit.

The transport licences are issued by each government to the nationals of the foreign country within the limits of quotas fixed by mutual agreement between the two governments. Each government provides the other with blank trip permits within the limits of the quota fixed by mutual agreement for issue to the undertakings which are granted them by their own government.

Irrespective of the quotas already dealt with, each government makes available to the other blank permits for the provision of transit transport.

Carriers are required to show these permits along with all the other statutory documents when going through the frontier formalities and during any checks made on the road.

The competent authorities for the implementation of the agreement which came into force on 1 July 1952 are, on the French side: officials representing the Directorate-General of Inland Transport in the Ministry of Public Works and Transport and on the Belgian side: officials representing the Ministry of Communications. These officials meet as a Joint Commission to ensure the proper working of the agreement and above all to fix the quotas for licences and trip permits.

2. *France-Netherlands*

The guiding principle is that the provisions quoted under a) apply to French nationals providing international transport between the two countries. No permit is necessary for French lorries to travel on Netherlands territory.

Special rules have been laid down for transit transport, and for that provided by Netherlands nationals between the Netherlands and Northern France, i.e. the region bounded by the line Le Havre-Paris-Dijon-Bellegarde. The rules were worked out on the basis of conversations held on 8-9 April 1953 at The Hague between representatives of the French and Netherlands Ministries of Transport.

During these negotiations, the French representatives decided to delegate power to the Netherlands Government for the issuing of permits to Netherlands contractors wishing to provide road transport for the

international traffic with France. Following the agreement, the Netherlands Government made the "Nederlandsche Internationale Wegenvoerorganisatie" (NIWO) responsible for the issue of the permits.

NIWO permanently supplies the French Ministry of Public Works, Transport and Tourism with all relevant information about the permits issued for public and private transport and also the transport provided under these permits.

NIWO's representative in Paris may issue special permits for loads on the return journey, but this does not apply for three-way traffic, which is subject to permission from the competent French department. NIWO's representative must immediately inform the French Ministry of all permits for return journey loads.

In so far as concerns private transport the Netherlands organization "Algemene verladers- en eigenvervoerdersorganisatie" (EVO) has been granted delegated powers similar to those held by NIWO.

3. *France-Germany*

On 13 June 1961 the French and German Governments reached an agreement on goods transport by road which entered into force on 1 October 1961. The provisions of this agreement apply to international goods traffic, i.e. to transport on behalf of someone else or on own account between the two countries and also to transit traffic.

The provisions do not apply to road haulage of goods between France and the Sarre, which is subject to the scheme provided for by Article 36 and Appendix 7 of the Franco-German Treaty dated 27 October 1956.

They do not apply to the provision on the territory of either one of the two countries by a carrier of the other of internal transport which remains subject to the national rules.

For all transport provided on the territory of one of the countries, vehicles registered in the other must be in possession of a permit. Vehicles providing frontier transport do not require this permit.

Permits are issued for four classes of transport, each one of which has its own quota:

For transport restricted to a small area, the annual number of return journeys which the carriers of one country are permitted to make on the territory of the other is fixed at 4 000.

This area consists on French territory of the Moselle, Bas-Rhin and Haut-Rhin Departments and on German territory that part of it lying to the west and south-west of a line defined in the Annex to the agreement.

The annual number of return journeys in the so-called short distance area is fixed at 13 000. This area consists, for a vehicle entering France at a place situated in one of the Departments listed in the Annex, of the short-haul area for that Department, and on German territory, of that part of it lying to the west and south-west of a line defined in the Annex to the agreement.

The annual number of return journeys permitted in the long distance area which extends beyond the limits of the short distance area to cover the whole territory is fixed at 7 000. Only in exceptional circumstances may these quotas be used for transport on own account.

For transit transport across the territory of either one of the two countries, 600 journeys per year are permitted. These quotas may also be used for long-distance transport.

The competent government departments of the two countries issue carriers belonging to their own countries with the necessary permits within the limits of the agreed quotas. Various quotas mentioned above apply to carriers in one country. The departments concerned exchange the necessary permit forms for this purpose.

There are three kinds of permits:

Permits for transport in transit are valid for one journey through the country concerned in one direction and for a period of one month starting from the day of issue.

Single-trip permits (one type for the long-distance, one for the short distance area) are valid for a single return journey to be made within the period of one month starting from the date of issue.

Temporary permits, in the form of booklets known as route sheet booklets are valid for a period of up to three months.

Anyone granted a permit is required to comply with the transport and road traffic regulations in force for the territory covered; the transport provided must comply with the specifications in the permit; the latter must accompany the vehicle and be shown whenever requested by officials responsible for making checks. Permits are stamped at the Customs.

The competent government departments of the two countries regularly send each other complete lists of permits issued; they also exchange statistical information obtained from the permits issued.

4. *France-Italy*

By virtue of the Franco-Italian Agreement of 2 December 1961, frontier transport is quite free.

There are two distinct zones in each country for all other transport:

The short-haul zone in Italy comprises the area situated west of the line Milan/La Spezia; in France it comprises the Departments of Haute-Savoie, Savoie, Hautes-Alpes and Alpes-Maritimes.

The long-haul zones comprise all other Italian and French territory.

Permits are allocated as follows:

Short-haul zone: 12 000 permits per year for timber;

3 200 permits per year for all other merchandise.

Long-haul zone: 1 400 permits per year.

Transit traffic: 1 800 permits per year.

PART IV

INLAND WATERWAY TRAFFIC

Section A — General and technical provisions

I. STATE ADMINISTRATION AND CONTROL

a) ADMINISTRATIVE COMPETENCE

The legislative and statutory enactments relating to navigable waterways and inland navigation were partially codified by the Decree of 13 October 1956.

Navigable waterways and inland waterway traffic come under the Minister of Public Works and Transport. This Ministry's central administration includes a Directorate of Seaports and Navigable Waterways and a Directorate of Inland Transport.

The duties of each of these two departments roughly cover, on the one hand technical operation, and on the other commercial operation of navigable waterways. The traditional distinction between the technical and the commercial fields was covered by the Decree dated 18 September 1941.

1. *The Directorate of Seaports and Navigable Waterways*

The Directorate of Seaports and Navigable Waterways is responsible for the maintenance, improvement and development of the waterways system. It is also concerned with all the operations relating to the use of navigable waterways by waterborne craft and which consequently directly affect the rules for navigation.

It issues its instructions to the navigation departments, each directed by an Engineer-in-Chief of Bridges and Highways having under his orders a staff made up of State Public Works Engineers, toll collectors and lock keepers. Eight of these departments are specialized and deal solely with inland navigation: Paris (two departments), Compiègne, Lille, Nancy, Strasbourg, Lyons, Toulouse; four of them come under the oceangoing departments at Rouen, Nantes, Bordeaux and Marseilles; finally, certain waterways outside the main system come under the ordinary Bridges and Highways department.

Commercial operation comes under the Directorate of Inland Transport within the Ministry of Transport and also a special body, the National Office for Navigation.

2. *The Directorate of Inland Transport*

The duties of the Directorate of Inland Transport as regards waterways are concerned with matters relating to rates and terms, freighting, transport contracts and agreements, co-ordination regulations, taxation

and statutes governing the trade; it consults the Directorate of Seaports and Navigable Waterways on any of these matters which may have repercussions on questions of infrastructure or technical operation. It concerns itself with the commercial aspects of measures regarding the make-up of the inland waterways fleet and the movement and use of craft; it puts forward these measures jointly with the Directorate of Seaports and Navigable Waterways (Order dated 21 November 1960).

3. *The National Office for Navigation*

The National Office for Navigation (ONN) was set up by Article 67 of the Finance Law of 27 February 1912 and organized by the Decree dated 23 September 1912. It is at present governed by the Decree dated 26 December 1960.

ONN is a public body of an industrial and commercial nature. It is responsible for:

1. Centralizing and making known to the public information of all kinds concerning inland navigation;
2. Research into all methods likely to promote such navigation, instigating and, if necessary, taking all steps designed to improve the operation of navigable waterways.

ONN may further be made responsible by the Minister of Public Works and Transport for all matters of general interest concerning the commercial operation of navigable waterways, the improvement and renewal of waterways equipment, the conclusion of the reconstruction work on equipment destroyed by acts of war, all welfare matters affecting waterways personnel and, in general, any task relating to inland navigation.

ONN's work may be divided into two main classes. It is responsible under the authority of the Minister of Public Works and Transport for the implementation of the rules relating to freighting and more specifically for the organization and management of Freighting Offices, and also for the implementation of the rules relating to co-ordination. In this capacity it proposes freight and haulage tariffs to the Minister, it is consulted about financial aid likely to be granted to the inland waterways fleet and it collects various duties payable on transport by water.

It undertakes or may undertake either directly or by contracting out or by shareholdings in companies, operations of various kinds connected with river ports, gear, installations and in general all equipment of use to inland waterways.

In addition, ONN closely follows all matters affecting navigation on waterways subject to international control and it may be required to take part in negotiations affecting navigation on French waterways or on waterways subject to international control and to inspect the French fleets sailing on these waterways.

Its new statutes make it a decentralized department under the aegis of the Ministry of Public Works. ONN is managed by a Board consisting of seven officials. A Director appointed by Order from

the Minister of Transport from among officials on the active list of the Bridges and Highways section runs the Office's departments. However, a Consultative Committee has been set up consisting of four officials and twenty-one representatives of the inland navigation trade and its users; this Committee which only expresses views or puts forward suggestions makes known the opinion and the wishes of the parties concerned.

The Office consists of central departments and outside departments, i.e. Regional Directorates and Freighting Offices.

The outside departments consist, on the one hand, of all the departments of a regional nature laid down by the legislation on freighting and transport co-ordination and, on the other, of the departments intended to promote the development of inland navigation, the management of which is one of ONN's duties.

In point of fact, the waterways network is divided up into ten Regional Directorates, the areas of which are broadly the same as those of the navigation departments (Order dated 13 July 1951). In each of these Regional Directorates the Engineer-in-Chief, as Regional Director for Navigation, represents ONN within his area for all matters relating to the commercial operation of inland waterways. He may also be made responsible for other duties by the Director of ONN following agreement with the Minister of Public Works and Transport.

Within each Regional Directorate, waterways are divided up by areas among a number of Freighting Offices. The latter are set up by Order of the Minister of Public Works and managed under the authority of the Engineer-in-Chief, as the Regional Director, who passes on instructions from ONN's Director through the officials in the Office's outside departments. There are at present 58 of them.

The cost of managing the departments which regulate the operation of inland waterways is met partly by the State budget, partly by the income from the duties collected by ONN on transport agreements.

b) SUPERVISION OF INLAND WATERWAY TRANSPORT UNDERTAKINGS

Article 64 of the Code for Navigable Waterways and Inland Navigation makes navigation officials the competent authorities to check the implementation of the rules governing inland waterways regulations. They are at all times empowered to carry out the inspections necessary for this purpose and boat owners are required to give them every facility. The statutory documents and certificates, particularly those relating to registration and gauging, and also inland waterways statistics, must always be shown on request to navigation officials.

In addition to these officials, ONN departments and staff are also responsible for seeing that the rules governing co-ordination and commercial operation are implemented.

ONN's outside departments check that contracts comply with regulations when they stamp the contracts (act dated 22 March 1941, Article 26). All transport contracts are subject to an official stamp.

This stamp mark is made only when contracts comply with the rules. In the absence of the stamp, transport is forbidden.

Any change made in such agreements is subject to the official stamp in exactly the same way.

The Freightling Offices similarly stamp bills of lading.

Furthermore, ONN officials check that all statutory freight charges, tariffs and other controlled prices are complied with.

c) PENALTIES

The steps to be taken in the event of offences against the provisions of the Code for Inland Navigation are contained in Articles 66 and 67 of that code.

These Articles state that officials responsible for supervision may temporarily detain the craft of any waterman who has infringed the regulations, draft an official report, provisionally fix the amount of the fine and require immediate payment. If the infringement includes damage caused to the waterway or its installations, the waterman is not allowed to continue on his way until he has paid the cost of the repairs provisionally fixed by the inspector or obtained the latter's assent to the contractor he has instructed to carry out the work.

In the event of particularly serious infringements, the navigation officials, the list of whom is laid down by Order of the Minister of Public Works and Transport, may detain the craft at a place named by themselves.

Breaches of the regulations relating to co-ordination and commercial operation are dealt with in the Act dated 22 March 1941 which lays down penal, administrative and civil punishments.

Infringements are punishable by a fine of from FF. 180 to FF. 900 and repeated infringements by a fine of from FF. 900 to FF. 9 000. These figures are quadrupled for infringements relating to freight charges and to the rules of the Director of ONN for regulating the sailing of craft, mechanical haulage fees, towing and piloting. The person committing the offence may regain his freedom by immediately paying one-half of the sums mentioned to the official who drew up the report.

Administrative penalties consist of the detention of the craft for a given period or its requisition without payment. Article 29 of the Act dated 22 March 1941 extends this punishment to all infringements. Furthermore, it lays down the period of time for detention which may be anything from eight days to one month. The period may be tripled in the case of repeated offences. These punishments are ordered by the Director of ONN, but an appeal against the decision may be made to the Minister. Any such appeal does not suspend the penalty. In point of fact such penalties have never been ordered.

The civil punishments consist in rendering void contracts not put into writing or stipulations made in disregard of the compulsory clauses.

II. TECHNICAL PROVISIONS

Navigation is governed by General Regulations (Decree dated 6 February 1932) and Orders by Prefects containing specific regulations for the waterways crossing their Department, which Orders are only put into effect after approval by the Minister of Public Works.

The provisions relating to the gauging and the registration of inland navigation craft are contained in Articles 78 to 88 in the Code for Navigable Waterways and Inland Navigation.

These regulations state that every craft of more than 20 metric tons sailing in France must be gauged and registered, on application by its owner, in the French Registry. A boat may be registered in France only if more than a half-share in it is owned by French subjects or by French companies.

Registration in France is compulsory for all such craft which regularly sail in France and whose owners have their usual residence there, or, in the case of companies, their business headquarters.

As an exception, craft may be registered in France which belong to nationals of a country which does not possess any navigable waterways on which the said craft may be sailed, nor a registration office set up prior to 28 July 1934 and the Government of which has reached agreement with the French Government to this effect. The same is true of craft belonging to nationals of foreign countries operating factories in France, always provided that the craft in question was built in France and used solely to bring supplies to, and to serve, these factories.

Registration does not confer French nationality on the craft.

It does not appear possible to apply to river craft the national flag law in the same way as to vessels which have a status that remains with them everywhere. The rules governing ownership follow such a vessel abroad. There is less certainty about substantive duties and about privileges in particular. There are no rules for the crew comparable with those in existence for ocean-going vessels.

The provision and operation of the equipment placed at the disposal of the public on inland waterways and on all other dependencies of the waterways public domain (public ports) derive either from a public equipment concession, or a private equipment permit which compulsorily involves use of the equipment by the public.

III. PUBLIC INVESTMENT

French navigable waterways are public property. Almost the whole of the system is administered by the State: out of roughly 8 500 km. of waterways in common use, only 158 km. are held under concession by the City of Paris, by coal mines or private companies.

The expenditure for fitting out, maintaining and managing the navigable waterways system is met from the budget of the Minister of Public Works and Transport.

In order to increase the grants which the State makes towards improving and modernizing navigable waterways, an Act dated 9 April 1953 empowered ONN to collect over the entire inland navigation system or on certain waterways or parts of waterways, duties payable on public and on private transport. Income from these duties is allotted either to the service of the loans raised by ONN, or to the sums set aside by it with a view to building up an assistance fund for the improvement and modernization of the inland waterways system. The duties are set up by an Order which at the same time states the type of improvement on which they will be spent.

IV. TAX TREATMENT

Like all other traders, inland waterway operators are subject to a long list of taxes and duties, such as income tax, tax on company income and trade tax.

The special taxes affecting inland waterways transport undertakings are as follows:

a) TRANSPORT TAX

This amounts to roughly 2.5% in relation to total turnover and is allotted to increase State grants towards the improvement and modernization of navigable waterways.

Furthermore, stamp duties are collected on freight agreements and bills of lading. The rate for these is FF. 2.50 for freight agreements and FF. 2.25 for bills of lading.

b) DUTIES ON FUELS

This amounts to FF. 0.44 per litre of gas-oil. No duties are payable on coal. Stocks for use on board either entering or leaving the country are duty-free.

c) TAX ON CRAFT

The tax on craft must be collected on all boats used for goods transport. The actual amount varies according to the type of craft and is calculated on the basis of deadweight in tons.

One example:

	<i>Half-yearly rate</i>	<i>Daily rate</i>
Self-propelled craft	FF. 1.30	FF. 0.026
Self-propelled tankers	FF. 3.90	FF. 0.078

This tax also applies to foreign craft as well as to craft used for transport on own account.

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d) DUTIES OR COMPULSORY SUBSCRIPTIONS TO COVER THE RUNNING EXPENSES OF SERVICES USEFUL TO THE TRADE

Stamping duties on freighting agreements and bills of lading

The following stamping duties are payable:

FF. 40 for craft with a deadweight exceeding 500 metric tons

FF. 30 for craft with a deadweight above 200, but below 500 metric tons

FF. 20 for craft with a deadweight below 200 metric tons.

Operational duties payable on public transport of bulk liquid by tankers

FF. 8 for craft with a deadweight exceeding 500 metric tons

FF. 6 for craft with a deadweight above 200, but below 500 metric tons

FF. 4 for craft with a deadweight below 200 metric tons.

Subscriptions to the Transport Supreme Council

Undertakings providing public transport by inland waterway are required to pay a subscription fixed at FF. 0.12 per consignment.

Section B — Provisions relating to passenger transport

I. LICENSING

Article 48 of the Code for Inland Navigation contains the specific rules governing safety measures for passenger transport.

On the other hand, there are no specific provisions about economic legislation. Entry into the trade of public passenger carrier by water is free and not subject to any permit.

II. GENERAL CONDITIONS AND RATES

There are no compulsory rules about these.

Section C — Provisions relating to goods transport

Preliminary remarks

The fundamental provisions relating to the rules for goods transport by inland waterways are contained in the Act dated 22. March 1941 on rules governing the operation of navigable waterways and the co-ordination of transport by rail and by inland waterway.

Other provisions are to be found in several Decrees and Orders; among these, the Order dated 29 June 1942 regulating freighting agreements for inland navigation and organizing the Brokers' Local Associations contains several important rulings.

I. LICENSING

a) LIMITATION OF THE INLAND WATERWAYS FLEET

As has been explained in A II, every craft sailing in France must previously be registered in the French Register. However, through the implementation of several legislative enactments, only craft registered in France are allowed to provide goods transport, subject to various international Conventions and Agreements and to temporary exceptions granted by Decree. Finally, the Order of 30 June 1942 forbids the export and re-export of craft.

Registration of new craft is subject to certain rules laid down by the co-ordination laws and defined by the Order of 23 April 1954.

Boats intended for use as goods carriers are divided into four classes respectively covering: public and private transport of bulk liquids, public and private transport of all other goods.

Permission is required from the Minister of Public Works to put these boats into service, to transfer them from one class to another and also to fit them with on-board means of propulsion.

No permit is required to put an unpowered craft into service when proof is provided that an unpowered craft of the same tonnage, or a self-propelled craft of half the tonnage, has been taken out of service. The same applies to putting self-propelled craft into service when proof is provided that an equivalent tonnage of self-propelled craft or twice the tonnage of unpowered craft in the same class has been taken out of service.

Similarly, when an engine is fitted, an unpowered craft of the same tonnage or a self-propelled craft of half the tonnage must be taken out of service.

The Minister may allow exceptions to these rules when traffic needs so warrant (Decree dated 8 July 1939, Articles 15 and 17).

b) GENERAL

Public transport shall be taken to mean all transport not covered by the definition of private transport (see the definition in C IV, below).

Public goods transport is provided by private undertakings. The latter fall into two main groups: transport companies and boat owners.

A boat owner, within the meaning and for the purposes of this title, is any person of either sex whose occupation is to transport goods by inland waterways and who for this purpose has available whether as owner, joint owner or usufructuary not more than either one self-

propelled craft and no unpowered craft or two unpowered craft and no self-propelled craft, which craft must be registered at an office of the French Registry for Inland Waterways Craft and be captained by the person previously mentioned or members of his family.

Boat owners are regarded as being engaged in commerce (Article 632 of the Commercial Code).

The definition of boat owner is of great practical value particularly for putting into effect the provisions for rules governing operation.

Entry into the trade of public goods carrier by water is free and not subject to any permit. It must, however, be remembered that the whole of the waterways fleet is subject to quotas through implementation of the co-ordination laws and that the purchase of one or more boats is permissible only within the limits and under the conditions laid down by the Order dated 23 April 1954.

Furthermore, goods transport by inland waterways is subject to a large number of specific provisions. There are mainly to be found in the Act of 22 March 1941 on rules governing the operation of navigable waterways and the co-ordination of transport by rail and by inland navigation.

This Act is above all concerned with laying down a procedure dividing up available freight under a rota system (see the detailed explanations given under c).

It also contains various rules for the co-ordination of transport by rail and by inland waterways.

Great importance also attaches to the Order of 29 June 1942 which regulates freighting agreements for inland waterways transport and organizes the Brokers' Local Associations. This Order has been amended and amplified by several other Orders.

The essential purpose of this legislation, which contains a few rules relating to co-ordination, is to regulate freighting. The effect is felt in two main fields: firstly the legislation regulates, though only in part, the private law relations between shippers and carriers by setting up specimen contracts, and by the use of compulsory scales for a given kind of contract; secondly, to a very large extent it achieves an equitable division of available freight among carriers. These provisions apply to transport of all kinds except that by tankers.

Article 7 of the Act dated 22 March 1941 laid down three kinds of contract permissible for transport by water. They are:

Contracts by trip, also known as "freighting agreements";

Contracts by time;

Contracts by tonnage.

This list is exclusive: every other type of contract is forbidden (Act dated 22 March 1941, Article 7).

The contract by trip is briefly defined in Article 8 of that Act "This contract may be used only for a specific trip".

Article 11 states: "A contract by tonnage is that whereby a transport contractor undertakes within a predetermined time limit to transport a specific tonnage against payment of freight by the ton".

Under the terms of Article 10: "A contract by time is a transport contract whereby a transport contractor places a craft of which he is the owner, captained by himself or by his staff, at the disposal of a shipper to transport goods owned by the latter". A contract of this kind may call for payment only by the year, the month or the day.

c) ALLOCATION OF AVAILABLE FREIGHT

A distinction must now be drawn between contracts by trip and contracts by tonnage.

1. *The rota procedure*

Any contract by trip must compulsorily be signed at a Freighting Office in accordance with the rota set up by that Office (Act dated 23 March 1941, Art. 8).

The wording makes it clear that the rota operates only for contracts by trip but not for contracts by time and contracts by tonnage. Another exception is transport by tankers.

Furthermore, the same Article states that special decisions by the Director of the National Office for Navigation or the Freighting Offices' own rules of procedure may exempt certain exceptional consignments, or consignments the special nature of which so warrants, from the rota system.

Requests for transport received by the Freighting Office are listed in chronological order on receipt and posted up on a board. Carriers, whose craft is unloading in the Freighting Offices' area or enters it empty, inform the Office on completion of unloading or at the time of entry that their craft is free. The Office lists this information in chronological order. On the day when the freighting exchange is held, the Director of the Freighting Office calls the roll of carriers in the order they were listed. When his name is called, the carrier chooses the consignment he wishes to carry from among the offers listed on the board, no matter what its position on the list. The carrier is not obliged to accept any consignment; if he does not, he is listed for the next freight exchange.

The Minister may order or may delegate powers to the Director of the National Office for Navigation with a view to automatically dividing up available craft among shippers and requiring the carriers to transport the consignments allotted to them. This measure has not so far been put into effect.

2. *Restrictions on freedom to enter into contracts in respect of contracts by tonnage*

The Minister, or the Director of the National Office for Navigation acting with delegated powers, may forbid all contracts other than those

by trip on certain routes, or for specific consignments, or even in general. Under Article 16 of the Act dated 22 March 1941, he may also make it compulsory for any holder of a contract by tonnage to allocate a part of the consignments covered by the contract to the rota.

In practice, entering into contracts by tonnage requires permission from Engineers-in-Chief and entails the loss of one or more places in the rota.

Furthermore, under Article 15 of the Act dated 22 March 1941, boat owners may only deal on a tonnage basis when formed into groups under conditions to be fixed by Order. This Order has not yet been issued.

The net result of these provisions has been that the percentage of contracts by tonnage in traffic as a whole has remained exceedingly low.

An Order dated 4 January 1962 set up for a trial period of 1 year a Commission of from three to five members chosen from among representatives of transport undertakings to advise upon every request for a transport contract. Their comments are forwarded, together with any suggestion from the Director of the National Office for Navigation, to the Minister of Public Works who decides on the matter.

d) TOWING

Towing is left to private enterprise.

However, anyone wishing to perform towing operations on navigable waterways must make a declaration to the Minister of Public Works.

This declaration must include an undertaking to comply while towing with the general conditions laid down by an Order of the Minister of Public Works and Transport in the interests of safe navigation and the proper operation of the navigable waterways, and also with any special condition which may be compulsory for certain specific navigable waterways or parts of navigable waterways under special rules. A separate declaration must be made for each of the tugs which the operator intends to put into service; the declaration must also state the name, the kind and the size of the tug and also the type of service for which it is to be used.

The main points covered by the Ministerial Order are:

1. The special requirements regarding fittings to be met by tugs;
2. The certificates of skill which watermen must possess.

The Minister, on receipt of the declaration, issues a towing permit valid for the craft named in the said declaration; this permit must be kept on board at all times and shown on demand to inland navigation officials.

A special kind of towing is chain towing. This is to be found at only four places on the French inland waterways system and is in each case a public service performed under a concession.

Mechanical haulage from the bank was reorganized by the Decree of 21 April 1953. The services provided on the main waterways are

public services performed under a concession granted, depending on the waterways, to the "Compagnie Générale de Traction sur les Voies Navigables" or the "Société La Traction de l'Est", both of which companies are partly public-owned.

The services organized in this way are compulsory for all craft except those which are self-propelled and craft of 50 metric tons or more and, on the smaller waterways, for craft of less than 2.70 m. in width.

On waterways where no concession of this kind has been made to either of the two companies just mentioned, special rules issued by the Prefects define, as necessary, the permissible means of haulage or propulsion on each navigable waterway and also the conditions to which their use is subject. When haulage is provided by a railway, the haulage railways are set up by the State or the holders either of a public service concession or a permit with a requirement to provide a public service.

e) FREIGHT BROKERS

The profession of freight broker is governed by Article 13 of the Act dated 22 March 1941 and the Order dated 29 June 1942, Section III. Part V of Section B in this document contains further explanations about freight brokers.

II. GENERAL TERMS AND CONDITIONS

Transport by inland waterway is governed by the rules relating to transport contracts contained in the Civil Code and in the Commercial Code. Articles 1782 *et seq.* of the Civil Code relate in fact to carriers by land and by water. Similarly, the Articles of the Commercial Code devoted to forwarding agents and to consignments (96 *et seq.*) apply both to carriers by land and to carriers by water.

Furthermore, the co-ordination laws include detailed rules about transport contracts.

Article 7 of the Act dated 22 March 1941 lays it down that: "On pain of absolute nullity, every contract for transport by inland waterway shall be established by a written document".

It must be emphasised that a written document is insisted on not merely as proof of a contract but in order to bring it into being, since the absence of a written document is penalized by absolute nullity.

Under Articles 7, 10 and 11 of the Act dated 22 March 1941, all contracts for transport by inland waterways must be drawn up in accordance with a standard contract laid down, for each of the three classes of transport, by Order of the Minister of Public Works and Transport.

Any omissions or changes in contracts whereby they do not comply with the compulsory clauses automatically render the contracts void,

as do all stipulations contained either in the written document itself or in a separate written document and seeking to bypass these clauses (Order dated 29 June 1942, Article 27). Any provisions counter to the compulsory clauses are regarded as not written and automatically replaced by the wording of the standard agreements.

Articles 101 and 102 of the Commercial Code require the carrier, no matter what kind of transport is used, to hand over to the consignor a document which is not the contract, but which constitutes proof of same and which may be either a bill of lading or a receipt. Transport by inland waterway is clearly no exception to this rule and that is why transport of all kinds, no matter what the form of contract, requires a bill of lading to be prepared giving the conditions for transport, as a document constituting proof, drawn up after lading when the carrier is in possession of the goods which he undertakes to deliver to the consignee in their original perfect condition. Thus every transport contract requires two written documents: the contract itself and the bill of lading.

Article 7, last sub-section, of the Act dated 22 March 1941 requires the bill of lading to be drafted in accordance with a specimen laid down by Order of the Minister of Public Works and Transport. The Order dated 29 June 1942 contains three specimen bills of lading, one for each of the three kinds of freighting agreement: by trip, by time or by tonnage. The bills of lading contain the essential portions of each category of contract.

The shipping bill

The shipping bill was introduced into French inland waterways act by an Order dated 20 July 1960.

A shipping bill is a bill of lading endowed with various legal characteristics and in particular that of representing the goods transported and of being negotiable. By means of this document, drawn up promissory, it is possible for the shipper of the goods to whom the negotiable original is given, either to transfer the ownership of the goods, to use them as security or to entrust them to an assignee for delivery merely by endorsing the negotiable document.

III. RATES

a) GENERAL REGULATIONS

The freight rates for contracts by time and contracts by tonnage are usually negotiated by the parties concerned on the basis of the freight rates determined by the National Office for Navigation. Furthermore, before such contracts become operative, they must be signed by ONN.

On the other hand, compulsory freight rates are laid down for contracts by trip, except for trips abroad. The procedure will now be described.

b) DETERMINATION OF FREIGHT CHARGES

Freight charges are determined by the National Office for Navigation and submitted for approval by the Minister of Transport who, if necessary, consults the Supreme Transport Council.

These freight rates are published in an official scale which constitutes an Annex to the Inter-Departmental Order dated 19 June 1946. The rates have been increased by several Orders to align them with the steady rise in prices.

They are also increased for a restricted list of particular goods which are unusually hard to handle. Increases also apply for loads on top of each other and for any calls made on the way.

Special rules have been laid down for calculating the freight charges on light goods and less than full loadings.

c) DETERMINATION OF EFFECTIVE FREIGHT RATES

It devolves upon the Regional Freight Commissions to determine the effective freight rates for the various forms of contract used in inland waterways transport.

These Regional Freight and Operation Commissions as well as a Central Freight and Operation Commission were set up by an Order dated 21 March 1949.

The Regional Freight and Operation Commissions operate in each of the Regional Directorates for Navigation. They consist of not more than 12 members representing the various classes of carriers and users. Their Chairman is the Regional Director or his representative, assisted by the operator or operators concerned.

Their main task is to determine for a renewable period of not more than 3 months compulsory freight rates differing by not more than plus or minus 10% from the official scales but not altering by a rise or fall of more than 5% the weighted average freight charges.

However, these variations may be vetoed by the Director of ONN.

The Central Freight and Operation Commission is set up within ONN. It consists of two representatives appointed by the Minister responsible for economic affairs and twenty *ex officio* members appointed by the Minister of Public Works and Transport and made up of representatives of inland waterways officials, representatives of inland waterways transport undertakings and representatives of users of transport by water. The Chairman of the Commission is the Director of ONN.

Its task is to determine freight charges differing by not more than plus or minus 20% from the official scales but not altering by a rise or fall of more than 10% the weighted average freight charges fixed by the public authorities. However, its decisions may be vetoed by the Director of ONN.

IV. TRANSPORT ON OWN ACCOUNT

Private goods transport is to be understood as transport provided by any individual or legal entity to move goods belonging to him or directly connected with his commerce, industry or occupation in craft belonging to him.

No permit is required to provide transport on one's own account. Any owner of a private fleet may freely use it to provide private transport on condition that the whole of the fleet is assigned to private transport.

Article 189 of the Code for Inland Navigation states that craft used for private transport may take no part in public transport unless an exception is allowed by the Director of the National Office for Navigation.

A general exception—without any need for special application to ONN—is allowed which enables craft customarily used for private transport to accept an offer for public transport made at a freight exchange and not taken up by a public carrier.

The Director of ONN may furthermore, on special application, allow exceptions enabling craft customarily used for private transport to provide all kinds of public transport without restriction for a period of not less than 1 nor more than 3 years, if the carrier on own account undertakes to assign the whole of his fleet to public transport.

V. INTERNATIONAL TRANSPORT

a) EXPORT TRAFFIC

Agreements relating to export traffic signed in France are almost wholly contracts by trip. These contracts are entered into on a rota basis and are subject to French law, except that the provision of the Order dated 29 June 1942 regarding unloading and the presence of the consignee are not applicable to transport for export.

Freight rates relating to export traffic are freely fixed by the parties concerned, but they must be displayed at the freight exchange.

b) IMPORT TRAFFIC

There is an explicit ruling for Belgian boats on the basis of the agreement dated 26 August 1932 between France and Belgium. Any Belgian boat is permitted to cross the French border on a temporary basis, subject to an undertaking without any surety money, when the boat carries a load being imported into France. Such boats are allowed to make on French territory and before they leave it not more than one trip carrying goods inside France, always provided that this trip brings them closer to the Belgian frontier. They are also allowed to make this one trip on other routes, always provided that it brings them nearer to a loading point for an export consignment.

However, the time limit for the temporary stay is, depending upon the area, from 120 to 180 days for unpowered boats, and from 100 to 120 days for self-propelled boats. Failure to comply with this time limit is punishable, depending upon circumstances, by the detention of the boat, fines and payment of customs duties and import duties. The French State reserves the right to make the taxes which affect French watermen payable by all watermen sailing in France provided there is no infringement of the agreements on double taxation which already exist or may be reached between the two countries (Franco-Belgian Agreement dated 26 August 1932).

In practice, this system has been extended to all foreign craft providing transport with a destination in France.

c) TRANSPORT ON THE RHINE

Transport on the Rhine is provided on the basis set up by the Mannheim Agreement and by the German Act (Binnenschiffahrtsgesetz) of 15 June 1895 and maintained in operation in Alsace-Lorraine by the Act of 1 June 1924.

PART V

**FORWARDING AGENTS AND OTHER
INTERMEDIARIES IN INLAND TRANSPORT**

Section A — Provisions relating to forwarding agents

I. LICENSING

a) GENERAL PROVISIONS

The services of forwarding agents in respect of rail and road transport are subject, as are those means of transport themselves, to the provisions relating to their co-ordination and alignment.

Article 42 of the Decree dated 14 November 1949, amended by the Decree dated 30 June 1961, states that forwarding agents in the same way as freight brokers shall be subject under conditions laid down by Decree to a permit from the Minister of Public Works and Transport.

The Decree will define the work done in these occupations and will state licensing conditions and procedure and also the rules for tariffs and, if necessary, commission.

As regards determining the transport charges payable by the principal, forwarding agents are subject to the provisions of Articles 35 and 36 of the Decree dated 14 November 1949 on the basis for working out tariffs and fixing railway and public road carrier rates.

Article 42 of the Decree dated 14 November 1949 states that this Decree shall also define the procedure for carrying out freighting operations with SNCF motor lorries.

It may furthermore make parcel depot operators subject to a simplified licensing procedure.

Decree No. 61-679 dated 30 June 1961 relating to the ancillary transport trades contains a number of rules defining the conditions to which forwarding agents are subject in following their occupation.

Article 1 of the Decree defines as a forwarding agent any individual or legal entity who under his own responsibility and in his own name causes goods to be transported on behalf of a principal under the terms laid down by the Commercial Code (the provisions can be found in Articles 96 et seq. of the Commercial Code).

This Article distinguishes three kinds of work done by a forwarding agent:

Bulking operations, whereby the undertaking assembles consignments of goods from several shippers or to several addressees, organizes and arranges for the transport of the bulk consignment thus assembled by a rail or a road carrier.

Motor lorry freighting operations, whereby the undertaking arranges for the transport of previously bulked goods by public road carriers.

Operation of urban depots, whereby the undertaking takes over parcels or individual consignments and delivers them separately either to rail or road carriers or to other forwarding agents.

All forwarding agents performing the functions defined above must be in possession of the following documents:

Operation of urban depots: a licence issued by the Prefect of the Department in which the depot is situated;

Handling of perishable foodstuffs: a special licence issued by the Minister of Public Works and Transport.

Handling of goods other than perishable foodstuffs: a licence issued by the Minister of Public Works and Transport.

Although the licences for the operation of an urban depot are valid for the locality or localities they designate, two types of licence with different applications are provided for all other functions performed by forwarding agents:

Licence A authorizes the holder to carry out all the activities of a forwarding agent (bulking operations, motor lorry freighting operations and urban depot operation) in all the Departments of France.

Licence B authorizes the holder to carry out the following activities:

Bulking operations from a point situated within an area defined by the licence;

Freighting of motor lorries for journeys at least one of the terminal points of which is situated in the aforesaid area;

Operation of urban depots in the aforesaid area.

Holders of "B" licences must, before opening an office, declare their intention to the Engineer-in-Chief of Bridges and Highways in the Department in which the said office is situated.

Article 7 of the Decree of 30 June 1961 stipulates that no licence is required for the following activities:

1. The work of a forwarding agent or a freight broker when this work covers an operation which relates only to road transport which does not go outside one of the haulage areas.
2. Forwarding to their final destination goods transported by undertakings providing regular services.
3. As an exceptional measure, the handing-over by a public road transport undertaking to another public road carrier of goods which the undertaking has itself transported over part of their journey with a view to their being forwarded to their final destination or the use, to cope with peak traffic, of a vehicle operated by another public road transport carrier.
4. The operation whereby a furniture removal undertaking makes another removal firm responsible for furniture removal operations including transport, or, as an exceptional measure, assembles several furniture removals into one container, for the transport of which it makes another undertaking responsible.

b) LICENSING

The permits required to follow an ancillary transport trade may be given only to persons providing the necessary guarantees of good character and proof that they are of French nationality, which nationality extends in the case of companies to their headquarters and their directors. Persons of foreign nationality may, however, be granted such permits if they are nationals of a country granting reciprocal rights to French nationals.

The permits are issued for a period of ten years. The holder of a permit may have it renewed when its validity expires if he continues to fulfil the required conditions. Permits are personal and not transferable. Should a business change ownership or be rented, the old permit is cancelled and the new owner or lessor may apply for a new permit which will be granted to him if he fulfils the general conditions required.

The holder of a permit is required to give proof of the provision of a bond in cash, the amount of which is laid down by Interdepartmental Order. The bond represents a guarantee for the obligations laid down by the rules relating to the co-ordination and alignment of transport.

Permits may be withdrawn temporarily or permanently by the Prefect of the Department where the undertaking has its registered office should the statutory bond not have been provided or renewed within the time limit laid down; by the Minister of Public Works and Transport on advice from the Transport Supreme Council in the event of bankruptcy or a sentence involving loss of civil rights, or when the conditions of good character, or the technical or nationality qualifications are no longer fulfilled and also when operation completely ceases for a whole year or the requirements relating to the Guarantee Fund are not complied with.

A Disciplinary Council for forwarding agents, the members of which are elected by permit-holders, is called on for its opinion about all withdrawals of permits.

The transitional regulations laid down by Article 13 of the Decree dated 30 June 1961 make permits issued by implementation of the rules in force prior to that Decree valid until a date to be fixed by Order of the Minister of Public Works and Transport.

Under Article 15, any individual or legal entity who on 1 July 1961 followed, under permits in due form, an occupation consisting in bulkage operations or freighting motor lorries and who complies with the conditions required for licensing, shall be given either a permit to handle goods other than perishable foodstuffs, or a special permit to handle perishable foodstuffs. In either case, this permit shall be a B permit or an A permit, depending upon whether or not the work done is restricted to the area of a road haulage association.

Anyone who before that date had operated an urban depot under permits in due form shall be given a corresponding permit.

Any forwarding agent fulfilling the general conditions required and proving that in his own name and under his own responsibility he has

caused transport to be provided inside France for goods to or from Departments or French possessions overseas or foreign countries may obtain a B permit.

Orders by the Minister of Public Works and Transport shall lay down the rules for the issuing of new permits to individuals or legal entities unable to prove that they have followed an ancillary transport occupation.

c) FREIGHTING OF MOTOR LORRIES BY SNCF

Article 17 of the Decree dated 30 June 1960 provides that a Decree shall lay down the conditions under which SNCF may freight motor lorries. Until this Decree appears, the provisions of the Decree dated 14 January 1957 remain in force.

In this Decree, Article 6 of Chapter 1 of the statutes for haulage Associations requires these Associations to reach agreement with SNCF about the implementing procedure for the rules relating to the freighting of motor lorries by SNCF, excluding freighting necessary for the operation of central stations and haulage needs.

The total working tonnage of the vehicles freighted by SNCF may not exceed 10% of the total long-haul tonnage permissible in the Department or Departments making up the Association's area.

All these agreements require approval by the Minister of Public Works and Transport.

d) FORWARDING AGENTS' ASSOCIATIONS AND THE FORWARDING AGENTS' NATIONAL COMMITTEE

Part I II b) contains detailed explanations on this subject.

II. GENERAL CONDITIONS AND RATES

a) LICENSING AS A FORWARDING AGENT

The provisions of Articles 96 to 102 of the Commercial Code apply to forwarding agents. Among these provisions, particular importance attaches to those principally concerned with the forwarding agent's responsibility and the way-bill, which constitutes the basis of the transport contract.

Article 8 of the Decree dated 30 June 1961 contains other essential provisions:

As a general rule, a forwarding agent may follow his occupation only in premises unconnected with any other occupation related to transport.

He must satisfy himself before handing over any goods to a road haulier that the latter has the proper permit to provide the transport in question.

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The holder of a forwarding agent's permit has only fully met the duties incumbent upon him under the provisions of the Commercial Code when the goods reach the address agreed with the consignor.

The forwarding agent must keep records of his operations and of all dispatch notes or sheets. These records, notes or sheets must be kept for a period of 2 years and be shown on request to the officials responsible for supervision of transport.

An Order dated 25 October 1961 issued by the Minister of Public Works and Transport contains detailed provisions about the documents to be prepared and kept by goods transport ancillary undertakings.

This will enable adequate checks to be kept on the operations of forwarding agents and also ensure compliance with the provision in Article 12 of the Decree dated 30 June 1961 which requires that in all cases the rate paid by the client must be made known to the carrier. The Order makes it compulsory for forwarding agents to draw up for all bulkage operations a way-bill or a receipt for each consignment and a bulkage note by lots of bulked consignments.

A dispatch sheet for each lorry freighted must be drawn up in all operations for freighting motor lorries.

All ancillary transport trades must keep records of their operations; these records vary according to the types of operation performed.

Goods carriers by road must in each instance fill in the statutory transport documents and carry them while providing transport. When transporting goods on behalf of forwarding agents they must also carry with them the dispatch note or sheet and show them for check purposes.

In order to ensure compliance with the legal requirements for forwarding agents, Article 19 of the Decree dated 30 June 1961 states that forwarding agents must not only provide a bond but must also have the guarantee of a Guarantee Fund set up for this purpose and to which every permit holder must belong. The Fund receives the income produced by a levy on commission or turnover. Should the Fund refuse to provide its guarantee to a forwarding agent, the Minister of Public Works and Transport must decide whether there are grounds for granting or for continuing the permit.

b) RATES

Article 12 of the Decree dated 30 June 1961 makes tariffs relating to bulkage operations and the operation of urban depots subject to approval by the Minister of Public Works and Transport.

The forwarding agent's payment for freighting motor lorries is a commission based on the price paid by the client, the maximum percentage for which will be fixed by Order. The net amount paid by the forwarding agent to the carrier may not be less than the statutory minimum tariff less 8%.

However, where forwarding agents ensure carriers regular work under a contract complying with the conditions laid down by an Order of

the Minister of Public Works and Transport, these provisions do not apply to transport provided in accordance with this contract. (For more details see Part III C III).

In every instance, the price paid by the client must be made known to the carrier. To this end it must be shown on the transport documents.

Article 42, section 5 of the Decree dated 14 November 1949, amended by the Decree dated 30 June 1961, states that forwarding agents are also subject to the tariff provisions of the Decree when fixing transport charges for their clients.

Article 12 of the Decree dated 30 June 1960 relating to the ancillary transport trades contains a further explicit provision which lays it down that the transport charges invoiced to his clients by a forwarding agent for freighting motor lorries must comply with the rules governing public road transport tariffs.

Section B — Provisions relating to other transport intermediaries

I. THE FREIGHT BROKER IN ROAD HAULAGE

The Decree dated 30 June 1961 relating to the ancillary transport trades also governs the work of road haulage intermediaries.

Article 3 of this Decree lays it down that the term freight broker shall be taken to mean any individual or legal entity who, not being a forwarding agent, brings into contact a consignor and a public road carrier with a view to their entering into a transport contract.

Nobody may follow the calling of freight broker unless in possession of a permit issued by the Prefect of the Department in which he has set up business. This permit is valid for the Department in which it is issued.

The issue of permits is subject to the same conditions as those laid down for forwarding agents' permits [see explanations in A I b)]. Similarly, permits issued by implementation of the regulations prior to the Decree are to remain valid until their validity period expires.

The holder of a freight broker's permit must, in the same way as the holder of a forwarding agent's permit, furnish proof of the provision of a bond in cash.

The provisions relating to the withdrawal of forwarding agents' permits apply equally to freight brokers' permits.

Like forwarding agents, freight brokers must satisfy themselves before handing any goods over to a road carrier that the latter has the proper permit to provide the transport in question.

Freight brokers must keep records of their operations.

Article 12 of the Decree dated 30 June 1961 provides that the freight broker shall charge for the operations which he performs a commission which may not exceed 5% of the price paid to the carrier for transport.

Finally, the Decree dated 30 June 1961 governs the work done by persons operating parcel depots. Article 5 describes this work as consisting in receiving parcels for forwarding and keeping them available for road or rail carriers or forwarding agents.

Nobody may follow the occupation of parcels depot operator unless in possession of a permit issued by the Prefect of the Department in which he has set up business. The issue of these permits is subject to the same conditions as those laid down for forwarding agents and freight brokers.

Undertakings in existence before the publication of the Decree must comply with its requirements within 3 months of the date of publication.

II. INLAND NAVIGATION FREIGHT BROKERS

The legislation in force henceforward forbids anyone freely to follow the occupation of inland navigation intermediary. Nevertheless, intermediaries are allowed under certain conditions to take part in the official procedure for sharing freight. The occupation of freight broker is governed by Article 13 of the Act dated 22 March 1941 on the regulated operation of navigable waterways and the co-ordination of transport by rail and by inland waterways and also by Chapter III of the Order dated 29 June 1942.

Under Article 13 of the Act dated 22 March 1941, the only persons allowed to represent third parties at the freight exchange for that area are freight brokers registered with a Local Association and obeying its regulations. These Local Associations are organized within the area of the Regional Directorate for Inland Navigation. Their regulations are submitted for approval to the Director of the National Office for Navigation.

Chapter III of the Order dated 29 June 1942 contains various provisions about the make-up and the running of such Local Associations. To ensure compliance with statutory requirements, disciplinary penalties are provided for by the regulations.

Chapter III of the Order also contains detailed rules about the work done by freight brokers.

Under these rules, the requirements for following the occupation of freight broker are that individuals or legal entities shall be of French nationality, resident and registered in France and allowed to belong to regional Local Associations.

In order to belong to a Local Association, freight brokers must provide a certificate guaranteeing their technical qualifications and good character issued by the appropriate Chamber of Commerce. The only

persons who may follow the occupation of freight broker are those who make it their customary occupation and who follow that occupation in separate premises subject to certain conditions.

The office of the Local Association decides on applications for membership. Any broker whose application for membership is refused may appeal against that decision to the Director of the National Office for Navigation.

Under Article 17 of the Decree dated 29 June 1942 the freight broker's task is to promote offers for trips, to draft the statutory documents for the various transport contracts, to make advances on freight payments to watermen, to supervise on behalf of the consignor the loading and unloading of goods, that is to say, generally to represent the consignor in all the operations relating to the performance of transport contracts.

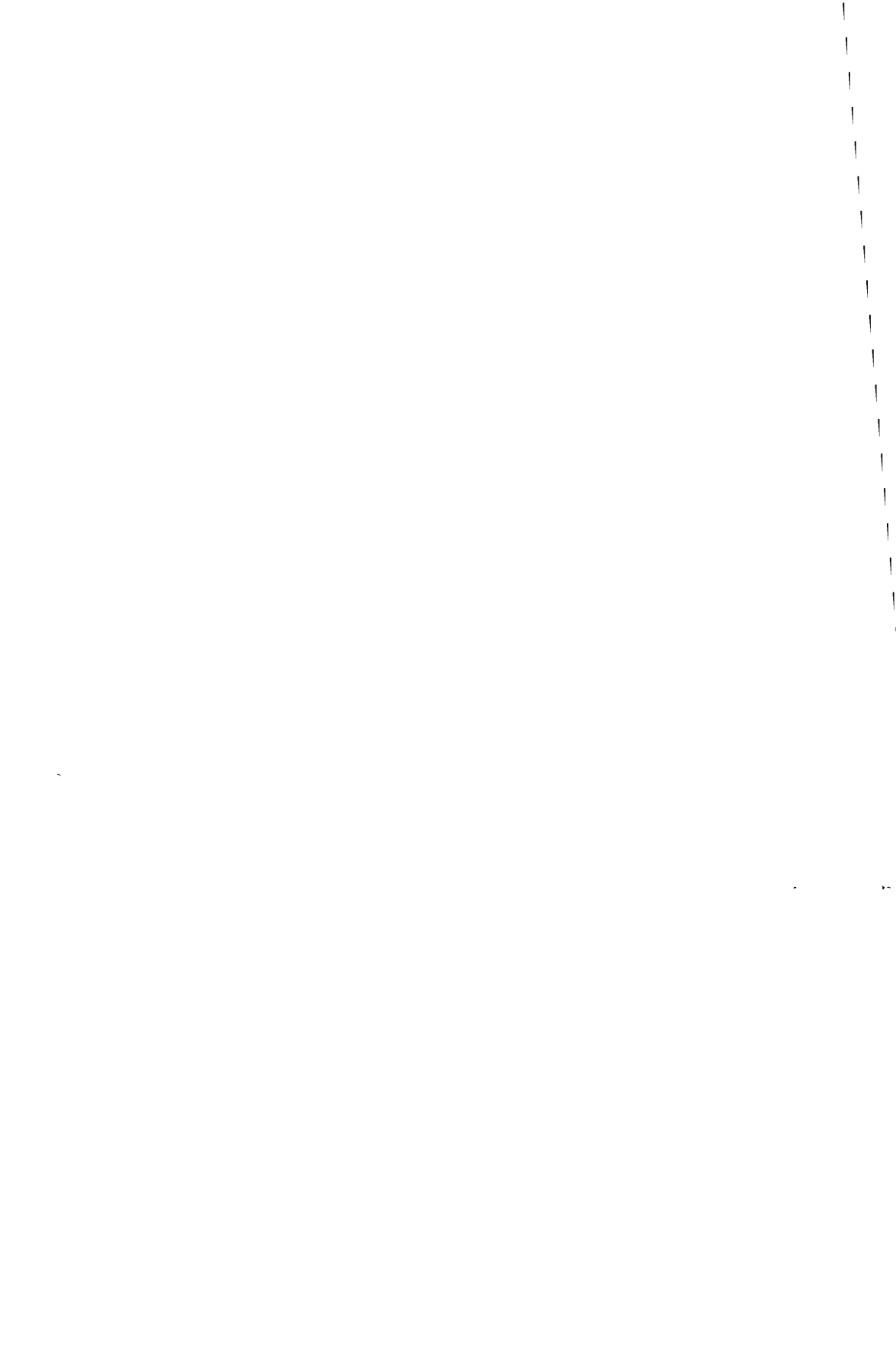
The freight broker is no more than an intermediary and does not possess the status of forwarding agent.

It is compulsory for the freight broker to be officially sworn in.

The freight broker may not charge a commission exceeding 5% of the amount of the freight charges; this commission is payable by the carrier.

ITALY

ITALY



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PART I

**BASES OF TRANSPORT POLICY
INSTITUTIONS AND ORGANIZATION****I. LEGISLATIVE POWERS**

According to the Italian Constitution, major matters affecting transport are subject to uniform regulations applicable to the entire country. Legislative competence lies with the Parliament, and generally new legislation is introduced by the Government.

Further, the Constitution allows the regions special legislative authority in matters concerning scheduled transport services by tramway or motor vehicle, where these are of purely regional interest, in the construction of roads of regional interest and in shipping on the lakes.

To date only four regions have been recognized, each with an individual statute; they have certain exclusive legislative powers:

- a) The region of Val d'Aosta for the building of roads of regional interest, for transport by cableway, and for regular local bus services;
- b) The region of Trentino and the Upper Adige, for road building and transport of regional interest;
- c) The region of Sicily, for public works with the exception of major works of national importance;
- d) The region of Sardinia, for public works of purely regional interest, as well as for scheduled tram and bus services.

In certain cases regions may be empowered in specific cases to make implementing regulations. As only four regions have been established to date, regional legislation has been or strictly limited importance.

II. ADMINISTRATION

a) MINISTRIES

At present four ministries have powers in transport matters:

The Ministry of Transport (*Ministero dei trasporti*) for transport by rail, road and inland waterway;

The Ministry of the Merchant Marine (*Ministero della marina mercantile*) for transport by sea;

The Directorate-General of Civil Aviation and Air Traffic (*Ministero della difesa - Direzione generale dell'aviazione civile e del traffico aereo*) for transport by air;

The Ministry of Public Works (*Ministero dei lavori pubblici*) for technical problems of transport, in particular the construction of roads and inland waterways.

The Ministry of Transport has two Directorates General (see Annex I): The Directorate General of State Railways (*Direzione generale delle Ferrovie dello Stato - F.S.*), which is both the ministerial authority and the managing body for the autonomous administration of the State Railways.

The Directorate-General is divided into a central administrative office and an office for operational services. All the central services of the Directorate-General are in Rome, with the exception of the service responsible for the maintenance of locomotives and for the vehicle park, which is located in Florence. The commercial and traffic service has two agencies, one in Berne and the other in Vienna. The control office for goods traffic is in Turin and the passenger and luggage office in Florence.

The Italian State railway system is sub-divided into fifteen districts with their directorates (*Direzioni compartimentali*), which are responsible for the running of railway services and come under the Directorate-General of State Railways.

The Inspectorate General of Civil Motor Transport and Concessionary Transport (*Ispettorato generale della motorizzazione civile e dei trasporti in concessione — IGMCTC*) has a similar structure to that of other public administrative bodies and superintends all concessionary transport and licensed transport by rail, road and waterway.

The head office of the Inspectorate General is in Rome and is divided into several departments dealing with its various spheres of activity.

The Inspectorate General has set up District Inspectorates in the regional capitals (*Ispettorati compartimentali*). Each is responsible, within its respective district and under the Inspectorate General, for all matters concerning private railways and transport by road and inland waterway.

For inland waterway traffic there are port inspectorates at the principal ports (in particular on certain lakes and on the River Po).

Close collaboration between the administration of the State railways and the Inspectorate General of Civil Motor Transport and Concessionary Transport is ensured by the Mixed Commission (*Commissione mista delle ferrovie dello Stato e dell'ispettorato generale MCTC per l'esame dei problemi relativi al settore trasporti*), which was set up in 1959.

This Commission is concerned with the co-ordination of the various means of transport, taking into account economic and political requirements in the transport sector.

For this purpose the Commission carries out basic studies and makes recommendations to the Government on matters relating to the co-ordination of transport. It also has the power to nominate experts as representatives of the Ministry of Transport in international organizations. Amongst its various Directorates General, the Ministry of the Merchant Marine (*Ministero della marine mercantile*) has a Directorate-General of Shipping and Sea Transport.

The Ministry of Defence (*Ministero della difesa*) has a Directorate General of Civil Aviation and Air Traffic, which is responsible for air transport through its "traffic" and "international relations" divisions.

The Ministry of Public Works (*Ministero dei lavori pubblici*) is responsible for the construction of State railway lines, for the building and maintenance of national roads, for technical regulations on transport and road safety and their application, for the equipment and maintenance of certain inland waterways, as well as for the technical control of inland waterways as a whole.

Besides these four ministries which are directly responsible for transport matters, the following also have special authority in this sector:

The Ministry of Labour and Social Insurance (*Ministero del lavoro e della previdenza sociale*) is responsible for all questions of social legislation and collective agreements between employers and trade unions, both as regards concessionary transport and transport subject to licensing.

The Ministry of Finance (*Ministero delle finanze*) is responsible for all taxation matters concerning transport firms and operations.

The Ministry of the Treasury and the Ministry of the Budget (*Ministero del tesoro e Ministero del bilancio*) have very extensive powers and considerable influence in transport matters. The budget of the autonomous State Railway Board forms part of the national budget.

As a general rule all questions connected with government aid and support to transport undertakings come under the authority of the Ministry of the Treasury.

The Ministry of the Interior (*Ministero dell'interno*) is responsible for the policing of railways and roads.

Prefects and mayors have executive powers as regards road transport, the former as representatives in the provinces of the central government, and the latter as heads of municipal administration to whom the central government grants special powers. Prefects and mayors, as public officials, come under the Ministry of the Interior.

The Ministry of Defence (*Ministero della difesa*) must be consulted in matters where the structure and general development of Italian transport are concerned. For example, a senior officer may sit on the administrative board of the State Railways, though without full voting rights, and similarly, certain uneconomic railway lines are kept in operation for purely military reasons. A number of other ministries must be consulted on the approval of railway tariffs.

b) OTHER ADMINISTRATIVE BODIES

1. Road Goods Transport Office (*Ente autotrasporti merci — EAM*)

This is a public body under the Ministry of Transport and has the following responsibilities:

a) To provide, and to distribute fairly, any transport urgently needed in the general interest;

- b) To supply road transport operators with information and advice on such matters as licensing, taxation, etc.);
- c) To take and keep up to date a census of the vehicle park; to make occasional surveys of the density and nature of traffic on national roads; to carry out periodical analyses of rates and costs; to undertake other tasks entrusted to it by the Ministry of Transport, and in particular to centralize, examine, and pass on applications for goods transport licences to the provincial inspectorates of the Inspectorate General of Civil Motor Transport.

The office collaborates with the IRU and issues "TIR permits" for international transport.

The EAM is divided into central, regional and provincial services. It has its own budget, financed from the proceeds of the annual road licence for goods transport vehicles.

2. National Highways Board (*Azienda nazionale autonoma delle strade statali — ANAS*)

This body comes under the Ministry of Public Works and is responsible for the maintenance of all national roads and for the administration of certain motorways.

3. Italian Shipping Register (*Registro italiano navale — RIWA*)

This body is charged by the State with the inspection, commissioning and classification of ships.

c) ADVISORY BODIES

1. Council of State (*Consiglio di Stato*)

This is the competent authority for all legal and administrative matters in which government departments and public boards are concerned. It has to be consulted on the grant of concessions for operating scheduled transport services to undertakings which possess their own permanent ways. Decrees regarding public road transport must also be referred to it.

2. National Council of Economy and Labour (*Consiglio nazionale dell'economia e del lavoro*)

This Council advises Parliament on economic and social matters; it may also initiate legislation within certain terms of reference. The Council is composed of fifty-nine representatives of the various branches of industry, of twenty experts and a chairman nominated by the Government.

The transport sector is represented by three delegates of the employers and three of the workers.

A "Transport and Public Services Committee" (*Comitato per i trasporti e i servizi pubblici*) has also been set up.

Besides advising on draft laws, the Council also promotes studies on basic problems. For example, the Transport Committee studies

problems concerning the co-ordination of transport by rail and road, as well as those arising from the closing of uneconomic railway lines.

3. Council of Public Works (*Consiglio superiore dei lavori pubblici*)

This Council must be consulted on concessions for scheduled services on permanent ways (excluding cableways) and the necessary installations. It also has the final say in long-term concessions for transport by inland waterway and the approval of projects related to them.

4. Commission for the Re-opening and Modernization of Concessionary Transport Services (*Commissione per la riattivazione e per l'ammodernamento dei servizi di trasporto in concessione*)

This Commission, which comes under the Ministry of Transport, is consulted regarding development plans of a technical and financial nature for railways and other concessionary transport services with fixed equipment. The Minister of Transport may ask the advice of the Commission whenever he thinks fit.

The Commission is composed of civil servants, representatives of transport undertakings, and experts on the construction and operation of railways. It is presided over by the Minister of Transport or by a State Secretary from the Ministry of Transport.

5. Coach Services Commission (*Commissione delle autolinee*)

This Commission, which comes under the Ministry of Transport, has to be consulted on matters concerning the introduction of new passenger services by motor vehicle when such services may be in competition with the State Railways.

It is composed of senior officials from the Inspectorate General of Civil Motor Transport and Concessionary Transport and from the State Railways. A representative of the association of motor coach undertakings and another of the association of concessionaries operating rail transport sit as experts. It is presided over by the Minister or an Under-Secretary of State.

6. Central Mixed Commission (*Commissione mista centrale*)

This commission was set up under the Ministry of Transport as part of an agreement for co-operation and co-ordination reached in 1953 between the State Railways and the associations of motor-coach undertakings. The Commission is made up of three representatives of the State Railways, three from the Inspectorate General of Civil Motor Transport and Concessionary Transport, and three representatives of the National Association of Concessionary Coach Services.

7. Motor Traffic Commission (*Commissione per l'automobilismo*)

This Commission, which comes under the Ministry of Transport, studies problems connected with motor vehicles from every aspect, in particular the construction and use of vehicles from the technical, legal and

economic points of view, and the development of motor transport according to the needs of this sector. The Commission is presided over by the Director-General of the Inspectorate General of Civil Motor Transport of the Ministry of Transport. It is composed of sixty-five members, representatives of the various ministries and experts nominated by cultural and other bodies. It has seven permanent study groups.

8. Interministerial Commission for Road Goods Transport (*Commissione interministeriale autotrasporti merci*)

This Commission, under the Ministry of Transport, deals mainly with problems arising from transport by motor vehicles, in particular from the point of view of co-ordination with other means of transport. It also has the final say on all legal provisions on the subject. The Commission is presided over by the Director-General of Civil Motor Transport and is composed of officials from the ministries concerned, of representatives of transport organizations and experts.

9. Regional Transport Co-ordination Committees (*Comitati regionali di coordinamento dei trasporti*)

These Committees have been set up in each province under the Inspectorates of Civil Motor Transport and Concessionary Transport. They study the necessary measures for co-ordination of all the means of transport (rail, road, inland waterway, sea and air) and prepare such measures for approval by the authorities concerned. The Committees have to advise on numerous problems of a practical nature, for example, on the needs of the various provinces in the way of road transport or on the advisability of granting licences for goods transport by road.

10. Inland Waterway Traffic Committee (*Comitato superiore della navigazione interna*)

This Committee is an advisory body under the Ministry of Transport and has to be consulted on all technical and economic questions relating to transport by inland waterway, with the exception of scheduled transport services permanently under concession, which are a matter for the Council of Public Works. The Committee is composed of officials from several ministries and a number of experts, and is presided over by a Councillor of State.

11. Interministerial Committee on Prices (*Comitato interministeriale dei prezzi — CIP*)

This Committee must be consulted on any general increase or reduction in passenger fares and goods rates on State railways and in tolls on the motorways. It is presided over by the Prime Minister or, in his absence, by the Minister of Industry and Commerce. It has fourteen members: eleven representatives of the Government departments (Finance, Treasury, Agriculture, Transport, Industry and Commerce,

Public Works, Labour and Social Insurance, Foreign Trade, Budget, Economic Planning, and the Food Commission) and three prominent figures from the business world nominated by the other eleven members of the Committee.

III. TRADE ASSOCIATIONS AND OTHER BODIES REPRESENTING TRANSPORT INTERESTS

A large number of public and other bodies represent the interests of transport operators and workers; of these the principal are:

a) CHAMBERS OF COMMERCE AND INDUSTRY

In Italy there are joint Chambers of Commerce, industry and agriculture. They are public bodies and each is competent for matters within its purview in the province. The more important Chambers have special transport sections.

The Chambers deal with transport problems in relation to the economy as a whole. They are represented on the advisory committees, especially for matters of road transport.

The Union of Chambers of Commerce, Industry and Agriculture has its headquarters at Rome and is a private body. A special transport division has been set up within the Union.

b) TRADE ASSOCIATIONS

1. *Concessionary transport undertakings.*

Two organizations represent the interests of undertakings holding concessions to operate scheduled public transport services by rail, tramway, road or waterway:

a) The National Federation of Transport Undertakings (*Federazione nazionale imprese trasporti — FENIT*)

b) The National Union of Concessionary Transport (*Unione nazionale trasporti in concessione — UNTIC*)

Undertakings operating concessionary passenger transport services by road belong to the National Association of Concessionary Transport Services by Road (*Associazione nazionale autoservizi in concessione ANAC*). It is affiliated to the General Confederation of Italian Industry.

2. *General transport undertakings*

The General Confederation of Traffic and Transport (*Confederazione generale del traffico e dei trasporti — CONFÉ.TRA*) includes the following trade organizations:

a) National Federation of Road Transport (*Federazione nazionale auto-trasporti — FNA*);

- b) National Federation of Forwarding Agents (*Federazione nazionale spedizionieri*);
- c) Italian Federation of Bonded Warehouses (*Federazione italiana magazzini generali*);
- d) National Federation of Methane Transporters and Distributors (*Federazione nazionale distributori e trasportatori di metano*);
- e) National Association of Bonded Warehouses, Silos and Duty-free, Port, Marine and Coastal Warehouses (*Associazione nazionale fra i magazzini generali, silos e depositi franchi, portuali, marittimi e costieri*). These national trade associations are sub-divided on a provincial and regional basis.

3. Road Transport Undertakings

The Italian Union of Road Transport (*Unione italiana autotrasporti — UIA*) embraces the following organizations:

The Italian Federation of Road Goods Transport (*Federazione italiana autotrasporti merci — FIAM*) is a professional group within the National Association of Road Transport Undertakings (*Associazione nazionale imprese trasporti automobilistici — ANITA*). It represents the interests of road transport under all its aspects, but especially in relation to the State. At present there are no other professional groups.

The Italian Federation of Road Transport (*Federazione italiana autotrasporti professionali — FIAP*), which is divided into regional and local associations, and the National Union of Lorry Owners (*Sindacato nazionale camionisti professionali — SiNCP*) are also included among the professional organizations.

For international transport there is:

the Italian Union of International Road Transport (*Unione italiana autotrasporti internazionali — UNITAI*). Besides upholding the interests of its members, this association helps them to obtain and carry out international transport work. Its members must be fully experienced.

Finally, the Italian Automobile Club (*Automobile Club d'Italia — ACI*) deals with all questions of motor traffic. It also collects the road tax and keeps the public register of motor vehicles (*Pubblico registro automobilistico — PRA*) in which all motor vehicles must be entered.

4. Ancillary transport activities

Undertakings engaged in complementary and ancillary activities come under the National Federation of Ancillary Traffic and Transport Services (*Federazione nazionale ausiliare del traffico e trasporti — AUSITRA*), which is attached to the Italian Confederation of Industry.

5. Roads

The Italian Road Federation (*Federazione italiana della strada — FIS*) deals with technical, economic and administrative problems arising in the building and use of roads.

c) TRADE UNIONS

The trade unions fall into three groups according to their political allegiance.

The Italian Union of Railway Workers (*Sindacato ferrovieri italiani — SFI*) and the Italian Federation of Road, Rail, Tram and Inland Waterway Workers (*Federazione italiana lavoratori autoferrotranvieri ed internavigatori* (FLAI) are affiliated to the socialist Confederation of Labour (*Confederazione generale italiana del lavoro — CGIL*).

Among the Christian-democratic unions there are the Italian Independent Federation of Railway Workers (*Sindacato italiano autonomo unificato ferrovieri italiani — SAUFI*) and the National Federation of Road, Rail, Tram and Inland Waterway Workers, which are affiliated to the Italian Confederation of Trade Unions (*Confederazione italiana sindacati lavoratori — CISL*).

The Italian Federation of Railway Workers (*Sindacato italiano unitario ferrovieri — SIUF*) and the National Independent Federation of Road, Rail and Tram Workers belong to the Social-democratic union organization.

The Union of State Railway Administrative and Technical Staff (*Sindacato funzionari amministrativi e tecnici delle ferrovie dello Stato — SINFAI*) comes under the Italian Confederation of National Trade Unions (*Confederazione italiana sindacati nazionali lavoratori — CISNAL*).

There are numerous other trade unions which represent the interests of the workers, but for the most part they cover only part of the transport sector.

PART II

RAIL TRANSPORT

Section A — General provisions

I. LEGAL STATUS: STATE AUTHORIZATION AND CONTROL

a) STATE RAILWAYS

1. *General structure*

The Italian railway system originally belonged to private companies, but was largely nationalized in 1905. It is now controlled by an independent board.

Act No. 429-1907 provides the legal status of the State railways (F.S.). This Act allowed the Railway Board considerable freedom of action, which subsequent amendments have notably restricted. The present organization of the State railways is laid down in Act No. 598-1948, according to which:

the Minister of Transport not only has political responsibility for the administration of the railways; since the Directorate-General of the State railways is a Directorate of the Ministry of Transport, the Minister is without intermediary the head of the entire administration. Besides controlling the administration, he has the final say on all questions arising. In principle he also has the power to fix the rates for passenger and goods traffic, but rate changes having a general application can be introduced only by decree.

2. *Responsibilities and organization*

The State Railways are administered by the Railway Board (*consiglio d'amministrazione*) and the Director-General. Originally the Railway Board enjoyed wide powers, but today it is a purely advisory body. It is consulted on numerous points, but the Minister can take decisions contrary to its advice.

The Railway Board is composed of sixteen members: the Director-General of the State Railways, three State Railway officials, two officials from the Treasury, one from the office of the Attorney General (*Avvocatura generale dello Stato*), one from the Ministry of Public Works, three representatives of the State Railway management and three citizens (not being civil servants) who are experts on technical, administrative and transport matters. A military officer attends Board meetings but has no vote. The chair is taken by the Minister, and in his absence by an Under-Secretary of State from the Ministry of Transport. Under-Secretaries of State are members of the Board and have a vote.

The Director-General was originally both Chairman of the Railway Board and head of administration. Today he only looks after administrative matters under the supervision of the Minister. He carries out the decisions of the Minister and his main duty is to organize and control railway administration.

This shows that nowadays the State Railway Board is only technically autonomous and not statutorily as was originally intended in the 1907 act. Like other public bodies it has to observe regulations regarding administration and accounting and to draw up a budget. Its organization and system of control are laid down by the 1907 Act and by special acts passed since then. As it is organized rather more flexibly than the other public administrations, it can take into account the special demands arising from the operating of the railways.

b) OTHER RAILWAY COMPANIES

To all railways not belonging to the State Railway system, the State has granted concessions in which the conditions governing the operating of these lines are laid down.

47 undertakings operate 106 railway lines with a total length of about 5 000 kilometres as against a national network of 21 500 kilometres.

The original regulations on concessionary railways date from the 1865 Act on public works and subsequent acts which were consolidated in the 1912 Act. The latter has again been extensively amended by several recent acts.

The State can grant private undertaking and public bodies concessions by decree to build and operate railways. The competent authority is the Minister of Transport, who must consult the Council of Public Works on technical points and the Council of State on legal and administrative points. For certain zones, authorization is required from the military authorities.

Such concessions are administrative acts based on the unlimited powers of the State. They are not simply authorizations, but place an obligation on the holder of the concession, since public services are involved. The deeds of concession lay down statutory specifications, terms and conditions.

All concessions are granted for a definite period, which may be as much as seventy years. In the interests of continuity of administration they may be extended for a maximum of ten years. On expiry of the concession, tracks and fixed equipment become the property of the State, but generally not the rolling stock. Further, if the concession holder has electrified part or all of his track or has otherwise made heavy investments, the concession may be extended for at least thirty-five years to allow him time to write off his investment.

Unless the concession contains a clause to the contrary, the State has the right to nationalize concessionary railways after thirty years' operation. This is permitted only when the State finds it necessary to run the railway itself or considers that the concession should be terminated in the general interest to allow the line to be operated more rationally.

Further, the State can terminate a concession before it expires, on payment of compensation, by declaring it void when the holder has not fulfilled his obligations, or by redemption or mutual agreement when the holder, through no fault of his own, is no longer in a position to operate the line regularly. The appropriate conditions and compensations for the different cases are laid down by law.

The Parliament is the competent authority when a private line is incorporated in the State railway system. In such a case the Council of Public Works and the Railway Board must be consulted. Finally, the State itself may manage a line temporarily until a new concession is granted ensuring a reliable service or better operation.

II. PROVISIONS CONCERNING OPERATION AND FINANCIAL MANAGEMENT

a) GENERAL ASPECTS

1. *State Railways (F.S.)*

The State Railways are subject to various obligations, laid down in the general laws on the railways, concerning their technical and economic organization, especially with regard to regularity and safety. Other obligations, principally of a technical nature, arise from the conditions and rates which apply to the entire State railway system.

2. *Other railways*

Concession holders have a number of rights and at the same time certain obligations towards the State and third parties, since public services are involved. The rights enjoyed by the private railways are primarily intended to ensure continuity of management and to allow the undertaking a fair profit. In the general interest, the foremost of these rights protects private companies from ruinous competition and consists of a kind of monopoly granted them, with reserves and under certain conditions, over certain routes.

In practical terms, this right consists of a "monopoly" in the operation of a railway line and a preference in building extensions, branch lines and junctions. Such protection is not only against other concessionary railway lines, but also against scheduled road and inland waterway transport services.

b) OBLIGATION TO OPERATE, TO TRANSPORT AND TO FIX TARIFFS

1. *State Railways (F.S.)*

The obligation to operate was laid down by the 1907 Act, which also prescribed the frequency of train services. However, the latter may be modified by the Board according to circumstances. The time-table is drawn up by the State Railways. Lines may be closed only after

consultation with the Railway Board and the Council of Ministers and on condition that arrangements for substitute services are made in advance. Authorization to close must be given by presidential decree.

The State Railways are subject to an obligation to transport, that is to say they must undertake all passenger or goods transport required when they are able to do so with their normal equipment (Art. 1 of "Railway Tariffs and Conditions"). This implies an obligation of non-discriminatory treatment and an obligation to apply the tariffs and publish them.

Exceptions are allowed only for reasons of competition (Art. 7 of Royal Decree No. 9 of 25 January 1940 on goods transport; Art. 3 of Royal Decree No. 1948 of 11 October 1934 on passenger transport). The introduction, modification or abolition of tariffs must be formally approved according to the authorization procedure laid down in the above-mentioned decrees and in Act No. 1456 of 22 December 1948.

Decree Law No. 1575 of 1931, together with an implementing decree, authorizes the Minister of Transport to replace, completely or partly, rail transport by road services. These services can be operated:

1. Directly by the State Railways,
2. By undertakings in which the State Railways have interests,
3. By independent private undertakings on behalf of the State Railways.

In cases 2 and 3, three types of operation are possible:

- a) The road transport undertaking retains all the receipts and pays the operating costs;
- b) The State Railways have a contract with the undertaking under which the receipts are partly passed on to the State Railways;
- c) The State Railways have a freight contract with the undertaking by which the receipts go to the State Railways and the latter pay the undertaking a flat rate compensation per coach-kilometre. The undertaking bears all costs.

Passenger transport services by road substituted for rail transport are subject to the same obligations as other scheduled passenger transport services by road.

As a general rule, where such transport replaces rail transport, the corresponding State Railway rates are charged; in some cases special or exceptional rates may apply.

Besides these services replacing rail traffic, the State Railways can undertake supplementary or complementary transport by road, on the same conditions, along routes not parallel to railway lines.

At the instance of the Minister of Transport and after consultation with the Council of Ministers, railway lines which no longer carry traffic can be closed by presidential decree.

To date, the Minister of Transport has made little use of his right to replace rail transport by road transport. In certain cases, transport services substituted for rail traffic are operated by the National Institute of Transport (INT), which is entirely owned by the State Railways.

Two other companies, the Compagnia italiana autoservizi turistici (CIAT) and the Società reggiana servizi automobilistici (SARSA), in which the State Railways have an indirect interest, operate scheduled passenger transport services by road which are not services replacing rail traffic in the sense of the 1931 decree.

Decree Law No. 1496 of 1932 lays down similar conditions for transport services replacing concessionary rail traffic.

2. *Concessionary railways*

The obligations of concessionary railways are substantially the same as those of the State Railways: obligation to operate, obligation to transport, obligation to observe tariffs.

These obligations are aimed at guaranteeing safety, regularity and continuity of railway services in all circumstances. In particular, certain conditions must be fulfilled relating to the modernization and equipping of railway lines and other installations, the vehicle park and personnel. The railways are obliged to draw up an operational schedule showing the number of trains in service and their time-table. This schedule, which has to be approved by the Minister of Transport, must take into account the needs of the area being serviced, from the point of view of passenger and goods transport. The time-tables must be published and displayed in stations. Tariffs must likewise be published and observed.

c) FINANCIAL RELATIONS BETWEEN STATE AND RAILWAYS

1. *State Railways (F.S.)*

The railway budget forms part of that of the Ministry of Transport and consequently must be approved by Parliament. Annual deficits in the operation of the State Railways are covered by Treasury subsidies, and any surpluses are paid over entirely to the Treasury.

The State Railway company has a special status in relation to other public bodies as a result of the autonomy granted it by law.

The State Railways may make use of income to cover running expenses; the examination made by the Auditor's Office is retrospective.

Internal auditing is done by the State Railway auditing department. Allowances for extra-operational liabilities incurred by the State Railways play an important part in the financial relations between the State Railways and the Treasury, since they allow a normalization of accounts as recommended to all railway administrations by the relevant international organizations such as the ECMT. Such allowances for reduced income and increased expenditure arising out of extra-operational liabilities are intended to clarify the State Railway balance so that the real results of operation are apparent. The right of the State Railways to an allowance for extra-operational liabilities was recognized by Act No. 1155 of 29 November 1957.

In accordance with this act and the implementing Presidential Decree No. 411 of 25 June 1959, the State Railways are entitled to allowances for the following:

- a) Losses resulting from free or reduced-fare services operated in the general interest;
- b) Deficit on payments by the post office for postal transport;
- c) Charges on loans for reconstruction work;
- d) Deficits on lines carrying little traffic which have an expenditure income ratio higher than three, and which must be kept in operation for economic or social reasons in the general interest or for reasons related to national defence.

Payments to the State Railways are fixed each year according to criteria laid down by Presidential Decree No. 411 of 25 June 1959, by departmental order of the Minister of Transport and the Minister of the Treasury, after consultation with a committee made up of officials from the Treasury and the State Railways meeting under the chairmanship of a Magistrate of the State Council.

While awaiting the passing of the presidential decree in which, according to Act No. 1155 of 1957, the costs to be refunded should be specified, amounts due to the State Railways for the financial years 1957/58 to 1959/60 have been fixed by special acts at the following round figures:

- 1957/58: 40 000 million lire;
- 1958/59: 52 000 million lire;
- 1959/60: 50 000 million lire.

For the financial years 1960/61 and 1961/62 the refunds have been estimated respectively at 71 600 million lire and 71900 million lire.

Besides refunds for the above-mentioned charges, the State Railways have received from the Treasury a contribution for the payment of pensions which amounted to 10 000 million lire up to the financial year 1958/59 and has amounted to 15 000 million lire since the financial year 1959/60.

It should be noted that the provisions in Act No. 1155 of 1957 and in the corresponding implementing presidential decree do not completely cover extra-operational liabilities of the State Railways. There are no allowances for:

- a) The service of loans for financing capital expenditure;
- b) Extraordinary staff expenditure (reinstatement of officials dismissed for political reasons, special leave for war disabled, pensions for ex-servicemen);
- c) Level-crossing costs.

Furthermore there is no refund on account of fare reductions allowed for reasons unremunerative to the railways (season tickets for workers and students, weekly tickets, reductions for group travel, etc.).

Finally, the Treasury's contribution towards pensions must be considered as quite inadequate, when it is remembered that the extraordinary expenditure of the State Railways under this head is estimated at about 60 000 million lire.

In spite of the above mentioned payments, the State Railways show a large deficit, which was:

55 693 million lire for the financial year 1957/58;

46 636 million lire for the financial year 1958/59;

59 719 million lire for the financial year 1959/60.

For the financial years 1960/61 and 1961/62 the deficits will probably be as much as 47 466 million lire and 26 010 million lire respectively.

The question of closing railway lines showing a large deficit is closely linked with the State Railway deficit. The closing of such lines and their replacement by road services is an essential element of co-ordination policy. Clearly, such steps can only be taken when other re-organization measures have been studied and approved, for the latter may greatly modify the operational conditions of the lines in question or allow greater compensation of deficits by profits from other lines.

2. *Concessionary Railways*

In principle, a concessionary railway should be profitable, as it is usually a private concern. But the law provides for State financial aid of various kinds to allow the continued operation of uneconomic lines. Aid may not be granted unless the line has been set up in the general interest and the expense is justified by commensurate advantages for the public. Further, the law requires that local government authorities (provincial and municipal) also contribute. Subsidies are usually granted in the form of annual payments and occasionally of capital contributions in proportion to the length of the lines operated. There are also double subsidies, that is to say subsidies given for both construction and operation.

Subsidies by the kilometre are estimated on the basis of a financial plan taking into account annual income and expenditure. These subsidies may be up to a maximum of 50 000 lire per kilometre for lines with steam traction and 58 000 lire per kilometre for lines with electric traction. They may be granted for a maximum duration of 50 years and in each case are granted by decree at the instance of the Minister of Transport and the Minister of the Treasury and after approval of the Council of Public Works and the Council of State. The amount of a subsidy is fixed and the concession holder must provide for all other expenditure himself. On the other hand, the benefits from any saving effected.

Owing to the growing financial burden on transport undertakings, the State has often had to make grants-in-aid.

The financial situation of the private railways in 1957 and 1958 is shown in the following table:

Operating ratio	Number of lines or groups of lines		Length of lines operated	
	1957	1958	1957	1958
0.97	4	—	447	—
from 1 to 1.5	17	25	625	1 128
from 1.5 to 2	16	12	792	655
above 2	26	28	3 220	3 280
1.8	63	65	5 084	5 063

The figures for concessionary railways are shown in the following table:

		Financial year	Financial year
		1957	1958
Operating costs	lire	26 690 242 565	28 177 280 984
Receipts	lire	14 852 772 689	15 257 145 966
Deficit	lire	11 837 469 876	12 920 135 018
Operating ratio		1.80	1.85

Out of the 47 companies operating various railway networks, only four made a profit in 1957 (operating ratio 0.97). The total length of lines operated by these companies was only 357 kilometres, while the total length of railway lines is about 5 000 km. In 1958 all concessionary railways showed a deficit.

A certain number of private railways, particularly in southern Italy and Sardinia, had enormous deficits. For example:

Ferrovie Calabro-Lucane	Length of lines 768 km.; Operating ratio 4.95;
Ferrovie Complementari Sarde	Length of lines 513 km.; Operating ratio 13.97;
Strade Ferrate Sarde	Length of lines 224 km.; Operating ratio 10.44.

As a result of laws and regulations which came into force in 1935, the State may grant railway companies extraordinary operating subsidies but such subsidies are made only on a temporary basis. The law lays down that they should be repaid with interest when the books are balanced and profits have been made. Subsidies may also be given for electrifying lines or introducing diesel locomotives.

Subsidies may not exceed 10 000 lire per km./year and are granted for a maximum of 50 years.

According to Act No. 410 of 14 June 1949 war damage is compensated by the State. In 1952 a special act was passed to encourage the re-organization and modernization of railways. This act provides for:

1. The review and increase of subsidies to the extent of 600 000 lire per km. (1 400 000 lire per km. for railway lines in southern Italy and the islands);
2. A contribution by the State towards expenditure on modernizing equipment to the extent of 50% (75% for southern Italy and the islands). The Ministry of Transport's contribution may be up to 3 000 million lire per year for six years. The general modernization plan provided for a total expenditure of 18 000 million lire; by an act of 1958 the amount was increased by 6 000 million lire;

3. The total or partial replacement of railways by road services;
4. The closing of lines with large deficits. A railway line can only be closed by legislation.

After consultation with a Committee for the re-opening and modernization of concessionary transport services, the Ministry of Transport takes measures to implement the act in question, which affects 47 concessionary lines with a total length of 3 800 km., 820 of which have been replaced by road services.

For the financial year 1958/59, the Ministry of Transport budgeted for a total expenditure of about 14 500 million lire under the heading of the various above-mentioned subsidies and contributions towards undertakings operating concessionary railways.

Further, the act on concessionary railways lays down that net profits should be paid over to the State where they exceed 6 % of the company's authorized capital.

III. PROVISIONS CONCERNING INVESTMENT

a) STATE RAILWAY INVESTMENT

With a view to improving their financial position and increasing productivity, the State Railways have laid out, in the last few years, large sums on modernizing and replacing equipment and stock.

Under an act of 1956 a first plan for connections with Switzerland has been completed. The total amount of investments under it was about 29 000 million lire.

Further, a five-year plan for modernizing and replacing stock is under way. This plan, which was approved by acts Nos. 289 of 21 March 1958 and 1142 of 18 December 1959, provides for investment totalling 275 000 million lire. Overall expenditure for improvements, increased capital investment and replacement of rolling stock during the last few financial years amounted to:

33 274 million lire for financial year 1955/56;
32 697 million lire for financial year 1956/57;
34 720 million lire for financial year 1957/58;
61 237 million lire for financial year 1958/59;
68 735 million lire for financial year 1959/60.

These investments were financed mainly by bond issues, but also to a certain extent from the budget and, for certain works of public interest, by Government subsidies.

A loan of 200 million Swiss Francs was raised to carry out the plan mentioned above.

The State Railways are entirely responsible for the service and redemptions of loans connected with the above-mentioned expenditure.

Since the financial year 1944/45, the figures for capital investments effected total 1 505 000 million lire, under the following headings:

Reconstruction works	510 000 million lire
Improvements and extensions	679 000 million lire
Replacement of tracks and other fixed equipment	206 000 million lire
Replacement of rolling stock	100 000 million lire
Replacement of service equipment and vehicle park	10 000 million lire
	<hr/>
	1 505 000 million lire

b) CONCESSIONARY RAILWAY INVESTMENT

Investment possibilities in this field are governed by the terms and conditions of the concession.

Considerable sums have been spent, more especially under the 1952 Act, on re-organizing and modernizing concessionary railways. The latter have invested about 28 000 million lire. As has already been mentioned, the State contribution amounted to 18 000 million lire or 50% to 75% of investment expenditure. In 1957 investments amounted to 3 500 million lire and in 1958 to about 5 000 million lire.

IV. TAXATION

Two categories of taxes and duties must be mentioned; those affecting the railways, like any other undertaking, on the basis of their economic activity, and those levied specifically for each transport service together with the charge for the transport itself. The latter ultimately fall upon the customer, the undertaking only has to levy them on the State's behalf and pay them over to the State.

The first category embraces the registration and stamp duties on concession contracts, as well as all taxes and duties which normally apply to industrial undertakings, for example company tax, land tax and general turnover tax.

The second category includes the transport tax and the stamp duty on transport contracts.

a) TAX TREATMENT OF STATE RAILWAYS

The State Railways are exempted from payment of general taxes (first category). However, they are generally subject to the tax on transport, at 16% of receipts from passenger and luggage transport and 3% of receipts from goods transport. This taxation was established by an act in 1900. But since, as from 1916, receipts arising from increases in rates are exempt from taxes, such taxes amount to a relatively small percentage of total receipts. At present the effective rates of tax are:

0.090% for passenger transport (normal rate);

0.075% for luggage transport;

0.008% for goods transport.

The State Railways are further subject to a stamp duty amounting to:
3% plus 2 lire for passenger transport;
1% plus 3 lire for separate goods packages;
1% plus 100 lire per complete wagon load.

These taxes and duties are included in transport charges. The State Railways have paid to the Treasury the following amounts under this heading:

5 382 million lire for 1957/58;
5 600 million lire for 1958/59;
5 851 million lire for 1959/60.

b) TAX TREATMENT OF CONCESSIONARY RAILWAYS

Concessionary railways pay both forms of tax.

At present the transport tax accounts for 8% of the fare for passenger transport and 3% of the rate for goods transport. But the transport tax for passenger transport is reduced to 3% for railways running at a loss.

The total of transport taxes paid by the concessionary railways is about 700 million lire a year.

**Section B — Provisions relating to passenger
and luggage transport**

I. GENERAL TERMS AND CONDITIONS

The "Terms and Conditions for Passenger Transport on the State Railways" include clauses on the rights and obligations of the railway management and of users, on the execution of transport contracts in general and on the application of the various rates.

Special conditions are laid down in the "Regulations for the Transport of Military Personnel and their Luggage" and the "Special Concessions for the Transport of Certain Categories of Passengers".

The stipulations for the concessionary railways lay down the essential points relating to transport conditions, time-tables and tariffs.

II. RATES

According to Act No. 1498 of 11 October 1934, any change of conditions which entails a burden on public funds or loss of receipts, increases and reductions of rates (not of general application) and of competitive rates of unlimited duration must be approved by the Minister of Transport by agreement with the Minister of the Treasury.

Changes of transport conditions which do not entail a burden on public funds or loss of receipts, as well as the modifying and fixing of competitive rates limited in time, need the approval of the Minister of Transport only. Changes of general transport conditions and of rates of general application may be made only by presidential decree (Act No. 1456 of 23 December 1948).

The general rate is differential; in the two zones from 701 km. to 1 000 km. and from 1 000 km. upwards, basic prices are applied which are reduced respectively by 33% and 83% in relation to the first zone of 700 km., where a constant rate obtains. The season ticket rates take into account both distance and the number of journeys that can be made with such tickets.

Besides the general rate there are numerous reduced rates: for journeys of a special nature (parties, special trains, etc.), as well as a certain number of "concessions", which are special rates in the general interest and established by decree by the Minister of Transport in conjunction with the Treasury (Decree No. 1396/1954). These concessions are set out in a special handbook. They include journeys by certain categories of passengers (civil servants and other officials, disabled servicemen, patriotic organizations, etc.), to whom reductions are granted for political and social reasons.

Finally, a special regulation provides for considerable reductions for military transport.

Basic provisions on transport conditions for concessionary railways are contained in the articles of concession. As a general rule the tariffs should not be higher than the corresponding State Railway tariffs.

Any modification must be authorized by the Minister of Transport.

III. INTERNATIONAL TRANSPORT

The International Convention concerning the Transport of Passengers and Baggage by Rail (CIV) of 25 October 1952 constitutes the legal basis for the international traffic of the State Railways. The State Railways also apply the common international rates for passenger and luggage transport (TCV).

Section C — Provisions relating to goods transport

I. GENERAL TERMS AND CONDITIONS

The general transport conditions of the State Railways are laid down by Presidential Decree No. 197 of 30 March 1961. They are of general application and deal with the following subjects: obligations arising from transport contracts, types of shipment, articles barred, collection and delivery, loading and unloading, provision of wagons,

time-limits for the loading and unloading of wagons, the completing of consignment notes, rate to be applied, modification or cancellation of transport contracts, impediments to transport, time-limits for delivery, impediments to delivery, clearance of consignments, liability in the transport of goods.

Transport contracts with concessionary railways are subject to the provisions of civil law unless the articles contain special clauses.

II. RATES

a) FIXING OF TARIFFS

The procedure for fixing, modifying or cancelling conditions and rates for goods transport by rail is determined by Royal Decree (R.D.L.) No. 9 of 25 January 1940, amended by Act No. 1456 of 22 December 1948. Under this arrangement the necessary measures are taken:

- i) By statute, for matters regarding obligation to carry, liability, time-limitation and expiry;
- ii) By presidential decree after consultation with the Interministerial Committee on Prices and the Council of Ministers, for general increases and reductions;
- iii) By order of the Minister of Transport, sometimes by agreement with the Minister of the Treasury, for other matters.

The most rapid procedure needs only an order of the Minister of Transport, whose authority can be delegated within certain limits to the Director-General of the State Railways (Art. 9 of the above-mentioned 1940 Royal Decree), and it is mainly applied to agreements with individual consignors with a view to obtaining or maintaining business (considerations of competition).

Transport rates and conditions must be published and they obligatorily apply to all customers. However, for purposes of competition, reductions in transport tariffs may be granted by the Minister of Transport by way of special concession.

In connection with these special concessions, which allow the State Railways a limited freedom of action in their application of tariff policy, Article 7 of the 1940 Act lays down that the Minister of Transport is authorized to grant reductions of rates to individual consignors, when this is in the interest of securing, developing or maintaining goods transport business, according to the competition offered by other carriers' transport rates and conditions. These reductions must remain within limits which allow the State Railways a reasonable margin of profit in relation to costs.

Such special reductions are not published, but should they continue for over one year, the Treasury must be notified.

The Minister of Transport may delegate to the Director-General of the State Railways the power to make special concessions which, however, must not be for more than one year's duration.

The State Railways have used this power to make special, unpublished rate concessions in varying degree according to the situation of the transport market.

These concessions have helped the State Railways to face the growing competition from road haulage, which has the advantage of complete liberty in matters of transport.

b) GOODS TARIFF STRUCTURE

Conditions and rates are published in "Conditions and Rates for Goods Transport on State Railways". The latest edition is dated 1 March 1959.

Any change in rates between one edition and another is published in the "Commercial Bulletin of the State Railways".

Goods transport rates on the State Railways are classified:

According to type of consignment

- i) Luggage;
- ii) Parcels (ordinary or express);
- iii) Wagon loads.

According to type of rate

- i) Normal rates;
- ii) Special rates (which are considered as normal rates for certain categories of goods: livestock, vehicles, etc.);
- iii) Exceptional rates, applicable only to given categories, and with varying reductions in relation to general or special rates for reasons of a social nature;
- iv) Negotiated rates applicable by agreement with given consignors and with varying reductions in relation to general rates for reasons of competition.

The system of charges is more or less that adopted by the various European railways. Rates are tapered according to distance, weight and a scale of goods value (*ad valorem* charge).

The rates for particular goods may also depend on origin and destination, and on whether home or foreign products are being carried.

Besides a series of special rates applied to particular goods on all lines, there are numerous exceptional rates which are applied only in inland traffic and on certain conditions. Such rates, which are sometimes much lower than the general rate, are mainly applied for social and political purposes, especially favouring the underdeveloped areas of southern Italy.

Finally, there are special agreements which the State Railways can make for reasons of competition. Normally the lower rates only apply above a certain minimum tonnage.

The State Railways and private railways are obliged to carry mail without charge. There are special regulations for the transport of military supplies.

The private railway rates are based on those of the State Railways. To these are added certain supplementary charges and taxes according to the special situation of some lines and companies. These rates must be approved by the Ministry of Transport after consultation with the Interministerial Committee. The Ministry of Transport may stipulate whether traffic in both directions between two stations belonging to different companies should be subject to a common rate or not, according to case.

Concessionary railways are also obliged to grant reduced rates for given categories of goods. These reductions, however, are of more limited application than in the case of State railway rates.

III. INTERNATIONAL TRANSPORT

The general conditions governing international goods transport are established by the International Convention concerning the Transport of Goods by Rail (CIM), ratified by Italy and the majority of European railway boards.

CIM provisions are supplemented by various other international freight rate agreements.

Italy has also concluded agreements with a number of States on various freight rates, including some international through rates.

PART III

ROAD TRANSPORT

Section A — General and technical provisions

I. STATE ADMINISTRATION AND CONTROL

a) ADMINISTRATIVE COMPETENCE

The Inspectorate General for Civil Motor Transport and Concessionary Transport is the competent authority for road transport matters, with the exception of road-building. In all regional capitals there are Regional Inspectorates which have administrative duties. Further, the Road Goods Transport Office (EAM) under the Ministry of Transport, has certain administrative duties in the motor transport sector. Responsibility for road safety lies with the Ministries of Transport and of Public Works.

Problems of modernization, maintenance and administration of the road system come under the authority of the Ministry of Public Works. The competent authority for national roads is the National Highways Board (ANAS) under this Ministry.

b) SUPERVISION OF ROAD TRANSPORT UNDERTAKINGS

Vehicles used for public passenger transport and public haulage as well as those used for transport on own account, are subject to the technical tests instituted for all motor vehicles and the control by the traffic police, which comes under the Ministry of the Interior.

Supervision of transport undertakings as regards observance of economic and legal provisions is the responsibility of the offices of the Inspectorate General for Civil Motor Transport and Concessionary Transport.

Such controls apply in particular to concessionary motor coach services. Officials have the right to examine ledgers and accounts.

c) PENALTIES

Offences against statutory provisions on transport are punished by fines. Offences against laws on transport freedom and safety contained in the penal and highway codes may be punished by imprisonment.

In the case of scheduled motor-coach services, offences against regulations are punished by fines up to 25 000 lire. If there are serious and repeated administrative irregularities, the concession may be withdrawn.

II. TECHNICAL PROVISIONS

Road transport is subject to regulations which came into effect on 1 July 1959 (Act No. 393 of 15 June 1959 and Implementing Decree No. 420 of 30 June 1959).

These regulations classify and define all types of vehicles and lay down the technical specifications to which these vehicles should conform: dimensions; load capacity; maximum weights; braking, lighting, and signalling equipment; etc.

The majority of these provisions primarily affect vehicle manufacturers. Each type of mass-produced vehicle must be approved by the Ministry of Transport and the purchaser of each vehicle must be furnished with a document certifying that it conforms to the approved type; vehicles not mass-produced and those used for public or goods transport must be approved individually by engineers from the Inspectorate of Civil Motor Transport.

The owners or users of vehicles, in their turn, are obliged to observe the regulations on road transport, especially in so far as the maintenance and use of vehicles is concerned.

The Ministry of Transport is empowered to have motor vehicles undergo a general check every five years. Vehicles used for public passenger transport and those normally used for goods transport must be examined every year. Motor vehicles and trailers are classified for licensing purposes as:

1. Vehicles used for private transport of passengers and goods;
2. Vehicles used for public transport:
 - i) Of passengers or goods by taxi;
 - ii) Of passengers or goods by scheduled services.

Every vehicle having a road permit must also have a licence from the Provincial Inspectorate for Civil Motor Transport. Each licence issued and each subsequent change of ownership must be entered in the public register of motor vehicles. This entry on the one hand has a statistical purpose and, on the other, serves to confirm title after a transfer of ownership. For industrial vehicles, the regulations on dimensions and weights are particularly important. Details are given in Annex II.

Road transport legislation also includes traffic regulations, but these do not fall within the scope of the present study.

III. PUBLIC INVESTMENT

The upkeep of roads open to traffic is in the hands of the relevant public authority, which is for national roads the independent National Highways Board (ANAS), for provincial roads the provincial authority and for local roads the commune. Motorways and roads which are restricted to motor traffic, including motorcycles, and have special approaches, are built and administered either by the State, through the ANAS, or by other public bodies or again by private undertakings.

A concession may be granted to private undertaking on a proposal from the Minister of Public Works, by agreement with the Minister of Transport and the Treasury and after consultation with the Council of State. Motorway traffic is subject to a toll.

The basic provisions on the building, classification and maintenance of roads are contained in an act of 1865 on public works. The text now in force is that of Act No. 126 of 12 February 1958.

At 31 December 1959 there were 25 568 km. of national roads, 47 582 km. of provincial roads and 108 543 km. of local roads. In addition there are 14 motorways with a total length of 840 km.

At present the following investment programmes are of particular importance. A vast programme for the building of concessionary motorways was inaugurated in 1955 and is now nearly completed. On the basis of Acts No. 463 of 21 May 1955 and No. 904 of 31 August 1959, 100 000 million lire and 40 000 million lire have been allocated for this purpose out of a total of about 420 000 million lire. The independent National Highways Board (ANAS) carried out extensive works on the national road system in accordance with Act No. 1328 of 19 November 1956, which provides for an allocation of public funds to a total of about 50 000 million lire. In pursuance of a ministerial decree of 2 February 1959 relating to Act No. 126 of 12 February 1956, the same authority has also begun work on a vast programme to extend the national road system. Under Act No. 904 of 31 August 1959, the ANAS is to undertake improvements to national roads which are particularly important for international and national traffic. 200 000 million lire over a period of 10 years have been earmarked for this purpose.

Act No. 126 of 1 February 1958 also provides for the gradual modernization of 40 000 km. of provincial roads with a government contribution of 200 000 million lire.

IV. TAXATION

Transport firms, like firms in other sectors, are liable to various general taxes such as profits and turnover tax. Further, road transport is subject to special taxes and dues laid down by a decree of 1953. They are as follows:

a) TRANSPORT TAX

Receipts of motor transport undertakings are subject to IGE (general turnover tax) at 3%.

Passenger fares on coach services are subject to a 3% stamp duty. Urban tram and bus services are however exempted from this tax.

Consignment notes for goods are subject to a stamp duty of a maximum of 20 lire, where the weight is above 120 kg. and more than one article is involved. For smaller weights and for a single article the tax is reduced.

Passenger and goods transport on permanent ways are subject to a revenue duty (*tassa erariale*). Transport services by bus, trolleybus and town tramway are not subject to this tax. It varies from a maximum of 8% on the railways, for passengers and express goods, to a minimum of 3% on non-urban tramways, funiculars, cableways, second-category private railways, and for ordinary goods transport by rail.

b) FUEL TAXES

At present the sale prices including tax are:

	<i>Sale price</i>	<i>Tax (lire per litre)</i>	<i>Percentage taken by tax</i>
Ordinary petrol	96	69.83	72.7
Diesel oil	75	51.14	68

The yield from fuel tax during 1958 was 244 000 million lire for petrol and 102 000 million lire for diesel oil, to which must be added 19 000 million lire from the tax on lubricating oil. For 1959 the corresponding figures were: 224 000 million lire, 109 000 million lire and 16 000 million lire and for 1960: 257 000 million lire, 123 000 million lire and 18 000 million lire.

c) ROAD LICENCE

This is the most important of the general taxes. It is calculated on the basis of the treasury rating of motor vehicles, on the number of seats for passenger-carrying trailers, and on the carrying capacity for goods transport motor vehicles.

For passenger motor vehicles the cost of the road licence is as follows according to cubic capacity of engine:

For vehicles with engine capacity up to	500 cm ³	7 000 lire per annum	
ditto	1 100 cm ³	21 300	ditto
ditto	2 000 cm ³	64 000	ditto
ditto	2 500 cm ³	104 000	ditto
For buses	ditto	10 500 cm ³	166 000 ditto

For goods transport, for example, the tax is:

For lorries with payload of 5 metric tons	70 500 lire per annum
For lorries plus trailer with a total payload of 15 metric tons	196 500 lire per annum
For lorries plus trailer with a total payload of 21 metric tons	267 000 lire per annum

Total receipts from motor taxation were about 55 000 million lire in 1958 and 71 000 million lire in 1960.

d) OTHER DUES

Charges for concessions and licences

Concessionary coach and bus services must pay, on the granting of the concession, and subsequently every year, a charge of 700 lire per kilometre of the route operated. This charge is scaled down according to frequency, duration and purpose of the service in question. For motor services intended solely for workers and students, there is a fixed charge of 1 000 lire. For the concession and licensing of goods transport by lorry, the charge varies according to the payload.

Contribution to cost of Government supervision

In partial repayment of Government supervision expenses, concession holders for permanent way and scheduled road services pay charges which are normally reckoned according to the length of the lines operated.

The annual rate of such contributions varies from a minimum of 0.525 lire per kilometre for goods motor transport to a maximum of 7 000 lire for public railways.

For scheduled coach services the rate is 0.70 lire per kilometre.

Section B — Provisions relating to passenger transport

I. LICENSING

a) GENERAL

All regulations on this subject are based on Act No. 1822 of 28 September 1939, on Presidential Decree No. 771 of 28 June 1955 and on Presidential Decree No. 393 of 15 June 1959 (Highway Code and implementing regulations). Those provisions, of an economic and legal nature, regulate transport for hire or reward, which is divided into three categories:

- 1) *Scheduled transport services*: scheduled passenger transport by motor vehicle over given routes. One particular aspect of this category is the regular tourist service designed to develop centres of scenic, artistic or historic interest;
- 2) *Transport by taxi*: passenger transport by motor vehicles plying for hire in the streets and public places;
- 3) *Transport by hired motor vehicle*: passenger transport by motor vehicle not plying for hire in the streets and public places.

b) LICENSING — PRINCIPLES AND PROCEDURE

Scheduled passenger services by motor vehicle are authorized on the basis of the act of 28 September 1939 and decree of 28 June 1955. Reputable private firms which satisfy the necessary technical and finan-

cial requirements are granted concessions, which may be for a year's duration and renewable, or for a fixed term of up to nine years.

In the interests of administrative decentralization, these concessions are granted (after comparative examination of the applications made by the competing firms):

- 1) By the mayor of the municipality, for ordinary bus services whose routes lie entirely within the municipal area and do not serve a railway station outside that area or a neighbouring airport;
- 2) By the Regional Inspectorate for Civil Motor Transport and Concessionary Transport, for ordinary scheduled coach services operating within a single province, for those excluded from point 1), and for seasonal services running for not more than three months and whose routes go outside the municipal area;
- 3) By the Ministry of Transport (Inspectorate General of Civil Motor Transport and Concessionary Transport) for ordinary scheduled bus and coach services not specified in points 1) and 2), for tourist and international coach services, as well as all services subsidized by the State.

Coach services are introduced for the benefit of localities which do not have or are insufficiently supplied with other means of transport, thus supplementing the permanent way transport system (State Railways, secondary railways, cableways, inland waterways, etc.). Preference in granting road service concessions is given to:

- 1) Concession holders operating railway, tramway, internal waterway and other public transport services over permanent ways, for scheduled services parallel to or directly complementary to such services;
- 2) Concession holders already operating adjacent road services.

Passenger road traffic can also be carried by hired vehicles for tourist excursions and by other occasional services (transport by taxi).

For hired services neither concession nor licence is necessary; the only condition is that buses for hire should have been approved by the competent authority.

In order to operate a taxi service it is necessary to have a municipal licence and a permit from the local police. Municipalities lay down provisions on the number and type of taxis used for passenger transport, taking into account local needs. These provisions must be approved by the Ministry of Transport. Licences are limited to the maximum fixed for each commune and are issued only to reputable concerns of good financial standing and the requisite experience.

Further, concessionary passenger transport undertaking operating scheduled services may be authorized by the district inspector to make runs such as tourist excursions outside their schedule, using their own vehicles.

c) FOREIGN OPERATORS

Foreigners are allowed to operate under the same conditions as Italian nationals.

II. GENERAL TERMS AND CONDITIONS

As a general rule, the relevant provisions of the Civil Code apply. For scheduled services the general provisions and special regulations to be observed are set out in the deed of concession.

The articles contain all the technical, administrative and economic conditions governing the concession, as well as obligations connected with the transport of mail. They also specify the amount to be deposited by the concession holder as a guarantee for the discharge of his obligations.

Firms operating scheduled services are under an obligation to provide transport over the routes described in the concession deed so far as this is possible with the vehicles normally used. Further, there may be provisions limiting or prohibiting operation in given localities. This avoids excessive competition and permits co-ordination between competing means of transport.

Scheduled coach services must be operated according to the programme, time-tables, tariffs and other conditions specified in the concession deed. Time-tables must be approved by the responsible authority when a concession is granted and must be published. All transport users must be treated alike unless special conditions are explicitly provided for in the deed.

For taxi services the local administration must approve fares and conditions.

Before going into service, every motor-vehicle must be tested by a district inspector. In the case of coaches and buses, regulations regarding internal height, entrances for passengers, steps, floors, ceilings and external accessories must be observed, as well as regulations on dimensions, weights, braking system, engine power, trailer towing system, visual and audible signals, etc.

The Minister of Transport makes regulations on the external features of vehicles, as well as on the uniforms of drivers and other personnel.

III. RATES

a) SCHEDULED SERVICES

Fares for scheduled coach and bus services are laid down in the published tariff and must be applied. Concessionary undertakings must come to an agreement with the State Railways before fixing fares. The Interministerial Committee on Prices must also be consulted, and finally the rates must be approved by the authority granting the concession. The municipalities must conform, within the limits of their authority, to the general administrative instructions of the Minister of Transport. There are no general compulsory provisions establishing the principles on which fares must be fixed. As a rule, they are fixed so that firms can cover their costs and make a fair profit. However, the public interest must be protected and for this reason maximum fares are set out in the deed of concession.

After the war a unified rate was set up for scheduled coach and bus services in general on the following basis: for normal transport (and usually also for seasonal transport) 7 lire per passenger/km. and for tourist transport 9 lire. In special cases exceptions may be made in particular to cover increased operating costs.

Reduced fares are also allowed on scheduled coach and bus services, but in comparison with the railways they are of limited extent. They apply mainly to workmen and school-children. Reductions are not allowed on routes served by railways of public importance.

By an act of 28 September 1939, firms operating scheduled services are entitled to payment for the transport of mail. According to the same act, transport concerns which have fixed-term concessions are granted subsidies up to a maximum of 800 lire per route/km. if they are running at a loss. But these provisions date from before the war and do not take into account the devaluation of the currency.

At present no subsidies are being paid, as firms which operate scheduled services usually make a profit.

The profits of individual concerns may vary considerably according to the particular operating conditions. In general, all services pay their way. Since the estimated expenditure-income ratio in 1958 for all concerns was 0.98 (expenditure 81 543 million lire - income 82 880 million lire), the present rates must on the whole be considered fair.

b) TRANSPORT BY TAXI OR HIRED CAR

Taxi fares are normally fixed by the local authorities. For other passenger transport, fares are open to negotiation.

IV. INTERNATIONAL TRANSPORT

The Italian Ministry of Transport has concluded agreements on international passenger transport with the following countries: Federal Republic of Germany (4 July 1957), the Netherlands (22 December 1956), Austria (19 May 1956), Sweden (13 June 1957) and Switzerland (19 September 1957).

These agreements cover both scheduled and occasional international services. Non-scheduled transport operations in the form of "closed circuit" tourist excursions, neither taking on nor setting down passengers in Italy, are not subject to authorization.

For such journeys it is sufficient to show on request a passenger list and to complete a document indicating the itinerary.

For other non-scheduled journeys, especially when passengers are taken on and set down in Italy, a special permit is necessary from the Italian Ministry of Transport. There are agreements between Government departments exempting transport services from authorization even when passengers are set down in Italy, provided that the vehicle recrosses the frontier empty.

Scheduled international services are governed by the relevant provisions of Italian law; agreement is therefore necessary between the higher transport authorities of the countries concerned.

Section C — Provisions relating to goods transport

I. LICENSING

a) GENERAL

Goods transport by motor vehicle is governed by Act No. 1349 of 20 June 1935, Royal Decree No. 223 of 25 November 1935 which contains provisions interpreting and limiting the law, and Decree No. 771 of 28 June 1955.

There are different conditions for commercial transport and transport on own account. The three different categories of road haulage are:

Scheduled services

This refers to scheduled road haulage between given loading and delivery points, according to a time-table, with fixed rates, and delivery time-limits. To date no such services have been inaugurated.

“Taxi-van” services

This refers to vans or lorries available for hire in public places for goods transport.

Occasional services

These services are provided by lorries which are not available for hire in public places.

b) PRINCIPLES AND PROCEDURE

Licences to operate scheduled goods transport are issued only to persons of good repute and financial standing possessing the requisite experience of the trade. In all other respects the same regulations apply as to passenger transport.

The local authority is responsible for licensing “taxi-vans” after consultation with the local Inspectorate for Civil Motor Transport. Here again the applicant must be of good repute and financial standing and possess the necessary experience.

The maximum number of vehicles and their gross weight as fixed by the authorities must not be exceeded.

“Taxi-vans” are only allowed to operate within a province.

For occasional services a licence must be obtained from the Provincial Inspectorate for Civil Motor Transport. Only reputable operators having the requisite financial standing and experience may receive such temporary authorization, which may be withdrawn at any moment.

The Minister of Transport has laid down by decree the licensing quotas for vehicles with a payload of over 5 000 kg. The original limit of 2 500 kg. for vehicles exempt from the quota was increased to 5 000 kg. by a ministerial decree of 20 June 1960.

The quotas must correspond to the needs of each individual province. On account of the great disproportion between the number of vehicles used for goods transport and the demand for such transport, a situation mainly due to the rebuilding of the railways after the war, very limited quotas for each province were fixed for the first time in 1948.

To date no provisions on the procedure for fixing quotas have been made; the law simply indicates the bodies responsible.

In practice the first step is that the provincial sections of the Road Goods Transport Office (EAM) draw up quarterly programmes containing estimates for each province, in relation to the foreseeable development of transport, of supplementary requirements of licences. Reference must be made to the provincial road goods transport committees, on which sit the director of the EAM provincial office, an official from the Prefecture, four representatives of road haulage firms and one representative of carriers on own account.

The programmes and estimates are then examined by the Regional Inspectorate for Civil Motor Transport and Concessionary Transport. Regional committees for the co-ordination of transport have been set up for this purpose within the Inspectorates. On them sit the Director and another official from the Regional Inspectorate, a representative of the Chamber of Commerce, a representative of the State Railways, a shipping representative, a civil aviation representative and a representative of EAM.

The Regional Inspectorates submit their final proposals to the General Inspectorate for Civil Motor Transport at the Ministry of Transport. After approval by the Minister of Transport, the allocation of new licences for each province is published in the Official Gazette.

The licences, which are for a period of nine years, must be issued within the quarter to which they have been allocated. They are issued by the Regional Inspectorates for Civil Motor Transport.

Applications for new licences must be sent to the local EAM provincial office, which passes them on to the Regional Inspectorate together with an opinion as to priority.

c) FOREIGN OPERATORS

The same provisions on licensing apply to foreigners.

II. GENERAL TERMS AND CONDITIONS

In the case of scheduled goods services, which in practice do not yet exist, conditions of a general compulsory nature are laid down in the deed of concession. The regulations correspond to those for scheduled passenger services.

For other goods transport, the provisions of the Civil Code on transport contracts apply, in particular Articles 1678 to 1702.

Occasional transport services can be operated on terms freely negotiated between the contracting parties. There are no provisions on the obligation to provide transport or on compulsory rates.

III. RATES

There are no legal provisions on rates for goods transport; these are freely negotiated between haulier and customer. The excess of supply over demand, despite the quotas for occasional transport, has resulted in keen competition between haulage contractors and between them and the railways.

IV. TRANSPORT ON OWN ACCOUNT

For transport on own account, a special licence is needed for each vehicle. This licence is granted immediately for vehicles with a permitted gross weight of less than 2.5 metric tons.

Other vehicles may be used only if their number and type correspond to the needs of the applicant. Licences are issued by the provincial Inspectorate for Civil Motor Transport. If a vehicle licensed to carry goods on own account is used for commercial haulage, severe penalties are incurred (withdrawal of licence for up to six months).

V. INTERNATIONAL TRANSPORT

As a general rule, provisions on internal transport apply to international transport services.

Foreign operators must therefore hold a licence from the Italian Ministry of Transport if they wish to carry goods to destinations in Italy. Licences are issued for a particular journey, for a specified number of journeys, or for an indefinite number of journeys to be made within a maximum of three months.

Foreign operators are not allowed to carry within Italy or to enter the country with empty vehicles in order to pick up freight.

As a rule the return journey must be undertaken unloaded. But the Minister of Transport may issue special permits for return loads.

These regulations apply both to commercial haulage and transport on own account. However, for transport of goods in transit no permit is generally required. Permits are issued only to operators of those States which allow Italian operators the same conditions on a reciprocal basis.

The procedure for the exchange of permits is laid down in bilateral agreements, of which the following are at present in force: with Austria (12 May 1960), Belgium (30 October 1957), Federal Republic of

Germany (17 March 1956), France (29 April 1956), Yugoslavia (27 July 1960), Netherlands (8 December 1959), Switzerland (19 September 1957), Sweden (13 June 1957), Spain (19 November 1959). The German-Italian agreement provides for goods transport on own account between the two countries without permit.

There is a quota of 150 permits for commercial haulage, of which 40 are permanent. Further, Germany issues 20 supplementary permits to Italian operators between 1 June and 15 September each year.

German operators may enter Italy with empty vehicles to take on loads provided they have a contract to do so.

The agreement with Belgium is on the same lines as that with Germany. It provides for a quota of 45 permits, 25 of which are permanent.

By the Franco-Italian agreement, short-distance transport near the frontier is entirely unrestricted. For other transport, the countries are divided into two zones:

- a) The short-distance zone, which in Italy embraces the territory situated west of the line Milan-La Spezia, and in France covers the departments of Haute-Savoie, Savoie, Hautes-Alpes and Alpes-Maritimes;
- b) The long-distance zone, covering the rest of Italian and French territory.

The following quotas are laid down for single journey permits:

- a) Short-distance zone: 12 000 permits a year for the transport of timber, 3 200 permits for other transport.
- b) Long-distance zone: 1 400 permits a year.
- c) Transit transport: 1 800 permits a year.

PART IV

INLAND WATERWAY TRANSPORT

Section A — General and technical provisions

I. STATE ADMINISTRATION AND CONTROL

a) GENERAL REGULATIONS AND ADMINISTRATIVE COMPETENCE

Inland waterway traffic is carried on lakes, rivers, canals and other inland waterways (Art. 21 of the Navigation Code) and on the canals of the Venetian lagoon.

Provisions on inland waterway transport are to be found principally in the Navigation Code, approved by Royal Decree No. 327 of 30 March 1942, which consolidates all previous legislation. Hitherto matters of private law had been regulated by the Commercial Code of 1882, now repealed, and those relating to public law by Royal Decree No. 959 of 11 July 1913 and its relevant implementing decree of 17 November 1913.

The Navigation Code, which contains regulations on sea, inland waterway and air traffic came into force for inland waterway traffic with the implementing Presidential Decree No. 631 of 28 June 1949.

The Code contains provisions common to sea and inland waterway traffic and others which apply only to one or the other. The first part deals with sea and inland waterway shipping, the second part with air traffic, the third with penal and disciplinary matters; and the fourth contains transitional and supplementary provisions.

The first part, which includes inland waterway traffic, is divided into four books: the first (on the administrative control of shipping) and the second (on the ownership and commissioning of ships) are concerned more directly with the activities of Ministry of Transport departments, while the third (on obligations relating to inland waterway shipping) and fourth (penal provisions) contain provisions of private and penal law which concern the relevant departments only indirectly.

The above-mentioned implementing decree on inland waterway traffic is on the same lines.

The Ministry of Public Works is the competent authority for the construction and maintenance of inland waterways.

The administration of inland waterway shipping comes under the Ministry of Transport (General Inspectorate of Civil Motor Transport and Concessionary Transport).

The local officers of the inland waterway administration are the Regional Inspectorates of Civil Motor Transport, each responsible for its "zone", and the port inspectors and quayside officials who are to be found at inland harbours and other important places.

b) SUPERVISION OF INLAND WATERWAY TRANSPORT UNDERTAKINGS

The Inspectorate General of Civil Motor Transport and Concessionary Transport is responsible for the supervision of inland waterway transport undertakings in accordance with provisions relating to commercial law and safety in inland navigation.

c) PENALTIES AND DISCIPLINARY POWERS

Part Three of the Navigation Code contains penal provisions relating to offences committed in operating inland waterway transport and disciplinary measures applicable to persons under the authority of a ship's captain, of harbour masters and consuls abroad, as well as of officials responsible for supervising dock labour.

By Article 1087 the provisions on original offences, which are more important in sea shipping, do not apply to inland waterway traffic, in which the provisions of ordinary law are deemed to be sufficient to protect society.

The rules on breaches of regulations are more complex.

Inland waterway traffic is governed by provisions in the Navigation Code aimed at ensuring the reliability and safety of shipping and the regular operation of services. Consequently numerous penalties, of varying degrees of severity, are imposed for infringements of these regulations.

The Navigation Code refers to offences of the following kinds: those relating to harbour police regulations; to the maintenance of order and discipline in ports and in dock labour; to the construction, ownership and administration of ships; to the registration of crews; and to the policing of ships and shipping safety. Disciplinary power over crews is exercised by the ship's captain and consular authorities abroad; by harbour masters over navigating personnel; by the authority responsible for the supervision of dock labour over dock employers and workers.

Breaches of discipline and the relative penalties are dealt with in Articles 1249 *et seq.* of the Navigation Code.

II. TECHNICAL PROVISIONS

In accordance with the Navigation Code, the Ministry of Transport has issued regulations on the specifications of craft used in inland waterway transport.

Among the numerous regulations made under the Navigation Code, the following should be mentioned:

- 1) Regulation on navigational qualifications (Presidential Decree of 17 July 1951);
- 2) Regulation on operation of non-scheduled passenger transport services for hire or reward (Ministerial Decree of 13 December 1951);

- 3) Regulation laying down the characteristics of the registration numbers of inland waterway shipping, of the abbreviated designation of the registration offices (Ministerial Decree of 18 August 1952), and of the number plates to be used for craft under test (Ministerial Decree of 23 September 1952);
- 4) Regulation on the composition of the Harbour Councils and Commissions to be set up at inland harbours (Presidential Decree of 4 January 1954);
- 5) Regulation on the towing of water-skiers or surf-riders, for reward, by motor craft on inland waterways (Ministerial Decree of 27 August 1955);
- 6) Regulation on the composition of the examining bodies which issue mariners' certificates to inland waterway crews (Presidential Decree of 7 April 1959); on the syllabuses of these examinations (Ministerial Decree of 21 July 1959) and the necessary physical qualifications (Presidential Decree No. 332 of 19 January 1957).

Further, shipyards must be licensed by the relevant Regional Inspectorate of Concessionary Transport. Shipbuilding is also subject to the supervision of this Inspectorate and the Italian Shipping Register.

These authorities exercise regular technical control of vessels used for inland navigation and issue certificates attesting that they satisfy service requirements.

Ships must carry, in addition to such certificates, a log-book for public passenger transport and a cargo register for goods transport. These documents are drawn up by the harbour master of the port of registration.

III. PUBLIC INVESTMENT

The inland waterways have a total length of 2 487 km. and are the property of the Italian State. Rivers account for 1 096 km., lakes for 402 km. and canals for 989 km.

Provisions relating to the classification, construction and maintenance of inland navigable waterways are contained in the consolidated text No. 959 of 11 July 1913.

This text divides the waterways into four classes according to their characteristics and types, and stipulates which public authorities are responsible for the restoration and upkeep of waterways; it also contains numerous regulations on water control, conservation of banks and on safety of navigation.

The responsible authority for the construction and maintenance of inland waterways is the Ministry of Public Works, whose budget has a heading for this purpose.

A Bill has been presented to Parliament for the development and improvement of the inland waterway transport but has not yet been passed.

There are no general data available on investment in this sector during the last few years.

Scheduled passenger services are run entirely by the State, which took them over from the private companies. Act No. 610 of 16 July 1957 contains provisions relating to their administration and lays down the necessary measures for modernizing and re-organizing them. In 1957 about 850 million lire were spent on restoring, modernizing and enlarging the fleet.

IV. TAXATION

Shipping concerns, like all other undertakings, must pay various taxes and duties, in particular income tax and turnover tax. There are also other special taxes and dues:

1. *Charges on concessions and other licences issued by public authorities*

Concessionary scheduled services are subject to an annual charge of 6 000 lire

The annual charge for other concessions and licences is 2 000 lire.

The annual charge for licences issued by the Port Inspectorates is 1 500 lire.

2. *Motor transport tax*

Motor-driven craft are subject to this tax at the rate of 150 lire per h.p. Scheduled passenger transport services pay only a third of this tax.

3. *Transport tax*

Scheduled goods and passenger transport by inland waterway are subject to a tax of 3% of the tariff. They are therefore exempt from turnover tax.

4. *Fuel tax*

The rates are the same as those for road transport.

Section B — Provisions relating to passenger transport

I. LICENSING

a) GENERAL

A vessel intended to carry fare-paying passengers must be entered in the shipping register kept by the Port Inspectorate. This confers the right to a licence. To be placed on the shipping register, the craft must satisfy all the technical requirements in force at the time.

The only inland waterway passenger services of any size are the concessionary services on the lakes.

The concessionary firms are subject to the provisions of Article 225 of the Navigation Code of 1942, to the regulations on inland waterway shipping of 1949 (Art. 49 *et seq.*), as well as to provisions contained in the law of 1912 on private concessionary railways. There are two types of concessions:

- i) Temporary concessions, for a period up to 2 years (granted by decree of the Ministry of Transport);
 - ii) Long-term concessions for a period up to 30 years (granted by Presidential Decree after reference to the Council of Public Works).
- Scheduled services may be granted exclusive rights in consideration of their being in the public interest.

The concession holders must fulfil certain technical and economic obligations. The details are laid down in the concession deed which also sets up rules for the administrative control and audit carried out by the Ministry of Transport.

Concessionary firms are subject to the oversight of the Inspectorate General of Civil Motor Transport and Concessionary Transport and of its regional offices.

b) FOREIGN OPERATORS

As explained in a), the licensing of transport services is dependent on entry in the shipping register. Only ships of Italian nationality may be placed on it, that is to say ships at least two-thirds owned by Italian nationals or companies. The latter must have their head offices in Italy and three quarters of their capital must be Italian-owned. Italian nationals must also be in the majority in their administrative and managerial bodies.

The licensing of foreign operators is thus subject to the above limitations.

However, where it is in the national interest, the Minister of Transport may, by administrative decree and by agreement with the Minister of Labour and the Minister of Commerce and Industry, place foreign nationals or companies on an equal footing with Italian nationals even if they do not satisfy the above-mentioned conditions. Individuals must have been resident in Italy for at least five years and corporations must have their head office or principal place of business in Italy.

II. GENERAL CONDITIONS AND RATES

The general economic regulations relating to inland waterway transport are contained in Articles 225 *et seq.* of the Navigation Code. The particulars of passenger transport contracts are laid down by Articles 369 *et seq.* Articles 99 *et seq.* of the 1949 regulations on inland waterway traffic are also important.

The general conditions for scheduled passenger transport are laid down in the concession deed and supplementary regulations.

The time-tables of scheduled services must be approved by the Regional Inspectorate of Civil Motor Transport and Concessionary Transport and published at least five days before they come into force.

In accordance with Article 1679 of the Civil Code, which applies to all firms operating scheduled services, a transport operator must treat all users alike and must meet all requests for transport which are within the normal means of his firm in the order in which they are presented. These obligations are laid down in each concession deed.

The deeds also establish the rates, which cannot be changed without the approval of the Ministry of Transport and must be published. The concession holder cannot make any reduction in rates or allow any other privileges without permission from the Ministry of Transport and on condition that they are granted equally to all persons in the same situation.

For transport services subject only to licensing by the authorities, the Navigation Code lays down that the Ministry of Transport, after reference to the Inland Waterway Transport Committee, shall fix minimum and maximum rates.

On the basis of an act of 1913 undertakings operating scheduled services under concession may be granted State subsidies if they run at a loss. The amounts of these subsidies do not take into account currency depreciation—they still stand at one lire per vessel per km.—and therefore they are almost valueless. In any case the scheduled service undertakings almost balance their budgets.

The expenditure income ratio for 1958 (expenditure 3 485 million lire—income 3 182 million lire—) was 1.09.

Section C — Provisions relating to goods transport

I. LICENSING

a) GENERAL

When goods are transported by vessels used for scheduled passenger services, the regulations relating to these services are applied.

For all other inland waterway transport a licence, issued for all ships on the Shipping Register, is necessary.

Applications for licences must be made to the Provincial Inspectorates of Civil Motor Transport and Concessionary Transport. As a rule, this is also the body which issues licences; the Ministry of Transport does so only in special cases. The licences are valid for 5 years. Shipping companies operating transport or tug services do not have to be licensed.

b) FOREIGN OPERATORS

For the licensing of goods transport the same regulations apply as for passenger transport (see B, I, b).

II. GENERAL CONDITIONS

The transport of goods by vessels used for scheduled passenger transport is subject to the conditions laid down in the deed of concession. Occasional transport by inland waterway craft is governed by Article 226 of the Navigation Code and by Articles 129 *et seq.* of the regulations on inland waterway traffic.

Articles 419 *et seq.* of the Navigation Code contain special provisions relating to transport contracts.

Bills of lading are to be compulsory for ships of over 25 tons burden.

III. RATES

The charges for goods transport by passenger vessel are fixed according to the rates established in the concession deed.

As yet, there are no regulations on the rates for occasional goods transport, which are freely negotiated between the contracting parties. However, bracket tariffs are to be introduced.

IV. TRANSPORT ON OWN ACCOUNT

There are no regulations on this subject.

V. INTERNATIONAL TRANSPORT

As international transport by inland waterway in Italy is negligible in amount, there are no regulations on the subject.

PART V

**FORWARDING AGENTS AND OTHER INTERMEDIARIES
IN INLAND TRANSPORT**

Section A — Provisions relating to forwarding agents

I. LICENSING

Articles 1737 *et seq* of the Civil Code contain provisions relating to forwarding agents. The economic aspect of their activities is dealt with in Act No. 1442 of 14 November 1941.

According to Article 1 of this act a forwarding agent is anyone who, on his own behalf or for and on behalf of a principal, offers to conclude for valuable consideration a contract for transport by land, sea, inland waterway or air and to execute the same.

Forwarding agents must be entered on an official register kept at the Chambers of Commerce, on which any individuals or corporations may be registered if they have a general police permit and can provide guarantees of integrity; they must also deposit a surety.

Licences are also issued to foreign nationals on the basis of the general police regulations relating to foreigners.

The issue of licences to act as customs agent is governed by customs legislation. Act No. 1612 of 22 December 1960 instituted a special register of customs agents authorized by the customs authorities. This act contains, amongst other things, the conditions and obligations that apply to such agents.

II. GENERAL OPERATING CONDITIONS AND RATES

a) FORWARDING CONTRACTS

Forwarding agents play an important part in Italian transport, since a large number of users, not knowing the market conditions, prefer to make use of a forwarding agent instead of applying direct to the carrier. Generally they leave it to the forwarding agent to choose the means of transport and route.

The forwarding agent has thus an important role as regards competition between transport firms and between forms of transport. Its importance is all the greater since in many cases the forwarding agent also acts, either wholly or in part, as the carrier. This applies almost exclusively to goods transport by road.

Forwarding agents are subject to certain legal obligations. In the absence of precise instructions regarding the means of transport and

the route, the forwarding agent must act in the best interests of his principal.

Any discount or rate reduction allowed by the carrier must, failing any agreement to the contrary, be passed on by the forwarding agent to the customer.

If the forwarding agent acts as the carrier, he has the rights and accepts the liabilities of a carrier as laid down by law. The prevailing opinion is that the transport contract is complementary to the forwarding contract, and not that the rights and obligations flowing from it are already contained in the forwarding contract.

The legislation on customs, in particular Act No. 1612 of 22 December 1960, contains special provisions regarding customs agents.

b) RATES

There is no general regulation governing remuneration. Normally it is fixed by agreement between the forwarding agent and the principal. However, the act of 14 December 1941 provides that, failing such agreement, the rate shall be established on the basis of commercial tariffs and usages.

These tariffs may be fixed by the trade associations, but they are not generally binding.

By law the forwarding agent is allowed to agree with the principal on a lump-sum covering both the forwarding agent's commission and his expenses.

By this method he can avoid having to pass on to the customer any reduction he may obtain in freight rates.

For customs agents, the act of 22 December 1960 provides for the introduction of a single obligatory tariff, which is to be worked out by the National Council of Customs Agents.

Section B — Provisions relating to other transport intermediaries

In the transport sector there are few intermediaries in the legal sense of the word because, as a general rule, such business is done by forwarding agents.

According to Articles 1754 *et seq.* of the Civil Code, an intermediary is one who acts as agent between two or more parties with a view to the conclusion of a contract, but without being employed by them, dependent on them, or representing them.

The rights and obligations of intermediaries are laid down in detail by law. There are no special provisions on transport intermediaries or particular restrictions on their activity.

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It is sufficient for such an intermediary, like anyone else practising a profession, to have a police licence in accordance with the regulations on public safety.

In return for his services, the intermediary is entitled to a commission from the contracting parties.

**GRAND DUCHY
OF LUXEMBOURG**

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FOREWORD

Transport problems in Luxembourg are closely connected with the geographical and economic structure of the country. As the country is relatively small, average distances are short and terminal handling assumes more importance; furthermore the country's economy is based chiefly on the iron and steel industry which, with its large requirements of raw materials and deliveries of finished products, makes heavy demands on transport. Another point is that Luxembourg is largely dependent on other countries because its national resources are very limited and its internal market very narrow; the chief sources of supply and the main outlets for the Luxembourg economy are abroad. As transport for the steel industry is mostly in bulk, it is principally done by rail, and will soon also be done by inland waterways, thanks to the canalization of the Moselle.

This situation explains the basic factors in Luxembourg transport policy. In order to maintain and, if need be, strengthen the competitive position of the iron and steel industry, transport policy must be in alignment with economic policy. Freight rates must be fixed so as not to prejudice the competitive position of the industry in export markets.

Because of the geographical position of the country, the Luxembourg transport system is much in demand for communications between neighbouring countries. Its economic vitality must be assured and transport integrated harmoniously into the European transport system. This objective was and still is one of the principal aims of Luxembourg transport policy, and was embodied in the Belgo-Franco-Luxembourg Convention of 1946 concerning the constitution of the Luxembourg State Railways (CFL).

Nevertheless, the Government still has great difficulties to overcome. Freight rates on the Luxembourg railways are still the highest in the Community. This is mainly due to the heavy burden of wages, salaries and, particularly, pensions, and also to a large deficit on passenger services. This deficit is caused by very low fares, which are kept down in the interest of industry and must be offset by receipts from goods traffic.

It is clear from the foregoing that, where co-ordination of transport is concerned, the terms of the problem are not quite the same in Luxembourg as in the other Member States.

At the moment, there is no co-ordinating legislation as such. Transport is at present governed by a number of laws and regulations and by bilateral international conventions, which do not form a homogeneous whole. It is only very recently that consultations have begun on measures for co-ordinating the different forms of transport.

PART I

**BASES OF TRANSPORT POLICY
INSTITUTIONS AND ORGANIZATION****I. LEGISLATIVE POWERS**

Bills concerning transport are drawn up by the Ministry of Transport. A draft, accompanied by an explanatory memorandum, is submitted to the Council of State which formulates an opinion on the text, possibly making a counter proposal. Any changes in the first draft must again be referred to the Council of State.

The final text is submitted, with the comments of the Council of State, to the Grand Duke who has to authorize its tabling in Parliament.

The Bill tabled in Parliament is referred to the "sections" or to a special Commission. Each section appoints two rapporteurs from among its own members. Together with the President of the Chamber, the six rapporteurs form a central section for the Bill which appoints a rapporteur who introduces the Bill in Parliament. The report of the central section contains an analysis of the Bill, the observations of the sections, proposed amendments and considered conclusions. The rapporteur reads this report to Parliament.

The debate on the Bill is divided into two parts: a general discussion and a discussion article by article. During the debate members may present counterproposals, additional articles or amendments. The modified or amended text is submitted to the Council of State, then to the sections or to a special Commission. The debate may be suspended until the Council of State has formulated its opinion and the central Committee drawn up its final report.

Parliament votes no less than four times on each Bill: a first vote article by article, secondly a statutory vote, then a vote on the Bill as a whole and finally a second constitutional vote. By agreement with the Council of State the second constitutional vote can be waived.

The Bill finally passed by Parliament must receive the assent of the Grand Duke and comes into force only after it has been promulgated by the Sovereign and published in the "Memorial". It comes into force three days after publication in the "Memorial".

II. ADMINISTRATION

The Ministry of Transport is directed by the Minister, assisted by specialized departments and governments commissioners. There is no regional or local transport administration.

The various sections of the Ministry of Transport (rail transport, road transport, inland waterways, air transport and legal department) are headed by senior civil servants, directly responsible to the Minister.

General licences to set up as transport contractors are issued by the Ministry of Economic Affairs.

Financial, technical and administrative control of the railways is in the hands of the government commissioners. Their duties were specified in Article 7 of the general specifications for the Luxembourg railways approved by the act of 16 June 1947.

At present there are three government commissioners in charge respectively of technical, financial and administrative matters.

Their terms of reference were set out in decrees of 25 May 1950 and 16 July 1952 and are as follows:

Seeing that the Luxembourg railways fulfil their obligations under the terms of legislation and regulations governing their administration;

Seeing that the national railway company observes legislation, regulations and decisions concerning operation and the application of the staff rules, and complies with the regulations governing employees', widows' and orphans' pensions;

Supervising the observance of police laws and regulations on railway safety;

Making a monthly report to the Minister of Transport, submitting observations or suggestions and advising on any question pertaining to the railways referred to them by the Minister.

Roads and inland waterways come under the jurisdiction of the Ministry of Public Works. The Highways Department of this Ministry deals with all technical and administrative matters concerning the maintenance or construction of roads and waterways. It has offices in each canton.

The Minister of Transport is assisted by four advisory bodies:

The Transport Council set up by a ministerial order of 7 September 1956. It examines all transport problems and submits to the Minister considered opinions on general questions of transport co-ordination from the social, financial and economic standpoints. It is composed of representatives of the various ministries, of the Luxembourg State Railways Board, of road transport firms, of transport users and the principal employers and workers organizations. Its Chairman is the Minister of Transport.

The Road Traffic Commission established by a ministerial order of 11 December 1959 to modify road transport regulations. It examines all questions concerning transport on public highways. The Commission deals only with technical and legal problems of road transport and had no influence on transport policy. It is composed of officials from the relevant government departments, together with representatives of road transport interests.

The Moselle Committee set up by a ministerial decree of 18 January 1957, is composed of delegates of the various government departments and of the communes concerned. This Committee examines the technical, economic and financial aspects of the canalization of the Luxembourg stretch of the Moselle and of the harbour at Mertert-Grevenmacher.

The Moselle Legal Committee set up by a ministerial decree of 7 February 1957, is composed of ministry officials and law officers and is responsible for preparing Luxembourg legislation on inland waterways and inland waterway transport.

III. TRADE ASSOCIATIONS AND OTHER BODIES REPRESENTING TRANSPORT INTERESTS

a) PROFESSIONAL BODIES

1. *Chambers of Commerce and Industry*

The Chamber of Commerce is a public-law body, officially representing both traders and manufacturers. It has the right to submit proposals to the Government which the latter must examine and, where appropriate, refer to Parliament. The opinion of the Chamber of Commerce has to be obtained before legislative measures governing the activity of certain groups of contractors can be taken. The Chamber of Commerce is represented on the Board of the Luxembourg State Railways.

2. *Other professional bodies*

Professional bodies have been formed or are planned for farmers, clerical workers, operatives, craftsmen and public servants. The private clerical workers' association has a special section for railway staffs. Other transport workers are members of the Chamber of Labour.

b) TRADE ASSOCIATIONS

The Traders' Federation represents the interests of Luxembourg employers. It has a transport section which covers road haulage contractors, agents and other transport auxiliaries.

The Barge-owners' Association is composed of Luxembourg barge-owners who at present operate on foreign waterways.

c) TRADE UNIONS

Unlike the employers, transport workers have special unions.

The oldest is the National Federation of Luxembourg Railwaymen and Transport Workers (FNCTL). This is one of the most powerful trade unions in Luxembourg. Originally it was confined to railwaymen and only recently has it been extended to road transport-workers and air-transport ground staff. The FNCTL is affiliated to the socialist General Confederation of Labour (CGT).

The Christian Federation of Transport Workers is also largely composed of railwaymen. Like the FNCTL, this union has for some years had additional sections for workers in other branches of transport: road, air and inland waterway.

Like the Chamber of Commerce, railway workers and staff are represented on the Board of the Luxembourg State Railways.

PART II

RAIL TRANSPORT

Section A — General provisions

I. LEGAL STATUS, STATE AUTHORIZATION AND CONTROL

a) LEGAL STATUS

Before the war the Luxembourg Railways were in the hands of several independent companies; since 1944 they have been operated by a single nationalized company: the Luxembourg State Railways (CFL).

The organization, administration and operation of the CFL are governed by the Act of 16 June 1947 and the following texts, ratified and brought into force by that act:

- a) The Convention concluded on 17 April 1946 between Luxembourg, France and Belgium concerning the operation of railways in the Grand Duchy;
- b) The protocol to the aforementioned Convention dated 17 April 1946;
- c) The codicil to the same Convention, dated 26 June 1946;
- d) The memorandum and articles of association of the Luxembourg State Railways drawn up in conformity with Luxembourg law and dated 14 May 1946;
- e) The general terms and conditions for the Luxembourg State Railways dated 14 May 1946.

By virtue of the act of 16 June 1947, all previous railway concessions were withdrawn in the public interest and the government was empowered to reassign all existing railway equipment to the CFL.

The CFL were incorporated in Luxembourg and are subject to the act of 16 June 1947, to the Commercial Code, to Luxembourg company law and to its articles and general terms and conditions. Its contracts are deemed to be commercial.

The deed of association was signed for ninety-nine years with effect from 1 June 1945. The company may not be dissolved except by consent of the governments signatory to the Convention of 17 April 1946. In this event, the net assets are to be divided between the three shareholders, in proportion to their share in the capital, and full rights over the real estate of the system will revert to the Luxembourg Government.

The capital of the company was fixed at 800 million Luxembourg francs and subscribed as to 51% by the Luxembourg Government, 24.5% by France and 24.5% by Belgium.

b) ORGANIZATION OF THE LUXEMBOURG RAILWAYS

The organization and financial management of the Luxembourg State Railways are governed by the articles of association of 14 May 1946. The said articles and the general terms and conditions may only be modified by legislation and with the consent of the governments party to the Convention of 17 April 1946.

The Board of the CFL has 21 members appointed for six years. Eleven members, including the Chairman, are Luxembourg nationals appointed by decree of the Grand Duke.

Of these eleven, five represent the State, three the railway employees and the other three, the different categories of users.

The French and Belgian governments each have five representatives on the Board.

The Board has very wide powers in the management of the CFL and acts for the CFL in regard to third parties.

The Board has powers to set up a standing committee to prepare its business. It also appoints, subject to government approval, the Managing Director and confers on him certain powers for day-to-day management and for specified matters.

The CFL have a Board of Auditors, comprising three members appointed by the Luxembourg Government, one by the French Government and one by the Belgian Government for a period of six years.

The auditors have far-reaching powers of scrutiny and inspection, including the oversight of matters of interest to their countries. The balance sheet, the capital account, the trading account and the profit and loss account are submitted to them annually.

The Board of the CFL includes several administrative and technical departments, which are all based in Luxembourg.

c) CONTROL BY THE GOVERNMENT OR THE MINISTER OF TRANSPORT

As conessor and majority shareholder, the Luxembourg Government has extensive rights of control including the following:

In all matters of organization the Luxembourg Government has reserved the right to intervene in order to enforce the clauses of the convention.

The government issues regulations and ensures the safety of the railways and their associated road transport services.

The internal service and operating regulations of the CFL are subject to the approval of the Minister of Transport.

The Government is empowered, on the advice of a Labour-Management Committee, and after consultation with the CFL, to lay down conditions of employment, remuneration and retirement for railway officials.

Wages and conditions for railwaymen are fixed by collective bargaining and workers in this category are affiliated to the old-age and disability scheme for pension purposes.

The Minister of Transport approves the purchase or conversion of rolling stock and equipment, as well as other capital programmes.

Any increase of fares suggested by the Railway Board in order to cover deficits must be approved by the Minister of Transport; similarly all proposals concerning tariffs only take effect if the Minister of Transport raises no objection within the statutory time-limit.

The CFL must submit their annual balance sheet and profit and loss account to the Luxembourg Government.

Day to day control of the CFL in matters of administration, technical and economic operation and financial management, is exercised by the Minister of Transport acting through three government commissioners. The latter possess extensive powers under decrees of 25 May 1950 and 16 July 1952.

Important measures to improve the conditions of the CFL such as are referred to below require the prior approval of the three associated governments:

The reduction, suspension or withdrawal of rail services on unprofitable lines or sections;

Their partial or complete replacement by other means of transport;

Authorization of the CFL to acquire an interest in any public transport undertaking in Luxembourg, or immediately adjacent territory.

Such measures are taken by way of administrative regulation.

Any extension or modification of the system by the construction of new lines requires a special law. The consent of the French and Belgian governments is required.

The following are the main points to be noted.

The railways are very strictly controlled by the Luxembourg Government and their freedom of action is limited by the procedure they have to observe; nevertheless, subject to these limitations, the Board of the CFL fully exercises its statutory powers; being represented on the Board, the French and Belgian governments also have a say in all important decisions.

The Luxembourg Government has full powers as conessor and majority shareholder.

II. PROVISIONS CONCERNING OPERATION AND FINANCIAL MANAGEMENT

a) GENERAL ASPECTS

By No. 4 of its articles, the CFL are obliged to operate, as an industrial undertaking. According to Article 1 of the general terms and conditions the CFL are obliged, by virtue of the Convention of 17 April 1948, to operate on a commercial basis, regularly and without interruption, treating all users alike. Moreover, the CFL, while seeking to obtain a maximum return, are required to give equal consideration to the interests of Luxembourg, France and Belgium.

Consequently in order to obviate the disadvantages for a network operating over so small an area, Article 3 of the Belgo-Franco-Luxem-

bourg Convention of 17 April 1946, provides that "The existence of the Luxembourg network shall not justify any measures which would divert traffic from the route it would follow if this network formed an integral part of the Belgian or French networks. The French and Belgian Railway Boards shall take no measures promoting the diversion of traffic which would normally use the railways of the Grand Duchy."

According to Articles 5 and 7 of the Convention, degressive Belgian tariffs are extended to the Luxembourg railways for goods in transit over the Belgian, French and Luxembourg networks. The CFL are, moreover, required to handle traffic in transit on the same basis as if the Luxembourg railways formed an integral part of the Belgian or French networks. Frontier stations are operated jointly by the Railway Boards of the three countries.

The Luxembourg Government has granted the CFL the right to manage and operate all railway lines on Luxembourg territory. This right includes the possession of all land, premises and installations used by the railways and the benefit of all relevant contracts and leases.

The State gives the CFL full rights to operate and takes over all obligations to former railway concession-holders. The right to operate is not transferable.

For its part, the CFL bear the cost of pensions falling due during the period of their administration, as well as certain financial liabilities, partly taken over from their predecessors. The CFL are also obliged to carry out all repairs, including major repairs, and to replace rolling-stock and equipment where necessary for normal operation. The State and not the CFL is responsible for repairs necessitated by war damage. The CFL took over the staff employed on 1 June 1945 on the terms in force at that date.

In principle the CFL are responsible for maintaining the railway and its appurtenances as well as rolling-stock and equipment in satisfactory condition, so that traffic requirements can be met and services operated with maximum safety and convenience and so that normal operation is possible when the concession expires.

The detailed provisions covering the operation and safety of the railways are contained in the administrative regulation promulgated by the Grand-Ducal decree of 23 June 1952. This decree also covers matters pertaining to the policing of the railways.

The Board of the CFL is required, before 1 November each year, to draw up the budget for the ensuing financial year. Receipts and expenditure must be balanced either by economy measures, or by increases or adjustments in tariffs.

The accounting system of the CFL is modelled on that of industry. There must be a fund for the replacement of equipment and installations, a reserve fund and an insurance fund. The balance sheet and profit and loss account must be drawn up each year at 31 December and submitted to the Government for approval after auditing and approval by the Board. Government approval or the absence of comment within three months means that the directors and auditors are discharged of liability.

The CFL can float loans, authorized and guaranteed by the State, only to meet current financial needs and to cover new capital expenditure and, if need be, the construction of new tracks.

b) OBLIGATION TO OPERATE, TO TRANSPORT AND TO FIX TARIFFS

By virtue of the general terms and conditions to which they must conform the CFL are obliged to operate scheduled and uninterrupted services with equal treatment for all users.

Scheduled passenger services must in principle provide sufficient seats for all ticket holders. The railways are obliged to carry such passengers, as well as any goods, live animals, mortal remains or other objects entrusted to them, with care, promptness and despatch and without preferential treatment. They cannot refuse to carry indivisible consignments which their normal equipment can handle.

In consideration of these obligations, the CFL are empowered to impose a charge covering the cost of transport and ancillary expenses. Proposed tariffs, and amendments thereto, are submitted to the Minister of Transport and come into force two weeks after submission unless the Minister gives to CFL notice of objection at least five days before the expiry of this period. Tariffs are published in the "Memorial" and in the press. If lower rates are introduced for an unspecified period, they cannot be raised again before three months have elapsed.

Any adjustments to the general tariff increases proposed by the CFL with a view to balancing income and expenditure must be approved by the Minister within one month unless, within the same period, the Chamber of Deputies votes an appropriation to cover the whole deficit.

A reduction in rates requested by the Government cannot come into force until the Chamber of Deputies has voted an appropriation to cover the whole of the consequent loss of revenue. In this connection attention is drawn to Article 11 of the Belgo-Franco-Luxembourg Convention, which provides that "if, with the sole purpose of serving Luxembourg interests, the Government of the Grand Duchy takes measures incompatible with the sound industrial and commercial operation of the railways, the consequent financial burden shall be borne entirely by the Luxembourg State".

Tariffs must be applied without discrimination.

All private contracts which would have the effect of granting a tariff reduction are prohibited. This does not apply however to contracts between public departments and the CFL.

The most important of the latter are governed by the general terms and conditions and apply in particular to the postal, telegraph and telephone service and to military transport.

If the railways are authorized by Grand-Ducal decree to supply transport other than by rail over a section where the railway is operating at a loss, the service in question is subject to the conditions and requirements fixed by the Minister according to the nature of the replacement service.

The Railway Board is consulted by the appropriate government departments prior to the granting of any concession or licence for the supply of transport to the general public. It also has first option as regards any concession or licence for road or rail transport.

III. PROVISIONS CONCERNING INVESTMENTS

The CFL are responsible for purchases and replacements of equipment and for all repairs essential for regular operation. Article 11 of the general terms and conditions stipulates that all railway plant and rolling-stock must be constantly maintained in such condition that traffic requirements can be met and train movements ensured with the maximum degree of safety and convenience.

Capital expenditure proper includes all purchases of equipment and all expenditure on supplementary works representing an increase in capital. The relevant programmes must be approved by the Minister. This applies in particular to the purchase or conversion of rolling-stock.

In carrying out works, the CFL enjoy the same rights as does the State with regard to public works, particularly in the matter of compulsory purchase.

Contracts are normally put out to tender.

If the CFL's own resources fall short of requirements, investments can be financed by Government of Government-backed loans. Redemption and interest fall entirely upon the railways, but are backed by government guarantee in both cases.

Railway investment was and still is one of the Governments' main transport policy problems; it also supplies the Government with a valuable opportunity for effective intervention. The Minister has sponsored a ten-year programme, established by the railways, for extensive modernization and reorganization to improve operating conditions appreciably and step up productivity. It includes electrification of most of the main lines, the replacement of steam by diesel locomotives and modernization of equipment and safety devices and the streamlining of technical and administrative procedures.

IV. TAXATION

Under a supplementary agreement signed by the three Governments, amending the convention of 17 April 1946, the CFL tax system must always constitute a compromise between the systems applied to the Belgian State Railways and the French State Railways under Belgian and French legislation respectively. Consequently, if tax exemptions granted to the Belgian and French railways are abolished the Luxembourg Government can take similar action.

The CFL tax system is set out in detail in Article 8 of the general terms and conditions.

This Article exempts the railways from the most important taxes collected by the State, viz. State income tax, capital levy, taxes and other charges on motor vehicles, stamp and registration duties. In the case of all motor vehicle taxes, and transfer and conveyancing taxes, the railways are treated in the same way as the State.

The CFL are subject to:

1. Transport tax, amounting to 4% of gross revenue; this tax is charged to transport users and included in the tariffs;
2. Income tax, which is however levied on distributed profits only;
3. Securities tax and stamp duty on debentures issued by the CFL;
4. Local taxes:
 - i) Commercial tax
 - ii) Property tax
 - iii) Tax based on total wages paid.

Section B — Provisions relating to passenger and luggage transport

I. GENERAL TERMS AND CONDITIONS

The passenger tariff sets out the rules and regulations governing the carriage of passengers and luggage. The general conditions of transport are given in the first part, the general tariff and special tariffs in the second and a mileage table in the third.

The tariff applies not only to all railway transport but, also in principle, to supplementary transport services operated on behalf of the railways by concessionary road transport firms.

The CFL are bound to execute all transport orders as long as these are in accordance with the tariffs and can be handled with normal transport facilities.

The general transport conditions and the provisions concerning rates must be applied to all passengers. Privileged treatment for individual passengers is not allowed.

The first part of the tariff contains detailed provisions governing transport operations, notably, compliance with time-tables, the use of transport documents, liability and compensation for damage.

II. RATES

The normal tariff is not “degressive”, but provides for a 15% reduction for the return journey.

Many special tariffs are applied as well as the standard one: for example, fares for group travel, reduced fares for social reasons, school-children's fares and workmens' fares. These tariffs provide for substantial reductions, up to as much as 75% of the normal rate for the journey.

III. INTERNATIONAL TRANSPORT

With regard to international passenger transport, the International Convention concerning the carriage of passengers and luggage by rail (CIV) (25 October 1952) is applied, as is the common international tariff for the carriage of passengers and luggage (TCV).

Section C — Provisions relating to goods transport

The transport of goods is governed by the tariff for the transport of goods, valuables, mortal remains and animals.

Section 1 of the goods tariff is devoted to general provisions and the general conditions of transport; section 2 and various annexes set out the provisions on rates, and section 3 contains the mileage table.

I. GENERAL TERMS AND CONDITIONS

These are contained in section 1 of the CFL tariffs. Article 4 of the general provisions and Article 5 of the transport conditions stipulate that carriers must comply with the rules set out in the tariff. The other provisions cover the conclusion of transport contracts, the completion of consignment notes, subsequent amendments to the contract, packing, loading, unloading, liability and compensation for damage.

Supplementary transport conditions have been fixed for road transport operated by the CFL as part of regular road services.

II. RATES

a) FIXING OF TARIFFS

The railway fix their own tariffs, though in principle they are subject to the Ministers' approval. (Additional details on the procedure for fixing tariffs are given in section A II b).

Tariffs come into force not less than 24 hours after publication in the "Memorial".

The fixing of tariffs is mainly based on principles dating from the time when the railways enjoyed a monopoly of transport. CFL freight charges are mostly ad valorem, but there are many competitive tariffs. Costs play only a minor role in the formation of standard tariffs, but are of particular importance in the fixing of competitive tariffs.

The geographical structure of the country and the structure of transport, the special features of which were examined in the foreword, make it more difficult to incorporate the concept of cost price into the tariff system. The maintenance of passenger fares at a very low level—a policy the Government is obliged to pursue for social and political reasons—leads to a substantial deficit on passenger traffic. This deficit

has to be made good by surplus revenue from freight, tariffs for which are therefore far above real costs.

Moreover, tariff policy must take account of the Convention between Luxembourg, Belgium and France, signed on 17 April 1946. This convention prohibits measures which might cause diversions of traffic. Furthermore, under the terms of Article 5, the "degressive" Belgian tariffs for transit through the territory of the Grand Duchy have been extended to the Luxembourg Railways. Special Belgo-Luxembourg tariffs are applied on these stretches of line.

b) APPLICATION OF TARIFFS

Article 29 of the general terms and conditions stipulates that freight must be charged for without discrimination. Any private contract which would have the effect of granting reductions in tariffs to one or more consignors is forbidden. Contracts between public authorities and the railways are excepted from this rule.

Article 8 of the general provisions supplements this clause with a stipulation that rate reductions duly published and applied to all passengers, under the same conditions, are permissible. Reductions for transport operated for the needs of the railways themselves, on behalf of government departments or for charity purpose are also allowed. The CFL goods tariff now in force is made up as follows: for separate packages, either the ordinary tariff or the express package tariff is applied as appropriate; the nature of the goods carried is not taken into account.

For waggon-loads there is again a choice between ordinary and express services. In the latter case, in calculating the rate to be charged, the actual weight is increased by 50%. The standard tariff is divided into six classes corresponding to the value of the goods carried. For goods in the first three classes, there are a main sub-class (15 metric tons) and two secondary sub-classes (10 and 5 metric tons); for goods of the fourth, fifth and sixth classes, there are a main sub-class (20 metric tons) and three secondary sub-classes (15, 10 and 5 metric tons).

There is no special tariff for whole trains or groups of waggons. On the other hand, there are numerous special tariffs, offering various reductions on the standard tariff.

In certain cases, these tariffs include clauses for minimum quantities. ECSC tariffs are applied to the transport of ECSC merchandise.

III. INTERNATIONAL TRANSPORT

The legal basis of international transport is the International Convention concerning the carriage of goods by rail (CIM). In so far as they do not conflict with the International Convention, the tariff provisions for internal Luxembourg traffic are also applicable.

The Luxembourg railways have adopted a number of direct international tariffs.

PART III

ROAD TRANSPORT

Section A — General and technical provisions

Luxembourg's laws and regulations on road transport concern only transport for hire or reward. So far no regulations have been introduced covering transport on own account. The road transport services operated by the Luxembourg State Railways are subject to the laws and regulations in force for the railways. However, the regulations governing traffic on public highways also apply to these services.

I. STATE ADMINISTRATION AND CONTROL

a) ADMINISTRATIVE COMPETENCE

The Minister of Transport is the competent authority for all matters concerning road transport. An advisory committee of government officials and representatives of the main branches of industry interested in road transport has been set up within the Ministry of Transport to deal with road traffic questions.

Road-building comes under the Bridges and Highways department of the Ministry of Public Works.

b) SUPERVISION OF ROAD TRANSPORT UNDERTAKINGS

Like private road transport, road transport for hire or reward is subject to control by the traffic police and to technical requirements covering testing, etc.

Firms operating regular bus services are subject, under their general terms and conditions, forming an integral part of the deed of concession or licence, to the control and supervision of the Ministry. The officials specially charged with the supervision of these firms must ensure that they comply with their contractual undertakings. Apart from general technical testing, vehicles are subject to a special test. The concessionary must comply at once with orders given in the interests of transport safety.

There is no special supervisory body for the goods transport by road.

c) PENALTIES

1. Breaches of the law concerning public transport are covered by Chapter 7 of the Royal Decree of 24 November 1829 enacting regulations for public transport by land. This decree, which still constitutes

the only legislation on the subject; was promulgated when stage-coaches still plied the highways, and is quite inadequate for present-day road traffic. Ignored in practice, it is not discussed in this study.

A bill on road transport in Luxembourg is now before Parliament. The penalties provided for are largely based on those applied in Benelux.

2. Breaches of the Grand Ducal Decree of 14 August 1934, under which a government licence is required to engage in certain trades and professions, are punishable by imprisonment for three days to three years and/or fines ranging from 300 to 3 000 Belgian francs.

3. With regard, in particular, to public transport by bus, Article 28 of the terms and conditions stipulates that failure to comply with requirements or to refrain from acts indicated in the terms of contract or in the deed of concession or licence, even if such provisions are not binding, may lead, without prejudice to liability for damages, to the withdrawal of the concession or licence, with immediate effect or with effect from a specific date.

The Minister may warn or instruct a carrier to take, or refrain from, a particular action. Failure to comply with time-limits he may prescribe for these purposes is punishable by a daily fine of from 100 to 1 000 francs without prejudice to all other legal rights.

II. TECHNICAL PROVISIONS

Transport on public thoroughfares is covered by the Act of 14 February 1955, the implementing Grand Ducal Decree of 23 November 1955 and many other Grand Ducal decrees and ministerial orders.

The following provisions affect transport policy:

- a) Provisions concerning the weights and dimensions of vehicles and their loads;
- b) Provisions concerning motor insurance;
- c) Provisions concerning the conditions under which vehicles licenced abroad are allowed to operate in Luxembourg.

The provisions concerning weights and dimensions are based on the Geneva Convention of 1949 and the European Agreements signed at Geneva in 1950.

All owners or drivers of motor vehicles registered in Luxembourg are required to insure their vehicles. The minimum sum for which he may insure is fixed in the Highway Code.

There are no special provisions for motor vehicles licensed abroad. Drivers must however produce a valid insurance contract covering any damage caused by their vehicles.

III. PUBLIC INVESTMENT

Roads come under the Ministry of Public Works; with the Bridges and Highways department of this Ministry as the competent authority. This department consists of a directorate at Luxembourg, two area services at Luxembourg and at Diekirch, and thirteen divisional services with headquarters in major towns. It is responsible for all road-building, including work on local roads.

There are three kinds of road:

- i) *Highways* which are State property and are wholly financed by the State;
- ii) *Adopted local roads* owned by the communes and financed as follows:
 1. The communes meet 50% of the cost of adoption;
 2. The State defrays all other expenditure, including maintenance, repair and new building.
- iii) *Local roads*, which are normally financed by the administering communes. Their construction is, however, subsidized by the State, and the amount of the subsidy is agreed separately for each case. In addition the State defrays the cost of the first surfacing of all local roads.

State expenditure on road-building, administration, maintenance and renewal is financed from ordinary, and, where necessary, extraordinary, budget revenue. As the State budget is governed by traditional principles of public finance, there is no special appropriation for roads. However, efforts are now being made to set up a special road-building fund.

It should be added that the Government is playing an increasingly important part in the financing of new roads, in view of the poverty of many communes: an Act of 5 May 1958 provides for the partial redistribution of the road network and the adoption of a number of local roads by the State. It is difficult to estimate how far revenue obtained by taxes and other charges on road transport is likely to cover corresponding expenditure. Estimates on this subject differ so widely as to be useless. There is no reliable estimate of revenue and expenditure by categories of user.

IV. TAXATION

a) TRANSPORT TAX

1. *Passenger transport*

Urban transport

Definition: any public transport service by bus, making at least three journeys per week for two consecutive months per year on a specific route within a single commune or two adjoining communes.

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Tax basis: passenger fares and luggage rates;

Tax rate: 1.961% of the tariff (where tax is included in the charge), 2% of the net rate (where the tax is not included in the charge);

Exemptions: cheap fares for workers, school-children, service men and cheap rates for service men's luggage.

Transport service between towns:

Definition: Any public transport service by bus making not less than three trips per week for two consecutive months in the year on a specific route, in so far as this service is not considered an urban transport service.

Tax basis: passenger fares and luggage rates;

Tax rate: 10.714% of the tariff (where the tax is included in the charge), 12% of the net rate (where the tax is not included in the charge);

Exemptions: cheap fares for workers, school-children, service men and cheap rates for service men's luggage.

Non-scheduled transport services

These include:

- a) Public transport service by bus, lorry and motor car of passengers, making less than three journeys a week on a specific route;
- b) Excursion services by bus and lorry;
- c) All other passenger transport by bus or lorry not covered above.

Tax: 0.03 francs per passenger/km.

Transport services by taxi and passenger transport by motor cars carrying not more than seven passengers

Tax basis: the gross charge paid for the service;

Tax rate: 1.961% of the tariff rate (where the tax is included in the charge), 2% of the net rate (where the tax is not included in the charge).

2. *Goods transport*

The 2% turnover tax is levied on goods transport services.

Tax basis: gross rate (including tax).

3. *Goods and passenger road transport operated by the Luxembourg State Railways*

These services are subject to a special 4% transport tax;

Tax basis: the tariff rate (where the tax is included in the charge). On the other hand, they are exempted from the transport tax and the turnover tax mentioned under 1 and 2 above.

In principle, foreign transport firms carrying out transport operations on Luxembourg territory pay the same taxes as Luxembourg transport

firms on that part of the transport charge relating to the distance travelled in Luxembourg.

So far, however, the Government has refrained from taxing foreign transport firms since the small amount of revenue so obtained would not justify the cost of collection.

b) FUEL TAXES

Fuels are subject to turnover tax as follows:

1. On import, fuels are subject to the 2% import tax (import turnover tax);

2. The turnover tax is applied to sales of fuel as follows:

i) Wholesale (all sales to retailers or to commercial users, as long as the fuels have not been processed between purchase and resale): 0.5% of the gross sale price (including tax);

ii) Retail: 2% of the gross sale price (including tax);

c) MOTOR VEHICLE TAX

The motor vehicle tax is governed by the Act of 23 March 1935, the Orders of 5 July 1935, 21 December 1936 and 17 May 1938 and by the Grand Ducal Decrees of 26 October 1944, 13 June 1945 and 29 July 1957.

The tax is calculated according to cubic capacity for mopeds, motor cycles, tricycles and private cars and according to weight for other vehicles. The tax rate does not vary according to the nature of the liquid fuel used. Trailers, but not semi-trailers, are exempt.

From the angle of transport policy it is interesting to note that passenger motor vehicles and lorries used by the Luxembourg Railways are exempted from the motor vehicle tax. Vehicles owned by natural persons and used for commercial passenger transport are also exempt, provided that this use of the vehicle is the owner's main source of income. Tax exemption of this kind is applicable only to taxis carrying up to 8 persons.

d) OTHER TAXES

Under the Grand Ducal Decree of 22 July 1960 a fixed rate 7% turnover tax is payable on all sales of motor vehicles (motor cars, motor cycles, and any other motor vehicle used for road transport, and their trailers).

This tax is collected either at import (when the vehicle is imported by the customer or when he is the person to whom it is consigned) or on delivery to the customer. The tax is reduced to 2% for deliveries to the customer of vehicles on which the 7% tax has already been paid.

Section B — Provisions relating to passenger transport

I. LICENSING

a) LEGISLATIVE PRINCIPLES

To act as carrier it is necessary, as for any trade activity, to have a licence in accordance with the Grand Ducal Decree of 14 August 1934 and the act of 2 June 1962 (laying down the conditions for the licensing and practice of certain trades as well as the constitution and management of undertakings), which subject certain trades to governmental authorization. A licence is granted only to reputable operators. Before such a licence is given, a thorough investigation must be made and an opinion given by the committee of experts.

The licence is granted by the Minister of Economic Affairs and cannot be transferred, but can be withdrawn.

The legal provisions distinguish between two categories of passenger transport:

i) *Scheduled transport* is accessible to all passengers (or passengers and goods) over certain routes, according to a time-table published in advance.

ii) *Non-scheduled transport* is the transport of persons on request, within the limits of a municipality or in the neighbourhood, and also passenger transport for particular purposes, the time-tables and routes not being established in advance.

b) ISSUE OF LICENCES

1. *Scheduled transport by bus*

The basic text governing this type of transport is the Royal Decree of 24 November 1829 enacting general regulations for public transport services by land. This body of regulations dates from the time of stage coaches and, as it no longer corresponds to the needs of present-day road traffic, is not examined in the present report. A Bill on road transport in Luxembourg is now before the Chamber of Deputies.

At the present moment the Government's policy is to grant bus companies only temporary licences which can be withdrawn at any time. The Minister of Transport has ceased granting any fixed term concessions because the public bus system in Luxembourg is to be completely reorganized.

The Luxembourg State Railways have first option on any transport concession or licence by rail or road. This right must be exercised within two months from the time a concession is applied for.

2. *Non-scheduled transport*

The Royal Decree of 24 November 1829 does not apply to non-scheduled transport. The general commercial provisions of the Grand

Ducal Decree of 14 August 1934 apply to this kind of transport. Licences in this connection are issued by the Minister of Economic Affairs (see para. 1a).

c) FOREIGN OPERATORS

According to Article 10 of the terms and conditions which are incorporated in the deed of concession or licence for scheduled transport, the concession holder must elect domicile in the Grand Duchy and inform the Ministry of Transport of his address and of any subsequent change of home or office address.

Furthermore, the licence needed to act as transport operator, required by Article 6 of the Grand Ducal Decree of 14 August 1934 and the act of 2 June 1962, can be granted to foreigners for a maximum duration of 1 year only. Its renewal must duly be applied for within the prescribed time limits. Belgian nationals are treated as Luxembourg nationals.

II. GENERAL CONDITIONS

The general operating conditions for scheduled bus services appear in the terms and conditions which are incorporated in the concession deed or licence. Particular provisions for each individual bus line may be laid down in special terms and conditions.

The first article of the terms and conditions contains a clause stipulating expressly that all measures co-ordinating public transport in the public interest must be implemented.

By the Royal Decree of 24 November 1829, concession holders were already obliged to provide regular and continuous services. Article 3 of the terms and conditions again expressly stipulates the obligation to observe the time-table ordered by the Minister of Transport. The latter may order modifications of time-table and route.

According to Article 14 of the terms and conditions, the concessionary must keep a sufficient number of vehicles at the disposal of passengers, including relief vehicles, to provide the services laid down in the time-table and to satisfy any demand on the part of transport users.

The concession holder is responsible for all injuries to passengers or damage to property caused during transport. He is bound to take all necessary steps to maintain his equipment in a good state and to ensure operational safety. Vehicles are tested regularly by the responsible authorities before and after their being put to operational use.

The Annex to the terms and conditions stipulates certain technical conditions to which vehicles must conform. The terms further contain provisions on numbers of personnel and authorized working hours.

The concession holder must be ready to provide all statistical data on his operational activities if required to do so by the Minister of Transport.

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The concession holder must normally carry mail on behalf of the postal authorities.

The concession deed or licence may contain provisions on subsidies to be given by the State or taxes to be paid by the concession holder.

The transport conditions for non-scheduled transport by motor vehicle are contained in the relevant provisions of the Commercial Code. In the case of road transport operated by the Luxembourg Railways, the transport conditions relating to passenger fares are applied.

III. RATES

For scheduled bus transport, the fares to be applied by operators are fixed in Article 24 of the terms and conditions. They must be posted inside vehicles used for paid passenger transport.

The following fares have been fixed and can be modified only by authorization of the Minister of Transport:

Normal tariff: 1 franc per passenger/kilometre with a minimum fare of 5 francs

Yearly season-ticket: 25% reduction on normal fare

Student's season-ticket: 50% reduction on normal fare

Worker's weekly ticket: 50% reduction on normal fare.

Student's and workers' season-tickets are issued to passengers who would be entitled to such tickets on the Luxembourg Railways. Likewise, there are tariffs for luggage and parcels.

Non-scheduled transport charges can be negotiated freely, while the rates for taxi fares are fixed by the local authorities.

Wherever the Luxembourg Railways replace rail by passenger bus services or any other type of road transport, they must comply with the provisions relating to railway passenger fares. However, the fares will be established on the basis of distances by road.

IV. INTERNATIONAL TRANSPORT

As a rule the relevant provisions of Luxembourg law apply in the case of Luxembourg operators. Consequently non-scheduled transport enjoys great freedom of action.

In accordance with the "Freedom of the Road" Convention concluded by the Economic Commission for Europe, non-scheduled bus transport for tourist purposes is not subject to licensing.

The administrative agreement of 30 April 1952 lays down the following special rules on traffic with the Federal Republic of Germany; non-scheduled services, including tourist transport, are not subject, as a rule, to special licence. However, a permit to this effect must be produced at the frontier.

The same applies to taxi services within the frontier areas. Special licences for other transport by taxi may be granted for particular reasons.

The setting up of scheduled road transport services between the two States or in transit is subject to the relevant Luxembourg and German legislation.

Section C — Provisions relating to goods transport

I. LICENSING

a) GENERAL

There are no special provisions on road goods transport. In accordance with the Grand Ducal Decree of 14 August 1934 and the Act of 2 June 1962, transport operators, like all other industrial categories, must obtain a licence to operate.

The applicant must provide guarantees that he is a qualified and reputable carrier. Before a licence is issued, the application must be examined and approved by a Committee of Experts.

Scheduled road goods transport is governed by the provisions in the Decree of 24 November 1829, the articles of the concession deed and the terms and conditions.

There are no special scheduled goods transport services. Buses on scheduled passenger services may carry goods at the same time.

Otherwise road goods transport is not subject to any restrictions.

It must be remembered that the Luxembourg Railways have first option of concessions or licences for both goods and passenger transport by road.

b) FOREIGN OPERATORS

A licence to operate a road goods transport service is granted to foreign nationals under the same conditions as to Luxembourg nationals but for a maximum period of one year. The licence may be extended.

In this report Belgian nationals are treated as Luxembourg nationals.

II. GENERAL CONDITIONS

The transport of goods by buses operating scheduled passenger services is governed by the provisions appearing in the deed of concession and the terms and conditions.

Where the Luxembourg Railways operate transport by lorry, they must apply the rates and conditions in force for transport by rail, otherwise there are no special transport conditions relating to road goods transport.

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The relevant provisions of the Commercial Code, namely Articles 101, 102 and 103-107, apply.

III. RATES

For parcels carried by concessionaires of scheduled bus services, the rates are fixed in Article 24 of the terms and conditions. These rates must be published and any modification requires the previous authorization of the Ministry of Transport. Carriers may make special agreements with consignors or consignees for whom they provide a regular service.

The rates for parcels are as follows:

up to 1 kg.	3 francs
from 1 to 10 kg.	5 francs
from 10 to 25 kg.	10 francs
from 25 to 50 kg. (maximum weight)	15 francs

These rates may be increased by 50% for bulky parcels.

The rates for transport by lorry operated by the Luxembourg Railways are based on the tariffs by rail.

Otherwise road goods transport is not subject to any regulations on prices.

IV. TRANSPORT ON OWN ACCOUNT

At present there are no legal or tax provisions concerning transport on own account.

V. INTERNATIONAL TRANSPORT

At present there is no special Luxembourg legislation on international road goods transport.

However, Luxembourg has concluded administrative conventions with Belgium and the Federal Republic of Germany.

The main provisions of the latest agreement concluded with Belgium in 1955, are as follows: Belgium allows Luxembourg a quota of 150 licences for transport between Luxembourg and Belgium and vice versa, inclusive of transport in transit through Belgium.

Licences are issued by the Luxembourg Minister of Transport for a limited period or one journey. All Belgian operators holding an international transport licence as required by Belgian legislation are allowed to carry to Luxembourg and in transit through Luxembourg territory.

Transport on own account is not subject to any restriction.

A convention was recently concluded, on 19 July 1961, with the Federal Republic of Germany. According to its provisions, a licence is necessary for all commercial transport between the Federal Republic and Luxembourg and vice versa, as well as for transport in transit. Internal transport is forbidden by both parties.

The number of licences issued is limited to 105, including transit transport.

Transport licences are personal and not transferable. They are issued only for a specific vehicle having a specific carrying capacity. No licence is necessary for the transport of mortal remains, removals, the transport of wine in barrels, or transport within the frontier zone.

PART IV

INLAND WATERWAY TRAFFIC

Section A — General and technical provisions

I. CONDITIONS PECULIAR TO LUXEMBOURG

At present there is no inland waterway transport in Luxembourg. However there will be after canalization of the Moselle has been completed, so it is as well to outline here the future organization of such shipping.

The Luxembourg stretch of the Moselle being relatively short it will carry almost exclusively international transport. Consequently the Luxembourg government has relatively little scope for economic legislation on inland waterway traffic.

II. CONVENTION RELATING TO CANALIZATION OF THE MOSELLE

The provisions of this Convention, which was concluded on 27 October 1956 between the French Republic, the Federal Republic of Germany and the Grand Duchy of Luxembourg, will determine the broad lines of the organization of inland waterway shipping in Luxembourg. The convention was ratified by the Luxembourg Act of 29 December 1956.

In addition to the actual canalization of the Moselle and the financing of construction work, the terms of this Convention govern the organization of shipping, the fixing of tolls and the powers of the Moselle Commission.

a) REGULATIONS FOR MOSELLE SHIPPING

The administration of Moselle shipping largely follows the lines of the international administration of shipping on the Rhine. In particular this is true of the provisions relating to customs duties, passports, policing, health and social security, inspection of ships, minimum numbers of crews and jurisdiction over vessels.

However all these provisions, with the exception of customs regulations, are subject to modifications or adjustments by the Moselle Commission. The Commission must also approve the implementing of any changes in the Rhine administration, including customs regulations, made as from 1 January 1956.

Expenditure relating to the use, maintenance and reopening of inland waterways falls upon the countries signatories to the Convention, each

of which is responsible for the section of waterway passing through its territory.

b) TAXATION OF VESSELS

An important chapter of the Convention deals with the fixing of taxes on inland waterway transport and the manner in which they are levied. The tax rates laid down for Moselle shipping are the same as those applied on the Main and Neckar. In future these taxes can only be modified within clearly defined limits. Article 23 lays down the basic tariffs according to the level of 1 July 1956 and makes a distinction between standard tariffs (6 classes of goods) and special tariffs. Article 24 lays down criteria for calculating taxes.

Certain categories of transport are exempt from payment of taxes, these being:

- i) Transport over short distances between two neighbouring locks;
- ii) Transport by boats a tonnage less than 15 metric tons;
- iii) Transport connected with the construction or maintenance of the canal or other work in the interests of shipping.

c) THE MOSELLE COMMISSION

The Moselle Commission will be appointed at least one year before the date laid down for the opening of the river to shipping. It will be composed of six delegates, two from each State concerned. The chairman will change every year.

In general, the Commission will have the duty of ensuring that shipping can operate in the best conditions and of promoting its development. The Commission also has the power to determine:

- i) Ways of levying tolls in accordance with the provisions of the Convention;
- ii) Ways of applying the Rhine system of administrative to the Moselle;
- iii) Conditions for issuing shipping licences.

Section B — Administrative competence

The inland waterway transport department of the Ministry of Transport is responsible for all matters relating to inland waterway traffic.

Matters connected with the construction, maintenance and administration of navigable waterways are the responsibility of the civil engineering department of the Ministry of Public Works.

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Two advisory committees have been set up to deal with all matters relating to the canalization of the Moselle:

- i) The Moselle Committee is responsible for co-ordination, especially at the technical level, of measures concerning canalization work on the Luxembourg stretch of the Moselle, as well as the construction of the port of Mertert-Grevenmacher.
- ii) The Moselle Legal Committee has to draft Luxembourg legislation on the inland waterways and inland waterway transport.

PART V

**FORWARDING AGENTS AND OTHER
INTERMEDIARIES IN INLAND TRANSPORT****Section A — Provisions relating to forwarding agents****I. LICENSING**

To act as forwarding agent, a licence is necessary, as for any other industrial activity, in pursuance of the Grand Ducal Decree of 14 August 1934 (a decree subjecting certain trades to governmental authorization). A licence is granted only to qualified and reputable forwarding agents. Before such a licence is given a thorough investigation must be made and an opinion given by the Committee of experts. The licence is granted by the Minister of Economic Affairs and cannot be transferred, but can be withdrawn.

A foreign national may be granted a licence to act as forwarding agent only for a maximum of one year, in accordance with Article 6 of the Grand Ducal Decree of 14 August 1934.

Its renewal must be duly applied for, within the specified time limits. Belgian nationals are treated as Luxembourg nationals.

II. GENERAL OPERATING CONDITIONS AND RATES

Part II of section VI of the Commercial Code contains the provisions on forwarding contracts.

Under the terms of Article 96, in conjunction with Article 102, paragraph 7, any forwarding agent who undertakes transport by land or water must record such operations in his day-book and register them as he carries them out.

The forwarding agent is responsible for carrying out the contract within the time-limit stated in the way-bill. This also applies to any intermediary agent acting on his behalf.

The way-bill constitutes the basis of the contract between the forwarding agent and the carrier or between the forwarding agent, the principal and the carrier. Article 102 of the Commercial Code contains provisions on the form of the way-bill.

The transport tariff must appear in the way-bill.

There are no special provisions on the fixing of forwarding charges.

Section B — Provisions relating to other transport intermediaries

There are no special regulations on other transport agents.

NETHERLANDS

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PART I

**BASES OF TRANSPORT POLICY
INSTITUTIONS AND ORGANIZATION****I. LEGISLATIVE POWERS**

All legislative provisions governing transport by rail, road or inland waterways apply uniformly throughout the country.

The only exception is that provincial authorities and, to some extent, municipal councils have certain powers, which they have used, to legislate for local railways and tramways, passenger transport by inland waterways and ferries.

The same applies to the execution of the relevant statutory provisions, and municipal councils also administer the law on passenger transport, in respect of transport within their boundaries.

National legislation can set aside any measures taken by the provincial or municipal authorities.

II. ADMINISTRATION

a) MINISTRIES

All transport matters, including sea and air transport, and the construction and maintenance of railways, roads and other transport installations are the responsibility of the Ministry of Transport and Waterways (*ministerie van Verkeer en Waterstaat*). This ministry comprises the following five departments, each headed by a director-general.

The Directorate-General of Transport prepares and implements all legislation concerning transport by land or inland waterway. It also supervises the Netherlands Railways (*Nederlandse Spoorwegen*), handles all problems concerning international transport by land or inland waterways, and is responsible for all transport questions connected with seaports.

The Directorate-General of Shipping has general responsibility for maritime shipping, including international sea transport.

The air transport division (*Rijksluchtvaartdienst*) deals with all matters relating to national and international air services. It is responsible for civil aviation in general, particularly the KLM, for air-safety and for the training of flying personnel.

The Works Directorate (*directie van Rijkswaterstaat*) administers all technical regulations for transport routes and is responsible for the construction and maintenance of main roads and inland waterways.

The National Postal Services deal with the post office, telegraphs and telephones and are responsible for the technical administration of the radio and television services.

The following are subordinate authorities:

The National Transport Inspectorate (*Rijksverkeersinspectie*), set up under the Royal Decree of 12 June 1936 (as amended), which supervises all means of transport and implements all relevant rules and regulations in so far as it is specifically empowered so to do by legislation or an administrative regulation made by the Minister of Transport.

It further exercises the supervision referred to in Article 10 of the Railways Act and, in this context, is entitled to institute inquiries and issue orders.

The National Transport Inspectorate comes under the Director-General of Transport in the Ministry of Transport.

The Director-General reports to and advises the Minister of Transport on transport matters. He must carry out the latter's instructions.

He is assisted by Chief Inspectors and Inspectors of Transport and other technical officials.

Each inspector heads a district inspectorate, whose boundaries are coterminous with those of the province.

The provincial transport inspectorates are regional agencies of the central transport administration. They issue licences for regular or non-scheduled goods transport by lorry or inland waterway vessel to firms within their jurisdiction, so far as they are authorized to do so by the Transport Licensing Committee (*CVV — Commissie vervoervergunningen*). They also register firms operating transport on own account by inland waterway vessel and supervise the inland waterway freight exchanges. The Transport Inspectorates also co-operate in issuing licences for national road or inland waterway transport and international transport for reward.

The National Road Transport Service issues licences for motor vehicles after inspection of their condition and equipment, and carries out regular inspections.

Similarly, the Shipping Inspectorates are responsible for the inspection of sea-going and inland waterway vessels and for the issue of licences.

b) OTHER ADMINISTRATIVE BODIES

The Transport Licensing Committee (*Commissie vervoervergunningen*) issues licences for passenger or goods transport by road and for goods transport by inland waterway.

The Committee is composed of independent experts, mainly members of Parliament, who, like the chairman and his deputy, are appointed by the Government for five years.

The Minister of Transport supervises the Committee which is not however given direct instructions, but acts independently in accordance with "Directives for the Transport Licensing Committee".

Licences for international goods transport by lorry are issued by the "Committee on International Commercial Goods Transport" of the Netherlands International Road Transport Organization (*Stichting Nederlandse internationale wegvervoerorganisatie — NIWO*). This

organization receives contributions from all firms operating international goods transport by road.

The various agencies of NIWO consist mainly of representatives of the transport industry. The Minister of Transport exercises supervisory powers and is represented in NIWO.

Licences for transport on own account are recorded by the Registry for Transport on Own Account, set up by the Federation of Freighters and Carriers on Own Account (*Stichting inschrijving eigen vervoer — EVO*). Exemptions from the prohibition on international transport on own account are granted by a Committee on International Transport on own account, also set up by the EVO.

c) ADVISORY BODIES

An Advisory Committee on Passenger Transport (*Adviescommissie personenvervoer*) has been set up to advise the Minister of Transport and the licensing authorities on all matters concerning passenger transport by road. This Committee is composed of representatives of associations of passenger road transport undertakings, appointed by the Minister of Transport for a period of five years.

An Advisory Committee on Goods Transport (*Adviescommissie goederenvervoer*) has been set up to advise the Minister of Transport on all matters concerning goods transport by road and inland waterway. The members are appointed by the Minister of Transport for a five-year period.

This Committee is composed of representatives of associations of undertakings carrying goods for reward or on own account by road or inland waterway, together with representatives of shippers' associations and trade unions. The railways are also represented on the Committee. Regional Advisory Committees are also attached to each Transport Inspectorate.

An Advisory Committee set up by NIWO assists the authorities responsible for issuing licences for international goods transport by road. This Committee includes representatives of the Ministry of Transport, road hauliers' associations, the Northern and Southern Shipping Associations, furniture removers and other interested trades.

III. TRADE ASSOCIATIONS AND OTHER BODIES REPRESENTING TRANSPORT INTERESTS

a) CHAMBERS OF COMMERCE AND INDUSTRY

Netherlands Chambers of Commerce and Industry have no common policy on transport. However, individual Chambers frequently state their views on a particular transport problem, usually of a local or regional nature.

The Rotterdam Chamber is an exception. It is very active, particularly as regards international transport policy and influences public opinion through various publications and memoranda to the government.

b) TRADE ASSOCIATIONS

Each branch of the transport industry has its own association, which is usually divided into groups known as "columns" generally on a denominational basis.

There are no associations in the railway sector, since this consists exclusively of the Netherlands Railways.

1. *Road transport associations*

For passenger transport, there is one non-denominational, one Catholic and one Protestant Association. These cover bus, coach, and taxi firms, as well as driving schools and are linked through the Federation of Netherlands Passenger Transport Associations (*Federatie van Nederlandse organisaties voor het personenvervoer — FNOP*) which has its office in The Hague.

The purpose of this organization is to uphold the social and economic interests of its members.

There are two associations for goods and passenger transport:

a) The Royal Netherlands Association of Transport Undertakings (*Koninklijke Nederlandse vereniging van transportondernemingen — KNVTO*) which has its headquarters in The Hague and is affiliated to IRU (International Road Transport Union). This organization covers tramways, road hauliers and bus, coach, car-hire and taxi firms. Its members are mainly large-scale undertakings and its purpose is to promote the development of transport and to protect its members' interests;

b) The Netherlands Road Transport Federation (*Bond van bedrijfsautoverkeer in Nederland — BBN*) which has its headquarters in The Hague. This association covers national and international hauliers, carriers on own account and shippers, as well as bus, coach, car-hire and taxi firms, and driving schools. Its members are generally small-scale undertakings.

There are three associations for goods transport by road, two of which are denominational:

a) The National Organization of Road Hauliers (*Nationale organisatie voor het beroepsgoederenvervoer wegtransport — NOB*), which has its headquarters at The Hague and is affiliated to IRU;

b) The Netherlands Federation of Protestant Hauliers (*Nederlandse bond van protestant-christelijke beroepsgoederenvervoerders*), with its head office in The Hague.

c) The Catholic Carriers Organization (*Katholieke vervoerdersorganisatie*), with its head office in The Hague.

The aim of all these organizations is to protect the professional interests of road hauliers and to develop the sector.

Liaison bodies have been set up for goods transport [the Consultative Committee for Goods Transport (*Commissie van overleg goederenvervoer — COG*)] and passenger transport [the Consultative Committee for Passenger Transport (*Commissie van overleg personenvervoer — COP*)].

General problems are handled by the Transport Liaison Office (*Contactorgaan beroepsvervoer — COB*).

The General Organization of Shippers and Carriers on own Account (EVO) with headquarters at The Hague, is of a rather special nature. Its aim is to protect the interests of shippers and carriers on own account. Although road transport is of paramount importance, this organization's activities also extend to transport by rail and water for own account (private railway trucks and inland waterway vessels).

2. *Inland waterway transport associations*

There are separate organizations for regular shipping, non-scheduled services and towing, but these are brought together in central bodies.

Regular shipping

The Netherlands Bureau for Inland Waterway Transport (*Nederlands Binnenvaartbureau*) in The Hague covers undertakings providing regular services and those that carry passengers. This Bureau's purpose is to protect the interests of its members and of the sector in general.

Non-scheduled services

For this there are five associations of private carriers and small shipping companies and one federation of larger shipping companies. The common aim of these organizations is to safeguard the interests of private carriers and shipping companies providing non-scheduled services. They differ from one another according to the type of undertaking (independent watermen or shipping companies) and according to the denomination of their members.

Four associations of independent carriers and small shipping companies are federated in the Netherlands Foundation for Independent Inland Shipping (*Stichting Nederlandse particuliere binnenvaart*) which has its headquarters in Rotterdam.

The Waterway Transport Foundation (*Stichting watertransport*) is affiliated to the latter as a trading organization, acting as manager and concluding long-term contracts with shippers for its members.

The big shipping companies are organized in the Central Bureau for Rhine and Inland Waterways Transport at Rotterdam. The purpose of this central bureau is to safeguard the interests of Dutch carriers providing non-scheduled services and to co-operate in implementing legal or administrative provisions concerning national and international inland waterways transport.

The central bureau is affiliated to the International Union for Inland Navigation.

Towing Undertakings

There are six major organizations in this sector, differing mainly according to religious denomination.

These associations are affiliated to a central body, the Social and Economic Commission for the Towing Industry (*Sociaal-economische*

sleepvaartcommissie), which represents employers in the towing sector in negotiations with the workers' associations. It also represents Dutch interests in international transport by inland waterway at international level.

These six towing organizations, the Central Bureau for Rhine and Inland Waterways Transport and towing agents all belong to the Netherlands Foundation for Towing on Inland Waterways (*Stichting Nederlandse binnensleepvaart*) which has its headquarters in Rotterdam. This institute is a sort of central office which allocates tows and fixes rates. This activity is not, however, based on any legal delegation of powers.

Joint bodies

The organizations of independent carriers, small shipping companies and towing firms have together formed the Netherlands Central Office for Private Rhine Shipping (*Nederlandse particuliere Rijnvaartcentrale* — *NPRC*) which has its head office in Rotterdam.

The general purpose of this central office, which is affiliated to the International Union for Inland Navigation, is to safeguard the interests of independent carriers, small shipping companies and towing firms taking part in international navigation on the Rhine. It is also a commercial organization working on behalf of its affiliates.

Its main task is to act as a shipping company for international Rhine navigation. It concludes long-term contracts with charterers on behalf of its members, thus enabling private vessels and tows to be used more rationally while guaranteeing continuous transport facilities to charterers.

The Central Committee for Inland Navigation (*Centraal overleg binnenscheepvaart*) represents all branches of Dutch inland navigation. This central body covers the Central Bureau for Rhine and Inland Waterways Transport, the Netherlands Bureau for Inland Waterways Transport, the Netherlands Central Office for Private Rhine Shipping and the Netherlands Foundation for Independent Inland Shipping. Its purpose is to safeguard its members' interests, particularly in the International Union for Inland Navigation.

The Royal "Schuttevaar" Navigation Association which has its headquarters at Ossenzijl, is of a mainly technical character. It is particularly concerned with the upkeep and marking of navigation channels and with economic aspects of inland navigation, such as tolls and the calculation of freight charges.

3. Port Organizations

The Northern Shipping Association (*Scheepvaartvereniging Noord-Zuid*) at Amsterdam and The Southern Shipping Association at Rotterdam draw their members from stevedoring firms, shipbroking firms, forwarding agents, warehousing companies and other port undertakings. Similar associations exist in various other ports. They represent their members in negotiations for collective agreements and seek to promote their commercial interests in general.

Port interests in the publicity field are dealt with by the Port Foundation (*Stichting havenbelangen*) at Rotterdam and the Port of Amsterdam Association (*Vereniging de Amsterdamse haven*) at Amsterdam, which include representatives of port undertakings, industrial firms located at the port and the local authorities.

4. Agents' Organizations

The main bodies representing agents' interests are:

The Agents Group from the Northern Shipping Association (*Vakgroep expediteurs van de scheepvaartvereniging Noord*);

The Association of Rotterdam Agents (*Vereniging van Rotterdamse expediteurs*);

The Association of Agents on the Southern Frontier (*Vereniging Zuidgrens expediteurs*);

The Association of Agents on the Eastern Frontier (*Vereniging Oostgrens expediteurs*).

These groups are linked in the Federation of Netherlands Agents' Organizations (*Federatie van Nederlandse expediteursorganisaties — FENEX*) for which the first two of the above-mentioned bodies provide the secretariat in alternate years.

c) TRADE UNIONS

The trade union structure in the transport sector is also "vertical" and most of the organizations include workers from all branches of transport.

1. Undenominational organizations affiliated to the Netherlands Trade Union Federation (*Nederlands Verbond van vakverenigingen — NVV*), at national level, and to the International Transport Workers' Association (ITF), at international level.

The Netherlands Transport Workers' Federation (*Nederlandse Bond van vervoerpersoneel*) in Utrecht for railway, road, inland waterway and port workers.

The Mercurius General Federation in Amsterdam (*Algemene bond "Mercurius"*). This organization is a general federation of commercial and office workers but also covers some administrative staff employed in road transport, inland waterways and ports.

2. The St. Raphael Catholic Transport Workers' Federation (*Katholieke bond van vervoerpersoneel St. Raphaël*) and the St. Boniface Catholic Transport Workers' Federation (*Katholieke bond van werknemers in het transportbedrijf St. Bonifacius*), both with headquarters in Utrecht, are Catholic organizations affiliated to the Catholic Workers' Movement at national level and the International Railway Transport Committee at international level.

3. Protestant organizations affiliated to the National Christian Trade Union (*Christelijk nationaal vakverbond — CNV*) at national level

and the International Railway Transport Committee at international level are:

The Protestant Transport Workers' Federation (*Protestants-christelijke bond van vervoerpersoneel*) at Utrecht and the Netherlands Christian Association of Trade Groups (*Christelijke bedrijfsgroepencentrale in Nederland*) in The Hague.

4. *Collaboration between trade unions*

Like the employers' associations, the workers' organizations have set up joint bodies. In road transport there are particularly important informal contacts between the Netherlands Transport Workers' Federation and the Transport Union which covers the denominational organizations, with the exception of the Netherlands Christian Association of Trade Groups. All these organizations aim to safeguard the interests of their members, on whose behalf they are also endeavouring to obtain a share in industrial management.

d) CO-OPERATION BETWEEN THE AUTHORITIES, TRADE ASSOCIATIONS AND TRADE UNIONS

From both the national and international standpoints, transport organizations play an important role in Dutch transport policy. They have a say in the implementation of various laws since, for instance, they are represented on the various consultative committees set up under legislative provisions.

They are also often consulted by the government when legislation is being prepared or amended. Moreover, they also exert a considerable influence on public opinion.

PART II

RAIL TRANSPORT

Section A — General provisions

I. LEGAL STATUS, STATE AUTHORIZATION AND CONTROL

a) THE NETHERLANDS STATE RAILWAYS

1. *General aspects*

The basic provisions concerning the railways and their operation are laid down in the Railways Act of 9 April 1875 which has been frequently amended.

Important supplementary provisions are contained in the act of 26 May 1937 on the reorganization of the railways. This act wound up the two private railway companies that had survived a long process of concentration and transferred their operational assets to the newly established Netherlands Railways, which also took over all the rights and obligations of both companies, with the exception that the State assumed responsibility for the debentures issued by the companies. The capital of the new company was fixed at Fl. 10 million, with the Netherlands State purchasing all but two Fl. 1 000 shares which went to the two private companies.

Under the act of 1 November 1951, which also governs compensation for damage incurred during the war and the occupation, the capital of the Netherlands Railways was raised to Fl. 300 million. All shares, except the two mentioned above totalling Fl. 2 000, are held by the State.

The Netherlands Railways were granted a general concession to operate by an order issued by the Minister of Transport on 16 December 1937, in implementation of Article 6 of the Reorganization Act. This concession covers all railway lines and tramways in use on that date or subsequently authorized by the Minister. All previous concessions were rescinded by the same order.

When a line or section of line is closed with the sanction of the Minister, the corresponding concession expires.

Prior authorization must be obtained from the Minister for the construction of new buildings, for the modification, improvement or extension of existing installations and for the purchase of new rolling stock.

The Netherlands Railways may only found, operate or participate in undertakings with the prior authorization of the Minister of Transport and the Minister of Finance.

2. *Objectives and organization of the Netherlands Railways (Nederlandse Spoorwegen — NS)*

The Charter, published on 30 August 1957, and since revised several times, governs the structure and administration of this State-owned company. The aims of the NS are defined in its charter as:

- a) The construction and operation of railways and tramways;
- b) The exercise of all transport activities or activities connected with transport or with the operation of railways (and tramways);
- c) The operation, foundation of, or participation in, undertakings promoting the operation of railways (and tramways).

The Netherlands Railways are managed by a Board consisting of a chairman and not more than three directors, and representing the company in external matters. The directors are appointed by the general meeting.

The management of the company is supervised by a Supervisory Board with a maximum of 16 members, also appointed by the general meeting.

In principle directors, staff and the members of the Supervisory Board must be of Dutch nationality.

The Supervisory Board has the right to enter any office of the company and to scrutinize all books and records.

Many of the company's important legal instruments must be approved by the Supervisory Board, which has wide powers of oversight.

The general meeting draws up the balance-sheet and the profit and loss account and declares dividends. Decisions are taken by an absolute majority of votes cast. Any amendment to the charter must be approved by a three-quarters majority.

3. *Relations between the State and the Netherlands Railways*

Although there is no direct State intervention in the Netherlands Railways, the Minister of Transport, as representative of the Dutch State, exercises owner's rights jointly with the Minister of Finance and can therefore influence the company's policy through the Supervisory Board and the general meeting. At the moment the Supervisory Board is composed of three senior civil servants and eleven experts from the main sectors of the economy who are all appointed by the government, which also appoints the directors. The Board supervises the way the company is run in all general matters and draws up the budget.

The State alone is represented at the general meeting.

Because of the legal status of the NS, Parliament cannot directly influence its management but since the Minister of Transport is responsible to Parliament the latter can bring indirect influence to bear.

The employees of the Netherlands Railways do not enjoy the status of civil servants. The Government must however approve their wages, salaries and working conditions. Railway workers are also forbidden to strike.

b) LOCAL RAILWAYS AND TRAMWAYS

The provisions governing the construction and operation of railway lines on which traffic may only proceed at a limited speed, are laid down in the Act of 9 July 1900 on local railway lines and tramways and the Act of 15 December 1917 on the creation and maintenance of local railway lines and tramways.

The building and operation of such lines are subject to a concession which may only be granted after the provincial council has been consulted. Where no special provision is made in the two above-mentioned acts, local railway lines and tramways are governed by the provisions of the general railway Act of 1875. Provincial councils may order supplementary provisions.

c) RAILWAY COUNCIL

The composition and powers of the Railway Council, which advises the Minister of Transport and the Railway management, are defined in the Royal Decree of 13 March 1923 (who can delegate representatives to the Council).

The Council has a maximum of 35 members, appointed by the Minister of Transport for three-years; they include Government officials, representatives of the railways management and railway workers, and representatives of commerce, agriculture, industry and transport. The chairman and his deputy are Government officials appointed by the Minister. The Railway Council and its committees advise the Minister and the railway authorities.

II. PROVISIONS CONCERNING OPERATION AND FINANCIAL MANAGEMENT

a) GENERAL ASPECTS

The basic provisions are contained in the railway act of 1875 which has been frequently amended. This act deals with the rights, obligations and liability of railway companies, the purchase of other lines, the enclosure of railway land, State supervision of the railways and the availability of the railways and their facilities to Government services.

Before a railway service is opened, the companies must draw up operating regulations and submit them for approval to the Minister of Transport. The law provides for a Commission of Inquiry into railway accidents.

Under Article 10 of the act and under the royal decree of 12 June 1936, the railways are placed under the supervision of the State Transport Inspectorate which has wide powers of scrutiny and inquiry, not extending to financial matters. If the railway authorities fail to comply with the Inspectorate's recommendations, the Inspectorate may refer the matter to the Minister for decision. The Minister also determines where halts or stations should be situated and draws up time-tables.

As a limited company, the Netherlands Railways are to a great extent financially independent of the State. They are not bound by budget legislation. Although obliged to make up any deficits, the railways have no public law obligation to pass on any profit to the State. However, as sole shareholder the State is entitled to draw dividends.

Although the State financed the repair of war and occupation damage for the Netherlands Railways, as it did for other undertakings, the railways receive no government subsidy or credits, and must bear the full cost of constructing and maintaining railways and tramways. The same applies to the Railway Workers Pension Fund, which is financed by contributions from employees and the Netherlands Railways, as in other branches of the economy.

Apart from the above, government policy does not at present place any special obligations on the railways.

b) OBLIGATION TO OPERATE, TO TRANSPORT AND TO FIX TARIFFS

In principle, the Netherlands Railways are obliged to operate. However, with the Minister of Transport's permission, passenger or goods services may be suspended or withdrawn completely on certain routes. This also applies to the closing-down of passenger and goods stations. Under Article 31 of the railway Act of 1875, railway companies are obliged to carry all passengers and goods, with certain exceptions specified by law. Articles 9 and 51 of the General Transport Regulations of 17 December 1928 reduced the obligation to transport to services which can be provided with the means normally available.

Passenger and goods tariffs are fixed by the Netherlands Railways. They must be approved by the Minister of Transport and must be published before they enter into force. Revised tariffs must be published at least a month before they take effect.

Article 29 empowers the Government to order tariff cuts, with the Treasury bearing the consequent loss of revenue.

Transport must be provided under the conditions stipulated in the regulations and freight rates may not be higher than those in the latest published tariff. Lower rates may be charged, provided the reduction is not made as a special favour and provided Ministerial orders on this subject are observed (so far no order of this kind has been made).

By virtue of these provisions, the Netherlands Railways can make special agreements with customers at rates below those in the published tariffs. Publications of such special agreements is not compulsory.

For competitive reasons, the railways have concluded a large number of agreements with consignors for the transport of goods, so that at present only a very small proportion of goods are carried at the standard tariff. For passenger transport, on the other hand, the fares stipulated in the tariff still apply in almost all cases.

The legal provisions allow the Netherlands Railways wide scope for rationalizing the industry.

Thus only two-thirds of the network, which reached its maximum extent in 1930 (3 460 km.), are now open to passenger traffic.

Lines used for goods traffic have been reduced by 13%, two-thirds of the halts and stations have been closed and about one-fifth of the goods offices have been shut down.

With the Minister's sanction, the Netherlands Railways have acquired interests in many road transport undertakings. They hold most of the capital of 15 large bus companies which operate half the bus services in the Netherlands. They also participate in various road transport undertakings and own a large inland shipping company.

The Netherlands Railways' competitive position in the conveyance of parcels is considerably strengthened by the fact that their subsidiary, Van Gend and Loos, operates collection and delivery services and regular road services on its behalf.

They also share the country parcels traffic with several other transport undertakings.

In this way, 1 140 places are served at least once a day. In order to rationalize parcels traffic, the network has been divided into 24 groups, each of which is based on a junction. Express general goods trains operate between the junctions.

All these measures have done a great deal to improve the competitive position of the railways.

III. PROVISIONS CONCERNING INVESTMENTS

Since the Netherlands Railways have the legal status of a limited company they must themselves finance all expenditure, including investment. By the terms of the concession, however, major new construction or re-construction schemes must be sanctioned by the Minister of Transport who can also make his views felt through the Supervisory Board.

All expenditure on the construction and maintenance of the permanent way must be included in the company's profit and loss account. The same applies to traffic installations which are not maintained solely for the benefit of the railways, such as level-crossings and the accompanying safety appliances.

Under the act of 1 November 1951, the Netherlands Railways received a lump sum of Fl. 324 million from the State for damage caused by war and occupation. At the same time, the State raised the Company's capital from Fl. 10 million to Fl. 300 million. In order to continue the modernization programme embarked upon, the Dutch Railways raised long-term loans under normal market conditions, to a total of Fl. 343 million by 31 August 1958. This allowed the last steam engines and wooden passenger coaches to be withdrawn from service by 1957. These technical rationalization measures, combined with improved management, made it possible to carry twice as many passengers in 1958 as in 1938 with passenger stock providing only two-thirds

as many seats as in 1938. Goods traffic, which increased by about 70%, was carried in four-fifths as many trucks as before the war, thus doubling the load factor.

The maintenance of railway installations and rolling stock is mainly carried out by private firms. This has enabled the railways to cut down their technical services.

The labour force fell from 40 100 in 1946, to 32 700 in 1958.

IV. TAXATION

The Netherlands Railways are subject to general taxation in the same way as all other industrial undertakings. There is no special tax on transport in the Netherlands. All transport services pay a uniform turnover tax amounting to 3% of rates. This tax is included in tariffs. The transportation of sick people, mail and, above all, of goods for import, export and transit is exempt from turnover tax.

Section B — Provisions relating to passenger and luggage transport

I. GENERAL TERMS AND CONDITIONS

The special provisions concerning passenger and luggage transport are given in the second chapter of the General Regulations for railway transport (*Algemeen reglement voor het vervoer op de spoorwegen*) enacted by the Royal Decree of 9 November 1928. Chapter I contains the general terms which are also applicable to passenger transport.

Amongst the many provisions, special reference should be made to those concerning the obligation to transport, time-tables, reductions in freight rates, hand luggage and animals accompanying passengers, luggage transport, re-imbusement and compensation.

The company's financial liability arising from passenger transport contracts is governed by the provisions of the Railway Act of 1875. Mention should also be made of the tariff for passenger and luggage transport approved by Ministerial Order of 22 February 1957 and subsequently published. The provisions of this tariff deal in detail with all questions concerning the transport of passengers, hand luggage and small animals accompanying passengers. The provisions concerning special tariffs are particularly important.

With a few minor exceptions, the provisions of the General Regulations for railway transport apply to transport by local railway.

II. RATES

Annex A of the tariffs for passenger and luggage transport gives the tables of rates and Annex B the scale of distances.

The normal tariff lays down standard fixed rates for the whole country which are uniformly applied to all transport services.

Reduced rates are applied as follows: children between the ages of 4 and 10 pay half the normal rate, while children below the age of 4 travel free. Persons below the age of 20 can obtain youth tickets which are valid for a month, except on Sundays and holidays, for an unlimited number of journeys between two determined points. "Weekly tickets" are valid for return journeys on working days, by specified trains. Monthly and weekly season tickets are valid for an unlimited number of journeys between two determined points.

General season tickets, issued for a week or a month, are valid for an unlimited number of journeys on all lines of the Netherlands Railways and for the ferry and bus services included in the tariff.

III. INTERNATIONAL TRANSPORT

The Netherlands are a party to the International Convention concerning the Transport of Passengers and Baggage of 25 October 1952. The railway apply the common international tariff for the carriage of passengers and baggage.

Section C — Provisions relating to goods transport

I. GENERAL TERMS AND CONDITIONS

The special provisions concerning goods transport are set out in Chapter III of the General Regulations for railway transport.

In addition Chapters IV to VII inclusive deal with express goods and parcels services and the carriage of live animals and mortal remains.

These provisions also apply to goods transport by local railway. Chapters III, IV and V of the General Regulations are combined with a number of additional provisions to form Part I of the Netherlands Railways freight tariff, the current version of which was approved by the Minister of Transport on 9 July 1941.

The most important provisions are those relating to the obligation to transport, loading, packing, the conclusion of long-distance transport agreements, the calculation and payment of freight rates, liability and compensation.

Under Article 51, the Company is obliged to carry all goods admitted to transport by the General Regulations, provided that the terms of the said Regulations and of the railway tariffs are complied with, that transportation is not forbidden by law or for reasons of public order, that there are no circumstances beyond the railways' control preventing transportation and that transport is possible by normal means.

The Minister of Transport can stipulate that certain goods shall no longer be carried or that certain consignments shall be given priority. Under Article 134 of the General Regulations this power is delegated to the Management of the railways.

II. RATES

Part II, Sections A and B, of the freight tariff of the Netherlands Railways, as approved by the Minister of Transport on 22 February 1957, provides for the calculation of freight rates and additional charges for full loads and parcels.

Besides the ordinary tariff and the ECSC tariff, there are at the moment 27 special tariffs, 8 of which are for express services. There are no support tariffs.

The ordinary tariff is subdivided into classes A to D. In classes A and B there are three weight categories (15, 10 and 5 metric tons), while classes C and D comprise four categories (20, 15, 10 and 5 metric tons). The latest tariff changes, raising the supplement for additional and introducing a 20-ton category for goods in classes C and D, have made the scale of charges by weight even more degressive.

The scale of charges by distance is also highly degressive. The principle of standard tariffs for the whole country has always been applied to waggon-loads. There are no special tariffs for whole trains.

As already explained in section A, sub-heading II, the railways are empowered by Article 31 of the Railway Act to lower freight rates by special agreement, in so far as this is commercially justified. These specially agreed rates are not published.

In many cases, the Netherlands Railways have concluded such agreements to meet competition. At present, the greater part of goods traffic is carried at rates below the maximum rates fixed in the ordinary and special tariffs. There are at present about 1 500 such agreements.

When concluding these agreements, the railways take into account, as circumstances demand, their competitive position with regard to other means of transport, and the special position of the consignor, such as for instance the size and regularity of his consignments. Consequently the obligation to fix tariffs and the application of the ordinary tariff and the remaining special tariffs have largely lost their significance. Although changes in the ordinary tariff and in special tariffs must still be approved by the Minister and must be published before they enter into force, the Company can at any time adapt itself to the market situation by means of special agreements. It is only when tariffs are raised that the profitability of the Netherlands Railways is subordinated to general wage and price policy.

The principle of a uniform parcels tariff for the whole system has not applied since 1957. Stations are divided, according to their volume of traffic, into various categories for which different tariffs apply. Freight rates also vary according to weight and volume.

There are also a large number of special agreements for parcels conveyance. About 50% of this traffic is carried at agreed rates, under which consignors undertake to make exclusive use of the State Railways.

III. INTERNATIONAL TRANSPORT

The International Convention concerning the Transport of Goods by rail (CIM), as amended on 25 October 1952, constitutes the legal basis for international goods transport by the Netherlands Railways.

The Railways are also party to various international tariff schedules.

Technical and economic co-operation with the other Western European railways takes place through the International Union of Railways (UIC).

PART III

ROAD TRANSPORT

Section A — General and technical provisions

I. STATE ADMINISTRATION AND CONTROL

a) ADMINISTRATIVE COMPETENCE

Road transport as a whole falls within the competence of the Directorate-General of Transport in the Ministry of Transport. Separate divisions deal with internal and international transport by road.

The State Transport Inspectorate, set up under Royal Decree, is divided into districts, whose boundaries are coterminous with those of the provinces. Its duties include the supervision of road transport from the point of view of technical and labour legislation and the issue of licences for certain types of (internal) transport. This Inspectorate is responsible to the Director-General of Transport in the Ministry of Transport.

Normally, however, licences are issued by the Transport Licensing Committee (CVV), specially set up for this purpose and acting in conjunction with the Transport Inspectorate.

Licences for passenger transport by road within a municipality are issued by the mayor or the local authority.

b) SUPERVISION OF ROAD TRANSPORT UNDERTAKINGS

The State Road Transport Division enforces the provisions of the Highway Code, particularly as regards the size and weight of vehicles. After carrying out the prescribed inspection, it issues the licence plates required for all motor vehicles and trailers.

The following measures have been taken to ensure observance of the transport regulations.

Transport firms licenced to carry passengers are subject to supervision by all officers of the national or municipal police forces and by such officials as may be specially appointed for this task by the Minister of Transport. In discharge of their duties, these officials have the right of access to all premises, offices, vehicles and dwellings, when so required, and, if necessary, may force entry with the assistance of the police.

Where they note any infringement these officials may stop the operation of transport and may impound the motor vehicle.

The firm or person concerned may complain in writing to the court competent for the area.

Under an Order issued by the Minister of Justice on 25 January 1956 the Director-General of Transport in the Ministry of Transport, and

the Transport Inspection Services working under him, supervise road transport of goods by motor vehicle.

c) PENALTIES

Infringements of the Road Passenger Transport Act are petty offences punishable by imprisonment for not more than two months or a fine not exceeding Fl. 500. The same applies to breaches or regulations issued under this Act for which a penalty is prescribed.

Provided they are expressly described as punishable, breaches of the main provisions of the Road Goods Transport Act or of any regulations issued under that Act are regarded as economic misdemeanours within the meaning of the Economic Misdemeanours Act and are prosecuted as such.

A disciplinary Court has been set up to deal with international goods transport by motor vehicle.

This body is empowered to take disciplinary measures against any Dutch road haulage firms contravening the provisions governing international transport or bringing discredit to the Netherlands transport industry by their behaviour abroad. The Court also hears complaints from natural persons or legal entities resident abroad.

It can issue warnings and impose fines not exceeding Fl. 5 000 or withdrawn international transport licences either permanently or temporarily.

II. TECHNICAL PROVISIONS

Technical problems relating to road transport are dealt with under the Road Transport Act (*Wegenverkeerswet*) of 1 September 1935 authority for road building. It designs, builds and maintains the 28 August 1950.

Authorized sizes and weights for vehicles and lorries with trailers are listed in Annex II of the appendix to the second part of the general report.

III. PUBLIC INVESTMENT

Road building is governed by the Roads Act of 31 July 1930, by the Road Traffic Fund (Establishment) Act of 6 October 1934, and by the National Road Plans drawn up each year. The Motor Vehicle Tax Act of 30 December 1926 is also of interest in this context; it introduced a special tax to supply the Road Fund which had then recently been established.

All expenditure on road building is now financed out of the general State budget. The special tax revenue drawn from transport firms is not tied to any particular purpose. The national road system is divided into three categories:

- 1) National roads (first class roads including motorways);
- 2) Provincial roads (second class roads);
- 3) Other roads (third class roads).

In addition, there are what are known as the "non-plan" roads and roads serving isolated localities, unless they fall within the categories mentioned under 1-3 above.

The Works Directorate in the Ministry of Transport is the supreme authority for road building. It designs, builds and maintains the national roads.

A committee of experts has been set up to study whether the taxes and dues paid by road users would cover public expenditure on the building and maintenance of roads. The study has not yet been completed.

IV. TAXATION

As in the case of rail and inland waterways transport, a turnover tax, amounting to 3% of the transport charge, is levied. This applies to passenger and goods transport alike. As in the case of rail transport, this tax does not apply to mail services, the transport of sick persons or of goods for import or export or in transit.

There is no specific transport tax.

On petrol there is an import duty of Fl. 0.0106 per litre and a motor fuel tax of Fl. 0.2425.

There is no customs duty or fuel tax on Diesel fuels.

However, the general sales tax of 5% applies to both types of motor fuel.

Tyres also attract the general sales tax and supplementary taxes.

Motor vehicles purchased for commercial use are subject to a tax of 5% on the ex-works price and, generally, to an 0.65% tax on the selling price.

The motor vehicle tax is based on the net weight of the vehicle. For petrol-engined motor buses weighing not more than 1 000 kg. it amounts to Fl. 70 p.a.; above 1 000 kg, Fl. 12 are added for each additional 100 kg.

For petrol-engined lorries and for trailers the tax varies according to net weight. It amounts, for example, to Fl. 72 for a net weight of 800 kg. and to Fl. 840 for a net weight of 7 000 kg.

This tax is increased by 220% for Diesel-engined vehicles.

Section B — Provisions relating to passenger transport

I. LICENSING

a) GENERAL

Public passenger transport is governed by the Road Passenger Transport Act (*Wet autovervoer personen* — WAP) of 24 June 1939 (as amended), the implementing order of 10 August 1939 and the directives to the Passenger Transport Licensing Committee of 23 August 1950.

Under the Act, transport of passengers by motor bus or motor car, for hire or reward, is subject to licence, whether the firm is a principal or a subsidiary. No licence is required for transport of public interest, such as transport by military, police or fire-fighting vehicles or by ambulance. Nor is a licence required for transport in motor coaches registered abroad, provided that no passengers are picked up or set down in the Netherlands.

The Road Passenger Transport Act defines as follows the various kinds of commercial transport of passengers.

Motor bus services: scheduled services, not as group transport or tourist excursions, for passengers, by motor bus or passenger car, against payment.

Group transport: scheduled services, not as tourist excursions, for limited groups of passengers, by motor bus or passenger car, against payment.

Non-scheduled transport: transport of passengers by motor coach, without regular time-table and excluding tourist excursions.

Tourist excursions: scheduled or unscheduled transport of persons, not exclusively for the purpose of providing passenger transport between certain places, by motor coach or passenger car, against payment.

Transport by taxi: transport of passengers in passenger cars against payment, other than by motor bus service, by group transport or on tourist excursions.

A passenger car is a motor vehicle designed to carry not more than eight persons excluding the driver.

A motor bus or motor coach is a motor vehicle designed to carry more than eight persons, excluding the driver.

For licensing purposes the Act distinguishes between:

- a) Motor bus services covering more than one municipality;
- b) Group transport covering more than one municipality;
- c) Motor bus services and group transport within a single municipality;
- d) Tourist excursions and non-scheduled transport;
- e) Taxis.

b) PRINCIPLES AND PROCEDURE

Licences for passenger transport by motor bus or taxi services within a municipality are issued by the mayor and corporation.

An independent committee issues licences for inter-municipal transport, except in the case of taxis.

Whereas previously there had been a committee for passenger transport and a second one for goods transport, the Act of 9 April 1959 which came into force on 30 September 1959, instituted a single committee, known as the Transport-Licensing Committee.

This Committee is composed of six members and a chairman, all appointed for a period of five years by the Minister of Transport. They are independent experts.

The Committee issues licenses for passenger or goods transport by road, not limited to a single municipality.

For short-distance transport the Committee may delegate its powers to the local Transport Inspectorate.

A number of civil servants are seconded to the Committee by the Minister of Transport who appoints one of their number to act as secretary to the Committee. In co-operation with the Transport Inspectorates, the secretariat considers applications for licences and prepares the Committee's decisions.

An appeal can be made to the Crown against decisions of the Committee; appeals against decisions of the mayor and corporation may be made to the Council of the province in which the municipality is situated; appeals against decisions by the chairman of the Committee or the Inspector-General of Transport may be made to the Minister of Transport.

The Road Passenger Transport Act also contains provisions for the issue of temporary licences and the transfer, amendment or withdrawal of licences. A licence can be cancelled on the request of the licensee or can be automatically withdrawn if the licensee fails to operate or operates in violation of the provisions of the Act. Licences for motor bus services or group transport can also be withdrawn in the general interest.

A Royal Decree of 23 August 1950 (as amended) contains detailed directives concerning the issue of licences.

1. The transport system must be considered as a single entity;
2. If transport requirements are to be permanently and properly met, licences must be refused where their issue would create transport facilities in excess of demand;
3. In issuing licences, care must be taken to avoid competition, contrary to the public interest, between the various means of transport and the various branches of the industry.
4. Where a licence application involves a conflict of interests between several applicants, an effort is made to reach a compromise by consultation aiming at voluntary co-operation. Decisions on such applications must give priority to the general interest over the particular interests of applicants.
5. Private firms, public undertakings and subsidiaries of the Netherlands Railways are on a footing of complete equality so far as entitlement to a licence is concerned.

Licences for the various types of road passenger transport are issued under the following conditions:

1. *Motor bus services covering more than one municipality*

Licences are issued for not more than ten years. The service applied for must be calculated to supply permanent and proper facilities to meet requirements.

Licences can be issued for a specified area or for specified routes.

The Transport Licensing Committee may require a carrier to operate unprofitable as well as profitable routes, provided that the profitability of the undertaking is not thereby jeopardized.

Licensing conditions are designed to prevent overlapping services. The purpose of this is to ensure co-ordination between rail and road transport, but each individual sector is equally affected within its own sphere. Generally speaking, a carrier has a monopoly on his route. Prohibition is one means of avoiding overlapping but, in the case of motor buses, is almost exclusively reserved for the protection of local services against competition from inter-municipal lines.

2. *Group transport in more than one municipality*

Licences are issued for a maximum period of five years. The service for which a licence is demanded must not conflict with the general interest. Where it coincides with an existing motor bus service, the latter is given preference.

Licences may be issued for group transport within a specified area, over one or more determined routes, or for a specific purpose.

Group transport caters for school-children, church-goers and in particular for workers. It can be operated by a commercial carrier or on own account.

In the latter case a licence may be issued when the firm concerned derives considerable financial or operational advantages from such transport on own account.

Licences for group transport for reward are issued only where the regular rail or motor bus services cannot reasonably satisfy transport requirements.

3. *Motor bus services and group transport within a single municipality*

The mayor and corporation of the municipality concerned issue the licence for a determined period and lay down operating conditions.

4. *Tourist excursions and non-scheduled transport*

Licences are issued for a period not exceeding five years. They must be a relevant transport requirement. In contrast to the procedure for motor bus services and group transport, the number of vehicles of the firm concerned is stated on the licence, to avoid the creation of surplus transport capacity. Carrying capacity is fixed on the basis of statistical data concerning excursions and non-scheduled trips.

Apart from the general transport licence, the approval of the Inspector of Transport is required for each individual trip in order to prevent

any misuse of the licence to the disadvantage of scheduled rail and road transport facilities.

Excursions must be clearly undertaken for purposes of tourism, while non-scheduled runs—for instance, taking supporters to a football match—are approved only if the scheduled services cannot reasonably meet transport requirements.

Apart from firms which operate in this field only, motor bus firms frequently also hold a licence for excursions and non-scheduled transport.

5. Taxis and hired cars

The mayor and corporation of the municipality concerned issue licences for a fixed period, not specified by law. Licences are issued on the basis of local transport requirements.

Any vehicle so licensed is entered in a register of cars for hire.

The licence must show the number of vehicles owned by the firm. To protect scheduled transport services, individual seats may not be offered for hire in taxis or hired cars.

c) FOREIGN OPERATORS

Foreigners are permitted to operate commercial transport services for passengers under the same conditions as Netherlands nationals.

II. GENERAL CONDITIONS

Time-tables for motor bus services and group transport covering more than one municipality must be approved by the competent local office of the Transport Inspectorate and published before the service is started. Approval is only given if the time-table meets transport requirements and if there are adequate connections with other services.

Motor bus services and group transport covering more than one municipality are obliged by law to provide transport services up to the carrying capacity of their fleet of vehicles. Such undertakings are also under a legal obligation to operate.

In other respects the operating conditions for these two types of transport are not the same.

There are no statutory provisions governing other types of commercial passenger transport.

III. RATES

The rates for inter-municipal motor bus services and group transport are established by the carriers and submitted to the appropriate department of the Transport Inspectorate for approval.

This department considers whether the rates as established are fair to the travelling public and other transport services. Any firm operating

motor bus services in a particular area must charge uniform rates. Rates vary from firm to firm in accordance with the conditions under which they operate. Firms operating scheduled services have fixed rates from which they may not deviate.

Rates for motor bus services or group transport within a single municipality may be fixed by the local council.

The local council may approve or fix the rates for transport by taxi or hired car within boundaries. The large cities avail themselves of this power. The Minister of Transport is empowered to fix tariffs for transport by taxi or hired car going beyond the local boundaries. No such order has yet been made, however.

IV. INTERNATIONAL TRANSPORT

Netherlands firms must hold the prescribed transport licences in order to operate coach trips or non-scheduled transport, to or from foreign countries. In addition, the approval of the Inspector of Transport is required for each individual trip.

Such approval must also be obtained by foreign firms picking up or setting down passengers in the Netherlands. On the other hand, under the "Freedom of the Road" Agreement of 1947 no licence is required by carriers who do not pick up passengers or goods in the Netherlands.

In addition, the Director-General of Transport in the Ministry of Transport issued a detailed order on 28 November 1956 concerning the international transport of passengers by coach. Under this Order applicants must furnish detailed information on the proposed trips and must comply with strict provisions concerning drivers' hours of work and rest, and the equipment of vehicles.

A committee of experts has been set up to advise on matters relating to licences for international coach trips and disputes connected therewith. Licences to operate international motor bus services through the Netherlands are issued on the basis of periodical consultations within the ECE at Geneva.

The State takes no part in establishing and fixing tariffs for international services.

Section C — Provisions relating to goods transport

I. LICENSING

a) GENERAL

Goods transport by road is governed by the Road Goods Transport Act (*Wet autovervoer goederen* — WAG) (as amended) of 4 August 1951, which was brought into force on 15 February 1954,

by the implementing regulation of 16 January 1954 (as amended), by the goods transport directives of 30 January 1954 and by numerous separate orders and regulations.

These directives apply to goods transport by both road and inland waterway. Together with the Road Goods Transport Act and the Inland Waterway Goods Transport Act they form the basis for the policy of co-ordination.

Under the Road Goods Transport Act all commercial goods transport by road is subject to licence, whereas transport on own account has only to be registered.

However, certain types and means of transport are exempted from these formalities. They comprise certain activities which are of minor importance in the general transport context, such as non-scheduled journeys by lorries with a load capacity of up to 500 kg., or transport operated in the public interest, such as the carriage of postal packets or night-soil, or military and police transport. A last, important exception is international transport operated by foreign firms in the Netherlands.

An Advisory Committee for Goods Transport has been set up under the terms of the Act. It advises the Minister of Transport on all general matters concerning the transport of goods by road.

The various interests are represented by experts in this Committee.

The Minister of Transport is represented at meetings of the Committee by one or more officials who attend in an advisory capacity.

The Implementing Regulation on Road Goods Transport contains further provisions concerning the composition and procedure of the Advisory Committee.

The law distinguishes between the following types of goods transport by lorry:

Lorry services: regular services for the transport of goods by lorry for reward.

Collection and delivery services: these collect and deliver by lorry for reward, goods which have been or are to be despatched by one or more regular goods transport services.

Non-scheduled transport: the carriage of goods by lorry for reward, other than lorry services or collection and delivery services.

b) PRINCIPLES AND PROCEDURE

The Transport Licensing Committee is an independent body which issues the licences for all categories of commercial goods haulage by road. In the case of applications for licences which are of only local or regional interest, the Committee has, however, delegated its powers to the local and regional Inspectorates of Transport. Appeal against decisions of the Transport Licensing Committee or the Transport Inspectorate can be made to the Crown or to the Minister of Transport.

For further particulars see section B (I, b).

Like the Road Passenger Transport Act, the Road Goods Transport Act contains provisions for the issue of temporary licences and for the extension, transfer, modification or withdrawal of licences.

A licence can be withdrawn automatically if the licensee fails to operate the relevant service. A lorry-service licence or a collection and delivery licence can also be withdrawn in the general transport interest. The withdrawal of a licence can also be ordered by a judge as an additional penalty for an infringement of the statutory provisions.

Professional qualification and credit worthiness are amongst the main requirements which a haulier must fulfil in order to be eligible for a licence for any category of transport for hire or reward. He must have a working capital of not less than Fl. 5 000.

In the case of lorry services or collection and delivery services, existing firms may declare that they wish to operate themselves the transport for which a licence is requested.

The safeguard of general transport interests is another important criterion.

Article 1 of the Act defines this concept as "The fair and balanced consideration, with due allowance for the needs of the general public, of all interests concerned in the transport of goods".

Further rules concerning the issue of licences are contained in the Directives on Goods Transport dated 30 January 1954.

As in the case of passenger transport, these directives show a strong trend towards co-ordination. The licensing authorities are instructed to ensure a system of goods transport designed to meet the general interest. They must take into account the needs of both consignors and hauliers. At the same time, care must be taken to ensure that private initiative shall have as much scope as possible.

To this end, the Transport Licensing Committee can put proposals to the Minister of Transport concerning alternative transport facilities.

Where the general transport interest permits, voluntary measures of co-ordination adopted by hauliers to create a well-integrated transport system must be taken into consideration when licence applications are examined. In addition, transition from obsolescent to modern transport techniques must be promoted.

A change from horse-drawn to motor transport or from water-transport (local) to lorry services is usually sanctioned, provided the interests of other hauliers or consignors are not prejudiced thereby.

In such cases, haulage capacity is fixed in the licence in accordance with the volume of transport handled in the past by the firm concerned.

The most important provisions for the various types of transport are as follows:

1. *Lorry services and collection and delivery services*

Licences are issued for a fixed period. They are issued for ten years, or for such shorter period as the licensing authorities may determine. The current licensing period expires on 14 February 1964.

Licences for lorry services must specify the starting and terminal points of the route served and indicate loading and unloading points. Licences may also stipulate a time-table, so as to ensure proper co-ordination with the schedules of competing firms.

The aim of all these measures is to regulate competition between firms serving the same sector, while the fixing of haulage capacity has the further purpose of avoiding surplus transport capacity on any particular route.

Licences for collection and delivery services specify the regular goods transport services for which the goods are collected or delivered; they also define the area within which the service can be operated. The purpose of this is to obtain a rational distribution of transport over the area.

Haulage capacity may be specified in the licence, but this is only done where several collection and delivery services are in competition with one another.

For these two types of transport, the issue of licences under the Road Goods Transport Act has virtually ceased. In issuing licences the Committee has to give primary consideration to established rights. The long-term intention is to create a closely-knit network covering all requirements over the whole country.

In the view of the Licensing Committee this network, based on some thirty junctions throughout the country, should comprise three types of services:

- i) National express services between centres in the various parts of the country;
- ii) Inter-regional services between two centres which are close to one another, or between a centre and important places not included in the main network;
- iii) Services linking minor places, or minor places and centres.

2. Non-scheduled transport

Licences for non-scheduled transport are issued for a period not exceeding ten years. The licence specifies the permitted haulage capacity. Such licences are generally valid throughout the country and for all kinds of goods. However, for certain types of transport, such as carrying milk from farms to dairies, or what is known as frontier transport, licences may be restricted to a certain type of goods or to a certain area. In all such cases, the service provided is of only minor importance to the general transport interest.

In order to protect scheduled services against competition from non-scheduled services, hauliers operating the latter are not allowed to carry goods for more than two consignors per trip.

In granting licences the Transport Licensing Committee must take account of established rights in determining permitted haulage capacity for each firm.

Where no established rights exist, applications are considered in the light of the relevant transport requirements of the firm concerned.

Total permitted transport capacity must not, however, exceed total demand for non-scheduled transport. This overall regulation is not in the nature of a rigid quota, but is related to industrial production.

Applications by existing firms to extend their haulage capacity obviously go beyond established rights. In assessing such applications Transport Licensing Committee takes as its criteria the economically justified use of existing vehicles and the gross profitability of the firm concerned. In this way unhealthy firms are to be prevented from expanding.

Licences for non-scheduled transport may be transferred, together with the relevant haulage capacity. It is hoped thereby to achieve an optimum geographical balance between supply and demand by action from within the industry itself.

3. *Lorries for hire*

The Road Goods Transport Act does not deal with this subject. Under the Establishment Act this economic activity is completely unrestricted, but it has developed very little.

Lessors of motor lorries do not require a licence, but hirers must in all cases complete the prescribed licensing or registration formalities. In the case of hiring for transport on own account, the Act prescribes a hire-contract for at least one year, which makes the hiring of motor vehicles difficult.

c) FOREIGN OPERATORS

Foreign firms are permitted to operate commercial goods transport services by motor lorry under the same conditions as Netherlands nationals.

II. GENERAL CONDITIONS

The obligation to operate and transport applies to both regular lorry services and collection and delivery services. Within their normal transport capacity, haulage firms must accept any goods brought to them for despatch unless such goods are not suitable for transport or do not conform with statutory provisions. Postal packets must be carried at a reduced rate. Moreover, firms operating regular lorry services are obliged to transfer goods for delivery outside their area to another firm for onward transmission.

Apart from certain cases listed in the order implementing the Road Goods Transport Acts, all consignments must be accompanied by a waybill approved by the Minister of Transport.

Both the consignor and the carrier are, therefore, subject to the same transport conditions, laid down by the Minister of Transport by virtue of his powers under Article 33 and 45 of the Road Goods Transport Act (General Conditions of Transport 1950).

These General Conditions settle all major points relating to transport, such as the completion of waybills, the packing and loading of goods, questions of liability and the calculation of freight charges and supplementary costs.

III. RATES

Under Articles 33 and 45 of the Road Goods Transport Act and Article 112 of the Implementing Regulation the Minister of Transport is empowered to approve or to lay down rates for the transport of goods by motor lorry. Any decisions on rates must be published in the Netherlands Official Gazette. The Minister may order the actual rates to be published in any other manner.

Where rates are prescribed, licensees are forbidden to operate a lorry or a collection and delivery service or a non-scheduled service at rates other than those laid down. However, the Minister of Transport may, after hearing the hauliers or consignors or their organizations, grant individual hauliers or groups of hauliers complete or partial exemption from the prescribed rates or in respect of certain types of transport. He may also fix special rates.

The Minister of Transport may only use his powers to approve or fix minimum or binding rates if such action is necessary to counter a general threat of unhealthy competition. These powers have not been used so far. By the Rates Order of 3 February 1954 the Minister of Transport did, however, approve a scale fixing maximum rates for inland goods transport by lorry for reward.

This Order includes scales for the carriage of individual items between localities, the transport of complete loads between localities and local transport, and special rates for the carriage of specified goods.

This tariff does not apply to the transport of specially long or heavy loads, or to furniture removals.

1. *Local rates*

Local freight rates are related to the number of hours worked, the load capacity of the lorry used and the population of the locality.

The maximum rates laid down in the tariff have been increased by a total of 40% since it was introduced.

2. *Rates for transport between localities*

There are separate scales for part loads and full loads. The maximum rates laid down in these tariffs have also been increased by 40%. The part-load scale applies to consignments with a payload of up to 2 000 kg. This tariff also lays down the rates for the local collection and delivery of consignments. The shortest route by road is taken as the tariff distance and charges are directly proportionate to distance.

Consignments with a payload exceeding 2 000 kg. come under the full-load scale. In this case the charge is calculated according to the

U + K tariff or according to the ATIP, and the lower of the figures so obtained is applied.

As its name indicates, the U + K tariff (U = hour + K = kilometer) is based on the number of hours and kilometers. The charge payable is calculated by reference to payload, time and mileage.

The ATIP is based on a value classification and covers 5 categories of goods. The freight rate is calculated in accordance with type of goods, payload and mileage (not degressive).

Finally there are eleven special tariffs, e.g. for potatoes, milk, pressed straw, logwood, bricks and tiles and artificial fertilizers.

Whilst the part-load scale is mainly used for lorry services and collection and delivery services, the ATIP is applied mainly to non-scheduled, long-distance services.

The rates charged are frequently lower than the maximum permitted rates, particularly for full loads over long distances.

IV. TRANSPORT ON OWN ACCOUNT

Transport on own account is defined by Road Goods Transport Act as the transport of goods consigned to or despatched by the undertaking operating the transport.

Registration is required for transport on own account. Certain classes of transport not of general interest, such as agricultural transport by tractor and trailer, are exempt.

Registration is normally done by the Inspector of Transport, whose powers have been transferred to the Registration Office for Transport on own account (*Stichting inschrijving eigen vervoer*), set up by the General Organization of Shippers and Hauliers on own account (*Algemene verladers- en eigenvervoerdersorganisatie — EVO*). Appeal against the Registration Office's decisions can be made to the Minister of Transport. Registration of transport on own account can, in the same way as licences for commercial goods transport, be extended, modified or cancelled upon request by the undertaking concerned. Further, it can be revoked if this is necessary in the general interest of transport, or if the undertaking fails to exercise or exercises unlawfully the activity which was the subject of registration.

Registration is valid for a period of five years. It is renewable provided that the interested party can furnish proof that he is actually operating transport on his own account. Registration can be withheld for reasons in the general interest of transport.

Such would be the case if the proposed transport on own account was likely to be damaging to commercial hauliers to the extent of interfering with their ability to serve their customers.

It also happens that firms who have submitted a request in respect of transport on own account are advised against it, because of its being uneconomic. But such a recommendation is not binding.

In order to prevent commercial transport being disguised as transport on own account, only lorries permanently and exclusively used by the undertaking are registered. If hired vehicles are involved, the hire contract must be for a year at least.

Furthermore, no licences for commercial transport are issued to firms operating transport on their own account, this form of mixed operation being considered undesirable.

V. INTERNATIONAL TRANSPORT

a) COMMERCIAL TRANSPORT

1. Licensing

The Netherlands favour an international transport system in which a foreign haulier is only required to hold a licence issued in his country of origin. Netherlands legislation, therefore, allows foreign hauliers to participate freely in transport to and from the Netherlands, provided such transport is operated under agreements with other powers or with international organizations. Such agreements have for instance been concluded with the Federal Republic of Germany and Belgium; they deal with problems of international road transport and the recognition of licences issued by the appropriate authorities in the country in which the haulier is established. For reasons of international transport policy the Minister of Transport can admit foreign hauliers without licence.

In this context, the Minister makes an annual order under which foreign hauliers from all except Eastern European countries are permitted to operate transport to, from and through the Netherlands without a licence. However, for transport within the Netherlands only they must hold the appropriate licence for the type of transport, in the same way as all hauliers of Dutch nationality.

Netherlands road hauliers require a special licence for international transport.

The licensing authority in this case is the Netherlands International Road Transport Organization (*Stichting Nederlandse internationale wegvervoerorganisatie — NIWO*) against whose decisions appeal may be made to the Crown.

In order to be eligible for such a licence, applicants must hold a national licence for non-scheduled transport and produce evidence of their professional qualification for international goods transport. In issuing licences, account is taken of established rights, consignors' requirements, hauliers' interests and existing international agreements.

Licences specify the permitted haulage capacity. Licences may be limited to transport to and from certain countries.

All provisions applicable to transport within the Netherlands apply equally to international transport.

2. *Organization and functions of NIWO*

The "Stichting Nederlandse internationale wegvervoerorganisatie" (NIWO) was set up with the approval of the Minister of Transport.

Under its statutes, it has the general duty of promoting international goods transport, and of consulting with Netherlands and foreign authorities to that end.

It issues, withdraws, alters, extends or transfers international transport licences; it drafts transport tariffs, conditions and documents which are then declared compulsory by the Minister of Transport.

The NIWO is not permitted to operate as a haulier.

Its expenditure is largely covered by contributions from hauliers, calculated on the basis of their earnings from international transport operations.

The NIWO acts through five agencies:

The Board manages and represents the organization. It is composed of twenty members, of whom two are appointed by the Minister of Transport, three by the trade unions, and the remainder by the road hauliers' associations. The chairman of the Board is chosen by the representatives of these associations.

The International Commercial Goods Transport Committee is composed of the members of the Board and an official chairman appointed by the Minister of Transport.

This Committee issues, extends, transfers, alters or withdraws licences in accordance with the statutory provisions.

By virtue of powers granted by the Minister of Transport, the Chairman of the Committee for International Commercial Goods Transport deals with all matters relating to the issue of temporary licences.

An advisory committee issues licences. It comprises representatives of the road transport associations represented on the Board, two representatives of the Ministry of Transport and representatives of the Northern and Southern Shipping Associations, of the Netherlands International Furniture Removers Association and of other bodies. This Committee is consulted on all matters concerning the issue of licences.

The Tariff Committee is composed of experts from all the organizations represented on the Board, and two representatives of the Ministry of Transport. It assists the Board in preparing decisions concerning tariff problems.

The Minister of Transport supervises the activities of NIWO.

b) TRANSPORT ON OWN ACCOUNT

International transport on own account is normally prohibited. Special exemption from this prohibition can be granted by the Committee for International Transport on Own Account of the General Organization of shippers and carriers on Own Account (EVO). Applicants must be registered as hauliers on own account in the Netherlands.

c) TRANSPORT CONDITIONS AND RATES

By an Order dated 5 February 1954, the Minister of Transport fixed rates for international goods transport by lorry. These are applicable to all international commercial transport.

In addition to the actual rates, this tariff includes tables of minimum freight rates and mileages for the countries of Western Europe and Scandinavia.

Freight charges are calculated for the whole route, on the basis of the load carried and the rate for the distance to be travelled, as shown in mileage table.

The tariff does not differentiate by value between goods carried but is scaled down as mileage and weight increase.

The freight tables show minimum rates which may be increased by a maximum of 30%, under the terms of the tariff. However, for transport to or from Poland, Hungary, France, Italy, Luxembourg, Austria, Sweden, Spain and the Soviet-occupied Zone of Germany a maximum increase of 75% is allowed. The NIWO tariff therefore includes a minimum and a maximum rate.

In certain cases, rate reductions may be authorized for return loads. A reduction of from 5 to 20% may also be granted for certain minimum quantities. On the other hand, the maximum prices may be exceeded for exceptionally heavy long or awkward consignments.

PART IV

INLAND WATERWAY TRAFFIC

Section A — General and technical provisions

I. STATE ADMINISTRATION AND CONTROL

a) ADMINISTRATIVE COMPETENCE

Questions of an economic nature concerning inland waterway traffic are the responsibility of the Directorate-General of Transport in the Ministry of Transport.

The Directorate-General is assisted by the State Traffic Inspectorate which is organized in districts, coinciding with the provinces.

All matters concerning the construction and maintenance of waterways come under the Works Directorate (*Rijkswaterstaat*) of the Ministry of Transport. Departments, divisions and local services carry out the duties of the Directorate in the provinces.

Inland ports fall partly under the Directorate and partly under local authorities and polder boards.

b) SUPERVISION OF INLAND WATERWAY TRANSPORT UNDERTAKINGS

The Works Directorate and the Shipping Inspectorate are responsible for enforcing technical regulations, particularly in the matter of safety.

Commercial legislation for passenger transport is enforced by the ordinary police force, and by officials of the Works Directorate, the provincial transport inspectorates and the State Transport Inspectorate. (Royal Decree of 25 October 1937.) All such officials have the right to board vessels and enter certain premises and may take the requisite measures to prevent infringements of the legal provisions.

By an Order of the Minister of Justice dated 25 January 1956, goods transport is supervised by the Director-General of Transport in the Ministry of Transport and by the State Transport inspectorate responsible to the latter.

c) PENALTIES

Breaches of the regulations for passenger transport by inland waterway are punishable by a maximum fine of Fl. 150.

Breaches of the law for goods transport by inland waterway, and its implementing provisions, that are expressly declared to be punishable offences, are offences against commercial law and are prosecuted as such.

II. TECHNICAL PROVISIONS

These mainly concern traffic safety.

The central government, the provinces, local authorities and polder boards have issued a number of regulations for the protection of waterways and harbours.

Inland waterway traffic is subject to "Government Collision Regulations" which lay down rules for signalling and navigation.

There are various regulations for crews and the building and fitting-out of inland waterway craft (a single code is now in preparation).

The measurement of vessels is subject to compulsory national regulations implementing the international agreement on this subject.

National regulations also govern the carriage of certain dangerous goods.

III. PUBLIC INVESTMENT

The most important waterways are owned by the State. Others belong to provinces, local authorities and private companies.

Investment and the maintenance and administration of publicly-owned waterways are financed out of the State budget. The State guarantees loans.

The responsible bodies are the Works Directorate in the Ministry of Transport and its local branches. All technical questions and other matters connected with the construction and maintenance of State inland waterways and inland harbours are dealt with by this Directorate.

Under the act of 22 July 1899 no tolls or lock-dues are payable for the use of the State-owned waterways. (In fact about 95% of all inland navigation is on waterways exempt from tolls). On the other waterways, which are less important but nevertheless cover about half the whole network, widely-differing tolls are levied. The greater part of inland shipping thus makes no direct contribution to waterway costs.

IV. TAXATION

Inland shipping companies are liable for general taxes in the same way as other commercial undertakings.

Transport by inland waterway for hire or reward is subject to a turnover tax of 3% on the freight charge, in the same way as transport by road and rail. On the other hand no turnover tax is levied on the carriage of goods for import or export, or in transit. This applies to both national and foreign companies.

There is no special tax on transport. Diesel fuel is not subject to customs duty or to motor-fuel tax.

Section B — Provisions relating to passenger transport

Passenger transport is of minor importance in Netherlands inland waterway traffic.

I. LICENSING

Legislation is based on the act of 23 April 1880 concerning public transport other than by rail.

The provisions of this act apply to craft which provide regular passenger transport and to vessels, which can carry at least 30 persons, operating unscheduled passenger services.

No licence is required by law but the vessels must fulfil certain technical requirements; an appropriate certificate is issued by the Mayor of the commune where the firm is registered.

Companies are required to publish their time-tables and tariffs.

The Act also contains provisions concerning civil liability and third-party insurance. Details are settled by general administrative regulations.

Ferry services come under a special law.

Provincial council and local authorities have issued numerous detailed regulations in pursuance of this legislation.

II. GENERAL CONDITIONS AND RATES

There are no compulsory regulations on this subject.

Section C — Provision relating to goods transport

I. LICENSING

a) GENERAL

Legislation is very largely on the same lines as for goods transport by road. This is true of both the basic law and its implementing decree. The directives for goods transport by motor vehicle and by inland waterway craft are more or less identical.

The carriage of goods by inland waterway is governed by the Inland Waterway Goods Transport Act (WGB) of 1 November 1951, in conjunction with the corresponding Implementing Decree of 16 January 1954 and the Directives for goods transport of 30 March 1954.

Under Article 2, this act only applies to transport between places within the Netherlands. For the purposes of the Act, transport is defined as:

- a) An offer to transport goods by inland waterway craft, unless made through professional inland waterway forwarding agents;
- b) The loading and unloading of cargo on inland waterway vessels;
- c) The storage of goods on inland waterway vessels.

Commercial goods transport is subject to licence; prior registration is compulsory for transport on own account.

As with road transport, certain kinds of transport do not need to be licensed or registered. This applies first, to operations exempted from this formality by their nature, such as the carriage of fuel needed during the voyage.

Exemption is also granted for transport by special craft which are not important to the transport industry in general, such as salvage vessels, dredgers, fishing boats and ferryboats.

Like the Road Transport Act, the Inland Waterway Goods Transport Act distinguishes between three categories of transport subject to licence:

Regular services: scheduled services, carrying goods for hire or reward by inland waterway vessels with a tonnage of at least 20 metric tons.

Collection and delivery services: services collecting and delivering for hire or reward, goods to be dispatched or already dispatched by one or more regular goods transport services.

Non-scheduled transport: carriage of goods by inland waterway craft for hire or reward, not covered by the other two categories.

Under Article 6 of the Inland Waterway Goods Transport Act, the Advisory Committee on goods transport set up under the Road Goods Transport Act is also required to deal with the carriage of goods by inland waterway and to advise on general matters concerning inland navigation.

To this end, inland waterways will be adequately represented on the Committee.

b) PRINCIPLES AND PROCEDURE

Licences for inland waterway goods transport are also normally issued by the Transport Licensing Committee, but the latter's powers are delegated to regional Transport Inspectorates for licence applications of only local or regional importance.

Appeal may be made to the Crown or to the Minister of Transport, as appropriate, against orders by the Licensing Committee and Transport Inspectors.

Like the act for goods transport by road, the WGB legislates for the issue of temporary licences and for the extension, transfer, amendment or withdrawal of licences. Withdrawal is subject to the same conditions as for goods transport by road.

Article 57 of the WGB stipulates that an order may be made requiring applicants to produce evidence of their credit-worthiness and professional ability before a licence is issued. So far no use has been made of these powers.

Consequently, in contrast to the position for goods transport by road, any person wishing to operate transport by inland waterway does not at present need to prove his professional ability and credit-worthiness. As with goods transport by road, licences are issued only if this is in accordance with the general interests of the transport industry. As mentioned in the section on goods transport by road, the concept of the general interest of the transport industry is defined in more detail in the directives to the Transport Licensing Committee and to Transport Inspectors. These directives form the essential basis of transport policy for inland navigation, as for road transport.

The individual efforts of the shipping companies to foster a well-organized transport system have to be taken into account as much as possible in licensing. (For further details see the section on goods transport by road.)

The following special provisions apply to the different types of transport:

1. *Regular goods services and collection and delivery services*

The particulars given in the section on regular goods services and collection and delivery services by road apply by analogy to the same types of service by waterway. It should be noted, however, that here too the Licensing Committee is aiming at an integrated national network of such services in due course.

The holders of licences for regular goods services and collection and delivery services are bound by a general obligation to operate. They are also obliged to carry all goods offered for transport in so far as this is possible by available means of transport and legally permissible. Where necessary, they are also obliged to see that connection is made with transport supplied by other scheduled transport services.

2. *Non-scheduled traffic*

The particulars given in the section on non-scheduled road transport concerning the national character of the licence, the length of its validity, the limitation of deadweight capacity and the prohibition on carrying for more than two consignors on one voyage, also apply to inland navigation. When issuing licences in accordance with the WGB, the Licensing Committee bases itself in the first instance on carriers' established rights, which are used to fix deadweight capacity for each undertaking. Where there are no such rights, e.g. in the case of new undertakings or applications to expand tonnage, the Committee is obliged to take into account the total demand for non-scheduled goods transport. It is difficult to apply this criterion because vessels plying in international traffic are not obliged to be licensed but are eligible to take part in national traffic.

If, after consulting an advisory committee, the Government feels that the general transport interest calls for the withdrawal of a large number of licences because the supply of transport by non-scheduled shipping services exceeds demand, such a step may only be taken by special legislation.

In practice, licence applications are mostly for new vessels and since there is no general limit on capacity, these applications are usually granted.

3. Allocation of cargo to available tonnage

Companies operating non-scheduled transport by inland waterway craft may not normally conclude charter parties with shippers as they like, except for international transport.

Even before the law on the proportionate allocation of freight was passed on 5 May 1953, freighting committees were set up to share the freight available for non-scheduled transport fairly between the available tonnage and to fix compulsory tariffs.

Article 45 of the WGB of 1 November 1951 provides for the establishment of shipping-exchanges, where carriers and shippers can meet regularly to conclude affreightments and charter agreements for non-scheduled transport.

A shipping-exchange may only be established under a licence, which the Minister of Transport can only issue when, after consulting the Advisory Committee on goods transport, he feels that intervention by representative associations of shipowners and shippers renders direct Government intervention superfluous.

In such cases, affreightments and charter agreements for non-scheduled transport can then only be concluded through the shipping-exchange concerned.

Further details, such as the composition and procedure of shipping-exchanges and the form of ministerial supervision, will be settled by Royal Decree.

So far, however, no licences have been granted for the establishment of shipping-exchanges. Consequently cargoes are at present allocated in accordance with Article 65 of the WGB, Article 84 of the Implementing Decree and the Regulations for the conclusion of contracts for non-scheduled transport of 8 February 1954.

Under these provisions, contracts for non-scheduled transport by inland waterway may only be concluded through a Transport Inspector, unless he waives this requirement. The Inspector's purpose is to see that the freight offered for carriage is shared as fairly and efficiently as possible between licence-holders offering their services.

In order to cover expenses incurred by the authorities, the carrier pays the Treasury 2% of the gross freight charge.

The procedure for sharing freight is defined in greater detail in the Regulations, which established eleven districts coinciding with the provinces; area offices have been set up as required within these districts.

At each area office, an official of the Transport Inspectorate keeps a register in which available craft in the area are entered in order of application, on production of their cargo log-book.

Similarly, requests for cargo space must be submitted on the prescribed form to the appropriate area office where they are then publicly announced.

Any carrier on the register is eligible to accept a request for cargo space but the first on the list takes priority ("rota" system). The shipper may not normally refuse the craft allocated to him.

The freight rate for such cargoes is fixed by quotation committees; there is a committee for each of the eleven districts, composed of equal numbers of representatives of carriers' and shippers' organizations. The chairman who is an official of the Transport Inspectorate, attends in an advisory capacity.

The contracting parties are bound by the prices fixed by the quotation committees and also by the terms of transport laid down in accordance with the WGB.

If no registered carrier is prepared to accept the proposed cargo on these conditions, the inspector may sanction the conclusion of contracts without his intervention. In such cases, prices and conditions are negotiated by the parties.

In certain cases, compulsory affreightment may hamper the efficient operation of transport services to an extent incompatible with the general interests of the industry. In such cases a licence for restricted non-scheduled transport may be granted. Examples include the carriage of specified goods, carriage for one or more named shippers or carriage in certain parts of the country where the general interests of the industry are not involved or when most carriers are unable to supply transport. This type of carriage falls outside the shipping-exchange system. Conditions and freight rates are unrestricted.

4. *Chartering brokers*

Chartering brokers must be approved by the Minister of Transport. In order to gain such recognition they must possess the necessary professional qualifications and offer guarantees that they will meet their legal obligations.

They are obliged to co-operate in the system for allocating cargo.

5. *Chartering of inland waterway craft*

As in goods transport by road, this branch is completely unrestricted but is of little importance. Six months is the minimum period for which a carrier on own account may charter a vessel.

c) FOREIGN OPERATORS

The WGB does not apply to transport on waters to which the Act of Mannheim of 1868 applies, by craft owned by foreign nationals and legal persons established under foreign law.

Under the WGB and the Act of Mannheim, foreigners can also participate freely in the "flats" traffic in the Rotterdam port area.

Under the Implementing Decree this also applies to Dutch nationals. Foreigners wishing to participate in national traffic not covered by the Act of Mannheim must be licensed in the same way as Dutch operators. Since licences for non-scheduled traffic are always granted irrespective of nationality and there is in practice no general restriction on capacity, foreign operators can take part in national traffic on exactly the same footing as Netherlands operators.

II. GENERAL CONDITIONS

Carriers licensed for regular inland waterway services or collection and delivery services are obliged to operate and transport within the limits of their capacity. Transport conditions are dealt with in greater detail in the 1950 General Conditions of Transport which also apply to road haulage.

The bill of lading approved by the Minister of Transport must be used. This is similar to the type used for regular road haulage and refers back to the general transport conditions.

The tariff provisions for non-scheduled goods transport by inland waterway are also contained in the 1950 general conditions of transport. The conditions for carriage by non-scheduled transport are drawn up to cover the whole country, but in special cases free arrangements between shippers and carriers are permitted.

All contracts for non-scheduled transport must be drawn up on a prescribed form (charter party) and submitted to the competent official of the Transport Inspectorate for approval. All amendments to the original terms must also be approved by the Inspectorate.

The charter-party, which refers back to the general transport conditions, must be taken on the voyage.

Finally, a cargo log-book is required for the allocation of cargo.

III. RATES

a) REGULAR SERVICES AND COLLECTION AND DELIVERY SERVICES

The tariff applicable is that laid down in the Minister's Order of 4 February 1954 (*Tariefbeschikking beurtvaart*), which fixes maximum charges.

The maximum rate depends mainly on the route and the tariff weight. Each route has a tariff number which can be used to find the freight rate in a tariff scale.

In principle, tariff weight is based on gross weight. For certain goods, tariff weights are fixed per unit but for certain others (particularly bulk freight) proportionate surcharges are added to the gross weight. There is a special tariff scale for bread flour.

The loading and unloading of cargo are included in the tariffs.

Maximum rates for any collection and delivery services depend mainly on the size of the commune and the distance to be covered.

b) NON-SCHEDULED TRANSPORT

This type of transport is covered mainly by the tariff fixed by the Minister's Order of 8 February 1954 (*Tariefbeschikking ongeregeld goederenvervoer binnenscheepvaart*).

The tariff is in the form of bracket rates. A basic tariff is fixed with the stipulation that the minimum and the maximum tariff are 80% and 135% respectively of the basic tariff, which in turn depends on the route and the weight of the cargo.

Each route has a special tariff number which can be used to find the freight rate per ton of cargo on a tariff scale. Certain goods are subject to surcharges on the freight rate. There is a special tariff for goods which cannot be rated per ton.

Surcharges are also payable for carriage at low water.

The tariff covers carriage from the place of loading to the place of unloading, including the availability of the craft during the time required for loading and unloading. The length of this period depends on the ship's carrying capacity and is laid down in the terms of affreightment.

The rates per day of demurrage are laid down by the Minister in his Tariff Order of 19 May 1959. These are bracket rates ranging between 70 and 100% of the basic daily demurrage charge.

The freight rates for special cases are fixed and published by the quotation committee in whose district loading takes place and range between 80 and 135% of the basic tariff.

These apply until they are revoked and can be fixed as standard rates or bracket rates.

The freight rates thus established must be observed when cargoes are allocated under the rota system, except when they are exempted from affreightment by decision of the transport inspector or some other authority.

IV. TRANSPORT ON OWN ACCOUNT

According to the WGB, transport on own account is the carriage by inland waterway craft of goods exclusively destined for, or originating from, the undertaking or firm operating the craft.

Craft used for transport on own account must be registered with the transport inspector in whose district the applicant is established. The inspector deals with applications for registration as transport on own account and may extend or amend registrations.

Registration is refused if the applicant cannot furnish proof that he intends to confine his activities to transport on own account or if such refusal is necessary in the general interests of the transport industry.

The applicant must also prove that he owns the craft in question or has chartered it for at least one year.

The type of goods that may be carried must also be specified at registration, which is normally for five years.

No one operating transport on own account is eligible for a licence to operate transport by inland waterway craft for hire or reward. Special licences may be issued in individual cases.

The transport inspector can cancel registration for transport on own account on grounds of failure to operate or illegal operation, or in the general interests of the transport industry.

V. INTERNATIONAL TRANSPORT

All Dutch-registered craft carrying goods wholly or partly outside the Netherlands must be entered in a register kept at the office of the Director-General of Transport in the Ministry of Transport.

The registration certificate must be kept on the vessel. Apart from this, no special licence is required for international transport.

Similarly, there are no provisions concerning the fixing of rates, which are determined by the free interplay of supply and demand. Various freight exchanges set up the carriers' and shippers' organizations, exist for this purpose.

Long-term contracts are also often concluded with inland waterway carriers. Dutch inland navigation also comes under a number of international freight agreements, particularly those concerning shipping on the Rhine (for further details see the relevant passage in the report for the Federal Republic of Germany).

Finally, the Netherlands is a party to the Agreement concerning freight rates and conditions for the transport of coal and steel on the Rhine, concluded within the European Coal and Steel Community and effective as from 1 May 1958.

PART V

FORWARDING AGENTS AND OTHER INTERMEDIARIES IN INLAND TRANSPORT**Section A — Provisions relating to forwarding agents****I. LICENSING**

There is no special economic legislation governing the activity of forwarding agents, and no licence is required under general commercial legislation for the exercise of this activity. This applies equally to Dutch and foreign nationals.

Under special customs legislation, forwarding agents established in the Netherlands can be licensed as customs brokers.

II. GENERAL OPERATING CONDITIONS AND RATES

Contracts for shipment are subject to the provisions of Volume I, Chapter V, section 2 of the Commercial Code. Under Article 86 a forwarding agent is any person who arranges for the transport of merchandise or other goods by land or by water. The agent must book all consignments and register the relevant bills of lading. He is responsible for shipping the goods entrusted to him as rapidly as possible and must take all necessary security measures. He is financially liable for damage which can be attributed to his negligence even if it is caused by intermediate forwarding agents to whom he passes a consignment for which he is responsible.

A bill of lading must be drawn up as proof of the conclusion of a transport contract between the agent and the skipper or owner. This bill gives details of the carriage and the carriage charges.

The remaining forwarding conditions can be freely negotiated. This applies particularly to the agent's fee.

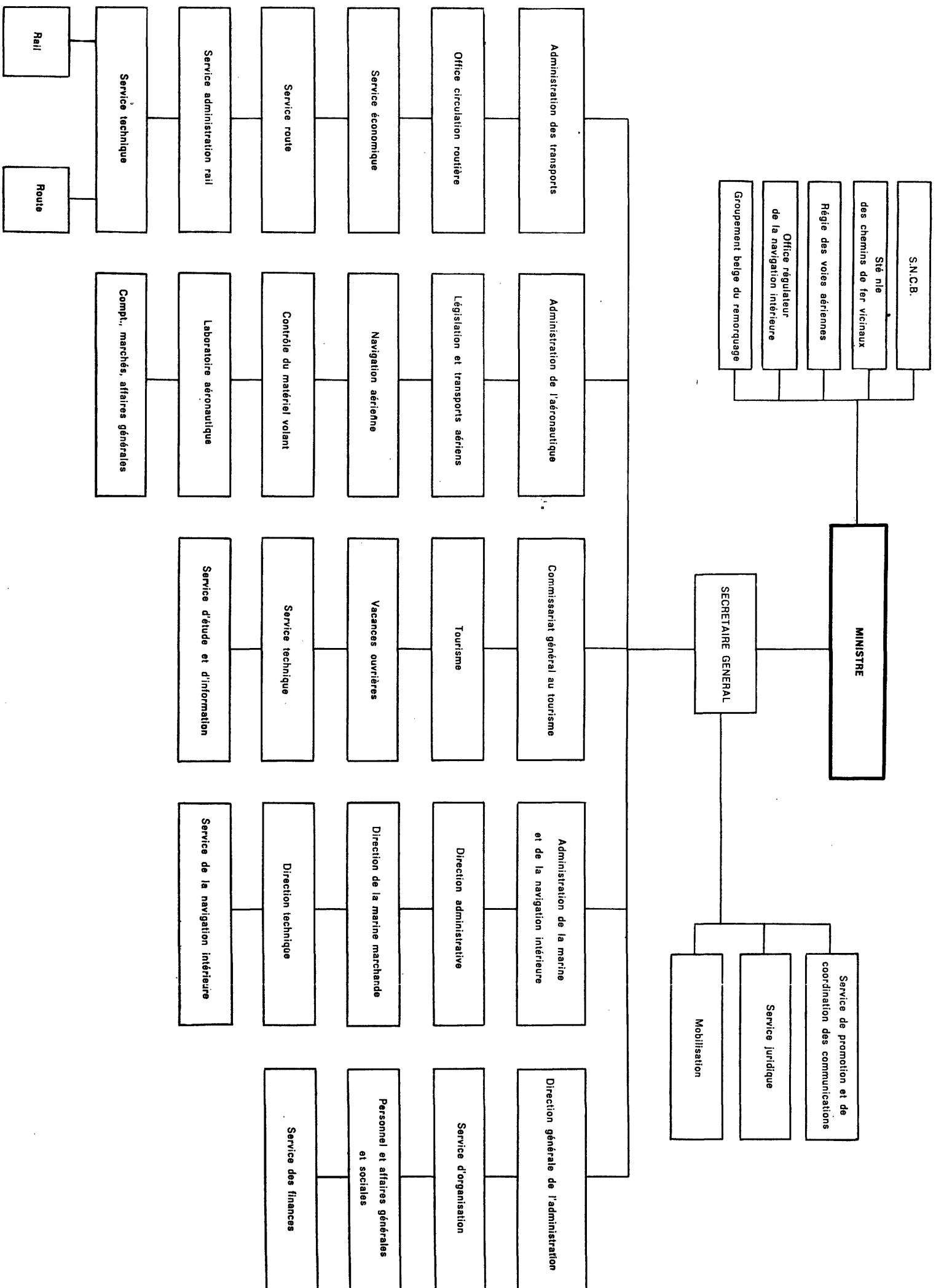
Section B — Provisions relating to other transport intermediaries

Whereas other road transport agents are not subject to any special provisions, charterers of inland waterway vessels are subject to the provisions of the "Regulations for contracts for non-scheduled transport by inland waterway vessel".

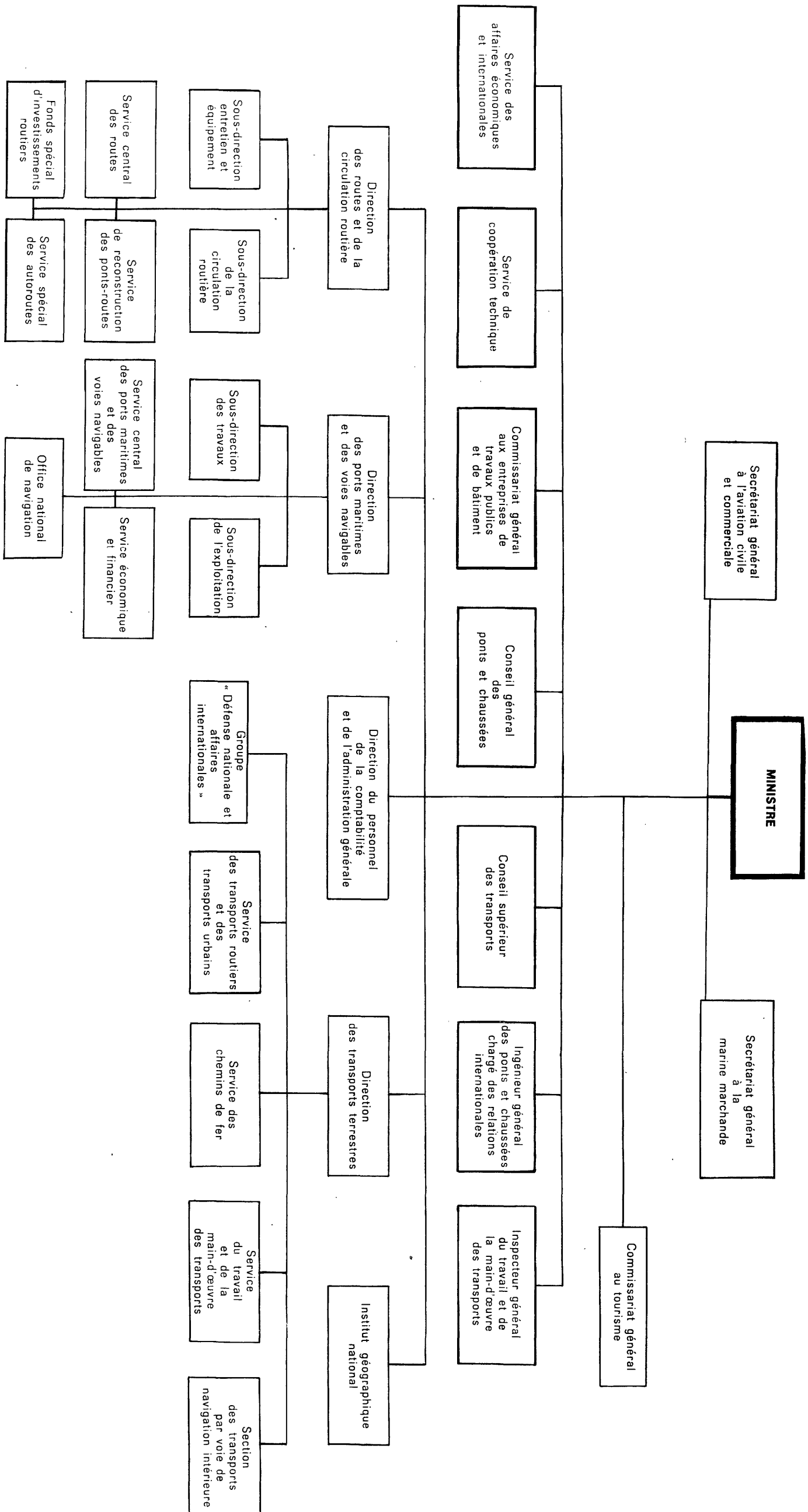
Under these Regulations, only agents approved as charterers by the Minister of Transport are allowed to operate. These agents are also required to co-operate in the freighting procedure laid down by the Government as normal practice for all non-scheduled transport by inland waterway vessel (for further details see Chapter IV, section C, sub-heading I).

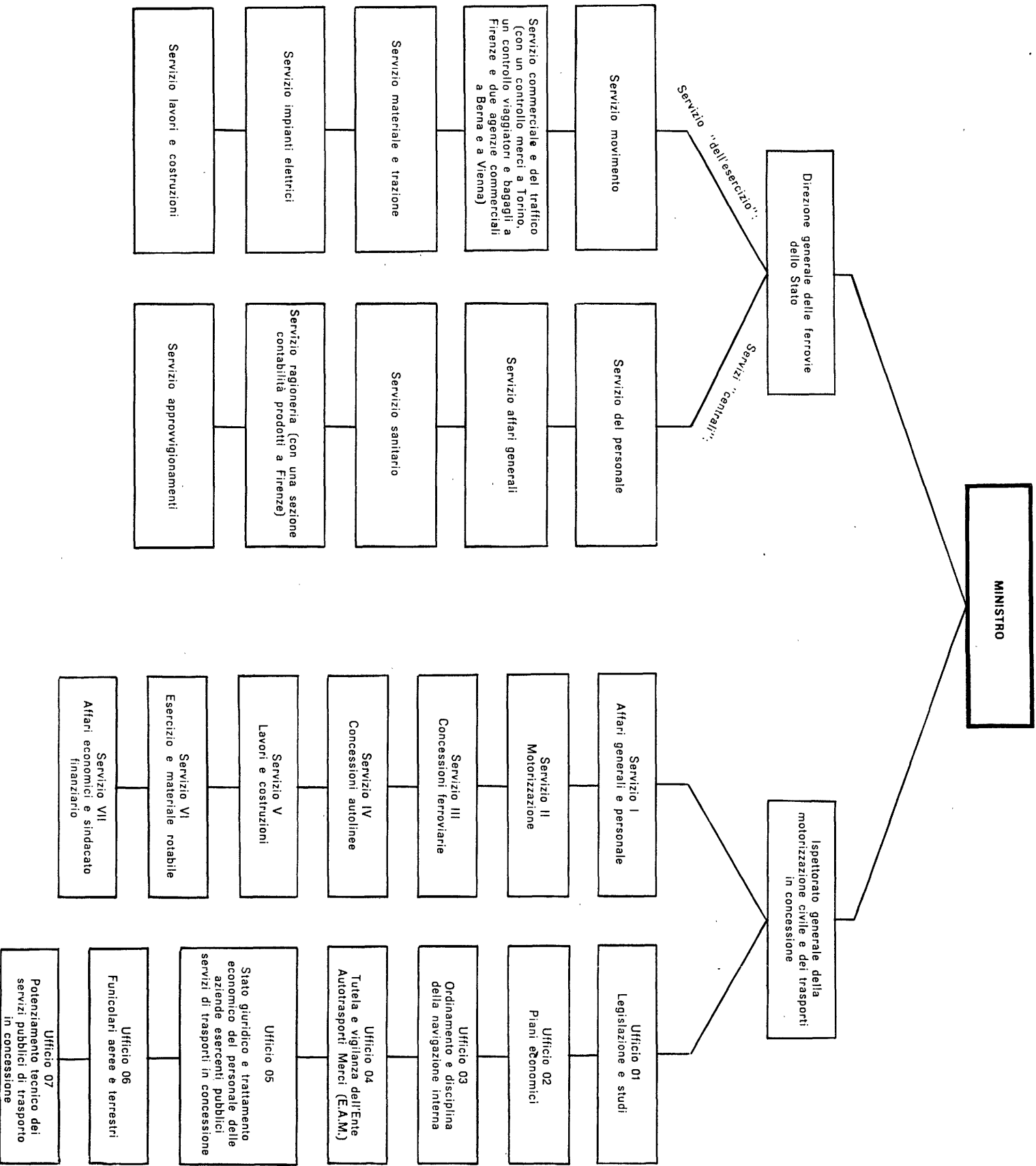
ANNEXES

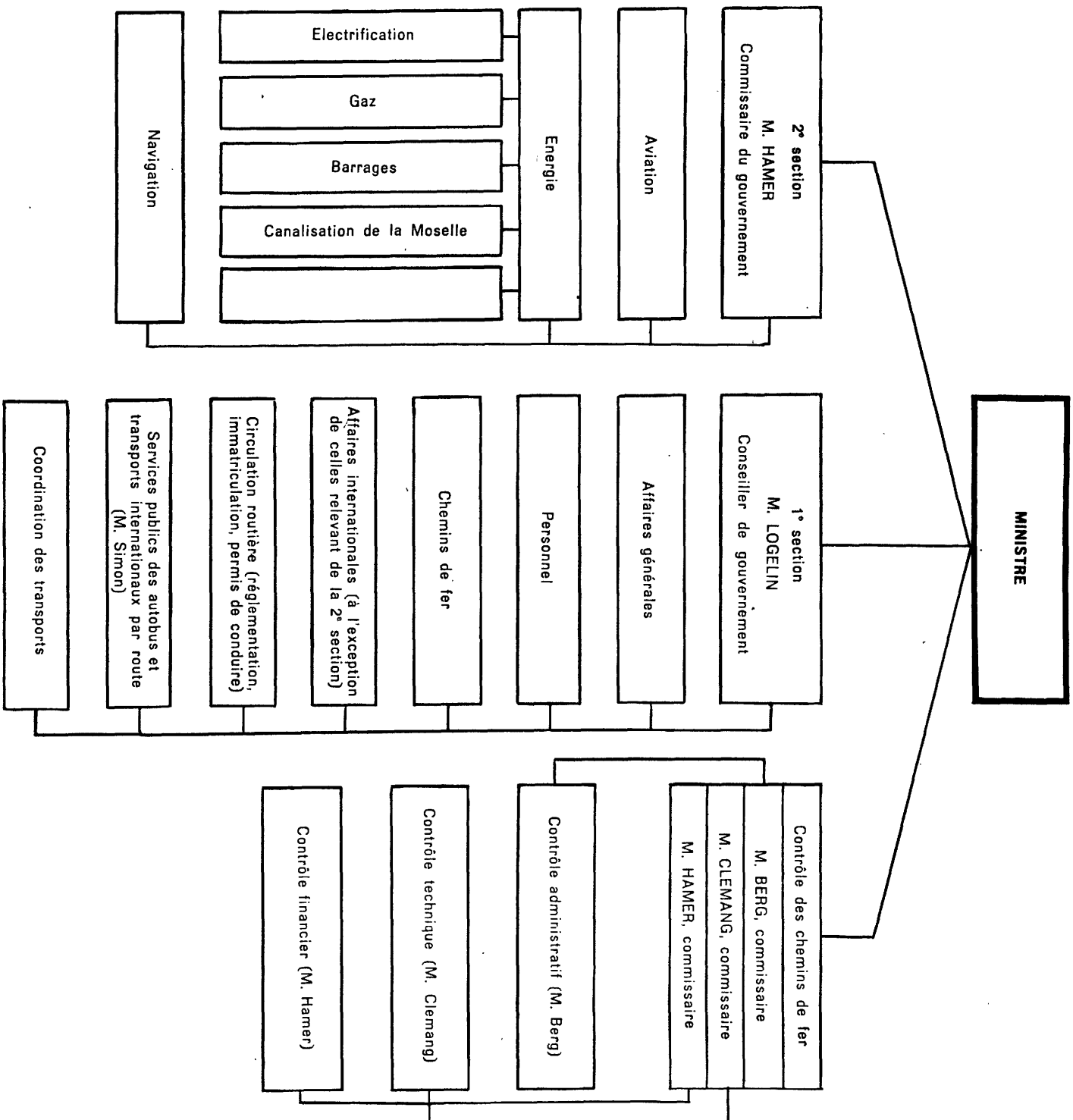
**ORGANIZATIONAL CHARTS OF MEMBER STATES'
MINISTRIES OF TRANSPORT**

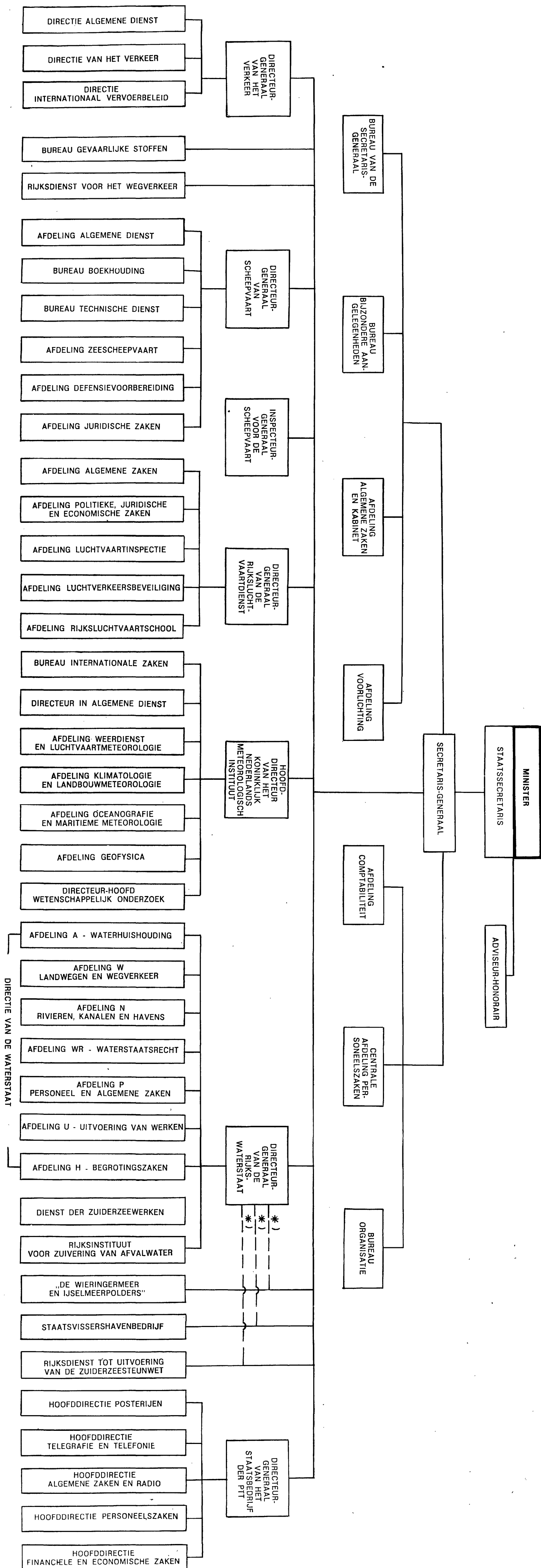


MINISTÈRE DES TRAVAUX PUBLICS ET DES TRANSPORTS DE LA RÉPUBLIQUE FRANÇAISE









	Geneva Convention 1949	The Hague Resolution	Benelux Agreement	Germany	Belgium	France	Italy	Luxembourg	Netherlands
I. MAXIMUM LENGTH									
1) Single vehicle	10 m. (11 m. for motor buses and motor coaches)	...	motor buses: 12 m. subject to conditions 1	11 m. (12 m. for motor buses and motor coaches) 12 m.	12 m. 12 m.	11 m. 11 m.	10 m. (11 m. for motor buses and motor coaches) 11 m. 2 axles: 7.5 m. more than 2 axles: 8 m.	10 m. (11 m. for motor buses and motor coaches) 12 m.	10 m. (11 m. for motor buses and motor coaches) 11 m.
b) More than two axles	11 m.	...							
2) Articulated vehicle	14 m.	15 m.	15 m. subject to conditions 9	15 m. (16.5 m. for articulated motor buses) in general: 16.5 m. for vehicle with prescribed or defined type of trailer: 18 m.	14 m. (see 2)	14 m.	14 m.	14 m.	14 m.
3) Combination of vehicles	With single trailer: 18 m. With two trailers: 22 m.	16.5 m.	18 m.	in general: 16.5 m. for vehicle with prescribed or defined type of trailer: 18 m.	22 m.	18 m.	18 m.	20 m. (excluding towing shafts of the connected vehicles)	18 m.
II. MAXIMUM WIDTH	2.5 m.	...	2.5 m.	2.5 m.	2.5 m.	2.5 m.	2.5 m.	2.5 m.	2.5 m.; on class B roads: 2.2 m. see 11
III. MAXIMUM HEIGHT	3.8 m.	...	...	4 m.	4 m.	...	4 m.	4 m.	3.8 m.
IV. MAXIMUM WEIGHT									
1) Per single axle	8 m. tons	10 m. tons	10 m. tons	8 m. tons (10 tons per driving axle)	13 m. tons	13 m. tons	10 m. tons	13 m. tons	8 m. tons 10 16 m. tons on special type axles 12
2) Per group of twin axles 4	14.5 m. tons	16 m. tons	10 m. tons for inter-axle distances < 1 m. 16 m. tons for inter-axle distances > 1 m. and < 2 m.; on conditions 8	in general: 14.5 m. tons, if inter-axle distance is at least 1.3 m.; 16 m. tons	20 m. tons	between 14.7 and 21 m. tons, in proportion to 5 cm. increases in the distance between axle centre-lines	14.5 m. tons	20 m. tons	16 m. tons
3) Total laden weight									
a) Single vehicle	from 14.5 to 36.25 m. tons according to the increasing distance in metres between the leading and trailing axles of the vehicle or combination of vehicles	...	...	two axles: 16 m. tons more than two axles: 22 m. tons	Single vehicle, except semi-trailer: two axles: 19 m. tons more than two axles: 26 m. tons Semi-trailer only: 1 rear axle: 21 m. tons 2 rear axles: 26 m. tons	two axles: 19 m. tons, subject to condition 6 more than two axles: 26 m. tons, subject to condition 6	two axles: 14 m. tons three axles: 18 m. tons four or more axles: 22 m. tons	two axles: 19 m. tons more than two axles: 26 m. tons	two axles: 16 m. tons; see 7 three axles: 24 m. tons; see 7
b) Articulated vehicle	as above	32 m. tons	36 m. tons	32 m. tons, subject to condition 5	Semi-trailer with: 1 rear axle: 21 m. tons + weight of traction vehicle; subject to condition 8 2 rear axles: 26 m. tons + weight of traction vehicle; subject to condition 8	35 m. tons, subject to condition 6	total of maximum permitted weights for the traction vehicle and the trailer	35 m. tons	see 7
c) Combination of vehicles	as above	32 m. tons	40 m. tons	32 m. tons, subject to condition 5	35 m. tons, subject to condition 8	35 m. tons, subject to condition 6	as above	40 m. tons	see 7

1 a) Rear overhang must not exceed 3.5 m.; b) outside projection radius must not exceed 12 m.; c) inside projection radius must be not less than 6.5 m. with an outside projection radius of 12 m.; d) clearance (wheel-jump) must not exceed 0.5 m. with an outside projection radius of 12 m.
 * The Minister of Communications may, in certain cases, authorize the use of articulated vehicles exceeding 14 m.; but not more than 15 m. in length.
 2 Provided the force exerted by two or more wheels on the same axle of the combination does not exceed 10 m tons.
 3 Definitions of twin axles, in the various conventions, agreements and national legislations, do not coincide.
 4 Having regard to the provisions for single vehicles.
 5 The French regulations specify that the total laden weight of any powered or towed vehicle may not exceed 5 m. tons per linear metre of distance between the leading and trailer ends. This provision applies to all types of vehicle (single, articulated, combinations).
 6 In the Netherlands, no limits are fixed for particular members of axles. Consequently, total permitted weight is unit weight per axle multiplied by the number of axles, provided the distance between succeeding axles is more than 1 metre.

**PROVISIONS OF THE BENELUX TREATY AFFECTING
TRANSPORT**

Article 1

1. An Economic Union is established between the Kingdom of Belgium, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands, entailing free movement of persons, goods, capital and services.
2. This Union implies:
 - a) The co-ordination of economic, financial and social policies;
 - b) The pursuit of a joint policy in economic relations with third countries and regarding payments related thereto.

Article 2

1. The nationals of each High Contracting Party may freely enter and leave the territory of any other Contracting Party.
2. They shall enjoy the same treatment as nationals of that State as regards:
 - a) Freedom of movement, sojourn and settlement;
 - b) Freedom to carry on a trade or occupation, including the rendering of services;
 - c) Capital transactions;
 - d) Conditions of employment;
 - e) Social security benefits;
 - f) Taxes and charges of any kind;
 - g) Exercise of civil rights as well as legal and judicial protection of their person, individual rights and interests.

Article 5

1. The rendering of services between the territories of the High Contracting Parties shall be free of taxes, charges, imposts or dues of whatsoever kind.
2. It shall likewise be free from all prohibitions or restrictions of an economic or financial nature, such as quotas, restrictions applying to certain types of service or currency restrictions.

Article 6

Without prejudice to the provisions of Articles 2 to 5 above, the High Contracting Parties shall jointly ensure that no law or regulation, in particular public health regulations, should induly hinder freedom of movement.

A III - 2

Article 7

The High Contracting Parties shall jointly ensure that no law or regulation has the effect of disturbing competitive conditions in their territories.

Article 8

1. The High Contracting Parties shall, in close consultation, pursue a co-ordinated policy in the economic, financial and social fields.
2. The High Contracting Parties shall co-ordinate their policies in respect of private commercial agreements and of abuses arising from the dominant position of one or more concerns; they shall take steps to prevent the abuse of economic power.

Article 28

The following Committees shall be set up:

Foreign Trade Committee;
Monetary and Financial Committee;
Industry and Trade Committee;
Committee on agriculture, food and fisheries;
Customs and Revenue Committee;
Communications Committee;
Social Committee.

Article 68

In the field of transport the co-ordinated policy provided for in Article 8 of the present Treaty shall rest on the following basic principles:

- a) The harmonizing of competitive conditions between the various media of inland transport within the territory of each High Contracting Party by the abolition of charges imposed on transport undertakings and advantages granted to the same;
- b) The profitable operation of public and private transport undertakings.

Article 69

The High Contracting Parties shall direct their joint policy towards the promotion of a harmonious development of, and active co-operation between, their seaports.

Article 85

The conditions under which nationals of a High Contracting Party may operate in a country other than that in which they are established shall be laid down by the Committee of Ministers.

Article 86

1. Transport of goods by road and non-scheduled passenger traffic by road between the territories of the High Contracting Parties shall be subject to joint executive and control measures laid down by the Committee of Ministers. In order to promote a harmonious development of the said transport of goods the Committee of Ministers shall also take all necessary measures, in particular those regarding price-formation.

2. The Committee of Ministers shall establish the system governing scheduled passenger transport by road between the territories of the High Contracting Parties.

Article 87

1. With regard to international road transport, excluding non-scheduled passenger transport by road from the territory of one of the High Contracting Parties to a third country, the Committee of Ministers shall lay down conditions for participation by nationals of a High Contracting Party who are not established in the territory of the High Contracting Party concerned.

2. The Committee of Ministers shall establish executive and control measures for non-scheduled passenger traffic by road from the territory of one of the High Contracting Parties to a third country.

Article 88

As regards transport by road or by inland waterway effected by nationals of the High Contracting Parties, each High Contracting Party shall apply to persons not established in its territory a system at least as favourable as that applied to persons established there at the date of entry into force of the present Treaty.

Article 89

Each High Contracting Party shall apply a liberal policy, in conformity with the provisions of Article 5 of the present Treaty, in granting commercial rights to the other Contracting Parties for the operation of scheduled international air services which cross its territory or are effected within its territory.

Article 92

The Committee of Ministers may decide that statistical records be made in collaboration regarding goods and means of transport for the same crossing the joint frontiers of the High Contracting Parties.

CONVENTION CONTAINING THE TRANSITIONAL PROVISIONS

Article 34

Within a period not exceeding three years the High Contracting Parties shall gradually abolish any quantitative restrictions:

- a) On goods transport by road and non-scheduled passenger transport by road between their territories;
- b) On non-scheduled passenger transport by road from the territory of a High Contracting Party to third countries.

Article 35

During a period of five years, transport of river sand and gravel from the Netherlands to Belgium may, as regards the use of inland waterway vessels, continue under the regulations applicable to imports of sand and gravel at the time of entry into force of the Treaty instituting the Union.

IMPLEMENTING CONVENTION

Article 9

1. In order to give effect to Articles 2, 5, 6, 7, 85 and 87 of the Treaty instituting the Union, the High Contracting Parties shall endeavour to harmonize their laws, regulations and other provisions of public law relating to national transport by rail, road, and inland waterway.
2. In pursuance of Article 7 of the Treaty, the High Contracting Parties shall abolish any measure of support or protection operating through the medium of internal transport in favour of particular undertakings or industries. This provision shall not apply to competitive tariffs.
3. When the Communications Committee examines within its terms of reference special cases falling under paragraph 2 above, it shall receive in confidence and at the request of the delegates of a High Contracting Party all necessary particulars of the terms and conditions applied.

4. For the purposes of Article 68 a) of the Treaty, "charges" are understood to be costs borne by transport undertakings which in reality are chargeable to the community, and duties likely to distort competitive conditions between the various types of transport. By "advantages" is understood costs borne by the community which in reality are chargeable to transport undertakings.

5. Nothing in the Treaty shall prejudice:

a) Measures taken or contemplated for putting into effect principles established by any High Contracting Party before the Treaty came into force with a view to placing the national railways on a sound financial footing provided always that such measures are compatible with Article 68 of the Treaty;

b) Credit facilities or other measures to promote the development or modernization of one or other type of transport, in so far as these facilities or measures do not affect economic relations between the High Contracting Parties in a manner incompatible with the aims of the Union.

6. As regards air transport the High Contracting Parties shall apply the provisions of Article 9 of the Treaty, particularly in technical matters that are under examination or discussion in the international civil aviation organizations. At the request of any of the said organizations they shall study the desirability and feasibility of extending the co-ordination of policies to other matters, particularly to their relations with third countries.

PROTOCOL OF SIGNATURE

1. The joint executive and control measures referred to in Article 86 (1) and Article 87 (2) of the Treaty instituting the Union shall be decided, on the proposal of a group of experts set up for this purpose after signature of the Treaty, by the Committee of Ministers within a period not exceeding two years from the entry into force of the said Treaty.

2. With regard to goods transport by road between the territories of the High Contracting Parties, the said group of experts shall prepare draft tariffs containing minimum and maximum rates to be applied by all carriers. To this end, the High Contracting Parties shall communicate to each other their respective rates based on the costs of the transport undertakings in question.

3. In preparing the draft common tariffs, the experts shall take into account:

a) The distance covered;

b) Identical tonnage categories (5, 10, 15 and 20 tons);

c) A uniform classification of goods;

d) The utilization factor of vehicles.

DECISION BY THE COMMITTEE OF MINISTERS
OF THE BENELUX ECONOMIC UNION
CONCERNING JOINT EXECUTIVE AND CONTROL MEASURES
FOR NON-SCHEDULED PASSENGER TRAFFIC

The Committee of Ministers of the Benelux Economic Union,
Having regard to Articles (86 (1) and 87 (2) of the Treaty instituting
the Union,

Having regard to Article 34 of the Convention containing the Transi-
tional Provisions,

Having regard to paragraph 1 of the Protocol of Signature appended
to the Treaty instituting the Union,

Having noted the report of 22 March 1960 by the group of experts
set up under the Protocol of Signature,

Has taken the following decision:

Article 1

DEFINITIONS

As opposed to:

- a) Public bus services and special bus services, including shuttle serv-
ices, within the meaning of Belgian legislation;
- b) Bus services and collective transport within the meaning of Nether-
lands legislation, as well as shuttle services;
- c) Public road transport services covered by Luxembourg legislation,
as well as shuttle services;

Non-scheduled passenger transport by road, for the purposes of Articles
86(1) and 87(2) of the Treaty instituting the Benelux Economic
Union and for the purposes of Article 34 of the Convention containing
the Transitional Provisions, is understood to include:

1. Tourist transport, i.e. of persons travelling for pleasure, following
and itinerary enabling them to see places or scenery of particular
interest, with reasonable halts at places worthy of a special visit.
2. Transport not covered by 1 above but answering one of the defini-
tions hereunder:
 - a) Transport of parties of travellers from third countries on their
inward or outward journey under a contract concluded before their
arrival;
 - b) Transport for persons participating in a cultural (artistic, educa-
tional, religious or scientific), professional or sporting event;
 - c) Transport for parties pursuing common professional or cultural
interests.

3. Special transport other than that covered under 1 and 2 above when the travellers cannot without inconvenience make use of public transport and when the competent authorities of the country in which the carrier is established have issued a licence for this purpose. The driver must produce this licence on request.

Article 2

CONTROL MEASURES

1. For each intended journey carriers must possess for each vehicle a national licence, a separate way-bill conforming to the specimen attached to the present decision, filled in and certified correct. This way-bill must be on board the vehicle during the journey to which it relates, and must be shown to inspectors upon request. After the journey has been completed the way-bill must be returned to the appropriate authorities in accordance with a procedure and time-limit fixed by them.

2. The competent authorities of the Contracting Parties shall immediately inform the authorities of the countries in which the journey began or ended of the issue of special licences in accordance with Article 1, paragraph 3.

3. In the event of a presumed infringement of the above provisions, the competent authorities of each of the Contracting Parties shall open an inquiry, if necessary upon the invitation of the competent authorities of one of the other Contracting Parties.

Article 3

STATISTICS

The High Contracting Parties shall exchange periodically the following statistical information:

- a) Number of vehicle-journeys starting from, ending on or passing through the territory of one of the other Contracting Parties;
- b) Number of passengers carried;
- c) Number of kilometres covered on Belgian territory;
- d) List of journeys per carrier according to points of departure and destination.

Article 4

The present decision, which implies the abolition of quantitative restrictions on non-scheduled passenger transport by road within the meaning of Article 34 of the Convention containing the Transitional Provisions, shall come into force on 1 January 1961.

Done at Brussels, 3 November 1960.

The Chairman of the Committee of Ministers.

DECISION BY THE COMMITTEE OF MINISTERS
OF THE BENELUX ECONOMIC UNION
ON A FORM OF WAY-BILL FOR USE IN ROAD
TRANSPORT BETWEEN THE TERRITORIES OF
THE HIGH CONTRACTING PARTIES

The Committee of Ministers of the Benelux Economic Union,
Having regard to Article 86 (1) of the Treaty instituting the Union,
Having regard to paragraph 1 of the Protocol of Signature appended to the said Treaty,
Having regard to Article 34, sub-paragraph a), of the Convention containing the Transitional Provisions,
Has decided as follows:

Article 1

1. In goods transport by road for hire or reward as referred to in Article 86 (1) of the Treaty instituting the Benelux Economic Union and liberalized by virtue of Article 34, sub-paragraph a), of the Convention containing the Transitional Provisions, a way-bill conforming to the specimen attached to the present decision shall be used for the purposes of the executive and control measures laid down.
2. The way-bill, duly completed, must accompany the vehicle and must be shown to inspectors on request.
3. The instructions for completing the way-bill shall be drawn up by common consent.

Article 2

1. Any additions necessary for administrative purposes shall be permissible provided that they do not change the general layout nor the arrangement and order of headings.
2. The specimen referred to in Article 1 (1) is not mandatory as regards its dimensions and the languages used.

Article 3

On the coming into force of the present decision the following provision shall be annulled:

Article 2 of the decision of 15 May 1961 by the Committee of Ministers of the Benelux Economic Union relating to the progressive abolition of quantitative restrictions on the transport of goods by road (M (61) 5).

Article 4

The present decision shall come into force on 1 July 1962.
Done at Brussels, 5 February 1962.

DECISION BY THE COMMITTEE OF MINISTERS
OF THE BENELUX ECONOMIC UNION
ON BENELUX TARIFFS
FOR THE TRANSPORT OF GOODS BY ROAD

The Committee of Ministers of the Benelux Economic Union,
Considering that for the harmonious development of road transport between the territories of the High Contracting Parties it is necessary to draw up measures on price formation in the transport of goods by road for hire or reward;

Having regard to Article 86 (1) of the Treaty instituting the Benelux Economic Union;

Having regard to paragraphs 2 and 3 of the Protocol of Signature appended to the said Treaty;

Having regard to the report by the group of experts set up under the Protocol of Signature,

Has taken the following decision:

Article 1

1. For the transport of goods by road when the loading and unloading points are situated in two or three countries of the Economic Union, general common tariffs shall be drawn up in conformity with the provisions contained in the annexes to the present decision.
2. The Committee of Ministers shall also have power to lay down special tariffs for the transport of certain goods or for transport under certain conditions.
3. The Committee of Ministers may, in addition, decide on reductions where a carrier performs transport services for the same principal over a certain period and the total charge exceeds an amount to be fixed.
4. Carriers operating the transport services referred to in paragraphs 1 and 2 shall be obliged to apply the tariffs provided for therein.
5. These tariffs shall be officially published in the countries of the Benelux Economic Union at least a fortnight before being put into force.

Article 2

For the purposes of this decision the following definitions shall apply:

- a) *Vehicles*: cars, articulated vehicles and trailers fitted for the transport of goods, as defined in Article 4 of the Road Traffic Convention dated 19 September 1949, a train of vehicles coupled together being regarded as one vehicle.
- b) *Loading or unloading point*: The place where vehicles are loaded

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or unloaded, it being understood that the following shall be considered as such:

1. Any group of buildings situated on the territory of one or more communes;
2. Any group of buildings situated on the territory of a commune but bearing a different name from the latter.

Article 3

1. Upon application by a carrier established in the territory of a Member State, the competent authorities of that State may as an exception, and provided no objection is raised by the competent authorities of the other Member States, wholly or partly waive the present decision for certain classes of transport or for transport to be effected in special circumstances.
2. In support of his application the carrier shall furnish all the information which the competent authorities deem necessary in order to assess the merits thereof.
3. Should the competent authorities consider the application acceptable, they shall refer it with their proposals to the competent authorities of the other country. If within a fortnight of receipt the latter authorities do not reply that they wish the application to be further scrutinized, they shall be deemed to have tacitly approved the same.
4. The Communications Committee shall appoint a sub-committee to make the further scrutiny referred to in the foregoing paragraph.
5. In exceptionally urgent cases, dispensation can be granted immediately by agreement between the three chairmen of the delegations in this sub-committee or their representatives.
6. The sub-committee mentioned in paragraph 4 of the present Article shall decide in each case on the advisability of publication of the dispensation granted.

Article 4

The present decision shall include the following annexes:

- I. Tariff provisions;
- II. Table of basic transport rates;
- III. Lists of goods to which special tariffs apply;
- IV. Table of distances;
- V. Provisions on crossings by ferry.

Article 5

1. Each country shall take the necessary steps to ensure application of the tariff provisions.

2. The sub-committee referred to in Article 3 (4) shall make the necessary arrangements for mutual assistance in applying the laws and regulations on tariffs for the transport of goods by road and also for the prevention and punishment of infringements.

Article 6

The present decision shall take effect from 1 October 1962.

Done at Brussels, 21 May 1962.

The Chairman of the Committee of Ministers.

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DECISION BY THE COMMITTEE OF MINISTERS
OF THE BENELUX ECONOMIC UNION ON PERMITTED
WEIGHTS AND DIMENSIONS OF COMMERCIAL VEHICLES
IN INTRA-BENELUX TRAFFIC

The Committee of Ministers of the Benelux Economic Union,
Having regard to Articles 7, 8 and 86 of the Treaty instituting the Union;

Having regard to Article 9 of the Implementing Convention;

Having regard to the Road Traffic Convention concluded at Geneva on 19 September 1949;

Considering it advisable to lay down specifications for vehicles to be used in traffic between the Benelux countries pending the conclusion of a convention of wider geographical scope,

Has taken the following decision:

Article 1

In pursuance of the provisions of Annex 7 to the Road Traffic Convention signed at Geneva on 19 September 1949, and in particular paragraph 3 thereof, commercial vehicles which satisfy the conditions set out in the articles below may operate between the territories of the three Contracting Parties.

Article 2

1. The force exerted on the road by one or more wheels of one axle may not exceed:

- a) 5 000 kg., if exerted by one wheel;
- b) A total of 10 000 kg., if exerted by two or more wheels.

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2. The total force exerted on the road by all the wheels of a combination of axles may not exceed:

- a) 10 000 kg. when the two axles are spaced not more than one metre apart;
- b) 16 000 kg. when the two axles are spaced more than one metre but under two metres apart and the force is exerted by at least four wheels, with the proviso that the force exerted by two or more wheels of one axle of a combination may not exceed 10 000 kg.

Article 3

1. The total weight of an articulated vehicle (traction vehicle and semi-trailer) may not exceed 36 000 kg.
2. The combined weight of a towing vehicle and trailer may not exceed 40 000 kg.

Article 4

1. The length of a train made up of a towing vehicle and a trailer other than a semi-trailer may not exceed 18 metres.
2. For an articulated vehicle (traction vehicle and semi-trailer), the following dimensions may not be exceeded:
 - a) Overall length: 15 metres;
 - b) Lengthwise distance between the extreme forward point of the towing vehicle and the axle, or the midpoint between the axles, of the semi-trailer: 12 metres;
 - c) Distance measured lengthwise between the coupling pin of the towing vehicle, and the axle, or a point halfway between the axles, of the semi-trailer: 8 metres;
 - d) Distance measured horizontally between the coupling pin and any point on the forward part of the semi-trailer: 1.75 metres.

Exceptions relating to the maximum lengths fixed in b) and c) can be made for semi-trailers fitted with steering axles if the turning circle of such semi-trailers is not less favourable than that of the vehicles referred to above. Such an exception shall be the subject of special approval regarding the traction vehicles and semi-trailers concerned.

3. The length of motor vehicles designed to carry more than eight persons not including the driver may not exceed 12 metres, it being understood that in all cases:
 - a) Rear overhang may not exceed 3.5 metres;
 - b) The outside projection radius may not exceed 12 metres;

- c) With an outside projection radius of 12 metres, the inside projection radius may not be less than 6.5 metres;
 - d) With an outside projection radius of 12 metres, the clearance (wheel-jump) must not exceed 0.5 metre.
4. No vehicle may exceed 2.5 metres in width.

TRANSITIONAL PROVISIONS

Article 5

Notwithstanding the provisions of Article 2, for eleven years following the date of entry into force of the present decision the total force exerted by the wheels of swing axles of vehicles registered in one of the three countries within twelve months after the said date may be 13 000 kg., provided that the force exerted by two wheels of any one axle of a combination does not exceed 7 000 kg.

Article 6

Notwithstanding the provisions of Article 4, paragraph 2, for eleven years following the date of entry into force of the present decision articulated vehicles of which one unit has been registered in one of the three countries within twelve months after the said date may exceed the maximum dimensions laid down under sub-paragraphs b), c) and d) of the above-mentioned paragraph.

Article 7

For eleven years following the date of entry into force of the present decision motor vehicles designed to carry more than eight persons not including the driver and registered in one of the three countries within twelve months after the said date need not satisfy the conditions laid down in Article 4, paragraph 3, sub-paragraphs a), b), c) and d).

Article 8

The exceptions provided for in Articles 5, 6 and 7 above shall apply only to vehicles or trains of vehicles complying with the relevant regulations applicable in their country of registration before the entry into force of the present decision.

Article 9

The present decision shall take effect from 1 October 1962.
Done at Brussels, 21 May 1962.
The Chairman of the Committee of Ministers.

DECISION BY THE COMMITTEE OF MINISTERS
OF THE BENELUX ECONOMIC UNION
ABOLISHING
QUANTITATIVE RESTRICTIONS
ON THE TRANSPORT OF GOODS
BETWEEN THE TERRITORIES
OF THE HIGH CONTRACTING PARTIES

The Committee of Ministers of the Benelux Economic Union,

Having regard to Article 5 and Article 86 (1) of the Treaty instituting the Union;

Having regard to paragraph 1 of the Protocol of Signature appended to the Treaty for the Union;

Having regard to Article 34 of the Convention containing the Transitional Provisions;

Has taken the following decision:

Article 1

Quantitative restrictions on the transport of goods by road between the territories of the High Contracting Parties shall be abolished.

Article 2

The decision of the Committee of Ministers of the Benelux Economic Union, dated 15 May 1961, on the progressive abolition of quantitative restrictions on the transport of goods by road (M (61) 5), as supplemented by the decision of the said Committee dated 25 September 1961 (M (61) 9) is annulled.

Article 3

The present decision will enter into force on 1 October 1962.

Done at Brussels, 21 May 1962.

The Chairman of the Committee of Ministers.

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Annexe - Bijlage

LETTRÉ DE VOITURE - DOCUMENT DE TRANSPORT VRACHTBRIEF - VERVOERDOCUMENT

N° - Nr.

Code transp. - Vervoercode

N°
Nr.

EXEMPLAIRE DESTINÉ A EXEMPLAAR BESTEMD VOOR

Pour conditions de transport voir au verso — Voor vervoercondities zie ommezijde.

EXPÉDITEUR - AFZENDER (1) NOM - NAAM RUE ET N° - STRAAT EN Nr. LOCALITE - PLAATS PAYS LAND		PRISE EN CHARGE DE LA MARCHANDISE (3) INONTVANGSTNEMING DER GOEDEREN LIEU - PLAATS PAYS - LAND DATE - DATUM (*)			
DESTINATAIRE - GEADRESSEERDE (2) NOM - NAAM RUE ET N° - STRAAT EN Nr. LOCALITE - PLAATS PAYS LAND		LIVRAISON DE LA MARCHANDISE (4) AFLEVERING DER GOEDEREN LIEU - PLAATS PAYS - LAND (*)			
Marques et n° Merken en nrs. (5)	Nombre de colis Aantal colli (6)	Mode d'emballage Verpakking (7)	Nature de la marchandise Aard der goederen (8)	Volume m³ Volume m³ (9)	Poids brut Brutogew. in kg (10)
INSTRUCTIONS DE L'EXPÉDITEUR - INSTRUCTIES AFZENDER (11)					

 N°s 1 à 11 y compris et 16 à remplir par ou de la part de l'expéditeur.
 Nrs. 1 tot en met 11 en 16 in te vullen door of namens de afzender.

OBSERVATIONS DU TRANSPORTEUR OPMERKINGEN VERVOERDER (12)	Code tarif Tariecode (*)	A payer par Te betalen door (13)	
		Expéditeur Afzender	Destinat. Geadress.
TRANSPORTEUR - VERVOERDER (14) NOM - NAAM RUE ET N° - STRAAT EN Nr. LOCALITE - PLAATS PAYS LAND	1. Prix de transport - vrachtprijs 2. Réduction - reductie 1-2 = Frais accessoires: Bijkomende kosten: Divers - Diversen:		
	TOTAL - TOTAAL		

ETABLI A LE OPGEMAAKT TE DE	Signature ou cachet du transporteur Handtekening of stempel van de vervoerder (15)	Signature ou cachet de l'expéditeur Handtekening of stempel v.d. afzender (16)	Signat. ou cachet du destinataire (17) Handtekening of stempel v. geadress. (**) (17)
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CORRECTIONS - CORRECTIES (18)	N° d'immatriculation Inschrijvingsnummer of kenteken (19)	Poids payant Betalend gewicht (20) Charge utile en tonnes Laadvermogen in tonnen (21)	DISTANCE TARIFAIRE (*) TARIEFAFSTAND (23)
	Point(s) de franchissement de la (des) frontière(s) (22) Punt(en) van grensovergang		1 Belgique - België km 2 Pays-Bas - Nederland km 3 Luxemb. - Luxemb. km Pays - Land km Pays - Land km Pays - Land km
			Code itinéraire Reiswegcode (*)
			Total km

(*) Réserve à l'administration. Ne pas remplir. — Voorbehouden aan het bestuur. Niet invullen.

(**) A apposer uniquement sur l'exemplaire destiné au transporteur. — Alleen op exemplaar bestemd voor de vervoerder.

SOURCES OF LEGAL PROVISIONS,
REGULATIONS AND ADMINISTRATIVE PRACTICES
OF THE MEMBER STATES
IN MATTERS OF TRANSPORT

BELGIUM

Loi du 10-5-1862 relative aux concessions de péages (Moniteur belge du 16-5-1862).

Wet van 10 mei 1862 met betrekking tot de tolconcessies (Belgisch Staatsblad 16 mei 1862).

Arrêté du 20-2-1866 relatif au cahier des charges et conditions générales concernant la construction et l'exploitation des chemins de fer concédés en Belgique (Moniteur belge du 12-8-1866).

Ministeriële goedkeuring van 20 februari 1866 betreffende het algemeen kohier van lasten en voorwaarden betreffende het aanleggen en exploiteren van de vergunde spoorwegen in België (Belgisch Staatsblad 12 augustus 1866).

Loi du 24-6-1885 sur les chemins de fer vicinaux (Moniteur belge du 25-6-1885), dernière modification portée par la loi du 6-5-1932 (Moniteur belge du 14-5-1932).

Wet van 24 juni 1885 betreffende de wet op de buurtspoorwegen (Belgisch Staatsblad 25 juni 1885), laatste wijziging door wet van 6 mei 1932 (Belgisch Staatsblad 14 mei 1932).

Arrêté royal du 6-7-1885 concernant les statuts de la S.N.C.V. (Moniteur belge du 8-7-1885), dernière modification portée par l'arrêté du Régent du 10-10-1947 (Moniteur belge du 25-10-1947).

Koninklijk besluit van 6 juli 1885 betreffende statuten van de NMVB (Belgisch Staatsblad 8 juli 1885), laatste wijziging door besluit van de Regent van 10 oktober 1947 (Belgisch Staatsblad 25 oktober 1947).

Loi du 25-8-1891 sur les contrats de transports (Moniteur belge du 26-8-1891) modifiée par la loi du 30-12-1918 (Moniteur belge du 5-1-1919).

Wet van 25 augustus 1891 betreffende het vervoercontract (Belgisch Staatsblad 26 augustus 1891), gewijzigd door wet van 30 december 1918 (Belgisch Staatsblad 5 januari 1919).

Loi du 23-7-1926 créant la S.N.C.B. (Moniteur belge du 24-7-1926), dernière modification portée par la loi du 1-8-1960 (Moniteur belge du 12-8-1960).

Wet van 23 juli 1926 tot oprichting van de Nationale maatschappij der Belgische spoorwegen (Belgisch Staatsblad 24 juli 1926), laatste wijziging door wet van 1 augustus 1960 (Belgisch Staatsblad 12 augustus 1960).

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Loi du 29-8-1931 permettant à la S.N.C.V. et aux concessionnaires de lignes de tramways, d'établir des services d'autobus destinés à améliorer les conditions d'exploitation de leurs lignes ferrées (Moniteur belge du 5-9-1931).

Wet van 29 augustus 1931 houdende uitbreiding tot de trolleybussen van de bepalingen van de wet van 24 juni 1885 enz. (Belgisch Staatsblad 5 september 1931).

Arrêté royal du 15-10-1935 portant règlement de police et de navigation des voies navigables administrées par l'Etat (Moniteur belge du 15-10-1936).

Koninklijk besluit van 15 oktober 1935 — Règlement betreffende de politie en de scheepvaart der bevaarbare waterwegen onder beheer van de staat (Belgisch Staatsblad 15 oktober 1936).

Loi du 5-5-1936 sur l'affrètement fluvial (Moniteur belge du 10-6-1936).

Wet van 5 mei 1936 op de rivierbevrachting (Belgisch Staatsblad 10 juni 1936).

Arrêté-loi du 12-12-1944 créant un office régulateur de la navigation intérieure (O.R.N.I.) et un groupement belge du remorquage (Moniteur belge du 16-12-1944).

Besluitwetten van 12 december 1944 betreffende de organisatie der binnenscheepvaart (en houdende oprichting van een Dienst voor regeling der binnenscheepvaart en een Belgische sleepvaartgroepering) (Belgisch Staatsblad 16 december 1944).

Arrêté-loi du 30-12-1946 portant révision et coordination de la législation relative au transport rémunéré de personnes par véhicules automobiles (Moniteur belge des 20/21-1-1947 et 24/25-3-1947), modifié par la loi du 20-12-1957 (Moniteur belge du 10-1-1958 relatif aux redevances).

Besluitwet van 30 december 1946 betreffende het bezoldigd vervoer van personen door middel van automobielen (Belgisch Staatsblad 20/21 januari 1947 en 24/25 maart 1947), gewijzigd door wet van 20 december 1957 (Belgisch Staatsblad 10 januari 1958 — retributies).

Arrêté du Régent du 15-3-1947 sur le transport rémunéré de personnes par véhicules automobiles — règlement relatif aux autorisations (Moniteur belge du 23-3-1947), dernière modification portée par l'arrêté royal du 21-2-1957 (Moniteur belge du 27-2-1957).

Besluit van de Regent van 15 maart 1947 betreffende het bezoldigd vervoer van personen door middel van automobielen — Règlement betreffende de machtigingen (Belgisch Staatsblad 23 maart 1947), laatste wijziging door Koninklijk besluit van 21 februari 1957 (Belgisch Staatsblad 27 februari 1957).

Arrêté du Régent du 22-5-1947 approuvant le règlement général déterminant les conditions techniques auxquelles doivent répondre les véhicules comprenant au moins 9 places, non compris le siège du conducteur,

utilisés pour le transport de personnes et des véhicules utilisés pour le transport de choses (Moniteur belge du 4-7-1947), dernière modification portée par l'arrêté royal du 12-3-1962 (Moniteur belge du 20-3-1962). Besluit van de Regent van 22 mei 1947 betreffende de vaststelling van de technische eisen waaraan de voor personenvervoer gebezigde voertuigen, die benevens de zitplaats van de bestuurder ten minste 9 plaatsen tellen, en de voertuigen gebezigd voor het vervoer van zaken moeten voldoen (Belgisch Staatsblad 4 juli 1947), laatste wijziging door Koninklijk besluit van 8 november 1960 (Belgisch Staatsblad 18 november 1960).

Arrêté du Régent du 10-6-1947 portant règlement général déterminant les conditions techniques auxquelles doivent répondre les véhicules automobiles construits pour le transport de personnes et comprenant 8 places au maximum, non compris le siège du conducteur (Moniteur belge du 4-7-1947), dernière modification portée par l'arrêté royal du 8-11-1960 (Moniteur belge du 18-11-1960).

Besluit van de Regent van 10 juni 1947 houdende algemeen reglement tot vaststelling van de technische eisen waaraan voor personenvervoer gebouwde motorvoertuigen met ten hoogste 8 plaatsen, zonder die van de bestuurder, moeten voldoen (Belgisch Staatsblad 4 juli 1947), laatste wijziging door Koninklijk besluit van 8 november 1960 (Belgisch Staatsblad 18 november 1960).

Arrêté du Régent du 20-9-1947 sur les conditions générales relatives aux services publics d'autobus, aux services d'autobus temporaires, aux services spéciaux d'autobus et aux services d'autocars (Moniteur belge du 5-11-1947), dernière modification portée par l'arrêté royal du 23-12-1957 (Moniteur belge du 31-12-1957).

Besluit van de Regent van 20 september 1947 — Algemene voorwaarden betreffende de openbare autobusdiensten, de tijdelijke autobusdiensten, de bijzondere autobusdiensten en de autocardiensten (Belgisch Staatsblad 5 november 1947), laatste wijziging door Koninklijk besluit van 23 december 1957 (Belgisch Staatsblad 31 december 1957).

Arrêté ministériel du 25-9-1947 sur les conditions spéciales d'exploitation de services d'autobus et d'autocars (Moniteur belge du 5-11-1947). Ministerieel besluit van 25 september 1947 — Bijzondere voorwaarden betreffende de autobus- en de autocardiensten (Belgisch Staatsblad 5 november 1947).

Arrêté royal du 18-11-1949 réorganisant le Conseil supérieur de la navigation intérieure (Moniteur belge du 30-11-1949), modifié par l'arrêté du Régent du 17-3-1950 (Moniteur belge du 24-3-1950).

Besluit van de Regent van 18 november 1949 tot reorganisatie van de Hoge raad voor de binnenscheepvaart (Belgisch Staatsblad 30 november 1949), gewijzigd door besluit van de regent van 17 maart 1950 (Belgisch Staatsblad 24 maart 1950).

Arrêté royal du 7-6-1950 portant réorganisation du Conseil supérieur de la route (Moniteur belge du 7-7-1950), dernière modification portée par l'arrêté royal du 22-4-1959 (Moniteur belge des 19/20-5-1959).

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Koninklijk besluit van 7 juni 1950 tot reorganisatie van de Hoge wegenraad (Belgisch Staatsblad 7 juli 1950), gewijzigd door Koninklijk besluit van 22 april 1959 (Belgisch Staatsblad 19/20 mei 1959).

Arrêté ministériel du 24-2-1953 concernant l'O.R.N.I. — modification d'attributions (Moniteur belge du 13-3-1953).

Ministerieel besluit van 24 februari 1953 betreffende de Dienst voor regeling der binnenvaart — Wijziging van bevoegdheid (Belgisch Staatsblad 13 maart 1953).

Loi du 16-3-1954 relative au contrôle de certains organismes d'intérêt public (Moniteur belge du 24-3-1954), modifiée par la loi du 8-5-1959 (Moniteur belge du 14-5-1959).

Wet van 16 maart 1954 betreffende de controle op sommige instellingen van openbaar nut (Belgisch Staatsblad 24 maart 1954), gewijzigd door wet van 8 mei 1959 (Belgisch Staatsblad 14 mei 1959).

Loi du 23-4-1955 sur l'approbation des conventions internationales concernant le transport des marchandises (C.I.M.) et de voyageurs (C.I.V.) par chemins de fer signées à Berne le 25-10-1952 (Moniteur belge du 2-6-1955).

Wet van 23 april 1955 tot goedkeuring van de internationale overeenkomsten betreffende het goederenvervoer (CIM) en vervoer van reizigers (CIV) per spoorweg, ondertekend te Bern op 25 oktober 1952 (Belgisch Staatsblad 2 juni 1955).

Loi du 9-8-1955 instituant un fonds des routes 1955 - 1969 (Moniteur belge du 2-9-1955).

Wet van 9 augustus 1955 tot instelling van een wegenfonds 1955 - 1969 (Belgisch Staatsblad 2 september 1955).

Arrêté ministériel du 23-3-1960 fixant les conditions dans lesquelles les bateaux affectés au transport des marchandises pour compte propre sont libérés de l'intervention des bureaux d'affrètement à tour de rôle (Moniteur belge du 31-3-1960), dernière modification portée par l'arrêté ministériel du 26-1-1961 (Moniteur belge du 21-2-1961).

Ministerieel besluit van 23 maart 1960 tot vaststelling van de voorwaarden waaronder de schepen voor het vervoer van eigen goederen vrijgesteld zijn van de tussenkomst van de beurtbevrachtingskantoren (Belgisch Staatsblad 31 maart 1960), laatste wijziging door Ministerieel besluit van 26 januari 1961 (Belgisch Staatsblad 21 februari 1961).

Loi du 1-8-1960 relative au transport rémunéré de choses par véhicules automobiles (Moniteur belge du 12-8-1960).

Wet van 1 augustus 1960 betreffende het vervoer van zaken met motorvoertuigen tegen vergoeding (Belgisch Staatsblad 12 augustus 1960).

Arrêté royal du 22-9-1960 portant règlement général relatif au transport rémunéré de choses par véhicules automobiles (Moniteur belge du 27-9-1960), modifié par l'arrêté royal du 28-6-1961 (Moniteur belge du 1-7-1961).

Koninklijk besluit van 22 september 1960 houdende algemeen reglement betreffende het vervoer van zaken met motorvoertuigen tegen vergoeding (Belgisch Staatsblad 27 september 1960), gewijzigd door Koninklijk besluit van 28 juni 1961 (Belgisch Staatsblad 1 juli 1961).

Arrêté ministériel du 23-9-1960 (Moniteur belge du 27-9-1960) pris en exécution de l'arrêté royal du 22-9-1960, modifié par arrêté ministériel du 29-6-1961 (Moniteur belge du 1-7-1961).

Ministerieel besluit van 23 september 1960 genomen ter uitvoering van het Koninklijk besluit van 22 september 1960 (Belgisch Staatsblad 27 september 1960), gewijzigd door Ministerieel besluit van 29 juni 1961 (Belgisch Staatsblad 1 juli 1961).

Arrêté royal du 21-3-1961 fixant les nouveaux statuts de la S.N.C.B. (Moniteur belge du 25-3-1961).

Koninklijk besluit van 21 maart 1961 waarbij de nieuwe statuten van de NMBS worden vastgesteld (Belgisch Staatsblad 25 maart 1961).

Arrêté ministériel du 21-6-1962 modifiant l'arrêté ministériel du 23-9-1960 pris en exécution de l'arrêté royal du 22-9-1960, portant le règlement général relatif au transport rémunéré de choses par véhicules automobiles (Moniteur belge du 30-6-1962).

Ministerieel besluit tot wijziging van het ministerieel besluit van 23 september 1960 genomen ter uitvoering van het Koninklijk besluit van 22 september 1960 houdende algemeen reglement betreffende het vervoer van zaken met motorvoertuigen tegen vergoeding (Belgisch Staatsblad 30 juni 1962).

FEDERAL REPUBLIC OF GERMANY

Gesetz betr. das Schleppmonopol auf dem Rhein-Weser-Kanal und dem Lippe-Kanal vom 30.4.1913 (Preuß. Gesetzessammlung S. 217)

Eichordnung für Binnenschiffe auf deutschen Wasserstraßen vom 23.3.1928 (Reichsministerialblatt S. 169, 174)

Verordnung über internationalen Kraftfahrzeugverkehr vom 12.11.1934 (RGBl. I S. 1137)

Donauschiffahrtspolizeiverordnung vom 28.9.1935 (RGBl. II S. 663)

Verordnung über den Bau und Betrieb der Straßenbahnen vom 13.11.1937 (RGBl. I S. 1247) in der Fassung vom 14.8.1953 (BGBl. I S. 974)

Eisenbahnverkehrsordnung vom 8.9.1938 (RGBl. II S. 663)

Übergangsgesetz über Preisbildung und Preisüberwachung vom 25.6.1948 (Gesetz- u. Verordnungsbl. des Wirtschaftsrats 1948 S. 27)

Grundgesetz für die Bundesrepublik Deutschland vom 23.5.1949 (BGBl. I S. 1)

Untersuchungsordnung für Rheinschiffe und -flöße und über die Beförderung brennbarer Flüssigkeiten auf Binnenwasserstraßen vom 30.4.1950 (BGBl. I S. 371)

Gesetz über die vermögensrechtlichen Verhältnisse der Deutschen Bundesbahn vom 2.3.1951 (BGBl. I S. 155)

Allgemeines Eisenbahngesetz vom 29.3.1951 (BGBl. I S. 225, 438)

Bundesbahngesetz vom 13.12.1951 (BGBl. I S. 955)

Seeschiffahrtstraßen-Ordnung vom 6.5.1952 (BGBl. II S. 553)

Gesetz über das gerichtliche Verfahren in Binnenschiffahrts- und Rheinschiffahrtssachen vom 25.9.1952 (BGBl. I S. 641)

Güterkraftverkehrsgesetz vom 17.10.1952 (BGBl. I S. 697) in der Fassung vom 1.8.1961 (BGBl. I S. 1153 bzw. 1157)

Internationales Übereinkommen über den Eisenbahn-Personen- und -Gepäckverkehr (CIV) vom 25.10.1952 (BGBl. II S. 33)

Internationales Übereinkommen über den Eisenbahn-Frachtverkehr (CIM) vom 25.10.1952 (BGBl. II S. 33)

Straßenverkehrsgesetz vom 19.12.1952 (BGBl. I S. 837)

Postverwaltungsgesetz vom 24.7.1953 (BGBl. I S. 676)

Bundesfernstraßengesetz vom 6.8.1953 (BGBl. I S. 903)

Gesetz über den gewerblichen Binnenschiffsverkehr vom 1.10.1953 (BGBl. I S. 1453)

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Schleppordnung für den Bundesschleppbetrieb auf den westdeutschen Kanälen vom 29.6.1954 (Verkehrsblatt vom 31.7.1954, S. 319)

Gesetz zur weiteren Vereinfachung des Wirtschaftsstrafrechts vom 9.7.1954 (BGBl. I S. 175)

Binnenschiffahrtsstraßen-Ordnung vom 19.12.1954 (BGBl. I S. 1135)

Rheinschiffahrtspolizeiverordnung vom 24.12.1954 (BGBl. II S. 1411)

Mineralölsteuergesetz in der Fassung vom 6.4.1955 (BGBl. I S. 166)

Beförderungsteuergesetz vom 13.6.1955 (BGBl. I S. 366)

Kraftfahrzeugsteuer-Durchführungsverordnung in der Fassung vom 12.7.1955 (BGBl. I S. 423)

Beförderungsteuer-Durchführungsverordnung vom 8.10.1955 (BGBl. I S. 659)

Gesetz über die Aufgaben des Bundes auf dem Gebiet der Binnenschiffahrt vom 15.2.1956 (BGBl. II S. 317)

Straßenverkehrsordnung in der Fassung vom 29.3.1956 (BGBl. I S. 327) und der Verordnung vom 25.7.1957 (BGBl. I S. 777)

Verordnung über die Schiffssicherheit in der Binnenschiffahrt vom 18.7.1956 (BGBl. II S. 769)

Gesetz zur vorläufigen Regelung des Rechts der Industrie- und Handelskammern vom 18.12.1956 (BGBl. I S. 920)

Dritte und Vierte Verordnung über die Höchstzahlen der Kraftfahrzeuge des Güterfernverkehrs und der Fahrzeuge des Möbelfernverkehrs vom 28.8.1957 (Bundesanzeiger Nr. 170) und vom 16.6.1959 (Bundesanzeiger Nr. 116)

Verordnung über die Untersuchung der Donauschiffe vom 25.8.1958 (Verkehrsblatt 1958, S. 579)

Reichskraftwagentarif in der Fassung vom 23.12.1958 (Bundesanzeiger Nr. 249)

Güternahmeverkehrstarif vom 29.12.1958 (Bundesanzeiger 1959 Nr. 1)

Straßenbaufinanzierungsgesetz vom 28.3.1960 (BGBl. I S. 201)

Verordnung über den Betrieb von Kraftfahrunternehmen im Personenverkehr in der Fassung vom 7.7.1960 (BGBl. I S. 553)

Straßenverkehrs-Zulassungs-Ordnung in der Fassung vom 6.12.1960 (BGBl. I S. 897)

Kraftfahrzeugsteuergesetz in der Fassung vom 2.1.1961 (BGBl. I S. 2)

Personenbeförderungsgesetz vom 21.3.1961 (BGBl. I S. 241)

Außenwirtschaftsgesetz vom 28.4.1961 (BGBl. I S. 481)

Gesetz zur Ausführung der Verordnung Nr. 11 des Rats der Europäischen Wirtschaftsgemeinschaft vom 1.8.1961 (BGBl. I S. 1153)

Außenwirtschaftsverordnung vom 22.8.1961 (BGBl. I S. 1381)

Verordnung über die Tarifkommissionen und ihre beratenden Ausschüsse für den Güterkraftverkehr vom 11.10.1961 (Bundesanzeiger Nr. 201 vom 18.10.1961)

Verordnung über die beratenden Ausschüsse bei den Frachtenausschüssen der Binnenschifffahrt vom 27.10.1961 (Bundesanzeiger Nr. 210 vom 31.10.1961)

FRANCE

Loi du 15-7-1845 sur la police des chemins de fer (Bulletin des Lois, 9° S., B. 1221 n° 12095)

Loi du 27-2-1912 créant l'Office national de la navigation (J.O. du 28-9-1912)

Décret du 23-9-1912 concernant l'organisation de l'O.N.N. (J.O. du 28-9-1912)

Loi du 31-7-1913 sur les voies ferrées d'intérêt local, modifiée par décret-loi du 23-10-1935 (J.O. du 24-10-1935)

Décret du 6-2-1932 portant règlement général de police des voies de navigation intérieure (J.O. du 16-2-1932, rectific. le 7-5-1932 et le 15-5-1932)

Convention franco-belge du 26-8-1932 concernant les transports d'importation (décret du 14-11-1932, J.O. du 1-12-1932)

Décret du 31-8-1937 portant réorganisation du régime des chemins de fer (J.O. du 1-9-1937, rectific. le 2 et le 4-9-1937) modifié par le décret du 14-6-1938 (J.O. du 15-6-1938) et par les lois du 10-10-1940 (J.O. du 10-10-1940) et du 31-12-1957 (J.O. du 7-1-1958)

Décret du 31-12-1937 approuvant les statuts de la S.N.C.F. (J.O. du 1-1-1938 rectific. le 5-1-1938)

Décret-loi du 12-11-1938 relatif à la coordination des transports et au statut des bateliers (J.O. du 13-11-1938, rectific. le 16, 19 et 26-11-1938) et décret d'application du 12-1-1939 (J.O. du 18-1-1939, rectific. le 20, 21 et 29-1-1939)

Décret du 12-11-1938 concernant les transports en zones de camionnage (J.O. du 13-11-1938)

Décret du 12-1-1939 relatif à la coordination des transports ferroviaires et routiers (J.O. du 18-1-1939)

Loi du 15-10-1940 sur l'administration des chemins départementaux et vicinaux (J.O. du 30-10-1940)

Arrêté du 26-12-1940 sur l'administration des chemins départementaux et vicinaux (J.O. du 23-1-1941)

Loi du 22-3-1941 sur l'exploitation réglementée des voies navigables et la coordination des transports par fer et par navigation intérieure (J.O. du 8-5-1941)

Loi du 4-3-1942 sur les voies ferrées d'intérêt local (J.O. du 18-4-1942)

Décret du 22-3-1942 portant règlement d'administration publique sur la police, la sûreté et l'exploitation des voies ferrées d'intérêt général et local (J.O. du 23-3-1942)

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Arrêté du 29-6-1942 réglementant les conventions d'affrètement pour la navigation intérieure et organisant les chambres syndicales des courtiers de fret (J.O. du 19-7-1942, rectific. le 25-8-1942)

Arrêté du 30-6-1942 sur l'interdiction de l'exportation et de la réexportation des bateaux (J.O. du 13-8-1942)

Arrêté ministériel n° 6213 du 19-9-1946 fixant le montant des tarifs de transport par eau et de la prime à la batellerie non spécialisée (Bulletin officiel des services des prix n° 39bis du 1-10-1946 page 734)

Loi du 3-9-1947 rétablissant et réglementant le Conseil supérieur des transports (J.O. du 4-9-1947) modifiée par l'article 26 de la loi de finances du 14-4-1952 (J.O. du 15-4-1952) et par le décret du 20-1-1961 (J.O. du 21-1-1961)

Arrêté du 21-3-1949 portant institution de commissions régionales des frets et d'exploitation et d'une commission centrale des frets et d'exploitation (J.O. du 3-4-1949)

Loi du 5-7-1949 (J.O. du 6-7-1949) modifiée par le décret du 20-5-1960 (J.O. du 21-5-1960) concernant la coordination et l'harmonisation des transports ferroviaires et routiers

Décret du 26-7-1949 modifiant les conditions d'exercice du contrôle financier de l'Etat sur les chemins de fer et les transports par route et par eau (J.O. du 27-7-1949)

Décret du 14-11-1949 relatif à la coordination et à l'harmonisation des transports ferroviaires et routiers (J.O. du 15-11-1949, rectific. les 4 et 23-12-1949) modifié par textes subséquents parus aux J.O. des 7 et 21-11-1952; 13-11-1954; 26-1-1955; 30-10-1955; 28-12-1956; 1-1-1959; 21-5-1960; 4-12-1960; 11-12-1960; 1-7-1961, rectific. le 6-7-1961)

Décret du 27-6-1951 modifiant le cahier des charges (J.O. du 29-6-1961)

Arrêté du 13-7-1951 fixant l'étendue des directions régionales de la navigation (J.O. du 29-7-1951)

Loi du 30-12-1951 créant un fonds spécial d'investissement routier (J.O. du 30-12-1951)

Loi du 3-1-1952 relative au développement des crédits affectés aux dépenses d'équipement des services civils pour l'exercice 1952 (J.O. du 4-1-1952)

Décret du 8-4-1952 sur l'accord avec la Belgique concernant le trafic international (J.O. du 11-4-1952)

Loi de finances du 14-4-1952 (J.O. du 15-4-1952) modifiée par le décret du 30-9-1953, article 25 (J.O. du 1-10-1952)

Décret du 25-7-1952 concernant le règlement type d'exploitation des services réguliers de transport public routier de voyageurs (J.O. du 31-7-1952)

Convention internationale du 25-10-1952 concernant le transport des voyageurs et des bagages par chemins de fer (C.I.V.) (J.O. du 28-6-1955)

Arrêté du 13-12-1952 instituant une feuille de route, un carnet de bord ou un carnet de location pour les transports routiers de marchandises (J.O. du 19-12-1952)

Loi du 9-4-1953 concernant les textes pour les transports publics et privés sur l'ensemble du réseau de navigation intérieure ou sur certaines voies ou sections de voies (J.O. du 10-4-1953, rectific. le 26-4-1953)

Décret du 21-4-1953 sur la traction mécanique sur berges (J.O. du 23-4-1953, rectific. et add. le 25.4.1953)

Arrêté du 30-1-1954 relatif à l'inscription au registre des transporteurs publics de marchandises (J.O. du 31-1-1954)

Arrêté ministériel du 9-4-1954 fixant la zone de camionnage autour de Paris (J.O. du 17-4-1954)

Arrêté du 23-4-1954 fixant la composition des parcs de la batellerie (J.O. du 25-4-1954)

Arrêté du 25-6-1956 relatif au tarif de base national et aux règles d'adaptation des tarifs des services routiers réguliers de transport public de voyageurs (J.O. du 12-7-1956)

Décret du 13-10-1956 portant codification, sous le nom de Code des voies navigables et à la navigation intérieure, des textes législatifs concernant les voies navigables et la navigation intérieure (J.O. des 15 et 29-12-1956)

Traité franco-allemand du 27-10-1956 concernant la Sarre (Décret du 7-1-1957, J.O. du 10-1-1957)

Décret du 4-8-1958 fixant la procédure d'approbation des tarifs de transports publics routiers de marchandises (J.O. du 20-8-1958) modifié par les décrets des 2-8-1960 (J.O. du 9-8-1960), 16-1-1961 (J.O. du 18-1-1961) et 26-6-1961 (J.O. du 28-6-1961)

Décret du 14-1-1957 relatif à l'organisation, au fonctionnement et au contrôle des groupements professionnels routiers (J.O. du 15-1-1957)

Arrêté ministériel du 27-10-1958 d'approbation de la tarification de base des transports routiers de marchandises (J.O. du 9-11-1958)

Ordonnance du 15-12-1958 relative à la police de la circulation routière (J.O. du 16-12-1958)

Décret du 15-12-1958 relatif à la police de la circulation routière (J.O. du 16-12-1958)

Ordonnance du 23-12-1958 relative aux infractions aux dispositions légales et réglementaires en matière de coordination (J.O. du 24-12-1958)

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Décision du ministre des travaux publics et des transports du 26-1-1959 sur les conditions d'application des tarifs pour les transports publics routiers de marchandises (J.O. du 28-1-1959)

Arrêté ministériel du 20-2-1959 relatif aux demandes de tonnages supplémentaires de transport public routier utilisables en zone longue (J.O. du 21-2-1959)

Décret ministériel du 25-5-1959 fixant le tonnage supplémentaire de transport public routier utilisable en zone longue (J.O. du 27-5-1959)

Arrêté du 3-6-1959 relatif aux demandes de tonnage supplémentaire de transport public routier utilisable en zone courte (J.O. du 6-6-1959)

Décret du 28-9-1959 concernant les services de ramassage des écoliers (J.O. du 1-10-1959)

Loi de finances pour l'exercice 1960 (J.O. du 27-12-1959)

Arrêté ministériel du 23-6-1960 relatif à l'établissement du plan des services occasionnels (J.O. du 7-7-1960)

Arrêté du 20-7-1960 relatif au connaissance fluvial (J.O. du 28-7-1960)

Décret du 26-12-1960 portant statut de l'O.N.N. (J.O. du 28-12-1960)

Décret du 10-12-1960 modifiant, en ce qui concerne la location de véhicules de transport de marchandises, le décret du 14-11-1949 (J.O. du 11-12-1949)

Décret du 10-12-1960 relatif à la location des véhicules de transport de marchandises (J.O. du 11-12-1960)

Arrêté ministériel du 29-12-1960 fixant le tonnage supplémentaire de transport public routier utilisable en zone courte (J.O. du 31-12-1960)

Décret du 26-12-1960 portant statut de l'Office national de la navigation (J.O. du 28-12-1960)

Décret du 13-2-1961 relatif aux conditions de nationalité exigées des transporteurs publics routiers (J.O. du 18-2-1961)

Arrêté ministériel du 28-6-1961 fixant les conditions auxquelles doivent répondre les contrats d'affrètement à long terme (J.O. du 1-7-1961)

Décret du 30-6-1961 relatif aux bureaux régionaux de fret pour les transports publics routiers de marchandises (J.O. du 1-7-1961)

Décret du 30-6-1961 relatif à l'organisation et au fonctionnement du Comité national routier (J.O. du 1-7-1961)

Décret du 30-6-1961 relatif aux professions auxiliaires de transport (J.O. du 1-7-1961)

Arrêté du 4-7-1961 relatif aux services réguliers de transports routiers de marchandises (J.O. du 7-7-1961)

Arrêté du 17-7-1961 modifiant l'arrêté du 13-12-1952 instituant une feuille de route, un carnet de bord ou un carnet de location pour les transports routiers de marchandises (J.O. du 21-7-1961)

Arrêté interministériel du 19-7-1961 concernant l'organisation et le fonctionnement des Comités techniques départementaux (J.O. du 27-7-1961)

Arrêté ministériel du 11-7-1961 fixant les limites des zones de camionnage (J.O. du 4-8-1961)

Arrêté du 25-10-1961 relatif aux documents à établir et à tenir par les entreprises auxiliaires de transport de marchandises (J.O. du 5-11-1961)

ITALY

- Legge n. 429 del 1907 (Gazzetta Ufficiale n. 165 del 12.7.1907)
- Regio decreto n. 959 dell'11 luglio 1913 (Gazzetta Ufficiale n. 209 del 6.9.1913)
- Regio decreto del 17.11.1913 (Gazzetta Ufficiale n. 288 dell'11.12.1913)
- Decreto legge del 21.12.1931 n. 1575 (Gazzetta Ufficiale n. 301 del 31.12.1931)
- Decreto legge n. 1496 del 1932 (Gazzetta Ufficiale n. 277 del 1.12.1932)
- Regio decreto legge 11.10.1934 n. 1863 (Gazzetta Ufficiale n. 277 del 26.11.1934)
- Legge n. 1349 del 20.6.1935 (Gazzetta Ufficiale n. 174 del 27.7.1935)
- Regio decreto legge n. 2223 del 25.11.1935 (Gazzetta Ufficiale n. 70 del 10.1.1936)
- Legge n. 1822 del 28.9.1939 (Gazzetta Ufficiale n. 292 del 18.12.1939)
- Regio decreto legge n. 9 del 25.1.1940 (Gazzetta Ufficiale n. 25 del 31.1.1940)
- Legge n. 1442 del 14.1.1941 (Gazzetta Ufficiale n. 6 del 9.1.1942)
- Regio decreto n. 327 del 30.3.1942 (Gazzetta Ufficiale n. 93 del 18.4.1942)
- Decreto legislativo n. 598 del 1948 (Supplemento alla Gazzetta Ufficiale n. 129 del 5.6.1948)
- Legge n. 1456 del 22.12.1948 (Gazzetta Ufficiale n. 301 del 28.12.1948)
- Legge n. 410 del 14.6.1949 (Gazzetta Ufficiale n. 164 del 20.7.1949)
- Decreto presidenziale n. 631 del 28.6.1949 (Supplemento ordinario Gazzetta Ufficiale n. 214 del 17.9.1949)
- Decreto del Presidente della Repubblica del 17.7.1951 per l'accertamento del requisito di navigazione (Gazzetta Ufficiale n. 204 del 16.9.1951)
- Decreto ministeriale del 13.12.1951 per l'esercizio dei servizi pubblici non di linea per il trasporto di persone per conto di terzi (Gazzetta Ufficiale n. 297 del 28.12.1951)
- Decreto ministeriale del 18.8.1952 per stabilire le caratteristiche del numero d'iscrizione delle navi e dei galleggianti della navigazione interna, della sigla dell'Ufficio d'iscrizione dei medesimi (Gazzetta Ufficiale n. 235 del 9.10.1952)
- Convenzione internazionale per il trasporto dei viaggiatori e dei bagagli per ferrovia (CIV) del 25.10.1952

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Legge n. 916 del 28.6.1955 (Supplemento ordinario Gazzetta Ufficiale n. 246 del 28.10.1955)

Decreto ministeriale n. 1396 del 22.9.1954 (Supplemento ordinario Gazzetta Ufficiale n. 98 del 29.4.1955)

Decreto del Presidente della Repubblica del 4.1.1954 per stabilire la composizione del Consiglio e della Commissione portuale da istituirsi nei porti ed approdi della navigazione interna (Gazzetta Ufficiale n. 67 del 23.3.1954)

Legge n. 463 del 21.5.1955 (Gazzetta Ufficiale n. 131 dell'8.6.1955)

Decreto presidenziale n. 771 del 28.6.1955 (Gazzetta Ufficiale n. 199 del 30.8.1955)

Decreto ministeriale del 27.8.1955 per l'esercizio del servizio pubblico non di linea per il rimorchio di persone munite di sci acquatici e acquapiani effettuato per conto di terzi con motoscafi e imbarcazioni a motore sulle vie d'acqua interne (Gazzetta Ufficiale n. 221 del 24.9.1955)

Legge n. 126 del 12.2.1956 (Gazzetta Ufficiale n. 72 del 26.3.1956)

Legge n. 1328 del 19.11.1956 (Gazzetta Ufficiale n. 303 del 30.11.1956)

Legge n. 1155 del 29.11.1957 (Gazzetta Ufficiale n. 307 del 12.12.1957)

Legge n. 126 del 12.2.1958 (Gazzetta Ufficiale n. 62 del 12.3.1958)

Legge n. 289 del 21.3.1958 (Gazzetta Ufficiale n. 88 del 12.4.1958)

Decreto ministeriale del 27.3.1959 (collegato con la legge n. 126 del 12.2.1958) (Supplemento ordinario Gazzetta Ufficiale n. 181 del 30.7.1959)

Decreto del Presidente della Repubblica del 7.4.1959 per stabilire la composizione delle Commissioni di esame per il conferimento al personale navigante della navigazione interna dei relativi titoli professionali e delle qualifiche di « autorizzato » (Gazzetta Ufficiale dell'11.6.1959)

Decreto presidenziale n. 393 del 15.6.1959 (Supplemento ordinario Gazzetta Ufficiale n. 147 del 23.6.1959)

Decreto presidenziale n. 411 del 25.6.1956 (Gazzetta Ufficiale n. 151 del 27.6.1959)

Decreto di esecuzione n. 420 del 30.6.1959 (Supplemento ordinario Gazzetta Ufficiale n. 152 del 30.6.1959) (Vedi errata corregge in Gazzetta Ufficiale n. 3 del 5.1.1960)

Legge n. 904 del 31.8.1959 (Gazzetta Ufficiale n. 265 del 2.11.1959)

Legge n. 1142 del 18.12.1959 (Gazzetta Ufficiale dell'11.1.1960)

Legge n. 1612 del 22.12.1960 (Gazzetta Ufficiale n. 4 del 5.1.1961)

Decreto del Presidente della Repubblica n. 197 del 30.3.1961 (Gazzetta Ufficiale n. 89 del 10.4.1961)

LUXEMBOURG

Arrêté royal du 24-11-1829 portant règlement sur le service des moyens publics de transport par terre (Journal officiel du royaume des Pays-Bas - Tome 24, n° 73).

Arrêté grand-ducal du 14-8-1934 soumettant l'exercice de certaines professions à une autorisation gouvernementale (Mémorial 1934, page 819).

— Loi du 23-3-1935 concernant la taxe sur les véhicules automoteurs

— Ordonnance du 5-7-1935 concernant la taxe sur les véhicules automoteurs

— Ordonnance du 21-12-1936 concernant la taxe sur les véhicules automoteurs

— Ordonnance du 17-5-1938 concernant la taxe sur les véhicules automoteurs

ayant reçu force légale par l'arrêté grand-ducal du 28-10-1944 concernant les impôts, taxes, cotisations et droits (Mémorial 1944, page 80).

Arrêté grand-ducal du 13-6-1945 interprétant celui du 28-10-1944 concernant les impôts, taxes, cotisations et droits (Mémorial 1944, page 337).

— Protocole additionnel à la convention du 17-4-1946

— Statuts de la Société de droit luxembourgeois dite la Société nationale des chemins de fer luxembourgeois du 14-5-1946

— Cahier des charges du 14-5-1946

— Avenant à la convention belgo-franco-luxembourgeoise du 26-6-1946 ayant reçu force légale par la loi du 16-6-1947 concernant l'approbation de la convention belgo-franco-luxembourgeoise du 17-4-1946 relative à l'exploitation des chemins de fer du Grand-Duché et des conventions annexes (Mémorial 1947, page 571).

Arrêté grand-ducal du 25-5-1950 déterminant les attributions des commissaires du gouvernement chargés du contrôle administratif, technique et financier des C.F.L. (Mémorial 1950, page 747).

Arrêté grand-ducal du 23-6-1952 portant règlement d'administration publique sur la police, la sûreté et l'exploitation des chemins de fer à voie normale et à voie étroite (Mémorial 1952, page 787).

Arrêté grand-ducal du 16-7-1952 modifiant les articles 2 et 3 de l'arrêté grand-ducal du 25-3-1950 déterminant les attributions des commissaires du gouvernement chargés du contrôle administratif, technique et financier des C.F.L. (Mémorial 1952, page 873).

Convention internationale relative aux transports par chemin de fer de voyageurs et de bagages (C.I.V.) du 25-10-1952.

Loi du 14-2-1955 concernant la réglementation de la circulation sur toutes les voies publiques (Mémorial 1955, page 471).

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Arrêté grand-ducal du 23-11-1955 portant règlement de la circulation sur toutes les voies publiques (Mémorial 1955, page 1413 6).

Convention du 27-10-1956 au sujet de la canalisation de la Moselle et du protocole franco-luxembourgeois relatif au règlement de certaines questions liées à cette convention (Mémorial 1956, page 1291).

Arrêté grand-ducal du 29-7-1957 portant modification de l'article 3 de l'arrêté grand-ducal du 13-6-1945 modifiant certaines dispositions du régime fiscal des véhicules à moteur mécanique (Mémorial 1957, page 1057).

Loi concernant le reclassement partiel de la voirie et la reprise par l'Etat d'une série de chemins vicinaux (Mémorial 1958, page 691).

Arrêté grand-ducal du 22-7-1960 soumettant les livraisons au consommateur de véhicules à moteur à un impôt forfaitaire sur le chiffre d'affaires.

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