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## SECOND REPORT

drawn up on behalf of the Committee on Transport

on the proposals from the Commission of the European Communities to the Council (Doc. 2-1510/84 - COM(84) 688 final)

for

- I. a directive amending the First Council Directive of 23 July 1962 on the establishment of common rules for certain types of carriage of goods by road between Member States (Carriage to or from a Community seaport of goods imported or exported by sea)
- II. a regulation amending Regulation (EEC) No. 3568/83 as regards the liberalizing of the rate-fixing system for carriage to or from a Community seaport of goods imported or exported by sea
- III. a directive on the organization of the markets for the carriage to or from a Community seaport of goods imported or exported by sea

Rapporteur: Mr M. EBEL

WG(VS)/3055E

PE 102.536/fin.  
Or. De.



By letter of 9 January 1985 the Council of the European Communities requested the European Parliament to deliver an opinion on the proposals from the Commission for

- I. a Council directive amending the First Council Directive of 23 July 1962 on the establishment of common rules for certain types of carriage of goods by road between Member States (Carriage to or from a Community seaport of goods imported or exported by sea)
- II. a Council regulation amending Regulation (EEC) No. 3568/83 as regards the liberalizing of the rate-fixing system for carriage to or from a Community seaport of goods imported or exported by sea
- III. a Council directive on the organization of the markets for the carriage to or from a Community seaport of goods imported or exported by sea

On 11 February 1985 the President of the European Parliament referred these proposals to the Committee on Transport as the committee responsible and to the Committee on Economic and Monetary Affairs and Industrial Policy and the Committee on Legal Affairs and Citizen's Rights for their opinions.

At its meeting of 25 April 1985 the Committee on Transport appointed Mr EBEL rapporteur. At its meetings of 24 May and 18 July 1985 the committee considered the subject matter of the report, and considered the draft report at its meetings of 27 September and 29 October 1985.

At the last meeting the committee decided to recommend to Parliament that it

- approve the Commission's proposal I
- approve the Commission's proposals II and III subject to the following amendments

by 9 votes to 5 in respect of proposal I, by 7 votes to 6 in respect of proposal II, and by 7 votes to 6 with 1 abstention in respect of proposal III.

The committee then adopted the motion for a resolution as a whole by 6 votes to 4 with 6 abstentions.

The report was tabled on 31 October 1985. The opinions of the Committee on Economic and Monetary Affairs and the Committee on Legal Affairs and Citizens' Rights were attached.

On 15 November 1985 the European Parliament, on the proposal of Mr ANASTASSOPOULOS, chairman of the Committee on Transport, referred the report back to that committee pursuant to Rule 85 of the Rules of Procedure.

At its meeting of 27 November 1985 the Committee on Transport debated the subject of the report, and considered a second draft reports at its meeting of 20 December 1985 and 21 January 1986.

At its meeting of 22 January 1986 the committee decided to recommend to Parliament that it

- reject Proposal I in its entirety and
- approve Proposals II and III subject to the following amendments

by 21 votes to none with 4 abstentions in respect of Proposal I, by 17 votes to 9 in respect of Proposal II and by 14 votes to 6 with 2 abstentions in respect of Proposal III.

The committee then adopted the motion for a resolution as a whole by 16 votes to 3 with 6 abstentions.

The following took part in the vote: Mr ANASTASSOPOULOS, chairman; Mr KLINKENBORG and Mr BUTTAFUOCO, vice-chairmen; Mr EBEL, rapporteur; Mr BENCOMO, Mr MENDOZA, Mrs BRAUN-MOSER, Mr CABEZON ALONSO, Mr CAROSSINO, Mr COIMBRA MARTINS, Mrs FAITH, Mr I. FRIEDRICH (deputizing for Mr Baudis), Mr HERRERO MEREDIZ (deputizing for Mr Fatous), Mr K.-H. HOFFMANN, Mr LALOR (deputizing for Mr Roux), Mr LEMMER (deputizing for Mr Starita), Mr MARSHALL, Mr NEWTON DUNN, Mr SAPENA GRANELL, Mr SCHREIBER (deputizing for Mr Lagakos), Mr STEVENSON, Mr STEWART (deputizing for Mr Cryer), Mr TOPMANN, Mr VISSER, Mr VAN DER WAAL and Mr WIJSENBEEK.

The unchanged opinions of the Committee on Economic and Monetary Affairs and Legal Affairs and Citizens' Rights are attached.

The report was tabled on 23 January 1986.

The deadline for tabling amendments to this report will be indicated in the draft agenda for the part-session at which it will be debated.

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The Committee on Transport hereby submits to the European Parliament the following amendments to the Commission's proposals, and motion for a resolution with explanatory statement:

Text proposed by the Commission

Amendments tabled by the Committee  
on Transport

- I. Proposal for a directive amending the First Council Directive of 23 July 1962 on the establishment of common rules for certain types of carriage of goods by road between Member States (Carriage to or from a Community seaport of goods imported or exported by sea)

Amendment No. 1

Delete this proposal in its entirety

- II. Proposal for a regulation amending Regulation (EEC) No. 3568/83 as regards the liberalizing of the rate-fixing system for carriage to or from a Community seaport of goods imported or exported by sea

Preamble

1st to 4th recitals unchanged

5th recital

Amendment No. 2

Whereas Regulation (EEC) No. 3568/83 should be amended by adding carriage to or from seaports to the list contained in the Annex thereto;

Whereas Regulation (EEC) No. 3568/83 should be amended by adding certain inward and outward haulage operations in connection with sea transport to the list contained in the Annex thereto;

6th recital

unchanged

Article 1(1)

unchanged

Article 1(2)

Amendment No. 3

The following indent is added to the Annex:

The following indent is added to the Annex:

'- carriage to or from a Community seaport of goods imported or exported by sea.'

'- carriage of goods exported to or imported from a non-EEC country by sea, from the shipper until loading on a seagoing ship and from discharge from a seagoing ship to the consignee;'

Articles 2 and 3

unchanged

- III. Proposal for a directive on the organization of the markets for the carriage to or from a Community seaport of goods imported or exported by sea

Preamble

1st recital unchanged

2nd recital

Whereas, in order to ensure that the conditions of competition between Community seaports are not distorted, the carriage of goods to and from such ports should be subject to uniform rules governing rate-fixing and market access throughout the Community;

Amendment No. 4

Whereas, in order to ensure that the conditions of competition between Community seaports are not distorted, the carriage of goods to and from such ports should be subject to uniform rules governing rate-fixing throughout the Community;

(three words deleted)

3rd recital

Whereas such uniform rules will have a decisive effect on the export capacity of many regions and on the satisfying of their import requirements;

Amendment No. 5

Whereas such uniform rules may have a decisive effect in helping eliminate deflections of trade in the export and import of goods in many regions as a result of distortions of competition, but should not have the object of depressing employment and services;

4th recital

Whereas the markets for the types of carriage in question should be organized in such a way as to avoid all the adverse effects of the present situation to meet the essential requirements and vital interests of the Community and to uphold the principles of free market access for undertakings and commercial independence, in particular with regard to the fixing of transport rates and conditions;

Amendment No. 6

Whereas the markets for the types of carriage in question should be organized in such a way as to avoid (one word deleted) the adverse effects of the present situation, to meet the essential requirements and vital interests of the Community and to uphold the principle of (seven words deleted) commercial independence, in particular with regard to the fixing of transport rates and conditions;

Text proposed by the Commission

5th recital

Whereas the binding rules with regard to rate-fixing and capacity control which still exist in certain Member States for rail, road and inland waterway traffic should be abolished for the carriage to or from seaports of goods exported or imported by sea;

Article 1

National transport in a Member State and international transport between Member States by rail, road and inland waterway to or from a Community seaport of goods imported or exported by sea shall be exempted from any quota system or any other qualitative restriction applying to access to such transport markets provided for in national legislation.

Amendments tabled by the Committee on Transport

Amendment No. 7

Whereas the binding rules with regard to rate-fixing (three words deleted) which still exist in certain Member States for rail, road and inland waterway traffic should be abolished for the carriage to or from seaports of goods exported or imported by sea;

Amendment No. 8

6th recital (new)

Whereas access to the inland transport market is subject to new arrangements following the judgment of the Court of Justice of the European Communities of 22 May 1985 in case No. 13/83; whereas the Council decided on 14 November 1985 to create a free market in transport without quantitative restrictions by 1992, and to adapt existing bilateral quotas during the transitional period leading up to that date, while increasing Community quotas and removing distortions of competition; and whereas it is therefore not desirable to adopt special arrangements on access to the market in specific inward and outward haulage operations in connection with sea transport,

Amendment No. 9

Delete this article



Text proposed by the Commission

Amendments tabled by the Committee  
on Transport

Article 2

The fixing of transport rates and conditions for the types of carriage in Article 1 shall be exempted from any tariff system.

Amendment No. 10

The fixing of transport rates and conditions for the carriage of goods exported to or imported from a non-EEC country by sea from the shipper until loading on a seagoing ship or from discharge from a seagoing ship to the consignee shall be exempted from any tariff system.

Articles 3 and 4 unchanged

MOTION FOR A RESOLUTION

closing the procedure for consultation of the European Parliament on the proposals from the Commission to the Council for

- a directive amending the First Council Directive of 23 July 1962 on the establishment of common rules for certain types of carriage of goods by road between Member States (carriage to or from a Community seaport of goods imported or exported by sea)
- a regulation amending Regulation (EEC) No. 3568/83 as regards the liberalizing of the rate-fixing system for carriage to or from a Community seaport of goods imported or exported by sea
- a directive on the organization of the markets for the carriage to or from a Community seaport of goods imported or exported by sea

The European Parliament,

- having regard to the proposals from the Commission to the Council<sup>1</sup>;
  - having been consulted by the Council pursuant to Article 75 of the EEC Treaty (Doc. 2-1510/84);
  - having regard to its resolutions of 11 March 1983 on the role of ports in the common transport policy, on the basis of the CAROSSINO report<sup>2</sup>, of 15 December 1983 on the Community quota for the carriage of goods by road between Member States on the basis of the HOFFMANN report<sup>3</sup>, and of 20 May 1983 on the formation of rates for the carriage of goods by road between Member States, on the basis of the MARSHALL report<sup>4</sup>;
  - having regard to the second report of the Committee on Transport and the opinions of the Committee on Economic and Monetary Affairs and Industrial Policy and the Committee on Legal Affairs and Citizens' Rights (Doc. A 2-204/85),
  - having regard to the result of the vote on the Commission's proposals,
- A. whereas the terms of competition between seaports in the Community are distorted by many factors, the most important of which are:
- (a) differences in taxes and charges levied specifically on transport (in particular mineral oil and road taxes);
  - (b) the varying and not uniformly applied national and Community social provisions affecting transport;
  - (c) variations in technical provisions, as a result of e.g. the as yet incomplete and protracted harmonization of permitted weights and dimensions in road haulage;

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<sup>1</sup>OJ No. C 14, 16.1.1985, p. 7 et seq.

<sup>2</sup>OJ No. C 96, 11.4.1983, p. 117 et seq. - Doc. 1-844/82

<sup>3</sup>OJ No. C 10, 16.10.1984, p. 88 - Doc. 1-917/83

<sup>4</sup>OJ No. C 161, 20.6.1983, p. 191 et seq. - Doc. 1-76/83

- (d) differences in the national tariff systems for infrastructure costs;
  - (e) varying national and regional infrastructure policies for improvements to seaports and their connections with their hinterlands;
  - (f) variations in tariff policies, especially towards national goods transport, in all land transport sectors;
  - (g) variations in capacity policies pursued in respect of road transport and inland navigation;
  - (h) checks and delays at the Community's internal frontiers,
- B. whereas the role and problems of seaports, and especially their transport links with their hinterlands, deserve special attention in the effort to develop a Community sea transport policy,
- C. whereas the Court of Justice's judgment of 22 May 1985<sup>5</sup> upheld the European Parliament's action against the Council for failure to act in the field of transport policy, stating that the Council had infringed the Treaty in failing to ensure the freedom to provide services in the field of international transport and to lay down the conditions under which non-resident carriers might operate transport services within a Member State,
- D. whereas at its meeting of 14 November 1985<sup>6</sup>, the Council drew the following conclusions in the light of the judgment of the Court of Justice:
- (a) creation of a free market in transport with no quantitative restrictions by 1992 at the latest;
  - (b) during the transitional period, progressive adaptation of the bilateral quotas on a non-discriminatory basis, coupled with increases in Community quotas;
  - (c) elimination of distortion of competition during the transitional period,
- E. whereas Community authorizations for road haulage apply throughout the territory of the Community and cannot therefore be confined to specific inward and outward haulage operations in connection with sea transport,
- F. whereas the discrepancies arising, on the basis of international law and Community and national legislation, between the formation of freight rates for international goods transport and the formation of freight rates for domestic transport, result in such severe distortions of competition between the Community's seaports that Community arrangements are urgently necessary, as any national measures in this field would only lead to partial abolition and as a result to new distortions of competition,
1. Welcomes the fact that the Commission is paying greater attention to the role of seaports in transport policy than in the past, and is attempting with these proposals to help remove the discrimination existing in transport between seaports and their hinterlands;

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<sup>5</sup>Case 13/83m, OJ No. C 144, 13.6.1985, p. 4

<sup>6</sup>Press release 10361/85 (Press 172)

2. Emphasizes that every Community port which is visited by seagoing vessels should be regarded as a seaport and thus fall within the area of application of the measures proposed;
3. Notes that the Commission is proposing measures affecting both capacity and rates;

in respect of capacity

4. Considers that after the Court of Justice's judgment of 22 May 1985 comprehensive new arrangements for access to the transport market, both between the Member States and within Member States, are necessary;
5. Points out that on 15.12.1983<sup>7</sup> on the basis of the HOFFMANN report it advocated not the complete liberalization of capacity policy, but the replacement of bilateral quotas by Community quotas in the present transitional period;
6. Notes that a partial solution confined to access to the market in traffic between seaports and their hinterlands does not comply with the principles adopted by Parliament and the Council;
7. Calls upon the Commission, in the light of the Court of Justice's judgment of 22 May 1985, to take all action required to enable the Council to decide forthwith on comprehensive new arrangements for access to the goods transport market;
8. Assumes that in doing so the Council will not only replace existing bilateral authorizations by Community authorizations, but fulfil the promise its President-in-Office made to the European Parliament's Committee on Transport on 28 October 1985 and confirmed by the Council in its decisions of 14 November 1985 by doing everything in its power to complete an internal market in transport with equal conditions of competition by 1992 or earlier if possible, so that the Council, in the words of the Opinion of the European Parliament of 15.12.1983<sup>8</sup> may decide 'as a result of developments in the transport market and taking account of developments in the common transport policy, the date' with effect from which in a final stage any quotas for commercial road haulage within the Community are removed;

in respect of rates

9. Regards that part of the Commission's proposals which concern rates as the first step towards the harmonization of conditions of competition between the seaports of the Community;
10. Points out that on 20 May 1983<sup>9</sup>, on the basis of the MARSHALL report, it stated that rates should be set by the free play of market forces, in both international and domestic transport;

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<sup>7</sup>OJ No. C 10, 16.1.1984, p. 87-91; Doc. 1-917/83

<sup>8</sup> OJ C 10, 16.1.1984, p. 88, on the basis of the HOFFMAN Report (Doc. 1-917/83), Article 3 of the Commission proposal as amended by the European Parliament

<sup>9</sup> OJ No. C 161, 10.6.1983, p.191 - Doc. 1-76/83

11. In view of the continued resistance to the general liberalization of rate formation, considers a partial liberalization restricted to seaport corridors to be reasonable:

- as it would eliminate the intolerable distortions of competition arising at present from the varying rules regarding rates for international and domestic traffic with hinterlands; and
- as there is no doubt that a solution of this nature would accord with the system the European Parliament is advocating for the common market in transport;

12. Insists that the contradictions inherent in any partial solution be kept to a minimum and therefore believes a number of amendments to the Commission's proposals to be necessary;

on seaports policy in general

13. Repeats the appeal it made on 11 March 1983<sup>10</sup> on the basis of the CAROSSINO report that the European Community in developing the common transport policy in the light of its effects on competition between seaports must, in addition to measures affecting capacity and rates, pay particular attention to :

- harmonization of specific taxes on transport (road taxes, taxes on mineral oils),
- harmonization of social provisions in the transport sector,
- harmonization of technical provisions, particularly of maximum permitted weights and dimensions in road transport,
- a tariff system for infrastructure costs,
- infrastructures policy,
- abolition of border formalities;

14. Instructs its President to forward to the Council and Commission, as Parliament's opinion, the Commission's proposal as voted by Parliament and the corresponding resolution.

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<sup>10</sup>OJ No. C 96, 11.4.1983, p. 117 - Doc. 1-844/82

EXPLANATORY STATEMENTI. Preliminary remarks

The Committee on Transport approved the first report on certain types of carriage of goods by road to or from a Community seaport (Doc. A2-136/85) by 6 votes to 4 with 6 abstentions, and it was therefore to be expected that the report would be substantially amended in plenary. In compliance with the wishes of many members, the chairman of the Committee on Transport therefore requested that it be referred back to the committee pursuant to Rule 85 of the Rules of Procedure. Parliament so decided on 15 November 1985.

At its meeting of 14 November 1985 the Council made a number of outline decisions regarding inland transport, which have a bearing on the proposals considered in this report. At its meeting of 27 November 1985 the Committee on Transport held an initial general debate on the outcome of the Council meeting, at which it felt that it would be an acceptable compromise solution for inland transport if a free market in transport was established by 1992 at the latest, and, during the interim period, distortions of competition were eliminated and bilateral quotas replaced by Community quotas.

On the basis of this compromise approach the rapporteur now submits his second draft report.

II. Introduction

1. With the three proposals<sup>1</sup> on which Parliament is being consulted<sup>2</sup> the Commission's purpose is to reduce certain distortions of competition between the Community's seaports by introducing new arrangements for traffic with their hinterlands.

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<sup>1</sup> - For a Council directive amending the First Council Directive of 23 July 1962 on the establishment of common rules for certain types of carriage of goods by road between Member States (carriage to or from a Community seaport of goods imported or exported by sea)

- For a Council regulation (EEC) amending Regulation (EEC) No. 3568/83 as regards the liberalizing of the rate-fixing system for carriage to or from a Community seaport of goods imported or exported by sea and
- For a Council directive on the organization of the markets for the carriage to or from a Community seaport of goods imported or exported by sea  
COM(84) 688 final - OJ No. C 14, 16.1.1985, p.7 et seq.

<sup>2</sup> Doc. 2-1510/84

2. In doing so the Commission is complying with the European Parliament's request to 'pay greater attention to ports than hitherto' and in particular 'for the elimination of all discrimination in links between ports and the hinterland which is incompatible with the European Treaties'<sup>3</sup>.
3. The Commission is proposing that the carriage of goods imported or for export by sea from a seaport to the hinterland or from the hinterland to a seaport should be exempted from
  - (a) all restrictions on capacity and
  - (b) all rules on the formation of rates

regardless of the mode of transport and whether or not national borders are crossed. In short, the Commission believes that completely liberalized 'corridors' between seaports and their hinterland should be set up for the carriage of imported and export consignments.

4. Since the Commission's decision to submit this proposal, the Court of Justice of the European Communities has held, in its judgment of 22 May 1985 (case 13/83), in the action by the European Parliament against the Council for failure to act in the field of transport policy, that the Council, in infringement of the Treaty, had 'failed to ensure the freedom to provide services in the field of international transport and to lay down the conditions under which non-resident carriers may operate transport services within a Member State'<sup>4</sup>.
5. While the rate-fixing aspect of the Commission's proposals is not directly affected by this judgment, the capacity policy aspect is directly related to the freedom to provide services in the field of goods transport within the Community. These two issues should therefore be considered separately.

### III. Liberalization of access to the market in the 'seaport corridors'

6. The Commission proposals would require the elimination of existing quotas or similar quantitative restrictions on access to the market for traffic both within and between Member States for all haulage operations in the corridors.
7. Quantitative restrictions on access to the market in transport between Member States apply only to road transport<sup>5</sup>. The Commission submitted a comprehensive proposal on this matter to the Council in 1983<sup>6</sup>, according

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<sup>3</sup> Resolution of 11 March 1983 on the role of ports in the common transport policy (CAROSSINO report, Doc. 1-844/82)  
OJ No. C 96, 11.4.1983, p. 117 et seq.

<sup>4</sup>OJ No. C 144, 13.6.1985, p. 4

<sup>5</sup>The Commission has stated that it does not regard a system of dividing up the trade, such as the rota system applied in inland waterways transport, e.g. in north-south traffic, as a quantitative restriction on access to the market.

<sup>6</sup>OJ No. C 179, 6.7.1983, p. 6

to which the quotas for Community authorizations issued on the basis of Regulation (EEC) No. 3164/76<sup>7</sup> should be increased each year on the basis of an objective method, and after five years the requirement to hold an authorization should be abolished. In its opinion adopted on 15.12.1983 on the basis of the HOFFMAN report (Doc. 1-917/83)<sup>8</sup>, the European Parliament stressed the need for the number of authorizations granted on the basis of bilateral agreements to be reduced at the same rate as the number of Community authorizations is increased. It also wished to see the date for abolition of compulsory authorization decided by the Council only at a later date, taking account of developments in the transport market and the common transport policy. On 19 December 1984 the Council finally raised the Community quota by 30% for 1985 and by 15% each for the following four years<sup>9</sup>. Where the Commission proposal goes beyond this, it, and the amendments called for by the European Parliament, are still being considered by the Council.

8. The Court of Justice's judgment of 22 May 1985 in the European Parliament's case for failure to act has created a new situation in that it has now been established beyond dispute that the Council
  - (a) is obliged to establish common rules for international transport from or to the territory of a Member State or for transit traffic through the territory of one or more Member States and
  - (b) is obliged to lay down the conditions under which non-resident carriers may operate transport services within a Member State,to the extent necessary to ensure freedom to provide services.
9. This means that any restriction on access to the road transport market, whether between Member States or within a Member State, must take a form which does not encroach on the freedom to provide services, i.e. any haulage undertaking in the Community must be given access to the market on equal terms and with equal opportunities. There can be no doubt that the present authorization procedures on the basis of bilateral agreements and national cabotage provisos are incompatible with this principle and, what is more, it is most doubtful whether authorization procedures on the basis of bilateral agreements can be put in such a form as to avoid discrimination.
10. The judgment of the Court of Justice of 22 May 1985 has therefore put the capacity policy for road transport applied via rules on access to the market, for traffic between Member States and within Member States, into a state of flux, and it is up to the Commission to adapt its present proposals to the new state of affairs or to replace them.

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<sup>7</sup>OJ No. L 357, 29.12.1976, p. 1

<sup>8</sup>OJ No. C 10, 16.1.1984, p. 88 et seq.

<sup>9</sup>Council Regulation (EEC) No. 3621/84 amending Regulation (EEC) No. 3164/76 on the Community quota for the carriage of goods by road between Member States  
OJ No. L 333, 21.12.1984, p. 61 et seq.



11. In the meantime, the Council at its meeting of 14 November 1985<sup>10</sup> drew its initial conclusions on the judgment of the Court of Justice, and agreed on the following policy approach, which the President-in-Office described to the Committee on Transport on 28 October 1985:
  - (a) creation of a free market in transport with no quantitative restrictions by 1992 at the latest;
  - (b) during the transitional period, progressive adaptation of the bilateral quotas on a non-discriminatory basis, coupled with increases in Community quotas;
  - (c) elimination of distortion of competition during the transitional period.
12. Capacity policy as a whole is thus now being rethought and a Community solution - which the European Parliament has always advocated - has been brought much closer. It would not therefore seem appropriate to endorse a partial solution confined to liberalizing the carriage of imported and export goods in seaport corridors.
13. This applies to any proposals for partial solutions in respect of capacity policy. The immediate and complete liberalization of access to the market in transport between seaports and their hinterlands as proposed by the Commission would contradict the step-by-step procedure advocated by Parliament and the Council, and the timetable they envisage for the purpose. It would not be possible to replace bilateral quotas for seaport/hinterland traffic by Community quotas, as proposed in debate in the Committee on Transport, as Community quotas by definition apply throughout the Community and cannot be restricted to seaport corridors. Bilateral quotas will have to be replaced by Community quotas evenly across the territory of the Community as a whole.
14. A partial solution to capacity policy, even if it helped eliminate distortions of competition between seaports, would itself create new problems and discrimination, e.g. between import/export and other traffic between seaports and the hinterland. A partial solution of this nature would therefore not even be a step in the right direction. The judgment of 22 May 1985 requires the Council to eliminate all discrimination on access to the market without delay; a partial removal of one kind of discrimination while replacing it with others cannot be what was intended by the judgment.
15. There is therefore no need for this report to consider the difficult question of whether a complete abandonment of regulation of access to the market, as the Commission is proposing for traffic between seaports and their hinterlands, would lead to severe disruption of the transport markets at the present state of harmonization. Instead, the judgment of the Court of Justice of 22 May 1985 calls for a new answer to the whole question of capacity policy.

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<sup>10</sup>See Press Release 10361/85 (Press 172)

#### IV. Liberalization of rate-fixing in seaport corridors

16. A rather different view has to be taken of the Commission's proposal on rate-fixing, as this area is not directly affected by the judgment of the Court of Justice. Where binding rules on rate-fixing for the carriage of goods exist in the Community, these in fact encourage rather than discourage the trans-frontier provision of services.
17. Pricing in international goods transport within the Community is in fact, partly because of Community rules, generally governed by market forces. For rail transport<sup>11</sup> and the carriage of goods by road<sup>12</sup> this is provided for in legal acts of the Community. The same applies to inland waterway transport on the basis of the Mannheim Convention for the Navigation of the Rhine, although there are as yet no Community rules<sup>13</sup>.
18. Several Member States have laid down rules governing rate-fixing for the carriage of goods within their territory. Rates or rate-fixing procedures are laid down by the government for the carriage of goods by rail, road and inland waterway, in France and Italy just as in the Netherlands and the Federal Republic of Germany. There are wide variations in the flexibility of the procedures and the strictness with which they are monitored.
19. In its opinion on the Commission's proposal for a regulation on the formation of rates for the carriage of goods by road between Member States<sup>14</sup> the European Parliament endorsed the principle that 'in the long term, the level of rates should be decided by free market forces, in both the trans-frontier and the national transport systems, because new distortions of competition are created by different systems of tariff formation'. This cannot be confined to the carriage of goods by road; it applies to all modes of transport.
20. However, the Commission's present proposal to liberalize rate-fixing for all carriage of imported or export goods between seaports and hinterlands is of course only a partial solution, and like every partial solution it has the disadvantage of giving rise to new distortions, e.g. discrimination against other traffic between seaports and hinterlands. This may give rise to fresh distortions of competition, and incite fraud.

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<sup>11</sup>Council Decision 82/529/EEC of 19 July 1982 on the fixing of rates for the international carriage of goods by rail  
OJ No. L 234, 9.8.1982, p. 5

<sup>12</sup>Council Regulation (EEC) No. 3568/83 of 1 December 1983 on the fixing of rates for the carriage of goods by road between Member States  
OJ No. L 359, 22.12.1983, p. 1

<sup>13</sup>COM(75) 640 final, 10.12.1975  
OJ No. C 6, 10.1.1977, p. 147, on the basis of the ALBERS report (Doc. 381/76)

<sup>14</sup>Resolution of 20 May 1983  
OJ No. C 161, 20.6.1983, p. 191  
on the basis of the MARSHALL report (Doc. 1-76/83)

21. In general, however, it has to be admitted that the distortion of competition between seaports by the varying rate-fixing systems, especially between national and trans-frontier traffic, is assuming such proportions <sup>15</sup> that Community action seems called for. If the European Community is now making an effort to develop a maritime transport policy<sup>16</sup>, the problem of competition between seaports must be tackled. Liberalizing rate-fixing in traffic between seaports and hinterlands is therefore not at all, as many claim, a purely national problem. There is a European dimension, in respect of both rates and competition between seaports, which requires action by the Community.
22. It is therefore acceptable for the liberalization of rate-fixing to take place initially in one sector alone, where the problems are most pressing, i.e. in traffic between seaports and hinterlands. In view of the typical risk with partial solutions which we have already mentioned, that they produce new distortions, the scope must be well-delineated and the implications carefully assessed.
23. A proper delineation is also desirable because the inclusion of internal Community traffic would have intolerable results. For example it would be ridiculous for a shipment from Aarhus in Denmark to Dortmund to be subject to different rules for the rates charged for carriage within Germany according to whether it was imported into Germany by sea (via Emden, for example) or by land.
24. The term 'seaport', which is used but not defined in the Commission's proposal, raises another problem. The explanatory memorandum contains a definition<sup>17</sup> on which the Commission intends to base its administrative practice. There has been much criticism of this definition, which would exclude the port of Amsterdam for example, or Duisburg, which handles a great deal of seagoing traffic.
25. Nor is it obvious why in traffic between seaports and their hinterlands the liberalization of rate-fixing should end if a different means of transport is used beyond a certain distance. The rate for the carriage of a consignment from Munich to be exported by sea from Hamburg should be freely negotiable regardless of whether it is carried the whole way from Munich to Hamburg on a lorry or is transhipped during the journey and carried part of the way by barge for example.
26. Your rapporteur therefore proposes that the corridor solution be framed so as to allow a change of means of transport within the corridor. This would avoid many contradictions, and make the definition of a seaport less crucial. This concept would simply require that goods were imported into a third country by sea; market forces alone would then govern the rate for carrying the consignment the whole way from the shipper up to loading in a seagoing ship or from discharge to the consignee.

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<sup>15</sup> See the impressive evidence given at the hearing on seaport/hinterland traffic organized by the Bundestag Committee on Transport, Deutscher Bundestag, Committee on Transport, committee papers 257 and 258

<sup>16</sup> See Commission communication and proposals of 15 March 1985 on sea transport, COM(85) 90 final

<sup>17</sup> COM(84) 688 final, p. 9

## V. General conclusions

27. The Commission's proposals should therefore be approved with the amendments and reservations emerging from the above.
28. There are however grounds for pointing out that these proposals are only a step on the way towards harmonization of competition between seaports in the Community set out in the CAROSSINO report (Doc. 1-844/82). We can do no better than to repeat the admonition to the Commission it contains, to 'pay greater attention to ports than hitherto, and particularly, when submitting any proposals connected with the common transport policy, to take greater account than in the past of their effects on competition between ports, with particular reference to the following (leaving aside tariff and capacity policies):
- harmonization of specific taxes on transport (road taxes and taxes on mineral oils),
  - harmonization of social provisions in the transport sector,
  - harmonization of technical provisions, particularly of maximum permitted weights and dimensions in road transport,
  - a tariff system for infrastructure costs,
  - infrastructures policy,
  - abolition of border formalities.

OPINION

(Rule 101 of the Rules of Procedure)

of the Committee on Economic and Monetary Affairs and Industrial Policy

Draftsman: Mrs Y. van ROOY

On 30 January 1985 the Committee on Economic and Monetary Affairs and Industrial Policy appointed Mrs Y. van ROOY draftsman of the opinion.

The committee considered the draft opinion at its meeting of 17 and 18 June 1985 and at the meeting of 25, 26 and 27 June 1985 it adopted the conclusions by 16 votes to none with 3 abstentions.

The following took part in the vote: Mr SEAL, chairman; Mr BEAZLEY (vice-chairman); Mrs van ROOY, draftsman (deputizing for Mr Franz); Mr ABELIN, Mr BESSE, Mr BEUMER, Mr BONACCINI, Mr CASSIDY, Mr CHANTERIE (deputizing for Mr I. Friedrich), Mr CHRISTODOULOU (deputizing for Mr Chiusano); Mr de VRIES, Mr FILINIS, Mr HERMAN, Mr NEWMAN (deputizing for Mr Gautier), Mrs T. NIELSEN, Mrs Van HEMELDONCK, Mr VISSER (deputizing for Mr Metten), Mr WEDEKIND and Mr von WOGAU.

1. The Commission's proposal seeks to eliminate possible distortions of competition between the various seaports arising from differing tariffs and quota regulations applying to seaport hinterland transport. Thus, although the proposal concerns both seaport policy and transport policy it nonetheless deals with only some of the problems and distortions existing in these two areas. Although such an incomplete approach is far from ideal and inevitably gives rise to criticism, it should be seen as a positive move in that the proposal makes a start on the liberalizing of transport policy that has always been advocated by Parliament. The recent ruling by the European Court of Justice on the common transport policy in fact gives reason to hope that progress will soon be made in the creation of a Community transport policy.

#### Impact of transport and seaport policy on the internal market

2. If the objective of completion of the internal market by 1992 is to be achieved, it is extremely important that the compartmentalization of the transport market in the Community should be abolished. The fact that the European transport market is subdivided into ten separate, strictly regulated national markets and the lack of any European transport policy, affects not only the transport sector but also prevents the creation of an internal market in the other economic sectors. Transport is a service that is called upon by all other sectors of the economy, which means that the development of the European economy as a whole is also partially dependent on transport. The present national regulations on transport policy restrict competition and create artificial, unfair conditions of competition resulting in higher transport costs which are ultimately paid for by European industry and thus affect its competitive position. National transport regulations with their quotas, compulsory tariffs and border delays prevent the creation of an economically optimal logistical process in which application of the new technologies is of ever increasing importance. The lack of a European transport policy is therefore an obstacle to the consolidation of the position of European industry and to economic growth in Europe. In the light of this, any proposal whereby one section of transport within Europe would be brought under a single system should be welcomed.

The Commission's proposal should therefore be endorsed despite the fact that it does not go far enough.

#### Competitive position of seaports

3. It is impossible to dispute the fact that differences in transport services (tariffs, quotas) to and from seaports affect the competitive position of the various seaports. Thus, German seaports are disadvantaged by the compulsory tariff for the carriage of goods to or from seaports within Germany. On the other hand, the competitive position of Dutch seaports is adversely affected by the excessively tight bilateral quotas with the Federal Republic of Germany and France. However, the different regulations on hinterland transport are not the only possible causes of distortions of competition between seaports. The competitive position of seaports is determined not only by the natural features of geographic location but also by other factors: speed of handling; handling charges, including trans-shipment, harbour fees and pilotage, tariffs for tugs etc.; harbour facilities; the available infrastructure, etc.

Government investment in such infrastructure and the fixed tariffs or subsidies, if any, for handling charges and the use of harbour facilities are significant factors in the competitive position of a seaport. Thus the harmonization of policy in one of these areas, that is hinterland transport, will contribute in only a limited way to achieving the Commission's objective of abolishing distortions of competition between seaports.

4. Despite its avowed goal of abolishing distortions of competition between seaports, the Commission's proposal in fact creates a further distortion of competition: the proposed definition divides seaports into two categories, one of which falls within the scope of the proposal. However the proposed definition of the term 'seaport' excludes, for example, ports which are linked with the sea by a canal, thereby excluding the major ports of Amsterdam and Ghent. The definition of the term 'seaport' should therefore be revised.

#### Competitive disadvantage for European industry

5. The two-tier transport system will also create further distortions of competition outside the transport sector. Different rules will be applicable according to whether transport within a given country concerns goods transported within the Community or goods being exported to or imported from third countries by road, rail or air or whether it concerns the carriage of goods through Community seaports to or from overseas countries.

In other words, goods imported via seaports may be transported through the Community without being subject to quotas or compulsory tariffs, whereas the intra-Community transport of goods produced in the Community is subject to such regulations. This puts European industry at a competitive disadvantage as regards imported goods from third countries, with serious adverse effects. From the point of view of consolidating the competitive position of European industry compared to third countries, a European transport policy should initially give priority to intra-Community transport.

Within the Community there is also the special case of goods from the United Kingdom and Ireland which have to be transported to the continent. Most of these goods are imported into the continent through seaports and will therefore subsequently be transported through the Community without restriction.

#### Implications of the partial liberalization of the transport market on the rest of the market

6. For many years Parliament has been calling for a European transport policy and a liberalization of transport within the Community. To date, however, there had been little response to these demands although the recent judgment by the European Court of Justice offers new prospects of progress. The Commission's proposal, which dates from before this judgment, will result in partial liberalization. As stated above, this approach has a number of drawbacks. However, in view of the fact that the Court judgment means that this partial approach must shortly be followed up by other measures and that any new distortions of competition created by the Commission's proposals will be abolished in the near future, the proposals are acceptable. Liberalization of one section of an otherwise strictly regulated market will inevitably lead to friction and a shift in the market as a whole.

7. The abolition of quotas and price regulations is bound to result in greater competition and pressure to reduce prices in this section of the transport market. If the whole transport market were liberalized, the resulting improvement in services and fall in transport charges would ultimately lead to a reduction in a major cost factor for the whole European economy and thus improve its competitive potential compared to third countries. The fact that liberalization applies only to one section of the transport market may encourage transport undertakings to concentrate to a greater extent than in the past on this section since, in contrast to the strict regulations on tariffs and quotas on the rest of the transport sector, the market forces applying in this area enable them to gear their activities more closely to available capacity.

8. The division of the transport market into a strictly regulated sector and a liberalized sector also raises problems of inspection. There is serious doubt as to whether effective controls are possible in practice.

#### A European transport policy

9. In view of the distortions of competition described above which would result from the two-tier transport system, the latter can be tolerated only for a limited period. The Court's judgment on transport policy should therefore be acted on without delay. To this end, Community quotas should be raised in the first instance and then ultimately replaced with a Community licensing system. The liberalization of the transport market should also include sectors such as removals, refrigerated transport, transport of dangerous substances where trans-shipment is difficult, etc. Restrictions on transit traffic should also be lifted. The liberalization of the transport market and the easing of restrictions on transport within the Community should be accompanied by the abolition of all border controls, particularly by applying the new technologies to the transport sector.

#### Conclusions

The Committee on Economic and Monetary Affairs and Industrial Policy

1. Points out the need for a coherent and joint transport policy along the lines laid down in the judgment delivered on this matter by the Court of Justice of the European Communities;
2. Points out that the proposal to liberalize transport to and from seaports fails to provide a comprehensive approach either to transport policy or to policy on seaport; considers, however, that it could be an initial step towards the achievement of a European transport policy as suggested in the white paper;
3. Underlines the importance of a European transport and seaport policy in improving the competitive position of European industry and promoting economic growth and, more specifically, in reaching the target of completion of the internal market by 1992;
4. Shares the Commission's view that national regulations on hinterland traffic affect the competitive position of seaports; believes, however, that they are not the only cause of distortions of competition between seaports;



5. Points out that the proposed definition of the term 'seaport' excludes certain major ports and thus creates a further distortion of competition; therefore requests the Commission to revise this definition;
6. Considers that the introduction of a two-tier transport system results in distortion of competition since on the one hand goods traffic passing through seaports (particularly imports from third countries and trade to and from the United Kingdom and Ireland) is no longer subject to transport regulations whereas intra-Community traffic not passing through seaports in fact remains subject to transport quotas and tariffs and is thus put at a competitive disadvantage;
7. Draws attention to the danger inherent in liberalizing only one section of the transport market while the rest of the market remains strictly regulated, namely that transport undertakings may concentrate to a greater extent on the liberalized section of the market, possibly causing friction and shifts in the market;
8. Doubts whether it will be possible to exercise effective control over this two-tier transport system in practice ;
9. Supports the Commission's proposal, despite the abovementioned distortions, provided that this partial approach applies only for a limited period and is rapidly followed up by the creation of a real European transport policy; therefore believes that the ruling given by the Court of Justice of the European Communities on transport policy should be acted upon without delay.

OPINION

of the Committee on Legal Affairs and Citizens' Rights

Draftsman: Mr WIJSENBEEK

At its meeting of 21 March 1985 the Committee on Legal Affairs and Citizens' Rights appointed Mr WIJSENBEEK draftsman.

At its meeting of 19 and 20 June the committee considered the Commission's proposals. It considered the draft opinion at its meeting of 17 and 18 September and 29-31 October 1985 and adopted its conclusions at the last meeting by 8 votes to 1 with 1 abstention.

The following took part in the vote : Mrs VAYSSADE, chairman; Mr EVRIGENIS and Mr GAZIS, vice-chairmen; Mr WIJSENBEEK, draftsman; Mr BARZANTI, Mrs FONTAINE, Mr PETRONIO, Mr PORDEA, Mr ROTHLEY, GRAF VON STAUFFENBERG and Mr VETTER.

## I - INTRODUCTION

1. The purpose of these three Commission proposals is to liberalize carriage of goods to and from seaports. In making these proposals, which it regards as a stage towards the full liberalization of transport in the Community, the Commission is complying with the wishes of the European Parliament, which invited it to 'pay greater attention to ports than hitherto, and particularly, when submitting any proposals connected with the common transport policy, to take greater account than in the past of their effects on competition between ports'<sup>1</sup>, and its request 'for the elimination of all discrimination in links between ports and the hinterland which is incompatible with the European Treaties'<sup>1</sup>.

2. The action proposed entails the adoption of three separate pieces of legislation:

- (a) a directive amending the First Council Directive<sup>2</sup> exempting certain types of carriage of goods by road between Member States from any quota system;
- (b) a regulation amending Council Regulation (EEC) No. 3568/83 of 1 December 1983<sup>3</sup> on the fixing of rates for the carriage of goods by road between Member States;
- (c) a directive requiring Member States to amend their national legislation in order to exempt from any quota system and any compulsory tariff system inland freight transport (by rail, road or inland waterway) to or from seaports which is not covered by the two amendments to Community law indicated above.

## II. THE SOLUTIONS CONTEMPLATED IN THE COMMISSION PROPOSALS

3. With the fundamental aim of eliminating distortions of competition between the Community's seaports, the Commission thinks it necessary that the system governing inland transport to or from seaports of goods imported or exported by sea should ensure:

- (a) freedom of access to the market, entailing the removal of quota restrictions for the transport operations in question, and
- (b) freedom with regard to the formation of rates, with the result that these transport operations are not subject to any compulsory tariff system<sup>4</sup>.

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<sup>1</sup>Resolution of 11 March 1983 on the role of ports in the common transport policy (CAROSSINO report, Doc. 1-844/82), OJ C 96, 11.4.1983, p. 117 et seq.

<sup>2</sup>OJ of 6 August 1962, as last amended by the Council Directive of 26 October 1983 - OJ No. L 332 of 28 November 1983, p. 33

<sup>3</sup>OJ No. L 359 of 22 December 1983, p. 1

<sup>4</sup>COM(84) 688 final, p.6

4. In essence therefore these proposals would mean that any carriage of goods by rail, road or inland waterway to or from a seaport would be exempted from any system of permits, quotas or rules on the formation of rates. In the present situation, the shipper's choice of carrier to or from seaports is governed not simply by the location of the port in question and the efficiency of the service it offers; the freight, which is the crucial factor for the shipper, is often influenced by the subsidies and permits granted by various public authorities, so that, as the Commission demonstrates by way of example in paragraphs 2.4 and 2.5 of its explanatory memorandum<sup>1</sup>, there is no free market governed by supply and demand.

5. With a view to the practical implementation of these proposals, the Commission expands on the problem of defining the term 'seaport'. It was a question of whether or not certain inland ports should be treated in the same way as seaports situated on the coast or on a seaway. This is a real problem, because certain inland ports have the legal status of seaports or, even without such status, engage in activities comparable with those of a seaport. The Commission considers however that the problems engendered by the distortions of competition described in the 'General considerations' in its Explanatory Memorandum primarily affect seaports in the strict sense of the word.

Consequently, it proposed that 'seaports' should be taken to mean ports situated at the coast, in the estuary of a river or on a river less than 150 km from its mouth<sup>2</sup>.

### III. CRITICAL ANALYSIS OF THE COMMISSION'S PROPOSALS

6. Your draftsman wishes to consider the Commission's proposals from two angles:

- the Commission's aims; and
- the situation arising after the Court of Justice's judgment of 22 May 1985 in the action by the European Parliament against the Council for failure to act in the field of transport policy.

#### A - The aim of the Commission's proposals

7. As stated in the introductory remarks, the Commission's aim is to liberalize the carriage of goods to and from seaports, as a step towards the full liberalization of transport in the Community, with the ultimate objective of 'the establishment of a common transport policy comparable in its organization and operation with the national markets which are uniform in terms of their regulatory system'<sup>3</sup>, pursuant to Articles 3(e) and 74 of the EEC Treaty.

8. The Commission is proposing measures which will be capable of removing the distortions of competition caused by the disparities between the systems governing transport to and from seaports. Its stated objective is 'to ensure that the way in which the inland transport market is organized (formation of rates and capacity policy) is neutral with regard to inter-port competition and does not call into question the natural or commercial advantages of ports'<sup>4</sup>.

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<sup>1</sup>Ibid. pp. 4-5

<sup>2</sup>Ibid. 'Particular Considerations', p. 8

<sup>3</sup>Ibid. p. 1

<sup>4</sup>Ibid. p. 3

9. The intended elimination of distortions of competition is therefore not simply in line with Parliament's frequently expressed wishes, but an essential condition for the achievement of the goals the Community has set itself in these provisions of the EEC Treaty. The question is however whether these proposals are actually capable of removing such distortions. Your draftsman does not think so, as the introduction of these measures would give rise to fresh distortions of competition on at least two separate levels:

- in the trade in goods, where the distortions caused will favour products originating in third countries. If carriage to and from seaports alone is liberated, without liberalizing transport to and from any other point in the Community, the outcome will be that goods carried by sea, i.e. most frequently imported from third countries, will be given a price advantage over goods manufactured within the Community. For example, a product such as a crane or a bulldozer, which is difficult and expensive to transport, might be delivered more cheaply from the USA than from Munich.
- in the relationship between ports, as the definition of the term 'seaport' proposed by the Commission<sup>1</sup> is liable to aggravate distortions of competition between the various ports in the Community, and thus to affect trade within the Community. The choice of a distance of 150 km is arbitrary and likely to raise technical problems, especially as regards safety on rivers, and monitoring. The mouth of a river is not always a precise geographical term. As regards monitoring, the Commission claims that the proposal, far from increasing red tape, might easily be incorporated in the present system. Your draftsman would venture to doubt this claim, not simply because carriage to and from seaports is a substantial percentage of carriage in general in some countries but because of this wide interpretation of the term seaport and the fact that a 'corridor' could extend across the whole Community. In each individual case, monitoring the use of this freedom will call for interpretation, as a result of which it can be disputed and give rise to legal and administrative appeals.

#### B. The judgment of the Court of Justice of 22 May 1985

10. Your draftsman believes that in future no matter relating to the common transport policy can be considered without taking into account the judgment of 22 May 1985 of the Court of Justice in the action by the European Parliament against the Council under Article 175 for failure to act in the field of transport policy<sup>2</sup>.

11. In this judgment the Court found that the Council had failed to act in that it, in infringement of the Treaty, had 'failed to ensure the freedom to provide services in the field of international transport and to lay down the conditions under which non-resident carriers may operate transport services within a Member State'. It held that 'the Council was bound to extend the freedom to provide services in the field of transport in accordance with Article 75/1 (1) (a) and (2) insofar as that extension related to international transport to or from the territory of a Member State or passing across the territory of one or more Member States, and to fix, in the context of the liberalization of the provision of services in that sector, the conditions under which non-resident carriers may operate transport services within a Member State in accordance with Article 75(1)(b) and (2)'<sup>3</sup>.

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<sup>1</sup>See Part II, pp.6 and 7

<sup>2</sup>Case No. 13/83<sup>3</sup>Paragraph 67 of the Decision in the judgment in Case No. 13/83 of the Court of Justice of the European Communities, 22 May 1985

12. It follows that no Community measure in the field of transport policy can be contemplated if it would restrict the application of the system of freedom to provide services and access to the transport market as set out in these terms<sup>1</sup> in the judgment of the Court.

13. However we find that the first two proposals by the Commission, removing quotas on the types of carriage in question, and exempting them from any compulsory tariff system, apply only to a limited sector of the transport market, and are therefore liable to help preserve a system discriminating (the first directly, the second indirectly) against any other means of transport. This partial liberalization will be a source of discrimination<sup>2</sup> so long as other liberalizing measures are not taken in other fields. Consequently, and even allowing for the fact that the Court of Justice granted the Council a reasonable period to take action in compliance with the judgment<sup>3</sup>, it would be difficult to see the Commission's proposals as complying with the wishes of the Court of Justice, whose reasoning was based on the establishment of an overall transport policy.

### III. AMENDMENTS TO THE PROPOSAL FOR A DIRECTIVE ON THE ORGANIZATION OF THE MARKET FOR THE CARRIAGE TO OR FROM A COMMUNITY SEAPORT OF GOODS IMPORTED OR EXPORTED BY SEA

14. This Commission proposal, which is complementary to the first two proposals, might provide a starting point for the overall liberalization of transport within the Community. Your draftsman therefore proposes the following amendments:

#### Amendment No. 1:

The title of the proposal for a directive to read: 'Proposal for a Council directive on the organization of the transport markets'.

#### Amendment No. 2:

Second recital: replace the words 'between Community seaports' by 'in the intra-Community transport sector';

Delete the words 'to and from such ports'.

#### Amendment No. 3:

Delete the third recital.

#### Amendment No. 4:

Fifth recital: delete the words 'for the carriage to or from seaports of goods exported or imported by sea'.

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<sup>1</sup>Judgment of the Court of 22 May 1985, Case 13/83

<sup>2</sup>See also the exchange of views with the Commission during the meeting of the Committee on Legal Affairs and Citizens' Rights of 19 June 1985

<sup>3</sup>Paragraph 69 of the Decision in the judgment of the Court of 22 May 1985

Amendment No. 5:

Article 1 to read:

'International transport between Member States by rail, road and inland waterway shall be exempted from any quota system or any other quantitative restriction applying to access to such transport markets provided for in national legislation'.

CONCLUSIONS

15. In the light of the foregoing, the Committee on Legal Affairs and Citizens' Rights:

- (a) Welcomes initially, the action of the Commission in proposing that the Council adopt a series of measures to liberalize the carriage of goods imported or exported by sea from or to Community seaports;
- (b) Is gratified to see this attempt which, although partial and limited in impact to a single transport sector, is in line with the goals of the common transport policy to be pursued by the Member States, in accordance with the EEC Treaty;
- (c) Regrets however to note that, among other reasons because of their very limited impact on the transport policy as a whole, the measures proposed will be incapable of removing distortions of competition in the transport market, although that is their principal aim;
- (d) Feels obliged to consider these measures in the light of the judgment of the Court of Justice of 22 May 1985, which held that 'the Council, in infringement of the Treaty, has failed to ensure the freedom to provide services in the field of international transport and to lay down the conditions under which non-resident carriers may operate transport services within a Member State';
- (e) Considers therefore that no piece of legislation on transport may in future result in any jeopardization of the freedom to provide services or access to the national transport markets as laid down in the judgment of the Court of Justice;
- (f) Finds therefore that the measures proposed by the Commission, because of their partial and limited nature, are liable to uphold existing forms of discrimination and to create others, and therefore run counter to the principles set out by the Court of Justice in the judgment cited;
- (g) Considers therefore that the two Commission proposals, both that to eliminate quotas for the type of carriage of goods in question and that exempting such carriage from compulsory rate fixing, embody major restrictions on the freedom to provide services and indeed on access to the transport market such that, unless they are fundamentally amended, they will not comply with the tenor of the judgment of the Court;
- (h) Recommends therefore that the committee responsible adopt these conclusions and the amendments, adopted to the third Commission proposal, and call upon the Commission to withdraw the first two proposals, so that it may comply with the requirements arising from the judgment of the Court of Justice.