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## **Better regulation in the European Union : lost in translation or full stream ahead? : the transposition of EU transport directives across member states**

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## Chapter 3: Economic integration in transport services

*'Time and again the common transport policy has been the saddest chapter in the history of European integration.'* (Jürgen Erdmenger, Senior member of the Commission's transport directorate in 1983)

### 3.1 INTRODUCTION

The EU is the most advanced model of economic integration<sup>14</sup> in the world. Beginning as a preferential trading area in 1958, it has evolved into a single market in which goods, services, capital, and labour can move between its 25 Member States with virtually no restriction – theoretically. Practically, the EU has been very successful in creating a single market for goods. However, recent discussions about the European stock markets, the so-called national champions in the energy market and the transitional arrangements for workers from the 'new member states' illustrate that the EU does not have a strong single market with regard to services, capital, or labour.

In the service sectors, a striking contrast to a single market is exemplified by the 30-year-old policy of anthemion, which bestows national exclusive rights for network industries independent as if they were independent of the internal market. The implementation of Article 86 was a 'taboo' in the EU for decades (Pelkmans, 2001: 140). 'The Member States have continued to go their own ways on economic strategy, protecting national markets and corporations, and wrestling independently to deal with high unemployment, low investment, and slow growth.' (McCormick, 2005: 159).

Transport is an important policy area affected by the Lisbon strategy (2000) and linked to the worldwide growth of trade flows. It is an example of network industries in general, and another regulatory EU policy area in particular whose 50-years history this chapter will trace back through the major developments. Generally speaking, it could be characterized as one of the saddest pieces in the history of European integration. More clearly, the economic integration of transport in the EU can be characterized as *recent, gradual, uneven, complex and crisis-driven*.

This study will show that three main driving and/or constraining factors account for its development, namely: member states' attitudes preconditioned by their geographical characteristics, EU institutions with the European Commission (Commission) as the agenda-setter, the Council of Ministers

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14 Economic integration describes a process in which the economies of independent countries are progressively unified as a result of the removal of barriers to trade (Pelkmans, 2001).

and the European Parliament (EP) as co-legislators, the European Court of Justice's (ECJ) as the judicial power, and the occurrence of transport-related crises. Subsequent rounds of enlargement in economic policies extended the group of member states and with it the transport sub-sector specific attitudes. In addition, the policy approach towards EU transport policy by the Commission has shifted over the years. Whereas the first decades of EU transport policy were characterized by so-called negative integration (Tinbergen, 1965; Rehbinder and Stewart, 1984), i.e. the removal of impediments to the establishment of single market, from the late 1990s the Commission implemented positive integration measures, setting up transport policies to shape the conditions under which markets operate (Scharpf, 1996). A final characteristic of the development of the transport sector is its vulnerability to influences from the external environment. Recent ecological disasters in the seas and rivers have affected water travel, whereas strained economic conditions have affected air travel; both kinds of travel occur in our more complex and globalised world. With regard to train and automobile travel, the decreasing market share of the rail sector along with devastating railway accidents across Europe and the rising number of casualties in car accidents resulted in further EU legislation. To conclude the different environmental factors in the different transport sub-sectors have led to the gradual adoption of EU legislation in the form of packages unevenly distributed across the different transport sub-sectors since 1992.

The chapter is structured as follows. First, it reviews the very scarce political science literature on EU transport policy, and argues that the EU transport policy debate is conducted mainly in policy specific, technical and economic journals, leaving EU scholars only a few studies to reference. Second, this chapter presents the European institutional setting for transport policy, which illuminates the historical development of EU transport policy. Third, four phases of integration are identified; it is put forth that, in general, the integration process can be characterized as recent, gradual, uneven, complex and crisis-driven. This is especially clear from the closer transport sub-sector point-of-view. Fourth, it is argued that the EU's transport policies were formed by the subsequent rounds of enlargement in economic policies, as well as the shifting of the Commission's approach towards transport. Finally, it is reasoned that, over the last decades, EU transport policy has further been shaped by transport sub-sector specific crises.

### 3.2 LITERATURE ON EU TRANSPORT

Scholars' attention to Common transport policy has been, for years, condemned to insignificance in all first-class edited volumes, which cover standard policy areas such as common foreign and security policy, environment, monetary union, social policy, and agriculture (Wallace and Wallace, 2000; Wallace, Wallace and Pollack, 2005; George and Bache, 2001; Bomberg and

Stubb, 2003; Cini, 2003; Dinan, 1999; Nugent, 1999; Hix, 2005; Graziano and Vink, 2006). Although Common transport issues have always been considered important for the economic integration of the EU, their practical significance is not mirrored in scholarly output (Franchino, 2005).<sup>15</sup> Transport policy has interested those scholars as the fringe of economics and infrastructure issues (Lewis, Semeijn and Vellenga, 2001; Bolden and Harman, 2002; Nash and Sansom, 2001). Subsequently, research on transport policy is often very technical in nature, and covers expectations of traffic growth, infrastructure and vehicles design, traffic restraint, economic and commercial pricing policy, and the methodological tools available to predict and assess the effects of alternative policy options.

However scarce, the scholarly work in the field of EU transport policy in political science can be divided into two groups: studies covering all different modes of transport, and those focusing on only a single mode. In discussions primarily focused on the slight advancement in the Common transport policy as a whole, Erdmenger (1983) and Abbati (1987) investigate why European transport policies failed to make the expected progress in all five modes: road, inland waterways, rail, air and maritime. With more theoretical motivations, Aspinwall (1999) identifies the parameters of two distinct governance subsystems in EU transport: domestic security, and supranational regulatory network. He traces the changes that have occurred in the EU transport policy, accounts for them, and describes the emerging system of governance in EU transport in general (see also Schmidt and Giorgi; 2001; 2003). Stevens (2004), in another blend of practitioner insight, focuses on the very different considerations that affect transport by land, sea, and air. Inspired by a rather eclectic approach, namely, neofunctionalism, liberal intergovernmentalism, and institutions and networks, he advances a new model of how three policy-making environments – practical, political, and organizational – interact with each other over time to open windows of policy-making opportunity.

Next to these comprehensive contributions covering transport in general terms, studies of specific modes of transport have emerged, namely: road, inland waterways, rail, air and maritime. Most of these studies came to fruition in the late 1990s. It is worth noting that not all transport sub-sectors have attracted the same attention. Table 3.2 refers to the different accounts.

Whereas inland waterways transport has not yet been investigated, and maritime transport has garnered scholarly attention only recently (Aspinwall, 1995; Paixoa and Marlow, 2001; Pallis, 2002), the aviation sector has enjoyed the most research of any transport sector. Demands from society for the opening of competition in the air transport industry brought forth a supportive

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15 Note, however, recent descriptive studies on transport issues by Zeff and Pirro (2006; 2007)

Table 3.2: Overview of scholarly work in the field of EU transport policy.

<b>General scholarly contributions</b>	Erdmenger (1983); Abbati (1987); Whitelegg (1988); Ross (1998); Aspinwall (1999); Banister, Dreborg, Hedberg, Hunhammer, Stehen and Akerman (2000); Greaves (2000); Schmidt and Giorgi (2001; 2003); Kerwer and Teutsch (2001a); Baur (2004); Stevens (2004)				
<b>Mode-specific contributions</b>	<b>Road (6)</b>	<b>Rail (5)</b>	<b>Maritime (3)</b>	<b>Air (8)</b>	<b>Inland waterways (0)</b>
	Button (1984); Young and Wallace (2000); H�eritier (1997); H�eritier et al. (2001); Kerwer and Teutsch (2001b)	Dobbin (1993); Knill and Lehmkuhl (2000); H�eritier et al. (2001); Kerwer and Teutsch (2001); H�eritier (2002)	Aspinwall (1995); Paixoa and Marlow (2001); Pallis (2002)	Wheatcroft and Lipman (1986); Stevens (1997); Armstrong and Bulmer (1998); Button, Hayes and Stough (1998); Dienel and Lyth (1998); O'Reilly and Stone Sweet (1998); Lawton (1999)	n.r.

n.r. = no reference; numbers in brackets refer to the number of contributions

response from the Commission, which was initially rejected by the national governments (O'Reilly and Stone Sweet, 1998). Continuing internal and external pressures, as well as the supportive rulings of the ECJ, which invited the application of the EC's competition rules to air transport, together brought forth a succession of EC agreements. By 1997, these agreements had removed internal barriers to competition in air transport and moved Regulation to the EC level. Armstrong and Bulmer's (1998) rendition of air transport liberalisation closely follows O'Reilly and Stone Sweet's analysis. Armstrong and Bulmer emphasize the pressures of transnational business, the mobilizing activities of Etienne Davignon, the leadership of Jacques Delors, and the inspiration of Arthur Cockfield as four major catalysts to air transport liberalisation. Assessing CTP up to the mid-1990s, they show that conflicting member states' preferences and autonomous supranational organizations are constant factors in EU policy-making. Moreover, Armstrong and Bulmer suggest that varying outputs may, therefore, be explained more effectively by the opportunities offered through institutional structures in which these decision-making processes are embedded, and also by the availability of credible solutions for the policy problems under discussion (see also Lawton, 1999; Button, 1996; Button et al., 1998; Kerwer and Teutsch, 2001; Wheatcroft and Lipman, 1986; Stevens, 1997; Dienel and Lyth, 1998).

Dobbin (1993) illustrates the diverse conceptions of the railway market and the very different conceptions of the relationships between state, market, and individual economic actors. Dobbin argues that these conceptions must be reconciled if Europeanization is to be successful in exploring the different varieties of markets found in French and British high speed train policy. Focusing on the liberalization of the rail sector, H eritier (2002) concludes that technological innovation accounts for the different performances in the United Kingdom, Germany and France.

Focusing on road haulage in the UK, the Netherlands, Germany, and Italy, H eritier (1997) finds four different profiles of responses to the European invitation to reform domestic policies; responses varied by nation. In the same vein, Kerwer and Teutsch (2001) conclude that domestic factors were more important than European factors in bringing about this change. European influence did not severely curtail national policy-making autonomy. Apparently, in transport policy, Europeanization was elusive because national institutional intermediation largely muffled the impact of European policy-making.

Covering the last two modes of transport comparatively, Kerwer and Teutsch (2001: 26) show that both road and rail transport reflect the high demand of consensus as a basis for European decisions. Although the researchers' assessments of common transport policy development focus on two of the five modes, they make strong claims about the overall developments of common transport policy. Yet, without research about maritime shipping, air, and inland waterways transport, such claims may not be warranted. This tendency of generalisation can also be found in the other modal contributions. Whereas case studies from within the different modes of transport are helpful to account for causal mechanisms at a specific time in EU transport history, they 'block the view on the whole.' Comparing different modes of transport with such case studies focus is methodologically problematic. Researchers can rightly assume that member states' preferences have not considerably changed over the years (Scheerlinck and S'Jegers, 1998). Holding this variable constant, they could investigate the influence exerted by the EU and national institutional settings upon member states' preferences. This is, however, methodologically debatable if one wants to deal with more than one mode of transport, because enlarged member states' preferences, and institutional settings' preferences, too, differ also for every single mode of transport. This variability will be accounted for in the remainder of this study.

### 3.3 DRIVING AND CONSTRAINING FORCES OF EU TRANSPORT POLICY-MAKING

#### 3.3.1 *Basic attitudes among member states:*

Two 'ideal types' of transport policy describe the main 'rupture points' or cleavages across member states, namely: the state-led approach, and the liberal market approach (Schmidt and Giorgi, 2001). The traditional *state-led approach* assumes that transport primarily serves structural inequalities, especially in regard to the regional level. Under this policy framework, transport planning is guided by the goals of regional cohesion and development, and emphasis is placed on infrastructure investment by the state as the main instrument for achieving these goals. Environmental sustainability, in this respect, is important, but must be balanced against social sustainability and regional cohesion. The *liberal market approach* to transport development considers regulation of the transport sector important, and this is achieved primarily through economic instruments. Particularly relevant under this scheme are pricing instruments and taxation, and so are liberalization and privatization when associated with greater accountability and transparency in operations. Ultimately, however, the role of transport is said to support economic development through faster and more efficient mobility of goods. Environmental impacts are recognized as negative externalities and, as such, also pose questions of fair pricing in conjunction with technological upgrading. Although real-life transport policy cannot be confronted clearly with the two-fold typology, I try to group the member states accordingly.

#### *State-led approach towards transport*

Large member states tend to favour the traditional state-led approach. France is a large country that is relatively less dependent on international trade, with a widely dispersed population, and a large domestic transport market. France's deep roots in the tradition of government support for domestic objectives of economic policy, have made French transport policy-makers notably reluctant to open France's markets to foreign competition. Germany is also a large country that favours the state-led approach. Its surface transport industries are potentially exposed to competition, particularly from operators based in the the Netherlands and in the new Eastern member states. In Germany, there is a corporatist tradition supported by government policy and reinforced by a strong partnership between unions and management, which has tended to make transport policy officials cautious about competition, particularly foreign competition. The traditional state-led approach has also been supported by some smaller EU member states. For example, the social importance of its dense network of island services led Greece, until very recently, to defend a protective regime for coastal shipping whilst supporting a more liberal regime in international relations, and particularly in the bulk shipping trades, where Greek owners are strongly represented.

*Liberal market approach towards transport*

Other member states tend to follow the liberal market approach. The UK and the Netherlands, in particular, advocate this approach. Their motivation in this respect is obviated by their positions as key players, with high stakes in the evolution of international air transport policies. The world-wide network of air routes link Britain and the Netherlands with their colonies and dominions. London is a natural hub for air traffic between North America and much of Europe, and Amsterdam is a connecting airport. The Netherlands, furthermore, is a small country with a great river whose ports link the North sea to the industrial heartlands of Northern Europe. Its transport industries could not prosper on the business generated by the Dutch economy alone. They need competitive open markets.

*3.3.2 European institutional setting:*

Member states' attitudes towards transport policy hinge on their respective European institutional settings. The Commission as the agenda setter, the Council and the European Parliament (EP) as the legislative powers in EU decision-making have gained and lost institutional power, i.e. the rules constraining and enabling actors in EU policy-making have been amended with every proposed revision of the existing treaties.

With the Single European Act (SEA) since 1987, transport including air and sea has been subject to qualified majority voting (QMV). Taking measures further, the Maastricht Treaty in 1992 gave the European Community (EC) infrastructure. In the Council, there are two basic voting rules, namely: unanimity (UV), and QMV. Changes of voting strengths and the QMV threshold have affected the relative power of member states. During the second European Free Trade Agreement (EFTA) enlargement, the UK, Spain, and Italy argued that the addition of Austria, Finland and Sweden would alter the type of coalition needed to achieve a QMV. Their arguments resulted in the 1994 Ioninna Declaration, which foresaw 26 votes (30%) as the blocking minority (Hix, 2005: 85). A similar argument arose in the negotiations on voting weights in the Nice Treaty, where a blocking minority was reduced from 30% to 26%.

The Commission's approach towards transport policy has evolved over the years as well. Its approach towards EU transport policy, as the agenda setter in EU policy-making, can be characterized by either a sub-sectoral or an integrated approach. Whereas the sub-sectoral approach calls for equal competitive conditions to be achieved within each transport sub-sector, the integrated approach to transport demands a greater equality of competitive conditions between the different transport modes.



In addition, over four decades the EP has changed from a largely consultative assembly to a genuine co-legislator that has itself evolved considerably beyond the original EC, both in scope and in powers (Corbett, Jacobs and Shackelton, 2005: 5). The EP's transport committee actively influences policy-making in the field (Häge and Kaeding, 2007) and actually happens to be one of the most active committees in EP (EP conciliation committee report, 2004).

The ECJ represents the last important player in the policy-making process. It hears actions brought against member states for failures to comply with obligations, and the ECJ has the power of judicial review, as well as the power to issue preliminary rulings on references by national courts. Importantly, the ECJ's rulings in the 1970s obliged member states to construct an internal market in transport services.

### 3.3.3 *Transport specific crises:*

Last but not least, it is transport specific crises that instigate European integration in the transport sector. Next to the divide between member states along the state-led and the liberal market line, and the European institutional setting – which allowedly holds true for a lot of policy areas – it is this third factor that plays an important role for the overall development of EU transport policy and its sub-sectors, in particular. Be these crises the actual numbers of fatalities in car accidents, the ecological disasters in the maritime or inland waterways sector, the shrinking market shares of railways, or the economical challenges faced by the aviation sector in a globalized and terror-plagued world, crises in any transport sub-sector have considerable impact on the policies of the transport sector.

### 3.3.4 *Summary*

This study argues that the EU's transport policy developed as it has because of three important factors: First, member states' approaches toward transport shaped by economic geography and national needs in the different transport sub-sectors. Second, the underlying institutional settings with the Commission as agenda-setter, the EP as co-legislator and the ECJ as the guardian of the treaties; second, the member states' approaches towards transport (both in general and towards specific modes of transport), and the conflicts surrounding these –conceptually, as well as on in practice with reference to actors' strategies and alliances. These conflicts can be seen, on the one hand, in the significant disagreement as to the role of the market and the role of the state, and on the other hand, in the executive, judicial and legislative powers of the Commission, ECJ and the EP respectively, which have evolved over the last 50 years, shaping the development of the policy area. The agenda-setter's approach towards the policy is decisive, initiating transport legisla-

tion in terms of sub-sectors or integrated. The third important factor in the EU's transport policy development is the transport related crises. They clearly affect the shape of EU transport policy. Adopted in so-called packages, a number of regulations and directives spawned from crises indicate the need of response to situational changes of the external environment.

After having outlined the driving and constraining factors accounting for the development of the EU transport field, I approach the analysis as follows. Taking the Treaty of Rome (1957) as the starting point, the following chapter assesses the developments in the field up to 2006. Newspaper articles and official documents of the European communities will help me trace back the major steps in EU transport policy in general and the different sub-sector specific developments in particular. Interviews with Commission and member states' civil servants serve to complement the overall assessment which follows.

### 3.4 THE PATHS OF EU TRANSPORT POLICY: RECENT, GRADUAL, UNEVEN AND COMPLEX

The overall development in EU transport policy can be divided into four phases of distinct time periods: 1957-1984, 1985-1991, 1992-2000, and 2001-2006. This analysis focuses on these phases, in addition to its particular attention to all five sub-sectors of transport, namely: road, rail, inland waterways, maritime, and air. In the following discussion, each phase is addressed separately, starting from a general assessment of Common transport policy (CTP) and moving to a sub-sector specific analysis. Tables 3.3.1-3.3.4 summarize the key developments for the different periods in the policy sub-fields, identifying the member states' general purposes of CTP, the Commission's key goals and specific proposals, and the crises that occurred over the last six decades.

#### 3.4.1 30 years of deadlock (Phase I: 1957-1984)

Between 1957 and 1985 the CTP did not amount to much more than the stated intention to facilitate pan-European transport between the member states. During the first thirty years of the EC, transport policy was to a large extent under the control of individual governments, and was 'dominated by deadlock' (Knill and Lehmkuhl, 2000: 7) and 'false starts, of politically inept Commission proposals, or persistent Council inaction, of divided government views' (Héritier, 1997: 31). The 1961 Schaus Memorandum, for example, presented the first guidelines for a community-wide action programme in transport, but member states showed little real interest in following up with these guidelines. Commission proposals were debated, but few of any significance were adopted. Most European governments, especially until the first round of enlargement in 1973, regarded transport as a public service which

could not be left solely or even primarily to the private sector. Consequently, member states often intervened extensively in transport policy at the national level, not just to ensure that services were provided, but also to guarantee that peripheral regions were not disadvantaged, so that interventions were used as instruments of regional development policy.

#### *Road and railway*

In the *road* sector, the European rules did not oblige member states to deregulate inland transport until the first enlargement in the mid-1970s. In the *railway* sector, also, there was practically no competition. The national railway companies had traditionally 'cooperated' for cross-border services, but the inefficiencies in pricing, work practices, allocation of slots on the networks, terminals procedures, technical incompatibilities, service quality, and frontier problems 'confirmed people's worst beliefs about monopoly practices' until the early 1990s (Pelkmans, 2001: 146).

#### *Inland waterways*

In *inland waterways*, too, there were hardly any provisions of secondary Community law. The important reason is the existence of the Revised Convention for the Navigation of the Rhine, signed in Mannheim on 17 October 1868. This and later additions have given the Rhine an international river regime, providing the principle of the freedom of navigation. This regime applying to the Rhine seriously hindered the achievement of economic integration in the inland waterways sector. Certain national delegation repeatedly rejected the Commission's proposal by invoking the Mannheim Convention (Stevens, 2004).

#### *Maritime*

For a long time, *maritime* navigation was not even considered to fall under the EC responsibility. Twenty years after the Treaty of Rome, in 1974, finally, the ECJ in Luxembourg dispelled the controversy about Article 84 (2). Its judgment overturned the arguments against including sea transport in the integration process. The Court ruled that sea transport was not covered by the provisions on transport (Articles 74 and 83) but that the general rules of the EEC Treaty nevertheless applied unless express exemption was made in the Treaty or by the Council. This particular judgment, shortly after the enlargement of the Community, helped 'to start the ball rolling' (Stevens, 2004). This was especially seen after the accession of the UK and Denmark, which brought two major shipping nations into the Community, and with them, their special interest in world shipping. However, the Community did not enter shipping safety until Spring 1978, following the Amoco Cadiz accident off Brittany. Pressured by their constituencies, the Council adopted decisions including checks on tankers entering Community ports, employment of deep-sea pilots in the North Sea, and ratification of the various IMO (International Maritime Organisation) Conventions on the safety of life at sea and on the prevention of pollution from ships.

Table 3.3.1: Mode-specific developments in Common transport policy (CTP) 1957-1984.

	Rail	Road	Air	Maritime	Inland waterways
<b>I. 30 years of deadlock (1957-1984)</b>	Despite several Commission attempts to introduce transport legislation, member states adopt actions only in the road sector, due to already existing international agreements in other transport sectors.				
	<p><b>Safeguarding the status quo:</b> Regulation 1191/69 allows compensation for public service obligations.</p> <p>Regulation 1107/70 provides extensive justification for State aids.</p>	<p><b>Application of competition rules:</b> Regulation 141/62 exempts all inland transport from competition rules.</p> <p><b>Regulation of market access:</b> <b>Licensing:</b> Directive 74/561 sets minimum standards for road haulage companies</p> <p><b>Social harmonization:</b> Regulation 543/69 (amended by Regulations 3820/85 and 3821/85) sets minimum ages, working time limits for transport crews</p>	<p><b>Economic liberalisation:</b> Memorandum No.1 1979 leads to liberalization of most interregional services for planes with less than 70 seats.</p> <p>Memorandum No. 2 COM(84)72, launches EU liberalization in accordance with the Chicago Convention</p>	<p>ECJ dispels the controversy about Article 84(2) in 1974 by overturning the arguments against including sea transport in the integration process.</p> <p>Council rejected all Commission's proposals and preferred to rely on the existing institutional framework guaranteed by International Maritime Organisation (IMO).</p>	<p>No action – relying on Mannheim Convention from 1868</p>
				<p><b>Harmonization of operating conditions in road passenger transport:</b> Directive 74/562 sets minimum standards for road passenger transport service operators.</p>	

Source: ECE documents and publications; newspaper articles, interviews with policy experts in the EU institutions and Stevens (2004: 94-95; 104-105; 118-119; 130; 148-149)

### *Aviation*

The 1974 ECJ ruling dispelling the controversy about Art. 84 (2) applied not only to maritime, but also to *air* transport. In 1978, the Council of Ministers, lead by the UK, decided on the basis of preliminary work by the Commission to adopt a first priority program of measures in the field of air transport. This program was based on the Chicago Convention, whose article 82 expressly states that member states must annul all obligations that are inconsistent with the terms of the Chicago Convention.

#### 3.4.2 *Watershed (Phase II: 1985-1991)*

The year 1985 is often regarded as a 'watershed for supranational transport policy' (Krewer and Teutsch, 2001: 29). The volume of passenger numbers and goods kilometres by car, train, shipping, air, and inland waterways transport in the EU had increased by 246% between 1965 and 1989 (European Commission statistical yearbook, 2000; 2001; 2002). In addition, Europe was experiencing a general shift towards regulatory policies favouring market mechanisms (Majone, 1994). Responding to increasing demands for mobility and the ideological shift in politics, the SEA changed the institutional settings for the Council of Ministers by replacing unanimity with qualified majority voting for measures in the fields of sea and air transport (Article 80.2). Furthermore, accession to Spain, Portugal and Greece shifted the balance of sub-sectoral interests in favour of maritime and road transport. By the end of the 1980s, transport policy as a European policy area finally got off the ground, leading to liberalization.

Some ECJ rulings and the Commission in particular helped stimulate the development of EU transport policies. On 22 May 1985, the Court of Justice ruled on case 13/83. These proceedings, which were instituted by the Parliament, ruled against the Council for failing to bring about the freedom to provide international transport services, and failing also to create the conditions required for non-resident carriers to have access to national transport services in a member state. This ruling was given immediately after the Commission's White Paper, '*Completing the Internal Market.*' The White Paper identified restrictions on the provision of transport services as a serious barrier to open trade. In order to achieve the SEA's 1993 objectives, the Commission decided that developing the CTP according to a sub-sectoral approach, i.e. achieving equal competitive conditions within each sub-sector, was an absolutely necessary measure.

### *Road*

In the sub-sector of *road* haulage, the EU introduced the right of non-resident transport haulers to operate in foreign markets. The Cassis de Dijon case confirmed that the Council should induce the member states to liberalize the inland transport sector according to the principles of the European Treaty.

In the 1980s, the member states started to abolish all quantitative restrictions on entries in road, and to limit their interventions to regulate the qualitative conditions that operators were obliged to meet in order to obtain access to the profession (Ponti and Cappiello, 2000).

#### *Inland waterways*

Whereas Regulation 3921/91 granted cabotage on *inland waterways* from 1 January 1993, with derogations for FR and DE until 1 January 1995, the late 1980s marked a difficult period for the Community fleet, and demanded a European approach. The size of the EC-registered fleet in worldwide *shipping* had decreased from 32% of world tonnage in 1970 to 14% in 1995. Over-capacity in the world market had worsened the conditions of competition for EC shipping lines as compared to those from countries with lower costs. In 1986, the Council was enlarged by Spain, Portugal and Greece, which had been traditionally powerful maritime actors. Subsequently, the Council adopted four measures which were important landmarks in the development of the Common maritime transport policy (see table 3.3.2). Just two and a half years later, in August 1989, the Commission sent the Council a second package of key measures to improve the operating conditions and competitiveness of Community shipping.

#### *Aviation*

The ECJ's *Nouvelles Frontières* case in 1986 represents the turning point for EU aviation (EU Court reports, 1986: 1425-1473). Since 1987, the policy has been set to phase out the bilateral system between states and inter-airline agreements in Europe so as to establish a genuine Single Market in civil aviation. The first package of measures was adopted in December 1987. It limited, among other rights, the right of governments to object to the introduction of new fares. In June 1990, a second package of measures opened up the market even further, allowing greater flexibility over the fare setting, and capacity sharing.

#### 3.4.3 *Enlarged set of objectives (Phase III: 1992-2000):*

Whereas the Treaty of Rome described the tasks of the EEC in purely economic terms, the Single European Act (SEA) and the Treaty of the European Union (TEU) granted the Commission new powers for transport safety and for transport infrastructure. The Commission's influence as the principal spokesman and negotiator for the Community in international bodies dealing with transport policies, especially within Europe, was continuing to grow (Rhinard and Kaeding, 2006). This development was bolstered by the third round of EU enlargement with Sweden, Finland and Austria, which were all known for their high environmental standards. These developments coincided with the Commission's new approach of 'sustainable mobility for the Community as a *whole*.' The approach was signalled in the 1992 White Paper,

Table 3.3.2: *Mode-specific developments in Common transport policy (CTP) 1985-1992.*

	Rail	Road	Air	Maritime	Inland waterways
<b>II. Watershed (1985-1992)</b>	ECJ ruling of 22 May 1985 against Council for its failure to adopt measures put forth in the treaty as well as the Commission White Paper <i>Completing the Internal market</i> . Both documents identify restrictions on the provision of transport services sub-sectors as serious barriers to open trade.				
<b>Economic Regulation of the internal market:</b>	<p><b>Economic Regulation of capacity:</b> Regulation 4059/89 grants cabotage quotas.</p> <p>Regulation 3118/93 phases out all quota restrictions by 1 July 1998.</p> <p><b>Technical harmonization:</b> Directive 85/3 (amended by Directive 96/53) sets maximum weights and dimensions for road vehicles.</p> <p>Directive 89/460 allows derogation for UK and Ireland to 1 January 1999.</p> <p>Directive 94/55 (amended by Directive 2000/61) concerns harmonization of national legislation for transport of dangerous goods by road.</p>	<p><b>Economic Liberalization:</b> Market access, capacity and tariffs progressively liberalized under three package deals (1987, 1990, 1992).</p> <p>Regulation 240/92 lays down common rules for airline licensing policies.</p> <p>Regulation 2408/92 provides for cabotage to be phased in by 1997.</p>	<p><b>First package of EU measures COM (85)90:</b> Regulation 4055/86 establishes freedom to provide services between member states.</p> <p>Regulation 4056/86 applies competition rules to maritime transport, and revises 1988, 1992, 1995.</p> <p>Regulations 4057/86 and 4058/86 make provision for EC action to deal with protectionist practices of third countries.</p>	<p><b>Second package of EU measures, COM (89)266:</b> Reg 3577/92 grants cabotage, with derogations to 1999 for Mediterranean services and Atlantic coasts of FR, ES and Portugal, and to 2004 for the Greek islands.</p>	<p><b>Geographical extension of market access:</b> Regulation 2919/85 implements licensing provision of Mannheim Convention, extending equal access to all EU member states</p> <p><b>Liberalization:</b> Regulation 3921/91 grants cabotage on inland waterways from 1 January 1993 with derogation for FR and DE until 1 January 1995.</p>
			<p><b>Social and economic harmonization:</b> Judgement in the <i>Nouvelles Frontières</i> case (ECJ) 209-213/84 undermines national Regulation of competitive conditions.</p>	<p><b>Harmonization:</b> Directive 87/540 requires mutual recognition of carriers' qualifications and certificates in relation to goods transport, extended to passenger transport under Directive 91/672.</p>	

Rail	Road	Air	Maritime	Inland waterways
	<p>Directive 95/50 (amended by Directive 2001/26) sets uniform control procedures.</p> <p><b>Fiscal harmonization:</b> Directives 92/81 and 92/82 set minimum rates of fuel duty.</p> <p>Directive 93/89 (replaced by Dir 99/62) sets minimum rates for vehicle tax, maximum rates for road user charges, and a regulatory framework for setting tolls.</p> <p><b>Harmonization of operating conditions in road passenger transport:</b> Directive 91/439 (amended by Directive 2000/56) lays down common requirements for driving licences.</p> <p>Directive 96/47 provides optional alternative in credit-card format.</p>	<p>Regulations 3975 and 3976/87 (which are part of the first package) establish framework for Community Regulation of competitive conditions, and state aid.</p> <p>Regulation 295/91 lays down rules for denied boarding compensation.</p> <p>Directive 91/670 requires mutual acceptance of personnel licences.</p> <p><b>Technical and safety harmonization:</b> Reg 3922/91 provides for implementation of safety certification rules agreed by Joint Aviation authorities</p>		

Source: ECE documents and publications; newspaper articles, interviews with policy experts in the EU institutions and Stevens (2004: 94-95; 104-105; 118-119; 130; 148-149).



'*The Future Development of the Common Transport Policy*' and was followed by, and specified through, the common transport policy Action Programs from 1995 to 2000 (European Commission, 1995), and 1998 to 2004 (European Commission, 1998). The sub-sectoral approach was exchanged by an integrated approach, i.e. increasing attention was given to achieving greater equality of competitive conditions *between* the different transport sub-sectors. Furthermore, the approach enlarged the set of objectives to be achieved by the CTP to include sustainability and social cohesion, both of which led to a shift toward more environmental friendly sub-sectors through the support of better transport system management that included combined transport and an emphasis on inter-modality. However, like the first and the second phases, the third phase was still a (narrow) triumph on points for the market-led tendency (see listing of EU transport legislation in the Appendix). Especially in the railway and inland waterways sub-sectors deregulatory legislation dominated, whereas in the road and maritime sub-sectors, harmonization hold sway over the agenda.

#### *Inland waterways and railways*

Regulation 1356/96 extended equal access to all *inland waterways*, but the first attempt to liberalize the European *railways* was made in 1991 by a Directive on the development of the Community's railways. In 1995, two pieces of legislation were adopted on the licensing of railway companies and the allocation of and charging for infrastructure. A year later, in 1996, a Commission White Paper was published on the revitalization of the European railway companies, which stated, notably, that the recovery could be achieved by rationalizing their financial situation, ensuring freedom of access to all traffic, and public services and promoting the integration of national systems and social aspects. At the end of year 2000, a first rail liberalization package was agreed upon.

#### *Aviation*

Like the 1980s for the maritime sector, the early 1990s were problematic for the *air* industry. Europe's leading airlines suffered heavy losses between 1990 and 1993 due partly to the Gulf wars. Additionally, in a climate of increasingly fierce international competition, airlines continued restructuring their progress in hopes of improving productivity. The three Regulations (2407/92, 2408/92, and 2409/92) that constitute the third package of internal liberalization make up the core of what is called the *acquis communautaire* in air transport. They provide for free access of European airlines to any European airport on merely commercial considerations (air cabotage).

#### *Maritime*

The Community continued to build its *maritime* safety policies on the basis of the IMO Conventions and rules. Nevertheless, a number of stricter EC measures were deemed necessary in the aftermath of dramatic shipping accidents, such as those involving the *Herald of Free Enterprise* (1987) and the

Exxon Valdez (1989). In particular, concerned member states, such as the UK, France, Spain, Sweden and Germany, pushed for stricter regulations. In 1994, the Council adopted a Directive on the minimum level of training of seafarers, a Directive on ship inspection and surveys, and a Regulation on tonnage measurement of ballast spaces in segregated ballast oil tankers. A Directive on Port State Control was adopted in June 1995, and in December 1995, the Council adopted a Regulation on the safety management of ro-ro passenger ferries. The grounding of Aegean Sea (1992) and the Braer (1993) led to a common policy on safe seas—another safety package with a total of 8 Directives.

#### *Road*

In road transport, traffic related accidents attracted major EU attention, with more than 40,000 lives and more than 1.7 million people injured. On 30 November 1993, the Council created a Community database (CARE) on road accidents, which would lay the basis for further harmonization of operating conditions in road passenger transport, and recommend maximum permitted blood alcohol levels.

#### 3.4.4 Consolidation (Phase IV: 2001-2006)

Whereas the 1999 Treaty of Amsterdam led to further reinforcement of environmental provisions in the transport sector and strengthened the EP's role in the co-decision process, the Treaty of Nice did not change any articles concerning transport policy. In September 2001, the Commission released its 'White Paper on transport policy: European Transport Policy for 2010: Time to Decide' (European Commission, 2001) which emphasised the integrated approach towards transport policy, with inter-modality playing an important role. The idea behind the integrated approach was to bolster the railway's share in the transport sector, which had dropped considerably, while road transport then accounted for more than 63 percent. Consequently, the emphasis was placed on road pricing for freight and especially heavy goods vehicles, which was considered the way forward for redressing the balance between modes (especially road and rail). This redressed balance, in turn, is expected to contribute to resolving both the congestion and the environmental problems facing transport. The 2001 White Paper has carried the ball deep into the state-led approach of transport policy which, however, has been relaxed recently by the mid-term review of the Commission's 2001 White Paper (2006; Kernohan, 2005).

#### *Road*

For road transport, a decision was made concerning a genuine European electronic road toll service. The toll is predicted to guarantee interoperability of road toll systems in the internal market, and also contribute to the development of infrastructure charging policies on a European scale. By 2009, at the latest, road cabotage will be opened with respect to all new member states.

Table 3.3.3: Mode-specific developments in Common transport policy (CTP) 1993-2001.

	Rail	Road	Air	Maritime	Inland waterways
<b>III. Enlarged set of objectives (1993-2001)</b>	With the establishment of the Single Market in 1993, the Commission launches an integrated approach of 'sustainable mobility for the Community as a whole' by the 1992 White Paper, The Future Development of the Common Transport Policy.				
	<p><b>Directive 95/18 on the licensing of railway undertakings</b></p> <p>Directive 95/19 on the allocation of infrastructure and charging for its use</p> <p><b>Technical harmonization:</b></p> <p>Directive 96/49 applies United National Economic Committee for Europe (UNECE) rules on transport of dangerous goods by rail, amended by Directive 2000/62.</p> <p>Directive 96/48 provides for interoperability of high-speed railways.</p>	<p><b>regulation of market access</b></p> <p>Directive 96/26 (amended by Directive 98/26) grants unrestricted access under harmonized conditions, including professional competence and financial standing.</p> <p><b>Harmonization of operating conditions in road passenger transport:</b></p> <p>Directive 99/37 harmonizes form and content of vehicle registration certificates.</p>	<p><b>Economic liberalization:</b></p> <p>Regulation 95/93 regulates airport slot allocation to encourage market entry.</p> <p>Directive 96/67 opens ground handling services to competition.</p> <p><b>Social and economic harmonization:</b></p> <p>Regulation 2027/97 implements provisions of revised Warsaw Convention, leading to Community membership alongside member states.</p>	<p><b>Grounding of Braer and Aegean Sea leads to:</b></p> <p>A common policy on safe seas, COM(93)66.</p> <p>Directive 94/57 sets standards for ships inspection and survey organizations.</p> <p>Directive 94/58 based on International Convention on Standard of Training, Certification and Watchkeeping (STCW), sets standards for approval of training certificates, amended by Directive 98/35.</p> <p>Directive 2001/25 consolidates texts applying to minimum levels of seafarer training.</p> <p>Directive 95/21 on higher standards of port state control</p> <p><b>Sinking of Estonia leads to:</b></p> <p>Directive 98/18 on international safety standards for passenger vessels</p>	<p><b>Geographical extension of market access:</b></p> <p>Regulation 1356/96 extends equal access to all Community waterways.</p> <p><b>Liberalization:</b></p> <p>Directive 96/75 phases out rotation chartering by 1 January 2000.</p> <p><b>Harmonization:</b></p> <p>Directive 96/50 harmonises national conditions for a single boatmaster's certificate.</p>

Rail	Road	Air	Maritime	Inland waterways
<p>Directive 2001/16 provides for interoperability of conventional railways.</p> <p><b>Social dimension:</b> Directive 2005/47 giving a legal status to the concluded Agreement between the Community of European Railways (CER) and the European Transport Workers' Federation (ETF) on certain aspects of the working conditions of mobile workers engaged in interoperable cross-border services in the railway sector</p>	<p>Regulation 2000/115 on maximum permitted blood alcohol levels, endorsed by Council on 4/5 April 2001</p>	<p><b>Technical and safety harmonization:</b> Directive 93/65 establishes rules for procurement of some air traffic management equipment.</p> <p><b>Social dimension:</b> Directive 2000/79 concerning the European Agreement on the Organisation of Working Time of Mobile Workers in Civil Aviation concluded by AEA, ETF, ECA, ERA and IACA</p>	<p>Directive 98/25 raises standards of port state control.</p> <p>Directive 98/41 on registration of passengers</p> <p>Directive 99/35 on mandatory surveys for ro-ro ferries</p> <p><b>Pollution control:</b> Regulation 2978/94 requires port fees to be discounted for modern segregated ballast tankers.</p> <p>Directive 2000/59 on provision of and charging for port reception facilities for ship-generated waste</p> <p><b>Social dimension:</b> Council Directive 1999/63 concerning the Agreement on the organisation of working time of seafarers concluded by the ECSA and the FST</p>	

Source: ECE documents and publications; newspaper articles; interviews with policy experts in the EU institutions and Stevens (2004: 94-95; 104-105; 118-119; 130; 148-149).

### *Aviation*

To deal with the disaster of 9/11, the Council adopted Regulation 2320/2002, which establishes common *aviation* security arrangements based on ICAO and ECAC recommendations. In the air transport sector, a Regulation was adopted to safeguard European airline industries against unfair third country airline practices. The European Parliament and the Council also agreed on a package of Regulations establishing common rules of air traffic management throughout the Community, hereby, creating a single European sky.

### *Maritime*

Europe's enlarged coastline and numbers of ports means that the maritime sector is a valuable alternative to land transport as illustrated by the Commission's concept of the 'motorways of the sea' (2004). The expected growth of sea transport has already started to be absorbed through an improved EU's ports infrastructure. Where *maritime* transport is concerned, the Commission adopted a proposal for a Directive on access to the port service market. The proposal's scope was to improve the competitiveness of Community ports, to establish a legislative and regulatory framework for the provision of port services, and help reduce port congestion and environmental pollution. On the question of maritime safety, the sinking of the *Erika* in December, 1999, the *Estonia* in 2002, and the *Prestige* in November, 2002, prompted new measures in establishing European policy on maritime safety, aimed in particular at the environmental risks caused by oil tankers. The measures proposed cover, among others effects, the ban on single hull tankers, the establishment of a Community monitoring, inspection and information system for maritime traffic, and the establishment of a compensation fund for oil pollution damage.

### *Inland waterways*

In regard to *inland waterways*, the Commission approved a proposal for a Directive on harmonized river traffic information systems (RIS), which is aimed at modernizing inland waterways infrastructure (European Commission, 2004: 1-3). Whereas river transport accounted for only 3% of overall freight transport before enlargement, in an EU-25 on certain corridors (Danube for example) their share exceeds 40%. The Commission's *Naiades* program sets out an action plan for further promoting river transport (2006).

### *Railway*

Whereas the aforementioned legislation for the four sub-sectors of transport has harmonized the sectors, the *railway* sector was to see a couple of liberalizing Directives in 2001 (first railway package on freight liberalization). Another big step towards the integration of the rail transport market was taken in April, 2004 with the adoption of the second railway package. This package intended to ensure a high standard of operational safety on the railways, and to remove obstacles to cross-border services, with a complete liberalization of the European market for rail freight set for January 2007 (Euro-

pean Commission, 2003). The legal framework for rail freight transport will be completed by 2007. At the end of 2004, then, the Commission proposed further instruments with its third railway package. The third railway package will also open international passenger transport. The proposal attempts to influence three issues: first, opening up international passenger transport services to greater competition, second, ensuring that passengers' rights are respected more effectively, and third, ensuring better recognition of the professional qualifications of train drivers and crews performing safety-related tasks. The safety issue, in particular, attracted attention after the fatal South-hall accident (1997), the Hatfield crash (2000), and the Potters Bar crash (2002) in the UK, the Enschede ICE crash (1998) in Germany, and the Paris-Vienna train inferno (2002), which claimed the lives of numerous people.

### 3.5 RESULTS

In the 1957 Treaty of Rome, which established the European Economic Community, the creation of a single market for intra-Community transport was judged as one of the necessary conditions for achieving the 'four freedoms.' Articles 74-84 of the Treaty of Rome (Appendix) form the legal basis of the Common transport policy.

The study identifies four general phases in the development of transport policy from 1957 to 2006: (a) deadlock (1957-84), (b) watershed (1985-1991), (c) new integrated approach (1992-2000), and (d) consolidation (2001-2006). Although 1992 was the completion date of the internal market for transport it was very much the *starting date*. Until the early-1990s, the EU did not have a comprehensive approach towards transport policy. Despite the Treaty of Rome's attention to its importance, the transport sector was one of the great failures of the single market. For example, little had been done to deal with problems such as an airline industry split along national lines, time-consuming cross-border checks on trucks, national systems of unconnected motorways, air traffic control systems using 20 different operating systems, or 70 computer programming languages. Transport policy is relatively recent EU policy area despite its mentioning in the Treaty of Rome.

From a transport sub-sector specific perspective, the integration process has been very *complex* too. This analysis demonstrates that even a discussion about a comprehensive EU transport policy is difficult because of its complexity. Five different modes of transport have undergone varying developments. The process is *gradual* and *uneven* with respect to advancements. In the road sector, the first liberalizing measures were put forward in the early 1970s. The maritime and air sectors were liberalized in the late 1980s. The first railway packages came in the 1990s. Every mode of transport is de-regulated and regulated by different packages, and these packages were adopted unevenly. The first railway directives were not adopted before mid-1990s, road legislation started in the 1970s.

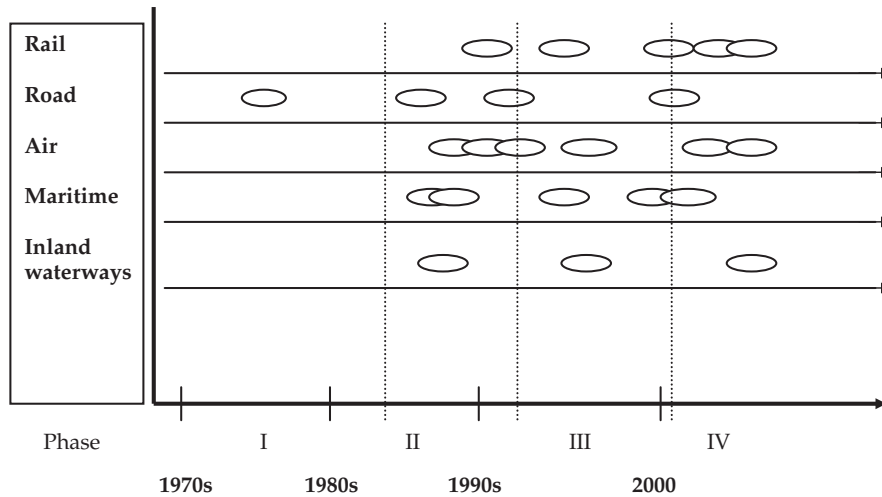
Table 3.3.4: Mode-specific developments in Common transport policy (CTP) 2001-2006.

	Rail	Road	Air	Maritime	Inland waterways
<b>IV. Consolidation (2001-2006)</b>	White Paper, <i>European Transport Policy for 2010: Time to decide</i> , which resonates deeply inside the state-led ideology, and mid-term review of the Commission's 2001 White Paper (2006).				
	<p><b>First rail freight liberalization package (2001):</b>            Directive 2001/12 grants freight operators access to Trans European Rail Freight Network by 2003, whole network from 2008.</p> <p>Directive 2001/13 (amending 95/18) establishes common rules for railway licensing</p> <p>Dir 2001/14 (replacing 95/19) establishes principles to govern non-discriminatory allocation of capacity, charging for infrastructure use, and safety certification</p> <p><b>Second rail freight liberalization package:</b>            COM (2002) 21-25, proposes: access to cabotage, detailed provisions for safety certification, accident investigation, a European Railway Safety</p>	<p>A decision was taken concerning a genuine European electronic road toll service which could be established as from 2006 in order to guarantee interoperability of road toll systems in the internal market, and also to contribute to the development of infrastructure charging policies on a European scale.</p>	<p><b>Technical and safety harmonization:</b>            Regulation 1592/2002 establishes European Aviation Safety Agency.</p> <p>Council agrees to provisions for Single European Sky establishing common rules concerning air traffic management based on six lines of action: joint management of airspace, establishment of a strong Community regulator, gradual integration of civil and military management, institutional synergy between the EU and Eurocontrol, introduction of appropriate modern technology, and better coordination of human resources policy in the air traffic control sector.</p>	<p>Proposal for port services Directive, COM (2001)35</p> <p><b>Breaking up of Erika leads to:</b>            Directive 2001/106 raises standards of port state control.</p> <p>Directive 2001/105 raises standards for shipping inspection and survey organizations.</p> <p>Regulation 417/2002 phases out use of single-hull tankers.</p> <p>Regulation 1406/2002 establishes European Maritime Safety Agency.</p>	<p>The Commission approves a proposal for a Directive on harmonized river traffic information systems (RIS) aimed at modernizing inland waterways infrastructure.</p> <p>Com(2006) 6 final of 17.1.2006 on the promotion of inland waterways transport 'Naiades'.</p>

Rail	Road	Air	Maritime	Inland waterways
<p>Agency, and Community membership of Berne Convention.</p> <p>Third railway package (end of 2004 proposed):                      Ensuring that passengers' rights are respected more effectively; improving the quality of rail freight services; opening up international passenger transport services to greater competition; and ensuring better recognition of the professional qualifications of train drivers and crews performing safety-related tasks</p>		<p>Regulation 2320/2002 establishes common aviation security arrangements, based on work done in International Civil Aviation Organisation (ICAO) and Eurocontrol Navigation Domain (ECAC).</p>	<p>Com (2004) 453 final of 2.7.04 on short sea shipping</p> <p>Green Paper: Towards a future maritime policy for the Union: A European Vision for the oceans and seas (Com(2006)275 final of 7.6.06)</p>	

Source: ECE documents and publications; newspaper articles, interviews with policy experts in the EU institutions and Stevens (2004: 94-95; 104-105; 118-119; 130; 148-149).





Note: Each ellipse indicates a EU package including regulations and directives applying to the transport sub-sector in question. For further detail on the content of ellipses see Table 3.3.1-3.3.4.

Figure 3.4: Development of EU transport policy- recent, gradual, uneven, and complex.

This chapter shows that the economic integration of EU transport policy has been *recent, gradual, uneven, and complex* as a result from the interaction between member states. Important interactions include member states' approaches to transport policy, respectively, in a regularly modified institutional setting with supranational constitutionally guaranteed bodies and, also, responses to crises. Assessing the historical development of EU transport policy in general, this study shows that member states, in the mid-1980s, initially endeavoured to remove impediments to the free movement of goods and services (negative integration). But since the mid-1990s, member states are becoming more and more involved in harmonizing the relevant national policies (positive integration). More specifically, it was the member states' attitudes towards different sub-sectors of transport that shaped EU transport policy actively from the early 1990s. Each round of enlargement and each revision of the existing treaties represented a potential challenge to the institutional balance. Maastricht extended the scope of the existing treaties to include safety and infrastructure issues. The Northern enlargement did not interfere with inland waterways protagonists such as Germany, the Netherlands, Belgium and Luxembourg.

In addition, the Commission's approach towards transport policy has shifted from a more policy sub-sector approach (modal approach) in the 1980s – working to achieve equal competitive conditions within each mode – towards an integrated approach demanding a greater equality of competitive conditions between the different transport modes.

Table 3.4: EU transport policy: Four phases between 1957-2004.

		Member states' approaches towards transport policy	
		Liberal market approach (negative integration)	State-led approach (positive integration)
Commission approach towards EU transport policy	Modal approach	1957 – 1984  1985 – 1992  1993 – 2000	
	Integrated approach		2001 – 2004

Table 3.4 maps the 50-year history of EU transport policy, focusing on the changing key objectives and paying particular attention to the Commission's modal or integrated approach towards transport policy. In particular, the Commission's White Paper on *transport policy: European Transport Policy for 2010: Time to Decide* (European Commission, 2001) represented a clear pursuit of the integrated approach towards transport policy, with inter-modality playing an important role. Bolstering the railway's share in the transport sector, which had dropped considerably, while road transport then accounted for more than 63 percent, the ideology-driven emphasis was, then, placed on road pricing for freight and especially heavy goods vehicles, which was considered the way forward for redressing the balance between modes (especially road and rail) and carried the ball deep into the state-led approach of transport policy, which, however, has been relaxed by the recently released mid-term review of the Commission's 2001 White Paper (European Commission, 2006).

Last but not least, the study has shown that EU transport policy has been driven by crises, so to say by political answers to crises – coinciding with the Commission's commencing shift in approach towards EU transport in the mid-1990s. Transport related accidents have affected the development of the EU transport *acquis* considerably since. Situational changes in the external environment evoked actions by the Commission (the agenda setter) in concert with the member states and the EP, the ECJ and following crises within transport-subsectors.

Table 3.5 highlights the major accidents on land, water and air for the last 15 years. While the annual statistics on alcohol induced road fatalities (European Commission, 2002) have resulted in a series of EU legislation, in the maritime sector, it was major tanker calamities that initiated new legislation.

Table 3.5: Transport related accidents in Europe.

Accidents	Road	Rail	Inland waterways	Maritime	Air
Phase III: Integrated approach (1992-2000)	Yearly figures about fatalities in car accidents	Southhall crash (1997); ICE Enschede crash (1998); Landbroke Grove collision (1999); Hatfield crash (2000)	Numerous collisions on the Rhine (Pallas & Co)	St. Ann's Head (1996); Pallas (1998); Erika (1999); Cherbourg (2000); Ievoli Sun (2000)	Brigenair (1996); Essex (1999); Concorde (2000)
Phase IV: Consolidation (2001-2005)		Puddington rail crash and Potters Bar crash (2002); Paris-Vienna train		Baltic Sea (2001); Prestige (2002)	Milan (2001); Bodensee (2002)

The sinking of the car ferry MS Estonia, for example, which, in September 1994, capsized in a heavy storm in the Baltic Sea and sunk with over 900 passengers, while less than 200 survived, lead to the adoption of four consecutive EU directives dealing with safety standards for passenger vessels, of port state control, the registration of passengers on ferries and the mandatory surveys for ro-ro ferries in particular.<sup>16</sup> Other major fatal incidents in the maritime sector followed with Erika in 1999 and Prestige in 2002.

Furthermore, the Paris-Vienna train inferno in 2002, where a fire swept through on of the sleeping cars of Paris to Vienna killing twelve passengers, and a numerous other fatal train accidents since the mid-1990s on British and German soil lead to the adoption of the second railway package including, among others, detailed provisions for safety certification, and accident investigation.

In the aviation sector, a plane crash over the lake *Bodensee* in Summer 2002 underscored the necessity for additions to a common aviation security arrangements and better coordination of human resources policy in the air traffic control sector. In the night from 1 July to 2 July 2002, an aircraft of Bashkir Airlines and a freight Boeing-757 collided at a height of 11,000 m. The Russian airliner was carrying mainly children who were going on holiday in Spain, but then perished over the lake *Bodensee*. After investigations, the reason was verbal and computer instructions from Swiss air traffic controllers to the Russian crew which put the planes on a deadly new collision course. Also, the reasons for the 2001 Milan Linate plane collision between a SAS aircraft and a business jet on the runway killing 118 people had been traced back to the defective behavior by air traffic controllers who were, later on, charged with

16 Directives 98/18/EC, 98/25/EC, 98/41/EC, 99/35/EC.

manslaughter. The SAS aircraft had crashed into a baggage-handling building when it veered off the runway after hitting the Cessna aircraft, which had crossed its path. Investigators named poor visibility and human error the causes of the accident. But others claimed that the out of service ground radar was liable. The EU adopted regulation 552/2004 on the interoperability of European air traffic management network in 2004 and discuss a Community air traffic controller license (ATCO license) based on the Commission's proposal from 12 July 2004.

In the following, these findings will further guide the analysis of the study more general and the theoretical argument in particular which will be the focus of the next chapter.

