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## Elusive Europeanisation: Liberalising road haulage in the European Union

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# **Gemeinschaftsgüter: Recht, Politik und Ökonomie**

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Bonn  
2000/11

Elusive Europeanisation  
- Liberalising Road Haulage in the European Union -

von  
Dieter Kerwer und Michael Teutsch



## **Elusive Europeanisation**

- Liberalising Road Haulage in the European Union -

Dieter Kerwer und Michael Teutsch

June 2000

## Elusive Europeanisation<sup>\*</sup>

- Liberalising Road Haulage in the European Union -

### Abstract

Having established itself as a robust level of governance, the European Union now potentially affects its member states in more ways than ever before. Road haulage policy is an area in which a strong impact of European Union policy-making can be expected. Liberalisation at the European level contradicts widespread interventionist transport policy traditions of the member states. In this article we ask how France, Germany, and Italy, three countries with an interventionist transport policy tradition, are affected by European liberalisation. We find that all of the three countries have abandoned their policy traditions. However, domestic factors were more important than European factors in bringing about this change. European influence did not severely curtail national policy-making autonomy. In transport policy, Europeanisation is elusive because national institutional intermediation largely muffled the impact of European policy-making

### Introduction

European integration research is currently facing a new challenge. The traditional focus on the development towards an 'ever closer union' is no longer justified. The initial prospect of a firmly established European level of governance is already a reality. This new situation coincides with crisis rhetoric regarding the nation state as an organisational form of democratic and effective political decision-making. European integration research therefore is starting to investigate the consequences of integration for the European nation-states (Marks et al. 1996; Hix 1998; Scharpf 1999; Boerzel 1999; Marcussen et al. 1999). The question is what impact the unique experiment of regional integration in Europe will have on political decision-making at the member state level. There is as yet no clear understanding of whether, and to what extent national policy traditions and styles are called into question or if an outright loss of sovereignty or autonomy follows from being a member of the European Union.

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At present, research on the dynamics and consequences of *Europeanisation* (Olsen 1996) is guided by two complementary hypotheses. The first is that the European Union's influence has indeed become significant and pervasive. "...[T]he progressive emergence of a bundle of common norms of action, the evolution of which escapes the control of any particular member state and yet decisively influences the behaviour of public policy actors... creates a permanent challenge to national political systems, which are forced to adapt to a normative and strategic environment that they have as yet only partially mastered." (Mény et al. 1996: 8) This Europeanisation pressure has two sources. European law has a strong impact on the member states because of the mechanism of judicial review (Weiler 1991). In particular the right of any affected party to challenge deficient implementation of EU law before any national administrative court has strengthened its impact. Another powerful source of change is regulatory competition unleashed by market integration (Woolcock 1996). The Single Market has increased exit options for firms from jurisdictions they dislike thus constraining the available policy choices. Hence judicial review and regulatory competition in the European Union exert considerable coercive pressure on member states.

The second hypothesis guiding Europeanisation research is that the consequences of the pressure exerted by the European Union differ across member states. The mediation of the external impact by national institutions is emphasised: "EC action takes place in a physical landscape of fifteen member states characterised by widely different histories, traditions, cultures, constitutional arrangements and administrative systems... [N]ational policy preferences were affected by EC action to different degrees, because the prevailing industrial policy mix varied greatly between countries" (Menon and Hayward 1996: 275). Stressing the national variance of Europeanisation requires an institutionalist research perspective (e.g. Radaelli 1997, Harmsen 1999).

The following study on road haulage policy in Europe is a contribution to the emerging research on Europeanisation. We examine the impact of the European Union's effort to create a Single Market for road haulage services on national policy traditions. Assuming that the European policy did make a difference on national policy-making, we ask: how was the European impact mediated by national policy traditions? Identifying the factors which drive policy development at the European and at the national level contributes to an understanding of the dynamics of Europeanisation. Establishing the relative importance of European and national factors contributes to a better understanding of the remaining degree of national autonomy.

The case of road haulage policy is particularly suitable for the study of Europeanisation. Of the many factors which usually influence policy development, some are conspicuously absent, giving the case of road haulage a quasi-experimental character for Europeanisation research. The sector has not been transformed by radical technological change. Furthermore, due to the nature of the service, road haulage is affected much more by European than by global competition. In the case of road haulage the only set of factors

which influence policy development besides European policy is the national policy tradition. In order to be better able to identify the national mediating factors, we chose a comparative research design. Our cases are France, Germany, and Italy. Since these countries all have a transport policy legacy which runs counter to the European liberalisation effort, a potential European impact will be visible in each case.

The argument will be presented in the following way. In the first section, the status quo ante will be presented. A short introduction to road haulage policy is followed by an analysis of the national policy traditions in their respective institutional settings in France, Germany, and Italy. In the second section, the European Union's effort to create a Single Market for road haulage services is presented. In the third section, the impact of this effort on the national policy traditions in France, Germany, and Italy is charted. Our analysis points to a predominance of national factors promoting the transition to liberalisation and finds no convergence towards a single European transport policy model. We therefore conclude that in the case of transport the impact of the European Union was much weaker than we expected.

## **Road haulage policy in Europe**

Throughout most of the post-war period transport policy in Europe was predominantly based on the belief that the transport sector is afflicted by market failures. In order to prevent 'cut-throat competition' or to provide equal access to transport services at a reasonable price throughout the national territory, states intervened heavily in transport markets (Button 1993; van Suntum 1986; Del Viscovo 1990). This was also true for the road haulage sector. With variations in zeal and success, administrations throughout Europe tried to influence the market mechanism by controlling demand and supply. Licences for vehicles were introduced to limit the amount of transport capacity and tariffs set the price for transport services. This *quantitative market regulation* was supplemented by *qualitative market regulation*, which required hauliers to demonstrate, among other things, that they had the professional and financial capacity to provide transport services.

In the road haulage sector, the efforts to overcome market failures by quantitative regulation more often than not led to regulatory failure. The quantitative control of transport supply gave rise to a black market in transport licences. Price regulation by tariff systems could not deal adequately with the complexity of road transport operations and was therefore often ignored by hauliers. The strength of these symptoms of state failure varied from one country to another but they represented the inevitable side effects of regulatory ambition everywhere. The two basic answers to this problem have been termed the 'Continental European' and the 'Anglo-Saxon Approach' to transport policy (Button 1992: 35). On the continent, incremental problem solving dominated. The basic building blocks of quantitative market regulation were used to build up regulatory regimes of considerable complexity and variation by distinguishing between different types of road

haulage markets (for example according to the distance of the transport operation) and by applying different forms of licences, tariffs, and qualitative access criteria to them. Great Britain on the other hand chose to abandon quantitative market regulation in road haulage altogether. By deciding to rely on qualitative market regulation it established the liberal Anglo-Saxon policy approach in Europe.

Since the 1980s the dominance of the Continental European approach to transport policy has gradually come to an end. Virtually every European country has stopped using quantitative market regulation, the hallmark of an interventionist policy. This development in road haulage has mirrored a general trend towards liberalisation and a more sceptical attitude towards the problem-solving capacity of the state. We do not wish to discuss here why liberalisation and privatisation have become so popular. Instead, we merely want to establish the factors responsible for overcoming the well-established national policy traditions in Continental Europe. In particular, we seek to reveal the relative importance of national and European factors in promoting this shift. To what extent is road haulage liberalisation a national choice? And to what extent can it be attributed to constraints established by the European Union? We start by examining the policy traditions in each country and the way they are influenced by national factors.

## **National road haulage policies**

In the following we chart a decade of transport policy in France, Germany, and Italy and, in so doing, assess the relative weighting of national factors. Fortunately, the range of potential national factors is limited. As we focus on countries with an interventionist transport policy tradition, the basic constellation of interests is the same in each case. Efforts to promote liberalisation inevitably encounter the resistance of haulier associations which were hitherto protected and are afraid of increasing competition, declining standards of safety and deteriorating working conditions. Furthermore, by assuming a general trend towards liberalisation, government preferences converge towards a more fundamental departure from the Continental European model. For this reason a predominantly structural account of national policy developments is mostly adequate for highlighting the factors which account for the different national developments. The neo-corporatist and policy network literatures have emphasised that national policy developments are embedded in sectoral governance structures (for example Rhodes 1990; Hollingsworth et al. 1994; Mayntz and Scharpf 1995). The conclusions of this research are that the dynamics of decision-making can be linked to the pattern of interaction between public and private actors.

Diagram 1: A typology of governance structures\*

		<i>action capacity of the state</i>	
		high	low
<i>action capacity of society</i>	high	corporatism	clientelism
	low	etatism	market

In the following sections we show how different governance structures account for the national policy developments in the cases of France, Germany and Italy.

### *France*

By comparison with most other European states France abolished its interventionist administration of the road haulage sector at a very early stage. In 1986 the licences required by road haulage enterprises for their vehicles were replaced by authorisations issued without any limits on transport capacity or period of validity. In the 1980s the number of authorisations increased only slowly, so as to gradually phase in liberalisation. The rapid increase in authorisations in the 1990s (from about 60.700 in 1990 to 86.700 in 1994) shows that this cautious approach has been abandoned and that no more quantitative restrictions apply (Bernadet 1997: 97). In 1989 the compulsory tariffs for road haulage services, which had been undermined since the 1970s by the growing number of exemptions, were replaced by voluntary reference tariffs. Thus, by the end of the 1980s the two major pillars of the administration of the road haulage sector had been dismantled and replaced by market co-ordination.

French road haulage reform confirms the view that France should be categorised under the general heading of an *etatist* state. State dominance and adversarial relations with private interest groups shaped the dynamics and the content of the reform. The liberalisation of road haulage in the 1980s shows the capacity of the French state for firm action vis-à-vis

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\* Adapted from: Mayntz/Scharpf (1995: 25).



sectoral interests. The reform was the administration's brainchild. Several official reports (Guillaumat, 1978; Commissariat Général au Plan 1983) acknowledged the frequently delivered verdict of economists that the traditional policy had failed, and urged reform. Party politics did not influence the reform. Neither did interest groups. Although a forum for regular consultation did exist, haulier associations had no initial influence on the course of the reform at all. Fragmented as they were, no common position on the reform proposal developed. They were not encouraged to do so either, because of the administration's dislike of their orientation towards short term self-interest. This constellation explains France's radical departure from the Continental European policy tradition in 1986. With no need to compromise, the administration was able to implement its original plan (Douillet and Lehmkuhl 2000: 204-209).

The strength of an *etatist* sectoral governance structure is also its weakness. In the absence of strong ties, there is a great deal of autonomy in policy making. But implementation is jeopardised if consultation does not take place with the affected parties. This state weakness was revealed in France in the 1990s. The recently unified hauliers associations and the trade unions organised large-scale strikes in 1992, 1996, and 1997, forcing the government to consider re-regulating the sector. The government reacted by setting up a committee consisting of transport economists and representatives of the administration, the trade unions, and the haulier associations. It concluded that the 1986 reform with its focus on liberalisation should be complemented by a new set of rules (Commissariat Général au Plan 1993). The protests, as well as the work of this commission, fostered the emergence of a new emphasis on social regulation. This indirectly also favoured the ascendancy of trade unions, which had hitherto been very weak in the haulage sector. They now became more visible as political actors and were able to articulate their concerns about working conditions, in particular about the time spent on work. Their activity was accompanied by a rise in union membership, a trend that was contrary to that in other sectors. The trade unions' actions forced the government to negotiate. Initially the protest was mainly motivated by salary questions. In the end they led to a new involvement of the state in the road haulage sector. First, market access regulation, which had been liberalised by abolishing licences limiting capacity, was reinforced by new qualitative criteria for admission to the road haulage profession. A higher level of professional training and more capital is now required for start-ups. Second, as a substitute for tariffs, a minimum price for road haulage services is now legally enforced. Fines have been introduced for paying subcontractors below-cost price and for dumping. Contracts now have to be concluded in written form only, to help uncover fraud. Third, since 1996, financial incentives have been provided for small hauliers to merge or to close business. Finally, ambitious social regulation has been introduced in order to improve hauliers' salaries and the payment of the whole time spent on duty, not only the driving hours (Douillet and Lehmkuhl 2000: 189-190, 209-211). These major decisions in road haulage policy show a strong element of continuity with the past interventionist philosophy. Although there is no doubt that re-regulation has not led to a reactionary return to the past administration of the road haulage

sector, nevertheless a range of policy instruments have been introduced which allow market forces to be corrected. Market access and market process are still regulated, although to a lesser degree than in the past. And as the more recent introduction of subsidies and of generous social provisions shows, the transformation of the road haulage sector in France is not left to market pressures but is closely accompanied by the state. The ensuing re-regulation has not been restricted to mitigating negative externalities of the market. It provides the French administration with a new set of rules which allow considerable intervention in markets. Thus it proved possible, even in a liberalised European market, to reconstruct the former policy model.

### *Germany*

In Germany the transport sector was regulated in a corporatist style.<sup>1</sup> Transport associations co-operated with the Ministry of Transport and a special regulatory agency in the administration of the sector and the setting of rules and standards. They were also closely involved in tariff-setting and enforcement and, moreover, they continually and successfully lobbied the transport committee of the federal parliament. Unlike their French counterparts they were accepted as the primary partner in transport affairs. This exclusive relationship proved to be an impenetrable cartel for other interests such as the industrial users of transport and their advocate, the Ministry of Economics. Sectoral corporatism largely explains the longer inertia of transport policy in Germany compared with, for example, France. It stabilised the traditional Continental European approach to transport policy to which the state and the interest groups had subscribed. In fact, industry's call for more flexibility and lower prices went unheard. The Ministry of Economics supported these demands, but as its role was formally restricted to that of co-jurisdiction it only managed to prevent further intensification of public interventionism (see e.g. Klenke 1995: 21, 79).

Sectoral corporatism in transport also defined the conditions under which reform was possible. During the 1980s traditional regulation slowly lost ground to a more liberal approach, especially among transport economists, but increasingly also among high-ranking civil servants of the Ministry of Transport (Sandhäger 1987). The two major elements characterising the interventionist nature of the German road haulage regime were finally abolished in the 1990s. Quantitative restrictions on licences for domestic road transport first became insignificant in practical terms following the simplification of the system in 1991 and the high number of licences issued in the East German regions. They were eventually lifted so as to be on a parallel level with complete European liberalisation as of 1998. Tariffs were abolished at the beginning of 1994.

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<sup>1</sup> For a comparative study of the evolution of corporatist governance structures in the German and Dutch road transport sectors under the influence of Europeanisation see Lehmkuhl 1999.

Unlike in France and Italy, the shift towards liberalisation in Germany was not called into question by subsequent policy developments. Re-regulation did not modify this essential shift towards the market. The existing qualitative market access requirements were only slightly raised to match those of the European level, without creating an entry barrier which would have had an effect similar to quantitative restrictions. The more interventionist 'flexible capacity control' proposed by the major German haulier association (BDF 1995) was not acceptable (DVZ 1997a, 1997b). The general level of taxation was harmonised along European lines (Mückenhausen 1994), but no subsidy scheme to facilitate sectoral modernisation or mitigate competitive pressures was introduced (BMV 1995). Finally, the change in the dominant regulatory approach in Germany can also be seen in the area of environmental protection. Public policy-makers recognise the importance of this issue (Enquete-Kommission 1994) but they are primarily oriented towards solutions which are consistent with a liberal approach. By setting technical standards or granting tax relief for low emission vehicles, they treat the environmental aspects of transport as a topic separate from market regulation.

Sectoral corporatism also contributes to an understanding of the dynamics of re-regulation in Germany. Once the new liberalisation stance of the government was accepted, implementation passed off fairly smoothly (BMV 1995). Liberalisation was phased in gradually without provoking large scale strikes as in France or in Italy. The interest groups decided not to jeopardise their good relationship with the state by fighting a lost cause over economic regulation. They preferred instead to put it to new uses. They now try to contain the threat of rising costs which result from road pricing based on the environmental considerations of environmentalists, the railways, and the European Commission (Commission 1995; Teutsch 1998; Hey 1998). This partial shift in the interest groups' focus accounts for sustained liberalisation even under corporatist sectoral governance.

However, the advent of the reform itself cannot be explained without reference to the European influence. In the next chapter, it will be shown that in the case of Germany European transport liberalisation was in fact vital for overcoming the stability of sectoral corporatism and for the switch to a liberal transport policy approach to be achieved.

### *Italy*

Just as in the cases of France and Germany, Italian road haulage policy was close to the Continental European model. Compared with the former cases, the administration of the sector commenced more cautiously but was continually reinforced even after France and Germany had already started liberalising. Throughout most of the period analysed, a clientelistic governance structure prevailed in the Italian transport sector. First, the Italian state has little autonomy from private interests. Parliament largely fell prey to the onslaught of industry lobbyists. On no occasion did it put forward a reform bill that would have fundamentally changed the rules for the sector (Interview Camera dei Deputati April 1996). On the contrary, it acquiesced in the re-enforcement of protectionist regulation in

1993 and in the frequent renewals of road haulage subsidies. Second, the influence of the small haulier associations increased with the growing prominence of an important decision-making body, the Central Committee of the National Register of Professional Hauliers. As they had a majority of seats, the small hauliers were able to adjust tariffs according to their own interests: economic reasoning beyond the confines of the sector did not take place. Civil servants on the Committee frequently complained that they could exert no influence whatsoever. The Minister of Transport, who formally retains the power of rate-setting, routinely adopted the agreement without any interference by a ministerial decree. The Italian state's capacity for action was further handicapped by the poor condition of its administration. Mainly staffed with lawyers and following a very legalistic approach, it was unlikely to be the source of reform ideas (Lewanski 1997). Functional equivalents such as the Office of Transport Planning were abolished only years after they were founded (Fontanella 1993).

The clientelistic structure of the state-industry relationship accounts for the peculiar course of Italian transport policy in the last decade (Kerwer 1999: 190-194). Since the beginning of the 1980s, the formerly unified haulier interest groups have gone through a period of secession with two different coalitions opposing each other. One is the *Coordinamento*, which represents the large haulier firms, and the other, the *Unatras*, represents small firms. The former cautiously welcomed EU liberalisation as a new business opportunity and pressed for the liberalisation of the domestic market as well. Small firms, however, were opposed to this policy, fearing that their antiquated family enterprises, which were already under threat from sharp domestic competition, would not be able to resist further competitive pressure by EU and national deregulation. Until about 1996, the small hauliers were far more powerful than the large enterprises. They continually blackmailed the government by calling large strikes which threatened to bring down the whole economy. In this way the small hauliers obtained an enforcement of protectionist market regulation on several occasions and furthermore the introduction of subsidies to aid the sector. The voice of the large hauliers was eclipsed by the blackmailing strategy of the small hauliers.

This type of state-industry relationship has changed recently (Kerwer 1999: 219-21). *Unatras*, the coalition of the small hauliers has broken down. Some of the associations have joined a new coalition which plays an active part in the reform process. This tentative move towards a more corporatist arrangement is a surprise to observers and the public at large. Several reasons conspired to bring about this change. First of all, the political hegemony of UNATRAS was increasingly resented by the other haulier associations. After the victory of the left in the 1997 general election, left-leaning haulier associations such as FITA refused to continue their policy of outright confrontation with the government. This change in state-industry relations considerably enhanced the chances of a long term policy. Nevertheless, some of the small hauliers' made their participation in the reform process conditional on the offer of some form of compensation for the loss of the protectionist regulation. This explains the government's strong commitment to the subsidy scheme created for the benefit of Italian hauliers in 1990.

Given that the Continental European policy was pursued ever more rigorously in spite of opposite trends in the EU, it came as a considerable surprise when Italy finally decided to abandon its protectionist course in 1998 and started to liberalise the road haulage sector. In particular, the Italian Government's decision to liberalise market access (Il Sole 24 Ore, 7.02.1998, p.12) may be regarded as a watershed in Italian transport policy. With immediate effect all licence holders were able to double their transport capacity, if they so wished. Quantitative market access restrictions were completely abolished from the 1<sup>st</sup> of January 2000. This development is in stark contrast to the previous policy of issuing no new licences at all. The fate of the other major aspect of the previous policy model, the tariff system, is presently still being decided. Although as yet not complete, these developments have to be regarded as a significant departure from the past policy model.

### ***National policy trajectories in comparison***

The analysis of the development of national transport policy in France, Germany, and Italy reveals significant differences. In each case, quantitative transport regulation was abolished. However, different forms of re-regulation were adopted. Furthermore, these were shown to be due to different governing structures. In France, early deregulation was later supplemented by new social regulation, together with the resurrection of some degree of market control. This pattern can be attributed to an etatist sectoral governance leading to an abrupt and early liberalisation process dominated by the administrative elite, which in turn triggered the subsequent resistance of road haulage associations. In Germany, sectoral corporatism was at first an obstacle to liberalisation. However, once liberalisation policy had been decided, it was accepted with much less resistance. Hauliers preferred not to break their established links with the administration hoping that in future they could still be useful for reducing the burden of new environmental regulation. Therefore, compensation by social regulation or subsidies was not necessary. Finally, clientelistic structures in Italy proved to be a bulwark against the greater European trend. In fact, for a long time it seemed that Italy would not depart from the Continental European approach. It is not surprising that the first step towards liberalisation was accompanied by partial compensation for the road haulage industry in the form of subsidies. We may thus conclude that the general trend towards liberalisation was indeed shaped by the national institutional context, and that this mediation resulted in significant differences in outcome. But how does the European Union come into the picture?

### **EU transport policy**

From the start the European Union had identified a Common Market for transport services as a top priority goal. Transport without frontiers seemed an essential prerequisite for the free movement of labour and goods. Still, for most of the post-war period little progress was made towards this goal. Overcoming the arrangement of insulated national markets

proved to be politically difficult. The logical solution of replacing all the different national rules with a single set of Community rules for market access and market processes was unsuccessful. This strategy of harmonisation of rules failed because of the diverging interests of the member states. The large countries feared they would be an attractive market for the competitive road haulage industries of the Benelux countries. Furthermore, political differences about the means and ends of transport policy split the European member states. Countries following the Continental European approach (among others France, Germany, and Italy) opposed transport liberalisation, seeing it as a threat to the vital infrastructure for the economy and society at large (Erdmenger 1983; degli Abbati 1987). The clash of economic interests and transport policy approaches is one reason why no agreement could be reached on how to set up a Common Transport Policy. A second reason is that a Common Market for road haulage was not a fundamental prerequisite for trade in the Community. Regulatory fragmentation did not rule out road haulage transport between member states of the Community at all. Border-crossing transport was administered by bilateral agreements between the member states instead. Thus, the issue of EU road haulage policy was not about enabling cross border transport in principle, but about getting rid of the cumbersome and anti-competitive system of bilateral agreements. This reduced the incentive for finding a solution. Thus, given the clash of economic interests and transport policy approaches, and the fact that the fragmented regulatory status quo did not prevent lorries from crossing Community borders, it is no surprise that it proved impossible to agree on a common regime that would be valid throughout Europe.

After more than four decades the Community transport policy has now achieved one of its major goals: road haulage firms registered in a member state of the European Union can operate without restriction throughout the entire Union. As a first step, all restrictions to cross-border transport were abolished.<sup>2</sup> As a subsequent step, domestic markets were opened to foreign hauliers.<sup>3</sup> This so-called 'liberalisation of *cabotage*', i.e. abolishing the exclusion of foreign hauliers from national markets, was a real novelty in Europe. An important prerequisite for overcoming the long transport policy deadlock was the Single Market Programme and the Single European Act. These milestones in the process of European integration facilitated decision-making in two ways. First, the de facto veto powers of the member states were abolished and replaced by a more frequent use of qualified majority voting in the Council. What was even more important was a new regulatory strategy for the Community. Harmonisation was replaced by the strategy of mutual recognition (Alter and Meunier-Aitsahalia 1994). The Community no longer attempted to impose a coherent regulatory regime on all the member states but concentrated on opening national markets. Any national rules that did not contradict

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<sup>2</sup> Council Regulation 1841/88, OJ L 163 of 30 June 1988, p. 1; Council Regulation 881/92 of 26 March 92, OJ L 95 of 9 April 92, p. 1.

<sup>3</sup> Council Regulation 3118/93, OJ L 279, 12 November 93, p. 1.

Community market liberalisation were not called into question by Community law, while the quest for prior harmonisation could no longer be used to block the liberalisation of markets. The proximate cause for liberalisation was the 'inactivity verdict' by the European Court of Justice of May 1985.<sup>4</sup> It ruled that the Council had violated the Treaty by not establishing rules on the freedom to provide road haulage services in the EU and threatened to extend the general freedom to provide services to the sector of road haulage in case of continued inactivity.

In May 1985 the European Court of Justice published its when it ruled that the Council Since the new Community regulatory strategy abolished ambitious harmonisation projects, the consequences for the member states resulting from the liberalisation of the market for road haulage services in the European Union seem to be modest. Most importantly, member states are forced to abolish rules that exclude foreign hauliers from their domestic markets or set quantitative restrictions. It is important to note that once these rules are abolished, implementation is complete. Legally, member states may still apply quantitative market access regulation and price regulation in their domestic markets. If, for example, a tariff system is in place, it will also apply to any foreign hauliers operating in that specific territory.<sup>5</sup>

The second type of consequence of the Community's road haulage policy is less clear than the legal obligations to implement new rules. Abolishing market access restrictions for foreigners jeopardises other components of traditional transport regulation as well. If market access for foreigners is free, any quantitative access limit is likely to hurt national hauliers only. Foreigners could expand their business as they wish, nationals could not. Furthermore, national tariffs are also being called into question. Since forcing foreign hauliers to apply them is even more difficult than is the case with domestic hauliers, there is a risk of them turning into a discriminating device as well. Therefore, the liberalisation of cabotage *de facto* calls into question the restrictive forms of quantitative market regulation at the national level (Commission 1997: 41-43).<sup>6</sup>

## **The European impact on national reforms**

European transport liberalisation was implemented smoothly. Presently, Community road hauliers can indeed operate freely throughout the entire European Union. An increasing number of hauliers is taking advantage of this opportunity by offering their services in the domestic markets of other member states (Commission 1997: 42). Thus the pressure on abolishing national quantitative market regulation is increasing. This is no problem for

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<sup>4</sup> Case C-13/83 (Parliament/Council), ECJ [1985], 1513.

<sup>5</sup> Council Regulation 3118/93, Art. 6, for commentary see Gronemeyer (1994: 271).

<sup>6</sup> This indirect effect is an aspect of many Community liberalisation policies. In the legal literature it is discussed under the label of 'reverse discrimination' (see e.g. Graser 1998).

countries such as the UK that abolished quantitative restrictions long ago. But for the countries in our sample, it is a reasonable presumption that European liberalisation results in adaptation pressure. Since quantitative market regulation has been the cornerstone of the regulatory approach for France, Germany, and Italy, the European challenge could be quite substantial, possibly resulting in a convergence with the liberal approach to transport policy. An analysis of the actual effects of European transport liberalisation shows however that this challenge is not quite so straightforward. In fact, the form and degree of impact of European transport policy on the national level shows surprising variations from one country to another, leading to the conclusion that it is contingent on factors at work at the national level.

### *France*

European transport regulation as such did not play an important part in France's abolition of quantitative market regulation at the national level. The decision to liberalise transport in France was taken while the EU was in the process of debating such a policy. Therefore, no economic or legal pressure from EU transport policy arose at that stage. This did not change later on. Due to the low volume of cabotage transport carried out in France, the threat of foreign competition is not considered a serious issue (Douillet and Lehmkuhl 2000: 199). Also, the EU influence on social re-regulation in France was modest. The French effort to increase social regulation coincided with the European effort to liberalise transport policy. The French effort to effectively limit the long working hours of drivers was not matched by similar policies at the European level. Nevertheless, domestic actors did invoke European liberalisation in response. For example, large haulier associations used the threat of European competition to argue against the introduction of new social regulation, whereas others favoured social re-regulation at the national level because of it (Douillet and Lehmkuhl 2000: 212-13).

All of this shows that the French policy arena was not completely isolated from European developments. However, EU road haulage policy did not bring about any fundamental change to national policies. The traditionally close link between the French administration and the European Union (Lesquesne 1993) may well have channelled liberal ideas into the French administration. But since the trend towards liberal policies was a global phenomenon as early as the 1980s, this general influence on French road haulage policy cannot easily be attributed to the EU. This is all the more so for the move towards social re-regulation witnessed during the 1990s. As this policy actually ran contrary to the pressures emanating from an EU policy which stressed competition in liberalised markets, the factors accounting for the development of this particular policy in France can only be found at the national level.



## *Germany*

In Germany, unlike in France, EU transport liberalisation clearly promoted a shift towards liberalisation. Although traditional regulation steadily lost support in the 1980s, liberalisation was effectively blocked by the well-organised haulier associations. Only by pointing to the inevitability of liberalisation at the European level could policy-entrepreneurs in the government and from interest groups representing transport users convince members of parliament and the wider policy community that it made sense to liberalise the road haulage sector. They did so by pointing out the economic adaptation pressures, and also by overplaying the obligations that would result from this European reform (Bundestag 1993: 12,806 ff.). The best example of this strategy is that road haulage tariffs were abolished on the grounds that they were incompatible with the new Community law. This decision was reached before the European Court of Justice's investigation into the matter had ended with in no objections to national tariffs.<sup>7</sup> In this instance, the possibility of playing a 'two-level game' was vital for overcoming the inertia of sectoral corporatism.<sup>8</sup> With the support of the pro-liberalisation interests at the national level, it proved possible for demands for any kind of new economic regulation such as the 'flexible capacity control' proposed by the major German haulier association to be rejected (BDF 1995).

European influence also stifled attempts to rig necessary adaptations in the national taxation system in favour of German hauliers. A pressing need to adapt to European liberalisation arose from the fact that Germany, unlike countries such as Italy or France, did not charge for motorway usage. It imposed high vehicle taxes on hauliers registered in the country instead (Commission 1997: 63). In order to remove the competitive disadvantage of this system for German hauliers faced with EU-wide competition, and in order to secure tax revenues, Germany fought hard to change its system of taxation and infrastructure financing. Its first efforts to do so were halted by the European Court of Justice because the introduction of road user charges and the contemporary reduction of national vehicle taxes was seen as a device for discriminating against foreigners. As part of the overall agreement on the liberalisation of European road transport markets Germany was finally allowed to introduce time-related charges for all road users (the 'Eurovignette') and to reduce its national vehicle taxes by 50% (Mückenhausen 1994). However, as the EU sets low minimum levels for national vehicle taxes as well as strict maximum levels for road user charges<sup>9</sup>, the overall impact of European transport policy in Germany has clearly been biased towards promoting liberalisation.

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<sup>7</sup> Case C-185/91 (Bundesanstalt für den Güterfernverkehr vs. Gebr. Reiff GmbH & Co.KG), ECJ [1993] I-5801.

<sup>8</sup> For the term 'two-level-game' and a similar example regarding Germany, see Grande (1996).

<sup>9</sup> Council Directive 93/89, OJ L 279, 12 November 1993, p. 32.

## *Italy*

For a long time European road haulage liberalisation did not promote convergence in Italy: instead it had the effect of reinforcing the domestic policy tradition. At first European liberalisation triggered protectionist measures to counter competition pressure. Since 1990 the Italian Government has been subsidising its road haulage sector by granting reductions on fuel taxes, motorway tolls, and some additional minor charges (for details see Kerwer 1999: 81-85). These subsidies were justified by the argument that Italian hauliers were at a disadvantage compared to their foreign competitors. For several years these subsidies did not seem a viable response to the European challenge. In a series of decisions the European Commission and the European Court of Justice declared these subsidies to be incompatible with the EC-Treaty and ordered the Italian government to stop them and to reverse this form of illegal state aid. But even with European opposition mounting, no shift towards liberalisation ensued. On the contrary, in a series of negotiations, the Italian administration has co-ordinated the details of a new subsidy scheme with the European Commission. The result of these efforts will be an extended subsidy scheme, which is more likely to survive the scrutiny of the European Commission.<sup>10</sup> A strong element of continuity exists since the efforts to protect the national road haulage industry from 'excessive competition' by closely administering the market will be continued by this scheme. In terms of state aid the Italian case is limited to 'defensive adaptation', since only an incremental adaptation of the formerly illegal state aid takes place.

Yet, in spite of this protectionist stand, Italy surprisingly undertook a first major step to liberalise the road haulage sector. It is difficult to assess precisely the European influence on this decision and it may best be characterised as indirect (Kerwer 1999: 216-19). The increasing business activities of foreign hauliers and the repeated condemnation of the subsidies by the European institutions, while not forcing Italy to abandon its policy-making traditions, did help to foster a climate in which the old transport policy seemed increasingly questionable. A second indirect influence may have been created by the European Monetary Union. The reforms along European lines introduced by the Prodi government have to be seen in the context of Italy's goal of being among the first members to join the club. However, it is difficult to establish a strong causal relationship between the efforts to join monetary union and the road haulage sector. In fact, continuing to subsidise the sector contradicts the Italian efforts to qualify for monetary union by reducing government spending. Even if such an influence could be established, it could not be attributed to European transport liberalisation. The major direct effect of European transport liberalisation was to provoke a defensive protectionist reaction.

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<sup>10</sup> According to European competition rules, subsidies may only be granted if they foster the restructuring of an industry or promote regional cohesion. They are considered an illegal distortion of competition if they mainly support routine operation (Bellamy/Child 1993: 926).

## **Conclusion: Europeanisation of national road haulage policies?**

This analysis of the impact of the European Union on national transport policy started with the assumption that European liberalisation would create strong adaptation pressure on the interventionist transport policy approach of France, Germany, and Italy. The empirical evidence at best only partially confirms this hypothesis. The direct impact of European transport liberalisation on the national road haulage sector is surprisingly weak. Due to the early liberalisation of the domestic market no pressure resulted from the liberalisation of road haulage in France. In Italy on the other hand, the threat of European competition at first promoted protectionism and thus had the effect of increasing the differences. Only in Germany did European liberalisation foster a shift to liberalisation at the national level. However, even here, national actors were not overwhelmed. Instead, the promoters of liberalisation exaggerated European pressure in order to bring about a decision. Nowhere did competition from foreign hauliers become so intense as to immediately provoke liberalisation. Strikingly, the European Union promoted transport liberalisation at the national level in more indirect ways. In France, the momentum of the Single Market Programme promoted liberalisation at the level of ideas rather than by the mechanism of regulatory competition. And in Italy, European monetary union was an incentive for the government to adopt European-oriented reform at the national level. In both cases this indirect influence was more important for promoting liberalisation than the direct pressure resulting from transport liberalisation itself. Thus, the impact of the European policy on the national level did not lead to similar patterns of response in the countries of our sample.

Having analysed how the national and the European factors have contributed to change in our sample of Continental European traditions, we are now in a position to assess their relative importance. Our case studies reveal that national determinants of transport policy-making were clearly more important in promoting the shift towards liberalisation than the influence of the European transport policy. In France, domestic liberalisation preceded European liberalisation. In Italy, the predominant influence of European transport policy was to reinforce the Continental European paradigm. And even in the case of Germany, where the European impact was most direct, its impact was contingent on a national political strategy. The predominance of national factors also applies to the wider area of national road haulage policy development. The European constraints on the Continental approach in the road haulage sector did not turn out to be so dramatic. In spite of European liberalisation policy makers in France increased the social protection for employees in road transport. In spite of European liberalisation Italy resorted to subsidies to shield the domestic transport sector from competition. Only in Germany does Europe seem to have produced constraints at the national level. European objections to the German project of introducing road user charges did make it more difficult for German policy makers to shift road financing to a new model. But it was ultimately introduced in a modified form in any case. Thus, Europe did not contribute to a general policy convergence but rather, it left substantial national leeway for what appeared to be meaningful political choices. The

countries in our sample did not really have much trouble in coping with the European challenge. On the contrary, the liberalisation of road haulage in Europe is a case of elusive Europeanisation.

Finally, our study of the impact of transport policy could possibly contribute to a forthcoming methodological debate on Europeanisation research. On the one hand there is the position that Europeanisation research needs to develop middle range theories by specifying causal mechanisms by which European developments exert an influence on the national level (Knill and Lehmkuhl 1999). On the other hand, the usefulness of such general mechanisms is denied for the question of Europeanisation because they cannot do justice to the complex institutional adaptation processes found at the national level. According to this latter position, Europeanisation research should be about identifying the mediation of national institutional factors by a comparative research design (Risse 1999). Our study of European transport policies confirms that it is impossible to explain the EU influence (and certainly not the national policy development) by a Europeanisation mechanism alone. For road haulage, we identified regulatory competition as the main mechanism. But the threat of foreign hauliers did not have an equal impact on national policies. In one case it triggered protectionism (Italy), in another case it triggered liberalisation (Germany), and in yet another case it did not foreclose the option of social re-regulation (France). Furthermore, regulatory competition was not the only relevant mechanism at work. Other influences resulted from the Single Market Programme in general (France), or from European competition law and European Monetary Union (Italy). However, although the impact of Europe on national transport policies could not be reduced to a single Europeanisation mechanism with equal effects in each case, middle range theories of this type are useful for Europeanisation research.<sup>11</sup> Specifying a dominant Europeanisation mechanism highlights rather than disguises the fact that the same European cause had different effects at the national level and that Europe was influential in other ways as well.

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<sup>11</sup> See Scharpf (1997, chapter 1) for the importance of middle range theories in policy research.

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