



Response to the Commission *Communication on the Common Transport Policy: Perspectives for the Future*

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1. Key Recommendations

- A) The approach to transports environmental impact must move away from one of mitigation to one based on environmental protection and improving transports economic efficiency. Only then can the strengthened commitments to environment and sustainable development in the Amsterdam Treaty be realised.
- B) Environmental protection and sustainable development should form one of the primary strategic objectives of any programme to implement the Common Transport Policy.
- C) Ensuring that there is an increase in transport economic efficiency breaking the link between transport and economic growth should be the focus for this objective.
- D) Implementing fair and efficient pricing policies across all transport modes remains a priority, as does equality for transport modes in the level of their market liberalisation and their social performance.
- E) A sustainable Common Transport Policy will have to account for some contradictory aims in the Treaty. Promotion of increased transport as a basis for single market expansion and economic growth is not consistent with sustainability. Neither is promotion of transport via increased infrastructure provision, either within the TENs or the structural or cohesion funds consistent with sustainable development.
- F) Transport project funding from all EU related sources including structural, cohesion, TACIS and PHARE funds, the EBRD and the EIB should be reviewed so that they pursue economic efficiency, access and sustainable transport objectives rather than merely increasing transport volumes.
- G) Stakeholders, including NGOs should have full and open access to the committees and expert groups that form the basis of the development and application of the Common Transport Policy.
- H) Transport quality issues should focus on questions of *access* rather than on merely the technology of mobility.
- I) The issue of subsidiarity in relation to urban transportation problems needs to be viewed as a much greater opportunity to bring the EU closer to the citizen and to forge partnerships with different authorities.
- J) Air transport policies need to be examined to ensure that the specific characteristics of this sector - strong growth and intended further liberalisation - can be brought closer to sustainable patterns of development.

2. Introduction

In December 1998 the Commission adopted a Communication on the Common Transport Policy (CTP) titled "Sustainable Mobility: Perspectives for the Future". In this Communication the Commission reviewed the performance of the Action Programme that has implemented the CTP since 1995 and presented an approach for the future of the CTP and inviting comments upon it.

This report is a response to this invitation for comment as published at the end of the Communication. In order to coherently respond to this request it is necessary to briefly overview the development of transport policy in the EU as well as recent developments to the EU legislative framework. This will provide the necessary context and background for comments to be made on the CTP.

This report therefore commences with a short outline of the background to the CTP. This is followed by an evaluation of the environmental effect of European transport, the CTP and the Action Programme since 1995. The Communication reviewing the Action Programme implementing the CTP is then reviewed. The new legal framework within which the CTP will have to develop is then outlined. This is followed by a short exploration of the conflicting aims that emerge from different Community objectives as well as how these objectives may be balanced and conflicts resolved.

The report concludes with a review of the future development of the CTP and the recommendations and conclusions of T&E.

3. Background

Since the very beginning of the EEC in 1957 transport has featured as a policy area of considerable community competence. The very transboundary nature of transport and the role it plays in facilitating Community trade led to the development of a CTP.

The four areas of the CTP defined in Article 75 of the Treaty enable the Commission to lay down :

- common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States;
- the conditions under which non resident carriers may operate transport services within a Member State;
- measures to improve transport safety;
- any other appropriate provisions.¹

¹ Article 75 paragraph 1 of the Treaty of Rome as amended by the Maastricht Treaty. In the Treaty of Amsterdam the text of this paragraph remains unaltered but the Article becomes Article 71.

For the last five years this CTP has been enacted via an Action Programme² specifically adopted by the Commission to cover the period 1995-2000. At the heart of this action programme were five strategic objectives :

- liberalising market access;
- ensuring integrated transport systems across Europe;
- ensuring fair and efficient pricing within and between transport modes;
- enhancing the social dimension;
- making sure that the rules that have been agreed are properly implemented.

The environment received little attention in the Action Programme and this is unsurprising given that there are no explicit references to environmental protection or sustainability in either Article 75 of the Treaty or the objectives of the Action Programme.

The Commission Communication on the CTP of December 1998 reviewed the performance of the Action Programme in implementing the CTP, outlined an approach for the future of the CTP and invited comments. This Communication made little attempt however to outline what impact transport has had on the environment, the effect policy has had on these environmental impacts, or the level of commitment the EU has towards the protection of the environment. T&E offers a response integrating these dimensions.

4. Environmental Effect of the Common Transport Policy

The lack of explicit environmental goals for the CTP or the Action Programme have resulted in European transport performing poorly both in terms of its current environmental impact and the trends predicted for these impacts over the medium term.

This is most evident with respect to emissions of greenhouse gases (GHG) and in particular of CO₂. Not only is transport now the largest source of CO₂ emissions, but it is also the only sector with a predicted rise in emissions of at least one fifth by 2010. This rise will occur in spite of the fact that a raft of policies, including some undertaken under the Action Programme, would have been implemented in full.³

In several areas it is not just the current impact that transport has upon Europe's environment that is of concern, but the trends for continued increases that are most worrying. The lack of any policy response in some transport sectors make such concerns even greater. Aviation for example is still given privileged treatment as an infant industry despite the mature nature of the business and its continued strong growth. The decline of more environmentally friendly transport modes such as rail continues whilst road transport and its attendant environmental problems continues to grow.

The trend of increasing environmental impact from road transport has occurred despite the large advances that have been made in the technology for new vehicles and latterly

² As outlined in the Commission Communication - the Common Transport Policy - Action Programme (COM/95/302)

³ As outlined in the Commission Communication on Transport and CO₂: Developing a Community Approach (COM 98/204).

the fuel they use. In the medium term these advances are set to improve the environmental impact of road transport, but these improvements will once again be off-set in the longer run by projected increases in the volume of road transport. In the rail sector, there has been no such dramatic improvements to the technologies used, although there are examples of incremental improvements in some rail technologies. Therefore, there is evidently scope for technological improvements to the environmental performance of rail analogous to those already achieved in road transport. The same is true for shipping, particularly short sea shipping. Some regional agreements with ferry companies on the use of catalyst after treatment and low sulphur fuel have decreased the impact of the sector, a trend that could be extended.

In urban areas, progress towards more sustainable transport patterns have also been slow with increasing car ownership and use alongside decreased public transport usage. It is true that the scope for the EU to amend this situation is limited because of the relevance of the subsidiarity principle. Nonetheless, the citizens network initiative and the support of the car free cities campaign demonstrate that it remains possible for the Commission to contribute to a more sustainable urban transport future in Europe. The Commission should use the subsidiarity principle more frequently as a tool for facilitating co-operation with other authorities. There is more scope for the citizens network approach to be built upon and subsidiarity should need not be viewed as a reason for inaction.

In other respects however, transport performance has improved. Accident rates have fallen, although the success reached by different Member States in lowering accidents varies considerably⁴. Emissions of noxious pollutants (nitrogen oxides, carbon monoxide, small particles, organic gasses), largely responsible for dangerously high levels of air pollution in European cities are set to decline in the medium term. This is mainly due to the much higher technical standards for new cars and the fuels they use.

The latest of these European standards have been the result of a collaborative programme between all the relevant services of the Commission and the oil and car industries. This Auto Oil Programme was only mentioned in the Communication as a marginal element of the Action Programme towards implementing the CTP, despite the important role that DG VII played in the programme⁵. This programme aims at reducing air pollution so that by the year 2010 levels found in cities would satisfy World Health Organisation (WHO) air quality guidelines.

The strengthening of the measures proposed by the Commission, largely as a result of the stance taken by the European Parliament, will bring the goal of clean air in cities nearer. However, an important finding of the programme was that for the locations with the worst air quality in Europe, no technical solution for new cars could deliver the clean air targeted⁶. Moreover, the decline in air pollution overall will only be temporary as the extent to which cars are used outweighs the technical improvement to cars and fuels.

⁴ Accident rates vary enormously across the EU. Thus, whilst the EU 15 figure of fatalities has fallen from 736,000 in 1970 to 418,000 deaths in 1996, the numbers killed on the roads have dramatically increased in Greece (93,000 to 207,000) Portugal (142,000 to 210,000) and Spain (420,000 to 548,000).

⁵ Annex 1 of the Communication lists the Commission initiatives where DG VII is "chef de file" and so the Auto Oil proposals are not included as the relevant "chef de file" were DG III, DG XI, and DG XVII. The only reference to the programme relates to a report for the programme on non-technical measures.

⁶ The Programme discovered that in Madrid and Athens pollution by NOx in 2010 would exceed WHO guidelines even after all technological solutions to transport were assumed to have been implemented. The

It is also true that the impact that technical regulations have had on improving the environmental performance of transport have disappointed for other reasons. The test cycle used to assess the emissions from new cars bears little relation to real world driving. Manufacturers are able to use the artificial design of the test cycle to design their cars so that they pass the test rather than produce low pollution levels on the road. The degree to which improved emission standards will actually reduce traffic pollution is therefore dependent in part upon how much of this so called “cycle-beating”⁷ will be undertaken. Whatever the scale of cycle beating, it is true that technical standards offer little in the way of a total solution to traffic pollution either in the long or the short term.

5. Current Approach to the Environmental Impact of Transport

The Action Programme implementing the CTP should address the shortcomings of other Community policies such as the near exclusive focus on technical improvements of the Auto Oil Programme. Achievement of the five objectives of the Action Programme should militate against the trends for increased car usage, thus ensuring that Community policy as a whole serves the goal of sustainable mobility. This certainly appears to be the view of the Commission given the title of their Communication on the Action Programme was “Sustainable Mobility: Perspectives for the Future”.

However, as we have seen, the performance of the transport sector is currently far from anything that may be described as sustainable. This is because the current approach is **mitigation** rather than one based on *environmental protection and improving transport’s economic efficiency*.

We have used mitigation⁸ to describe the current approach because there is no attempt to fundamentally alter transport to make it sustainable. Rather, the approach is merely to reduce the severity of the impacts of transport.

pollution from traffic, especially from older cars would make the technical improvements to new cars rather impotent (50% of NOx in Athens in 2010 was predicted to be emitted by cars registered before 1993 when catalytic converters became necessary to meet emission standards).

⁷ The “cycle” being “beaten” is the test cycle. The current test cycle used in the EU has as its most aggressive acceleration an acceleration from 0 to 50 km per hour in twenty eight seconds. The degree to which the low engine loads, unrealistic driving patterns and the set nature of the test cycle allow cycle beating was reviewed in 1998 in “Cycle Beating and the EU Test Cycle for Cars” (T&E 98/3) by Per Kågeson.

⁸ The Concise Oxford Dictionary definition of mitigate is “miti-gate / vt appease (anger etc.) ; alleviate (pain, grief); reduce severity of (punishment); moderate (heat, cold, severity, guilt, etc) .” (Concise Oxford Dictionary Seventh Edition 1982, p. 649).

European policies mitigate transports environmental impact by three broad approaches :

- **Promotion of higher quality transport.** This approach is marginal to the objectives of the Action Programme the only ones of relevance being “enhancing the social dimension” and “making sure rules which have been agreed are properly implemented”. The promotion of technical improvements (though not best available technology) has however been a consistent theme of Community policy to diminish the impacts of transport, for example the so-called Auto Oil Directives (98/69/EC and 98/70/EC) and the voluntary agreement between the Commission and ACEA on average CO₂ emissions per km from new cars. The EuroNCAP scheme⁹ has provided a similar impetus for technical improvements with respect to car safety. The expansion of the “working time directive”¹⁰ to the transport sector is also an example of progress sought under this broad approach.
- **Market based initiatives.** This encompasses two objectives of the Action Programme. The first is the promotion of fairer and/or more efficient pricing systems for transport that aim to improve the relationship between environmental performance and costs. This is envisaged to slowly internalise transport externalities, promote a reverse in the current modal shift away from road to rail, and to increase the efficiency of transport in Europe. The second objective of the Action Programme that falls under this approach is “liberalising market access”. The initiatives to first liberalise market access in the road sector and latterly the efforts to revitalise the rail sector via the same approach are examples of policy in this area. The environmental result of these policies has been mixed with increased road transport evidently having a negative environmental impact whilst it is hoped that a revitalised rail industry can mitigate these effects. However the open skies policy also advocated under this objective, has clear detrimental environmental effects¹¹. Furthermore the pace at which the liberalisation policies have been pursued has in general been far quicker than policies seeking to improve either transports environmental or its social performance.
- **“Improved” infrastructure.** This approach falls under the Action Programme objective of “ensuring integrated transport systems across Europe”. Unfortunately, thus far much of these actions have been extensions rather than improvements to Europe’s transport infrastructure. This is particularly the case for the Trans European Transport Networks (TEN-T). Despite the legal base of TEN-T being to promote the “interconnection and interoperability of national networks”¹² the results thus far have in general been greater quantity rather than increased quality of transport. This is evident in the concentration so far in TEN-T development on a small number of large-

⁹ The EuroNCAP scheme independently crash tests cars by size class and is supported by the Commission and the governments of the Netherlands, Sweden and the UK. The strong market based signals such testing produces has strongly influenced both consumer selection and more importantly, vehicle design and construction.

¹⁰ The Working Time Directive (93/104/EC) was adopted on November 23rd 1993. It contained exclusion clauses for transport workers. This has been addressed with adoption by the Commission of a package of measures including a Proposal to extend coverage of the Directive to these excluded employees on November 18th 1998.

¹¹ A study commissioned by T&E and funded by the Commission and several EU governments was undertaken by the Centre for Energy Conservation and Environmental Technology in Delft and found that the introduction of an emission charge for aviation would only reduce growth in aviation’s emissions from 300% to 200% by 2010 compared to 1990.

¹² Article 129b 2 of the Maastricht Treaty.

scale projects, the selection of which owes more to Member States political priorities than improved European transport efficiency.

In contrast to the approach of mitigation, policies that sought sustainability would be ones aiming to achieve a fundamental shift in transport policies and policies that influence transport. The objective would be environmental protection alongside increases in welfare that was not conditional on increased quantities of transport. Environmental protection as a starting point alongside breaking the linkage between economic growth and transport volumes - increasing transports economic efficiency - would be at the heart of sustainable transport policies.

6. The Communication on the Common Transport Policy

T&E welcomes the Communication on the Common Transport Policy not least because of its invitation for comment by the stakeholders. T&E is however somewhat disappointed with its content because in the approach outlined, “sustainability” is limited to the title. Taking a quantitative approach (as used in the Communication to assess the effectiveness of the Action Programme) the word “environment” or “environmental” appears an impressive 29 times. Departing from the quantitative approach however, gives a rather less creditable result. There are only two brief sections that specifically address the environmental performance of the transport sector in a document stating to address “Sustainable Mobility: Perspectives for the Future”.

The first falls under chapter IV, “Improving Quality”. Here, there is recognition of the fact that “continuation of current trends in transport in certain modes (road, air) would be unsustainable”¹³. However the response to such a challenge is that “the development of *sustainable forms of transport* is therefore one of the key priorities of the Commission”¹⁴. There is no recognition here that the task in hand needs to move away either from mitigation or a reliance on technological fixes. Significantly, however, there is a short outline of how changing political priorities will place environmental sustainability far higher on the agenda of the EU in general and in the area of transport policy in particular. These developments even lead to the concession that “in this context, new initiatives, not foreseen in this action programme, could be necessary”¹⁵.

Surprisingly, however, it is not the case that the realisation of the need for additional measures changes the Commission view of the development of the CTP in the next five years. Indeed, it is only in the second section, which specifically addresses the environment that such a possibility is conceded. Unfortunately, this is the section found in Chapter VI concerning “A longer term perspective”. Here, there is the recognition that “particular attention will need to be given to measures designed to *reduce the dependence on economic growth on increases in transport activity and any such increases in energy consumption*, as well as the development of less environmentally

¹³ Paragraph 24 of the Communication.

¹⁴ *Idem*, *italicised* emphasis in original.

¹⁵ Paragraph 25 of the Communication.

damaging energy alternatives for transport”¹⁶. Such developments are indeed necessary, but they should not be postponed to the longer term. The move from mitigation to environmental protection and improved transport economic efficiency should commence at the earliest opportunity. Continued prevarication will only postpone and ultimately prevent sustainability from being realised.

The fact that the Communication only has small components focussing on the environmental impacts of transport policy is unsurprising given the lack of explicit environmental references either in Article 75 of the Treaty defining the CTP, or in the strategic objectives of the Action Programme. This reinforces the need for any new Action Programme undertaken to implement the CTP to have explicitly stated environmental objectives in order to avert this situation arising once more.

7. The New Legal Framework for the Common Transport Policy

We have already argued that the impact transport is having on the environment means that mitigation must be viewed as an inadequate policy response. We shall now review why future dependency upon this approach also falls short of application of the EU Treaty and other binding international commitments.

The Action Programme to implement the CTP was adopted by the Commission in July 1995. In the intervening period there has, of course, been considerable change to the legal framework under which the CTP is established. Whilst the Amsterdam revisions¹⁷ of the Treaty did not radically alter the Transport Title, the Community commitment to environmental protection and sustainable development was strengthened considerably¹⁸.

One result of this strengthened Community commitment to environmental protection has been a process aimed at increasing the integration of environmental considerations into Community policies ahead of the entry into force of the Amsterdam Treaty¹⁹. The most notable feature of this process is that it is being led by EU Government heads at their summits. They realised that in order to comply with the new provisions of the treaty, areas of policy making that have been traditionally rather slow and conservative in integrating environmental considerations into their decision making would have to make additional efforts. At their Cardiff Summit the EU Heads of Government agreed that the most urgent policy areas needing such efforts were agriculture, energy, and transport.

¹⁶ Paragraph 46, of the Communication *italicised* emphasis in original.

¹⁷ T&E campaigned with other environmental NGOs (members of the Green G8 - Birdlife International, Climate Network Europe, EEB, Friends of the Earth, Greenpeace, and WWF) to ensure that environmental protection and sustainable development were taken more seriously in the revised Treaty as outlined in the publication “Greening the Treaty”.

¹⁸ In particular in article 2 outlining the task of the Community the focus on “balanced and sustainable development of economic activities” rather than previous references to “sustainable growth” and the provisions of article 6 which states: *Environmental protection requirements must be integrated into the definition and implementation of the Community policies and activities referred to in Article 3, in particular with a view to promoting sustainable development.*

¹⁹ It is this process outlined in the Communication in paragraph 25 that leads the Commission to admit that “new initiatives , not foreseen in this action programme, could be necessary”.

Each of these “formations of the Council” were to elaborate a strategy to their leaders at their next Summit in Vienna detailing how they were to integrate environmental considerations into their decision making.

The reluctance of the ministers from these three “formations of the Council” to undertake this task with anything like the zeal or fervour their leaders requested demonstrates why it was these policy areas that needed to take action in the first place. As a reaction to the three documents presented to them the EU Heads of Government requested that the three policy areas “continue their work with a view to submitting comprehensive strategies in these sectors, including a timetable for further measures and a set of indicators, to the Helsinki European Council”.²⁰

The Vienna Summit also extended the integration process so that now in total six “formations of the Council” are involved. The key target date now for this process is the end of the year and the Summit in Helsinki on December 10th - 11th. The fact that the EU heads of Government are driving this process forward is indicative of the strength that environmental protection and sustainable development will assume in EU policy making under the Amsterdam Treaty.

A revision of the EU Treaty is not, however, the only major legal development to occur since the Action Programme was adopted in 1995. The 1997 Kyoto Protocol means that the EU as a whole has an internationally legally binding commitment to reduce emissions of six greenhouse gases (GHG)²¹, of which CO₂ is by far the most important. As we saw earlier, transport has so far not only failed to contribute to these reductions, it is the fastest growing source of CO₂ emissions.

The only action that the transport services of the Commission have undertaken to reverse this trend is to adopt a Communication on CO₂ and Transport in 1998²². Rather than utilise this opportunity to adopt proposals that would address the need for emission reductions from the transport sector, this Communication merely estimated the effect that current policies and measures would have on emissions. T&E along with other environmental NGOs criticised this approach, not least because the estimations for emission reductions were frequently based on rather simplistic and inaccurate assumptions leading to some rather optimistic conclusions. Nevertheless, despite the optimism that virtually every transport policy would deliver reductions in CO₂ emissions, the Communication still outlines how transport CO₂ is set to increase by 19% by 2010. Given the new legal commitment of the EU to reduce CO₂ overall, alongside the existence of a CTP and environmental provisions of the Treaty, this approach is inadequate.

However, it is fair to add that the Communication on Transport and CO₂ does recognise that further steps will be required and that the Communication itself is just a first step. This being said such an admission raises the question of whether the Communication serves any useful purpose, as no proposals to further policy beyond this first step

²⁰ Conclusions of the Vienna European Council, 11th and 12th December 1998, paragraph 66.

²¹ The EU commitment is to reduce by 8% the emissions of carbon dioxide (CO₂), methane (CH₄) nitrous oxide (N₂O) hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF₆) between 2008 and 2012 (the 8% reduction is in the combined GHG potential of these gases expressed as a CO₂ equivalent).

²² Commission Communication on Transport and CO₂: Developing a Community Approach (COM 98/204) adopted on 31st March 1998.

accompanied it. The fact that the Kyoto Protocol is a legally binding international commitment certainly requires a re-think for transport policy in general, including the future development of the CTP.

A large problem is that the transport services of the Commission view their role as the guardians or promoters of the various transport sectors they have particular responsibility for. However, the overarching principle for the Commission services should be to represent the guardian of the Treaty *as a whole*. This means that the transport services of the Commission need to see their role as more than merely the promotion of ever increasing volumes of transport. If the CTP is to comply with all the provisions of the Treaty and serve the interests of Europe's citizens then its effects need to be more comprehensively assessed. One of the ways this can be taken forward within the Directorate General for transport in the Commission is the establishment of a new horizontal unit. The remit of this unit would be the environmental protection objective of the Action Programme implementing the CTP. This approach is possible because it is frequently not the individuals in the Commission that have failed to adapt to an increasing need for environmental integration, but rather the structures within which they work.

8. Balancing Different Community Objectives

The first section of the Amsterdam Treaty sets out the principles and contains the objectives for the Community. These objectives have been rather contradictory to date as is shown in particular in the concept of promoting an expanding the single market, which has contradicted in practice the objective of achieving a balanced and sustainable development. This is not to say that there is anything in the nature of a single market that inherently contradicts the aims of sustainable development or environmental protection. But the interpretation to date of the role of the single market in generating economic growth has served neither the environmental nor the sustainable development aims of the Community.

The fact is that increased trade both within and outside of the external market is viewed as *the* essential engine to economic growth. Merely using ever-increasing consumption as the vehicle for economic growth is however at odds with balanced and sustainable growth or improved environmental quality²³. This definition of the role of the single market stems from an interpretation of an Article 29 of the Treaty outlining the principles of the free movement of goods. This article states that the "Commission shall be *guided by*:

- (a) the need to promote trade between Member States and third countries;
- (b) developments in conditions of competition within the Community insofar as they lead to an improvement in the competitive capacity of undertakings;

²³ In the long run it is possible to reconcile an increase in consumption with environmental protection as technology advances allow for decreased environmental impact despite increased resource use. However, given that one of the fundamental environmental challenges we face, particularly in transport, is energy use and resulting greenhouse gas emissions, there is a limited scope even in the longer run for such technological advances to offer a solution on their own.

- (c) the requirements of the Community as regard the supply of raw materials and semi-finished goods. In this connection the Commission shall take care to avoid distorting conditions of competition between Member States in respect of finished goods;
- (d) the need to avoid serious disturbances in the economies of Member States and to ensure rational development of production *and an expansion of consumption within the Community.*²⁴

The Commission and of course the other EU institutions, also have to “*be guided*” by the other provisions of the Treaty in defining how the single market should develop in the future. It is our contention that they will need to shift their interpretation of this aspect of their roles towards a more “rational development of production” rather than an *emphasis* on “expansion of consumption”.

It was outlined above how the Amsterdam Revision of the EU Treaty requires the EU to integrate in a much more meaningful manner environmental considerations and sustainable development into all areas of Community policy. The “balanced and sustainable development of economic activities” that is *required* by the Amsterdam Treaty means that elements of the Treaty will need re-interpretation by the EU institutions such that the future development of the single market complies with this Treaty requirement. This in turn will obviously effect the framework within which the CTP operates and evolves.

It is also our contention that the environment has to date received less prominence in the evolution of the CTP than is warranted by the environmental requirements of the Maastricht Treaty. However it is not just the Commission that bears the responsibility for this, despite their function as guardian of the Treaty. The Council and particularly the Transport Council, has demonstrated to be one of the least able institutions to accept environmental considerations or sustainable development into its decision making. There are two examples that shall be reviewed to demonstrate the low priority that has been given to environmental considerations and sustainable development during the period of the Action Programme. The first is the conflict in Germany’s Peene Valley over construction of the A20 and the second is the transit traffic agreement between the EU and Switzerland.

In the first instance a conflict arose due to the location of the construction of the A20 through the Peene valley. The conflict of this particular road project was, however, more complex than NIMBYs²⁵ or environmentalists protesting over construction of a highway through a nature area. The real conflict was between different contradictory Community goals and separate parts of the *aquis communautaire*. The A20 was part of the Trans European Networks (TENs) being constructed in Germany but its route crossed a Nature 2000 area protected by both the Wild Birds Directive²⁶ and the Habitats Directive²⁷. The conflict was over which part of community law would receive priority. The final decision²⁸

²⁴ Article 29 of the Maastricht Treaty *italicised* emphasis added- Article 27 of the Amsterdam Treaty (unchanged).

²⁵ NIMBY is a term used to describe those opposed to construction projects close to their homes. It stands for “Not In My Back-Yard”.

²⁶ The Wild Birds Directive 79/406/EEC

²⁷ The Habitats Directive 92/43/EC

²⁸ Community Decision 96/15/EC on the Construction of the A20 Motorway in the Peene Valley (Germany).

was that the construction of the A20 through the area should proceed, thus placing TENs legislation ahead of the Community's legal environmental obligations.

The second example of environmental consideration and sustainable development receiving a low priority within EU transport policy is the transit traffic agreement between the EU and Switzerland. Negotiations between the two sides took several years to finalise and during this period the negotiations became irrevocably linked to another dossier, the Eurovignette, that determines freight road taxation levels in several Member States.

At issue was whether the Swiss would allow access to their roads of much larger trucks, and at what level they would charge for such access to their roads. Of course the Swiss have every right to charge whatever they wish for access to their roads just as they have every right to decide what vehicles they consider road-worthy. However they also are dependent upon trade with their neighbours and need access to the EU market. Through several referenda the Swiss people have demonstrated consistently their desire to see transit traffic crossing their country to be placed on rail links rather than the road. This active democratic process meant that the Swiss negotiators were obliged by their constitution to seek certain concessions from the EU.

At issue in these negotiations in addition to the issue of road tolls and heavy lorry access was therefore the time frame under which this shift could take place. The tolls that the Swiss demanded were actually based on an approach that ironically applied the stated principles of the EU as outlined in the Commission Green Paper on Fair and Efficient Pricing²⁹. Despite this basis, the EU Transport Council categorically rejected the toll levels as too high.

This stance on the part of EU transport ministers was not just at odds with the Green Paper. It was also at odds with the declarations the very same ministers were only too willing to sign in front of the glare of public and press in Helsinki and Vienna. These declarations supposedly strengthened their own stated preferences for internalisation of external costs and the polluter pays principle. The fact that a sufficiently large number of them were unwilling to apply this principle to their dealings with a third country proves their willingness to abide by their own stated principles.

Despite these examples the wording of the transport title of the Treaty does give enough leeway to ensure that environmental considerations are integrated into transport policy in general and the CTP in particular. The fourth and final provisions of the first paragraph of Article 74 of the Treaty (Article 71 in the Amsterdam Treaty) for example gives the Commission the power to "lay down any other appropriate provisions". Thus, despite there not being an explicit reference to integration of environmental considerations or sustainable development in the transport section, the Commission still has the ability *and the duty* to ensure that this is in fact achieved in the CTP.

The challenge for all of the Community institutions in applying the Amsterdam Treaty will be to ensure that statements of intent, as well as binding Treaty commitments are acted upon. There will be further revision of the Treaty within the next five years. Therefore, if there is a revision that further strengthens the environmental aspects of the Treaty, the

²⁹ European Commission Green Paper : Towards Fair and Efficient Pricing in Transport Policy options for internalizing the external costs of transport in the European Union - COM (95) 691.

Community institutions need to utilise the final indent of Article 74 in order to agree further appropriate provisions. The Commission and the Transport Council need to take far greater account of the Treaty revisions than they have of the environment provisions of the current Treaty, even when these revisions do not change the Transport Title of the Treaty.

9. Future Development of the Common Transport Policy

The Commission contends that “looking to the future, *the strategic objectives in the 1995 action programme remain valid.*”³⁰ The review presented here demonstrates that this is not necessarily the case, particularly given the way in which the legal obligations of the Community have developed over the past five years. The strategic objectives will have to serve both the revised Treaty, the other new internationally binding legal commitments of the Community as well as the citizens and environment of the EU.

This does not mean to say that the five objectives are wholly irrelevant or inappropriate. But the need for sustainability in the transport sector and the new Treaty provisions do require the current objectives to be built upon. In particular, the CTP needs to state environmental protection and sustainable development explicitly as an objective rather than to keep it implicit. It is therefore T&Es recommendation that **any new Action Programme implementing the CTP should include as a primary objective environmental protection and sustainable transport.**

Environmental considerations are not the only provisions of the Treaty that have been altered by the Amsterdam revision. An element of Community policy beyond environmental protection that has been broadened and deepened as a result of the Amsterdam revision has been the anti-discrimination policies of the Community.

This means that all policy initiatives aimed at implementing the CTP will need to be non-discriminatory. The most relevant addition in this context is the need for future policy initiatives to be drafted to avoid discrimination against older people and the disabled.

For these groups one of the most important aspects of transport policy is maintaining access to transport and its services. These groups have specific concerns over access to transport that if left unresolved would prevent attainment of sustainable transport. This is because the concept of sustainability requires provision *for all* in the current generation without jeopardising future generations. However, this is not the only aspect of access that needs to be considered in a sustainable transport policy.

Contrary to what is frequently assumed, people do not wish to travel, they do not necessarily even wish to be somewhere else. What they desire is access to a different activity to the one in which they are currently engaged. They want to be at work but are at home. They wish to be shopping but are at work. They wish to be at a movie or a sports match but they are shopping, etc. The point is that what is frequently demanded is

³⁰ Commission Communication on the Common Transport Policy, Paragraph 5, *italicised* emphasis in original.

access to services or activities rather than transport. Transport is merely the means of obtaining this access.

However, this should not imply, in light of the future of a sustainable CTP that of necessity people need to rely on transport for all of their access demands. Indeed, exactly the opposite is the case. For the CTP to be sustainable, it should explore how in the longer run these access requirements could be more easily met without transport. This would be the more appropriate considerations for long run perspectives in the future development of the CTP.

Unfortunately, this is an early stage in identifying what access means in terms of policies to influence transport patterns and demand levels.³¹ Nonetheless, in work areas ranging from identifying sustainability transport indicators (to comply with the integration process in the EU) to those defining priorities for research under the Fifth Environmental Framework Programme, there is a role for the CTP to include access as a component of transport policy.

Any elaboration of an Action Programme to implement the CTP over an extended period such as the five years of the current programme, needs to ensure that the agenda it promotes remains relevant over the entire time period of the programme. Maintaining relevance to the agenda will be enhanced by including access as an emerging but significant issue, with particular emphasis on tools such as indicators, to aid the development and application of the concept.

This is particularly important at a time when revision of the Treaty, both at Amsterdam and likely future amendments, enhance the anti-discrimination policies of the Community. Access for all will remain an important issue and will therefore need to be included within any Action Programme implementing the CTP.

³¹ The National Travel Survey in the UK for example has made an attempt to unravel the activity sought and trip purpose rather than merely concentrating on trip volumes, but developing indicators or yardsticks for access is far less enumerated than the various statistical tools available for transport volumes.

10. Conclusions

The approach to transport's environmental impact must move away from one based on mitigation to one based on environmental protection and improving transport's economic efficiency. Only then can the EU's strengthened commitments to environment and sustainable development in the Amsterdam Treaty and in other international legal commitments be realised.

To reflect these additional Community commitments, agreed since the last Action Programme implementing the CTP was drawn up, environmental protection and sustainable transport should form one of the primary strategic objectives for any new programme to implement the CTP.

The objectives for any new programme should be to achieve increasing economic efficiency for transport and to break the link between transport and economic growth. Implementing fair and efficient pricing policies across all transport modes remains a priority, as does equality for transport modes in the level of their market liberalisation and their social performance.

A sustainable Common Transport Policy will have to account for some potentially contradictory elements of the Treaty. Promotion of increased transport as a basis for single market expansion and economic growth is not consistent with sustainability. Neither is promotion of transport via increased infrastructure provision, either within the TENs or the structural or cohesion funds consistent with sustainable development.

The interpretation that the Community institutions place on these elements of the Treaty and their application within the context of the CTP needs to reflect changes to the Treaty to ensure a balanced attainment of all EU objectives. This also means that transport project funding from all EU related sources including the structural, cohesion, TACIS, and PHARE funds, as well as the EBRD and the EIB should be reviewed so that they pursue economic efficiency, access and sustainable transport objectives rather than merely increasing transport volumes.

Elements of any Action Programme implementing the CTP that aim to improve the quality of transport should focus on improving access rather than merely the technology of mobility. Sectoral policies within the CTP need to be examined to ensure that developments within each transport mode are consistent with the overall objective of environmental protection and sustainable transport. In this context air transport policies in particular need to be re-examined. There needs to be much greater efforts to develop policies to ensure that the specific characteristics of this sector - strong growth and intended further liberalisation - can be brought closer to sustainable patterns of development.

Stakeholders including NGOs should have full and open access to the committees and expert groups that develop and apply transport policy and the CTP. Such an approach would respond to the observation that *"the principles of openness, transparency and accountability are at the heart of democracy and are the very instruments allowing it to function properly. Openness and transparency imply that the decision-making process, at*

*all levels, is as accessible and accountable as possible to the general public.*³² The issue of subsidiarity in relation to urban transportation problems also needs to be viewed as a much greater opportunity to bring the EU closer to the citizen and to forge partnerships with different authorities.

The CTP should also reflect on how best the applicant countries of Central and Eastern Europe (CEE) can be integrated into EU transport policy. Imposing a transport policy on these countries, which are already undergoing enormous economic transition, that is inefficient and incompatible with their infrastructure, will not serve either their or EU's interests. The demands, guidance and assistance given to CEE countries regarding transport policy during accession should focus on increasing the economic efficiency of transport whilst ensuring environmental protection.

At the beginning of this report the reflection was made of the centrality of a Common Transport Policy to the European project. The very transboundary nature of transport has meant that it is a policy sphere at the heart of Community decision making. The CTP should not, however, become frozen in time or become a relic of some past policy era. Environmental concerns have highlighted the economic inefficiencies in the current model. For the CTP to remain relevant to the citizens of Europe it must reflect and integrate these advances. This would allow Europe to develop transport policies that protect the environment, promote sustainable development and enhance economic efficiency and performance.

³² From the **Committee of Independent Experts Report**, March 1999, Section 9. *Conclusions*, sub section 3 9.3. *Assessment in the light of standards of proper behaviour*, § 9.3.3.

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About this paper

This paper is a response to the European Commission's Communication on the Common Transport Policy "Sustainable Mobility : Perspectives for the Future". The report emphasises the need to shift transport policy towards environmental protection and sustainable development.

The revision of the EU Treaty at Amsterdam strengthened the Community's commitment to environmental protection and sustainable development as have EU commitments under the Kyoto Protocol to the climate change convention. This report argues that such changes requires that the objectives of programmes to implement the Common Transport Policy must include environmental protection and sustainable development.

Increasing the economic performance of transport is argued to be key to achieving this objective. Including environmental objectives within the Common Transport Policy would aim to break the link between economic growth and transport growth. The report contends that the current approach is one of mitigation, or damage limitation, rather than concerted attempts to reverse the trends of environmental impact. The policies to implement the CTP must move from mitigation to environmental protection, and sustainable economically efficient transport.

About T&E

The European Federation for Transport and Environment (T&E) is Europe's primary non-governmental organisation campaigning on a Europe-wide level for an environmentally responsible approach to transport. The Federation was founded in 1989 as a European umbrella for organisations working in this field. At present T&E has 35 member organisations covering 20 countries. The members are mostly national organisations, including public transport users' groups, environmental organisations and the European environmental transport associations ('Verkehrsclubs'). These organisations in all have several million individual members. Several transnational organisations are associated members.

T&E closely monitors developments in European transport policy and submits responses on all major papers and proposals from the European Commission. T&E frequently publishes reports on important issues in the field of transport and the environment, and also carries out research projects.

The list of T&E publications in the annex provides a picture of recent T&E activities.

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Polish Ecological Club (Poland)	International Union for Public Transport
Pro Bahn (Germany)	Worldwide Fund for Nature