

EFIN GROUP

European Framework for Inland Navigation

October 2004



REPORT :

**A NEW INSTITUTIONAL FRAMEWORK
FOR THE EUROPEAN INLAND NAVIGATION**

« Remove the bottlenecks in
the heads... »

- General Outline –

Foreword	5
Composition of the EFIN Group	7
Summary of conclusions of the Study Group	9
Introduction	15
<i><u>Part 1</u></i> : Inland navigation: an indispensable but neglected component of the European transport system	17
<i>Chapter 1</i> - Importance of river transport in Europe	17
<i>Section 1</i> - Quantitative importance	17
<i>Section 2</i> - Qualitative aspects	19
<i>Chapter 2</i> - The uncertainties burdening inland navigation	21
<i>Section 1</i> - Stagnating investments in inland navigation	21
<i>Section 2</i> - Issues relating to development and environmental protection	22
<i>Section 3</i> - Inland navigation less attractive to workers	24
<i>Section 4</i> - Weakening administrative structure	25
<i><u>Part 2</u></i> : Shortcomings of the current institutional framework	27
<i>Chapter 1</i> - Introduction	27
<i>Section 1</i> - The notion of “institutional framework of European inland navigation”	27
<i>Section 2</i> - The role of institutional aspects in the development of inland navigation	29
<i>Chapter 2</i> - Low impact on the political level	30
<i>Chapter 3</i> - Incomplete integration of the European market of river transport	31
<i>Chapter 4</i> - Lack of unified technical and legal regulations applicable to inland navigation	34
<i>Section 1</i> - Technical regulations	34
<i>Section 2</i> - Legal regulations	36
<i>Chapter 5</i> - Insufficient administrative and personnel resources	36
<i>Chapter 6</i> - Dispersal of responsibilities and insufficient coherence in the exercise of competences	37
<i>Chapter 7</i> - Institutions geared to regulatory management and insufficiently to strategic action	38
<i>Chapter 8</i> - Structures increasingly unsuited for the integration of inland navigation in Europe	38

<i>Part 3</i> : Analysis of options for improving the institutional framework for inland navigation in Europe_____	41
<i>Chapter 1</i> - Closer co-operation between the CCNR and the Danube Commission _____	41
<i>Chapter 2</i> - Merging CCNR and the Danube Commission in view of a possible European convention on inland navigation _____	42
<i>Chapter 3</i> - European Community membership in the major river commissions _____	43
<i>Chapter 4</i> - Transfer to the European Community of a number of tasks currently carried out by the river commissions _____	46
<i>Section 1</i> - Involvement of the European Community in developing river transport _____	46
<i>Section 2</i> - Limits of a redistribution of tasks between the European Community and the river commissions _____	48
<i>Chapter 5</i> -Setting up a Community agency for inland navigation _____	49
<i>Part 4</i> : Setting up a European Organisation for Inland Navigation _____	53
<i>Chapter 1</i> - General characteristics of the new organisation _____	53
<i>Chapter 2</i> - Components of the European Organisation for Inland Navigation _____	56
<i>Section 1</i> - A political level: the « European Conference of Ministers responsible for Inland Waterways » _____	56
<i>Section 2</i> - An administrative instrument: the « European Bureau for Inland Navigation » _____	58
A. Ways and means for setting up the new Bureau _____	58
1. Bases for founding the Bureau _____	58
2. Bodies of the Bureau _____	58
3. Resources of the Bureau _____	59
4. Material organisation _____	59
B. Tasks of the European Bureau for Inland Navigation _____	59
1. European body to manage the technical regulations for inland navigation _____	60
2. Institute for training and qualification of occupations in inland navigation _____	62
3. Drafting new conventions _____	63
4. Support for economic analysis and market regulation _____	63
5. Technical study centre to develop infrastructures of inland waterways _____	64
6. Other activities of the new Organisation _____	65

Section 3 - A financial tool : the "European Intervention Fund for River Transport" _____	65
<i>Chapter 3 - Consequences of setting up the European Organisation for Inland Navigation on other bodies involved in river transport _____</i>	66
Section 1 - Role of the river commissions in the new international European Organisation for Inland Navigation _____	66
Section 2 - Advantages of the new Organisation to the European Community _____	67
Section 3 - ECMT and UNECE participation in the European Organisation for Inland Navigation _____	68
<i>Chapter 4 - Taking account of the inter-modal dimension _____</i>	68
<i>Chapter 5 - Concrete means for setting up of the new European Organisation for Inland Navigation _____</i>	69
Future prospects _____	71
 <u>Appendices</u>	
Appendix 1 : Organisation chart _____	73
Appendix 2 : Terms of reference _____	75
Appendix 3 : List of the auditioned people _____	77
Appendix 4 : List of the abbreviations used _____	79
Appendix 5 : Declaration of Rotterdam _____	81
Appendix 6 : Declaration of Budapest _____	89
Appendix 7 : Statistics _____	91
Appendix 8 : Maps _____	95

Foreword

In early March 2004, the Netherlands, Germany, Belgium, France and Switzerland mandated a group of independent European personalities to analyse the present situation of the institutional framework of inland navigation in Europe and to make recommendations which could encourage concerted action by States and international organisations interested in strengthening the place of this mode of transport in the European transport system.

The composition of the Study Group was the object of an agreement between the initiating states and the person who had been approached to act as chair of this body, ensuring that a broad range of European states, of knowledge and experience were to be represented in the Group.

The Study Group, which decided to call itself the EFIN Group¹, started its work in early April. Several internal meetings have been organised by the Group, which has also collected documents and information in addition to setting up hearings². In compliance with the mandate received from the initiating states, the EFIN Group submitted its report at the end of September 2004.

The Study Group believes that the terms of reference under which it operated³ served as a good basis for its work. The Group would like to emphasize the fact that discussions took place in a spirit of consensus and that its proposals are unanimously approved by all its members.

The findings of the Study Group are presented in this report which also contains a summary of conclusions at the beginning of the report. The Group believes that the time has come to set up a European Organisation for Inland Navigation, which, without winding up existing institutions, or being superimposed on them, would be able to create a better distribution of tasks, assume responsibilities not currently covered and reinforce the weight of inland navigation, with a view to organising a more balanced transport system for goods in Europe.

The Study Group is convinced that the questions dealt with in its report are vital for the development of the European transport system. The Group accordingly recommends that the States which gave the Group its mandate, as well as all institutional players in inland navigation in Europe, take up this matter without further ado and take initiatives based on the proposals which are laid out in this report.

Jan TERLOUW
Chairman

October 2004

¹ EFIN for European Framework for Inland Navigation.

² It also established a secretariat, whose members it would like to thank.

³ See the text of the terms of reference in the appendix.

Composition of the EFIN Group

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(Dutch)

President
Physicist
Former Minister and Member of Parliament
Former Secretary General of the ECMT
President of « Schuttevaer »

Mr Mathias KRAFFT
(Swiss)

Vice-President
Former Ambassador
Honorary Professor of Law at the University
of Lausanne
President of the ICPR
Former President of the CCNR

Mr Valère VAUTMANS
(Belgian)

Civil Engineer
Former Member of Parliament
President of the Council of Administration of the
"Waterwegen en Zeekanaal" Ltd.
Administrator General of « Waterwegen
Vlaanderen »

Mr Eibe RIEDEL
(German)

Professor of Public Law, Dr. iur.,
Chair of German and Comparative Public Law
European and International Law
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Managing Director of the
Institute of Inland Navigation Law, Mannheim

Mr J-François DALAISE
(French)

President of the « Comité des Armateurs Fluviaux »
President of the « Port autonome » in Paris
Administrator and former President of the EBU

Mrs Eva MOLNAR
(Hungarian)

On external services ("sabbatical") from
the World Bank, currently at
the Budapest University of Economic and Public
Administration Sciences

Mr Hellmuth STRASSER
(Austrian)

Former Ambassador
Former Director General and President of the
Danube Commission

Mr Gheorghe BALASOIU
(Rumanian)

Engineer
Former Vice President of the IMO
Former Director General of the Ministry for
Transport
Former Chief Engineer of the Danube Commission

Summary of conclusions
of the Study Group

The EFIN high level Study Group was entrusted by the Netherlands, in association with Belgium, France, Germany and Switzerland with the task of identifying under what conditions inland navigation transport is presently organised across Europe by international institutions (European Community, river commissions, UNECE, ECMT, etc.) and to examine possible improvements of this institutional framework.

The Group notes that inland navigation did have considerable potential but this has been insufficiently exploited and that it could make a significant contribution to improving the European freight transport system. However, it will have to receive more sustained attention from public authorities as well as benefit from stronger institutional support.

In this context, the Study Group believes that the existing institutional framework on the European level is not the optimal solution which would enable European inland navigation to realise either its full potential or to assume what would be its desirable place in the European system of freight transport.

It believes that this framework is neither strong enough to attract sufficient attention on the political level to the problems of inland navigation nor to mobilise all the resources necessary to develop this sector. Moreover, the Group has noted the diverse, even dispersed, nature of structures, procedures and responsibilities which, despite existing co-ordination mechanisms, does not guarantee the implementation of regulatory instruments under the best conditions. The present state of integration of river transport consequently speaks out in favour of adapting structures with a view to greater unity.

There is a need to achieve a greater degree of harmonisation of technical specifications and certification in European inland waterways, and of conditions for access to the market. Above and beyond this goal, it is desirable that there be a mechanism which will encourage improved networking of infrastructures of inland waterways, the development of facilities as well as promote innovation and facilitate knowledge management in the sector. In general what is needed is a structure which could collect and disseminate information of technical and economic nature as well as that relating to human resources, carry out analyses, encourage initiatives and organise joint activities. More than other transport modes, inland navigation needs active institutional support, given its relative weakness, to help it overcome obstacles to its development.

This means a redistribution of certain tasks, but above all the creation of a structure capable of undertaking those activities which are necessary but which are not currently being carried out

The Study Group has considered various options, which have been mentioned in the public debate with a view to improving the institutional framework for inland navigation in Europe:

- The European Community's Membership of the Rhine and Danube Commissions: the Group believes that relations between the European Commission and the two major river commissions should be deepened, but feels that the Community's membership is not the most appropriate means for achieving this end. It creates more uncertainties of a legal nature as well as in terms of resources and procedures than it clarifies. Moreover, the mere fact of membership would not create the new dynamism expected since it would only partially make up for the shortcomings which have been identified;
- Co-operation between the two major river commissions must certainly be reinforced, but this would not be sufficient to give the institutional framework the desired increased efficiency and momentum;
- The idea of merging the two commissions pinpoints the need for a structure on the European level, but appears to be unrealistic and inappropriate;
- Setting up a Community agency is in line with the idea of endowing inland navigation with a stronger administrative mechanism. However, the model of Community agencies as has been developed in the field of transport appears to be overly concentrated on technical and safety concerns. Moreover, the Community model takes insufficient account of the fact that the European network of inland waterways goes beyond the geographic framework of the Community.

The European Community cannot address the pan-European dimension of the problem. Moreover, up till now inland navigation issues have not been considered as a priority.

What is required is an organisation which would have a broad mandate to develop river transport, taking into account all relevant aspects of this transport mode (infrastructures, promotional activities, human resources, etc) and which would be capable of setting up co-ordination among all European States concerned.

The Group believes that the time has come to set up a "European Organisation for Inland Navigation" under whose ambit these missions could be undertaken.

It believes that in creating this organisation the guiding principle should be that the interested states and the existing institutions are aligned through co-operation, such as the European Commission and the river commissions.

In the Group's opinion, it is both realistic and appropriate for such a structure to be able to evolve and to be set up by means of flexible arrangements rather than creating or amending formal rules of international law. Moreover, not wishing merely to add a new institution to those already in existence, the Group is recommending to draw on existing institutions but with a better distribution of tasks and through the creation of synergy. This structure could accordingly be in the form of a "joint venture" of interested states and existing institutions. It should encourage those procedures which have stood the test of time. Nevertheless, this implies that these institutions will have to transform their present working methods and carry out a substantial reorganisation of their tasks.

The new organisation represents an original model which will ensure true value-added in order to undertake tasks not being carried out at this point in time. To achieve this, the Group feels that it is important to go beyond the Community framework, not only because States concerned by inland navigation do not all necessarily belong to the European Union, but also because a considerable part of responsibilities involved lies outwith the Community's competence and continues to be the prerogative of the States themselves or of other organisations. It is important to bring together competences and to develop the means for a more efficient and more influential instrument to reinforce the specific weight of inland navigation in European transport.

Aware of the importance of the changes foreseen, in its proposals the Group aims at setting up an organisation which is not defined once and for all but rather one which can evolve dynamically and is capable of adapting to a strategic approach. The Group's proposals are also "modular": the various components, although complementary, are independent from each other and can be implemented in a framework of distinct stages.

The Study Group proposes that the new organisation consist of three components:

- A political assembly: the European Conference of Ministers responsible for Inland Navigation
- An administrative body: the European Bureau for Inland Navigation
- A financial instrument: the European Intervention Fund for River Transport

I – European Conference of Ministers responsible for Inland Navigation

The aim of setting up this Conference is to enhance the manner in which inland navigation is dealt with on a ministerial and governmental level, in particular to enable certain major options to be decided upon, decisions which by their very nature can only be made at ministerial level.

This Conference will consist of all those European States which feel they are genuinely concerned by inland navigation. Moreover, in view of its responsibilities, the European Community would have to participate fully. It is desirable that countries of Eastern Europe not members of the EU also participate. The river commissions will also be involved. The operating regulations are to be laid out in a joint declaration adopted by the ministers of participating States.

The meetings will be organised on a regular basis, at least once every three years¹ and in three stages: preparation, the conference itself and follow-up.

The conference will be called upon to adopt resolutions or recommendations on all matters of principle relating to river transport in Europe. Among others, it will adopt and update a development programme specifically targeting the improvement or creation of infrastructures.

II – European Bureau for Inland Navigation

The Bureau will be the administrative body for inland navigation in Europe and will be a driving force in promoting inland navigation.

This body will be set up on the basis of a declaration of the European Conference of Ministers responsible for Inland Navigation. This document will define the missions with which the Bureau is entrusted, the bodies responsible for its management, the decision-making procedures and the resources made available.

The Bureau will be able to assume responsibility for all activities concerning the development of inland navigation:

- Preparing the work of the European Conference of Ministers responsible for Inland Navigation;
- Up-dating and monitoring harmonised application of technical regulations relating to inland navigation; thus it will be possible to monitor performance of safety; analyse serious accidents, co-ordinate supervision activities, etc. ;
- Organise a European system for registering and identifying inland navigation vessels;
- Create an institute for training and qualifications for workers in inland navigation;
- Develop a tool for observation and analysis of the market. In addition to providing better co-ordination of statistics, this observatory will pilot studies, present an annual report on the economic situation of inland navigation, will make proposals on market regulation and balanced competition;
- Prepare draft international conventions with the aim of unifying the law of inland navigation;
- Organise a technical study centre for the development of inland waterway infrastructures;
- Manage the "network" of public and private institutions involved in inland navigation on the national or sectoral level.

III – European Intervention Fund for River Transport

Efficient action to develop inland navigation requires the existence of specific financial resources which could be the aim of a special fund.

¹ This frequency could be adapted in the light of experience.

More specifically the aim of this Fund will be to promote:

- Technological innovation activities
- Encourage the inland navigation sector in Europe
- Finance feasibility studies
- Grant aid to investment in exemplary projects.

This Fund would be managed by the European Bureau for Inland Navigation on the basis of a specific "memorandum of understanding" among Member States, the European Community and the sector.

The Fund may receive donations from States and from the European Community. An initial endowment could consist of the outstanding balance of the restructuring operation in Europe.

* * *

The Study Group believes that setting up the proposed new European Organisation for Inland Navigation will be favourable to all stakeholders.

- States : this model will lead to unified regulations at a European level avoiding overlapping competences, duplications and ambiguities and thus making the institutional framework more effective and eventually more conducive for the development of inland navigation.

- ECMT and UNECE will be invited to assist in the implementation and functioning of the new Organisation. The ECMT will be directly involved in the European Conference of Ministers responsible for Inland Waterways and in the economic activities of the European Bureau for Inland Navigation. UNECE will continue to manage the various specialised conventions concerning inland navigation.

- The European Community will find in the new Organisation a complete and efficient mechanism which, although not directly subject to Community law, will be able to play an extremely useful role in implementing Community transport policy at the same time providing a framework for satisfactory co-operation with third States.

- River commissions: some of the functions carried out by them for lack of any appropriate framework in Europe, would be carried out by the new Organisation, without however in any way marginalising the commissions, as they will be called upon to participate in this Organisation. River commissions will be able to draw on it for know-how and support thus enabling them to develop co-ordination activities in their respective river basins

This reorganisation will enable better use of resources currently allocated to the international management of inland navigation. However it will nevertheless be necessary to increase these resources if this mode of transport is to realise its full potential and not be penalised by lack of resources, particularly in comparison with the other modes of transport. The Group proposes that these additional resources be made available by states participating in the new organisation on the one hand and by the European Community on the other.

This new Organisation can be set up without the need for a new convention under international law or having to change existing conventions. Through political commitments or other forms of concertation not based on international conventions, it will be possible to redistribute tasks, leaving intact all formal competences. At a later stage, the role of the Organisation will be to propose possible formal modifications to existing conventions in the light of experience acquired.

By proceeding in this way it will be possible to implement rapidly the first elements of the new Organisation then gradually add to these as the necessary resources become available. In particular, a first meeting of the Ministerial Conference might be organised within a one-year period. The steps necessary for the implementation of these proposals could be the following: States which have taken the initiative of launching this reflection will be able to delegate a qualified person to carry out consultations with all States and institutions concerned in order to determine their willingness to participate in the model recommended. Depending on the outcome of this consultation, a preparatory committee, consisting of representatives from the main stakeholders, could be set up in view to organise a ministerial conference. This conference would be called upon to adopt the declarations setting up the new structures. An arrangement between the European Commission, the CCNR and the Danube Commission also within this period could set up a first package of joint services, as a precursor of the European Bureau for Inland Navigation.

* * *

Introduction

§ 1 A new type of inland navigation is currently on the point of emerging. Following the development of an integrated and modernised international waterway network it has very little in common with pre-1960s barge transport. This far-reaching transformation is little-known, so that the future role of this mode of transport is frequently under-evaluated at a European level¹,

It is increasingly acknowledged that inland navigation must be given an important role in the European transport system; however such an evolution comes up against several obstacles. Witness the declaration adopted by the pan-European Conference on transport on inland waterways, Rotterdam, 5th and 6th September 2001². This Conference forcefully expressed the aim of increasing the share of river transport in the transport of goods

§ 2 To achieve this goal, as is said in the Rotterdam declaration, co-operation between governments and international organisations would have to be strengthened and consequently European inland navigation dispose of an institutional framework adapted to a new context. But it would also mean a framework with a strong enough capacity to contribute effectively to the enhancement of this mode of transport. The main objective of institutional restructuring must be to encourage better allocation of roles in multimodal transport, to be benefit of inland navigation.

§ 3 How can we then evaluate the capacities of current institutional players? What transformation would be desirable for the institutional system to fulfil such an ambition? This was the aim of the analysis with which the Study Group was entrusted. The Group started by specifying the place of inland navigation in terms of its significance and the problems encountered; then went on to assess the shortcomings of the current institutional framework in Europe and examined various changes which have been proposed and discussed in various settings. And on that basis, the group developed a proposal which seems to represent the best possible summary of the Group's conclusions.

¹ In this report the expression "European" refers to the geographic area. The expression "Community" refers to the regime of the European Union.

² See the text of the declaration in the appendix. In 1991, the Budapest conference emphasized the need for greater unity of inland navigation in Europe.

Part 1

Inland Navigation: an indispensable but neglected component of the European transport system

Political and economic leaders are increasingly aware of the fact that inland navigation is vital if we are to avoid the threat of asphyxiation of the European transport system. For all its potential, inland navigation is poorly exploited and has not received the attention it deserves. Various factors impose risks on the future of inland navigation.

Chapter 1 - Importance of river transport in Europe

Even though the particular advantages of inland navigation are well known, emphasis must be laid on its importance for the European transport system often underestimated on the quantitative level and misunderstood on the qualitative level.

Section 1 - Quantitative importance

§ 4 Inland navigation vessels transport over 210 000 million Tkm in the whole of Europe³. With a fleet of approximately 12 000 units, self-propelled barges and pushed convoys, representing a capacity of about 13 million tons, inland navigation currently accounts for approximately 130 000 million Tkm in Europe of the 15 and approx. 10 000 million Tkm in Central Europe (members and candidates to accession⁴), and 85 000 million tons in the CIS, on an international network⁵ of more than 16 000 km⁶.

In order to give an idea of what these figures represent, they should be compared with European rail transport which in these same countries represents around 240 000 million Tkm in the EU 15⁷, i.e., only twice as much⁸ for a considerably superior network⁹.

³ Western and central Europe and CIS.

⁴ See detailed statistics in appendix.

⁵ According to UNECE's classification.

⁶ These figures correspond to the enlarged EU (25 members), to which should be added 900 km for Serbia and Croatia, 6 300 km for Russia west of the Urals, 1 200 km for Ukraine and 630 km for Belarus.

⁷ In the countries in Central Europe which recently joined the European Union, rail accounted for approximately 120 000 million Tkm. Detailed statistics can be found in the appendix.

⁸ In Germany, inland navigation accounts for 90% of goods transported by rail, in Belgium 100% (the amount of goods transported on water is equal to that transported by rail) and in the Netherlands 1000% (10 times more goods transported by water than by rail).

⁹ Despite the fact that the performance of the rail network being relatively comparable with that of inland navigation, its network is considerably more extended than that of inland navigation : the rail network in EU 15 is 150 000km, 52 000km in 10 + 2 and 110 000 in the CIS.

§ 5 Considering that inland navigation's share in transport corresponds barely to 7% of the total transport of goods in European countries as a whole, the contribution of inland navigation might seem relatively modest.

However it should be noted that inland navigation is only present in a fraction of the European territory, meaning that, in those countries where it does exist, its share in modal distribution is actually larger¹⁰. Today the major share of European inland navigation is concentrated in two areas:

- The countries along the Rhine axis with more than 80% (in Tkm) of European river transport.
- The Danube and the Main-Danube Canal representing approximately 9% of European traffic (in Tkm)¹¹.

Many European regions have no river transport and lack the geographic features that would allow for development in the future. River transport could not therefore cover the entire European territory. However, inter-modal transport is important for all countries and inland navigation is a component thereof.

§ 6 Moreover, for the countries mentioned above, inland navigation represents an essential component of their transport system and could play a much more important role than at present, provided a number of necessary and relatively limited infrastructural projects were set up to fill in the "missing links" and remove "bottlenecks". Among those, particular mention should be made of improvements in the Straubing Vilshofen sector and the general optimisation of the Danube, the Seine-Escaut connection and regulation of the Elbe¹².

Furthermore, it is possible to increase complementarity between inland waterways and some coastal maritime sectors. With this in mind, a number of river basins could be connected by sea-river links or by short sea transport.

In addition to the above, existing but under-utilised waterways dispose of an important reserve capacity. Even without creating any new infrastructures, the transport of goods by water¹³ could be increased by more than 20%

§ 7 There is thus considerable potential for the development of waterway transport, limited to some geographic zones, but which are important from the transport point of view and within which it could represent a much more important part of the modal share, provided a relatively modest effort is made to improve infrastructures and facilities.

¹⁰ 44% in the Netherlands, 12% in Belgium, 14% in Germany, 9% in Rumania and in Slovakia.

¹¹ Not including river transport in Ukraine and Russia.

¹² For a complete list of missing infrastructural elements, see the UNECE document Trans/sc.3/159: Inventory of the main bottlenecks and missing links in the European inland navigation network. Resolution No. 49 by the study group on waterway transport on 24th October 2002.

¹³ Saturation is still a remote concern for many waterways. However, bottlenecks exist in some waterways with locks.

Section 2 - Qualitative aspects

- § 8 The characteristics of inland navigation have changed. It is a diversified, modern form of transport. It also presents specific and important advantages:
- it is already “internationalised” due to the geography of the basins in question and to the fact that transport deregulation, already well advanced, could easily be completed,
 - it is a particularly safe mode of transport, in particular for the transport of hazardous goods¹⁴,
 - it is a clean, economic form of transport in terms of energy consumption¹⁵ with low pollution levels (noise, atmospheric and water)¹⁶, and small external costs¹⁷,
 - in those areas where waterways have been developed correctly, river transport is highly reliable¹⁸.

- § 9 Obviously, given the size of the loading units, inland water transport is most efficient for bulk transport:
- a 4 000 ton vessel represents the same capacity as two hundred 20 ton trucks or one hundred train wagons
 - a Bolero-type vessel can transport up to 515 TEU (when water levels are sufficient), representing between 260 and 515 truckloads
 - a catamaran-type vessel can transport 600 new cars on the Danube.

Thus, river transport is particularly suitable for transporting goods in the following sectors:

- Metallurgy (25%)
- Construction industry (16%)
- Coal industry (15%)
- Oil and petrochemical industry (15%)
- Agriculture (13%)
- Chemical industry (7%)

- § 10 However, for a number of years now container transport has assumed ever increasing importance: from 1994 to 2002, container-related trans-shipments increased by 70% to 150%, depending on sector concerned. These figures show how successful inland navigation has been in moving away from transport of bulky and cumbersome goods only.

¹⁴ Damages due to water transport accidents are 178 times less than for accidents involving heavy goods vehicles and 13 times less than for railroads.

¹⁵ For a given load, a train consumes 8 times more energy and a heavy goods vehicle 26 times more than an inland waterway vessel.

¹⁶ Inland navigation does not pollute the water. Atmospheric emissions are still significantly lower than for road transport, despite improved motor engines.

¹⁷ Calculations of external costs from diverse sources produce the following coefficients:

- waterways: 0.22 to 0.35
- rail : 0.95 to 1.15
- road : 2.68 to 5.01

¹⁸ This is due to the lack of congestion in waterways, although high or low waters and ice in winter can occasionally compromise this reliability.

The use of containers means smaller transport units than those which characterised river transport until recently. Container technique enables river transport to take on smaller volumes of goods than was the case until recently. Depending on the speed of travel and constraints of loading and unloading, river vessels now provide an alternative to a considerable amount of transport by road or rail at an interesting price and offer a major diversification in the modes of transport used.

§ 11 Furthermore, in many cases, absolute speed is less important than regularity, reliability, safety and cost. Regarding the latter, it is beyond doubt that inland navigation costs are markedly lower than those for rail or road for long distance transport¹⁹, even if some of this advantage is cancelled out by pre- and post-dispatch costs, as well as trans-shipment.

Inland navigation is particularly suited to delivery of goods to and from seaports. For instance in Antwerp and Rotterdam, river shuttles account for 30-40% of goods transported.

§ 12 It is no surprise that the growth figures for the significance of goods transported by inland waterways have risen so remarkably in some sectors. For example increases of more than 10% have been registered in recent years for the Rhone and in Flanders²⁰.

However, it should also be noted that in some land corridors, river transport is the only form of transport that can take on additional traffic with relative ease, whereas road and rail networks are increasingly saturated.

The expected increase in goods transported in an increasingly integrated Europe can only be absorbed if inland navigation is called upon to increase its role.

However, it is also possible that this potential is not realised. Inland navigation needs support, all the more so that action must be taken regarding the uncertainties which burden this mode of transport.

¹⁹ The White Paper on inland navigation assembled in 1996 within the framework of the UNECE (Trans/Sc.3/138) quotes the following figures for the cost of a TEU trip from Strasbourg to Antwerp:

- water: 2.4
- rail: 5.5
- road: 4.8

²⁰ It is true that the increase is less on those arteries where there is already heavy traffic, such as the Rhine.

Chapter 2 - The uncertainties burdening inland navigation

Despite the advantages of inland navigation, its future remains uncertain. Various questions remain unanswered regarding its potential for development, or even just its chance of keeping a significant place in the European transport system. These problems are not insurmountable and worthy of being signalled as they raise the question of effective institutional support for this mode of transport.

Four types of difficulty should be mentioned in this context :

- stagnating investments in inland navigation
- issues relating to development and environmental protection
- inland navigation less attractive to workers
- weakening administrative structure

Section 1 - Stagnating investments in inland navigation

§ 13 In recent years, investments in inland navigation have stagnated or decreased²¹. Over the years, more and more projects are being delayed or abandoned²². Even maintaining waterways at their current level is affected by stagnating resources, resulting in a deterioration of operating conditions.

Studies by ECMT have pinpointed to serious under-financing of inland navigation throughout Europe²³.

True, several remarkable projects have been completed²⁴ recently, but investments in inland navigation remain disproportionately low compared to those in road and rail. Thus if we look at the TINA framework's recommendations to countries acceding to membership of the EU regarding investment in transport, only 2% of this investment deals with waterways as opposed to 44% for roads and 37% for railroads. The situation is no better when we consider the projects prioritised by TEN-T²⁵.

²¹ In general, the percentage of investment devoted to inland waterways is considerably lower than the share of this mode in total freight transport.

²² For a list of these projects, see the White paper on trends in and development of inland navigation and its infrastructure , UNECE Trans/sc. 3/138, 1996, page 32.

²³ Rapport ECMT report (89) 27.

²⁴ We might mention the work done on the Mittellandkanal making it possible to cross the Elbe. Thus the percentage of public expense for infrastructure per Tkm is considerably inferior on average for waterways than for railroads. Yet the capital value of waterway infrastructures is growing slowly remaining behind that for rail and road. (PLANCO Study, page 9).

²⁵ From 1995 to 1999, 1.7% of the TEN-T budget was devoted to inland navigation, i.e. 32 M euros.

- § 14 If this situation were to persist, inland navigation would be unable to participate at the desired level in the growth of transport. The competitiveness and reliability of waterways compared to other forms of transport are in danger of deteriorating²⁶. There is little doubt about the effect of such an evolution: inevitably continued reliance on road transport with all the direct and indirect effects and alongside that the marginalisation of the two alternative modes²⁷.
- § 15 Financing infrastructure development in inland navigation is an issue. Financing by the users in the form of tolls is insufficient to cover costs²⁸ and would risk endangering the optimal utilisation of the infrastructure once it is built²⁹. Financially, inland navigation projects do not offer the same rate of return as other modes of transport. Thus, they often appear less favourable than road or rail investment, even if the cost per km of an international class canal is not higher than that for one km of high-speed railroad³⁰. The building of new waterway infrastructure ranks unquestionably among those projects which must be evaluated over the long term. The financing of infrastructure presupposes therefore a strong and lasting political will based on courageous development choices.
- § 16 It is only through much more resolute action in favour of transport by inland navigation that its modal share can be maintained - not to mention improved. Such an action would require a much more active and effective European institutional framework.

Section 2 - Issues relating to development and environmental protection

- § 17 As mentioned above, inland navigation as a mode of transport creates relatively little pollution. Its development demands however that waterways be improved to guarantee sufficient depth of the navigation channel and to allow for trans-shipment infrastructures.

²⁶ This preoccupation was expressed by the PLANCO report on the future of inland navigation in Germany (p. 7).

²⁷ Rail is scarcely in a position to offer an efficient alternative to water transport when this is not able to play its role, as was seen by the tension on the transport markets at the time of low water in 2003.

²⁸ Railroads, which are in direct competition with waterways, do not cover costs either.

²⁹ Experience shows that the reduction or suppression of navigation fees was a decisive factor in the development of waterways.

³⁰ According to "Navigation, ports et industrie" of September 1992, p. 513, 27.5 million DM per km of Main-Danube canal, 37.5 million DM per km of high-speed train Würzburg-Hannover and 10-20 million DM per km of motorway. New road infrastructure in built-up areas is particularly costly whereas waterways can reach such areas without causing problems.

Despite the fact that the operation of inland waterways increasingly takes account of environmental issues, inland navigation is encountering more and more opposition.

§ 18 Means for evaluation and protection have rightly been developed to give better protection to wetlands and rivers. Among these, mention should be made of the European Water Directive of 23rd October 2000³¹ and the directives on habitats and birds³². These tools have been implemented and completed by an increasing body of national legislation.

While the concerns underlying the development of these protection and evaluation tools are certainly worthy of support, some questions remain regarding the way in which these measures for the management and development of sustainable waterways were produced. There is a tendency to analyse any modification of the "natural" state as necessarily a degradation or deterioration. However, there is a risk of insurmountable obstacles to inland navigation being created as a result of the idea that only a return to a presumed natural state can be considered appropriate in the management of river beds.

It is essential to develop, and gain acceptance for, models of ecological river management including the possibility of developing them to enable navigation. It is possible to undertake developments which satisfy high environmental standards³³, but recourse to development cannot be excluded completely if inland navigation is to be at all feasible. Aggregated assessments of environmental constraints are warranted, which weigh the effects of waterway development against modal split deterioration.

§ 19 Similar questions arise regarding the relation between river transport and protected zones. The protected zones dedicated to the protection of water birds and the natural sites of the "Natura 2000" network are mainly located close to rivers. Accordingly dozens of natural sites or conservation areas have been established along the Rhine. No project is possible anywhere near these sites unless there are imperative grounds to justify it and clearly defined compensatory measures. Although justified in principle, applying these to excess could compromise inland navigation's scope for manoeuvre.

³¹ Directive 2000/60/CEE of the European Parliament and of the Council establishing a framework for Community action in the field of water policy.

³² Directive 92/43/CEE of the Council of 21st May 1992, on the conservation of natural habitats and of wild flora and fauna and directive 79/409/CEE of the Council of 2nd April 1979 on the conservation of wild birds.

³³ The Rhine-Main-Danube Canal was built with great attention being paid to the environment. Similarly, when the proposed deepening of the Danube in Austria takes place, there will also be a vast operation to restore the wet zones and nature areas. Planting is being carried out along the banks of some canals.

§ 20 In addition to these constraints is the factor of flood prevention. Floods rarely occur as a result of work undertaken to improve navigability. Yet inland navigation has been made to bear the brunt of the serious floods of 2002 in Germany. Many infrastructural projects situated near rivers were questioned in this context.

This explains why construction of harbour facilities and industrial zones near waterways has become increasingly limited, and this at a time when emphasis is being laid on the need for locating logistical centres near waterways.

This is directly related to the institutional framework of inland navigation, providing for a framework that should enable the establishment of a balanced approach³⁴.

Section 3 - Inland navigation less attractive to workers

§ 21 Employment related to inland navigation has undergone many important changes. This industry evolved mainly as the result of the restructuring in the context of the structural improvement programme in the West and privatisation in the East. Many shipping companies disappeared or were reorganised, new practices developed, the category of individual owners was reorganised. Simultaneously the number of available jobs fell considerably in many countries³⁵.

§ 22 The biggest difficulty relates to the fact that the occupations involved have somewhat lost their appeal. It is very difficult to recruit in West European river countries due to the lack of candidates. In East European countries, there are fairly large numbers of qualified workers. Many boatmen from Central and Eastern European countries have found jobs in the West. But this migration should not be considered a sustainable solution to the insufficient attractiveness of this employment sector.

The current situation is worrisome: the average age is high, especially in management level jobs and among skippers. Newcomers to the sector will only partially make up for those leaving, unless something is done soon to make the sector significantly more attractive by improving prospects of career development³⁶. Once an activity stops attracting enough competent and dynamic individuals, its survival is endangered. Solutions must be found.

³⁴ In particular note should be taken of the frequent separation of bodies responsible for water and natural space management on one hand and inland navigation on the other hand. This is the case with the Rhine and the Danube for which the international commissions in charge of navigation (CCNR and DC) are separate from those in charge of water quality (ICPR, ICPD). While this appears to be a legitimate choice, attention must be paid to ways of co-ordinating the interests at stake.

³⁵ Thus, in Germany, the number of persons employed in inland navigation (transport of commercial goods) decreased from 8800 in 1985 to 4800 in 2000, i.e. a loss of 40% (PLANCO study, Nov. 2003, Table 7 p. 22 of annexes).

³⁶ This statement has to be understood in the light of falling attraction also for other transport sectors. However road and rail have more significant capacities for reacting.

§ 23 With this in mind, training must be reformed in depth so as to take account of technological evolution and changes in job profile. It must also take into account the growing internationalisation of the sector. Qualifying titles must allow for job mobility, the integration of individuals trained in other sectors and promotion prospects.

These questions can no longer be approached on the purely national level, as is usually the case, yet none of the existing international institutions dealing with inland navigation has the means to handle them efficiently.

The institutional framework must take this into consideration, encouraging training, review of qualifications and working conditions, with the goal of creating a better adapted and more attractive employment profile.

Section 4 – Weakening administrative structure

§ 24 Another uncertainty concerns more directly the current institutional framework of inland navigation. Administrative supervision of inland navigation by ministries and operational services is on the decline in most countries. At the same time, as deregulation is gaining space, there is a need for a public oversight that is different in nature compared to the past but not less important.

Simultaneously, human resources allocated to the management of inland navigation by international organisations and the European commission remain below the level that would be desirable in view of the need to give this mode of transport a new impulse³⁷. Cette question est loin d'être secondaire : l'insuffisance des moyens administratifs pèse sérieusement sur le traitement d'un certain nombre de questions importantes pour la navigation intérieure.

§ 25 Inland navigation is also poorly represented in those bodies promoting multi-modal transport and insufficiently acknowledged in discussions on logistics. It has very limited resources for lobbying, at a time when it should be successfully transforming its image.

As some observers say, what is needed is to "remove the bottlenecks in the heads" as this prevents facing the reality of this mode of transport. In order to achieve this change in thinking, the institutional and regulatory³⁸ framework must also be transformed.

³⁷ See observations below, in *Part 3 - Chapter 4*.

³⁸ Concerning regulatory obstacles, the Study Group refers to the work and observations of the "group of volunteers" set up to monitor the Rotterdam Declaration.

Part 2

Shortcomings of the current institutional framework

The Study Group was requested to examine the relevance of the current institutional framework of European inland navigation in order to propose improvements to enable this form of transport to play a greater role in the European transport system.

Chapter 1 - Introduction

The examination revealed a number of weaknesses, however, before looking at these, we must first:

- clarify what is understood by the expression "institutional framework" of European inland navigation,
- specify the place of the institutional issue in the context of inland navigation development.

Section 1 - The notion of "institutional framework of European inland navigation"

§ 26 The expression "institutional framework" as understood by the Study Group, designates those institutions involved in the organisation and functioning of inland navigation. This analysis examines institutions acting on the European level since the object is to strengthen the position of inland navigation in the European transport system.

In the wider sense, the institutional framework includes :

- the European Community and intergovernmental organisations acting on the international level – ECMT, UNECE, River Commissions,
- national institutions to the extent that they have international co-operation activities³⁹,
- non-governmental organisations representing the sectors, workers and interested circles on the international level (EBU, ESO, ETF, IVR, VBW, INE, EFIP, PIANC, etc)⁴⁰.

³⁹ In many countries, bodies responsible for inland waterways infrastructures have been reorganised to give them greater freedom in managing these waterways. These national or regional bodies are capable of developing international activities, particularly regarding the promotion of inland waterways. Their participation in co-operation with European states must be assured. However these are questions which each State must decide for itself and which this present report cannot enter into in any detailed manner.

⁴⁰ See appendix 4 for list of abbreviations used in this report.

In compliance with the guidelines given in its terms of reference, the Group focused on the first of these three categories. It is clear that these are the institutions which must be placed at the heart of any reflection on how to make the institutional framework more effective. Nevertheless, the Group wishes to underline that this framework must also take into account that the States retain major responsibilities particularly regarding infrastructure. Furthermore, the framework must involve the NGOs.

§ 27 Regarding the geographic competence of the "European framework" under consideration, account must be taken of the objective characteristics of the system of European waterways⁴¹. The backbone of this system is composed of the Rhine and Danube basins, connected by the Rhine-Main-Danube Canal and all the waterways connected to this network. The interconnection of these waterways naturally calls for greater integration.

However, other river basins with significant levels of inland navigation (Rhône, Seine, Elbe, Oder etc.) must also be taken into account, even though they are not interconnected⁴². In fact, the system of inland navigation includes the ship-building and ship sales markets, the employment market in the various sectors affected by inland navigation and the river tourism market, all of which concern river basins, interconnected or not as the case may be. Furthermore, within the definition of logistic inter-modal chains, the notion of unconnected basin loses some of its relevance⁴³. Finally with the building of new infrastructures or with new technologies⁴⁴, interconnection can be expected to increase in the future.

§ 28 Clearly, this system of inland navigation extends beyond the limits of the EU even after the enlargement to 25 members insofar as it concerns Switzerland and those Danube states not members of the EU. But should one also consider including the Eastern European waterways on Moldovan⁴⁵ and Ukrainian territory⁴⁶ (beyond the Danube), Russia⁴⁷ and Belarus⁴⁸?

⁴¹ See maps in the appendix which show the networks in question.

⁴² It is traditionally accepted that waterways not connected to the network may be affected by specific regulations, although this does not exclude them from the system of European waterways.

⁴³ What is taken into consideration here is river segments that constitute important links of an inter-modal chain; the fact that these segments are interconnected is important but not essential.

⁴⁴ In particular, the sea-river technology which enables river basins to be connected through maritime connections.

⁴⁵ Dnestr, Prut.

⁴⁶ Dnepr, Desna.

⁴⁷ Volga, Don, Kana.

⁴⁸ Pripyat.

§ 29 On the one hand, it should be noted that from the point of view of traffic, legal or economic regime and technical exchanges, there is, at present, no unity between the system of inland waterways described above and the rivers of these countries. But it is probable and desirable that in the fairly near future, these conditions will evolve. Thus, we should avoid rupturing the still fragile unity of the European waterway system by integrating markedly heterogeneous elements into it and at the same time avoid closing it institutionally in a way that would prevent later extensions.⁴⁹ Consequently, the Study Group has included Ukraine and Russia into its analysis while noting at the same time their still marginal position in international river transport compared to the European system of inland navigation.

Section 2 - The role of institutional aspects in the development of inland navigation

§ 30 European inland navigation is faced with a series of problems, some of which have already been mentioned:

- low interest in waterways at the political level and frequent cases of arbitration against water transport
- gaps in the infrastructure of waterways ,
- manque d'unité du cadre legal et réglementaire
- insufficient attention from the logistic sector⁵⁰,
- etc.

Some of these questions are beyond the institutional framework. As a result, institutional changes would thus bring only partial answers.

There is no reason to assume that the institutional framework is the main obstacle to the development of the waterway system. On the contrary, it must be underlined that the existing structures have made positive contributions to inland navigation. Their mode of intervention is not fundamentally different from what one notes with other forms of land transportation, notably as regards the European Commission, the UNECE and ECMT. In other forms of transport too, there exists a multitude of occasionally overlapping organisations⁵¹. Furthermore, on most of its interconnected network, inland navigation benefits from the existence of two specific institutions operating both regionally and internationally: the Rhine and Danube River Commissions, both of which played a very important and positive role in the development of navigation. Generally speaking, it is fair to say that the institutional framework has not failed.

§ 31 Though it is time for its reform. Therefore, it should be considered how to reorganise this institutional framework which has been shaped by history to make it better adapted to create greater awareness of the problems of inland navigation.

⁴⁹ The spirit of the Final Act of the Congress of Vienna of 1815 and of the Convention of Barcelona 1921 guarantee freedom of circulation on all international rivers.

⁵⁰ For instance, concerning the creation of networks and inter-modal centres that do not take into account inland navigation or the treatment of inland navigation in sea ports.

⁵¹ The aviation field may be mentioned with the JAA, ECAC, Eurocontrol, EASA, etc.

In particular, it should be stressed that, granted its relative weakness, inland navigation needs strong and efficient institutional support in order to attract the attention which it does not now get in sufficient measure, from either the political level or from economic players or the media.

Whereas the concern with road construction is, if anything, how to slow down the continued expansion, and railroads have many sources of support, inland navigation needs to reconstruct its image in order to restore confidence, increase awareness of the quality of its services and how they are adapted to present-day needs, and overcome reticence. This action must be undertaken as a priority on the European level. It is thus perfectly justified to raise the question of the adequacy of the institutional framework of inland navigation in Europe.

§ 32 In evaluating the shortcomings of the current institutional framework with a view to achieving optimal efficiency, which would result from a better organised framework, the following weaknesses should be noted:

- low political impact
- incomplete opening up of the markets
- lack of unity in technical and legal regulations applicable to inland navigation
- poor human resources situation
- dispersed responsibility and lack of cohesion in the exercise of competence
- need for a more strategic approach
- insufficient adaptation of structures to the characteristics of an increasingly integrated European market for water transport.

Chapter 2 - Low impact on the political level

§ 33 The institutional framework operates almost exclusively on the administrative and technical level. This level is appropriate for dealing with questions requiring differing types of expertise. For questions of this type, the existing framework, albeit incomplete, achieves relatively satisfactory results.

But a major problem is that inland navigation is not given sufficient consideration when it comes to more fundamental choices of a political character: major investments, economic aid, support through tax or social measures, part in the modal split, etc.

Inland navigation is the poor relation of transport policy on the Community level as well as in most European countries. There are numerous declarations of principle in its favour, but they are not followed by concrete measures. This behaviour necessarily has an impact on the choices made by economic players.

§ 34 In order for this situation to change, new political weight must be given to promoting inland navigation.

Previous occasional European ministerial conferences had a positive impact on the evolution of inland navigation. On 1st September 1991 in Budapest a European ministerial conference of 25 countries was devoted to inland navigation. Ten years later, on 5th and 6th September 2001, another European ministerial conference was held, in Rotterdam this time, to strengthen river transport in Europe. These high-level meetings are not expected to make decisions, but they do place inland navigation at the forefront of governments' attention. They have without doubt had a positive effect on the attention paid to waterways.

Such meetings may appear to be too infrequent. Of course, ECMT organises ministerial conferences every other year, but only some of the member states of ECMT are sufficiently interested in inland navigation, so that it is relatively rare for waterways to occupy even a small place on the agenda of these meetings. Similarly, it has rarely preoccupied the Council of Ministers of Transport of the EU.

§ 35 We can thus consider that what is missing is an institutional tool that would make it possible at regular intervals to organise specialised meetings aimed at bringing together ministers responsible for waterways in countries which have considerable interest in the matter in order to consider the alternatives of political significance for the future of river transport and to make policy decisions such as cannot be made by administrative bodies. Such a meeting should of course have at its disposal an appropriate body manned by experts for preparing and following-up meetings, but under governmental leadership.

Chapter 3 - Incomplete integration of the European river transport market

§ 36 Reference is frequently made to the need for an open and integrated inland navigation market in Europe. The current institutional framework is seen as the reflection of the divided state of the market due to the coexistence of several different national and international legal regimes.

It is true that, from the point of view of access to the market of transport services⁵², there are several legal frameworks:

- the regime of the EC
- the regime of the Mannheim Convention⁵³
- the regime of the Belgrade Convention⁵⁴
- there are also states whose waterways are not subject to any of the above mentioned regimes: this is the case of the Ukraine (except for its segment of the Danube) and of Russia.

⁵² See below (*Part 2 - Chapter 4*) for the question of the harmonisation of technical and legal regulations applicable on the market.

⁵³ From the point of view of market access, the regime of the Mosel does not constitute a special legal frame.

⁵⁴ For the sake of completeness, mention should be made of the regime currently being adopted for the Sava, an affluent of the Danube. The agreements being concluded adopt for the main part the same solutions as for the Danube and do not seem to involve any particular rules regarding market access.

There is general agreement that a rapprochement, even unification, of these legal regimes would be extremely favourable to the development of European inland navigation. Indeed, the existence of a greater integrated European or all-Europe market for inland navigation would provide strong motivation to invest in this sector.

§ 37 It should however be emphasized that for most of the European water transport market (namely EU-Rhine) markets have already opened up. In fact only three questions really are outstanding:

- conditions for trade between the Community network plus the Rhine regime and third states
- access to the market for the non-Community segments of the Danube
- the regime of the Ukrainian and Russian waterways.
 - a) Regarding third country access to Community waterways and the Rhine, the current situation is still governed by bilateral conventions except for the case of the Rhine domestic trade which is governed by the CCNR. The European Commission had been mandated to negotiate a multilateral agreement with third countries. For various reasons, this mandate has not achieved its goals. In the meantime, it has become irrelevant since most of the States concerned have joined the Community or will soon do so.
 - b) As far as the Danube is concerned, while transit traffic is free, States reserve national domestic transport to their own fleets, and control trade. On the section of the Danube within the European Community, Community fleets enjoy free access to the markets. It is unlikely that the current revision of the Belgrade Convention will change much, since:
 - States belonging to the Community could find that their right to conclude a convention in this domain is the object of dispute,
 - the other states are unlikely for economic reasons to accept a policy of leaving their respective national markets wide open.
 - c) On the whole, Ukrainian and Russian waterways remain closed to the fleets of third countries, although Ukrainian and Russian vessels can circulate freely on the Danube⁵⁵.

§ 38 From a general point of view, there is no appropriate framework in Europe for comprehensive discussion and negotiation on completing the integration of the inland navigation market. From a legal point of view, the European community would be the most appropriate venue to create an even more global market (integrating non-Community countries), yet its competence remains subject to the renewal of a mandate to negotiate, which could only be effective if consensus can be found among the states concerned. Until now, the existing institutional framework has not made it possible for

⁵⁵ There are however some signs that Russia and the Ukraine might be more open to the opening their inland navigation markets.

such consensus to be obtained. One reason for this is the insufficient information on the state of national fleets, and that there is no adequate forum for such a discussion on a combined strategy under which the measures necessary to accompany greater integration could be agreed⁵⁶.

§ 39 Such support measures are indispensable. Improving competition in a market makes it more attractive but is not enough to guarantee its development⁵⁷.

With the advent of deregulation in the 1990s, both in the Community and on the Danube, inland navigation regained its attractiveness for shippers thanks to a less rigid framework and lower prices. But the growth of competition in the context of strongly divided offer and concentration of demand can in practice lead to a structural fall of prices⁵⁸. While it makes it more competitive with other forms of transport, it prevents the continued and necessary renewal and modernisation of the fleets due to insufficient resources.

§ 40 In other words, deregulation is quite well advanced. But in order to have favourable effects, there needs to be a regulatory authority to guarantee balanced and fair competition. In the absence of such a regulatory framework, a deregulated market risks leading to unbridled competition, relative decline of freight, harmful effects on social conditions, safety, quality and capacity of financing for fleet modernisation.

The institutional framework must guarantee that a general balance be maintained on the market and this entails a need for information on market conditions and capacities for intervention. Given the variety of organisations active in inland navigation and their limited means, it is not possible to consider that this need is satisfied.

⁵⁶ Mention should be made of a study ("PINE") to evaluate the effects on inland navigation of the accession of the 10 states to the European Community ; the conclusions of this study were not available in the second half of the year 2004.

⁵⁷ Twenty years ago, the general opinion was still that the transport sector required rigorous public management and justified the detailed interventionism of states. Today, this conviction has been replaced by the opposite belief that only a free, deregulated market can prosper. Reality is more complex.

⁵⁸ Article 7 of the directive 96/75 of 19th November 1996 and article 6 of regulation no 718/1999 of the Council of 29th March 1999 foresee that in the event of serious disturbances on the market, the European Commission may adopt measures to prevent an increase in transport capacity or to reactivate the rule "old for new". These measures cannot however be adopted meaningfully on a market which is relatively open to third countries. The Rhine market is open to Switzerland and the Danube market is partially open to non-Community countries which are members of the Danube Commission.

Chapter 4 - Lack of unified technical and legal regulations applicable to inland navigation

Regarding regulation of inland navigation, it is usual to distinguish between so-called rules of public law (technical and safety regulations) and private law (regime of legal obligations and liability). These regulations apply to distinct matters but all beg the same question as to unity or diversity of conditions applicable to transport activities on inland navigation waterways. Below follows an examination of these regulations.

Section 1 - Technical regulations

§ 41 The fact that different certificates for the technical specifications of vessels and different certificates for boat-masters (and even radar certificates or those relating to transport of hazardous goods) are required for the different waterway systems in Europe in particular those belonging to the inter-connected network is generally perceived as an irritating obstacle to the development of this mode of transport. It leads to bureaucratic constraints on the operators, which in turn slows down integration of the sector.

These disparities are partly related to the reality of diverse situations on European waterways and are not necessarily unfounded or the result of inadequate role distribution.

§ 42 Regarding the technical specifications for vessels, the level of equipment chosen has important implications for the financial constraints on ship-owners and on competitiveness on one hand, and for safety levels on the other. Adaptation to the physical characteristics and socio-economic conditions of each waterway is logical, but it compromises ease of circulation⁵⁹. To this must be added the question of acquired rights and transitional provisions.

Concerning boat-masters' certificates, there is a good degree of similarity between the qualifications required under the Rhine and Danube regimes on the one hand and Community regulations on the other, but in addition, boat-masters are required to have practical knowledge of particularly difficult stretches of the waterways.

§ 43 Although differences necessarily subsist, two unifying factors are lacking:

- a common conceptual framework to define safety levels and methods, on the basis of which required adaptation to particular situations could then be defined,

⁵⁹ In practice, almost all international regimes of technical specifications are inspired by the Rhine regulations. The current regulations (directive 82/714) are inspired by the 1975 Rhine survey regulation of 1975. The UNECE regulation on technical specifications of vessels adopted in 1975 and repeatedly modified since (Resolution No. 17) was also based on the Rhine model. In 1992 it was taken up again in a recommendation of the DC on minimal technical specifications for vessels. We thus find a similar "philosophy" regarding technical specifications in large parts of Western and Central Europe. In contrast, Russia and the Ukraine on one hand and the United Kingdom on the other are more inspired by traditions of maritime safety.

- a uniform system of certification, so that there would be general recognition and identical management (meaning that the technical condition of the vessels and the boat-master's competence would be certified under the same conditions)

To this end, a single authority would be needed to develop and follow up on such a reference system. This in turn would make possible a common certification system, even if requirements varied from one waterway system to another and its application remained decentralised.

§ 44 Significant progress has been made along the lines mentioned above, with the current integration of Community regulations and Rhine regulations (on technical specifications for vessels) and on the basis of joint work of the CCNR and the DC (regarding professional qualifications). It will probably be possible in the near future to achieve the application of common standards in the major part of the European waterway system. But this progress must be facilitated and accelerated by adapting the institutional framework. Once accepted by all, these standards must then be administered and updated jointly, which again presupposes a body in charge of this work.

§ 45 Improved cohesion would require that relevant bodies be less dispersed. Furthermore, since regulatory instruments must be constantly updated, it requires a management system which can react quickly. And finally, the regulatory framework must be as simple as possible, in order to limit bureaucratic constraints which could burden economic players, such as required knowledge of applicable rules, obtaining recognition of equivalence, certification, etc, taking into account at all times the related risks of unfair competition, regulatory loopholes which could be exploited or inefficient controls. With a more transparent regulatory system, control mechanisms could become more efficient. At this point in time, excessive resources are allocated to the management of overly diverse standards, compliance with which cannot be guaranteed in the field. A reorganisation of the institutional framework would guarantee that control of and information on the practical effects of regulations would be carried out under better conditions.

All these considerations lead to the wish for greater integration of the system to develop, up-date and control technical standards techniques which in any event must comply with high standards which are constantly updated in order to guarantee the lasting nature of the intrinsic benefits of this mode of transport, particularly in the field of safety and the environment.

Section 2 - Legal regulations

§ 46 Regarding legal standards (civil law, contract law, tort law, etc.) the process of unification is very patchy. This leads to uncertainty for operators about operating conditions. One consequence in particular is a possible negative effect on fair competition⁶⁰. Uniform rules for transport contracts and liability in inland navigation would make the economics of this mode of transport more transparent.

This matter has been the object of a number of international conventions (CMNI, CLNI etc.)⁶¹, which however have not been ratified or only ratified by a limited number of states. A more dynamic institutional framework would make it possible to increase pressure on the states for speedier adoption of conventions and drafting of optional protocols as needed.

§ 47 One reason for slow progress in this domain is due to the fact that in the field of international private law of inland navigation there are not enough experts in those public institutions (national or international) which are called upon to implement these conventions. Changes in the institutional framework could improve the use of this scarce human resource.

Chapter 5 - Insufficient administrative and personnel resources

§ 48 Numerous structures exist to manage waterways in Europe. However, none of them is adequately equipped to deal convincingly with the diversity of questions that deserve consideration at that level.

Within the European Community, as within the UNECE very few persons are assigned to questions of inland navigation. Even the river commissions have small secretariats. National delegations participating in the work of these commissions have reduced their staffs. Whereas the issues which these administrations are called upon to deal with are on the increase (questions of safety, environment/navigation interface, market observation, harmonisation of social protection, etc.), material and human resources are stagnating at a clearly insufficient level. As underlined earlier⁶² this constitutes a serious source of uncertainty for inland navigation. One may even ask whether the existing institutional framework will have enough means at its disposal to manage some of the major regulatory issues, for instance concerning hazardous goods.

⁶⁰ If for instance it results in significant differences in the event of damages or insurance obligations.

⁶¹ Important work has been done on this, in particular by the CCNR and UNECE. A list of pan-European legal instruments relating to waterway transport is kept up to date by the UNECE (see for instance document Trans/sc/3/2001/6).

⁶² See observations above in *Part 2 - Chapter 4*.

It is however within the two river commissions that the most human resources are currently dedicated to inland navigation, taking into account both the personnel available in the secretariats and the national experts active in the bodies of these commissions. This explains why many initiatives for projects that are not limited to these river basins come from the river commissions in particular the CCNR.

§ 49 On a different level, there are structural weaknesses regarding the sectoral organisations active in inland navigation. These have a very small number of salaried employees and consultants, which prevents them from either developing sufficiently intense promotion and lobbying activities or effectively assisting intergovernmental organisations⁶³.

In order to develop the capacity to influence inland navigation, the institutional apparatus will have to be strengthened on the European and on the national levels. If the institutional framework were more powerful - in terms of human resources and others - it would be more able to strengthen policies to promote European inland navigation. En tout état de cause, les structures existantes ne permettent pas de prendre en charge toutes les missions qui sont nécessaires au développement de ce mode de transport.

Chapter 6 - Dispersal of responsibilities and insufficient coherence in the exercise of competences

§ 50 The fact that there are a number of organisations dealing with inland navigation is not, in itself, a bad thing. Indeed, if there are several institutions dealing with related questions, they can learn from each other which can lead to useful interactive processes.

However, the lack of clear guidelines at a strategic level, the absence of a real “orchestrator” reduces efficiency of action, despite efforts at co-ordination and concertation. What is missing is a global blueprint within which the various institutions active in inland navigation could each find their place and role, working toward greater complementarity and greater efficiency. Without doubt, energy is being unnecessarily expended to the extent that the same questions are repeatedly discussed, sometimes by the same people, without any clear value added in different forums. For instance, the definition of RIS standards (river information system) was examined successively, in the framework of PIANC, then CCNR, then UNECE, then DC and finally the European Community. Or again, questions about the prevention of terrorism circulated between ECMT, CCNR, UNECE and the European commission, without these successive examinations, often by the same experts, being very conclusive.

⁶³ The scarcity of human resources is combined with a shortage of financial resources, which contrasts with influential means of other modes, road on account of its success, rail despite its failure.

Chapter 7 - Institutions geared to regulatory management and insufficiently to strategic action

§ 51 The institutions present on the European level devote a major part of their activities to drafting standards: technical or legal standards, new conventions or updating of various regulations. This regulatory activity is particularly well developed within the river commissions, but is also characteristic of UNECE and the European Commission.

These are of course important matters: the quality of regulation, speedy adaptation to technological change, bringing that in line with the economic context, and acceptance by those called upon to enforce them are all important to the proper functioning of a mode of transport.

However, the current institutional framework is reproached for not granting enough importance to a more strategic dimension within a larger goal of developing river navigation and gaining a greater share of transports.

§ 52 Not that the strategic dimension is completely absent from the institutional framework of European inland navigation. The ECMT is particularly attentive to this⁶⁴. The effort of structural improvements just completed at the Community and CCNR level is one illustration of this. The CCNR regularly organises strategic debates with the sector. The fact remains that bodies for inland navigation do not have sufficient tools for such strategic activity. The search for fitting tools is all the more delicate in that, in a free market economy, there are fewer possible forms of direct intervention. The way to act is through investment, economic information, concertation with market players, collecting widespread expertise, putting a more economic slant on regulatory activity, etc. To give more substance to a strong river transport policy, it seems especially vital that means be better co-ordinated, even concentrated, and that they be used at the most appropriate level.

Chapter 8 - Structures increasingly unsuited to integrate inland navigation in Europe

§ 53 Inland navigation has profoundly evolved over the last 15 years. At the end of the 1980s there was still little unification of inland navigation. The Rhine basin was a very original sector, given the liberal and unified rules applied there. National markets were compartmentalised and highly regulated. Community rules held little influence. The Danube market was dominated by state enterprises tied by an agreement on distribution and levels of freight.

⁶⁴ The ECMT organised a seminar in January 2002 on the subject of "Tomorrow's inland navigation on the European continent" cf. Also Round Table 108 "What markets for inland navigation in Europe?"

Today, all sectors of inland navigation accept the rule of the market and the principle of growing integration. The specificities of the separate river basins are rapidly shrinking and there is a general desire for uniform regulations.

§ 54 But the consequences of this evolution have not been sufficiently taken into account at the institutional level. The pre-1990 situation justified the diversity of organisations and the disparities between applicable rules. The technical, legal and economic characteristics of the various waterways were considerable. It thus seemed logical not to seek the establishment of a unified institutional framework for this mode of transport and to give the principal role to the two river commissions, in particular the CCNR which is competent for the largest waterway in Europe and the one with the most integrated legal regime.

In the meantime, differences in the operation of European waterways have considerably decreased. Increasingly, the same conditions apply. In some respects, it could be said that the Rhine regime has been generalised to all of Europe by way of Community law. The justification for “decentralised management” of the basins is therefore partly called into question.

§ 55 The situation is particularly paradoxical for the CCNR because the solutions it developed are increasingly applied on the European level. This calls its role into question, since it seems illogical that the Rhine commission should define the rules for all Europe. Whatever the case may be, the river commissions have taken on a task that extends far beyond their geographic spheres of activity. They do quality work, all the more useful as it would not actually be assumed by another structure. However useful this role may be, it is not being assumed on a level and within a framework that is best adapted to the current degree of integration of inland navigation in Europe.

It will therefore be necessary to bring about a progressive evolution in the existing system, preserving as much as possible tried and tested solutions, all the while looking for better adaptation to a new situation taking account of those needs which are not currently being met.

Part 3

Analysis of options for improving the institutional framework for inland navigation in Europe

§ 56 Several proposals for improving the institutional organisation have been presented in the bodies involved in inland navigation or in specialised literature.

These proposals mainly concern the respective roles of the European Community and of the river commissions⁶⁵, namely :

- closer co-operation between the CCNR and the Danube Commission
- merging CCNR and the Danube Commission in view of a possible European convention on inland navigation
- European Community membership in the major river commissions
- transfer to the European Community of a number of tasks currently carried out by the river commissions
- setting up a Community agency for inland navigation

§ 57 The Study Group examined these proposals to assess their advantages and limitations.

The Group based its analysis on the following criteria :

- to be able to increase political support for inland navigation,
- to have good scope for strategic action to develop use of river transport,
- to provide an economic solution for human and financial resources thanks to more efficient use of these resources,
- to encourage integration of regulatory systems and markets in the context of inland navigation.

The Group concludes that the above-mentioned measures take account of some of the current shortcomings of the institutional framework as well as certain inadequacies, shortcomings or difficulties in implementation.

Chapter 1 - Closer co-operation between the CCNR and the Danube Commission

§ 58 It is generally agreed that there should be closer co-operation between the Central Commission (CCNR) and the Danube Commission. The Study Group fully agrees with it.

Different types of co-operation exist :

- Direct co-operation between the secretariats of the two commissions. This co-operation has existed for quite some time and is bound by its very nature to be reinforced

⁶⁵ The group received observations on the current and future roles of the ECMT and of UNECE, but it was not aware of concrete proposals for reform and/or reorganisation regarding these two institutions in the context of their role in inland navigation.

- Co-operation among Member States: a large number of Danube States are involved as observers in activities of the CCNR and conversely, several Rhine States participate as observers in the Danube Commission, or even as full members. Direct participation of these States in the bodies of the commissions constitutes a valuable instrument.
- Joint institutions: a joint ad hoc committee was set up following the first joint meeting of the two commissions⁶⁶.

The effectiveness of this co-operation would be enhanced if a joint action programme were adopted, with a detailed timetable. Such measures do not require institutional changes.

§ 59 Without wishing to dispute the usefulness of these initiatives or the need to pursue them, it is debatable whether these alone are sufficient to provide the institutional system for inland navigation with the new dimension necessary for the development of this mode of transport.

Indeed, this type of co-operation will inevitably remain limited within the actual framework on account of the specific nature of these bodies and the working methods of each commission. This duality can be seen in the major differences in the activities carried out. Each commission has its own priorities, and cannot, for lack of sufficient resources, make major investments in the programme of the other commission.

Furthermore, the two commissions are aware of the common limits of their actions which cannot be overcome despite their co-operation:

- limited resources
- insufficient influence in improving infrastructures
- no access to the political level
- the geographic scope does not include all river States

In particular, the action of the two commissions only enables indirect intervention on inland waterways not covered by the Mannheim or by the Belgrade Convention.

In conclusion, while co-operation between the two major river commissions must indeed be deepened and widened to include other existing commissions⁶⁷, it would not in itself be sufficient to transform significantly the institutional framework of inland navigation.

Chapter 2 - Merging CCNR and the Danube Commission in view of a possible European convention on inland navigation

§ 60 The aim of such a merger would be to encourage unification of rules applicable to the Rhine and Danube all the while giving considerable weight to the organisation resulting from the merger. In this way a "Commission for Inland Navigation on the Rhine and the Danube" would be created whose influence could be further extended through the membership of some European river states not yet members (Poland, the Czech Republic). This new unified river commission would thus acquire a true

⁶⁶ It would be desirable if other river commissions, namely that of the Mosel and of the Sava Rivers, were involved in this co-operation.

⁶⁷ The Mosel Commission and Sava Commission.

European dimension⁶⁸. It should be noted however the simply merging the two commissions does not provide an appropriate solution to the limitations which have been identified in their functioning: their geographic competence limited to the Rhine and Danube river basins, their limited operational resources, the fact that these commissions concentrate essentially on regulatory activities, etc.

Moreover, such a measure would however be difficult to realise. A simple merger would in fact be insufficient: a completely new institution would have to be set up on the basis of input from the two regional commissions. An operation of this nature could only be feasible in the medium term and if carried out progressively.

§ 61 Furthermore, if the political will to set up such a new body did exist, it would not be necessary for it to be in the form of a merger of the two commissions, all the more so that the regional structures would in any event continue to exist. In such an approach, it would be preferable to set up a sui generis European body with a distribution of roles between the European level where this body would be located on the one hand, and the regional level corresponding to the river commissions on the other.

Chapter 3 - European Community membership in the major he river commissions

§ 62 This membership has been mentioned frequently and was envisaged by Member States of the CCNR in the protocol for the signature of the additional protocol N° 2 to the Revised Convention on Navigation on the Rhine⁶⁹. More recently, it was mentioned in the White Paper on Community Transport Policy up to 2010⁷⁰ proposed by the European Commission, and which presented a recommendation along these lines to the Ministerial Council of the Community on 1st August 2003⁷¹. The European Commission reiterated this proposal when preparing the revision of the Belgrade Convention. The Commission sees this essentially as a means of reinforcing the Community's influence within the river commissions and believes that this would reinforce these commissions' ability to act.

The Study Group believes that the concern to set up close co-operation between the Community and the two major river commissions is justified. If the institutional framework of inland navigation is to be reinforced, more efficient co-operation and better complementarity will have to be established between the European Commission, the CCNR and the Danube River Commission. It is not only a question here of avoiding any possible diverging activities and regulations drafted by these bodies, but also with a view to preventing any possible duplications and reinforcing mutual support.

⁶⁸ The idea of a "European Convention on Inland Navigation" could be considered here, as is frequently mentioned in Germany in particular (europäische Stromakte), replacing the Mannheim and Belgrade Conventions, is based on the same idea: creating a single European framework by merging the Rhine and Danube regimes (see, for example Hermann Pabst "Eine Europäische Stromakte" anzustehendes Ziel oder nur eine Illusion ?, (A European River Convention – future goal or merely an illusion?) Binnenschifffahrt 1997 p. 1695).

⁶⁹ 17th October 1979.

⁷⁰ Com (2001) 370, 12th September 2001.

⁷¹ Sec (2003) 597 restricted final EU.

§ 63 There are already strong ties linking the river commissions and the European Commission. In the case of the CCNR, a co-operation agreement was concluded between the Secretary General of the CCNR and the Director General of DG-TREN on 3rd March 2003. In particular, this agreement served as the basis for setting up the joint CCNR/EC working group on technical specifications for boats, joint activity on market observation, other activities will involve the establishment of common criteria for certification of boat-masters. In the case of the Danube Commission, the European Commission participates in its meetings as observer and was particularly involved concerning the clearance of the Danube at Novi Sad.

Even more systematic co-operation could reinforce the activity of inland navigation. This however begs the question of knowing whether the Community's membership in the river commissions is the best way of achieving this goal. Several observations have to be made on this point in order to understand fully this option.

§ 64 1) First of all, it should be noted that this measure would only partially overcome the shortcomings of the institutional framework of inland navigation in Europe as outlined above⁷². What is lacking above all are actions which go beyond the scope of competence of the river commissions.

The Community's membership in the two river commissions would not in itself create new momentum to reinforce inland navigation in Europe. This would have to be achieved by other means.

Moreover, the CCNR and Danube Commission cover the major part of the network of inland waterways in Europe, but not the entire network nor are all states concerned members of these commissions. The Community's membership of these commissions would not therefore concern the network as a whole and would not be sufficient to provide the framework for a global policy for inland waterways in Europe.

§ 65 2) In legal terms, European Community membership in the river commissions implies its adhesion to the Mannheim and Belgrade Conventions. Consequently, the Community, by becoming a member, would accept being bound by the principles and allocation of competences as set out in these conventions. Such an international commitment would result in these elements being integrated into Community regulations. One might be tempted to ask whether such membership could provide legal clarification since it would sanction the application of the Mannheim and Belgrade Conventions concurrently with community law⁷³ as well as sanctioning the coexistence of several decision-making bodies in the specific areas designated to the commissions by these conventions⁷⁴.

⁷² Part 2 of this report.

⁷³ The Mannheim and Belgrade Conventions would prevail over derived Community law and, in the case of the CCNR, its decisions would be binding on the Community as on other members.

⁷⁴ Above all if, as is foreseen, the Danube Commission is recognised as having the power to adopt compulsory specifications.

If the aim of Community membership is to ensure better compliance of the river commissions' activities with Community policy and standards, it should be noted that, even in the event of such membership, the river commissions have to ensure that they prevent any conflict with Community law. Membership would certainly reinforce this guarantee, already very strong, in that measures adopted within the framework of the river commissions do not deliberately contradict Community law. Nevertheless, this does not preclude incompatibility occurring by accident and, from a legal point of view, distinct regimes would continue to exist.

§ 66 3) In practice, most issues currently handled by the river commissions concern areas where the Community does have competence and where, according to the above analysis, a common position of the Community and its Member States would have to be agreed upon prior to deliberation within the river commissions. These latter would run the risk of no longer being a forum for debate among all their members with their collective search for consensual solutions. In any event, the dynamics of the decision-making process would be changed. The true forum for discussion would be removed from the river commissions to Community structures. This may be an advantage from the point of view of a coherent Community position. It will be a disadvantage with regard to the ability of river commissions to produce consensual decisions.

§ 67 4) In the event of membership, the Commission does not envisage providing additional resources to the river commissions. However, the aim of closer co-operation between the Community and the river commissions could in particular be to release additional resources to undertake activities which at the present moment are not being carried out satisfactorily. It could even be feared that Community membership in the longer run could result in a lower level of involvement on the part of Member States in the functioning of the commissions, without alternative financial and human resources having been made available.

§ 68 5) Lastly, when considering the question of European Community membership, it would be unrealistic to consider the situation of the CCNR and the Danube Commission in identical terms. For each commission, the question has to be seen in a different light, if only on account of their respective compositions and different operating modes.

For many years to come, a large number of members of the Danube Commission will not be members of the European Community whereas Community members will be obliged to apply Community law. Accordingly it is destined to serve as a framework for concertation between the Community and non-Community Danube states. With this in mind, a procedure for revising the Belgrade Convention is under way to grant it decision-making powers in the field of technical specifications. These facts may require clarification of the Community position within the Danube Commission. However the question remains as to whether the Community would be willing to grant it new areas of competence.

The CCNR has established close co-operation with the Community. There are many joint or complementary activities⁷⁵. Switzerland, the non-Community member of the CCNR, is closely involved in many Community activities. This complex set of relations, reinforced by the co-operation agreement of 3rd March 2003, could be subject to major changes as a result of Community membership. It would be unfortunate if the CCNR were to be reduced to a body for concertation between the EU and Switzerland.

Chapter 4 - Transfer to the European Community of a number of tasks currently carried out by the river commissions

The question remains as to whether some of the activities of the river commissions should not rather be assumed on the Community level, so as to unify and rationalise the regulatory framework of inland navigation.⁷⁶

The European Community is called upon to become more involved in inland navigation. However, this begs the question whether this involvement can be in the form of transferring certain competences currently exercised by the river commissions.

Section 1 - Involvement of the European Community in developing river transport

- § 69 The European Community has a whole range of major assets at its disposal, which can be called upon to the advantage of inland navigation, such as:
- competence in all areas concerning the organisation of an integrated market for river transport,
 - the possibility of integrating waterways policy into the much broader picture of an international strategy for goods transport in Europe,
 - major resources,
 - action methodology which has been tried and tested in other areas.

⁷⁵ The restructuring policy is a good illustration of this close co-operation.

⁷⁶ The word "activities" is used deliberately and not that of "competences". The expression "competence" has to be understood in its legal sense. From the legal point of view, the CCNR and the Danube Commission are not in the same situation: The Danube Commission only has legal competence to send recommendations to its members. The CCNR has regulatory competence on all matters relating to navigation on the Rhine (art. 2 Mannheim Convention). The European Community also has regulatory competence for river transport, organisation of the market as well as technical specifications. There is divergence of opinion on how the rules of the Mannheim Convention and those of the Treaty of the European Community have to be combined. The Study Group did not feel it necessary to become involved in this analysis. Whereas the Group did examine the question of transferring legal competences in order to bring about unification in the Community, above all it examined the question of whether it is appropriate that the work currently carried out by the two major river commissions, particularly in the field of technical specifications (for vessels, boat-masters, crews, etc) irrespective of the legal status be transferred to the Commission.

Furthermore Community policy has provided some very positive elements to inland navigation:

- It has encouraged deregulation of national markets for river transport otherwise confined to a rigid system of administrative management (rota system) and of regulated freight (excluding the Rhine which does not have such regulations). It has thus enabled the creation of a largely unified inland navigation market for Member States of the Community.
- Along with the CCNR, it has organised the restructuring of the market ("old for new") thus enabling the fleet to be modernised, at the same time offering socially acceptable conditions for those wishing to withdraw from the market.
- It has enabled the harmonisation of certificates for vessels and boat-masters.

These elements have made a major contribution to modernising inland navigation in the Community.

§ 70 It is desirable that European Community involvement in developing inland navigation continues and is reinforced. Expressions of intent along these lines⁷⁷ have been most welcome since, in the past, it has sometimes been felt that the Community was not sufficiently committed to this mode of transport.

Several factors may explain this limited involvement of the Community in inland navigation, inter alia:

- the fact that a limited number of Member States of the Community have a significant interest in inland navigation (only about 10 Member States out of 25 are really concerned by this mode of transport).
- the existence of river commissions, which have traditionally been responsible for some of the issues pertaining to management of river transport (in particular the CCNR, with competence for the main inland waterway in the Community, the number of those with major interests in this mode of transport is still fairly limited)⁷⁸

Accordingly, the time may have come when it is appropriate to ask whether there should be a redistribution of roles between the regional and central elements.

⁷⁷ The Göteborg Summit emphasized the need to development sustainable forms of transport, such as inland navigation. The White Paper spoke out in favour of reinforcing inland navigation. The revised list of projects likely to receive subsidies in the framework of the TEN-T takes better account of inland navigation.

⁷⁸ Undoubtedly inland navigation is not the only activity which interests only some of the Member States of the European Community. However it is not entirely without grounds that, one might occasionally question the defence of interests in arbitrations.

Section 2 - Limits of a redistribution of tasks between the European Community and the river commissions

§ 71 The question of whether the distribution of tasks between the Community and the river commissions should be re-considered, does not concern the regional functions of river commissions (monitoring work on infrastructures, local police regulations, concertation of local players, etc)⁷⁹. Such transfer may in fact basically be envisaged regarding issues relating to technical regulations concerning safety of vessels, protection of the environment and transport of dangerous goods, and regulations concerning boat-masters and crews etc. These issues are indeed worthy of as much unification as possible on the European level.

§ 72 There are already waterways in the Community subject to Community law, legally binding in this field, but not exclusively. In such matters, a legal transfer of competence with a view to unification on the European level would imply:

- Extending Community law to the entire Danube whereas a significant number of Members States of the Danube Commission does not belong to the European Community. The Danube Commission moreover has competence only to make recommendations; river states⁸⁰ would be transferring this competence to the Community.
- A full revision of the Mannheim Convention which currently declares the CCNR competence for the Rhine : this competence would have to be abandoned and a specific agreement reached with Switzerland.

It is not unthinkable that non-member states of the Community would have some difficulty in accepting such a transfer of competence. Even the enlarged Community is not an appropriate framework to unify inland navigation rules on the pan-European level.

§ 73 On a more practical level, the problem in reality is where is the technical know-how available and where is the actual work being carried out on revising and supervising the application of the appropriate technical regulations.

At this point in time, this work is essentially carried out by the CCNR, in liaison with the European Commission in the context of the co-operation agreement of 3rd March 2003 and in co-operation with other interested states.

Transferring this activity to the European Commission does not appear to be a satisfactory solution. This kind of regulatory work is usually not worthy of concentration within the European Commission but is typically rather carried out by a specialised structure. Furthermore, it is important to ensure, lacking any better alternative, that working methods are not called into question which so far have given satisfaction. It appears sensible to let the existing system evolve in order to confirm its legitimacy all the while ensuring that it is accessible to experts of all interested States.

⁷⁹ The member states of the river commissions prefer that the principle of subsidiarity apply in the sharing of tasks between the commissions and the European Community and that all matters relating to management of the river basins in question continue to be the competence of these river commissions.

⁸⁰ At least those which are not members of the Community.

§ 74 In conclusion, if the aim is indeed to unify technical regulations further, the problem is not so much one of amending the legal competence of the river commissions as of improving the current procedure for developing technical standards in order to reinforce the European dimension.

In general, whereas it is desirable that the Community reinforce its role in inland navigation, it should do so by opening up “new activities” not covered such as tax harmonisation, social regulation, etc.

Chapter 5 - Setting up a Community agency for inland navigation

§ 75 In recent years, there has been a considerable increase in the number of Community agencies set up in the field of transport. Such agencies have been set up successively in the field of air, maritime and rail transport⁸¹. It could appear coherent to endow inland navigation with a similar structure. This would be beneficial to this mode of transport since in general significant resources are allocated to these institutions⁸². In this way, the administrative framework of river transport could be considerably reinforced. Setting up an agency can also be seen as a response to certain shortcomings observed within the institutional framework of inland navigation in Europe.

§ 76 Nevertheless the question remains as to whether the political will exists within the European Community to support the creation of such an agency to the extent that it will be of interest only to a limited number of Member States and that there is no political incitement for its creation as powerful as that which led to the creation of the aviation, maritime or rail agencies⁸³. There are no urgent problems requiring attention on the Community level regarding the safety or inter-operability of river transport.

Under these conditions, it is just possible that the Community could be tempted by a “half measure” consisting in the addition of a river section to existing agencies, in this case the agency for maritime safety. However, such a partial measure would risk losing a significant number of the advantages linked to the existence of a European organisation specialised in inland navigation.

⁸¹ Regulation (EC) no 1406/2002 of the Europe Parliament and of Council of 27th June 2002 setting up a European agency for maritime safety; regulation (EC) no 1592/2002 of the European Parliament and of Council of 15th July 2002 relative to common rules in the field of civil aviation and setting up a European agency for aviation safety; regulation (EC) no 881/2004 of the European Parliament and of Council of 29th April 2004 setting up a European rail agency.

⁸² An annual budget of 15 million euros for the rail agency; 18 million euros for the maritime safety agency; 28 million euros for the aviation agency (these figures are for start-up budgets).

⁸³ It was the Erika oil-spill which led to the creation of the maritime safety agency. The question of the European air transport industry resulted in the creation of the aviation safety agency. The question of interoperability of European rail network is a major factor in their re-organisation.

§ 77 Be that as it may, several reasons lead the Study Group not to favour the creation of a "Community"-type agency, i.e. along the lines of those already set up for other modes of transport.

Regarding the Community agency option, a first concern relates to the fact that the missions of these agencies are fairly far removed from what one would prefer to see implemented on the European level. The present agencies are either executive agencies entrusted with tasks concerning the administration of Community programmes⁸⁴, or they are regulatory agencies⁸⁵ which participate in the executive function in the form of individual decisions concerning the implementation of Community law in those areas where arbitration between different types of public interest is not required⁸⁶.

§ 78 In the field of transport, the task of agencies set up so far has been to supervise the application of Community rules in the field of safety and to provide technical assistance to the European Commission in the area concerned (agencies for maritime and aviation safety). Regarding the agency of rail networks, this also has responsibility for developing and revising technical specifications for inter-operability.

It could be conceivable to set up a Community agency along the lines of these new institutions, for the drafting and monitoring of technical rules on safety in the field of river transport. No doubt harmonisation of existing rules is desirable and efficient supervision of harmonised rules will be necessary in the future. Indeed there are initiatives in this direction under way at the present time⁸⁷.

§ 79 However the question of defining and supervising safety rules (in the broadest sense: technical certificates for vessels, boat-masters' certificates, rules on minimum crews, etc) is not a priority problem for the development of inland navigation. Consequently it is important to avoid limiting the activity of any agency in this field.

What is required is an organisation with broad-based responsibility for developing river transport, taking into account all aspects related to this mode of transport (infrastructure, promotion activities, personnel, etc)⁸⁸. However, the models on which these regulatory or implementing agencies of the Community are based do not appear sufficiently adapted to this type of much broader role. There would have to be an evolution at least towards solutions more adapted to a range of diverse activities, which, over and above the regulatory and implementation functions, include acting as a driving force and carrying out strategic actions⁸⁹.

⁸⁴Regulation (EC) no 58/2003 of Council of 19th December 2002.

⁸⁵ Communication of the Commission of 11th December 2002, COM (2002) 718 final.

⁸⁶ Other types of European agencies exist: "observatory" agencies (responsible for assembling and disseminating information) and agencies for promoting social dialogue on the European level (these essentially concern vocational training and working conditions).

⁸⁷ In particular the current revision of Community regulation which will enable mutual recognition and updating of Rhine and Community certificates. Without doubt, once a common framework of requirements for all European inland navigation has been set up, a system for supervision will be required. This Study Group has taken this concern into account (see the proposals below in *Part 4*).

⁸⁸ The composition of the Management Board of these Community agencies varies. In any event, there are representatives from the Commission and from Member States. There may also be representatives of the social partners and of the European Parliament.

⁸⁹ The Mannheim Convention of 1868 took account at that time of this concern by giving the CCNR competence to intervene in all matters relating to the "prosperity" of inland navigation.

§ 80 Furthermore, if setting up a body to define and implement a global development policy for inland waterways in Europe is regarded as desirable, then account must be taken of the fact that a major part of competence does not lie on the Community level but remain with the states themselves and that, consequently, the structure of the agency should be designed in such a manner as to include the task of co-ordinating activities carried out by states⁹⁰ in those areas which remain within their competence.

§ 81 Moreover, setting up an agency according to the Community model would not take satisfactory account of the fact that the European system of inland waterways includes some major waterways not subject (or only partially subject) to Community law⁹¹. A traditional Community agency would not be an appropriate instrument for co-ordinating and supervising safety rules outwith the scope of application of Community law. It is true that there are non-member States of the Community which are members of certain Community agencies. However, this is only so to the extent that they have accepted, through corresponding agreements, to be subject to Community law. Although such a legal situation cannot be excluded within the foreseeable future, it is not likely to happen rapidly as far as inland navigation is concerned.

§ 82 Moreover, this raises the question of the degree of independence of such an agency, of its capacity to implement a genuine promotion policy and to benefit from true delegation of competence.

Fearing that these conditions are not likely to be met rapidly, the Study Group believes that an institutional solution other than that of a Community agency may offer prospects of greater immediate interest.

⁹⁰ See draft regulation of Council relative to the creation of the European agency for the management and operational co-operation at the external frontiers of Member States of the European Union, COM (2003) 607 final, 11th November 2003. However this new category of agency is not entrusted with operational tasks.

⁹¹ A non-negligible number of Danube river states and Switzerland will remain for some time to come outwith the Community system. Regulation of navigation on the Rhine is governed by the Mannheim Convention. Abrogation or revision of this in order to transfer the matter to Community law, assuming that this is accepted, will be a complex operation.

Part 4

Setting up a European Organisation for Inland Navigation

§ 83 On the basis of the preceding analyses, the Study Group considers that the desired modifications to the institutional framework of inland navigation in Europe lead to:

- strengthening the uniformity of inland navigation and better expressing its fully European dimension
- increasing its influence and improving its impact on the political level
- endowing it with more resources and strengthening its efficiency
- making it more capable of assuming new tasks or those not sufficiently taken into account currently.

The members of the Study Group believe, and this is based on the converging opinions of the majority of persons interviewed, that, in order to achieve these goals, it would be desirable to set up an organisation specifically for inland navigation in Europe. The modalities for setting up such an organisation have to be realistic, flexible and capable of evolving. They must also be likely to meet with consensus among stakeholders.

The following issues are examined here:

- general characteristics of the new organisation
- its three component parts
- consequences of setting up the organisation on other bodies
- taking account of the inter-modal dimension
- concrete means for setting up the new organisation

Chapter 1 - General characteristics of the new organisation

§ 84 The Study Group recommends setting up a new strong institution. At the same time, it proposes establishing it on the basis of existing institutions and practices. Setting up such a new organisation must satisfy a certain number of conditions :

1) Firstly, it is vital that this is not merely a question of adding a new institution to those already in existence without transforming their respective roles.

§ 85 Setting up such an institution must be based largely on existing institutions, lead to a better distribution of tasks, and create synergy between these institutions so as to reinforce the efficiency of the system as a whole.

Clearly, such an approach is only conceivable with the full support of the institutions concerned and particularly of those which are most directly committed to the development of an integrated European system of inland waterways, namely the European Commission, the CCNR and the Danube Commission.

The Study Group sees this new organisation as a "joint venture" of existing organisations, a structure, which – far from weakening them – will give them new means for action, but which implies that they accept that their current method of operating be transformed.

Accordingly, the proposed organisation will consist partly of "inputs" from existing institutions which will transfer some of their activities and part of their resources, and thus will only partly be a new body.

However this organisation will also include innovative and original elements which will enable it to move away from traditional management methods for inland waterways, overly marked by regulatory concerns.

2) The role of this organisation must be first and foremost to assume those tasks not executed satisfactorily by existing institutions or which are executed under inadequate conditions.

§ 86 It is a question here of bringing true added value in those areas where the shortcomings are the greatest: the need to increase the political weight of inland navigation, complementary structures, the ability to reinforce the economic efficiency of this mode of transport. It is also important to facilitate the pursuit of harmonisation of regulations and technical specifications. In those areas where efficient solutions already exist, these must be given support in order to improve and add to them without calling them into question.

The basic aim in setting up the new organisation is strategic: it is a question of improving the institutional framework, of reinforcing the specific weight of inland navigation in the European transport system and increasing its chances for development. In order to achieve this goal, the institutional tool will be truly efficient, albeit on a limited basis, if it enables:

- reinforced involvement on the political level in favour of inland navigation;
- bringing together increased resources (human, financial, documentary, etc) in one coherent dynamic framework;
- creation of true synergy among all stakeholders through a common strategy.
- facilitate economic integration and harmonisation of regulations

3) It is a question here of creating flexible evolving structures as part of the process.

§ 87 The proposed organisation should not be set for all time. It should be capable of evolving in stages which cannot be determined precisely in advance. It must enable momentum to be created so that existing institutions can evolve as and when new procedures have proven their appropriateness.

Accordingly, development stages have to be defined with a modest start-up, gradual introduction of new tools, subsequent redefinition of the legal framework, etc. Seen from this angle, the construction of the new organisation should be designed as a series of modules, with the possibility of the different elements being set up at different paces and each enjoying a certain degree of independence.

The Study Group proposes that the new organisation consist of three components:

- a deliberative assembly: "European Conference of Ministers of Inland Navigation"
- an "administrative" or technical body: European Bureau for Inland Navigation (EBIN)
- a financial tool: "European Intervention Fund for River Transport "

These three elements are independent, each with its own organisation and operational rules⁹². They will however be complementary and "interconnected". The river commissions may be seen as being a fourth, territorial, element which completes these first three elements and with their role being modified⁹³.

A flexible institutional framework of this kind must also allow for the closer involvement of interested players so that they can gradually identify themselves with the new structure.

4) To be realistic, the new organisation must be set up with pragmatic instruments.

§ 88 The Study Group consequently rejects any approach which would have recourse to "cumbersome" legal instruments to set up the new organisation, such as an international convention subject to ratification and modifying the legal competence of existing institutions.

It recommends instead the use of political commitment backed by administrative agreements such as could be concluded using informal procedures. Complex organisations can be set up on the international level using such procedures (concerted, non-conventional acts, joint declarations, resolutions, lists of conclusions, unilateral commitments, informal agreements, etc).

Provided there is the political will, such procedures can be developed to set up significant structures and commit resources. These latter may change the decision-making procedure without having to modify formal legal competences.

The Study Group does not exclude having possible recourse to traditional legal instruments. It believes that on several points it will be useful and even necessary to adopt new formal legal rules.⁹⁴ However, this is not a precondition for setting up the organisation and may be developed progressively by the organisation.

⁹² Regarding the founding members, the pace of implementation, financing, etc.

⁹³ See *Chapter 3 - Section 1* below.

⁹⁴ See below *Section 2 - B. - 1. and 3.*, as well as *Chapter 5*.

5) This new organisation should be set up with the participation of the main stakeholders:

- all States in Europe (members of the Community or otherwise) which have a marked interest in inland navigation,
- international institutions which have invested significantly in inland navigation, in particular the European Community and the river commissions,
- organisations representing the professional sectors interested (carriers, shippers, loss adjusters, insurers)
- ship-builders.

§ 89 These three categories of founding elements form the basis of the new organisation and will give it the necessary support and legitimacy. They will be involved in different ways in the organisation's structures: States will benefit from privileged representation in the ministerial conference of the organisation, international organisations will be active through the working framework constituted by the permanent secretariat and professional organisations will participate in the management of the intervention fund and specialised structures. They will also be represented in an advisory board and in specialised committees.

Chapter 2 - Components of the European Organisation for Inland Navigation

The mission of the new organisation will be to encourage the use of all means in order to develop transport on inland waterways in Europe. It will have at its disposal several institutions or instruments to enable it to achieve this:

- a political level
- an administrative instrument
- a financial tool

Section 1 - A political level : the "European Conference of Ministers responsible for Inland Waterways" (ECMIW)

§ 90 The aim in setting up a European Conference of Ministers responsible for Inland Waterways, which will meet on a regular basis, is to take better account of the interests of inland navigation in Europe on the political level (i.e. on the ministerial and governmental level). Major options relating to inland navigation have to be decided at this level. Left on an administrative level, these issues run the risk of being evaded. A framework has to be set up which will be most favourable to strong choices being made in favour of inland navigation and consequently involve ministers in making these choices .

To this end, the forum should deal in a specialised manner with inland waterways. A ministerial meeting devoted to inland waterways alone is perfectly practical if it is limited to those States which have a marked interest in inland navigation. It will be up to the states themselves to decide whether they wish to become members of the Conference. For this latter to be effective, it is nevertheless vital that all the major river

States agree to become members. Moreover, the European Community, given its areas of competence, ought to participate fully in the conference. European river States which are not EU members should also participate.

In organising and holding the conference, to the extent possible co-operation with the ECMT should be sought in order to take advantage of this organisation's experience in inter-ministerial conferences and to draw on synergies and the complementary nature of the ministerial meetings it organises.

§ 91 The regularity of the meetings is an important means for guaranteeing the efficiency of this ministerial conference because this is necessary to ensure on-going activity and the establishment of an effective process of deliberation (a regular procedure in three parts – preparation, deliberation, follow-up). It is proposed that a periodicity of three years be adopted. This could be adapted in the light of experience.

Depending on the situation, the conference could also convene not only ministers of transport, but also those responsible for the environment or for regional development.

The effectiveness of the conference will to a large extent depend on the preparatory work and on the follow-up. This work would be carried out by a secretariat assured by the European Bureau for Inland Navigation.

This will be responsible for preparing documents, programming resolutions and recommendations submitted to the conference and supervising the implementation of decisions made. It will also be entrusted with the task of guaranteeing the material conditions for meetings⁹⁵.

§ 92 This conference will be called upon to express its position, in the form of resolutions or recommendations, on all matters of principle relating to river transport in Europe. In particular, it will be called upon to intervene in three areas:

- Every three years, the conference will make an analysis of the evolution of transport on inland waterways and will define a development programme. In particular this programme will include the implementation of those infrastructures for which agreement has been reached. Although the conference cannot impose the creation of inland navigation infrastructures, its political and moral weight will be able to facilitate arbitration in favour of these infrastructures and encourage acceptance of detailed commitment on the part of states.
- The conference will adopt draft conventions, prepared with the help of the European Bureau for Inland Navigation, with a view to harmonising the law of inland navigation (liability law, social law, etc). In this particular instance, it will have the attributions of a diplomatic conference⁹⁶.

⁹⁵ Member States of the conference will have to adopt a protocol relative to its material organisation and to covering the costs involved.

⁹⁶ Preparation of international conventions will continue to be carried out in close co-operation with UNECE.

- The conference will adopt resolutions⁹⁷ encouraging States and interested international organisations to adopt the measures examined and finalised by the European Bureau for Inland Navigation in favour of inland navigation (for example : recommendation to Member States to adopt harmonised rules for inland navigation activities regarding taxation or social issues).

Section 2 - An administrative instrument: the "European Bureau for Inland Navigation" (EBIN)

§ 93 Alongside the political aspect, the European Organisation for Inland Navigation should also have an administrative tool at its disposal, to reinforce the administrative, economic and technical resources available to inland navigation and to be in a position to create real momentum.

The Study Group believes that an evolving and flexible procedure, will enable the rapid implementation of an efficient mechanism.

A. Ways and means for setting up the Bureau

In the context of a report such as this on policy guidance, the Study Group cannot go into the detailed conditions for setting up and organising this new administration which it proposes be called "European Bureau for Inland Navigation". The Group makes the following proposals which are intended only to illustrate its proposals and do not in any way aim at fixing the means for its implementation:

1. Bases for founding the Bureau

§ 94 In order to set up the new organisation, it is possible to have recourse to an agreement between the European Commission, the CCNR and the Danube Commission and a resolution of the European Conference of Ministers responsible for Inland Waterways⁹⁸. These documents will define the tasks with which the Bureau is entrusted, the bodies responsible for its management, the decision-making procedures and the resources at its disposal.

2. Bodies of the Bureau

§ 95 These will consist of:

- a steering committee composed of representatives of the European Community (Commission, Parliament, etc.), of the river commissions, of contributing States and of representatives of the inland navigation sector. The steering committee sets the budget, determines the work programme of the Bureau and appoints its executive director.

⁹⁷ The Conference will not have decision-making powers, but will be empowered to adopt declarations expressing the commitment of states. States are morally obliged to respect such commitments.

⁹⁸ For more information on this question, see *Chapter 5* below.

- an executive director responsible for managing the Bureau staff and for implementing the options selected by the steering committee.
- specialised committees for each sector of activity of the Bureau, composed of representatives of the steering committee and of experts.

3. Resources of the Bureau

§ 96 The European Bureau for Inland Navigation will be endowed progressively with a significant budget, in line with the tasks with which it is entrusted. These resources could come from states having an interest in inland navigation and from the European Community according to a distribution scale which they will have to determine. The river commissions could provide human and material resources.

4. Material organisation

§ 97 There are several possible options here: installing the Bureau head office within the two river commissions or one of them so as to take advantage when existing resources are cut and to promote complementarity between these organisations, creating an independent establishment in the light of possible offers made by participating States regarding installation of the head quarters, etc.

B. Tasks of the European Bureau for Inland Navigation

§ 98 Depending on the financial means at its disposal, this secretariat could be entrusted with a very broad range of activities:

- preparing the debates of the European Conference of Ministers responsible for Inland Navigation, (see *Section 1* above)
- monitoring the implementation of the "European programme for the development of inland waterways", which will give precise details on the commitments of States regarding infrastructures, (see *Section 1* above)
- participating in the co-ordination of research and intervention programmes for inland navigation,
- defending the interests of inland navigation before international bodies on issues of inter-modality, (see *Chapter 4* below)
- carrying out studies on the economic situation of inland navigation in Europe, monitoring statistics and carrying out market observation for inland navigation in Europe by collecting data provided by Member States and the sector, (see 4. below)
- preparing preliminary draft conventions, (see 3. below)
- drafting various technical regulations relating to inland navigation, (see 1. below)

- managing the "intervention fund" for inland navigation, (see *Section 3* below)
- etc.

Some of these tasks merit additional explanations:

1. European body to manage technical regulations for inland navigation

§ 99 One of the most important tasks of the Bureau will be to provide a working framework for the technical regulations of inland navigation.

Inland navigation is circumscribed by a body of technical rules, the main aim of which is to guarantee safety for navigation (and respect of the environment) :

- technical regulations relating to the characteristics and the fittings of boats,
- regulations relating to navigation equipment,
- regulations relating to transport of dangerous goods,
- regulations relating to the qualifications for boat-masters,
- regulations relating to the composition and qualifications of crews,
- regulations relating to the prevention of possible emissions and of pollution resulting from inland navigation,
- police regulations regarding traffic rules,
- regulations relating to electronic or radio exchange of information between boats and land-based authorities, etc.

§ 100 These regulations express a given state of technology or of good practice. The drafting of these is primarily the task of experts of States or of the professional sectors concerned. At the present time they are mainly drawn up within the framework of the river commissions and of the UNECE. It would be wise to centre this activity within the European Organisation for Inland Navigation. The organisation of work should ensure both harmonisation of these regulations on the European level and their updating within the shortest possible time.

The framework of the European Bureau for Inland Navigation would enable the harmonisation procedure currently under way to continue without interruption: the technical specifications relating to vessels applicable on the Rhine and on waterways subject to Community law are in the process of examination by a joint CCNR/EU working group, open to Danube States with observer status in the CCNR. This working group could serve as a platform for setting up a European body to manage technical regulations for inland navigation with all interested States participating as well as representatives of international institutions.

The Study Group suggests that the current working methods, which have proven their suitability, be retained in the framework of this new structure :

- availability of own know-how within the body itself,
- standards drafted by national experts,
- concertation with the profession at an early stage,
- detailed knowledge of the economic and social implications of options relating to technical standards.

§ 101 Under existing law, the Bureau will not be empowered to decide on compulsory standards or regulations. Its task will be to make recommendations for the attention of the legal authorities empowered to adopt and update these regulations (European Community, CCNR, States, etc).

The Study Group proposes concluding an "arrangement" (memorandum of understanding or some such instrument) involving the three main institutions which are legally empowered to decide on technical standards, namely the European Commission⁹⁹, the CCNR and the Danube Commission¹⁰⁰, a commitment which will set out the principle of parallel and co-ordinated implementation of the regulations adopted by the European Bureau for Inland Navigation. Accordingly, despite the absence of direct legal applicability of these regulations, they will become compulsory by virtue of this commitment on an equal basis through the entire EU-Rhine-Danube area¹⁰¹.

§ 102 Moreover, the Bureau could also be responsible for monitoring the technical standards in question. As for maritime navigation or aviation, the development of a vast European network of inland navigation involving the intervention of many central or local authorities, means that a minimum degree of unity in implementing these rules can only be guaranteed by the existence of a co-ordinating and supervisory authority capable of defining the means for their implementation on a European level. For example, the Bureau could be responsible for ensuring that the various technical certificates are drawn up, managed and supervised according to harmonised methods. It could also ensure the monitoring of safety records (analysing accidents to decide what possible modifications are necessary in terms of safety regulations, etc).

The organisation of a European system for the registration and identification of vessels could be developed within this framework¹⁰².

⁹⁹ By application of the revised directive 82/714 currently in the process of adoption, the European Commission will have direct competence (following consultation with States) to modify annexes to the directive defining technical specifications for boats. The directive 95/60 relating to certificates for boat-masters should undergo similar modification in the near future.

¹⁰⁰ Current discussions on the revision of the Belgrade Convention foresee empowering the Danube Commission to set the technical specifications for boats and the conditions for issuing certificates for boat-masters which will be compulsory in Member States.

¹⁰¹ Except in a crisis situation, such a commitment would suffice to ensure compliance of the same standards within the framework of the three institutions. Many technical specifications in the field of transport in Europe do not have a more formal basis (cf. the case of the ECAC or the JAA) and these are nevertheless respected.

¹⁰² There is already a UNECE convention of 1965 relating to registration of inland navigation vessels (E/ECE/579-E/ECE/TRANS/540) which lays out the conditions for registration of vessels in national registers with additional protocols relating to actual rights and seizure of boats. Moreover, the IVR manages an international register of boats on the Rhine, for several years now also extended to fleets on the Danube. On the basis of the above, a more complete system could be set up on the European level.

In addition, the Bureau should establish links with river police authorities of Member States to organise a harmonised system of supervision and sanctions. It could constitute the co-ordinating structure for these police authorities on the European level.

§ 103 In general terms, the Bureau could ensure the networking and co-operation of all authorities active in the field of safety in inland navigation with a view to encouraging exchange of information and developing a common safety culture.

2. Institute for training and qualification of occupations in inland navigation

§ 104 Much more than with many other activities, the occupations of those working in inland navigation are carried out internationally. The integration of river transport in Europe thus implies having a common framework for these occupations with regard to recruitment, training, career lines and promotion in this sector.

Furthermore, as has been said above, the low level of attraction of these jobs in inland navigation constitutes a major problem for the future of the sector in Western Europe. Action will have to be foreseen so as to offer better future prospects for this professional sector and to make it attractive once more. Promotion activities for these occupations will have to be developed within an international framework.

By unifying the system of qualification certificates, there will be a need to organise the supervision of the quality of diplomas granted and of training provided by the States participating in this system. Improving training and vocational skills will involve having a more developed exchange of national experience within Europe.

§ 105 The European Bureau for Inland Navigation could take account of these needs and create a structure specifically responsible for this on the European level¹⁰³. What is being thought of here is the creation of a "European Institute for Occupations in Inland Navigation", in liaison with sectoral organisations, which would set up a network of national structures already existing in this field.

§ 106 The Bureau could thus facilitate social dialogue on human resources issues in inland navigation. The above-mentioned structure could take initiatives to align labour law and social protection regulations in inland navigation across Europe.

This is an area which is insufficiently monitored, whether it be by the river commissions or on the Community level¹⁰⁴. Occasionally, it is uncertain which labour law is applicable¹⁰⁵. The future of the 13th February 1961 agreement concerning social security for boat crews on the Rhine will have to be examined¹⁰⁶ as well as the European agreement of 26th March 1963 concerning social security of inland navigation boat crews in relation to Community regulation 1408/71. The European Bureau for Inland Navigation will be able to prepare proposals on these questions.

¹⁰³ The aviation transport plan could be used as a basis for designing this: the European Civil Aviation Conference (ECAC/CEAC) has set up the European Aviation Safety and Training Institute (EASTI).

¹⁰⁴ The European Community for the time being has only worked on a few general regulations relating to rest times. The CCNR in the past had sought an agreement on working conditions which had for the main part become obsolete. The measures concerning crews essentially target safety.

¹⁰⁵ In particular, regarding complex situations involving several different national legislations.

¹⁰⁶ Revised in 1979.

3. Drafting new conventions

§ 107 Although the Study Group proposes that a new European Organisation for Inland Navigation be set up without modifying existing treaties on inland navigation, it nevertheless believes that the convention framework will have to be an evolving one. Analysis and negotiation of the content of such modifications relating to the existing and complex legal instruments will take time and assumes that there is a suitable environment.

Accordingly, the Study Group, drawing on historical precedents¹⁰⁷, believes that a new institutional base must be established first and furthermore that this be entrusted with the drafting of desirable modifications to existing conventions.

§ 108 There are several aspects to preparing traditional-style legal instruments:

- This may involve the drafting of new conventions or the revision of existing conventions on specific questions (e.g. private law),
- This may tend to provide a formal framework for the working methods of the new organisation (e.g. by defining legal competence in the matter of technical specifications),
- In the longer run, a "European River Convention" could be foreseen, establishing a more comprehensive regime for inland navigation in Europe.

The European Bureau for Inland Navigation should draft these legal texts. These will then be submitted for adoption by the European Conference of Ministers responsible for Inland Waterways, the conference for this purpose acting as a diplomatic conference.

To provide backing for this activity, the European Bureau for Inland Navigation will have to set up a legal service to prepare harmonisation of conventions and align national measures, in liaison with international organisations¹⁰⁸ and university institutions already active in this field¹⁰⁹.

4. Support for economic analysis

§ 109 It has been stressed above that any free market requires a regulatory system to ensure that it functions in a balanced manner. This need for regulation is reflected in the following concerns:

- how can unfair competition be avoided, either on the part of the river transport service providers, or between this mode of transport and other competing modes?

¹⁰⁷ The Congress of Vienna in its time had already entrusted the Central Commission for Navigation on the Rhine with drafting regulations for a more detailed organisation of navigation on the Rhine.

¹⁰⁸ In particular the UNECE, given its experience in the field.

¹⁰⁹ Mention should be made of the Institute for Inland Navigation Law at the University of Mannheim.

- how can an evaluation be made of strategies for take-overs, mergers, amalgams, restrictive agreements, both on the supply and demand sides of transport service on inland waterways?
- in what way can public intervention in the river economy be structured (differing types of subsidies and aid for installations or to undertakings)?
- what complementary harmonisation measures need to be taken regarding operating conditions (customary rights, taxation, remuneration, social protection, etc)?
- under what conditions can the market be opened to those countries not yet integrated (relations between the EU and third countries)?

The European Bureau for Inland Navigation will not be empowered to intervene on the market as a regulatory authority in these different domains. However, it will acquire know-how which will enable it to act constructively to create balanced situations on the market.

§ 110 To this end, it will have to ensure that it acquires instruments to observe and analyse the market. It will carry out or pilot studies on river economy. In liaison with the statistical services of Member States, it will organise data collection and ensure that these are used.

On the basis of the above information, it will present an annual report on the economic situation of inland navigation in Europe. These elements will enable it to make proposals to the relevant authorities concerning market regulation and protecting fair competition, as well as encouraging the adoption of economic measures to promote inland waterways.

5. Technical study centre to develop infrastructures of inland waterways

§ 111 Although it is desirable that there be better co-ordination of initiatives to develop infrastructures of inland waterways on the European level, there is also a need for better organisation of the pooling of technological knowledge and experience regarding the development and management of inland waterways from the point of view of protecting the environment¹¹⁰.

International non-governmental organisations are active in this field¹¹¹. It would nevertheless be useful to develop a public centre of competence in this field on the European level. In co-operation with international financial institutions, this Centre would be able to produce guidelines on good environmental practice¹¹² regarding the development of inland waterways. In particular, it could be a resource centre for impact studies of development projects for inland waterways.

¹¹⁰ See above, observations in *Part 2 - Chapter 1*.

¹¹¹ AICPN/PIANC.

¹¹² Work along these lines has been initiated by the ECMT with help of PIANC and the CCNR. A stable institutional framework would be favourable to the development of this initiative and to ensuring that research continues.

The check for compatibility with the environment carried out by this centre could be used as a basis for "European declarations of utility" for major development projects concerning inland waterways, facilitate arbitration relating to such projects and reassure environmentalist circles on the compatibility of these projects with the environment.

6. Other activities for the new Organisation

§ 112 In more general terms, the European Bureau for Inland Navigation will be the driving force of the different "networks" of public and private institutions involved in inland navigation: it will organise co-ordination on a European level of national authorities responsible for the management of national networks of inland waterways, will assist the co-operation between river commissions, provide support to sectoral organisations (UENF, OEB, IVR, INE, VBW, etc), will manage a joint European centre for data and information in inland navigation in Europe, and will be the driving force behind European discussion forums involving the different players in inland navigation.

Section 3 – A financial tool : the “European Intervention Fund for River Transport” (EFRT)

§ 113 Efficient action to develop inland navigation cannot be implemented without the provision of adequate financial resources. For this reason, the European Community and river States might express their willingness to accord a more significant place to inland navigation by allocating specific resources for its development, bearing in mind that some legal problems on the state and European Community levels will have to be overcome. It would be therefore appropriate that a European Intervention Fund for River Transport be set up.

In particular, this fund would aim at:

- encouraging technological innovation,
- promoting careers in inland navigation on the European level,
- financing feasibility studies,
- granting aid to investment in the framework of exemplary projects for modal transport of goods, etc.

§ 114 Financing those activities would mostly involve specific budgetary authorisations either on an ad hoc basis, or by regular contributions from donors. In this context, reference can be made to experience drawn by the Danube Commission and the EU International Fund for clearance of the Danube fairway at Novi Sad.

Such fund could be managed by the European Bureau for Inland Navigation on the basis of a specific memorandum of understanding agreed to by the donors.

Chapter 3 - Consequences of setting up the European Organisation for Inland Navigation on other bodies involved in river transport

§ 115 As already stated, setting up a new Organisation responsible for the better execution of a number of tasks relating to inland navigation in Europe will obviously result in changes to the role and activity of other institutions in inland navigation.

These institutions will be able to pass on part of their work to the new organisation and will be able to propose setting up activities of common interest with it.

The Steering Committee of the European Bureau for Inland Navigation, in which the institutions of inland navigation are represented, will decide whether or not to take up these proposals when defining its programme of activities.

Section 1 - Role of river commissions in the new international European Organisation for Inland Navigation

§ 116 When setting up the European Organisation for Inland Navigation, a number of tasks currently carried out by the river commissions for lack of any better framework could be carried out by this new Organisation. The Study Group believes that the river commissions will nevertheless still be necessary, although their activities could be more centred on questions specific to the two major river basins of inland navigation.

Even after the establishment of a European organisation, the river commissions would essentially ensure the following functions:

a) The river commissions constitute an integral part of the new European Organisation for Inland Navigation. They are represented in it and provide it with resources, information, ideas. To some extent they constitute the regional dimension and, at their level, participate in the implementation of resolutions, recommendations¹¹³ or guidelines from the European Organisation. The relation with the latter is functional rather than hierarchical: the river commissions entrust the European framework with those questions best settled at this level and implement the guidelines decided on the European level.

b) The river commissions must continue to supervise the development of river transport in the basin for which they are responsible:

- they guarantee freedom of navigation in their area,
- they ensure monitoring of local infrastructures: maintenance and improvement of the navigation channel, as well as land-based installations, port infrastructures, connection with multi-modal logistics centres, etc,
- they act as co-ordinators of all players in the river basin: public authorities, port authorities, carriers, shippers, loss adjusters, etc,
- they define local policing rules for river traffic and, in liaison with national authorities and the European Organisation, organise checks for compliance with the various regulations relating to safety,

¹¹³ To the extent that legal competence for adopting compulsory regulations in Member States lies with a river commission (as is the case with the CCNR), this commission will formally implement the recommendation from the European Organisation for Inland Navigation.

- they organise the use of the waterway from the point of view of customary rights, existence and financing of services (electronic information, waste processing, etc.), rules of priority at locks, etc.

c) The river commissions are responsible for the possible adaptation of European navigation rules to their river basins; such adaptation falls within the margin of flexibility foreseen by general European regulations and must be compatible with it¹¹⁴.

§ 117 These specific rules may concern the implementation of conditions of knowledge specific to certain (river) sectors or the requirement of specific safety measures.

In all, the river commissions will benefit from the new institutional arrangement:

- Some functions which they have carried out in the past¹¹⁵ for want of an adequate European framework can be handed over to the new Organisation, but without this implying marginalisation of the river commissions since they will participate closely in the creation and functioning of the European Organisation.
- They will be able to count on a strong and efficient European Organisation for Inland Navigation which will serve as a reference for them, provide them with know-how and support their activities.
- Their far-reaching role in co-ordinating activities to promote river transport in their respective basins will be better recognised.

Section 2 - Advantages of the new Organisation to the European Community

§ 118 The aim of the European Community is to enable continued integration of the Community market for inland navigation. This goal will be achieved thanks to the new European Organisation and will even be able to be achieved beyond the present frontiers of the Community.

The Community will have at its disposal a full and efficient administrative body which will be able to assist in the implementation of Community transport policy relating to inland navigation. Although this body is not directly subject to Community law, the Community nevertheless will dispose of all guarantees desirable for it to function harmoniously with Community institutions. To this end, it will be adequately represented in the new Organisation. Thanks to the existence of the European Bureau for Inland Navigation, the Commission will be able to benefit from the technical support it needs. It will be able to ask the Bureau to carry out tasks which it could otherwise have asked of a Community agency. Its financial contribution, as proposed by the Study Group, is appropriate given the advantages it will be able to draw from the functioning of the Organisation.

§ 119 Moreover, the proposed institutional structure respects the principle of subsidiarity and the rule of distribution of competence between Member States of the Union, as well as with specialised organisations (CCNR, Danube Commission), all the while offering a common framework to implement these competences.

¹¹⁴ European regulation will foresee within limits specific rules for certain waterways.

¹¹⁵ In particular the CCNR.

Through this new organisation, the Community will also find a framework for co-operation with third countries which will be sufficiently rigorous, while respecting the interests of each of the component parties.

Section 3 - ECMT and UNECE participation in the European Organisation for Inland Navigation

§ 120 The ECMT and UNECE should be invited to give their support in setting up and running the new European Organisation for Inland Navigation.

The ECMT is more directly concerned on account of the Conferences of Ministers responsible for Inland Navigation and by the economic activities of the European Bureau for Inland Navigation.

UNECE plays a major role in monitoring the European network of inland waterways (AGN agreement) and specialised conventions in the context of inland navigation (ADN, CMNI, etc).

§ 121 Through pragmatic arrangement and co-operation, it should be possible to organise complementarity and work-sharing between the ECMT, UNECE and the new European Organisation for Inland Navigation. In particular, this co-operation will be such as to integrate adequately the inter-modal dimension in the development of inland waterways.

Chapter 4 - Taking account of the inter-modal dimension

§ 122 Without doubt, inland navigation by its very nature is an inter-modal mode of transport. Its development implies that it be integrated in logistic chains. Although this is vital from the point of view of economic operators, it does not however mean that, from the point of view of international institutions responsible for this type of transport, it would be inadequate to have an organisation specifically dedicated to inland navigation. It has been seen that, in order for this transport mode to be taken more satisfactorily into account in general transport policy, it needs an institutional framework to reinforce its influence. If inland navigation does not have at its disposal its very own organisation on the European level, its interests will not be taken into consideration adequately.

It is however essential that policy to develop inland navigation not be separated from general transport policy and that the measures taken regarding it take account of the inter-modal dimension.

This concern will find its expression through the ties which organisations with a broader mandate will have to develop with the European Organisation for Inland Navigation: European Community, ECMT, and UNECE.

§ 123 It will be logical that issues specifically concerning inland navigation be dealt with in the framework of the organisation dedicated thereto. On the other hand, all aspects which concern its insertion in the transport system and which call into question complementarity or competition between modes of transport will be dealt with more appropriately in those organisations which are able to apprehend these different modes of transport from a global point of view.

This is not to say that the new European Organisation for Inland Navigation should not deal with questions of inter-modality. On the contrary, one of its concerns will have to be how organisations, procedures or support programmes for inter-modal transport can take better account of inland navigation. It is a question here of having to change mind-sets and getting across the idea that combined transport does not mean exclusively road-rail transport, but also road-inland waterway or rail-inland waterway. With this in mind, the European Bureau for Inland Navigation will have to develop appropriate relations with European organisations active in the field of inter-modality¹¹⁶.

Chapter 5 - Concrete means for setting up the new European Organisation for Inland Navigation

§ 124 As stated above, the conclusion of an international convention, the classic procedure, is not advocated here.

The Study Group recommends adopting a procedure along the lines of that used for setting up the OSCE¹¹⁷ :

- A declaration of ministers of European States interested in inland navigation which will also include a representative of the European Commission and representatives of the river commissions. This ministerial declaration will constitute the charter of the new Organisation.
- The joint declaration will define the aims, means of action, bodies of the new organisation (ministerial conference, permanent secretariat, etc).
- It will define the resources of the organisation in the form of contributions from members. An arrangement will describe the contribution criteria for states and for the European Commission. Another arrangement will explain the organisation's working methods and decision-making procedure. A specific agreement will define the contribution by the European Commission and by the river commissions.
- Lastly, this joint declaration will explain the possibilities for evolution of the system.
- To this base could be added additional declarations or specific protocols which, depending on the circumstances, could concern all members or only some of them. This would in fact be a modular system to the extent that certain activities or decisions could be retained by only some of the members. Depending on the individual cases, the bodies of the new organisation could propose joint activities or "selective" activities (accepted by only some of the members).

The system will generate its own evolution with flexibility in the light of activities undertaken and perceived needs. New tasks or additional instruments can thus be added to the initial structure.

¹¹⁶ UIRR, EUTP, EURIFT, EIA, etc.

¹¹⁷ Similar "informal" procedures have also been used for other organisations, in particular in the field of transport : ECAC, JAA, etc.

§ 125 As already stated, formal legal instruments could be foreseen in a second stage (traditional international conventions) in those areas where such instruments would appear to be necessary (for example modifying rules of private law). In those areas where changes are to be made to grant legal powers to certain bodies, a formal international agreement will have to be concluded (for example in the case of transferring legal powers with regard to setting technical standards).

Nevertheless, the informal framework described above should appear to be satisfactory in most areas where action could be defined by consensus. Furthermore, it is only in those limited areas that it will be possible to endow the new organisation with legal and decision-making powers binding for its members. Such powers could not for example concern the creation of new infrastructures or intervention in market rules. Consequently, it is only in the fields of safety or police regulations, or protection of the environment that a European organisation could in principle dispose of legal competence with decision-making powers.

Nevertheless, such an organisation will be able to acquire influential powers on a basis other than legal if it carries out work recognised in a spirit of consensus and with the support of professional sectors involved.

* * *

Future prospects

§ 126 The proposals of the Study Group can be implemented rapidly given the flexibility and modular nature of the solutions retained, provided there is consensus to proceed.

In fact, there appears to be far-reaching agreement that action must be taken and that the time is right. In general, players in inland navigation in Europe show openness and pragmatism with regard to a possible institutional structure. A strong sense of common interest prevails among them as well as a genuine capacity for overcoming defence reflexes in specific situations. The conditions are consequently favourable for a move towards an innovative formula which is devoid of any dogmatism.

§ 127 The steps necessary for the implementation of the Study Group's proposals are relatively simple. States which have taken the initiative of launching this reflection will henceforth have the opportunity of implementing it. If it is possible to extend this to other states, they could launch an "initiative to set up a European Organisation for Inland Navigation". In this framework, they may want to delegate a qualified person to carry out consultations with all institutions concerned in order to determine their willingness to participate in the model recommended by the Study Group.

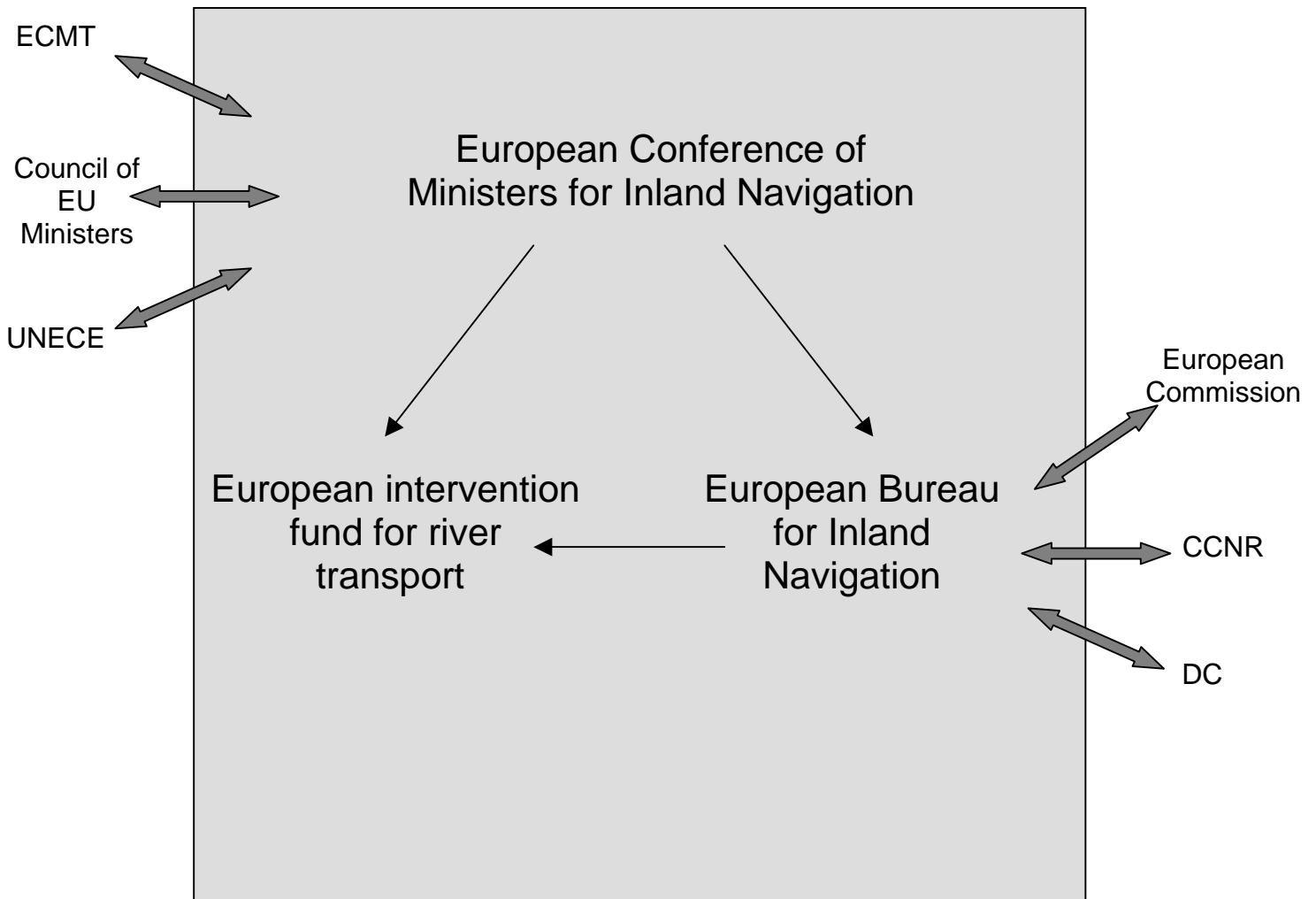
Depending on the outcome of this consultation, a preparatory committee could be set up. This committee, consisting of representatives from the main stakeholders, would have to organise a ministerial conference. This conference would be called upon to adopt the resolutions and to approve the arrangements setting up the new structures.

§ 128 Following this, the bodies, procedures and financing corresponding to the new institutional framework would need to be set in place progressively. There would have to be a certain period allowed to "get to cruising speed", but some of the means already exist and will enable a quick concrete start to the new Organisation, which could thus be operational within a 2-year period : namely by the end of 2006! Much more time would be required for the full potential of the new Organisation to be realised. However, the process would be set in motion. It is to be hoped that this will be taken up by all professionals in inland navigation.

The effectiveness of the institutions depends on their capacity to express a common will. At the end of the day, this will be the determining factor.

* * *

European Organisation for Inland Navigation



Terms of reference

The need to increase the importance of inland navigation within the European transport system is very widely recognised because of the specific qualities (safety, cost, durability, etc) of this mode of transport. It nevertheless remains extremely under-valued.

At the Ministerial Conference in Rotterdam in 2001 a number of obstacles to the development of inland navigation were noted and objectives determined. In line with this, the Netherlands, with the support of Germany, Belgium, France and Switzerland, wish to embark on a study of the most appropriate institutional framework for the promotion of waterways in Europe.

More specifically, it is necessary to consider the various possibilities for developing the institutional framework. This involves bodies that have an important role to play; they include the Central Commission for Navigation on the Rhine and the Danube Commission, the European Community, the ECMT and the UNECE. With a view more particularly to their closer integration, their respective missions could be adapted by using an innovative approach likely to provide real added value to the existing institutions which would enable the European system of inland navigation to become stronger and make a greater contribution to freight transport in Europe.

The States mentioned above are of the opinion that the solutions being sought should in more particularly address the following concerns:

- reaffirmation and development of the freedom of navigation;
- devising and implementing effective policy and action to promote inland navigation, in which all the States concerned could participate on an equal footing;
- maintenance and rapid updating of a high level of security and safety for waterway transport;
- harmonisation at the European level of legal regulations concerning the various aspects of river transport (technical rules, transport law, etc), while taking into account the situation specific to each waterway;
- evaluation of requirements in terms of infrastructures and proposals with a view to making improvements;
- proximity in relation to the users of the waterway, making possible a dialogue among specialists in the public authorities and the representatives of the professions concerned.

The States mentioned above wish to entrust the examination of these questions to a high-level study group comprising competent, representative individuals.

This group shall have the task, in complete independence, of analysing the existing situation on the basis of actual experience and acquired knowledge, looking into shortcomings and the possibility of making progress, and evaluating the possibilities of legal and institutional changes, with a view to issuing general recommendations that could form the basis of concerted action by the States and the appropriate international organisations.

The group shall gather information and may hold hearings and organise discussions. It shall organise its work as it sees fit and to that end shall have at its disposal the assistance of the CCNR Secretariat, which shall provide it with the resources it requires for its operation.

The group is invited to submit its conclusions by 1 October 2004.

* * *

List of the auditioned people

International Organisations

EUROPEAN COMMISSION

Mr van VRECKEM Unit Head – DG TREN
Mr de RUITER Head of the EMSA

ECMT

Mr RATHERY Deputy Secretary-General

EEC/UN

Mr CAPEL FERRER Head of the Transport Division

DANUBE COMMISSION

Mr NICK President
Mr NEDIALKOV Director General (Secretariat)

CCNR

Mrs de KWAASTENIET President
Mr WOEHLING Secretary General

Representative Organisations

IVR/EBU

Mrs HACKSTEINER Secretary General

VBW

Mr DÜTEMEYER Manager

TINA Vienna-Transport Strategies

Mr SCHWETZ Coordinator

National Representatives

Mr CHENEVEZ Councillor for Equipment and Transports
(French Embassy in Berlin)

Mr DIACONU Secretary General
(Ministry for Foreign Affairs of Rumania)

Mr DRUML Head of the Transport, Energy, and Environment
Department
Former Ambassador
(Ministry for Foreign Affairs of Austria)

Mr PRANDLER Director
(Ministry for Foreign Affairs of Hungary)

Mr SZELEI Head of Department International Organisations
(Ministry for Foreign Affairs of Hungary)

Mr VALKAR Head of Maritime and Inland Waterways
Transport Department
(Ministry for Economy and Transport of Hungary)

List of the abbreviations used

- ADN European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterway
- AGN European Agreement on Main inland waterways of international importance
- AGTC European Agreement (1st February 1991) on important international combined transport lines and related installations
- CCNR Central Commission for Navigation on the Rhine
- CD Danube Commission
- CMNI Convention on the contract for the carriage of goods by inland waterway
- DG-TREN Directorate-General for Energy and Transport
- EASA European Aviation Safety Agency
- EASTI European Aviation Security Training Institute
- EBU European Barge Union
- ECAC European Civil Aviation Conference
- ECMT European Conference of Ministers of Transport
- EIA European Inter-modal Association
- EFIP European Federation of inland Ports
- ESO European Shipper Organisation
- ETF European Transport workers' Federation
- EURIFT European reference Center for Inter-modal Freight
- EUTP Thematic Network on European Freight Transfer Points
- ICPD International Commission for the Protection of the Danube
- ICPR International Commission for the Protection of the Rhine
- INE Inland Navigation Europe
- IVR International Association for the representation of the mutual interests of the inland shipping and the insurance and for keeping the register of inland vessels in Europe
- JAA Joint Aviation Authorities
- OSCE Organization for Security and Co-operation in Europe
- PIANC Permanent International Association of Navigation Congresses
- TEN-T Trans-European Networks for Transport
- TEU Twenty feet Equivalent Unit
- TINA Transport Infrastructure Needs Assessment
TINA Vienna Transport GmbH
- UIRR International Road/Rail Combined Transport Union
- UNECE United Nations Economic Commission for Europe
- VBW Verein für europäische Binnenschifffahrt
Association for European inland navigation and waterways

PAN-EUROPEAN CONFERENCE
ON INLAND WATERWAY TRANSPORT
ROTTERDAM, 5 & 6 SEPTEMBER 2001

**ACCELERATING PAN-EUROPEAN CO-OPERATION
TOWARDS A FREE AND STRONG
INLAND WATERWAY TRANSPORT**

DECLARATION

Adopted by the Rotterdam Conference

I. PREAMBLE

Representatives of governments of European countries and of international organisations and observers from other countries having an interest in inland waterway transport, meeting at the Pan-European Conference on Inland Waterway Transport in Rotterdam on 5 and 6 September 2001,

A.

Recognising the impetus the Ministerial Conference on Timely Issues of European Inland Waterway Transportation (Budapest, September 1991) has given to discussions and actions aimed at the promotion of inland waterway transport and the removal of obstacles to the development of this mode of transport,

B.

Recognising the increasing attention given to inland waterway transport in recent years by the European Union, for instance through

- the establishment of the TEN framework;
- the completion of the internal transport market, harmonisation of technical prescriptions and conditions for obtaining boatmasters' certificates;
- the liberalisation of inland waterway transport; and
- measures taken to overcome and prevent overcapacity, carried out in co-operation with the Central Commission for the Navigation of the Rhine (CCNR),

C.

Recalling the permanent activities of the CCNR and the Danube Commission to improve the safety, effectiveness, efficiency and environmental sustainability of inland waterway transport and to contribute to a larger share of this transport mode in the total flow of transported goods,

D.

Taking into account the legal and technical work carried out in the framework of the United Nations Economic Commission for Europe (UN/ECE) to harmonise the technical, professional, safety and infrastructure-related regulations for inland waterway transport at a Pan-European level,

E.

Taking also into account the Resolutions and Round Tables of the European Conference of Ministers of Transport (ECMT) on in-depth analyses of the scope for and obstacles to the expansion of inland waterway transport,

F.

Recalling the Declaration of the Third Pan-European Transport Conference (Helsinki, June 1997) and the Declaration of the UN/ECE Regional Conference on Transport and the Environment (Vienna, November 1997), and in particular their focus on sustainable transport,

G.

Taking into account the conclusions of the Gothenburg European Council (June 2001) on a strategy for sustainable development, in particular with regard to the improvement of the transport system,

H.

Taking note of the European Commission's Policy Guidelines of the White Paper on a Common Transport Policy (July 2001),

I.

Recognising the important safety and environmental advantages of inland waterway transport and convinced of a common interest in fostering its growth and its integration into the multi-modal transport system, so that it can contribute to the reduction of congestion - especially in road transport - and ultimately make the transport sector compatible with sustainable development,

J.

Noting that, although progress has been made, there are still obstacles to the development of inland waterway transport which are related to inadequate infrastructure, legal procedures and lack of harmonisation of fiscal, social and economic conditions for fair competition as well as of technical regulations, professional requirements and administrative procedures,

K.

Noting further that, partly because of these obstacles, inland waterway markets at Pan-European level are today still fragmented and partly closed to third country operators,

L.

Convinced that the removal of those obstacles and the opening of the markets are essential factors to achieve a free, competitive and sustainable inland waterway transport system, on condition that the existing high level of safety and quality standards is maintained or improved, and favourable social conditions, at least the existing ones, are safeguarded,

M.

Convinced also that the EU enlargement process can contribute substantially to the further opening of the markets and the removal of the above-mentioned obstacles,

N.

Recognising that many of the above-mentioned opportunities and obstacles concern sea-river transport and ports as well,

Hereby endorse the following objectives and actions to accelerate through concerted action the development of inland waterway transport towards a safer, cleaner and more competitive Pan-European transport mode:

II. MAIN OBJECTIVES AND ACTIONS

The central objectives are:

- to foster the growth of inland waterway transport and increase its share in the transport of goods;
- to further improve the sustainability, safety and efficiency of inland waterway transport;
- to create a transparent and integrated Pan-European inland waterway transport market based on the principles of reciprocity, freedom of navigation, fair competition and equal treatment of the users of inland waterways.

To achieve these objectives, Pan-European co-operation between governments and international organisations must be intensified with a view to carrying out the following actions:

INFRASTRUCTURE

1.

To develop a modern, environmentally respectful and efficient waterway infrastructure network as a prerequisite for the promotion of inland waterway transport, as well as for the improvement of sea-river transport,

2.

To consider, whenever decisions on infrastructure are taken, whether better utilisation of the existing inland waterway infrastructure or the construction or improvement of waterway infrastructure might be an alternative to the construction or improvement of infrastructure for other modes of transport,

3.

To improve the navigational conditions and infrastructure on the TEN waterway network, and on other main Pan-European waterways (the so-called E-waterways) and to remove bottlenecks, taking into account the development of the inland navigation fleet as well as the economical and ecological aspects,

4.

To include as a standard element in the development of existing, as well as the planning of new, logistical centres and industrial areas for the manufacture, transshipment and storage of goods, the possibility of connecting them to the inland waterway network,

5.

To further develop combined transport terminals in order to enlarge the scope of inland waterway transport and to better integrate it into the combined transport chain,

6.

To develop alternative financing schemes, including co-financing, public-private partnership etc., to finance the improvement of the inland waterway transport infrastructure, involving to the largest possible extent the beneficiaries of such improvement,

7.

To encourage governments of European states having an interest in inland navigation, if they have not yet done so, to become Parties to the European Agreement on Main Inland Waterways of International Importance (AGN), as well as to the Protocol on Combined Transport on Inland Waterways to the European Agreement on Important International Combined Transport Lines and Related Installations (AGTC), and implement them as soon as possible,

8.

To promote the improvement of the navigational conditions along the Danube, relating mainly to the existing draught limitations of this crucial waterway, which has been identified as Pan-European transport corridor VII,

9.

To support the efforts of the governments concerned to develop the connections between the Danube, the Oder and the Elbe,

10.

To invite governments concerned to establish a Pan-European River Information Service (RIS) by the year 2005, based on standards to be drawn up in the framework of the European Union, UN/ECE and the two River Commissions, since river information services contribute to safer and more efficient inland waterway transport,

11.

To consider whether the contribution by inland shipping to the infrastructural and external costs can be limited in case all transport modes are to contribute to covering these costs,

LEGISLATIVE HARMONISATION AND ACCESS TO THE MARKET

12.

To invite the European Commission, the UN/ECE and the two River Commissions to intensify their co-operation on Pan-European harmonisation of technical, safety and manning requirements, and to encourage them to co-operate on the improvement of professional education and training,

13.

To invite the UN/ECE, the European Commission, the two River Commissions and the ECMT to identify in close co-operation before the end of 2002 the legislative obstacles that hamper the establishment of a harmonised and competitive Pan-European inland waterway transport market, and to formulate solutions to overcome them,

14.

To facilitate the exchange of qualified personnel between European countries, as a means, for example, to overcome the imbalances in the employment markets, provided that adequate professional and social standards are maintained,

15.

To encourage governments of European states having an interest in inland waterway transport to consider ratifying or acceding to, if they have not yet done so, the Budapest Convention on the Contract for the Carriage of Goods by Inland Waterways (CMNI), the Strasbourg Convention on the Limitation of Liability of Owners of Inland Navigation Vessels (CLNI), and the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN),

SAFETY AND SUSTAINABILITY

16.

To encourage governments and international organisations concerned to maintain and develop further the safety standards, especially in the field of carriage of dangerous goods, as well as the measures in order to prevent water pollution, and reduce air pollution and noise emissions,

17.

To encourage governments of European states having an interest in inland waterway transport to ratify or accede to the 1996 Convention on Collection, Discharge and Reception of Waste arising from Rhine and Inland Navigation,

18.

To request the international organisations involved to complete and harmonise standards for the reduction of emissions from vessel engines,

PROMOTION

19.

To take measures to raise the awareness of the public and the transport industry of the advantages of inland waterway transport as a safe and environmentally respectful mode of transport,

20.

To promote co-operation between inland waterway transport companies on the one hand and short-sea, rail and road transport companies on the other, as a means of improving intermodal transport,

21.

To invite the inland waterway transport industry to consider creating the necessary organisational frameworks, including at Pan-European level, to improve the representation of its interests in international fora,

III. MONITORING AND REVIEW PROCEDURES

22.

To invite the European Commission, the UN/ECE, the CCNR, the Danube Commission and the ECMT actively to promote and monitor the implementation of the various actions of this Declaration,

23.

To convene a new Pan-European inland waterway conference in Romania to be held within 5 years from now.

On behalf of all participants,
on 6 September 2001,
Rotterdam, the Netherlands

The co-chairpersons of the Ministerial Conference,

Ms. T. Netelenbos
Minister of Transport, Public Works and
Water Management,
The Netherlands

Mr. M.T. Mitrea
Minister of Public Works,
Transport and Housing,
Romania

EUROPEAN INLAND WATERWAY AND TRANSPORT DECLARATION

The representatives of Governments of participating European States and of the European Communities:

Having met in Budapest on 11 September 1991;

Having regard to the forthcoming completion of the Main-Danube Canal;

Being convinced that there exists in Europe a common interest in developing and promoting inland water transport and making better use of inland waterway transport capacity, in order to counter threatening congestion problems in the other modes of inland transport, as well as to protect the environment;

Being aware that there remain shortcomings in the waterway network and ports infrastructure, in particular but not exclusively in Central and Eastern Europe;

Being further aware of the need to establish commercial and administrative rules governing East-West waterway transport;

Being of the opinion that these rules should be designed in such a way that they further to the maximum extent possible the attainment of the ultimate goal of an integrated all-European inland navigation system based on market principles;

Being conscious of the need to harmonise technical and professional standards in order to ensure a high level of safety, adequate protection against pollution of water resources and of the environment in general and uniform design, maintenance and use of inland waterway equipment;

Being further conscious of the need to develop common requirements on licencing of inland waterway vessels, and mutual recognition of national documents on qualification of crew members;

Affirming that their inland waterway transport policies are interlinked by interests common to all their countries and that they should therefore be co-ordinated according to the objectives set out below,

Have agreed as follows:

With a view to promoting the development of inland waterway transport in general, and East-West transport in particular, they agree to undertake concerted action in order expeditiously to achieve the following objectives in the following priority areas:

I. Infrastructure

- a) Institutionalization of the European inland waterway network (incl. combined transport network thereto) and related installations through the elaboration and conclusion to this effect of a multilateral agreement stipulating, inter alia, minimum technical requirements and safety standards for the waterways of various categories, hydraulic works and port installations and taking into account the need to protect inland waterways and their environment against pollution caused by transport operations.
- b) Identification of shortcomings, bottlenecks and missing links (i. a. between the Danube and the Adriatic Sea, Aegean Sea, Baltic Sea; and Danube-Elbe-Odera) in the existing European waterway network of international importance and agreement on necessary remedial measures. This identification should lead to an agreement on implementing a plan of the European network.
- c) Development of financial arrangements with a view to ensuring investment in inland waterway development projects of common interest.

II. Access to the market

Market of international bilateral and transit transport on all European inland waterways shall be opened step by step to the vessels of all nations to the degree that the conditions for fair competition between the inland navigation fleets of the Parties concerned be fulfilled. The existence in the European Communities and in Switzerland of regulations aiming at reducing excess capacity in inland navigation, and the relevant situation in the Danube states shall also be taken into account. To this end agreements shall be concluded between the Parties concerned.

III. Technical and professional harmonisation

To ensure free and safe movement of inland waterway vessels and protect the water resources against pollution by transport operations the Parties concerned shall, with due regard to the existing international agreements and the work of the UN/ECE and ECMT in this respect, endeavour to harmonise technical specifications and requirements for crew members with a view to achieving high social and safety standards and homogeneity of rules. To this end they shall in particular promote cooperation between European River Commissions, notably between the Danube Commission and the Central Commission for the Rhine Navigation.

The participating States and the European Communities pledge to act with good will and in close co-operation with each other in order to implement the objectives of this Declaration as soon as possible. To this end, they will make use of all the relevant European and other institutions of an intergovernmental character, in particular the United Nations Economic Commission for Europe, the European Bank for Reconstruction and Development, the World Bank and the River Commissions for the Danube and Rhine.

They are of the opinion that this Declaration in the field of European Inland Waterways Transportation may contribute to the work of Ministers who will convene in Prague on October 29 of this year for a European Transport Congress.

Inlandwaterways (in 1993)

(UN/ECE Annual Bulletin of Transport Statistics
Information received from Governments)

	Length of the inland waterways		
	Of regional importance	Of international importance	total
Germany	1465	4826	6291
Belgium	677	836	1513
Finland	5370	875	6245
France	3988	1829	5817
Italy	258	1108	1366
Luxembourg	0	37	37
Netherlands	2648	2398	5046
United Kingdom	530	662	1192
Austria	7	351	358
Total	14943	12922	27865

Switzerland	0	21	21
Bulgaria	0	470	470
Croatia + Serbia	426	993	1419
Hungary	1034	430	1464
Poland	3496	309	3805
Czech Republic	0	303	303
Romania	367	1411	1778
Slovakia	157	265	422
Total	5480	4202	9682

Russian Federation (*)	27845	6322	34167
Ukraine (**)	2426	1221	3647
Total	30271	7543	37814

Total	50694	24667	75361
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(*) European part of Russia

(**) approximate figures

Prestations by transport mode
(for 2000)

(Source Eurostat in million TKM)

Country	Road		Rail		Inland navigation		Total
	mio TKM	%	mio TKM	%	mio TKM	%	mio TKM
Germany	347200	71%	76815	16%	66465	14%	490480
Belgium	32450	70%	7674	17%	6300	14%	46424
Finland	27500	72%	10107	27%	460	1%	38067
France	266500	81%	55448	17%	7260	2%	329208
Italy	184756	89%	22817	11%	200	0%	207773
Luxemburg	2350	72%	632	19%	300	9%	3282
Netherlands	45700	50%	3819	4%	41271	45%	90790
United Kingdom	165827	90%	18300	10%	200	0%	184327
Austria	26300	58%	16299	36%	2444	5%	45043
Total	1098583	77%	211911	15%	124900	9%	1435394

(Source UNECE in million TKM)

Switzerland	18782	64%	10658	36%	52	0%	29492
Bulgaria	6404	52%	5538	45%	397	3%	12339
Croatia	5829	74%	1928	25%	70	1%	7827
Hungary	19123	68%	8093	29%	903	3%	28119
Poland	72842	57%	54015	42%	1173	1%	128030
Czech Republic	39036	68%	17496	31%	773	1%	57305
Romania	14288	43%	16354	49%	2634	8%	33276
Slovakia	21369	63%	11234	33%	1383	4%	33986
Total	197673	60%	125316	38%	7385	2%	330374

(Source ECMT in million TKM)

Russian (*) Federation	153800	10%	1373200	86%	71000	4%	1598000
Ukraine (**)	79700	55%	51767	36%	13300	9%	144767
Total	233500	13%	1424967	82%	84300	5%	1742767

Total	1529756	44%	1762194	50%	216585	6%	3508535
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(*) doesn't contain road transport for own account

(**) figures for road transport are from 1990, after that no figures available

Values for the main waterways in 2000

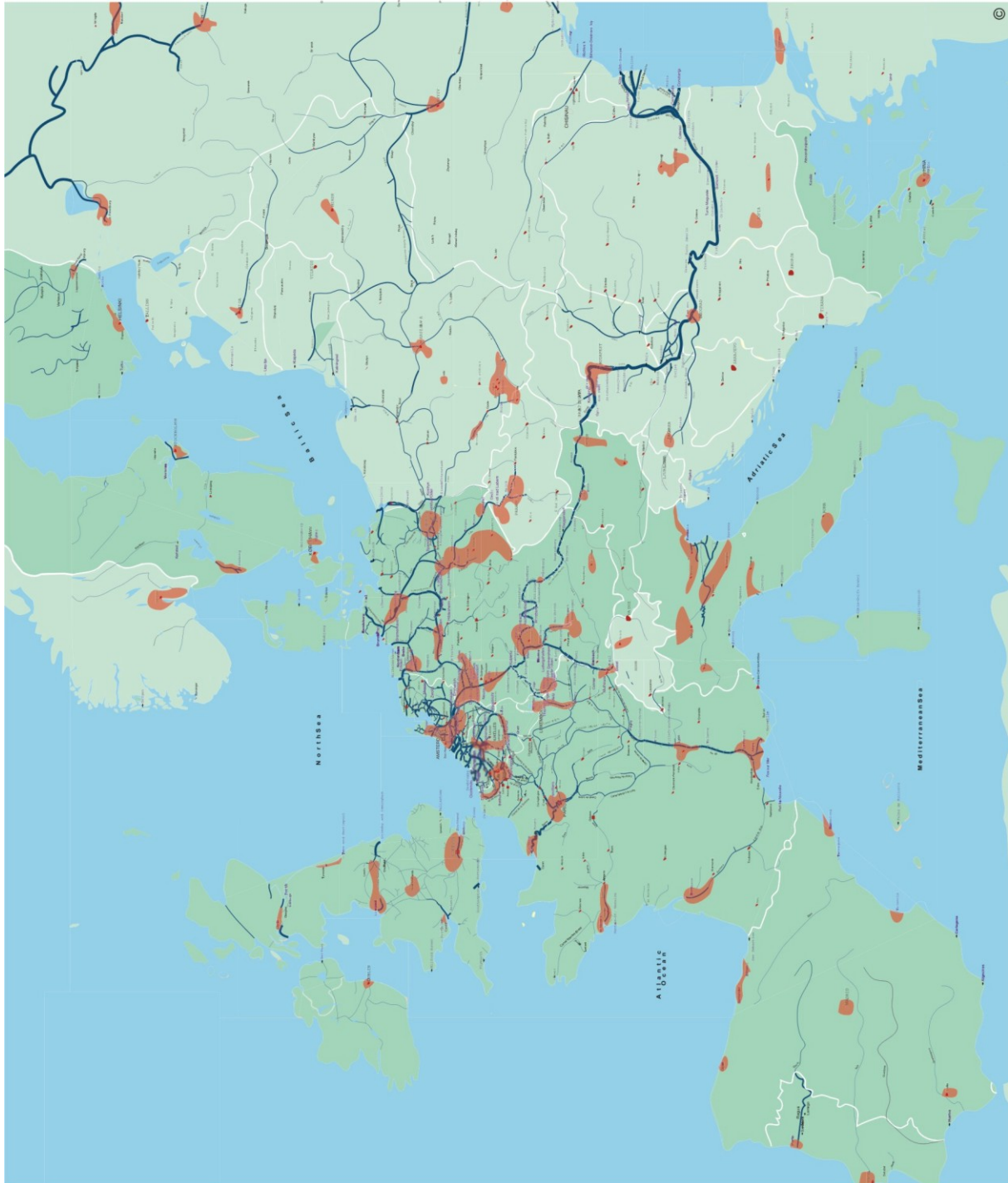
(in million TKM)

Rhine	50902
Traditionnel Rhine (a)	44502
Rhin in the Netherlands (delta)(b)	6400
Moselle	4117
Moselle (Germany)	3525
Moselle (France)	592
Seine (Brais/Seine - Havre)	2654
Rhône and Saône	752
Oder (Germany)	24
Elbe et canaux rattachés (Germany)	2663
Region of Mittellandkanal (Germany)	3073
Region Weser (Germany)	787
Channels of the West (Germany)	3592
Main (Germany)	4166
Canal Main-Danube (Germany)	1113
Danube	12148
Danube (Germany)	1246
Danube (Autria)	1786
Danube (other countries)	9116

a) Is called Traditional Rhine, the part between Basel and the dutch-german border .

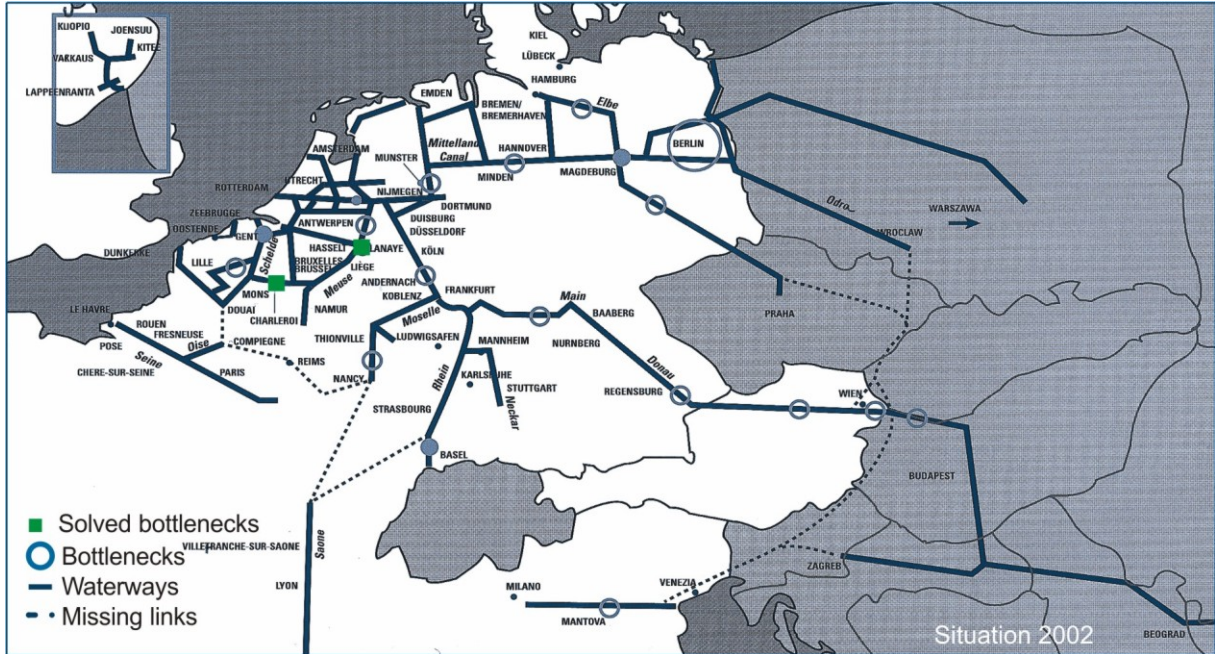
b) because the waterway network is very complicated in the delta, only an approximate figure can be provided

The European Waterway Network



Source INE

Inland waterways : TEN network



Source INE

Classification of European waterways (ECMT 1992)

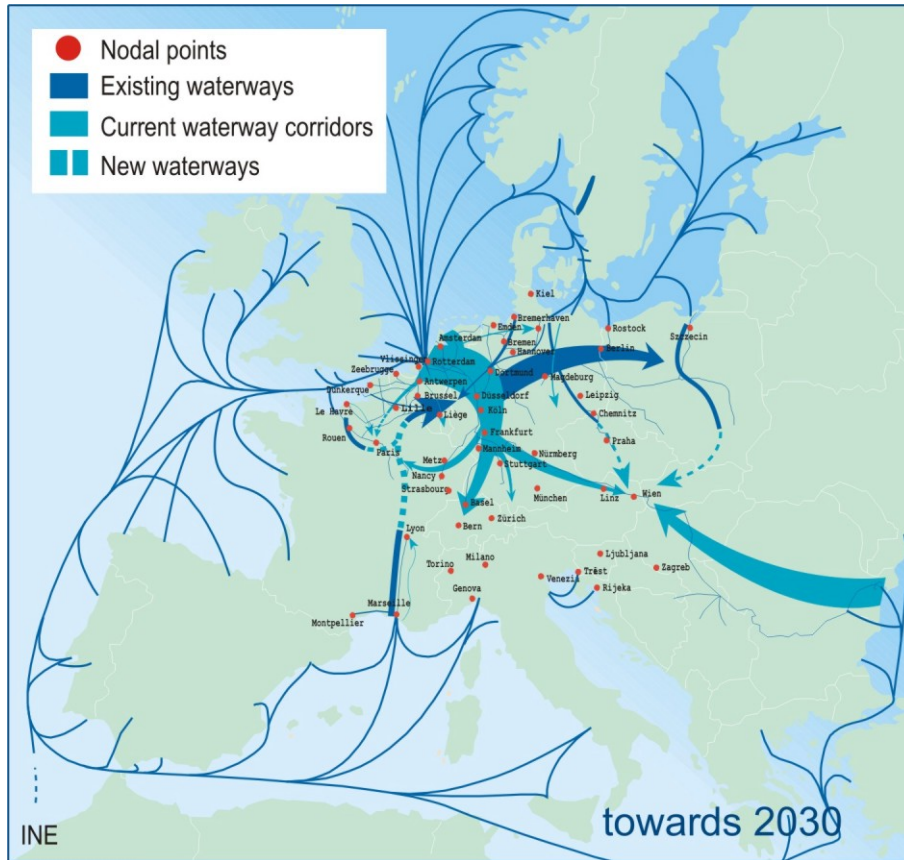
Class	Type motor vessel	Draft	Tonnage	Comp. push convoy	Draft	Tonnage	Air draft
I	Spits - Péniche	1.80-2.20	250 - 400				4.0
II	Kempenaar	2.50	400 - 650				4.0-5.0
III	Gustav-Koenigs Ship	2.50	650 - 1000				4.0 - 5.0
IV	Rijn-Herne Canal Ship	2.50	1000 - 1500		2.50-2.80	1250 - 1450	5.25 or 7.00
Va	Big Rhine Ship	2.50-2.80	1500 - 3000		2.50-4.50	1600 - 3000	5.25 or 7.00 or 9.00
Vb	Push Convoy (2)				2.50-4.50	3200 - 6000	
Vla	Push Convoy (2)				2.50-4.50	3200 - 6000	7.00 or 9.00
Vlb	Push Convoy (4)				2.50-4.50	6400 -12000	
Vlc	Push Convoy (6)				2.50-4.80	9600 - 18000	
	Push Convoy (6)				2.50-4.50	9600 - 18000	9.00
VII	Push Convoy (9)				2.50-4.50		9.20

Dominant freight corridors



Source INE

Completing the network



Source INE