

**Council for Trade in Services**

**LAND TRANSPORT SERVICES**

**PART I - GENERALITIES AND ROAD TRANSPORT**

Background Note by the Secretariat

**I. INTRODUCTION**

1. This note has been prepared at the request of the Council for Trade in Services. It provides background information on land transport services for discussion in the information exchange programme of the Council. It contains basic and general information on trade in these services and should not be considered exhaustive.

2. During the Uruguay Round negotiations a special Working Group was set up for transport services. In the course of its work, this Group examined, in particular, a note by the Secretariat MTN.GNS/W/60 dated 4 July 1989 on "Trade in Transport Services", of which paragraphs 95 to 106 and Tables 11 to 13 are devoted to land transport. Notes on the Group's three meetings concerned with land transport are reproduced in documents MTN.GNS/TRANS/1 of 30 July 1990 and MTN.GNS/TRANS/5 of 30 November 1990. Two drafts sectoral annexes on land transport submitted by Members (MTN.GNS/TRANS/W/2 of 20 September 1990 and MTN.GNS/TRANS/W/5 of 17 October 1990) are also of interest.

3. It was agreed at the outset of the exchange of information programme that the land transport paper would cover rail transport services (Section 11.E in document MTN.GNS/W/120: passenger transportation, freight transportation, pushing and towing services, maintenance and repair of rail transport equipment, supporting services for rail transport services), road transport services (Section 11F: passenger transportation, freight transportation, rental of commercial vehicles with operator, maintenance and repair of road equipment, supporting services for road transport services) and pipeline transport (Section 11G: transportation of fuels, transportation of other goods).

4. For convenience, this study has been divided into two parts. The present note deals first with matters which concern all forms of land transport and then with road transport in particular. A second note will examine rail transport in greater detail. As far as pipeline transport is concerned, it has already been dealt with in the document on energy services (S/C/W/52).

5. The land transport sector covers a wide range of activities which often have little in common. Thus, some types of transport are highly capital-intensive (rail transport, pipelines), whereas others require relatively little investment (taxis, trucks, even coaches). Some employ large numbers of people (rail transport, for example, where a single company may employ as many as several hundred thousand people, taxis, HGVs), whereas in other cases labour costs are of only marginal importance (pipelines). Moreover, some of these activities take place within a regulatory context characterized by planning considerations and the need to provide a public or universal service (urban public transport, passenger rail transport), whereas others are clearly treated as purely market activities (pipelines,

freight transport by road and rail). The degree of concentration is also extremely variable. Some activities are in the hands of monopolies or oligopolies (pipelines, rail transport), while others may be carried on by companies of various sizes or even by individuals (taxis, urban and suburban road passenger transport, road haulage). In view of this diversity the economic and regulatory characteristics can only be described subsector by subsector.

6. Nevertheless, these activities have certain features in common. Thus, like telecommunications or energy, transport provides a "horizontal" service which benefits the economy as a whole, including the production of both goods and services, and if it is paralysed, then it is the economy as a whole that suffers. It is also a "downstream" secondary activity whose cycles follow and amplify those of the general economy, i.e. an increase in GDP results in a more than proportional increase in the demand for transport. Furthermore, these are activities which to some extent compete with each other and with other modes of transport. Thus, taxis, urban buses and subways compete for urban passengers; rail, road, inland waterways, cargo ships and pipelines compete for freight traffic; and trains, aircraft, coaches and even taxis compete for the interurban passenger business. This intermodal competition and the steady haemorrhage of traffic from rail to road which began in the thirties are largely responsible for the regulatory regime governing land transport, the "foreign competition" element being marginal and a consideration only in the road freight transport sector.

7. Finally, the various types of land freight transport also have in common the characteristic of being subject to the GATT rules and having already given rise to an initial body of jurisprudence. Article III.1 of the GATT stipulates that "rules, regulations and requirements affecting ... the internal transportation of products ... should not be applied ... so as to afford protection to domestic production". Article III.4 establishes a national treatment principle in this respect, specifying that "[these] provisions shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the products". These provisions have been interpreted in the context of two panel reports.<sup>1</sup> Article V of the GATT also establishes detailed and rigorous rules concerning transit. Although it has sometimes been invoked during consultations, in particular in connection with pipelines, it has never been the subject of a detailed interpretation by a panel.<sup>2</sup> Finally, land transport, and in particular road freight transport, lies at the heart of the trade facilitation work currently being undertaken by the WTO under the auspices of the Council for Trade in Goods, as evidenced, for example, by document G/C/W/113 of 20 April 1998 "Check-list of Issues Raised During the WTO Trade Facilitation Symposium, Note by the Secretariat".

## **II. OVERVIEW OF THE ECONOMIC, TRADE AND REGULATORY CHARACTERISTICS OF THE ROAD TRANSPORT SECTOR**

8. Altogether, road transport represents between 2 and 6 per cent of Members' Gross Domestic Product (GDP) and employment, depending on their geography, the structure of their transport network and their level of development. The figures vary considerably even between neighbouring countries with a comparable level of development: thus, within the European Community road transport represents 5.7 per cent of Austria's GDP and 5.5 per cent of employment, whereas in France the corresponding figures are respectively 1.1 per cent of GDP and 1.7 per cent of employment (Source: International Road Transport Union - 1990 figures).

9. Because of the downstream nature of road transport activity, the steadily increasing complexity of production methods (the increasing numbers of plants involved in the manufacture of a

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<sup>1</sup> Panel Report "Canada – Import, Distribution and Sale of Certain Alcoholic Drinks by Provincial Marketing Agencies", 1992, and Panel Report "United States – Measures Affecting Alcoholic and Malt Beverages", 1992, see Analytical Index, pages 195-197.

<sup>2</sup> See Analytical Index, pages 229-233.

single product) and the generalization of just-in-time production, road transport has an impact on GDP and employment which far exceeds these figures. Thus, in the United Kingdom, an econometric study showed that an increase of £1 on road transport costs led to a reduction of £1.66p in GDP.<sup>3</sup>

10. It is not possible to give a complete geographical breakdown of these figures, even in terms of GDP, since in their GDP statistics many countries, particularly developing countries, do not distinguish between modes of transport or, within the land mode, between road transport, rail transport and pipeline transport. In any event, aggregated at this level, the figures are of only relative significance. In fact, road transport covers three large groups, each with its own economic and regulatory logic: passenger transport (urban and interurban) and freight transport.

(a) Passenger transport

11. The principal means of passenger transport by road is still the car with 53 per cent of the 25,000 billion passenger/kilometres of motorized journeys completed throughout the world in 1995. However, to a very large extent, the GATS does not apply to this type of transport which mainly involves individuals travelling on their own account in their own vehicle. Only taxis are covered by the GATS, and there are no world statistics that would make it possible to isolate their share which, however, must be very small.

12. The rest of passenger transport at world level is distributed as follows: 4 per cent for two-wheel traffic and the like (here again, mainly on a private basis, with the marginal exception of vehicles such as rickshaws), 24 per cent for buses and coaches, 8 per cent for the railways (already dealt with), 0.8 per cent for trams and subways (already dealt with as far as the latter is concerned), 10 per cent for air transport, and 0.4 per cent for water transport. Measured in passenger/kilometres, 60 per cent of motorized transport takes place in the developed countries (including 20 per cent in the European Union)<sup>4</sup>, since the number of kilometres travelled increases with the level of development. The modal distribution of motorized transport also varies considerably with the level of development: thus, in the developed countries the share taken by cars is approximately 80 per cent.

13. Altogether, then, **road** passenger transport represents about 25 to 30 per cent of world passenger transport consisting of the 24 per cent accounted for by buses and coaches, the tramways' share of the tram and subway item, and the indeterminate but small share corresponding to individual vehicle and two-wheel transport.

14. The geographical breakdown of the millions of passenger/kilometres travelled in buses and coaches (urban and interurban) gives some idea of the relative importance of markets: out of a total of 6,000 billion passenger/kilometres travelled, 460 (7.6 per cent) were travelled in China, 360 (6 per cent) in the European Community, 230 (3.8 per cent) in the United States, 120 (2 per cent) in the countries of Central and Eastern Europe, 100 (1.6 per cent) in Japan, and 4,730 (79 per cent) in the rest of the world.<sup>5</sup>

15. Again, these aggregates are of only relative significance since the urban bus regulatory and economic regime, characterized by public service concerns, often by public or subsidized operation and by competition from taxis, trams and subways, is generally very different from that of the interurban coaches, which are usually privately operated and generally profitable, compete with the railways and airlines, and include an international dimension.

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<sup>3</sup> "Barriers to Road Transport", the Hague Consulting Group, Cambridge, January 1998.

<sup>4</sup> Source: "World Passenger Transport", March-April 1998, European Communities, DGVIII-1 (RD).

<sup>5</sup> *Ibidem*.

i) *Urban passenger transport*

16. Some indication of the potential market is given by the steady long-term increase in the world's urban population, in both absolute and relative terms. It was 735 million in 1950 (29.5 per cent of the total), 2 billion in 1985 (39.9 per cent of the total), and it is projected that it will have risen to 2.95 billion (48.2 per cent of the total) by the year 2000. In 1989, there were 270 cities or conurbations with more than 1 million inhabitants worldwide, including 11 with more than 10 million inhabitants, eight of them in developing countries. In addition, it was forecast that by the year 2000 there would be 16 cities with more than 12 million inhabitants in the developing countries. In 1985, 60 per cent of the urban population was living in developing countries and 40 per cent in developed countries, exactly the opposite of the 1950 distribution. Since then this trend has continued to strengthen. The demand for urban transport has kept pace with this growth and even outstripped it, since distances and particularly journey times increase considerably as cities develop.

17. The distribution of the demand among the various means of transport: private car, taxi, bus, tram and subway is extremely variable and depends on such factors as the level of development (as far as private cars are concerned), congestion, the existence or non-existence of a subway network (only 93 cities have subways<sup>6</sup>) or a tramway system (350 cities<sup>7</sup>), the number of buses and their condition, the existence or non-existence of dedicated lanes, the fares charged, the feeder networks, etc. The following table, taken from a World Bank study<sup>8</sup>, gives an indication of this breakdown for a number of representative cities:

City	Breakdown by Mode of Motorized Transport					
	Car	Taxi	Bus	Paratransit	Tram/ subway	Other
Developing countries						
Abidjan	33	12	50	..	-	5
Accra	-	-	-	-	-	-
Amman	44	11	19	26	0	0
Ankara	23	10	53	9	2	2
Bangkok	25	10	55	10	-	-
Bogota	14	1	80	0	0	5
Bombay	8	10	34	13	34	-
Buenos Aires	-	-	45	27	-	28
Cairo	15	15	70	-	-	-
Calcutta	-	2	67	14	10	4
Harare	-	-	-	-	-	-
Hong-Kong	8	13	60	-	19	-
Jakarta	27	-	51	-	1	21
Karachi	3	7	52	18	6	13
Kuala Lumpur	37	-	33	17	0	13
Lagos	-	-	-	-	-	-
Lima	-	-	45	27	-	28
Manilla	16	2	16	59	-	8
Medellin	6	4	85	5	0	-
Mexico City	19	-	51	13	15	2
Nairobi	45	-	31	15	0	9
Rio de Janeiro	24	2	62	2	11	-
San José	21	2	75	0	0	2
Sao Paulo	32	3	54	-	10	1
Seoul	9	15	68	0	7	0

<sup>6</sup> Source: "World Passenger Transport", March-April 1998, European Communities, DGVIII-1 (RD).

<sup>7</sup> *Ibidem*.

<sup>8</sup> "Urban Transit System: Guidelines for Examining Options" by Alan Armstrong Wright, World Bank technical papers No. 52, May 1986, mentioned in "Urban Transport Development with Particular Reference to Developing Countries", United Nations ST/ESA/210, 1989.

City	Breakdown by Mode of Motorized Transport					
	Car	Taxi	Bus	Paratransit	Tram/ subway	Other
Singapore	47	-	-	-	-	53
Tunis	24	4	61	-	10	-
Developed countries						
London	61	1	23	0	12	2
New York	12	2	14	0	72	0
Paris	56	-	8	0	21	15
Stockholm	48	-	53	-	-	-
Stuttgart	44	6	33	6	-	11
Tokyo	32	-	6	0	61	0
Wellington	56	-	26	-	5	10

Source: Alan Armstrong Wright, "Urban Transit System: Guidelines for Examining Options", World Bank technical paper, No. 52, May 1986.

18. For what this average is worth, worldwide transport capacity can be broken down as follows:<sup>9</sup>

Type of transport	Vehicle fleet	Capacity (in thousands)	Share of total capacity
Buses	850,000	68,000	66.7%
Trolleybuses	20,000	1,600	1.6%
Shared taxis	350,000	5,250	5.1%
Taxis	1,000,000	5,000	4.9%
Suburban trains	100,000	10,000	9.8%
Subways	40,000	6,000	5.9%
Trams	45,000	5,850	5.8%
Total	2,405,000	101,700	100%

19. This table lists two types of taxis: individual taxis which constitute a luxury mode of urban transport by reason of their flexibility and comfort, and shared taxis, very common in developing countries, which carry between four and ten people on predetermined routes at fares competitive with or even cheaper than bus fares and help to make good the shortcomings of an overloaded bus system. This applies to the "jeepneys" in the Philippines, the "sergentos" in Ethiopia, the "mammy wagons" in Ghana, the "dolums" in Turkey, etc. These shared taxis may account for up to 30 per cent of the traffic or even more (80 per cent in Addis Ababa). These differences apart, the regulatory regime for taxis is fairly similar all over the world with a licensing and quota system, which sometimes gives rise to a grey market for licences, and some control over fares.

20. With respect to buses the following table, taken from the same World Bank study, gives a geographically diversified overview of the forms of management and the general economics of the sector.

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<sup>9</sup> Taken from "Urban Transport Development with Particular Reference to Developing Countries", United Nations ST/ESA/210, 1989.

Table 4  
Bus Services: City Comparisons, 1983<sup>a,b</sup>

City	Ownership	Number of buses <sup>c</sup>	Availability %	Km. per operating bus per day	Staff per operating bus	Passengers per operating bus per day	Annual operating cost (US\$ million) <sup>d</sup>	Total cost per passenger/km <sup>e</sup>	Annual operating revenue (US\$ million) <sup>f</sup>	Typical fare per 5 km. (US\$)	Operating revenue/total costs ratio <sup>e</sup>
Abidjan	Mixed	1,044	85	183	7.1	829	91.29	0.07	69.40	0.26	0.67
Accra	Public	44	24	292	28.1	2,092	1.03	0.03	0.63	0.13	0.51
Accra	Private	665	73	223	5.5	676	10.43	0.04	17.72	0.18	1.37
Addis Ababa	Public	164	58	205	13.1	2,467	7.96	0.02	6.59	0.07	0.67
Ankara	Public	899	67	210	5.8	1,273	25.62	0.01	15.31	0.14	0.48
Bombay	Public	2,325	92	216	14.0	2,093	81.95	0.01	72.97	0.05	0.77
Cairo	Public	2,454	69	246	14.6	2,417	60.41	0.01	36.19	0.07	0.50
Calcutta	Public	981	64	133	18.0	1,641	23.05	0.01	13.09	0.04	0.45
Dakar	Mixed	439	70	287	9.6	1,193	22.97	0.04	20.41	0.26	0.76
Guatemala	Private	1,600	95	304	..	1,037	29.00	0.02	54.60	0.10	1.55
Hong Kong	Private	2,392	85	243	4.7	1,610	117.96	0.03	136.10	0.13	1.00
Karachi	Public	646	65	267	9.9	1,135	11.73	0.01	6.73	0.04	0.43
Kuala Lumpur	Private	358	80	250	4.3	753	12.03	0.02	12.38	0.17	1.00
Mombassa	Mixed	89	90	315	7.5	1,640	3.93	0.03	4.48	0.11	0.96
Nairobi	Mixed	295	84	330	9.7	1,762	16.31	0.03	17.98	0.15	1.08
Porto Alegre	Private	1,492	95	218	4.3	669	46.68	0.05	65.35	0.23	1.17
San José	Mixed	621	80	128	..	2,013	19.39	0.02	24.24	0.07	1.04
San Paulo	Public	2,631	83	284	7.4	795	159.51	0.03	75.64	0.26	0.41
San Paulo	Private	6,590	83	280	5.1	765	..	..	..	0.26	1.00 <sup>g</sup>
Seoul	Private	8,310	95	340	3.9	1,326	398.18	0.03	443.43	0.16	1.04
Singapore	Private	2,859	91	269	3.9	374	110.23	0.10	147.75	0.24	1.32
Athens	Public	1,768	87	245	6.6	910	100.36	0.05	37.39	0.23	0.34
Berlin (west)	Public	1,505	85	199	5.8	992	234.99	0.16	130.08	0.78	0.51
Chicago	Public	2,275	93	125	3.1	750	339.28	0.08	194.54	0.90	0.52
London	Public	4,901	88	202	6.8	842	605.90	0.17	319.21	0.61	0.48
Paris	Public	4,005	87	142	4.5	419	512.00	0.25	191.45	0.30	0.37
Sendai	Public	777	92	128	2.5	495	57.76	0.11	59.44	0.58	0.96

<sup>a</sup> Two dots (..) indicate that data are not available or are not separately reported.

<sup>b</sup> Covering principal corporation or group of private operators in each city and not including paratransit.

<sup>c</sup> Number of buses belonging to the principal corporation or group of private operators covered by the survey.

<sup>d</sup> Excluding depreciation and interest charges.

<sup>e</sup> Including operating costs, depreciation and interest charges. For comparative purposes, a uniform method of calculating depreciation and interest charges has been used to obtain total costs. Passenger/km. are imputed using an average trip length of 5 km.

<sup>f</sup> Including fare box and advertising revenue, but excluding subsidies.

<sup>g</sup> Cost and revenue data for San Paolo private operators are not available; however, private operators receive no public subsidy and are known to at least break even.

21. It will be noted that the services are often operated on a mixed or public basis, particularly in the developed countries (the entry for London needs updating, however, since urban transport was partly deregulated in 1994 with the introduction of a system of concessions granted to private or public companies requiring less in the way of subsidies<sup>10</sup>). There is a very marked disparity in the rates of utilization of the fleet, productivity, cost per passenger and fares. Operation seems to be profitable in only eight cases out of 27, seven of these eight operations being private (all profitable in the sample) and one mixed. However, information is lacking with regard to the size of the networks and whether there are any public service obligations or, on the contrary, the networks are free to "cream off" the best routes. It also emerges that this activity is particularly unprofitable in the developed countries. Local bus services, which peripherally may be extra-urban or even interurban (and thus fall in another heading of the CPC), must meet similar economic and regulatory requirements.

22. As in the railway sector, the system of concessions and delegated management is tending to spread both in the developed countries, keen to limit their subsidies and hence rely on the lowest bidder<sup>11</sup>, and in the developing countries where it is being encouraged by the World Bank. Moreover, this semi-private management system is not incompatible with the frequent unprofitability of the activity to the extent that the concession contract provides for balancing subsidies. These concessions are more a matter of government procurement than market access.

23. Trams and, to a lesser extent, trolley-buses are making a comeback. The infrastructure costs for a tramway range from 6 million dollars per kilometre to 110 million dollars per kilometre (in the case of tunnels and an exclusive right of way) and a tram set costs approximately 6 million dollars. In view of these costs, it seems unlikely that there are any cases of this mode of transport being operated on a purely private basis. Concessions, however, are possible.

24. Finally, it should be noted that from a legal and technical standpoint the difference between a subway and a tramway is sometimes rather tenuous: thus the same "light rail vehicle" will be classified as part of the road transport system if the rails are laid along the public way as in Hanover or Strasbourg and as part of the rail transport system if it runs along its own exclusive right of way like the Val de Lille or the Sydney monorail, for which a concession was recently granted, the definition of rail transport in the CPC (CPC 71112) including "urban mass transit railways (underground or elevated railways)".

25. Except where the city is situated close to the frontier, as in the case of Geneva, Strasbourg or Basle, mode 1 has no relevance in urban transport. Moreover, there is no restriction in mode 2 and mode 4 seems marginal. Thus, most of the trade falls in mode 3 in so far as the activity is open to foreign natural persons or foreigners are authorized to acquire majority holdings in urban transport companies or establish such companies. In this sector the problems of government procurement for concessions seem at least as, if not more important than, those of market access.

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<sup>10</sup> For a detailed analysis of the effects of deregulation of the local bus services in the United Kingdom see Helen Lawton Smith "Deregulation and Privatization in the UK Freight, and Buses and Coach Industries", Tokyo, discussion paper No. 60, Economic Research Institute, Economic Planning Agency *op. cit.* in S/C/W/26/Add.1, 29 May 1998, "Economic Effects of Services Liberalization: Overview of the Empirical Studies".

<sup>11</sup> See, for example, "Competition Policy and Deregulation of Road Transport", OECD 1990, in which the OECD's Committee on Competition Law and Policy advises against the internal adjustment of tariffs (cross subsidization) and recommends the identification of costs and the organization of tender procedures to ensure that non-economic services are awarded to the lowest bidder in terms of subsidies.

(ii) *Interurban passenger transport*

26. Interurban passenger transport is mainly supplied by coaches, and marginally by taxis whose regime was briefly examined above. This sector is characterized by poor economies of scale and low access costs. Sector concentration is very uneven depending on the country. It is low in developing countries and countries such as France or Australia. On the other hand, it is very high in the United States and in the United Kingdom, where in both cases a quasi-duopoly has been replaced by a quasi-monopoly (Greyhound in the United States, National Express in the United Kingdom) following the buyout of the principal competitor.<sup>12</sup>

27. In this competitive situation control of coach stations and terminals has been a decisive factor. These stations are given separate mention in the CPC road transport classification and it is possible to imagine rules on access to and non-discriminatory use of this infrastructure being developed, where necessary, along the lines of those which already exist in maritime transport and, to a lesser extent, in telecommunications and might also be introduced in rail transport or indeed in connection with the allocation of slots in air transport.

28. Although it has often taken over from the railways when loss-making lines have been closed, the sector appears to be in long-term decline due to the steady increase in private car ownership. It is also symptomatic that a large proportion of its customers do not themselves own cars (young people, the elderly).

29. Interurban passenger transport covers transport of several types: regular services (providing passenger transport accessible to all over a specified route according to a timetable for a set fare with passengers being picked up and set down at predetermined stopping points), shuttle services (organized transport of previously formed groups of passengers, by means of repeated outward and return journeys, from a single place of departure to a single destination) and occasional services which do not fall within the definition of either a regular or a shuttle service.

30. Occasional services and shuttle services are generally run as purely market activities (although in international traffic they are often required to operate within a certain regulatory framework), whereas regular services are more strictly regulated and sometimes operated by a public authority (the Swiss postal buses, for example) or under a concession arrangement. This is because local regular services, especially in rural or mountain areas, are not always profitable and therefore can only be financed by equalization (cross subsidization) or by subsidies.

31. As in road transport, the regulations mainly go back to the '30s and were inspired by the same concern to limit competition with the railways (hence the rules on prices, entry, withdrawal and sometimes on numbers and services) and to obtain assurances with regard to the reputation and solvency of the carrier, the safety of the vehicle and the observance by the drivers of the driving and rest periods requirements to which must be added, in the case of regular services, public service regulatory considerations: networks, timetables, and access to transport for people living in remote areas.

32. These sectors, too, have experienced partial internal deregulation, for example in Great Britain the liberalization of long-distance passenger transport in 1980 and local (in some cases interurban) services in 1985, the partial liberalization of passenger transport in Sweden (1989) and in the Netherlands (1988), and the American deregulation of the "Bus Deregulatory Reform Act" of 1982 which reduced the tariff-setting powers of the Interstate Commerce Commission up to 1996 and

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<sup>12</sup> See OECD, 1990, "Competition Policy and the Deregulation of Road Transport".

then those of its successor the Surface Transportation Board (carriers are still required to file tariffs but the STB may not suspend the rate unless it is shown to be predatory or discriminatory).<sup>13</sup>

33. In interurban passenger transport, the World Bank has focussed on reducing the barriers to the informal supply of transport and on devising effective subsidy programmes for the "social service" of public transport by defining public service obligations and establishing fiscally sustainable contractual compensation arrangements.<sup>14</sup>

34. The effect of this internal liberalization has been a reduction in prices, a reduction in wages, a fall in profits and an increase in employment. The effect on traffic has been extremely varied, partly because it depends on external factors such as intermodal competition. Thus, in the United Kingdom traffic almost doubled in five years, rising from 9 to 15 million passengers, before falling back almost to its initial level after another five years. Similarly, in the United States deregulation increased the number of carriers and led to sharp growth in the areas of charter and tour or special operations, whereas regular route traffic experienced a decline.

35. Most interurban trade takes place within the frontiers of a single State and thus mainly involves the commercial presence mode.

36. The international traffic is by nature intra-continental and dominated by links between areas at different levels of development (for example, from North Africa and Southern Europe to Northern Europe for immigrant workers, from Eastern Europe to Western Europe for tourists), since it provides a cheaper alternative to rail or private car transport.

37. This international traffic is generally regulated by bilateral agreements which establish tariffs and quantitative restrictions and divide the traffic between the two States concerned. It too has begun to be liberalized, mostly at the regional level. Thus, in the European Community, shuttle services, occasional services and cabotage were liberalized in the context of the construction of a single transport market. Similarly, passenger transport was included in the model bilateral agreement of the European Conference of Transport Ministers which brings together the countries of Western Europe, on the one hand, and those of Central and Eastern Europe, on the other. This model bilateral agreement<sup>15</sup> constitutes a first step towards the multilateralization of bilateral agreements and endeavours to limit the number of cases in which authorization is required and to extend the period of validity of authorizations (up to five years). Similarly, passenger road transport falls within the scope of NAFTA, with limited reservations mainly concerning cabotage traffic.

38. Modes 2 and 4 do not seem to have any real relevance for this sector.

39. Apart from the general barriers to road transport (see paragraphs 52 to 59), the transport professionals represented by the International Road Transport Union have only identified one barrier specific to passenger transport: the bans and restrictions on coach movements and parking in cities and tourist centres.<sup>16</sup>

(b) Freight transport

40. Clearly, freight transport by road is the principal mode of freight transport: in the European Community its modal split share is 72.3 per cent (1995, in tonne/kilometres) and increased by 155 per

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<sup>13</sup> See WTO document WT/WGTCP/W/83 of 14 August 1998 "The Impact of Regulatory Practices, State Monopolies and Exclusive Rights on Competition and International Trade, Communication from the United States", Working Group on the Interaction between Trade and Competition Policy.

<sup>14</sup> See "Sustainable Transport: Priorities for Policy Sector Reform", World Bank, 1995.

<sup>15</sup> See document CEMT/Cm(98)7/final.

<sup>16</sup> Final Resolution of the XXVI Congress of the International Road Transport Union, adopted at Marrakesh on 25 April 1998.

cent between 1970 and 1995, i.e. almost tripled in volume, whereas during the same period rail transport recorded a decline in absolute value (-22 per cent) and a halving of its share. Road transport takes a smaller share of the modal split in the countries of Central and Eastern Europe: 41.5 per cent in 1995, but there also it is progressing, whereas rail transport is in decline. In the United States the modal split share is even smaller: 28.9 per cent, whereas railways still account for 40.9 per cent of the tonne/kilometres transported; however, in value terms, transport represents about 80 per cent and in volume terms its rate of growth (+123 per cent between 1970 and 1995) is very much higher than that of rail transport (+70.6 per cent).<sup>17</sup>

41. Freight transportation by road also plays an essential role in the developing countries, particularly in those which did not develop an extensive rail network during the 19<sup>th</sup> century and at the beginning of the 20<sup>th</sup> century (generally speaking, this applies to Latin American countries and African countries lacking cross-rail links).

42. In the absence of detailed traffic statistics, one way of estimating the relative importance of the different markets worldwide is to compare the numbers of trucks duly registered in the various countries. Altogether, Africa has 5.62 million goods vehicles, or 3.33 per cent of the total (the largest fleets being in South Africa: 1.73 million, in Egypt: 1.28 million, in Algeria: 0.87 million, in Zaire: 0.55 million, in Libya: 0.31 million, in Tunisia: 0.28 million, and in Morocco: 0.27 million), America has 80.43 million goods vehicles or 47.64 per cent of the total (United States: 65.46 million, Mexico: 4.22 million, Canada: 3.72 million, Brazil: 2.76 million, Argentina: 1.23 million, and Chile: 0.81 million), Asia has 45.22 million goods vehicles or 26.8 per cent of the total (Japan: 21.93 million, China: 6.22 million, Thailand: 4.13 million, South Korea: 2.65 million, India: 2.2 million, Indonesia: 2 million, and Saudi Arabia: 1.17 million), Oceania has 2.63 million goods vehicles or 1.56 per cent of the total (Australia: 2.24 million and New Zealand: 0.35 million), the whole of Europe has 34.78 million or 20.6 per cent of the total, including 22.99 million for the European Community (France: 5.25 million, Germany: 3.74 million, Spain: 3.48 million, United Kingdom: 3.19 million, and Italy: 2.88 million), 5.01 million for the Russian Federation, 1.79 million for Turkey, and 1.47 million for Poland.<sup>18</sup>

43. These figures should be deflated by deducting the proportion of the fleet used for transport on own account, a proportion which varies from country to country depending on the organization of the sector (for example, in the member countries of the OECD it is between 40 and 60 per cent). They also give a better picture of the size of the domestic market in each country than of the international traffic. Thus, the Netherlands with a fleet of 680,000 goods vehicles does not appear in this brief summary although it is one of the biggest players on the European international transport scene.

44. The road transport sector is characterized by easy entry and poor economies of scale. Combined with the development of motorway networks starting in the '30s and '50s and the increases in commercial speeds and net loads, this explains why the sector has developed so quickly and so competitively. It also explains the low concentration: for example, in 1985 in Sweden, 60 per cent of operators were owners driving their own vehicle. In France, 76 per cent of enterprises had less than five employees but accounted for only 18 per cent of the market, whereas companies with less than 50 employees held two thirds of the market and, at the other extreme, the 20 largest enterprises held 19 per cent of the market. In some countries, such as the Netherlands and the United States, the concentration is higher, especially since these countries were quicker than others to switch to integrated logistics. At the same time, it is possible to observe an apparent movement of de-concentration with the large enterprises converting their employees into independent pseudo-

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<sup>17</sup> Source: DGVII-Eurostat "EU Transports in Figures", 1997, a compilation of data obtained from the ECTM, national statistics and the US Department of Transport.

<sup>18</sup> Source: International Road Transport Federation and Auto Strategies International.

entrepreneurs ("owner-operators"), advancing them some of the money they need to purchase a vehicle and benefiting, in return, from reduced social security contributions and other social charges.

45. Since the '30s, road transport has been subjected to tight quantitative regulation, at least in North America and in Europe. The aim was to prevent the erosion of the modal split share of the railways by introducing a system of licences, quotas and tariffs. For its part, the road transport profession had the benefit of a market closed to new entrants and tariffs fixed at a level that enabled the least competitive to survive. Thus, until the two waves of deregulation in the '60s and '80s the profession had to operate within the context of various forms of mandatory road transport pricing and freight bureaux benefiting from anti-trust exemptions. These domestic regulations were supplemented by international regulations based on bilateral agreements incorporating the same principles: quantitative restrictions and fixed tariffs. This economic regulation of the sector was accompanied by social regulations (driving hours, no driving on Sundays and public holidays) and a body of technical and safety legislation (axle loads, dimensions, speed).

46. The quota system did not achieve all the objectives set for it by its promoters: it did not succeed in regulating capacity or in preventing the erosion of rail transport, and it encouraged fraud and the development of transport on own account. These systems of quantitative regulation have gradually disappeared domestically. In the United States this has taken place within the framework of the deregulation movement (in particular, the Motor Carriers Act of 1980 reducing the rate-setting powers of the Inter-State Commerce Commission and the anti-trust immunity of the tariff bureaux and making licences more flexible) and in the European Community in the process of establishing a single road transport market (price deregulation in 1990, abolition of intra-EEC quotas, progressive liberalization of cabotage completed on 1 January 1998, definition of qualitative criteria for access to the profession, harmonization of driving hours and weights and dimensions, and a start on the harmonization of the taxation of vehicles, use of infrastructure and fuel). In the countries of Central and Eastern Europe, liberalization was sudden and abrupt and has been succeeded by a period of re-regulation or rather regulation, since the previous State-owned fleets did not need to be regulated, all this accompanied by a collapse in the market share of rail transport and a considerable increase in that of road transport.<sup>19</sup>

47. In recent years, wherever there were domestic quantitative regulatory and mandatory pricing systems or indeed State haulage enterprises, there has been a trend towards liberalization and, where necessary, denationalization, especially at the instigation of the World Bank.<sup>20</sup> This has affected countries as different as Mexico<sup>21</sup>, Papua New Guinea<sup>22</sup> and the sub-Saharan African States.<sup>23</sup>

48. The effect of this domestic liberalization has been a fall in prices, the creation of new enterprises but also bankruptcies, an acceleration of concentration and specialization, the establishment of networks, a decline in the profitability of the sector, an adaptation of services to market demand, job creation and a relative decline in wages. The impact on safety and working conditions has been the subject of doctrinal controversy in the specialized literature. On the other hand, there is consensus among the economists that liberalization has been successful in taking into account the short-term objectives of transport policy (lower prices, diversification of supply) but less

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<sup>19</sup> For further details of these deregulation processes, see, in particular: OECD "Competition Policy and Deregulation of Road Transport", 1990, and ECMT "Economic Regulation Reforms in the Transport Sector", 1987.

<sup>20</sup> See "Sustainable Transport Priorities for Policy Sector Reform", World Bank, 1995.

<sup>21</sup> See "Privatization and Deregulation in Mexico", Operation and Evaluation Department, Précis No. 97, November 1995.

<sup>22</sup> See Ian C. Heggie "Designing Major Policy Reform, Lessons from the Transport Sector", World Bank discussion paper No. 115, 1991.

<sup>23</sup> See Jose Carbajo, "Regulatory Reform in Transport, Some Recent Experiences", World Bank, 1993.

so at internalising the medium-term objectives: reduced congestion of the road infrastructure, pollution control, energy conservation.

49. In terms of trade and modes of supply this internal liberalization process is of capital importance. Road transport is essentially short-haul (for example, in the European Community 66 per cent of loads - measured in tonnes - are delivered within a radius of less than 50 kilometres), and thus most traffic, particularly in large countries, is confined within the boundaries of the State. Quantitatively, therefore, mode 3 is by far the most important and, consequently, will doubtless be one of the main bones of contention in future negotiations. It should be noted that the issue of the land-leg of multi-modal transport and maritime also relates essentially to mode 3.

50. As regards cross-border supply, mode 1, the international regulations have also begun to be liberalized mainly, in view of the "intra-continental" nature of this mode of transport, through regional agreements. Thus, outside the single road transport market of the European Community, the European Conference of Transport Ministers (ECTM), an organization linked to the OECD but which has for many years included the countries of Central and Eastern Europe, administers a multilateral licence quota<sup>24</sup>, which even includes "green" and "greener and safe" categories, and as a first step towards complete multilateralization has undertaken to standardize the bilateral agreements on a recommended model.<sup>25</sup> Moreover, road transport is included in NAFTA where it is the subject only of limited reservations concerning mainly cabotage traffic. Finally, several regional agreements in Central America and South America concern road transport and have been the subject of MFN exemptions.

51. Apart from the commitments and MFN exemptions analyzed below, there are no synthetic and easily accessible data on the international regulatory regime for road transport in Asia and in Africa. The industry's overall perception of the barriers (as described by the International Road Transport Union) is that "the most acute obstacles facing international road transport can be found on the European continent, extending to the Middle East and North Africa. This is due to its high-density population, increasing trade and the number of borders in such a concentrated area". Consequently, everything should be done to "ensure that trade and tourism do not face the same barriers in other regions as they develop, in particular, Asia, Africa and South America, due to impediments to road transport".

52. The barriers to cross-border trade as perceived by the industry and as described, for example, in the Final Resolution of the XXVIth Congress of the International Road Transport Union, held at Marrakesh on 20 March 1998, are not or only marginally of the type covered by Articles XVI and XVII of the GATS.

53. The first of these barriers, according to the industry, is the blocking of roads and motorways as a result of political and sectorial demonstrations. The industry considers that measures should be taken in respect of governments which fail to maintain free circulation and even calls for an independent centralized compensation tribunal to administer claims for losses due to road blockades, with internationally harmonized rules covering the eligibility of claims, the standard of proof required for claims to be accepted and minimum rates of compensation. An attempt to introduce European regulations along these lines recently failed because States were opposed. In WTO terms, this problem is similar to that of non-violation, but there is no precedent for basing non-violation on failure to act.

54. The second barrier identified by the industry concerns traffic bans at weekends and on public holidays. The IRU has expressed the wish that, where driving restrictions currently exist, they should

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<sup>24</sup> See document CEMT/CM(98)7/final.

<sup>25</sup> See documents CEMT/CM(97)21 and CM(97)21/Add.1.

be reduced to the period from 7 a.m. to 10 p.m. on Sundays and public holidays only. It also wants a harmonized regulatory framework to exempt vehicles involved in international transport from these restrictions. Finally, it again requests the creation of a supra-national system of arbitration on driving restrictions, taking into account the demands of road safety, congestion and the environment. This point was dealt with in the draft sectorial annexes discussed during the Uruguay Round (see paragraph 2 above).

55. The third barrier mentioned by the IRU concerns border-crossing difficulties. In this connection, the IRU invites governments to recognize the costs and dislocation of international trade caused by inefficient and uncoordinated border-crossing procedures, asks all the States concerned to accede to the international agreements and UN conventions governing international road transport and apply them in an efficient and harmonized manner<sup>26</sup>, and also recommends the development of cooperation between national control services on each side of the border and the introduction of "one-stop" technology, improved training of border personnel and improved quality and capacity of border infrastructure, with international financing institutions and private investors being invited to finance them. These border-crossing problems seem to be universal, as evidenced, for example, by a recent Southern African Development Community document<sup>27</sup> which estimates that these delays cost its members 48 million dollars every year.

56. The fourth barrier identified by the industry concerns the issuing of visas for professional drivers. In this connection, the IRU calls for the introduction of a driver identification document similar to the "seaman's passport" which would exempt drivers from having to obtain a visa. In the event of it not being possible to abolish visas, the industry proposes the creation of a multilateral visa system, the acknowledgement of the role of national road transport associations in acting as intermediaries to obtain visas for their members, the development of multi-entry visas, the simplification of the procedures, and the reduction of the time needed to obtain a visa, the number of documents required and the prices of visas.

57. The cost of these barriers has been studied and estimated.<sup>28</sup> Thus, it would appear that border delays account for almost 6 per cent of transport time in some countries of Central and Eastern Europe. Similarly, French road transport companies estimate that 12 per cent of transport time is lost due to road blockades. Again according to these studies, total transport time losses are higher in Central and Eastern Europe (between 17 and 22 per cent) than in Western Europe (between 7 and 16 per cent). In terms of annual costs, these barriers would appear to account for between 1 and

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<sup>26</sup> The list of United Nations conventions, drawn up by the IRU is as follows: European Agreement on main international traffic arteries (AGR) of 15 November 1975; Convention on road traffic of 8 November 1968; European Agreement supplementing the Convention on road signs and signals (1968); Agreement on minimum requirements for the issue and validity of driving permits (APC) of April 1975; Agreement concerning the adoption of uniform conditions of approval and reciprocal recognition of approval for motor vehicle equipment and parts of 20 March 1958; European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR) of 1 July 1970; Convention on the contract for the international carriage of goods by road (CMR) of 19 May 1956; Customs Convention on the international transport of goods under cover of TIR carnets (TIR Convention) of 14 November 1975; International Convention on the harmonization of frontier controls of goods of 21 October 1982; European Agreement concerning the international carriage of dangerous goods by road (ADR) of 30 September 1957; and Agreement on the international carriage of perishable foodstuffs and on the special equipment to be used for such carriage (ATP) of 1 September 1970. To these should be added, at the regional level, the Final Act of the Conference on Security and Cooperation in Europe (Helsinki, 1975), the Consolidated resolution of the European Conference of Transport Ministers (ECTM) of 1994 recognizing the principle of reciprocity in bilateral road transport operations, and the Declaration of Helsinki of 1997 adopted by the European Conference of Transport Ministers (ECTM) providing for the principle of non-discrimination as regards regulatory measures and confirming the duty of carriers to make an appropriate contribution to infrastructure investment and maintenance costs

<sup>27</sup> SADC "Transport and Communications", Maputo Conference, 29-30 January 1998

<sup>28</sup> In particular, "Barriers to Road Transport", the Hague Consulting Group, 1998.

7 per cent of total transport costs in Western Europe and between 8 and 29 per cent of total transport costs in Central and Eastern Europe. Finally, in terms of GDP, the losses amount to between 0.1 and 0.3 per cent in Western Europe and between 1.3 and 2.6 per cent in Central and Eastern Europe.

58. The industry also considers that, a variety of measures such as total or partial bans on transit, quantitative restrictions on road transport which distort intermodal competition, bureaucracy which prevents forwarders from freely choosing their mode of transport, quantitative restrictions on road transit in the form of authorization quotas or limitations on vehicle weights and dimensions below the levels usually accepted and excessive transit charges all impair the freedom of transit recognized by Article V of the GATT and the principle defined in Article V.4, according to which "all charges and regulations imposed by contracting parties on traffic in transit to or from the territories of other contracting parties shall be reasonable, having regard to the conditions of the traffic". However, it should be noted that Article V has never been invoked in dispute proceedings (see paragraph 7).

59. Finally, the industry considers that the inadequate harmonization of fiscal charges (excise duties on fuel, road use charges and tolls) and of technical regulations (specifying weights and dimensions and making it necessary to underload goods vehicles in order to comply with the legislation of the transit country) constitutes a serious barrier, as does the very uneven application of social legislation concerning driving and rest times (number of controls, penalties). In this connection, the literature also mentions the existence in Europe of optimization strategies and a trend to divert traffic to those countries whose social legislation is less strict. These comments by the industry mostly relate to the European Community but it seems that they could also be extended to other geographical areas.

60. Finally, as regards mode 2, there do not appear to be any serious restrictions.

61. The relatively low wage level and the relatively unsophisticated technology have meant that there is also little commercial interest in the development of mode 4 trade, which accordingly seems marginal or even non-existent.

### **III. ANALYSIS OF COMMITMENTS**

62. Following this brief description of the economic aspects and before analyzing in detail the commitments undertaken, some comments on the WTN/GMS/W/120 classification for this sector are called for. The study of this sector highlights what appear to be a number of instances in which the classification does not reflect the true situation. Moreover, in some cases the classification itself seems to be ambiguous.

#### **B. PRELIMINARY REMARKS ON THE RELEVANCE OF THE CLASSIFICATION TO COMMITMENTS**

63. Document MTN.GNS/W/120 (cf. Annex 1) distinguishes five categories, namely: passenger transportation, freight transportation, rental of commercial vehicles with operator, maintenance and repair of road transport equipment, and supporting services for road transport services. This structure calls for the following remarks:

64. The CPC is much more detailed than W/120, as it distinguishes, between ten kinds of passenger transportation, seven kinds of freight transportation, two types of maintenance and four types of supporting services. The question arises therefore whether this complexity should not also be reflected in W/120 as an excessive level of aggregation might sometimes be regarded as a deterrent to progressive liberalization.

65. This degree of detail seems not to be uniformly relevant for trade purposes. For passenger transportation it seems relevant, as the economic structure, the involvement of the public authority,

the subsidy regime, the licence regime, and the regulatory regime are completely different for a taxi and for a long-distance bus, for instance. Thus, some forms of transport are collective, others individual, some are based on competition, others on a monopoly with public services obligations and subsidization regime, etc. It may therefore be worthwhile considering retaining some of this complexity at the W/120 level.

66. In the case of freight, the distinctions are based not on transport organization and structure but on the nature of the goods transported. Although the analysis of commitments shows significant variations between the various kinds of goods, only one type seems to deserve special treatment or some kind of classification clarification, namely mail transport, especially in relation with postal and courier services.<sup>29</sup>

67. As far as maintenance is concerned, W/120 aggregates two CPC items whose definitions are relatively unclear. While the title of CPC 61120 refers to "maintenance and repair of motor vehicles" in general, the definition which follows refers only to automobiles, which seem to include taxis but to exclude lorries and buses, for instance. On the other hand, CPC 8867 "Repair services not elsewhere classified of motor vehicles, trailers and semi-trailers on a fee or contract basis" is not defined, like all the other services of division 88 "Agricultural, mining and manufacturing services". The combination of the two items seems to cover all cases of repair and maintenance but the analysis of commitments (see paragraph 80 below) shows that some Members did not commit on both items.

68. Finally, Members will find a detailed assessment of the changes suggested for road transport in the CPC Rev.1 classification in document S/CSC/W/6/Add.5, dated 4 June 1997, paragraphs 6 to 11, and a summary of those changes and of their potential impact on existing commitments in document S/CSC/W/9, dated 9 October 1997, paragraphs 33 to 35.

#### A. ANALYSIS OF COMMITMENTS

69. As far as road transport is concerned, as explained in paragraph 63, document W/120 identifies only five subcategories (passenger, freight, rental, maintenance and supporting services). However, among the 40 Members that have given commitments, only 28 have done so at the high level of disaggregation indicated by W/120, while the remainder have used either CPC in greater detail or sui generis concepts or a mix between CPC, sui generis concepts and W/120. Additionally, even among the 28 that have followed W/120, in some instances, the restrictions listed have reintroduced more detailed subcategories such as a special regime for taxis. Therefore, in order to assess the extent of the commitments undertaken in the sector, it is necessary to follow the CPC disaggregation which distinguishes 25 types of road transportation services. Table 2 in Annex 2 details by mode and subsector, the number and types (full, partial, none) of market access commitments undertaken by Members.

70. With respect to passenger transport, it appears that there are more commitments for interurban regular transportation services (25), taxi services (21), rental of passenger cars with operators (24) and rental of buses (25) than for urban and suburban transportation, whether regular (17) or special such as school transportation (17). This seems to reveal a certain political sensitivity where urban public transport is concerned, probably linked to the extent to which it is subsidized and to the monopolies enjoyed by the concession-holders in exchange for the performance of public service obligations. There is also a series of sectoral qualifications attached to passenger transportation: limitation to the transport of tourists exclusively, limitation to closed-door services (as opposed to multi-stop services), limitation to certain federal states or provinces, limitation to occasional services, exclusion of

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<sup>29</sup> See document S/C/W/39, dated 12 June 1998, "Postal and courier services, background note by the Secretariat ", page 2.

passenger transportation by man- or animal-drawn vehicles and, more significantly and frequently, exclusion of cabotage.

71. As far as modes of delivery are concerned, consumption abroad is largely liberalized with only four Members not having any commitments on this mode while all the others (between 13 and 20 Members depending on the subsector concerned) have given full commitments. Mode 4 in passenger road transportation does not diverge from the general pattern of "unbound except as indicated in the horizontal commitments". Mode 1, which is essential at least for non-urban road transportation, offers a more contrasted picture: the commitments are divided between full commitments (eight to 11 Members depending on the subsector) and no commitments at all (nine to 15 Members depending on the subsector). There are just two cases of partial commitments (economic need tests) in two subsectors. Only one Member (two in the case of rental services of passenger cars with operators) has judged passenger transportation services in mode 1 technically infeasible. Finally, as far as mode 3 is concerned, commitments are divided between full commitments (nine to 15 Members depending on the subsector) and partial commitments (six to 11 Members). The restrictions scheduled are typically: economic need tests (specially for taxis, limos and bus services), citizenship requirement, natural persons only or, to the contrary, incorporation required, establishment required, numerical quotas, exclusive licences by zones and routes, and authorization required and not extended to foreign-registered vehicles.

72. As far as national treatment is concerned, there are very few specific limitations listed: residency requirement, requirement of establishment in the country concerned to provide cabotage services, prior approval, obligation for entities established under mode 3 to use vehicles with national registration.

73. Overall, the level of commitments for passenger transportation seems low: between 12.8 and 18.9 per cent of Members depending on the subsector. However, it is even lower when the impact of MFN exemptions is taken into account. Leaving aside the "all sectors" exemptions and the general "land transport" exemptions, 34 exemptions out of 37 include passenger transportation. Out of the 25 Members undertaking passenger transportation commitments, 12 have taken MFN exemptions granting various partners preferential treatment on rights concerning passengers/cargoes to, from, across and into their territory and on operating conditions, either on the basis of bilateral agreements, existing or future, or on the basis of reciprocity. As in maritime transport, the cargo-sharing nature of this preferential treatment implies an exclusionary element for third parties. This factor must be taken into account when assessing the extent of commitments in this sector.

74. As far as freight transportation is concerned, the number of Members committed varies from 20 to 27 according to the type of goods transported. It is noteworthy that the fewest commitments correspond to the "mail transportation" category (20 commitments, on the difficulties of classification raised by the transport of mail see also document S/C/W/39 on Postal and Courier Services, dated 12 June 1998, last paragraph of the introduction), "freight transportation by man- or animal-drawn vehicles" (21 commitments, probably due to the residual character of this category) and transportation of bulk liquids and gases (24 commitments, probably due to the sensitivity of the oil sector, where a monopoly on oil production and refining is frequently associated with a monopoly on transport). The low level of commitments (23) in the residual category "transportation of other freight" remains to be explained. Symmetrically, the levels of commitment in the most economically significant segments of the market (with the biggest volumes and the highest unit values and therefore the highest freight rates) are higher: 27 for frozen and refrigerated goods, 27 for containers and 26 for furniture, that is for removals. The main sectoral qualification which also tends to limit the extent of commitments is the frequent exclusion of cabotage.

75. As far as market access is concerned, the most liberalized mode appears to be mode 2, where full commitments have been given in four fifth's of cases (from 19 out of 23 to 22 out of 27). Here

again, the situation with respect to mode 4 is the classic "unbound except as indicated in the horizontal commitments". Mode 1 appears much less committed than for passenger transport. Thus in more than three quarters of cases (from 15 out of 21 to 20 out of 27) there are no commitments at all. In addition, two to four island Members consider this mode of delivery technically infeasible. Only five Members (four for mail) have taken full commitments for mode 1 and there are two cases of partial commitments (commercial presence required in one case, only certain federal states committed in the other). Mode 3 is nearly evenly split between full commitments (from 9 out of 20 to 14 out of 27) and partial commitments (from 9 out of 20 to 13 out of 27): the restrictions listed are typically economic need test, foreign ownership restrictions, incorporation required, nationality of the board of directors, citizenship requirement, authorization required but not extended to foreign-registered vehicles, emergency safeguards on the number of services suppliers, of services operations and of services output, and limitations on the use of leased vehicles. Only two Members undertook no commitments for this mode.

76. As far as national treatment is concerned, there are few specific restrictions listed: requirement of establishment in the country concerned to provide cabotage services, prior approval, cargoes confined to containerized cargoes to be exported or imported, and requirement on established entities to use vehicles with national registration.

77. As in passenger transport, the MFN exemptions have an important bearing on the extent of the commitments undertaken. Out of the 25 countries having given commitments on freight transportation, ten also have one or more MFN exemptions regarding cargoes.

78. As, in the vast majority of cases the MFN exemptions regarding road transport cover both freight and passengers, it is possible to try to draw a general typology of these MFN exemptions. In a significant number of cases (five counting the E.U. as one) Members have felt it necessary to lodge separate exemptions for preferential fiscal treatment on VAT, vehicle tax and income tax. Some of these derogations are subject to reciprocity, others are granted only to specifically designated Members, and all are indefinite in duration. In other instances this preferential tax treatment has been combined with cargo-sharing provisions in a single derogation, either by mentioning the preferential tax treatment specifically or by referring more generally to the operating conditions.

79. As far as the cargo-sharing provisions of the MFN derogations are concerned, a relatively clear pattern seems to emerge. They are mainly bilateral (19 cases), although there are cases where they are regional (five cases including the "all land transport" derogations) or both bilateral and regional (four cases). In six cases (including the "all land transport" derogations) they are unilateral and in five of those cases based on reciprocity. In nearly all cases they cover all countries and existing and future agreements, although sometimes accompanied by a detailed list of beneficiaries. They are also nearly all indefinite or non-specific as far as their duration is concerned. Geographically speaking, they can be found in developed as well as in developing countries and in Europe, America and Africa. As far as Asia is concerned, only one Member has taken such an exemption. This pattern shows clearly that there is an unaddressed problem as far as the liberalization of road transport is concerned. These derogations seem to have been meant by their drafters to last forever and will fall foul of the limitation to ten years, in principle on the MFN exemptions. They also remove a significant proportion of the traffic from the application of MFN and more generally from liberalization. Certain regional attempts have been made to liberalize the road transport sector, such as the single European transport market, the NAFTA provisions or the multilateral quota administered under the aegis of the ECMT, but no targeted thinking seems to have been devoted as yet to the multilateral liberalization of the sector. It should be kept in mind, however, that these MFN derogations only cover modes 1 and 2, while mode 3, which is essential, remains unaffected.

80. As far as auxiliary road transport activities are concerned, rental services of commercial freight vehicles with operators have been offered by only a few (nine) Members but with nearly no

restrictions. Repair and maintenance activities are split into two subcategories CPC 6112 and 8867 which have registered 22 and 20 commitments respectively. Clarification is certainly needed regarding the technical feasibility of these activities under mode 1. As Members appear to be nearly evenly split on that question (ten against 12, eight against 12), a half-way solution could be to collectively agree that tele-diagnosis activity or even tele-maintenance activities by electronic means are technically feasible in contrast to the rest of the activities which require a physical presence on the same territory as the vehicle. Consumption abroad and to a lesser extent commercial presence are largely liberalized in these sectors, mode 4 following the classic pattern of "unbound except as indicated in the horizontal section".

81. Finally, supporting services for road transport which cover four very different items (bus station services/highways, bridges and tunnel operation services/parking services/others) have attracted very few commitments (four cases) and with exactly the same pattern for the four services, which consists of a very liberal regime. The existence of a common pattern of commitments might lead to the conclusion that it would be useless to disaggregate further at W/120 level. However, considering the extremely different nature of the services involved and the economic importance and high profitability of two of them (highways, bridges and tunnel operation services, parking services) and the fact that these services are frequently associated with Build Operate Transfer operations or concessions or monopolies, their singling out with a view to attracting commitments might be worth considering.

#### **IV. INFORMATION SOURCES**

Relevant sources of information also include the following websites :

- International Road Transport Union (IRU) (<http://www.iru.org>);
- International Union (Association) of Public Transport (UITP) (<http://www.uitp.com/uitphome.htm>);
- European Conference of Ministers of Transport (ECMT) (<http://www.oecd.org/cem/resol/index.htm>);
- Organisation for Economic Co-operation and Development (OECD) (<http://www.oecd.org>);
- World Bank (<http://www.worldbank.org/html>);
- United Nations Economic Commission for Europe (UN-ECE) (<http://www.unece.org/oes/eceintro.htm>).

## ANNEX 1

### MTN.GNS/W/120/ CPC PROVISIONAL DESCRIPTION OF ROAD TRANSPORT SERVICES

(*Nota bene* the level of concordance between MTN.GNS/W/120 and CPC provisional is indicated in bold).

#### SECTION 11.F: ROAD TRANSPORT SERVICES:

712 Other land transport services

**7121 Other scheduled passenger transportation (first part of 11.F.a "passenger transportation").**

71211 Urban and suburban regular transportation

Urban and suburban regularly scheduled multi-stop passenger transportation via highways and other modes of land transport. Services classified here are motor-bus, tramway, trolley bus and similar services generally rendered on a franchise basis within the confines of a single city or group of contiguous cities. These services are provided over predetermined routes on a predetermined time schedule, may provide pick-up and discharge of passengers at any scheduled stop, and are open to any user.

Exclusion: Urban and suburban passenger transportation by railway are classified in subclass 71112.

71212 Urban and suburban special transportation

Scheduled transportation by school buses to carry pupils between their homes and school, between schools etc., within the borders of a single city or group of contiguous cities. Included is scheduled transportation between an urban centre and airports or stations in this urban centre or in suburban locations by motor-bus and multi-passenger airport limousine, with driver. These services are provided over predetermined routes on a predetermined time schedule. They generally have a restricted category of users. Most individual trips involve either pick-ups or discharges, but not both.

Exclusion: Taxi services are classified in subclass 71221 and other non-scheduled chauffeur-driven hired car services are classified in subclass 71222 (Rental services of passenger cars with operator).

71213 Interurban regular transportation

Interurban regularly scheduled highway passenger transportation by motor-bus, including passenger accompanying baggage transportation.

71214 Interurban special transportation

Scheduled transportation by school buses to carry pupils between their homes and school, between schools etc., from one to another urban centre. Also included is scheduled transportation between an urban centre and airports or stations in another urban centre by motor-bus and multi-passenger airport limousine, with driver.

71219 Other scheduled passenger transportation n.e.c.

Other passenger land transportation by mechanized land vehicle, not elsewhere classified. Included are cable-operated transport services, e.g. services by teleferics, and also funicular and similar services rendered on a scheduled basis.

**7122 Other non-scheduled passenger transportation (second part of 11.F.a "passenger transportation").**

71221 Taxi services

Motorized taxi-cab services, including urban, suburban and interurban. These services are generally rendered on a distance-travelled basis, for a limited duration of time, and to a specific destination. Taxi services provided by passenger carrying motorcycles are included.

Exclusions: Animal-drawn and man-drawn taxi services are classified in subclass 71224 (Passenger transportation by man- or animal-drawn vehicles).

Water and air taxi services are classified in subclass 72219 (Other passenger transportation) and 73120 (Non-scheduled passenger transportation by air), respectively.

71222 Rental services of passenger cars with operator

Chauffeur-driven hired car services, wherever delivered, except taxi services. These services are generally supplied on a time basis to a limited number of passengers, and frequently involve transportation to more than one destination.

71223 Rental services of buses and coaches with operator

Chauffeur-driven hired bus and motor coach services, generally rendered on a time and distance basis. They frequently involve transportation to more than one destination.

71224 Passenger transportation by man- or animal-drawn vehicles

Passenger transportation by man- or animal-drawn vehicles or conveyances and by pack animals, provided that the services of a driver are provided with the vehicles or animals.

Exclusion: Animal-drawn freight and passenger vehicle rental services without the services of a driver are classified in subclass 83102 (Leasing or rental services concerning goods transport vehicles without operator) and 83105 (Leasing or rental services concerning other land transport equipment without operator), respectively.

71229 Other non-scheduled passenger transportation n.e.c.

Passenger transportation by non-scheduled vehicles with driver, not elsewhere classified.

Exclusion: Passenger transportation by non-scheduled motor-buses, chartered buses and tour and sightseeing buses is classified in subclass/71223 (Rental services of buses and coaches with operator).

**7123 Freight transportation (11.F.b)**

71231 Transportation of frozen or refrigerated goods

Transportation by road of frozen or refrigerated goods, in specially refrigerated trucks and cars.

71232 Transportation of bulk liquids or gases

Transportation by road of bulk liquids or gases in special tank trucks. These vehicles may also be refrigerated.

71233 Transportation of containerized freight

Transportation by road of individual articles and packages assembled and shipped in specially constructed shipping containers designed for ease of handling in transport.

71234 Transportation of furniture

Transportation of furniture by road over any distance.

Exclusion: Furniture transportation by transoceanic shipment is classified in subclass 72123 (Transportation of containerized freight).

71235 Mail transportation

Transportation of mail by any land mode of transport other than railway.

71236 Freight transportation by man- or animal-drawn vehicles

Transportation of freight by man- or animal-drawn vehicles.

71239 Transportation of other freight

Transportation by land modes of transport other than railway, of freight, not elsewhere classified.

**7124 Rental services of commercial freight vehicles with operator (11.F.c)**

Truck and other motorized freight vehicle rental services, with driver.

Exclusions: Animal-drawn freight vehicle rental services with drivers are classified in subclass 71236 (Freight transportation by man- or animal-drawn vehicles).

Rental services in connection with client-driven trucks are classified in subclass 83102 (Leasing or rental services concerning goods transport vehicles without operator).

**6112 61120 Maintenance and repair services of motor vehicles (first part of 11.F.d "maintenance and repair of road transport equipment")**

Automobile maintenance and repair services. Such services may involve engine overhaul, motor tune-up, carburettor repair and adjustment, electrical system repair and battery charging, steering gear repair and adjustment, wheel adjustment and balancing, suspension repair, brake repair and adjustment, transmission repair and adjustment, exhaust system repair, cooling system repair including water-hose replacement and other automobile maintenance and repair services.

Automobile body repair and similar services. Such services may involve door and lock repair, bumper straightening and repair, repainting, collision repair; upholstery repair and window screen and window replacement and other automobile body repair services.

Also included here are automobile emergency road services and cleaning and routine maintenance services, such as vehicle laundry and car-wash services, undercoating, polishing and waxing services etc.

Exclusion: Puncture repair services are classified here, but rebuilt and retreaded tyres are classified in subclass 36120.

**8867 88670 Repair services n.e.c of motor vehicles, trailers, and semi-trailers on a fee or contract basis (second part of 11.F.d "maintenance and repair of road transport equipment").**

(No description as the items of division 88 "agricultural, mining and manufacturing services" are not described by CPC)

**744 Supporting services for road transport (11.F.e)**

**7441 74410 Bus station services**

Passenger terminal services in connection with urban, suburban and interurban bus passenger transport, on a fee or contract basis.

Exclusion: Baggage and freight handling services are classified in subclass 74190 (Other cargo handling services).

**7442 74420 Highway, bridge and tunnel operation services**

Services of fixed facilities operation, such as roads, tunnels, bridges and causeways, on a fee or contract basis.

Exclusion: Services of vehicle parking facilities are classified in subclass 74430 (Parking services).

**7443 74430 Parking services**

Parking services provided by car parks, parking lots and parking garages, whether or not roofed.

**7449 74490 Other supporting services for road transport**

Commercial road vehicle maintenance and minor repair services, on a fee or contract basis, and other supporting services for road transport, not elsewhere classified.

**ANNEX 2  
ANALYTICAL TABLES OF COMMITMENTS**

**Table 1**

Summary of Specific Commitments – Road Transport Services

Countries	11.F. <sup>a</sup>	11.F. <sup>b</sup>	11.F. <sup>c</sup>	11.F. <sup>d</sup>	11.F. <sup>e</sup>	Total
Australia	X	X				2
Austria				X		1
Brazil		X				1
Bulgaria				X		1
Canada	X	X	X	X		4
Côte d'Ivoire	X	X		X		3
Czech Republic				X		1
Ecuador	X	X	X			3
European Community	X	X	X	X		4
Finland	X	X	X	X		4
Gambia	X	X	X	X	X	5
Guinea	X	X		X		3
Guyana	X	X			X	3
Honduras	X					1
Hungary				X		1
Iceland	X	X	X	X	X	5
Jamaica	X					1
Japan		X		X		2
Kenya	X	X	X	X	X	5
Korea RP		X				1
Lesotho	X	X		X		3
Liechtenstein	X		X	X		3
Mexico	X			X		2
Morocco	X	X				2
Myanmar	X					1
New Zealand	X	X	X			3
Norway	X	X			X	3
Philippines	X	X		X		3
Romania	X	X				2
Slovak Republic				X		1
Slovenia				X		1
South Africa	X	X		X		3
Sweden	X	X		X		3
Switzerland	X		X	X		3
Thailand		X	X			2
Turkey	X	X				2
USA	X	X		X		3
Total	27	25	11	23	5	91

Key:

11.F.<sup>a</sup>. Passenger transportation

11.F.<sup>b</sup>. Freight transportation

11.F.<sup>c</sup>. Rental of commercial vehicles with operator

11.F.<sup>d</sup>. Maintenance and repair of road transport equipment

11.F.<sup>e</sup>. Supporting services for road transport services

**Table 2**

Analysis of Commitments Made by Members on Road Transport Services  
(Number of Full, Partial and Non-Commitments by Subsector and by Mode of Supply)

Market access (Number of Members with commitments)	Cross-border supply			Consumption abroad			Commercial presence			Presence of natural persons		
	F	P	N	F	P	N	F	P	N	F	P	N
Urban and suburban regular transportation CPC 71211	8	0	9 1*	13	0	4	9	7	1	0	17	0
Urban and suburban special transportation CPC 71212	8	0	9 1*	13	0	4	10	6	1	0	17	0
Interurban regular transportation CPC 71213	11	1	13 1*	21	0	4	13	11	2 <sup>30</sup>	0	25	0
Interurban special transportation CPC 71214	8	0	10 1*	14	0	4	11	6	1	0	18	0
Other scheduled passenger transportation CPC 71219	8	0	9 1*	13	0	4	11	5	1	0	17	0
Taxi services CPC 71221	9	0	12 1*	17	0	4	12	8	1	0	21	0
Rental services of passenger cars with operator CPC 71222	9	0	15 2*	20	0	4	12	11	1	0	24	0
Rental services of buses and coaches with operator CPC 71223	10	1	14 1*	21	0	4	15	9	1	0	25	0
Passenger transportation by man- or animal- drawn vehicle CPC 71224	8	0	13 1*	17	0	4	12	8	1	0	21	0
Other non scheduled passenger transportation CPC 71229	8	0	12 1*	16	0	4	12	7	1	0	20	0
Transportation of frozen or refrigerated goods CPC 71231	5	2	20 4*	22	0	5	14	12	2 <sup>31</sup>	0	27	0
Transportation of bulk liquids and gases CPC 71232	5	2	17 2*	20	0	4	12	11	2 <sup>32</sup>	0	24	0

<sup>30</sup> E.U. counted twice as a specific restriction by a Member State appears in another column.

<sup>31</sup> *Idem*

<sup>32</sup> *Idem*

Market access (Number of Members with commitments)	Cross-border supply			Consumption abroad			Commercial presence			Presence of natural persons		
	F	P	N	F	P	N	F	P	N	F	P	N
Transportation of containerized freight CPC 71233	5	2	19 2*	21	0	5	12	13	2 <sup>33</sup>	0	27	0
Transportation of furniture CPC 71234	5	2	19 4*	21	0	5	14	11	2 <sup>34</sup>	0	26	0
Mail transportation CPC 71235	4	1	15 2*	16	0	4	10	9	2 <sup>35</sup>	0	20	0
Freight transportation by man- or animal- drawn vehicle CPC 71236	5	1	15 2*	17	0	4	9	10	2 <sup>36</sup>	0	21	0
Transportation of other freight CPC 71239	5	1	17 4*	19	0	4	11	10	3	0	23	0
Rental services of commercial freight vehicles with operator CPC 7124	7	1	1	9	0	0	8	0	1	0	9	0
Maintenance and repair of motor vehicles CPC 6112	9	0	13 12*	21	0	1	16	3	3	0	22	0
Repair services not elsewhere classified of motor vehicles, trailers and semi-trailers on a fee or contract basis CPC 8867	7	0	1312*	19	0	1	15	2	3	0	20	0
Bus station services CPC 7441	4	0	1	5	0	0	4	0	1	0	5	0
Highway, bridge and tunnel operation services CPC 7442	4	0	1	5	0	0	4	0	1	0	5	0
Parking services CPC 7443	4	0	1	5	0	0	4	0	1	0	5	0
Other supporting services for road transport CPC 7449	4	0	1	5	0	0	4	0	1	0	5	0

F: Full commitment (indicated by "none" in the market access column).  
P: Partial commitment (limitation recorded in the market access column of the schedule).  
N: No commitment (indicated by "unbound" in the market access column of the schedule).

<sup>33</sup> *Idem*

<sup>34</sup> *Idem*

<sup>35</sup> *Idem*

<sup>36</sup> *Idem*

**Table 3**

Analysis of the Types of Measures (Number of Measures in  
Land Transport Services excluding Pipeline)

Sector	Rail				Road			
	1	2	3	4	1	2	3	4
MODES								
MARKET ACCESS								
Number of suppliers	2	-	6	-	1	-	10	-
Value of transactions or assets	-	-	-	-	-	-	-	-
Number of operations	-	-	-	-	-	-	1	-
Number of natural persons	-	-	-	3	-	-	-	4
Type of legal entity	-	-	10	-	-	-	10	-
Participation of foreign capital	-	-	6	-	-	-	11	-
Other measures n.e.c. <sup>37</sup>	-	-	17	-	1	-	28	-
NATIONAL TREATMENT								
Tax measures, subsidies and grants	-	-	-	-	-	-	-	-
Nationality and residency requirements	-	-	5	-	-	-	7	2
Licensing, standards, qualifications	-	-	1	-	-	-	2	-
Registration requirements	-	-	-	-	-	-	6	-
Authorization requirements	-	-	4	-	-	-	5	-
Performance requirements	-	-	-	-	-	-	-	-
Technology transfer requirements	-	-	-	-	-	-	-	-
Other	-	-	2	-	-	-	2	-

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<sup>37</sup> The numbers in "other measures n.e.c" correspond to cases where an entry could not be classified in one or other of the separate categories of limitations. In some cases, this was due to lack of specificity in the description of the measure, while in others it was because the measure itself did not correspond to any category.