

Opinion of the European Economic and Social Committee 'Towards a pan-European system of inland waterway transport'

(2004/C 10/13)

On 23 January 2003 the European Economic and Social Committee, acting under the second paragraph of Rule 29 of its Rules of Procedure, decided to draw up an opinion on the following subject Towards a pan-European system of inland waterway transport.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 September 2003. The rapporteur was Mr Simons.

At its 402nd plenary session of 24 and 25 September 2003 (meeting of 24 September), the European Economic and Social Committee adopted the following opinion by 29 votes to one.

1. Introduction

1.1. Internal waterway transport (IWT) plays a relatively important part in the transport of goods in Europe. Although it accounts for only 4,1 % of total goods transport in Europe ⁽¹⁾, in some Member States it makes a much more significant contribution (e.g. Netherlands: 42,7 %, Germany and Belgium: 13,1 %). However, IWT has sufficient capacity to take on a substantially greater share of total goods transport in Europe and is therefore regarded as a mode of transport with great growth potential. According to recent research ⁽²⁾ and official forecasts, IWT is likely to grow strongly in the next few years, and the capacity of the existing waterways is sufficient to absorb this growth. Through the major cross-border waterways as well as many national waterways throughout Europe it can reach much of the continent. The sector is innovative in a number of areas. By making itself better known as an alternative to road haulage, IWT has already succeeded in winning new markets.

1.2. With the enlargement of the European Union, IWT will play a greater part in the internal market. Many of the accession countries have navigable waterways which are used for the transport of goods. In the framework of the policy announced by the European Commission, IWT can play a major role in the integration of the new Member States and their economic development.

1.3. IWT is regarded as being the cleanest and most environmentally friendly mode of transport. Despite investment in cleaner engines for road haulage, IWT is still well ahead as the cleanest mode of transport in terms of emissions

and pollution ⁽³⁾. The sector is thus making a contribution to reducing the environmental impact of transport and, by investing in improved environmental and safety practices, it is striving to improve the situation still further.

1.4. With regard to the management of the problem of waste (cargo waste, waste from vessels and household waste), the sector has already adopted self-regulatory measures, thus anticipating the introduction of legislation.

2. Bottlenecks

2.1. In the context of the new European Commission policy, efforts are being made to achieve a new balance in transport. IWT is seen as a way of achieving a more balanced transport market. In order to be able to exploit fully the potential of this mode, a number of obstacles need to be removed which are currently impeding the full development of the sector.

2.2. In broad terms, obstacles are encountered in relation to infrastructure and the development of the Trans-European Networks, as well as in relation to the lack of legal harmonisation and unification of IWT.

2.3. In connection with the revision of the Trans-European Network directives and the laying-down of a related list of priorities by the European Commission, the sector has compiled a list of bottlenecks and asked that these be added to the list of priorities ⁽⁴⁾. Reference is made here to the EESC's own-initiative opinion on the subject ⁽⁵⁾.

⁽¹⁾ EU Energy and Transport in Figures, Statistical Pocketbook 2002, ISSN 1225-1095.

⁽²⁾ Waardevol transport, feiten en cijfers van het goederenvervoer en de binnenvaart (Transport of goods, facts and figures from goods transport and IWT) 2002-2003, Bureau Voorlichting Binnenvaart, Rotterdam.

⁽³⁾ op. cit. p. 44 et seq.

⁽⁴⁾ INE brochure ... European Barge Union (EBU) opinion on revision of TEN directives.

⁽⁵⁾ Opinion of the European Economic and Social Committee on Revision of the list of trans-European network (TEN) projects up to 2004, still to be finalised.

2.4. With regard to the public and private-law provisions governing IWT, the current legal regime is fragmentary in contrast to the law governing the competing modes of transport in the Community. This situation will take on the new dimension with the enlargement of the European Union. Taking note of the joint conclusions of the EU-Romania Joint Consultative Committee⁽¹⁾, legal problems can be seen as bottlenecks equally hindering shipping on the Danube. The public-law aspects of shipping on the Danube, the Rhine and national waterways thus come under different regimes, on the basis of supranational and intergovernmental legal regimes and bilateral conventions⁽²⁾. Cautious harmonisation of public law provisions, which is still far from complete, is already taking place in relation to the Rhine, the Community waterways and the Danube, based on mutual recognition and taking the Rhine navigation rules as the model.

2.5. Private law relating to transport agreements and liability is different in the EU Member States and non-EU countries. Recent initiatives in this area have resulted in international conventions which require ratification and implementation in national law.

2.6. The lack of uniform systems of public and private law means lack of legal clarity and certainty for the parties concerned (carrier, shipper, insurer) in an industry which is mainly international. This problem also needs to be addressed in order to bring about the modal shift envisaged in European transport policy.

2.7. This own-initiative opinion, which follows on from earlier EESC opinions on IWT in general, its infrastructure, corridors and the Danube⁽³⁾, aims to look at the bottlenecks referred to above, in particular in the context of the harmonisation and unification of IWT law, and thus to point the way to pan-European rules for IWT.

(1) Joint Conclusions adopted at the 5th meeting of the EU-Romania Joint Consultative Committee held in Bucharest on 23-24.5.2002 on Optimisation of the Danube as a pan-European TEN Corridor.

(2) These will lapse with enlargement, to the extent that they concern Community powers.

(3) The documents referred to are: Joint conclusions adopted at the 5th meeting of the EU-Romania Joint Consultative Committee held on 23-24 May 2002 on Optimisation of the Danube as a pan-European TEN corridor, on Implementation of the structured social dialogue in the pan-European transport corridors and the EESC Opinion on The future of the trans-European inland waterway network, OJ C 80, 3.4.2002.

3. Harmonisation/unification of rules

3.1. Public-law aspects

3.1.1. European IWT is covered by three distinct systems of law, which overlap geographically to some extent:

- The area of application of the Mannheim Act of 1868⁽⁴⁾.
- The area of application of the Community treaties and the *acquis communautaire*.
- The area of application of the Belgrade Act of 1948⁽⁵⁾.

3.1.1.1. The Mannheim Act is the oldest European treaty still in force. It was concluded in 1868 between the Rhine riparian states⁽⁶⁾. Under the Mannheim Act the EU Member States which are also signatory states transferred responsibilities falling within the scope of the Act to the Central Commission for Navigation of the Rhine (CCNR). The Act in principle guarantees freedom of navigation on the Rhine. A series of regulations and resolutions have been drawn up by the CCNR in implementation of the principles of the Act. These deal, inter alia, with technical standards, manning, and the safety and freedom of shipping. The CCNR has jurisdiction in disputes falling within the scope of the Act. Its decisions are binding on the signatory states and are required to be implemented in national law. There is a uniform system for the Rhine which has been implemented uniformly in all the signatory states. Switzerland is the only signatory state which is not also a member of the EU.

3.1.1.2. With the establishment of the European Community⁽⁷⁾, and the subsequent Treaty changes, additions and derived legislation, responsibility for establishing a Community internal market was transferred by the Member States to the European Commission. Powers in the field of goods transport, inter alia, were assigned to the European Commission, and the Commission has since developed secondary European law in this area by means of regulations and directives. European law, which applies in the Member States of the European

(4) The current signatory states of the Mannheim Act are Switzerland, France, Germany, Belgium and the Netherlands.

(5) The current signatory states of the Belgrade Act are Bulgaria, Germany, Croatia, Moldavia, Austria, Romania, Russia, Serbia and Montenegro, Slovakia, Ukraine and Hungary.

(6) Mannheim Act — Revised Mannheim Act on Navigation of the Rhine (Mannheim Convention or Act of 17.10.1868 and protocols, Official Gazette, 1869, p. 75).

(7) Treaty establishing the European Community, 25.3.1957.

Community, also covers scrutiny of technical standards, manning and safety, and the Commission has supplemented the law in these areas by recourse to the decisions and resolutions of the CCNR, which are applied in the Community.

3.1.1.3. In 1948 the Belgrade Act was concluded by the Danube riparian states⁽¹⁾. The Act set up the Danube Commission, which monitors the Danube regime on the basis of the Belgrade Act and develops it further. The Belgrade Act regime in principle sets out to regulate cross-border Danube shipping. In implementation of this principle, a series of recommendations have been made to the signatory states under the auspices of the Danube Commission, covering, among other things, technical standards, safety and manning rules. The decisions of the Danube Commission under the Belgrade Act are recommendations to the signatory states, which have in some cases been implemented in national law. In view of the nature of the decisions of the Danube Commission, there is no uniform system for shipping on the Danube, in the sense that decisions are not implemented automatically and unchanged in the signatory states. With the forthcoming accession of one Balkan state to the EU, possibly with others to follow, a number of signatory states, such as Russia, Ukraine and Moldavia, will in future remain which are not also members of the EU.

3.1.2. As European IWT is currently governed by different systems, leading to differences in legal instruments and divergent rules, de jure and de facto obstacles arise, inter alia, in relation to:

- restrictions on market access;
- restrictions on transport rights for 'foreign' vessels;
- disparities in technical standards and certificates.

Following the 2001 Rotterdam pan-European ministerial conference, these disparities were listed and discussed⁽²⁾ in a recent study by the international organisations concerned (UN/ECE group of volunteers). This group listed and commented

(1) Belgrade Act — CAP Convention regarding the regime of navigation on the Danube — signed at Belgrade on 18.8.1948, 1949 United Nations, Treaty Collection, Translation No 518. Some countries consider that de jure the international Danube Act of 1856 and the European Danube Act of 1921 are still in force.

(2) UNECE Group of Volunteers 'Legislative obstacles': 'Inventory of existing legislative obstacles that hamper the establishment of a harmonised and competitive pan-European inland navigation market (Rotterdam Declaration, item 13)'.

on the obstacles in a document. This looked at restrictions in transport rights for foreign vessels, free access to shipping on the various waterways, differences in technical standards, boatmasters' certificates and crewing requirements, as well as the incomplete harmonisation of the civil-law framework. In the light of the planned convergence of the CCNR and the Danube Commission, initiatives aimed at mutual recognition of various decisions, EU enlargement and the consequent lapsing of bilateral agreements to the extent that they concern Community powers, harmonisation is to be expected in the foreseeable future in a number of areas.

The EESC has already looked at obstacles in this area in a Report on optimising the Danube as a pan-European corridor by the EU-Romania Joint Consultative Committee.

3.1.3. The completion of the link between the Rhine and the Danube in 1992 has given an impetus to increased economic activity and transport between East and West. Moreover, with the opening of the markets of the Eastern European countries and their transition from planned to market economies, the accession of many of these states to the EU has ushered in a new era which requires that a pan-European system of rules for IWT be tackled with determination. This is called for in the final declaration of the ministerial conference referred to above.

3.2. Private-law aspects

3.2.1. Unlike transport by sea, road or rail, the carriage of goods by inland waterway is still governed by various national rules.

3.2.2. Recent efforts have resulted in conventions intended to bring about harmonisation and unification in this area.

3.2.3. In the past years, partly on the initiative of industry (IWT and insurance), conventions have been drafted which aim to lay down uniform rules for goods transport in Europe with a view to legal certainty and availability of insurance. The conventions listed below aim to introduce a uniform private-law regime for IWT, which, in view of the nature of the sector, is based on comparable international maritime transport and road haulage conventions.

3.2.3.1. Strasbourg Convention on the Limitation of Liability of Owners of Inland Navigation Vessels (CLNI):

The CLNI limits third-party liability for inland waterway vessels. The Convention was originally drawn up and signed by Rhine riparian states. Having entered into force in 1997, the Convention has been opened up to the Eastern European countries as well ⁽¹⁾.

3.2.3.2. Budapest Convention on the Contract for the Carriage of Goods by Inland Waterway (CMNI):

The CMNI provides for a uniform IWT regime for the carriage of goods by inland waterway comparable to the rules applicable to other modes of transport (cf. the Hague-Visby Rules and Hamburg Rules for maritime transport and the CMR Convention for road haulage). The regime is at present based on divergent national rules in the EU Member States. In the future Member States and other Danube states private law is still being developed, and this process and further legal fragmentation could be prevented by the introduction of an international convention. The Convention was signed in 2001 by all the European IWT countries and is currently awaiting ratification and implementation by the countries in question.

3.2.3.3. Draft European Convention on liability for damage in connection with the carriage of hazardous and noxious substances by inland waterways (CRDNI):

Conscious of its social responsibility, the IWT sector is striving for uniform rules covering liability for damage occurring in connection with the carriage of hazardous substances via inland waterway, which is currently dealt with in different ways in the various states, with different levels of protection for the injured party. The CRDNI introduces a single liability regime as regards the — steadily increasing — carriage of hazardous goods by inland waterway. Based on the principle of a high degree protection for the injured party, the draft sets out to introduce a system based to a great extent on maritime transport provisions and on the following principles:

- assignment of liability;
- risk liability;
- compulsory insurance.

3.2.4. Of the above conventions, to date only one has entered into force in some five IWT countries (Strasbourg Convention on the Limitation of Liability of Owners of Inland Navigation Vessels (CLNI)); the others are awaiting either ratification and entry into force (Budapest Convention on the Contract for the Carriage of Goods by Inland Waterway (CMNI)) or completion (draft European Convention on liability for damage in connection with the carriage of hazardous and noxious substances by inland waterways (CRDNI)).

4. Environment and safety

4.1. With regard to environmental impact, energy use per tonne-kilometre for goods transported by water is only one fifth ⁽²⁾ of that for goods transported by road and three fifths of that for goods transported by rail. Innovation ensures that new vessels have better engine technology, with correspondingly reduced emissions, while the engines of older vessels are in many cases being brought up to date.

4.2. With regard to policy on waste, the Central Commission for Navigation of the Rhine has drawn up the Convention on the Collection, Discharge and Reception of Waste arising from Rhine and Inland Navigation. Aware that arrangements for preventing, as well as collecting, discharging and receiving waste for reprocessing and disposal are necessary for IWT and related sectors, in order to protect the environment and the health and safety of the crews and transport users, the member states have agreed on a system for the discharge and reception of waste.

4.3. Taking as a basis the polluter pays principle, the Convention provides for the collection of ship-borne waste, including oily and fatty waste, as well as for the reception and disposal of cargo waste.

4.4. Pending the entry into force of this Convention, the reception of shipping waste is still governed by divergent national rules and procedures which are an impediment to improved protection of the environment and safety.

4.5. With regard to the safety of shipping, there are strict requirements governing the technical equipment of vessels in general, as well as specific requirements relating to the transport of hazardous cargoes.

⁽¹⁾ Entered into force on 1.9.1997. Ratified by Germany, Luxembourg, the Netherlands and Switzerland.

⁽²⁾ From the EESC Opinion on The future of the trans-European inland waterway network, OJ C 80, 3.4.2002, points 3 and 4 of which provide detailed figures on IWT.

4.6. The transport of hazardous cargoes on the Rhine is governed by the ADNR⁽¹⁾. This lays down the conditions under which hazardous goods may be transported on the Rhine.

4.6.1. In Germany, the Netherlands, Belgium and France the ADNR is also applied on waterways other than the Rhine. On the Danube the ADN-D has the status of a recommendation. The rules are based on the ADN recommendation of the ECE-UN. In 2000 the ADN Treaty was drawn up under the auspices of the ECE-UN and in collaboration with the CCNR. The Treaty in principle applies throughout Europe and enters into force following seven ratifications. When the Treaty enters into force its appendices will be incorporated into the current ADNR appendices to ensure continuity of the rules applied. In a 1997 draft directive⁽²⁾ the European Commission proposed that the ADNR rules be adopted by the EU Member States.

4.7. Attention should be paid to the monitoring of compliance with these rules, which still leaves something to be desired.

5. Social issues and labour market situation

5.1. *Freedom of movement for workers and general labour market situation*

5.1.1. The social aspects in the European Union are closely connected with the organisation and operation of the Community market. The powers laid down in the EC Treaty with regard to social measures refer, inter alia, to the principle of free movement of workers and the related coordination of social security (Article 39 TEC, OJ 136 EC).

5.1.2. There is a lack of skilled IWT workers in the existing EU Member States. There is, however, a pool of skilled workers in the future Member States.

5.2. *Law applicable to crews*

5.2.1. Qualification and certification requirements for the IWT sector differ between the current and future Member

States, and this can lead to difficulties in recruiting workers and with regard to the free movement of workers.

5.2.2. Under the Mannheim Act, the member states of the Central Commission for Navigation of the Rhine (CCNR) have introduced legislation relating to boatmasters' certificates and crew composition which is uniform and which applies in the participating countries⁽³⁾. These rules, which apply to Rhine shipping, serve as a point of departure for national waterways in the CCNR member states.

5.2.3. As a result, the rules governing working hours, crew composition, rest times, qualifications and training in relation to IWT are part of the various systems of public law. This is not only unclear, but also gives rise to disparities with regard to monitoring of compliance with the rules.

5.2.4. The Belgrade Act only lays down rules on boatmasters' certificates for Danube vessels. The provisions of the Belgrade Act are, however, only recommendations, and it is not clear to what extent the requirement for boatmasters' certificates is actually implemented in the member states. There are, however, arrangements for mutual recognition of boatmasters' certificates by the member states of the Danube Commission.

5.2.5. Community rules on boatmasters' certificates already exist and a start has been made on legislation covering crews. The aim is a broad common basis, with provision for more flexible provisions at local and regional level.

5.2.6. The existing law covering IWT crews is linked to the rules governing the equipment of vessels, in order to ensure that minimum crew requirements are complied with. These requirements are closely connected with technical standards for inland waterway vessels.

5.3. *Social dialogue*

There is little or no social dialogue in the IWT sector. In the CCNR states rules on crews apply uniformly to all crew members and contain no specific provisions for employees. At the same time, the rules on protection of workers, e.g. with regard to working time and conditions, take no account of the conditions specific to IWT or existing regulations applicable to crews. It should also be pointed out that the IWT sector relies to a great extent on the self-employed.

⁽¹⁾ European Agreement concerning the International Carriage of Dangerous Goods on the Rhine.

⁽²⁾ COM(97) 367 final.

⁽³⁾ Rhine vessels inspection regulation, chapter 23.

5.4. Harmonisation

5.4.1. Harmonised European rules on crew qualifications and clarity with regard to mutual recognition promote social integration and safety at European level and help create a level playing field in the interest of all parties concerned.

5.4.2. Recent discussions between the CCNR and the Danube Commission have focused, inter alia, on mutual recognition of boatmasters' certificates by the respective signatory states.

5.4.3. The European Commission dealt with the mutual recognition of boatmasters' certificates in Directives 91/672/EEC and 96/50/EC.

5.4.4. With regard to qualifications and other requirements applicable to crews, there is a need for harmonisation at European level and for clarity regarding the mutual recognition of the relevant certificates. Harmonised training can make an important contribution to achieving the desired harmonisation of European law relating to crews.

5.5. Communication

5.5.1. One issue is communication in European IWT. Different languages are used in the European IWT countries, which, in view of the mobility of workers, have in the past led to communication problems between crew members and between the various participants in shipping and may continue to do so in the future.

5.5.2. Mutual comprehension is very important in ensuring safety, and this issue requires attention. In this connection, reference should be made to the 'Guide de radiotéléphonie pour la navigation intérieure'. This handbook contains instructions as to the language to be used for communication between vessels and in ship-to-shore communications.

6. Current European policy framework

6.1. Views of the European Economic and Social Committee on the future of IWT

6.1.1. The EESC pointed out in its recent opinion on The future of the trans-European inland waterway network⁽¹⁾ that IWT is a real option, the importance of which is underestimated.

⁽¹⁾ See EESC opinion on The future of the trans-European inland waterway network, OJ C 80, 3.4.2002.

6.1.2. Being the most environmentally-sound and safest form of transport, IWT is still able to grow and can thus play an important role in modal shift as well as in intermodality.

6.1.3. According to the conclusions of the EU-Romania Joint Consultative Committee⁽²⁾, the ultimate political goal, as regards the optimisation of the Danube as a pan-European TEN corridor, is the close linking of Corridor VII⁽³⁾ to the rest of the pan-European transport system. The linking of the various components of the pan-European transport network has been given a major boost recently in a wider context.

6.1.4. The EESC has repeatedly called for a permanent and structured social dialogue in the pan-European corridors; there is a need to improve contacts between the CEEC socio-economic partners⁽⁴⁾.

6.2. Commission White Paper on European transport policy for 2010: time to decide⁽⁵⁾

6.2.1. The Commission has decided to tackle the problems identified in the transport sector and is putting forward policy solutions aimed, inter alia, at shifting the balance between modes of transport.

6.2.2. Bearing in mind the main goals referred to in the transport policy, the Commission pointed out in its White Paper that IWT, which has hitherto been underused, could provide a means of coping with the congestion of certain road infrastructure.

6.2.3. The Commission seeks to improve and strengthen the situation of IWT through fuller harmonisation of the technical requirements for inland waterway vessels, of boatmasters' certificates, as well as of crewing conditions, which will inject fresh dynamism into this sector.

⁽²⁾ EU Energy and Transport in Figures, Statistical Pocketbook 2002, ISSN 1225-1095.

⁽³⁾ Austria, Croatia, Germany, Moldavia, Ukraine, Hungary, Romania, Bulgaria and Slovakia.

⁽⁴⁾ See EESC opinion on the 'Implementation of the structured social dialogue in the pan-European transport corridors' — CESE 1351/2002.

⁽⁵⁾ COM(2001) 370 final, 12.9.2001.

6.2.4. In the framework of the new European transport policy, the Commission is intending to strengthen the position of the Community in international organisations, including the CCNR and the Danube Commission (1).

6.3. *The European Parliament's comment on the Commission White Paper on European transport policy for 2010: time to decide*

6.3.1. In its report on the Commission White Paper (2) the Parliament regards IWT as a useful instrument of transport policy, as it is an innovative, environmentally sound and relatively cheap mode of transport, and the Parliament expresses the view that inland waterways should be modernised, upgraded and extended by means of appropriate investment.

6.4. *European Commission and Central Commission for Navigation of the Rhine (CCNR)*

6.4.1. On 3 March 2003 the European Commission and the CCNR signed a cooperation agreement. The European Commission and the CCNR share common goals with regard to the development of IWT. Both organisations are therefore determined to promote the unification of the IWT market on the basis of the principle of freedom of shipping. Both the European Commission and the CCNR make it clear that effective cooperation is necessary in order to create the conditions enabling European IWT to develop its potential to the full.

6.4.2. On 28 November 2002 the member states of the CCNR signed the seventh protocol to the revised Mannheim Act, which makes it possible to recognise certificates and licences issued on a basis comparable with the regulations applicable to Rhine navigation. This measure, which will apply in particular to Community documents, sets out to harmonise the different regimes in a pragmatic way and to simplify the administrative responsibilities of IWT firms.

6.5. *Danube Commission*

The Danube Commission is currently considering modernisation and possible revision of the Belgrade Act. This is

connected with the cooperation which has existed for a number of years between the Danube Commission and the CCNR in the form of joint committees. The negotiations on possible revision cover the following areas:

- the question of principle as to the definition of freedom of shipping on the Danube (freedom of shipping only or freedom of shipping and other forms of transport);
- the legal status of the decisions of the Danube Commission (recommendations or binding).

6.6. *Pan-European policy plans*

The importance of IWT has been recognised in recent policy decisions, and a positive contribution thus made to improving the situation.

- At the pan-European conference on inland waterway transport, held in Rotterdam on 5 and 6 September 2001 (3), the representatives of the European governments and international organisations and the observers from other countries with an interest in IWT acknowledged the impetus which the Ministerial Conference on Timely Issues of European Inland Waterway Transportation (Budapest, September 1991) had given to the discussions and measures aimed at promoting IWT and eliminating obstacles to its development, and they called, among other things, for the establishment of a transparent and integrated pan-European IWT market on the basis of the principles of reciprocity, freedom of navigation, fair competition and equal treatment of inland waterway users.
- At the end of the 4th IVR/TAIEX colloquium on future prospects for IWT, held on 21 and 22 March 2002, representatives of international bodies, ministries, the IWT sector, insurers, shippers and representatives of other sectors adopted a resolution calling for unification of IWT.

(1) At the section meeting the Commission representative announced that a decision had been taken on 1 August to begin negotiations.

(2) Report on the Commission White Paper (COM(2001) 370 final — C 5-0658/2001 — 2001/2281(COS) — 9.12.2002).

(3) Declaration adopted by the Rotterdam conference on 6.9.2001.

7. Recommendations

7.1. Scope and legal instruments

7.1.1. In order to bring about integrated legal regimes and uniform law covering IWT, harmonisation is needed of existing treaties, conventions and bilateral agreements applicable to national and international waterways.

7.1.2. The harmonisation aimed for applies to the current and future EU Member States and non-EU countries which maintain navigable waterway links with these states.

7.1.3. The legal instruments, by means of which harmonisation and unification can be achieved, consist of the integration of existing regimes and mutual recognition of related regulations governing the public-law aspects, and the drawing-up and ratification of international conventions governing private-law aspects.

7.2. Public-law aspects

7.2.1. European IWT is currently regulated by different regimes, which leads to disparities in legal instruments and regulations with differing content. This concerns the states which fall under the CCNR regime, the Member States falling under the EC regime and the countries falling under the Danube Commission regime. Whilst the CCNR and EU regimes are legislative in nature and cover all the Member States to some extent, the Danube Commission regime is based on recommendations.

7.2.2. Integrated systems

— The rules laid down by the European Union and the CCNR regarding IWT sometimes already correspond to some extent, or will in the foreseeable future. The overriding principle is the highest possible level of protection of shipping in terms of safety and technical equipment. Further integration of rules on the basis of reciprocity is to be recommended, based on the highest existing standards.

— From the moment of accession of the new Member States the relationship between the rules of the European Union on the one hand and the Danube Commission on the other, as they apply to the new Member States, will become less complicated. In view of the advisory nature

of the current rules of the Danube Commission, the future Member States are required, from the time of their accession, to have implemented the *acquis communautaire* in national law. In view of the Danube Commission's position and coordinating role between East and West, it can play an important role as a link between the European Union (and the EU Member States) and the other Danube Commission member states in an enlarged Europe. A new Danube Treaty, as recommended in the Report of the EU-Romania Joint Consultative Committee on the optimisation of the Danube as a pan-European TEN corridor, following the CCNR-EU rules, would be a positive step.

— It is virtually certain that the relevant Balkan states will also be joining the European Union — the accession of Bulgaria and Romania is scheduled for 2007, Croatia has also recently become a candidate and Serbia and Montenegro are certain to follow. The Danube countries will then come under the ambit of European inland waterway law under the *acquis communautaire*. With the accession of the EU to the CCNR, as proposed in the Commission White Paper, the Community will be recognising the binding nature of the Act as a basis for a pan-European IWT regime.

7.3. Private-law aspects

All other modes of transport have been subject to uniform international private-law rules for decades, and clearly IWT, as a cross-border mode of transport *par excellence*, needs harmonised and uniform rules. The early entry into force of international conventions is therefore necessary for IWT in order:

- to achieve European policy objectives;
- to prevent the development of new inland waterway legislation in the future EU Member States and other Danube countries and thus further fragmentation of IWT law;
- to complete the missing link in the international transport chain.

7.4. *Drawing-up and ratification of international conventions*

The (current and future) EU Member States are therefore called on:

- to ratify and implement international conventions already concluded: Budapest Convention on the Contract for the Carriage of Goods by Inland Waterway (CMNI), Strasbourg Convention on the Limitation of Liability of Owners of Inland Navigation Vessels (CLNI);
- to draw up a comprehensive and legally balanced international convention on liability for damage and/or loss occurring during the carriage of hazardous substances by inland waterway, based on the draft European Convention on liability for damage in connection with the carriage of hazardous and noxious substances by inland waterways (CRDNI) drawn up by the industry;
- to adopt all other measures needed to prevent fragmen-

Brussels, 24 September 2003.

tation of the law in various areas and to bring about unification in the various areas of IWT.

7.5. *Social policy*

A Community basis for the law relating to crews in the EU is needed in order to create a level playing field for IWT. A social dialogue between organisations of employers, employees and the self-employed could make an important contribution here and promote improved coordination between rules relating to crews and those relating to the protection of workers.

7.6. *Further action*

The EESC calls on all the parties to continue working in this direction. The Committee will continue to work for the earliest possible entry into force of uniform rules for all European inland waterways.

The President

of the European Economic and Social Committee

Roger BRIESCH
