

Since 1996, the Community has developed a transport network, funded by the Cohesion Fund, the European Regional Development Fund, the trans-European networks budget and by loans from the European Investment Bank⁹⁹. In the future, the minimum level of this financial aid will be raised from 10% to 20% for cross-border rail projects crossing natural barriers (Alps) and for projects at the frontiers of the candidate countries¹⁰⁰.

4.2.1. No new high-capacity roads for trans-Alpine traffic

The Community policy regarding financing of the trans-European Transport Networks TEN-T is met by one of the key provisions of the Transport Protocol, which has already been classified as revolutionary¹⁰¹. Article 11(1) TP prohibits the construction of new high-capacity roads¹⁰² for trans-Alpine traffic, thus motorways and other roads which are multilane, intersection-free or have similar effects on transport as motorways do¹⁰³. This general prohibition is formulated in such a clearly binding way, that it may be considered as a self executing provision which does not need any further implementation measure¹⁰⁴.

This general prohibition of new high-capacity roads applies in principle both to *trans-Alpine* traffic, meaning traffic with source and destination outside of the Alps, and *intra-Alpine* traffic, meaning traffic with source and/or destination within the Alps¹⁰⁵. For the *intra-Alpine* traffic however, Article 11(2) TP provides for the possibility of a derogation. This derogation is subject to conditions concerning the environment- and transport-related impact (e.g. potential modal shifts).

⁹⁹ *Trans-European Transport Network. TEN-T Priority Projects*, European Commission, Brussels, 2002, p.3.

¹⁰⁰ Commission proposal for a Regulation amending Council Regulation 2236/95/EC laying down general rules for the granting of Community financial aid in the field of trans-European networks, COM (2002) 134 final, OJ C 151 E, 25 June 2002, p.291, at Article 5(3).

¹⁰¹ J. SOHNLE, "Le transport transAlpine des marchandises par rail et par route: préoccupations écologiques et politique européenne des transports", (2003) 1 RJE 5, at 7.

¹⁰² I use the term "high-capacity roads" which I took over from the European Environment Agency (EEA), see *supra*, note 7. In the versions of the official languages of the Alpine Convention, the following expressions are used: "hochrangige Strassen" (G), "routes à grand débit" (FR), "strade di grande comunicazione" (IT) and "ceste višjega reda" (SLO).

¹⁰³ Article 2 TP.

¹⁰⁴ See *supra*, note 74, p.113.

¹⁰⁵ Article 2 TP.