

Cross-border cooperation in the development of transport projects

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1. INTRODUCTION

1.1 Setting the scene

In its effort to strengthen Europe's economy and improve social-economic cohesion, the European Union (EU) is supporting the development of Trans European Networks for Transport (TEN-T). TEN-T carries a price tag of at least 600 billion Euros. So far, only a few of these Priority Axes have been realised. Not all these projects have the same importance or urgency, neither are the funds available to develop all of them in due time (2010-2020). To improve prioritising, a choice was made by the EU to concentrate efforts on major transnational axes with a European value. A subset of thirty Priority Axes was defined, costing some 225 billion Euros ¹. These projects deal with hardware, technology including software, financial and institutional arrangements. These projects may, by removing barriers in rail and barge transport, help to reduce growth in road-only transport. EU supports these projects by co-financing project studies and construction works.

1.2 Methodological framework

We have recently finished a study commissioned by EU's Committee of the Regions (CoR) ². The study draws on evidence from six case studies from across Europe, each of which are situated in areas with natural cross-border barriers: two in mountainous border areas, two in river border areas and two in coastal border areas. The study consisted of a socio-economic impact analysis, an analysis of funding requirements and options, and a regulatory analysis. The analysis of barriers and options led to working models (new transnational financial, legal and institutional frameworks) for local and regional governments in cross-border regions. We have studied (plans for) new or upgraded infrastructure for rail, barge and short sea.

The study was based on desk research, paper questionnaires and an international expert workshop. The information gathered enabled us to describe the present (without) and future situation (with the new or upgraded infrastructure), the economic and environmental impact of the infrastructure, the financial requirements and options for funding and the institutional setting.

One of the projects was finished, while in three other cases a major step in the planning of the infrastructure was made. These development processes may offer some clues on how to monitor and guide other projects. However, it is known from literature ³ that those responsible for such projects frequently do not seem to know nor willing to learn from the lessons learned in other projects.

1.3 Main questions

This paper discusses a few of the interesting findings of this study. In particular, it explores the following questions:

- What are the main barriers slowing down the development of TEN-T projects?
- What is the relevance of TEN-T projects for cross-border regions?
- What role can regional and local authorities play in overcoming these barriers?
- What can EU policy do to support the development of TEN-T projects?

1.4 Set-up

The paper has the following content. In section 2 the main barriers for the realisation of TEN-T projects are discussed. In section 3, the relevance of TEN-T projects for cross-border regions is discussed. This also explores the involvement of local and regional authorities in TEN-T networks. Section 4 discusses the prospects for removing these barriers. This section inter alia discusses the role of EU policy. We finish with conclusions (section 5).

2. MAIN BARRIERS FOR THE DEVELOPMENT OF THE TEN-T NETWORK

2.1 Introduction

The TEN-T policy exists since the treaty of Maastricht (1992). In 2003 nearly one third of the proposed projects and three of the original (Essen, 1994) fourteen priority projects have been realised ⁴. Among the realised projects is the Øresund fixed link between Denmark and Sweden, which was part of our study.

2.2 Typology of barriers

The development of the TEN-T network is dependent on many factors. To be mentioned are:

- Financial arrangements;
- Institutional arrangements;
- Environmental arrangements;
- Technical arrangements.

We will limit ourselves to the first three factors in this paper.

2.2.1 Financial arrangements

During the past decades public investments in infrastructure were on average 1% of GDP in European countries. This figure includes replacement investments. Governments either do not have (due to budget restrictions) or do not want (due to other priorities) to spend more money on infrastructure. This means that infrastructure networks grow slowly over time, lagging well behind the growth in demand for transport.

EU ⁵ mentions a 0.2% higher growth of EU's GDP if 600 billion Euros would be invested in TEN-T infrastructure. From a macro-economic point of view, this is not impressive. At the same time, micro-economic literature says that the quality of infrastructure networks is a major factor to attract (foreign) firms and their investments ⁶. However, in industrialised countries local and regional investments at different places tend to cancel each other out. Hence, the national impact of such investments is limited. A similar reasoning could be developed for projects in different EU member states. This implies that the quality of investments in infrastructure should be the prime target of decision making. It is important that the optimal level of investments in infrastructure is determined, based on the real demand for infrastructure in Europe in the long-term (50-100 years), keeping in

mind economic, financial, environmental, spatial and demographical constraints and developments. Prestige projects are unlikely to fulfil these requirements. Infrastructure can be very expensive, especially in case of tunnels through mountains. The demand for funds is usually much larger than the available public (also called internal) funds for infrastructure. This leads to a search for additional investment funds, either national or international. Sources could be banks (including institutions like the ERDF or EIB), the EU or private financiers. Banks like the ERDF and EIB are important infrastructure investors, but they are also public institutions, which means that taxpayers sooner or later pay the bill for the infrastructure. The same holds for a larger involvement of the EU in co-financing. Private co-financing (also called external funding) is a solution frequently mentioned by policy-makers. In practice private investors have a different perception of risks attached to a project, the kind of risk they want to carry during the life-time of the infrastructure. An improper division of risks between public and private entities is one of the many technical and non-technical barriers for funding infrastructure networks ⁷. That is why in practice there is a lot of resistance within business to invest in infrastructure ⁸. Private toll roads are successful and ownership (control) is an important reason for that. The risk is manageable in this way and the user base is growing through time, which guarantees revenues. Private operators therefore make money on their investments, which can be reinvested in new roads as well. Road investments are however not comparable to railways. Use of railways is (passenger and freight) in under pressure for decades, so investors/owners of railway lines face a major source of risk. A third issue is to devise regular assessments of the impact of EU infrastructure and transport policy and arrange a feedback from such assessments towards the TEN-T program and the accompanying policy-making. This would lead to a more demand-oriented approach ⁹.

2.2.2 Institutional arrangements

TEN-T infrastructure demands a certain level of international co-operation. Usually two different organisational arrangements can be found.

1. Cooperation at the project level (mainly for 'one-off' activities) operating within the organisational arrangements based on European or national law. Cooperation is based on ad-hoc agreements;
2. Strategic cross-border cooperation involving a strategic and programme-orientated approach with regard to the joint cross-border territory. Typical organisational arrangements are Euroregions and similar bodies, Working Communities (large-scale cross-border cooperation) and other structures for strategic cooperation and structures specifically set up for the management of particular programmes (e.g. INTERREG or other EU-initiatives).

Cross-border cooperation is one of several types of international cooperation involving local and regional authorities in Europe ¹⁰. Cross-border cooperation takes place between two or more neighbouring administrative authorities (regions and/or local authorities) that are located in geographically adjoined areas along a

common border and work together in all aspects of daily life. In case of project orientated cross-border cooperation, the most common organisational arrangements used in practice are based on European law or national law and on practical ad-hoc agreements. In the case of strategic cross-border cooperation, the most common organisational arrangements are Euroregions and similar structures (often properly constituted legal entities, multi-purpose, often with extensive capacities), Working Communities (based on working agreements, limited capacities) and other formal or informal institutional arrangements.

Space does not permit to discuss all the many institutions and (legal) arrangements, which are either wholly or partially responsible for the planning, financing, construction and use of infrastructure. We will therefore restrict ourselves to one of the more important agreements, the Madrid Outline Convention of 1980.

The main limitation and persisting obstacle of the Madrid Outline Convention (and its First Additional Protocol of 1988) is that the systems and models contained in the documents are not directly applicable in practice. Therefore, both the Outline Convention and the First Additional Protocol do not in themselves provide a treaty for cross-border cooperation but merely a framework. Examples from several border regions demonstrate that additional treaties need to be concluded between two national states in order to enable the regional and local authorities to engage in direct cross-border cooperation. Some reasons that prevent from a direct application are the different levels of centralisation and differences in the state administration or the legal systems of the partners in the cross-border regions. Nevertheless, the Madrid Convention lays the legal groundwork for increased cooperation and made possible the recent ratification of several bilateral treaties between states.

A large number of bilateral or trilateral agreements and treaties have been concluded between states in the field of cross-border cooperation since the sixties. The principles and basic guidelines contained in these agreements and treaties or the practical scope of activities covered fully depend upon the political will of the signatory states. Some agreements provide for cooperation across borders exclusively between national authorities, while others have as their prime objective to lay down legal foundations for cross-border activities between regions or local authorities situated in the territory of the contracting parties. Most agreements do however foresee to various degrees a participation of regional or local authorities in cross-border cooperation.

Next to these agreements at the national level, regional and local authorities have also concluded formal agreements etc., without an explicit role for their national governments. In such agreement issues like the supply of public transport services, water supply, protection of the landscape etc. can be arranged.

In recent years, particular interest is given to the question of how to design proper transnational institutions capable of launching infrastructure projects across borders.

Project-based cross-border cooperation activities may be ad hoc, based either on arrangements and sporadic working groups or on agreements at local, regional or national level. Not all of these relatively loose activities need their own permanent cross-border structure. Many cross-border projects can be dealt with by existing bodies on either side of the border. However, some cooperation projects may however require the setting up of project-level cross-border structures.

Project level

Until recently, there was no uniform and specific instrument for cross-border cooperation at project level in the EU-Member States. Before the EGTC was developed, the European Economic Interest Grouping (EEIG) was the only legal facility established by Community Law, which allows the formation of a grouping of individual companies or other legal entities, and is particularly tailored to small and medium-sized enterprises (SMEs). This concept was adopted by the European Council of Ministers in 1985 and implemented in 1989. Despite its widespread use between companies and organisations from all areas of industry and services and the possibility for a participation of public bodies in EEIGs (as long as they come under the law of a Member State), the concept of EEIGs presents some obstacles for cross-border cooperation due to:

- Their main focus on economic cooperation, with no commitment to other forms of cooperation – EEIGs can only act in the context of private law and are therefore unable to take on the statutory functions of local authorities;
- Their legal character – EEIGs cannot take over the management of a large programme of cooperation (which would most likely require contact with third parties under public law) without the establishment of another structure;
- The legal relation between EEIGs, third parties and public law bodies – an EEIG cannot take over the management of any of its participants and public authorities cannot delegate economic activity to an EEIG;
- Management limitations – whilst EEIGs can be used to access Community funding at the level of projects, they cannot be used to manage economic activity directly.

In the past few years several new initiatives have come from Brussels to speed up the process of developing the TEN-T network. To be mentioned is the appointment of special high-ranking co-ordinators for specific infrastructure corridors. A discussion with an official of DG TREN learned us that it may take some time before the right people are found for each corridor, while they and their staff also have to find their place in the political framework. The same holds for an also recent financial and institutional innovation, the European grouping of territorial cooperation (EGTC ¹¹). Its aim is to facilitate and promote cross-border, transnational and/or interregional co-operation between its members on a structured and legally reliable basis ¹². Legally, it is thought to be established in

2007. Given their premature status, an assessment of these new initiatives was not possible at this moment in time.

2.2.3 Environmental side-effects

Next to these financial and institutional barriers a third barrier for the advancement of infrastructure networks in Europe is environmental concern. Any infrastructure project is likely to reduce the natural environment and liveability in a minor or major way. Removing barriers by building new or upgrading existing infrastructure may reduce congestion and other annoyances temporarily, but with the growth of traffic and transport, it is like buying time.

At the local level, and especially in mountain areas, some of the proposed TEN-T infrastructure projects have met strong resistance. There is a paradox with on the one hand many complaints about the local impact of trucks on the road, but on the other hand limited sympathy for new cross-border rail infrastructure that could help to shift part of the transported volume from road to rail.

Environmental and liveability protection have become very important in infrastructure planning. These requirements may lead to changes of the project specification and a longer building time. They can lead to a major cost rise. For instance, due to these circumstances, the cost of building the Dutch Betuwe dedicated rail freight line doubled ¹³. Are such requirements always necessary? Are there other solutions, like building the infrastructure elsewhere? These are just some of the possible questions, which are in many cases not on the (political) agenda.

2.3 Impact of barriers

The impact of these barriers have on decision making is strong. Decision making is extended and complex. This already starts before the beginning of a project, when the discussion about its necessity takes place. This period can take several decades. A recent example is the Betuwe freight railway line case ¹⁴. Decision making was a constant battle, in which decisions were no guarantee for 'stabilisation'. In other words, even a decision does not stop quarrels. Earlier 'losers' will find options to influence decision making, while newcomers may enter the arena. All this extends the decision making period. What makes the situation complex is not only that people have to agree about transport(-economic) targets (like the necessity of a modal shift) and scenarios (like future attractiveness of railways), but also that compromises between the requirements of any of the involved policies (transport, regional development, environment) have to be found, which is quite difficult. For international projects, an additional problem is the lack of coordination of national infrastructure planning systems. A country does not (fully) have to consider the impact of (not) investing in infrastructure on other countries, even in case of infrastructure that is meant to enable cross-border services ¹⁵. This implies, that successful cross-border services had to take many hurdles.

3. THE RELEVANCE OF TEN-T PROJECTS FOR CROSS-BORDER REGIONS

3.1 Introduction

Cross-border regions are witnessing the costs and benefits of modern mass transport. Their infrastructure, which used to have a local or regional function, cannot cope with mass transport of people and goods that is mainly directed towards large concentrations of people and business locations, or other countries. Liveability and the environment are at stake.

Whether border regions will benefit from new transnational infrastructure depends on answers to questions like the following: What kind of services does the new or upgraded infrastructure allow? Is the focal region only crossed but not serviced by new services? Does the project influence the local or regional economic base in the longer-term (e.g., impact on tourism)? What is the net environmental impact of the project?

These are very relevant questions, because the answers influence local or regional support for infrastructure projects. Installing new infrastructure is a long process, in which many technical-, institutional-, organizational- and financial issues have to be solved. Without local or regional support this process may take much longer or even stop. In fact, regions that benefit (usually the larger nodes/cities in a country) may have to or even should compensate loosing regions.

3.2 The case studies

The following six major infrastructure projects were part of the research:

1. TEN-T Priority Axis 16. A direct rail corridor with a tunnel across the Pyrénées linking Toulouse/Pau and Huesca/Zaragoza. The study has dealt with the proposed tunnel section between France and Spain.
2. TEN-T Priority Axis 1. The reconstruction of existing and construction of new rail infrastructure on the north-south rail axis between Berlin and Palermo. The study concentrated on the proposed Brenner Base Tunnel between Innsbruck and Fortezza at the Austrian-Italian border.
3. TEN-T Priority Axis 17. This railway project links the French eastern and German southern railway networks. The study discussed the Kehl Rhine bridge at the German-French border. Kehl and Strasbourg are neighbouring cities.
4. TEN-T Priority Axis 18. This inland waterway project is meant to improve the connection between the Meuse and Rhine waterways. The study analysed the extension of the locks of Lanaye (Lanaken/Ternaaien) at the border of the Netherlands and Belgium.
5. TEN-T Priority Axis 11. This road/rail project created the Øresund bridge, a fixed rail/road link between Copenhagen and Malmö in the year 2000. The Øresund link is part of the St Petersburg-Helsinki-Stockholm-Copenhagen corridor.
6. TEN-T Priority Axis 21. This is about the 'motorways of the sea'. The Baltic sea area was studied, more in particular the links between the northern part and the southern part of the Baltic Sea. Actually, this is a series of action points aimed to improve short sea shipping, many of which are still under discussion.

3.3 interesting findings

3.3.1 Introduction

The barriers, which may hamper the development of an infrastructure project are usually very persistent. This becomes apparent when studying the institutional/legal situation in which these projects have to be realised. It may take many years to reach a first major agreement between governments and even such an agreement does not mean that the project will start in due time or be finished as planned. Usually additional agreements are needed before the project can start.

3.3.2 Projects in the study phase

The central Pyrenean railway crossing, the Brenner Base tunnel and the Motorways of the Baltic Sea are in the study phase.

The Pyrenean railway crossing is on the political agenda of Spain and France for some years. Rail transport between both countries is limited. Roads are unable to cope with growing freight transport, which reduces liveability.

The two existing railway lines will be upgraded to enable TGV trains in the next decade. A third link offers a shorter connection, is technically suitability for freight transport and offers additional capacity. The latter is only needed in the longer term, provided that rail transport volume is much larger than it is now. Since it is already very difficult to fund the planned new TGV lines and the commercial benefits of additional TGV are under question ¹⁶, France slows down their development. Spain did not support freight transport by rail in the past, but it changed its position recently, when it launched a multi-billion investment plan to upgrade its rail network towards UIC standard gauge.

The environmental and economic impact of the project are subject for concern. It is uncertain whether the border regions will benefit from the project.

The Brenner Base Tunnel is a technically complex project. Recently an agreement between Italy and Austria (national and regional government) was reached to build a pilot tunnel. Funding was also secured. The project enables an important time saving. However, Switzerland is also developing parallel connections, which also connect Italy with Germany and the Netherlands. Interesting is that Italian road tolls will be used to fund the tunnel. The private road owners were not allowed to develop a new road link through a vulnerable area and instead opted to co-finance the project.

A pilot tunnel is not a full-fledged tunnel project, however. Because of the technical uncertainties there was major opposition in Austria against the plan. Many feared a cost explosion. A pilot tunnel is a means to study technical (geological etc.) and other problems.

The Baltic Sea area is a large area, served at the surface level by short sea, road and rail links. Trade between the countries involved is not comparable to the

trade flows in the western part of the EU. Trade with third countries (Russia) is important. Political differences are gradually disappearing, at least between EU member states. The Motorways of the Sea initiative is in fact a multitude of many small projects in all kinds of areas, technical, financial, environmental and so on. Countries and regions regularly discuss these issues in working groups and at regional conferences. In a few areas some progress is made, while in others a lot of things remain to be done.

3.3.3 Decided projects

A decision was made to build a new double track rail bridge at Kehl and to extend the Lanaye Locks with a fourth lock.

In case of the Kehl bridge, France and Germany have discussed this issue for decades. Even agreements at the highest echelon (ministers) did not help enough to change national priorities and speed up the project. Only in recent years a breakthrough occurred, due to a mix of factors, some of which are unknown or not documented in publicly available documents.

In case of the Lanaye Locks it was less difficult to reach an agreement. The Netherlands wanted to fix their financial contribution and not be forced to expand its waterways and locks towards the much wider gauge of the new Lanaye lock. As soon as this was accepted, an agreement was possible.

3.3.4 Finished projects

The Øresund fixed link was finished in the year 2000. This project reduces travel time between Denmark and Sweden by more than 90%, which is a major improvement. Traffic did not increase very fast, because of road tolls and because socio-economic integration takes time. Traffic also shows strong seasonal variations, which may not only be due to the weather conditions, but also due to the fact that a considerable part of traffic is leisure and not business traffic. The project contributed to regional-economic development. An area where success is not clear is the environmental impact of the project.

3.4 The role of local and regional governments

These governments play a vital role in the development of transnational infrastructure. However, national governments are not always fully aware of this role and especially of their particular interests. Depending on the legal and institutional climate, this can considerably slow-down decision making. On the other hand, if they regard the project as vital for their interests and they have a clear role in the decision making process, they will support the project. This is for instance the case in Spain, France and Austria. Time will tell whether this support stays intact once building and its impact becomes visible.

3.5 Conclusions

A main cause hampering the advancement of these projects is the lack of a proper legal framework for international projects. It should be clear what the prevailing law (system) is, what the financial risks are and their division among partners, who pays for what, who decides in case of disagreement, etc. Even then, there may remain many unsolved technical and financial issues. Nonetheless, suddenly a breakthrough in the decision making process may occur.

4. REMOVING THE BARRIERS

4.1 Introduction

The development of TEN-T infrastructure is stimulated if several measures would be taken. Interesting are the following ¹⁷:

- (EU) reduce the number of project to those with a clear scope and well-documented socio-economic impact;
- (EU) develop a legal model to separate political and normal project risks;
- (national) find a proper balance between local/regional and national interests;
- (EU, national) find a (new) balance between investments in road, rail and other infrastructure modes. This balance is to be found with a combination of supply and demand policy.

4.2 Recent EU policy

It should be realised that EU policy is supplementary to national infrastructure policies, having no overruling powers. Financial support by the EU is also limited to 50% (study) and 10% (project). Nonetheless, this is several billions of Euros for the whole program.

EU is aware of the slow progress of TEN-T. In recent years, it therefore did several things: appoint a high ranking co-ordinator and staff for each corridor, select a limited number of top-priority projects and introduce the EGTC framework to promote international cooperation. The impact of these measures cannot be assessed at present, but it is clear that choices with respect to the number and scope of projects were urgent.

5. CONCLUSIONS

The main barriers for the development of TEN-T projects are comparable to those found in projects developed within national borders. What makes them more complex are differences in legal and institutional arrangements between countries, diverging transport and regional-economic policies and other factors, like the situation in which national providers of transport services are in.

These projects are not necessarily favourable for border regions. If measures are taken to protect the environment, to provide similar or better transport services after the project is finished and to take additional measures to support their

regional-economic base (usually tourism), then they are likely to benefit. A second (major) means of transport (next to road), be it rail, barge or short sea, is necessary to secure the socio-economic future of Europe. Road itself cannot cope with the high growth of transport, while the environment cannot deal with the externalities of the latter.

EU policy should reduce the number of main projects and provide a proper legal framework to support bi- and multilateral agreements (for infrastructure and services) between its member states.

Notes

¹ EC (2005) **Trans-European Transport Network, TEN-T priority projects 2005**, Office for Official Publications of the European Communities, Luxembourg.

² CoR, **Natural cross-border barriers to the development of Trans-European Networks**, Committee of the Regions, Brussels, to be published.

³ Bruzelius, N., Flyvbjerg, B., and Rothengatter, W. (1998) Big decisions, big risks: improving accountability in mega projects, in: **International Review of Administrative Sciences**, 64, pp. 423-440; Flyberg, B., 2004, **Internationale ervaring met grote infrastructuurprojecten**, presentation for the Dutch Temporary Commission to investigate large Infrastructure projects (TCI) on August 30, 2004, The Hague.

⁴ See note 1.

⁵ EC (2003) **Communication from the Commission, A European initiative for growth, Investing in networks and knowledge for growth and jobs, Final report to the European Council**, COM(2003) 690 final, Brussels.

⁶ Meester, W.J. (1999) **Subjectieve waardering van vestigingsplaatsen door ondernemers**, KNAG/Faculteit der Ruimtelijke Wetenschappen Rijksuniversiteit Groningen, Nederlandse Geografische Studies 261, Utrecht/Groningen.

⁷ See note 5.

⁸ CEMT (2003) **Transport infrastructure development for a wider Europe**, Seminar, Session 2 – Financing of the Infrastructure, contribution by UNECE, Paris, 27-28 November 2003.

⁹ This could address questions like: does it make sense to build new high-speed railway links if flying remains so inexpensive as it is now? Or broader: if users do not perceive the need for a modal shift, should policy-makers continue policies in this area?

¹⁰ Other examples of international cooperation include inter-territorial cooperation or inter-regional cooperation, trans-national cooperation in the field of European spatial development, and trans-national cooperation in the framework of European associations established by local and regional authorities.

¹¹ EC (2006) **Regulation of the European Parliament and of the Council establishing a European grouping of territorial cooperation (EGTC)**, 8754/06, Brussels.

¹² CoR (2004) **Services of general interest in Europe**, Study E-2/2004, Brussels.

¹³ TCI (2004) **Private betrokkenheid bij de Betuweroute**, Dutch Parliament Second Chamber, Year 2004-2005, 29283 no. 7, chapter 8, SDU Publishers, The Hague.

¹⁴ Lintsen, H.W., and Horn van Nispen, M.-L. ten (2004) **Grote infrastructuurprojecten als belangenstrijd: Niets nieuws onder de zon**, in: Dutch Parliament Second Chamber, Year 2004-2005, 29283, nr. 10, chapter 3, SDU Publishers, The Hague.

¹⁵ Examples for railways include the German extension of the Betuwe freight railway line and Dutch-Belgian interface of the Paris- Brussels-Amsterdam TGV line. In our case studies we found similar examples.

¹⁶ Moura, P., Blanchet, J-D. et al. (2003) **Rapport d'audit sur les grandes projets d'infrastructures de transport**, Inspection general des Finances and Conseil General des Ponts et Chaussées, Paris.

¹⁷ It is impossible to discuss all of them here.