

# **Emergence of competition in railway's sector in Germany and Europe**

**What learning can be drawn from the thesis of Walter Eucken : « *Die Verbandsbildung in Seeschifffahrt* », (The formation of agreements in maritime transport<sup>1</sup>, Doctoral Thesis, Iéna, 1914).**

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The transport sector is undergoing profound change in Europe at the present time, in particular rail transport. Faced with the threat of global warming, the annoyance of noise, pollution from cars and heavy goods vehicles (HGV), urban congestion and the problems of road safety, rail travel offers new appeal for a move from road to rail, for passengers as well as for goods. Formerly presented as a typical example of natural monopoly in the theoretical literature on public economy, it has been decided, under the impetus of the European Community and of pioneering countries (in particular Sweden), to separate the business of transport from the management of the infrastructure<sup>2</sup> and, in order to reduce the level of public subsidies, to open the exploitation of rail transport to competition. The network, on the

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<sup>1</sup> The French or English translation is not clear : according to Sylvain Farge (University of Lyon referring to *Sudoc* notice), one may imagine « the formation of cartels/trusts/agreements in maritime transport ». Patricia Commun (University of Cergy-Pontoise) speaks in French of : “l’organisation syndicale dans la marine”, Alain Alcouffe, Claude Diebolt, 2009, p. 380).

<sup>2</sup> From the research point of view, one continues to observe reticence in the face of the preferred European models of vertical disintegration some, for example at a local level («*short lines*»), boasting the merits of a vertical reintegration of operators in order to achieve economies on the scale of the American «*short lines*» models.

other hand, remains in the regulated framework of natural monopoly (Guihéry, 2004), which can be managed by public authority – directly (RFF – France) or more indirectly (Germany via the subsidiary company DB Netz part of DB AG holding ; the United Kingdom with Network Rail, a private company but under the control of the *Office of Rail Regulation (O.R.R.)*). New European rules have therefore been created concerning market access for new entrants to the market (Burlando, C., Guihéry, L., (2005a), in respect to safety regulations and the interconnections between the different Member States of the Union (for example, the ERTMS standards), on the reciprocity of rules governing competition between European countries, rules on pricing for use of the infrastructure, on taking into account public service missions (European Directives on Public Service Obligation and on the decentralisation of regional passenger services (Guihéry, (2005b). More generally, consideration of the negative external effects of road transport for individuals and for goods transport should lead, with increasing costs of “road” use (for example, the new HGV eco-tax on none - conceded French road network scheduled for 2011-2012), to a degree of ‘transparency’ and ‘equity’ in transport prices at the intermodal level, even if this ‘beautiful idea’ is not very operational in light of the complicated costs function and of their composition (subsidies to be taken into account on all modes, public financing of infrastructures, political opportunism of aid targeted on one sector,...).

Very briefly, one can resume that, at the heart of Europe, Germany is in advance or on a par with the European dynamic (with Sweden, the Netherlands, maybe with Italy....) while France advances with prudence. This fact raises real reserves and even lively criticism on the part of our European partners<sup>3</sup> who see the SNCF (via its subsidiary company Keolis for public transport or Geodis for the transport of goods by road) and private French operators (for example Veolia) winning calls for tender from freight services or travellers throughout Europe, and particularly in Germany : this market is in fact very dynamic, while the French market is only open to competition for freight at present<sup>4</sup>. Thus the First Parliamentary meetings on Regional Rail Transport, held in Paris on 7 October 2009, under the responsibility of Deputy Yannick Paternotte, recorder of the Law on the organisation and regulation of rail transport, laid down the first trails for opening the Regional Express Transports (Transports Express Régionaux – TER) to competition. France seems finally to be coming into line with her European partners ... slowly.

Where are we going? What European equilibrium might emerge for railway traffic, around a dominant European partner, for example (Guihéry, 2009)? Around an «oligopoly in peace»? Around an «oligopoly in war»? Towards what balance in terms of market shares of railway operators in Europe ? Might we see agreements appear, as for example a European alliance of

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<sup>3</sup> See on this topic the verbal oration between representatives of the SNCF and of the DB AG which took place at the beginning of November 2009 – a veritable war of communication (Les Echos, 2/11/2009: «DB wants the same liberalism in France as in Germany»): «The glacial and the cool continue to blow in the relations between SNCF and Deutsche Bahn (DB). First the glacial: after the revelation of the Germany press that the French railway company had registered applications for direct tracks access – opportunities to make trains run – to operate communications for inter-regional travellers across the Rhine from the end of 2011 ((« Les Echos » of 30 October 2009), Ulrich Homburg, in charge of passenger transport in the DB, reacted against this new strategy of SNCF : in an interview with the «Financial Times Deutschland» he prophesied that there would be a «*bloody battle which will leave deep impressions in the balance-sheets*» of the two companies, calling on Chancellor Angela Merkel to defend the DB. The atmosphere cooled down subsequently. In a communiqué, Deutsche Bahn later specified that it did not reproach the SNCF for requesting tracks on its territory for inter-regional trains. And it qualified the cooperation between the two companies on the exploitation of the TGV Est as fruitful. But it strongly requested reciprocity».

<sup>4</sup> International passenger transport must be opened to competition in France at the beginning of 2010, principally in continuity (coastal traffic) with an international link (Italy – Germany or Spain – Germany with stops in France, particularly in Lyon, Marseille and Paris).

historic railway operators<sup>5</sup> ? Perhaps a cartel ? What are the links between historical operators and public authorities, these links being particularly strong in transport, opening the door to an analysis in terms of rents and of clubs (cf. the school of « Public Choice », Buchanan et Tullock, 1962) which obviously fits the transport sector?

## **1) Methods and limits of our work : transfers from some experiences of the maritime sector in the XIXth century to the rail transport of today ?**

It is indispensable, in the first place, to specify our method and to remember certain limits to the work: our objective is to carry out a retrospective and comparative analysis of the emergence of competition in the maritime sector of the XIXth century compared to the opening to competition of the passenger and freight services of European rail transport today, in particular those of Germany. We shall base this on exhaustive analysis of the competition and agreements (the «conferences») in the sector of maritime transport carried out by the famous German Economist Walter Eucken in the framework of his Doctoral Thesis defended at Iéna in 1914 :

**„Die Verbandsbildung in der Seeschifffahrt“** (*The formation of conferences/agreements/cartels in maritime transport*), Rheinischen Friedrich-Wilhelms-Universität zu Bonn bei Prof. H. Schumacher, , 370 pages, 1914 ; text : 314 pages.

To be found in extended version by Staats- und sozialwissenschaftliche Forschungen, Heft 172, 319 S. + Appendix.

This transfer of the experiences of maritime transport of passengers and of goods, observed by Walter Eucken, to the object of our study, rail transport, needs to be undertaken with caution using a methodological framework. One may, it seems, observe similarities between the two modes at two different epochs:

- First, in both cases, the appearance of competition is «new» in both the sectors being studied beyond temporal considerations: in the XIXth century with industrialisation and the first globalisation of the end of the XIXth century leading to strong development of maritime transport, and with the new European rules of the XXth century framing rail transport (Guidelines 91-440 and following).
- Then, in both of the study objects, one sees the existence, at the centre of the market, of a dominant historical operator, *Lloyd* or *Hapag* in Germany in the XIXth century (strong cooperation around 1873, 1894 and 1899<sup>6</sup>) and DB AG for rail transport.
- In more micro-economic terms, these two sectors are characterised by considerations of cost which led economists to justify the emergence of a certain form of natural monopoly: large «sunk costs», economy of scale and economy of scope. In maritime transport the system of maritime conferences (see frame p. 5) lasted, with the exception of the United States, until 2006 in Europe (Regulation (EC) No 1419/2006 of 25 September 2006) forbade them.
- Finally the influence of Nation-States on our two modes, maritime and rail, is not neutral : Eucken observes this clearly for maritime transport in the XIXth century – in addition Eucken points a finger at the French

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<sup>5</sup> *Railteam* is an alliance between seven rail companies whose ambition is to facilitate high-speed travel in Europe: DB Bahn, TGV (SNCF), B (SNCF), ÖBB, NSHspeed, Eurostar, SBB CCF FFS.

<sup>6</sup> [http://www.hapag-lloyd.de/de/about\\_us/history\\_between\\_1886\\_1918.html](http://www.hapag-lloyd.de/de/about_us/history_between_1886_1918.html)

system of subsidies on their national maritime operators : and this fact is a constant in the reality of the change in the rail system today, the Nation-States playing a subtle game of tightrope walker, particularly in France.

Nonetheless, one element fundamentally differentiates the XIXth century from the XXth century. Contrary to the present transport sector, maritime and to a lesser degree rail, the markets of the XIXth century did not function in a unified manner. It is possible to observe large differences between markets even located near to one another (price, quality of the offer, quality of port and the burgeoning rail infrastructures,...). The loaders appear to be relatively captive. So, at the beginning of industrialisation, the freight markets were decentralised, since information circulated little (Eucken, p. 19) and the boats were slow. Prices could decrease for one destination and increase for another at the same time (Eucken, p. 20). But, as Eucken observes, this result changes with time and innovation (start of telegraph).

Finally the question of economic cycles<sup>7</sup>, crises<sup>8</sup> and XIXth century markets arises: **on this point it is fitting to take as stated the analyses made by W. Eucken and to avoid, in epistemological terms, to comment on or analyse them from the perspective of a century of history.** On the other hand, it is interesting to compare the dynamic of the maritime transport market during this period, the politics of agreements, the setting of tariffs, the synergism of the actors with our present field of study, i.e. the emergence of competition in the rail transport of goods and passengers in Germany: thus Eucken makes an interesting observation which it is appropriate to examine in depth today: he recalls that cartels tend to become stronger when economic crises arise. For him, they are «the children of misery» (Eucken, p. 22). Eucken confirms this for the crisis of 1873, from the point of view of industry but also, he specifies, from the point of view of maritime transport (Eucken, p. 22). Since 1873, Eucken observes numerous attempts at agreements/cartels (for example in 1875 the rapprochement of Lloyd and Hapag). According to Eucken, the crises had a major effect on the formation of agreements since competition leads to decreased profitability (p. 25): competition - «*Konkurrenzkampf*» literally “competition fight” - in marine transport threatens «profitability» not only over time («*Zeiten*») but also in space («*Gebieten*»), as indicated by Eucken.

On the basis of these elements of framework and of method, one can consider that the rail transport sector today must face a triple mutation:

- ⇒ **Change in the organisation of the sector** with new entrants and the persistence of historical operators possessing the rights of the «grandfather», a real influence and an indubitable expertise. This rail sector is also specific with strong «sunk costs» and highly-priced entry tickets. In the face of a deeply European framework (50% of

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<sup>7</sup> A particularity of the XIXth century resides in the brutal changes in passenger demand for rail transport : thus, as W. Eucken observes, it is interesting to note that the transport of passengers at this time is very linked to the waves of emigration towards the USA (623 084 emigrants in 1891/1892 against 314 467 in 1893/1894 from Germany, Eucken p.24).

<sup>8</sup> Analysis of the crises and of growth in the XIXth century must be undertaken with prudence in the XXIst century because certain external factors could explain a greater or lesser delay in a country in comparison with others: thus the delay in French rail transport at the beginning of the XIXth century may be explained by the first French rail disaster, which occurred on 8 May 1842 in Meudon. 200 people, including Admiral Dumont-Durville and his family, perished in this accident which marked public opinion and delayed the start of a large programme of railway development in France.

In the same way, the rapid development of large shops in the XIXth century was marked by sudden breaks in expansion, in particular following fires (sometimes dramatic such as that of 4 May 1887 in Grand Bazar which cost the lives of the Duchess of Alençon and more than 200 ladies of the Parisian nobility and bourgeoisie.

SNCF freight transport was international in 2000), are agreements between operators possible in the future ? One of the first results here is that information is becoming scarce and all actors are moving with strategic and complex behaviors ! What a difficulty for free researchers!

- ⇒ A new organisation of the **relations** between the actors: regulating authorities, transport operators, manager of infrastructures, Public authorities and, of course, the clients (even the companies hiring rolling stock material). Might the multiplicity of the actors, the lack of experience and of hindsight on the part of the regulatory authorities, the pressure to produce an integrated transport plan, the economic research on scale and scope in «railway production», cost constraint (calls for tender) also favour collusion for mutual benefit, tacit agreements, on national bases for example : Nation-State and its historical operator maybe ?
- ⇒ Finally, a **spatial impact** (Guihéry, 2004) to be taken into account, in particular for freight with a re-organisation of platforms of exchange, hubs, warehouses and maintenance centres<sup>9</sup> in the face of a complex and multi-faceted environment. Regional accessibility, the increased role of the «*Hinterland*», the spatial logics around the network should take an ever-increasing place. The dynamic of the large European market assuredly entails modifications of the regional space around the logics of polarisation, diffusion of growth and regional integration in space. How can these spatial effects be taken into account in the context of an advanced liberalisation of rail transport, both of freight and of passengers ? Can one imagine, there again, a convergence of interest between railway operators, regional or local communities (*short lines*) ?

In the framework of this problematic, we shall turn first to a retrospective analysis of the emergence of competition in a mode which we shall consider to be comparable with that of European railways today, i.e. **the maritime transport sector at the time of the first globalisation of the end of the XIXth century**. This « return to the source» will be based on the exhaustive analysis of competition and of agreements (the «conferences») in the maritime transport sector carried out by Walter Eucken in his doctoral thesis defended in Bonn en 1914: **Verbandsbildung in Seeschiffahrt** (*The formation of Conferences/agreements in maritime transport*).

#### **About maritime conferences:**

Maritime transport is based on two principal types of organisation (Gouel et al, 2008): transport by oil tankers and freighters at the demand of a spot market and transport of mixed cargo, composed principally of manufactured products and container ships and organised around regular shipping lines.

Since the XIXth century – this is the object of study of Walter Eucken’s thesis – the «maritime transporters on regular lines concluded formal arrangements between themselves to limit the capacity of the ships and to fix the rates for freight, in the context of «maritime conferences» carried out on well-defined lines» (Gouel et al, 2008, p. 23). According to W. Eucken, this forming of cartels first appeared in the *Linien-schiffahrt* or regular shipping then in the *Freie Schiffahrt* or unregulated shipping. On this topic, Eucken specifies that the German maritime transporter cartels appeared later (Eucken, p. 26) and had to confront

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<sup>9</sup> For example the debate on the location of TGV and SNCF maintenance centres aroused lively interest on the part of local communities and competition to receive them is fierce!

superior English competition (« *überlegene* », Eucken, p. 27) but Eucken specifies that the German cartels went further and were more efficient (« *wirkungsvoller* », Eucken, p. 27) than the English in the creation of cartels (Eucken, p.27). Finally, Eucken observes that, in the beginning, the cartels are limited to national or «local» space (p. 30). However since the final years of the XIXth century he finds an increasingly international organisation of these agreements<sup>10</sup> which will be the foundation of agreements developed throughout the XXth century.

These arrangements to constitute cartels, while structured, benefit from exemptions to antitrust legislation<sup>11</sup> because of the characteristics of this type of transport service, namely its character of public service and its high capital investment. These agreements only concern the transport of mixed cargo, which is increasingly effected by container ships, and not the transport of bulk goods. At the end of the 1990s there were some 150 conferences each bringing together several lines; these agreements covered around 60% of the transport capacity of mixed cargoes (Christophe Gouel, Nina Kousnetzoff & Hassan Salman, 2008). The conference members agreed on departure frequency, freight charges, the rates to be given to the loaders, etc... From the side of the loaders, it offers a certain number of guarantees: recent ship, fixed departure, respect of timetables...

But since the 1980s, the use of container ships and the arrival of new operators (commonly called «outsiders» or large independent Chinese or Korean ship owners (Chevalier, Duphil, 2009, p.141) have weakened the role of these conferences. The loaders asked for their suppression arguing a higher level of freight charges as demonstrated by Reitzes and Clyde (1995). The last rules of exception were repealed in 2006 by the European Commission, with effect in October 2008 for transports leaving and returning to European ports according to Ruling (CE), No 1419/2006 of the Council dated 25 September 2006 «The conferences are today officially forbidden for lines touching European ports as they have long been for the ports of the United States» (Chevalier, Duphil, 2009, 141). Eucken shows moreover that the United States are very suspicious of the Conferences, fundamentally for their European anchorages, as they suspect them of wanting to slow down the economic development of the United States!

This work of the great German economist (1891-1950), founder of Ordoliberalism, one of the leader of the “Freiburger Schule” father of the Social Market Economy of post-war Germany and at the basis of the German economic miracle of the *Trente Glorieuses* (years 1945-1975), constitutes a valuable observation of the emergence of rail transport, the first steps in mixing rail and sea travel and the first agreements and manoeuvres of the historical operators against the new arrivals. Going beyond the strict bounds of maritime transport, he analyses the role of interconnections between the ports and the rail networks, the intermodal logistics and the spatial impacts on the «*Hinterland*». Examining closely over more than 300 pages the emergence of competition in maritime transport, he extracts a whole body of pertinent information, on the strategies developed by the actors to by-pass the rules of competition, on the creative role of the State at this time (for example at the turn of the century, the first anti-trust laws in the USA, the Commission of Enquiry in the United Kingdom, the arrival of regulatory agencies). He even observes, at the beginning of the last century, the opportunistic strategies to subsidize the prices developed by ... France (the so called „*Fahrtprämien*“,

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<sup>10</sup> Developments in air transport in Europe since the wave of liberalisation in the 1980s has followed, it seems, the same evolution, going as far as integration of plans of transport and offer (*interlining*) which one can find, it appears, in the XIXth century in shipping.

<sup>11</sup> For the European Union, the conferences benefited from exemptions to Article 81(1) of the Treaty of Rome prohibiting restrictive agreements, following a 1986 ruling (Christophe Gouel, Nina Kousnetzoff & Hassan Salman, 2008, p. 23).

Eucken, p. 48) for their national ship owners which, he says, raises nations against one another (Eucken, 1914, p. 48) : “*die Befrachter machten sich das bald zunutze, spielten die französische Schiffe gegen die andere Nationen aus und umgekehrt, sodass der Frachtenmarkt stets ein gedrückter blieb*“.

Thus he offers an analysis in terms of the economy of transport of the first globalisation which took place at the end of the XIXth century, observes the birth of technological intermodality (for example the telegraph (Eucken, 1914, p. 21), the emergence of competition and, at the same time, the appearance of agreements and other monopolies, but at the same time he supports the public strategies and politics to remedy them and to guarantee healthy competition and transparency of the sector: how modern !

The particularities of German capitalism are also shown in W. Eucken’s scrupulous analysis (a good example of the “Historical School” of Economics analysis in the XIXth century) : he specifies that the maritime companies are first organized, from the point of view of shareholders, around «*Festen Händen*», hard core shareholders as we would say today (Eucken, p. 112) while seemingly British companies are held back by more volatile private interests. He insists of the deep link – classical integrated German federalism - between *Reedereien* und “*kaufmännischer Kreise der Seestädte*” (Eucken, p.112). One finds, nearly a hundred years later, the results of Michel Albert in his famous publication «*Capitalism against Capitalism*» (Albert, 1991).

## **2) A few words on Walter Eucken :**

Walter Eucken was born on 17 janvier 1891 at Iéna and was the son of Philosophie Rudolf Eucken<sup>12</sup> and of Irène Eucken, née Passow. He went to the Lycée (*Grossherzogliche Gymnasium*) of Iéna from 1900 to 1909, leaving it with the «*Zeugnis der Reife*» (Eucken, 1914). He registered at the University of Kiel, Bonn and Iéna. From 1911, he started writing his thesis at the University of Bonn. He defended this on 5 March 1913. His thesis was dedicated to his mother. His thesis director was Professor Dr H. Schumacher. He took part in the first world war as a «*Frontoffizier*».

In the preface to his thesis, he starts from the idea that the question of cartels is of increasing interest, in particular in manufacturing, mining (*Bergbau*) and industry, where he noted that powerful organisation had arisen. But he also observes that this movement also existed in transport, in particular rail.

Considering that the rise of international transport reinforces the dynamic of maritime transport, it is justified to study the sector from two angles : historical through the major shipping lines or, what he retains, a global analysis of the sector in order to extract the fundamental elements and logic. His sources are international: American with a report of the 1913 Commission, English (5 volumes of a British Commission report). As one may imagine with this introduction, his publications – thesis and “habilitation” in 1921 on the world market in raw materials (specifically «the provision of nitrogen in the world» / l’approvisionnement en azote dans le monde , see Alcouffe, Diebolt et alii, 2009, p. 380 - are greatly inspired by the German School of History driven by Gustav Schmoller (Boyer, 2006).

He had a varied university career: lecturer (*Privatdozent*) at the University of Berlin, Associate Professor of Economy at the University of Tübingen. In 1927, he occupied the chair of Economy at the University of Frebourg in Breisgau due to the departure for Berlin of

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<sup>12</sup> In 1908 he received the Nobel Prize for Literature for his work on Kant and was given honorary citizenship of Iéna en 1916 (Boyer, p. 348). Walter Eucken’s brother was a Professor of Chemistry.

Goetz Briefs, influential economist and Catholic philosopher who had to emigrate to the United States due to the pressure of national socialism.

In Fribourg, he was rapidly engaged, from 1933, against the Rector of the University of Freiburg, the philosopher Martin Heidegger, who was close to national-socialist ideology and Eucken founded, in the context of the Evangelical Church of Freiburg, the «Freiburger Kreis» in resistance to the NSDAP. He worked on the production of his economic theory (*Ordnungstheorie*), which would constitute the foundation of the post-war West-German model. Together with the lawyers Hans Grossmann-Doerth and Franz Böhm, he founded the School of Freiburg which developed the doctrine of free markets under Order (“Freiheit in Ordnung” ; launch in 1948 of the magazine *Ordo – Jahrbuch für die Ordnung der Wirtschaft und Gesellschaft*). As noted by Sylvain Broyer (2006), the proximity of economists to lawyers was made possible in Freiburg because Walter Eucken’s chair, formerly assigned to Max Weber (1864-1920), had been transferred in 1896, by Max Weber, to the Faculty of Law. His wife Mrs Edith Eucken-Ersieck also played no negligible role in his work as a historian. His assistants, Prof. Hans Otto Lenel and Prof. Karl-Paul Hensel opened his work to an international public (Boyer, 2006). He also worked with the phenomenologist Edmund Husserl (1859-1938) and was invited by Friedrich von Hayek to found the Pèlerin Society in order to reflect, with many economists, on post-war liberalism (Broyer, 2006, p. 349).

Walter Eucken played an important in the economic construction of post-war Germany: in 1947 he was a member of the Scientific Council of the Economic Government of the Bi-zone. According to numerous sources (Broyer, 2006), he played a key role in Germany’s return to the market economy.

He died of a heart attack on 20 March 1950 while travelling to London, where he had been invited to the London School of Economics.

Sylvain Broyer proposed in his thesis (2006, p. 110) a rapid overview of his thesis work which he considered to be a monograph greatly influenced by the methodological approach of economic research pioneered by Schmoller (1838-1917) around 3 tasks (Broyer, 2006, p. 110) : 1) observe carefully; 2) define and classify well ; 3) find typical forms and explain in the light of causes. But Broyer (2006) remarked that he lacks an «ethical-moral dimension» although this is characteristic of the Historical School: more than a desire for emancipation it seems rather that an explanation should be sought in the youth of Eucken’s work.

So Walter Eucken’s work concerns the agreements in the maritime transport sector: free navigation of freight, regular passenger and freight lines in a newly globalised environment, as was the case in the first globalisation of the XIXth century. Eucken observes that the agreements, by whatever means, try to limit the effects of competition and to achieve this without public intervention. Eucken observes the ladder economies which result and the link between cartels, agreements and defence of national interests. He observes also that France has harmed the sector because of subsidised maritime companies. One finds in his analysis the results of the logics of competition: a probable price increase in freight charges under the influence of an agreement or a cartel (Broyer, 2006, p. 112); weakening of demand, decline in customer satisfaction but he indicates that it is very difficult for the «users» or «passengers» to group together to defend their rights.

But it is on the role and the action of the State that we shall evoke, in conclusion, that Eucken’s work on maritime transport were predictive and allow an understanding of the transport sector.



### **3) The contributions of Walter Eucken's thesis in the light of the transport economy:**

This section collates a thorough observation of the maritime transport sector at the end of the XIXth century, drawn from W. Eucken and several authors cited, with some more contemporary results on the transport economy. This analysis is, of course, limited and aimed primarily at scientific curiosity, which may nonetheless produce some results.

#### **1) Organisation of transport, intermodality and the role of the regions (*Hinterland*)**

Economic analysis of transport today recognizes the particular importance of regional transport networks and the interconnections with the great poles of intermodal exchanges (Guihery & Burlando, 2005a). There is for example the question of *feeder* in maritime transport with the splitting up of traffic towards final links. One can observe as well, from the side of applied regional sciences, the generalisation of industrial and commercial zones around large centres of intermodal exchanges. Walter Eucken already observed, at the turn of the century, that the «*Hinterland*» is essential for the organisation of maritime transport. He observes at the end of the XIXth century and the beginning of the XXth that the local organisation of transport is based on the «natural regional monopolies» («*natürliche Gebietskartelle*» (Eucken, p.19) : in fact certain operators, he observes, find themselves in a situation of monopoly in a specific region (“locale Kartel”, p. 20), still poorly served in the XIXth century. But he also specifies that the transport infrastructures of the *Hinterland* had improved (appearance of railways in particular). At the beginning of the industrial revolution, water was considered the principal mode of transport: at that time there was very little competition between ports given the slowness of transport (Eucken, p. 19).

Alongside the developing road infrastructures<sup>13</sup>, Eucken specifies that more important is the arrival of the railroads which increased the coverage of the ports. Eucken observes the beginning of competition between ports (for example Stettin with Wolgast, Eucken, p. 21 ; Hambourg with Bremen and Stettin, p. 21), which he considers a good thing. We would speak today of **spatial competition**: example of German ports with Holland and Belgium ports.

Eucken also observes competition between different routes, first sign of a spatial competition (Eucken, p. 185) and an international division of work. The railways are at the centre, for example with the role of Wladiwostok which is an intermodal Japan-Europe platform at the beginning of the century in competition with “*Suezroute*” (Eucken, p. 187).

In 1878 in the USA, an agreement on the spatial division of transport puts an end to fierce competition between the railways and coastal traffic: Eucken reveals the existence of a standardization of tariffs and agreement (“*Abrechnungsgemeinschaft*”) on transport prices (Eucken, p. 188).

The rise in the power of British competition in the 1870s opens the door to generalised competition in the ports of North-Western Europe (Eucken, p. 21). This observation also holds true for the American ports : New York, Boston, Philadelphia, Newport.

The improvement in transport networks made it possible to absorb in part the bottlenecks and encourage a degree of intermodal competition. Eucken also offers an interesting analysis of the intermodal difficulties between the USA and the United Kingdom in 1902 (Eucken, p. 92), principally due to the disorganization of transport plans to the US. Thus steamboat ports were not connected to railway freight stations, which created great problems of intermodalit : “*Hier sehen wir Mangel an Organisation, enorme Kosten and Verzögerung*” (Eucken, p. 92).

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<sup>13</sup> Eucken, p. 21 : Preussen (1816) : 522,5 milles ; Preussen (1831) : 1147,5 milles “Chausseen”.

The description of the problems of intermodality at the time of the birth of modern transport is interesting (Eucken, p. 92). Eucken arrives at the conclusion that the more modes of transport develop, more the competition in the transport sector becomes tough (Eucken, p. 21). This result is essential in the understanding of the transport sector of today. W. Eucken so offers, it appears an original description of intermodal competition and of the role of the hinterland.

## 2) **Role of technology in the transport sector and just in time :**

Eucken makes two interesting observations: firstly, he observes that the problems of passage through customs slows down the working of the market (Eucken, p. 19) – one would speak today of the costs of transaction – and that technical limitations do not favour good information about prices. The “1834 *Zollverein*” (Unification of German economy in the first part of the XIX century exactly between 1818 (Prussen *Zollgesetz*) and 1870 (Elbe), following Eucken), he specifies, permitted improvements in the first half of the XIXth century (Eucken, p. 20).

Eucken considers the arrival of the telegraph a central element in reinforcing the efficacy of market adjustments :

1851: Calais-Dover ; 1866: USA-Europe ; 1914: Eucken indicates that a cable goes around the earth (485 000 km, Eucken, p. 22) : he specifies that the telegraphic link permits concentration of demand and supply in the ports of the North, so observing the first elements of the network economy (direct and indirect externalities presented by Curien, 2001). So Eucken observes the force of network externalities, in particular the indirect externalities linked for example to the improvement in shipbuilding techniques (Eucken, page 213).

Technological progress permits gains in time linked to the increase of the average speed of ships, which results in, according to Eucken, «replacement of local competition by international competition». In this he announces the maritime transport economy of the XXth century that we know today.

Eucken observes, well in advance of modern times, the birth of new traffic implemented in a logic of «just in time» (Eucken, p. 38): he writes that punctual arrival is essential for those ordering: «*die Rechtszeitigkeit des Eintreffens der Ware ist für den Empfänger heute von grosser Bedeutung*» (Eucken, p.38). This fundamental intuition is at the heart of industrial process today. What a modernity!

## 3) **Setting of prices and solidity of agreements: a direct effect on prices!**

Eucken describes, in the first part of his work, the setting of prices in a «free» competitive context (Eucken, p. 39): first he observes the absence of uniformity of prices («*kein Einheitsrate*», Eucken, p. 39). Prices are different according to the form of navigation («*Umfang der Verschiffungen*») and in relation to space-time («*Zeitpunkt*»): whence, in a framework of competition, the willingness of transporters to sign long-term agreements with the loaders (Eucken, p. 40). Advantages are negotiated: tariffs, authorisation to carry freight on return, ... the management of prices shows itself to be very flexible: boats having to be properly balanced, inducements via price are sent to recuperate, for example, heavy freight if this is lacking for ballast (Eucken, p. 41).

The second element concerns the «oscillation» of prices, according to Eucken in relation to the boats present in the port (Eucken, p. 41). Eucken also observes that internationally prices react to supply and demand (Eucken, p. 41).

The final characteristic of prices, according to Eucken, in a competitive situation: prices are set on average to the level of expenses («*Unkosten*») including the «usual profit» («*Üblichen Gewinn*», Eucken, p. 41).

On the basis of this observation, Eucken sees two prospects for the limitation or even cancellation of competition through prices: the cartel through prices («*Preiskartell*», p. 41-42) and the elimination of competition («*Überangebot beseitigen*», p. 42):

**a) Agreement through price:**

The objective is to eliminate competition by an agreement linked through prices, explicitly or more tacitly (oral agreement, tacit renewal of agreements or simple exchange of letters (Eucken, p. 42). When there are few obstacles, Eucken specifies that it is on a contractual basis that these agreements develop naturally. They certainly concern the transport of passengers and of goods. In order to avoid prosecution by the anti-trust authorities, ship owners lean more to tacit forms with agreements made orally; as we shall see in the conclusion of this article, Eucken specifies that the Americans are more reactive in this domain.... for reasons, they state, which concern more the defence of their interests than free competition, Europe being dominant in this at the end of the XIXth century.

Cartels appear more easily for transport of passengers – « the cartellisation of passenger transport is the same in all regions », while for freight transport the organisation of cartels is more complicated (Eucken, p.44). Thus, specifies Eucken, passenger fares to Argentina are controlled by grouping lines (« *Vereinigung* ») but not the costs of freight. The same holds true for the USA with few freight cartels while passenger transport – « *Zwischendeckverkehr wie Kajütverkehr* » - is composed of tight agreements between the participating transatlantic lines (p. 44).

Eucken, in a very structured classical analysis of the German Historical School, also raises the question of return fares: the cartels only control, for example, one-way fares. And Eucken specifies that a separation of the agreements for round trips could be advisable and occurs often (Eucken, p. 46).

*The ambiguous game of French ship-owners !*

Price management is carried out in two ways: either by fixing a minimum through agreement (*Minimumpreiskartellen*), each actor being free to fix a higher price; or by fixing the same price through agreement (*eigentlichen Preiskartellen*, Eucken, p. 47).

Eucken takes the example of the *Baltic and White Sea Conference*<sup>14</sup> and indicates the real difficulty in building a cartel in the «*freien Schifffahrt*» (Eucken p. 46) but this professional organisation of ship owners succeeded in setting up a cartel for the «*Grosssegelschifffahrt*». This conference gave birth to the «*Sailing Owners' International Union*<sup>15</sup>» in June 1904.

Eucken notes, at this level of analysis, the competition of **heavily subsidised French ship** owners who exert a «**monstrous pressure on prices**» («*ungeheuren Ratendruck*», Eucken, p.47) on prices. The particularity of French companies is linked with the subsidy policies of French authorities, following Eucken : the «*Fahrtprämiumgesetz*» : this rule stipulates that a bonus will be paid based on distance if the voyage is carried out without ballast. If the ship needs some ballast, then he will lose the subsidies. If a minimum price level – of the agreement type – had also been fixed on departure from Europe by the cartel, the ships could be obliged to leave Europe, for example because of an unfavourable freight market, with ballast. If they also have to enter a European port with ballast, they would lose the trips' bonuses (Eucken, p. 48). Then for French, there is a run towards freight even at low rates

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<sup>14</sup> Also analysed in a French text mentioned by Eucken: «The cartels in free navigation: the *Baltic and White Sea Conference*», *Revue d'Economie Internationale*, Dr. Albert Haas, 1912.

<sup>15</sup> This *Sailing Owners' International Union* grouped, with the English, German and French operators, 75 % of tonnages in 1904 and 87 % en 1907. The reduction in international transport by sail at this time: 1905: 1 406 884 t.; 1906: 1 399 590 t.; 1907: 1 210 169 t.

which disturbs all the market. French ships are “outsiders” and operate without waiting, for instance, for an increase of prices.

« *die Fahrprämie, die den französischen Segelschiffen nach den zurückgelegten Seemeilen berechnet wird, hindert sie in einem Hafen länger zu bleiben und günstige Frachten abzuwarten*», Eucken, p. 47-48

In consequence it was impossible for foreign ships to stay longer in the ports and wait for cheap freight. The loaders profited rapidly from this situation, raising French boats against the boats of other nations and inversely, so the freight market stayed under pressure ! (Eucken, p.48).

From this idea was born the idea of creating a cartel of minimum prices but the field of action of this cartel became very rapidly limited: only for ships over 1000 «*netto-registertonne*» (Eucken, p. 48) and only on the great international shipping lines (not «*spezialrouten*»). In addition, again because of the French ship owners, this cartel could not manage transport throughout Europe, because of the resistance of the «*französischen Reeder*» (the French maritime companies), who thus prevented the extension of this monopoly to Europe (Eucken, p. 48) !

Eucken specifies that the setting up of agreements was difficult in free navigation but is more likely to occur in regular lines (Eucken, p. 48). Sometimes, the member companies of the agreement increase their tariff, in relation to the Cartel tariffs, if the service is better (speed, faster ship,...). Price fixing within an agreement is of interest: it can be negotiated and displayed in the contracts or as the outcome of annual or monthly or even weekly meetings (Eucken, p. 51).

Several forms of cartel exist : the «parliamentary» where the price levels are fixed by all members together (Eucken, p. 52); a second type of parliamentary form is presented by Eucken in which determination of prices is done by the majority of the members. According to the origin-destination of transport, the types of majority differ : 4/5 between Italy/Sicily and USA/Canada for freight; 2/3 between Italy and North America for the «*zwiseckendeck*». Sometimes, if the members of the cartel are too great, a commission is nominated: Eucken then speaks of the «*bureaucratic*» form of price fixing (Eucken, p. 53). For example, Eucken evokes the case of the «*Sailingship Owners' International Union*» which set up a commission comprising 7 English, 4 French and 4 German (with a new vote annually for the commission by the 3 bodies of national ship owners). And the fixing of minimum tariffs by the *Black and White Sea Conference* (295 members in 1908) is determined in General Assembly by decision of the Managing Committee (Eucken, p. 53).

### **b) Where are the prices determined and by whom ?**

In a situation of free competition, prices are determined where « the lines have their point of departure » (« *Ausgangspunkt* »). So one can see a decentralised classical approach to price fixing in the markets. This perspective requires a very strong ability to react: « *denn eine rasche Anpassungsfähigkeit ist notwendig* » (Eucken, p. 57).

In regard to cartels, Eucken observes a concentration of power to set prices in the hands of European operators: so Eucken observes that decisions are taken in Europe for lines which do not have their « points of departure » in Europe. For Eucken, the «concentration» of decisions on price setting is in Europe. Sometimes, some local agencies can fix the price, under the control of the major operators, particularly European. Eucken shows that, in this way, before

1914, the Europeans were leaders in setting prices (p. 56): « *Der europäische Einfluss dominiert* » :

« *Die Agenten der beiden europäischen Linien erhalten ihre genau Instruktionen von Europa, so dass auch hier wieder der europäische Einfluss dominiert*“ (p. 56).

So, as we learned in modern history, the first world war changed this leadership und the United States increased their influence after WW1.

Eucken noticed two types of cartels : soft (« *losen* ») or more organised (« *festen* »). For less organized cartels, prices can go down below cartels prices depending on the “moral value” of the partners. Eucken noticed that Japanese partners do not have, on this point, a good reputation (Eucken, p. 57). Some companies are offering secret discounts for their travellers or to clients, or specific advantages (Eucken, p. 57/58). But strong agreements have set up some fees and penalties against attempts to go around cartel’s rules (p. 58) : for example North-Atlantic cartel of steam boat consider a fee from 5000 Mark to 50 000 Mark if action is premeditated (Eucken, p. 58).

#### **4) Limitation or elimination of competition : indirect actions**

Beside direct action on prices, indirect actions on prices are implemented to limit or remove competition, for example by action on the quantity (supply).

##### **a) Reduce the transport supply :**

Eucken noticed the creation of « *Reduktionskartel* » to limit or remove some ships from the market (« *Auflegen* », Eucken, p. 59). For example, the *Sailingship Owner’s International Union* tried to reduce the supply of large sailing boats but this plan was a failure due to the French maritime companies which do not received some subsidies (« *fahrtprämien* ») if boats are removed from the market (Eucken, p. 59) : “*Der Plan scheiterte am Widerstande der französischen Reeder...*” ! Once again, French operator disturb the market !  
So the *Sailingship Owner’s International Union* moved towards a “*Minimumpreiskartel*”.

##### **b) Regional monopoly („Gebietskartell », Eucken, p. 73), regional specialisation and unified transport plan („Fahrplanvereinigung“):**

Aim of this strategy if to reduce competition by a better organization of transport supply, on regional level or with a transport plan (Eucken, p. 61) : in 1858, Lloyd and Hapag maritime companies decided an auto-limitation on their respective ports to avoid a “price-war“ (Eucken, p. 61). French SNCF and German DB AG on high speed train links today are or were involved in such an agreement, depending on the last evolution of competition in the European railway transport.

Cartels forbid also intermediary stops to have control on such a regional monopoly (Eucken p. 62). But such agreements allow also the development of the first regional transport plans by organizing transport even if it appears that they limit competition (Eucken, p. 62). This point listed by Eucken at the beginning of the XXth century has to be linked with the new European rules of « *cabotage* » for international train that can now – starting officially the 13 December 2010 in France – have stops in French train stations and take some passengers, competing then with the French National Railways SNCF.

At regional level, maritime operators agreed on the sharing out of transport on specific relations (Eucken, p.72) : by specialization or by giving some percentage of goods transported

to cartel members (*Abrechnungsgemeinschaft*). The choice between the two strategies depends, following Eucken, on the configuration of transport : for example « *Gebietskartel* » seems to be impossible in North Europe because of the large proximity of ports. « *Gebietskartel* » is more likely to occur because every increase in traffic is shared by members, following Eucken.

But there are some limits in « *Gebietskartell* », and then specialization between maritime companies can then occur : segmentation by speed, quality of service and punctuality or regularity (Eucken, p. 127 and p. 128).

Eucken discovers economics of scope (Eucken, p.77 et 78) when he expressed that combining traffics on boats are a good thing, in the same way than air transportation today. But this combination of traffics seems to be few used. The interest is to balance risks (decrease of freight transportations and increase of passengers transport (see concept of « *Risikoausgleich* », Eucken, p. 78) at a time where maritime navigation could be risky (wreck). Eucken showed finally that it is important to organize transport because disorganization can bring some failures (Eucken, p. 62, p.93 and p. 94).

**c) Elimination of competition by creation of companies and merging, lock-in strategies :**

Eucken is also showing ambitious strategies of maritime transport companies to remove competitors from the market : partnership of companies (*Betriebsgemeinschaft*) for rationalisation of supply or fusions in a long term logic (Eucken, p.96 considering the fusion managed in 1975 by Hapag on Adlerlinie). « *Betriebsgemeinschaft* » allows specialization and increase of efficiency. This cooperation go far beyond « *Gebietskartell* » (p. 103) and allows a mutualisation of risks and Eucken observed equalization of revenues or tons.

This observation has to linked with today existing alliance like Railteam or interlining joined operations in today aerial transportation.

Fusion increased scale economies or increase the relative weight on the market. Eucken gives many example on the side of railway transport (Eucken p.104, p. 107) and he noticed the role of competitive pressures on these fusions ; he points out the role of Banks (Eucken, p. 112), which can be linked with today role of finance in international merging. For Eucken, fusion is a threat to intermodal competition in U.S. (Eucken, p. 109 et p. 110). These fusions can be within a mode or within companies involved in different spatial basis (« *getrenntes Arbeitsgebiet* », Eucken, p. 110).

On this point, W. Eucken describe the organization of transport in U.S.A. : fusion lead to monopolisation in the East Cost of the U.S. (Eucken, p. 109) but also developed some spatial competition between transport modes, especially maritime and railway transport (Eucken, p.109). He mentioned the idea of spatial division of Labor ! (« *weitgehende territoriale Arbeitsteilung* », Eucken, p.109).

Eucken noticed then the main today elements of transport policy : fusion between companies and modal integration (multi-modality). He points out then the role of « **kombinierten Betriebe** », Eucken, p. 110). Once again, what a modernity !

Eucken describes vertical and horizontal integration between railway and maritime operators, which limit market opportunities for new comers : today we are dealing with lock-in strategies (Shapiro et Varian, 1998). « *Kombination von Eisenbahn und Schiff* » (mix of railway and ship) is a terrible instrument which lead to limit the development of small maritime operators.

### “Low costs”, discount tariffs and alliances

Discount tariffs are proposed by large operators to limit competition. Newcomers are, following Eucken, considered « *unfreundlich gegenüber* », it means with unfriendly behaviour. Two strategies are developed: integration to the cartel or exclusion (Eucken, p. 163). The “action” against newcomers is occurring in two ways :

- By Nation-States which are supporting, following Eucken, their national maritime navigations companies. Eucken gave the example of the 1889 Law in France which protect maritime connections between Alger and Marseille but also Alger and Rouen (Eucken, p. 164).
- By the cartels : discount, long term contract, « fighting prices » are often used by monopolists (Eucken, p.171). More interesting is the implementation of “*Kampflinien*” and “*Kampschiffe*” (Battleships, Eucken, p.172), which means lines aimed at discouraging newcomers (Eucken, p. 171 and 171). We are not far away from “killer airlines” or low costs !

Eucken is observing also that maritime alliances need also central agency (management of statistics for instance (Eucken, p.86) with some methods of equalization of revenues or sales. Railway in U.S. created « *traffic ou good-pool* »( Eucken, p. 80) but also « *Money-pool* » which do some equalization of revenues (« compensation price », Eucken, p. 86). This can be found also in maritime transport and Eucken noticed some disincentives from these groups because maritime company is sure to get some revenues.

Some cartels are secure by long term contract (20 years for example, Eucken, p. 94 ; « *Dauerfrachtverträge* » (Eucken, p. 146 and p. 151)). Cartels do agreements with railway transport companies and shipper but also manufacturing companies. They move toward what is considered today as vertical integration (Eucken, p. 129 and 130, especially in the U.S.). Eucken quoted some studies mentioning this cooperation between railway transport and maritime companies (coast navigation) to be observed more in small and medium harbour (Eucken, p. 130). Railway operator move in two directions :

1. by creating maritime transport companies (Eucken, p. 131).
2. by some interlining agreements (p. 131). Property of warehouse seems to be essential in this way (p. 133)<sup>16</sup>.

To avoid Tramps competition, maritime companies give some discount to the shippers (Eucken, p. 138 and 141). Eucken noticed also some refund from maritime companies to shippers is they keep one transport operator. Market power seems to be connected to transport operators : boycotts threat (« *all or none* », p. 156), pressures and threat existed (Eucken, p. 158).

Eucken concluded by a sad and gloomy assessment of competition in maritime transportation. Eucken noticed that free navigation is limited to coal transport, with some traffic for the railway industry but some competition from Tramps still exists (Eucken, p. 161).

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<sup>16</sup> p.172, the « Société Anonyme Ottomane des Quais, docks et Entrepôts de Constantinople » is presented in French in the text from W. Eucken.

## 5) State intervention in Eucken thesis :

In all his work, Eucken is keeping a certain distance within the action of Nation-State, focusing mainly his work on the market analysis of maritime navigation. His works seems to be neutral, as we can say today, or “scientific”, loyal to the German Historic School of Economics. He seems to express a distance within the concept of nation, especially the German Nation of this time period, where Germany is coming to the top of its power just before WW1. In a difficult time period, his moderate analysis of the implication and role of nation, with an analysis opened to the world, is worth being noticed. His work is impressive in terms of international reference, mainly from Anglo-Saxon countries and few from France !

He is observing the unanimity of German Press and German scientists and politicians supporting their national flag, it means their national operators (Eucken, p.221 and p. 277) : France, on this point, as today in modern European Transport policy, seems to be very implicated in the support of its national companies, as FAZ from 29. Juli 1913 wrote :

*„Kommt es in der Weltschiffahrt zum internationalen Kampf, so werden die deutsche Interessen immer noch am besten fahren, wenn ihre berufenen und bewährten Vertreter Schulter an Schulter kämpfen“, Eucken, p. 221).*

He is describing how the German empire tries, through diplomacy, to limit the impact of American Anti-Trust regulation on the German maritime navigation companies. On the U.S. side, the situation is opposite : US consider European trusts and cartels as a way to reduce the increase in economic and world power of the United States (Eucken, p. 278). The U.S. have take some legislative measures against maritime agreements (24.02.1912 for instance mentioned by W. Eucken, p. 278).

We are not far away from the bargaining activities of Member States of the European Union to protect and support, in the debate on European Guidelines (for example the Guideline OSP, Obligation of Public Services), their national operators !

W. Eucken is proposing two first basic issues to limit the development of cartels :

- Banning of agreements: difficult (Maritime companies can operate from foreign countries notices Eucken, p.282-283) but this solution is in public debate in the U.S. (Eucken, p.283).
- Nationalization of cartels (“*Verstaatlichung*”, Eucken, p. 283) : this solution was investigated in Germany, wrote W. Eucken, to avoid the domination of German companies by foreign operators (Morgantrust in this example) which can be a problem for the “security” of German harbours (Eucken, p.283) but this solution is difficult to implement economically, financially and politically.

In a more deeper analysis, one of the most interesting recommendations of Walter Eucken is to develop a transport policy, as we can say today, concerning the transport connections within harbours, then support “Hinterland”-connections and railway networks with (relatively small) harbours that do not have large maritime companies and trusts, then increase the supply of transport (Eucken, p.284) ! This next policy recommendation is interesting: asking railway companies to supply services to all maritime companies at the same level of prices in different harbours (Eucken, p. 284).

Eucken is suggesting further steps. For Eucken, consumers, manufacturing companies are suffering from agreements in maritime navigation. This fact justifies, following Eucken, State intervention :



- On one hand by creating indirectly competition (W. Eucken gives the example of Brazil on this way, Eucken, p. 284). Eucken suggest the use of subsidies ; in the U.K., Eucken describes the proposal that subsidies companies cannot join agreements or cartels (Eucken, p.285). Some countries have implemented particular taxes (W. Eucken, p.285 mentioning : « *Erläss besonderer Abgaben* »).

- On the other hand, by direct action on the level of freight transport or regulation (Eucken, p. 285). It is also possible for Nation-State to ban protective measures implemented by cartels (« *Abwehrmittel von Verbänden von staatlicher Seite aus zu verhindern* », Eucken, p. 285). For example, in the U.S., public authorities have supported the entrance on the market of new foreign competitors to favour competition (Eucken, p. 286). Some countries are investigating the fact of forbidding system of discount in freight prices from cartels (Eucken, p. 286).

It seems that W. Eucken has a preference of State action through subsidizing than direct owner of maritime companies : he is first suggesting that Nation-State can operate directly maritime transport companies but give a more detailed analysis of the idea of subsidizing them (Eucken, p. 287). For France, Eucken listed some example of state intervention: for instance, the « *Messageries Maritimes* » are obliged to propose the same prices from all French harbours in connection with Asian harbours. Contracts between the “*Messageries Maritimes* » and the French State obliged to guarantee the same price in large or small harbours, then to keep an eye on the freight prices. In France today, the Central State has to say something on transport prices !

State intervention can also occurred with the obligation of publication of prices lists or to publish cartels agreements (Eucken, p. 289), as it is a recommendation of the British Commission on this subject presented at the beginning of the XIX century.

Eucken is then observing the birth or emergence of regulation bodies (“*Kontrollbehörden*”, Eucken, p. 291) as we know today in the railway sector in Europe : Eucken wrote that the existence of such a new regulation authority has pushed some operators to give up partnerships in cartels and agreements. Eucken gave some details on the South African Authority : « *Spezialgerichtshof über Beschwerden gegen Schiffahrtsgesellschaften* » (Eucken, p.290 and p. 291 for the proposal of UK of a „discussion chamber“, Eucken, p. 291). In U.S, the Federal Department of Transport (“*Bundesverkehrsamt*”, Eucken, p. 291) has got more power and competencies for regulation and controls.

#### **4) Conclusion and transfer of Eucken's observation on today European railway market**

The work of Walter Eucken, around 100 years after its publication in 1914, is giving us a good description of the structure of the market of world maritime navigation at this time period (Bénichi, 2008).

Presented as a classical example of the Historic German School, this work is a good speech for the defence of a minimum competition in the transport sector. W. Eucken is asking Nation-State to interfere and intervene in the market of maritime navigation, directly (public companies opening the market, subsidies) or more indirectly by the way of regulatory measures (publication of agreements, advertising of prices, transparency, regulatory bodies,...). He is showing basic results of economic theory of monopoly or oligopoly : limitation of quantity and increase of prices, collusion of private and sometimes public interest, lack of satisfaction of customers and he is indicating that customers, passengers, freighters have real difficulties to defend their interests.

But his work is relevant on many points for today understanding of transport policy, especially in the framework of the long and complex reform of European Railway : observation of the birth of modern intermodality between maritime navigation and railway network, which is today a key point of modern European policy, « structuring » role of technologies for achieving a better efficiency of the market (Eucken, 1914, p. 21), just-in-time practices, spatial impact on the Hinterland and role of feeder of railways networks, business logic of specialization and “niches”, importance of spatial competition as it is the case today in Railway sector in U.S., scale and scope economies of railway activities. He mentioned indirectly the role of externalities of network, direct but also indirect (defined by Curien, 2001).

But his main contribution is the justification of public intervention to block strategies of large operators for lock-in the market. On the side of public intervention, he is also showing dangerous game of nation state in supporting the national champions..., especially for France ! What a modernity when we look today the complicated and hectic relations between the French SNCF and DB AG !

Finally, through the detailed analysis of Walter Eucken, it is the particularity of German Federalism that appears at full light : long term logic, power of local authorities, industrialisation and importance of exports, merging of interest cities – harbours – networks,... We come back 100 years before, in a certain way, to the results of the famous book of Michel Albert (« *capitalisme contre capitalisme* », Albert, 1991) on the duality of capitalism between Anglo-Saxon model and German model.

**Undoubtedly is Walter Eucken a great and modern transport economist !**

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