



**TOPIC 13**  
PUBLIC SECTOR  
PERFORMANCE

**MAKING THE DECISION MORE TRANSPARENT:  
TOWARDS A MORE ACCOUNTABLE  
MANAGEMENT OF MAJOR TRANSPORT  
INFRASTRUCTURE PROJECTS IN FRANCE**

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**Abstract**

Making the decision more transparent and independent, better fitted in the sociopolitical debate, became necessary in order to avoid deadlocks and to improve the implementation of projects. Recommendations to strengthen the legitimacy of the choices have been enforced in France by the 15th December 1992 ministerial circular which reorganises the decision-making process for the large infrastructure projects.

## **INTRODUCTION**

In the case of infrastructure projects or improvements, France has, since the beginning of the nineteenth century, possessed Inquiry procedures which enabled the public to make known its views about plans. In the last 25 years the statutes which organize these Inquiries and the decision-making apparatus for infrastructure projects have changed under the combined pressure of the increasing demands of members of the public to express their views regarding decisions and the rise of concerns about environmental protection. This gradual change has now led to a need to redefine the overall nature of decision-making processes by formulating with greater clarity the objectives of transportation policy, the approach used in its assessment and the consultation procedures.

Transport policies at both national and European community levels have been much discussed since 1990. These strategies, which involve large scale investment such as the Master Plan for the TGV and the revival of motorway construction, had encountered increasing difficulties as regards decision making and project completion. A diagnosis of what occurred reveals a dual crisis, which affects both transport and democracy. The long-standing legitimacy of the transport sector has been confronted with new demands to take account of the links between transport, regional planning, the environment and the involvement of users and the members of society in the decision-making process.

This paper will attempt to describe some aspects of the debate which is currently taking place in France regarding a fresh evaluation of State action and the apparatus which allows members of the public to participate in decision-making. It describes the Department of Transport's consideration of the coherence of the decision-making apparatus as a whole, from the 'upstream', preliminary, debate about project implications and aims (which was instituted by the Ministerial Circular of 15 December 1992 concerning 'the management of major national infrastructure projects') to the Public Inquiry. It is based on three field studies which INRETS has been undertaking in conjunction with several other research organizations. The general aim of these studies was to analyze transport policy evaluation practices. The first study is a socio-political analysis of the dispute about the Mediterranean TGV project, the second monitors application of the Circular of 15 December 1992 in the context of one TGV and two motorway projects, and the last is a comparison of the evaluation apparatus for the Northern, Eastern and Mediterranean TGV.

## **THE PUBLIC INQUIRY, AN INDICATOR OF DYSFUNCTIONS IN DECISION MAKING**

At the end of the eighties, the decision-making process for major transport infrastructure projects (trunk roads, motorways, high speed rail lines) took place in two stages. The first of these involved translating transportation policy into the selection of a set of projects leading to the adoption of a modal Master Plan. In the course of the development of this plan various consultation processes make it possible to gather in a more or less formal way the opinions of State authorities, regional councils and professional committees regarding its overall consistency and the principal functions and constraints affecting the study zones which have been selected as a result of preliminary studies carried out on a broad zone (10 to 20 km wide). A project for a Master Plan (Master Plan for the National Road Network since 1960 or the Master Plan for the TGV) is presented to the regional councils and regional professional committees for their opinion, then examined by the interministerial committee for regional planning after which it is approved by decree without being the subject of any parliamentary debate. The Regional Development Act adopted in February 1995 makes now compulsory a parliamentary debate before the enactment of the newly created National and Regional Development Master Plan which includes various Infrastructure Master Plans (trunk roads, railway main lines, airports, and other community facilities).

### **The three-phase decision-making process: an approach to problem solving**

The scheduling of a project which is included in the Master Plan takes place in three phases, which constitute the process leading up to the decision to construct a given piece of infrastructure. This scheduling stage begins with the government decision to carry out preliminary studies which officially marks the beginning of the decision-making process. The project sponsor conducts preliminary studies in order to identify the principal constraints and to define hypothetical study zones about 1 km wide through which the infrastructure could pass. Elected representatives, particularly the representatives of towns, and local authorities are consulted throughout these studies. Consultation may be extended to some central government authorities, such as the Ministry of Agriculture or the Environment or the Architecture and Town Planning Directorate. This phase of preliminary studies results in a ministerial decision to adopt a one km wide study zone, which is made known to the public.

The project sponsor then conducts basic design work in order to examine alternative routes which lie within the adopted study zone. Lastly, design work is carried out for several routes within this zone and this is submitted for consultation to the decentralized authorities and the elected representatives of the communes which might be crossed. On the basis of these consultations the project owner proposes one of the alternatives. This choice is then submitted for ministerial approval and the Public Inquiry is opened subsequent to a government decision.

The final phase of the decision-making process is thus the procedure of Inquiry prior to the Declaration of Public Utility (DUP). The public may consult the dossiers, and during the Inquiry, which lasts between 2 and 10 weeks, registers are opened in the town halls of those communes which are to be crossed. Inspectors who are appointed by the Courts, are independent from the project sponsor. These officials are permanently present in order to inform the public, and have recently been empowered to organize public debates. At the end of the Inquiry they produce a synopsis of the comments which have been made and their report gives an opinion regarding the public interest of the project, perhaps suggesting local changes to the route on the basis of views expressed in the course of the Inquiry.

If the Inquiry commission does not give an unfavourable opinion, the project is decreed to be of public utility. The project sponsor may then begin the detailed studies (at a scale of 1:5000) which are necessary for the final dossier which is to be submitted for ministerial approval. This approval authorizes the project manager to begin negotiations for the compulsory purchase of land so that works can begin.

In the case of the former TGV projects, this entire scheduling process, from the decision to undertake studies to the Declaration of Public Utility took less than three years. These time scales are extremely short in comparison to those for similar infrastructures in other European countries. Current motorway and TGV projects also take much longer, frequently between six and ten years.

Three initial comments spring to mind regarding this way of organizing the decision-making process. The first phase of creation of the Master Plan is mostly a stage of 'problem setting' (Schön, 1983). On the contrary, the scheduling phase is problem solving oriented. While the creation of a specific piece of infrastructure necessarily refers to a Master Plan, the creation of a Master Plan and the scheduling of a piece of infrastructure are essentially independent from each other, in particular as regards timing. In the scheduling phase, reference to the Master Plan legitimates the restriction of the issues considered during consultation to those which contribute to the completion of the project.

The way the process is split up and the succession of stages stem essentially from the approach of the project sponsor to problem solving. The first concern of the Authorities or of SNCF is to organize the phases of consultation and decision making so as to fit in with the scheduling phases of studies, and to conclude each stage with a ministerial decision marking the progress of the project towards construction.

Public consultation occurs at a very late stage of the process, when all aspects seem to have already been decided and can no longer be questioned. Thus, although the Public Inquiry seemed

for a long time to be the model for popular participation in public decisions, the dysfunctioning of the decision-making process has been revealed by the fact that in recent years many disputes and conflicts have sprung up in the final stages, frequently just before the opening of the Public Inquiry.

### **Providing preliminary information to the public and insuring the coherence of the action of the Authorities**

The present-day Inquiry for a project is defined by a set of statutes which has over time incorporated a variety of new concerns, which have been added as minor modifications. These texts demonstrate the great stability of administrative rules. The political goals of infrastructure projects have also remained constant, namely, to contribute to the prosperity of a large part of the country by providing a new link.

According to the initial view, judging the public interest of a transport link was the exclusive prerogative of government, but as construction of an infrastructure affects property rights, these were expressed in the Inquiry. This conception would appear essentially to be an individual guarantee given to tax paying property owners in a rural society where individual values—the most important of which being the rights of property—are dominant. The Public Inquiry provided the foundation of compensation and the payment of damages for expropriation and placed the Authorities face to face with property owners whose rights were directly affected. The functions of the Inquiry were therefore both to ensure that the public were informed in advance and to supply the Authorities with the fullest possible information.

The link between environmental concerns and infrastructure problems led to the first change in the Public Inquiry apparatus during the 1970s in order to enlarge its scope (Heddebaut-Joignaux, 1994). Since 1971, the Council of State has also stated with increasing regularity that, particularly as regards compulsory purchase, the action of the Authorities should be in proportion to the ends in view. The Authorities are free to select the location of a structure which they wish to build but must not adopt a solution whose disadvantages outweigh the anticipated benefits, for example the demolition of a large number of homes or the damage to the environment. The intrinsic interest of the project is not sufficient, there may be interests which are opposed to the project which must be taken into account. The Public Inquiry stage is the best time for such interests to be expressed. By extending the rights of the public to receive information, first environmental rules enacted during the seventies were part of this wider trend which increases the openness of the actions of the Authorities. They have provided a legal basis for greater public involvement in infrastructure projects and motivated the formation of a large number of environmental protection associations.

Since the middle of the 1970s the Public Inquiry procedure has been the centre of a large number of debates which all emphasized the inability of the procedure to meet new public desires. The public to which the Authorities had to provide preliminary information had gradually widened, from a narrow and fairly homogeneous group of affected property owners to a much vaguer circle of neighbours, activists and members of environmental defence associations (Prieur, 1990). This new public had no desire for statements about property rights and was not interested in trying to obtain the highest possible compensation. It was more interested in quality of life and environmental protection and in causing the failure of projects which it considered to be politically, economically or scientifically questionable. The Public Inquiry, which was too centred around guaranteeing individual property rights, did not allow collective values (the quality of life) and the preservation of the environment to be effectively taken into account. Its scope was far too narrow, its operation was out-dated and it did not reflect a modern attitude towards public involvement.

### **1983-1992: the goal of democratizing public action**

The Act of 12 July 1983, known as the Bouchardeau Act, which dealt with the democratization of Public Inquiries and the protection of the environment, was intended to answer these criticisms which expressed the aspirations of society for openness in administrative decisions and for more

information. The Act institutes genuine public freedom by considerably broadening the scope of the Public Inquiry. This scope is no longer limited to the right of compulsory purchase in the case of structures subject to a declaration of public utility and applies to 'improvements, structures or works constructed or performed by the public or private sectors, (...) when because of their nature, their make up, or the nature of the areas affected, they are likely to affect the environment'. The Act of 1983 makes the Inquiry a highlight of local democracy. What is involved is 'informing the public, collecting their reactions, suggestions and counter suggestions, subsequent to the impact study where this is needed, in order to provide the competent authority with all the information it requires'. Various other statutes complete the structure. Over time, the number of topics which must be covered by the environmental appraisal has increased, Inspectors have become more independent, expectations as to what can be achieved by the Inquiry have risen.

The democratization of the Public Inquiry procedure essentially involved increasing its scope in terms of a wider public and a wider variety of projects. Public Inquiries have occurred frequently: approximately 10,000 are held every year. Half of these deals with urban planning projects, in particular land use plans. One quarter deals with industrial plants and the last quarter deals with various projects, in particular major transport infrastructure. As regards this last group, the Public Inquiry seems to perform its role well in terms of informing the public about the route taken by the project but less well as regards providing information about the reasons behind decisions and the justification for the project.

The democratization of the Public Inquiry also enabled, in spite of real limits, genuine public debate about the environmental harm which resulted from transport infrastructure projects. Noise was chief amongst these concerns, but damage to landscapes, ecosystems and deeper tendencies to question the current model of development were also evident from the Inquiries. Thus, it became increasingly frequent for the advisability of projects to be brought into question during the Public Inquiry, eg choice of transport mode, improvement of a trunk road or construction of a motorway, a new road with or without tolls. These disputes underline the inability of the Public Inquiry apparatus to provide a forum for valid debate about objections of this type and the need for discussion at an earlier stage in the process of project design.

## **THE DEMOCRATIZATION OF DECISION MAKING RESTS ON A NEW APPROACH TO PLANNING**

The disputes which broke out in January 1990 concerning the Mediterranean TGV, several large scale social conflicts within the transport sector, the blocking of several motorway projects (particularly in the Paris region) played a major role in the reappearance of the transport issue as a subject of public and political debate. They highlighted the fact that since the beginning of the 1990s the transport system has faced a problem of defining its future. The launching by the Minister for Transport of 'the great national debate on transport infrastructure' in the autumn of 1991 constituted the political recognition of this crisis and demonstrated the desire to reconsider how to deal with these problems.

The report of the '*Transport, destination 2002*' Committee (known as the Carrère report, 1992), stemming from the awareness of a crisis in transport, also described a crisis in democracy. The transport crisis which generated the dysfunction in the decision-making process, stresses the complexity of transport system regulation and the slump in its legitimacy when the rationale of the sector is facing the problems of a coherent regional development.

The conclusions of the report are not limited to a simple reminder of the need to improve techniques which aid decision making or to modify communication activities. Their aim is to specify anew conceptions and practices underlying public policies in the field of transport infrastructures. Taken together, practices and conceptions make up a framework of State action as regards transport which I call a 'policy framework'. The Carrère report has reformulated this policy framework around the principles of transparency, comprehensiveness and multi-modality. It restated the links between the problems of economic regulation of the system and social legitimacy of the transport sector with the definition of three distinct but complementary and

equally important areas of regulation: the political processes of decision making, long term planning (consideration of external effects, in particular the effects on the general equilibrium of the environment), and the competition on transport markets by giving renewed importance to pricing.

This rationale ascribes specific importance to the issue of decision making and stresses the political importance of a many-sided view of the evaluation procedure. Such an evaluation is more wide-ranging in scope and purpose than technical and economic appraisal. It plays a fuller part in the political debate and therefore makes a better contribution to the development of informed judgements regarding collective decisions. In so doing the Carrère report has emphasized the relevance of political and democratic factors in the creation of transport policies. It thus opened up two directions for renewing the procedures of choice: the first relates to the strategic coherence of transport policies and the second to the consultation apparatus.

### **The circular concerning the management of major national infrastructure projects (1992)**

The last of the above directions raises the question of producing a wider definition of what is involved in the public interest and achieving this public interest by dialogue and creating coherence at the various levels at which the interests of society are formed. The recommendations of the Carrère Committee regarding the clarification of decision-making procedures have largely been taken up in the new circular of 15 December 1992 which dealt with 'the management of major national infrastructure projects' (known as the 'Bianco' circular). This also draws lessons from the experience of the college of experts designated in 1992 in order to find a strategic approach which would break the deadlock concerning the Mediterranean TGV route which had halted the project for two years. The circular gives regulatory expression to the idea of a 'phase of openness and expert appraisal' and makes the traditional public consultation procedure move towards genuine dialogue in order to examine the opportunity for and the functions of the infrastructure in question.

#### *The four stages in the management of projects*

Drawing upon these recommendations, the circular of 15 December 1992 respecified the apparatus for the management of projects by introducing a four-stage process which is wider ranging than the Public Inquiry on its own. It intends to separate two types of consultation which follow different timetables. The initial type which takes place when the project begins to take shape, would not determine the route itself but the general conception of the project. Therefore, the first consultation is a multi-modal debate concerning the aims of the transport link—why and for whom?—and its economic and social interest. This results in the drawing up of the specification for the design of the project. The good quality of the debate during this phase is guaranteed by a 'monitoring committee' which does not take any position on the issues in the debate.

When the consistency of the project begins to be sufficiently clear, the State and the Authorities involved could decide on a second type of consultation and expert appraisal. The purpose of this should be to design the route, to consider the problems raised by its implementation and decide whether or not to validate any differences between the specifications of the first phase and the designed variants. The 'monitoring committee' also watches over this second phase. The third phase is that of the Public Inquiry, which is now concerned with the regional development of the areas affected. Finally, a phase of project monitoring subsequent to the Declaration of Public Utility has been made compulsory. This phase is accompanied by a restatement of the State's commitment to protect the environment and the surroundings and to promote the economic and social integration of the project. The observance of commitments in the design and performance of works should be verified by a follow-up committee to which the project sponsor will make regular reports.

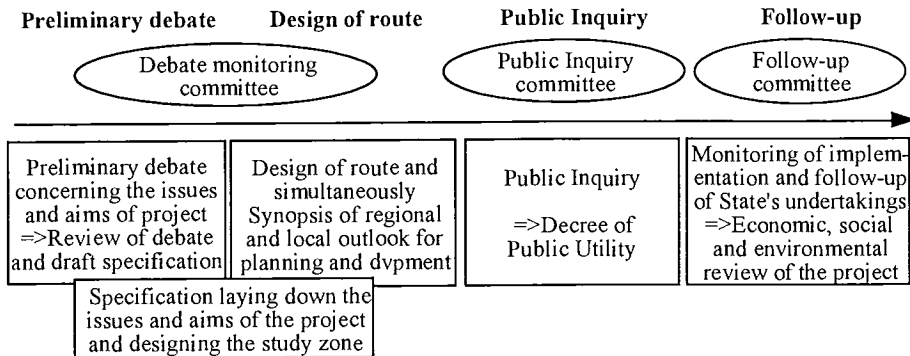


Figure 1 The four phases of the management of major infrastructure projects

The above organization for consultation is the acknowledgement of several levels of legitimate social interests as regards a major piece of infrastructure. The national objective is to respond to traffic demand while maintaining the overall balance of the infrastructure allocation between different parts of the national territory and the creation of networks on a European scale. In parallel there is the need for promoting regional and local development and protect the environment. It is important to ensure that these various public interest criteria, which are all equally legitimate, are taken into account as well as possible in order to rank the functions which the transport project should fulfil.

*A dual aim of legitimizing decisions and regulation*

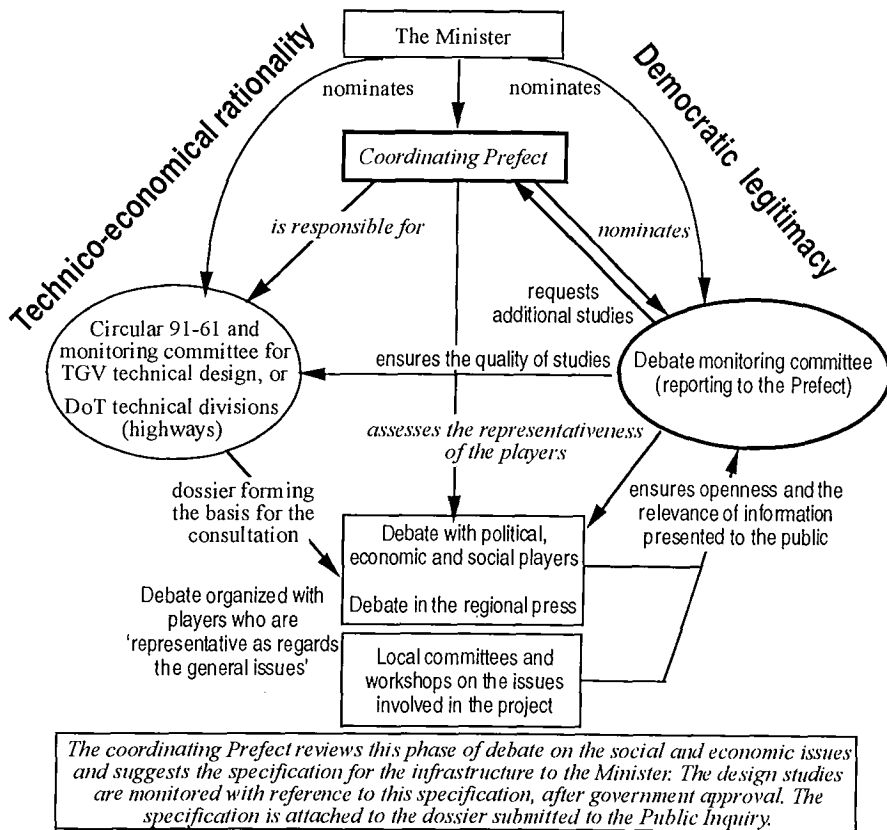
The 'Bianco' circular thus introduces considerable change in the decision-making procedures which affect major infrastructure projects. The last two phases renew and extend current Public Inquiry and project monitoring practices. The first phase of debate, that which takes place prior to route design and which deals with the economic and social interest of the project, is a completely new addition. As it is shown in Figure 2, the starting point for the circular is a dual aim of legitimizing decisions and regulation.

The statement of purposes is dominated by the norms of democracy and openness. The stated wishes 'for choices no longer to be dictated solely on the grounds of technical efficiency', the criticism made of the previous procedures 'which do not meet the need for a debate on the interest of the project which takes place prior to the selection of the route' stem from the desire to legitimize decisions, which should allow 'open and many-sided debates'. The process of debate should, in particular, provide better answers to the questions asked by the public.

The content of the debate is laid down in terms of the regulation of transport policy and regional development. It expresses the multimodal approach to the functions of the infrastructure, and takes into better account local and regional planning and development aims and, particularly in densely populated areas, consistency between different plans. This allows to increase the credibility of the Public Inquiry by explaining all the factors related to the route and linking them to the objectives of the different local authorities involved.

The circular defines both the issues and players involved in this consultation process. These issues are closely linked to local and regional concerns, 'upgrading the infrastructure of the areas served, the impact on the human and natural environment in the areas which are crossed, improvement of transport for the population'. The players involved on the basis of their interest in specific issues are as follows: 'elected representatives, those responsible for decisions regarding socio-economic issues, environmental associations, users, residents, etc.' The circular thus creates a strong link

between the local and regional nature of transport policy and the many-sided nature of project assessment.



(\*) Text written in italic Times Roman typeface relates to the Prefect coordinating the debate.  
Text written in Helvetica typeface relates to the committee monitoring the debate.

**Figure 2** Organisation of the first phase of debate on the main functions of infrastructure

This many-sided approach to the management of projects plays a part in representing local and regional interests. However, this organization of policy regarding infrastructure networks is first of all an expression of the re-formation of the role of the State in the management of projects. This had already been called for in the conclusions of the Carrère report. It can be witnessed by the role given to Prefects, who are called upon to coordinate the procedures for the management of projects.

**A renewal of planning to broaden the approach to problem-solving**

The first direction opened by the Carrère Committee raises the question of the approach at work at the different levels at which investment decisions are made. Firstly, there is a strategic level at which a regulation system is chosen. The choice of a territorial reference and a time horizon for transport policy depends on basic options, a certain number of fundamental decisions which influence and guide the other decisions in the sector in the long term (Bonafous, 1992). Setting



up a regulation system implies, as regards the modal coordination, choosing between controlled or competitive, cost-effective, standards, and involves specifying the main options for regional development or defining precise environmental aims. Signing the Treaty of Rome imposes the principle of free movement. Another basic option is the choice of pricing principles and approaches for evaluating investments. Decisions regarding projects will differ considerably depending on whether they are made on the basis of their financial rate of return, an evaluation of socio-economic benefits (by assigning a value to external effects) or alternatively by taking account of multiple criteria. The decisions made over a period of 20 to 30 years will lead to a different transport system and modal splits. Thus, whether deliberately selected or not, the basic options are decisive in the operation of the transport sector.

A second level of decision-making which is largely determined by the basic options is that of networks or of major modal outlines, eg high speed rail lines and motorways, etc. This level is the physical expression of the main options and determines which projects should be carried out at a fifteen years horizon. The third level is that of priorities: medium term planning defines the investments which should be made within a period of time, for example, the period covered by a national plan, and the ranking for the works to be carried out. Finally, the most local level, at which Public Inquiries take place, is that at which routes are chosen and projects carried through.

In particular, as a result of the range of procedures which apply at these different levels of decision making, the same rationality does not always govern choices, and discrepancies may appear. Basic options have in most cases been decided on unconsciously without any idea of their importance. They are rarely stated clearly, and never evaluated. While the creation of master plans is dominated by considerations of economic and financial benefits, other approaches are also present at these levels. A regional development approach (or even the desire to achieve uniform geographical coverage) has become increasingly present in the development of master plans in the last fifteen years. At the scheduling stage, local political negotiation, if not political favouritism, has a major influence on the order of priority given to the works.

The report of the working group of the National Planning Commission led by Prof. Bonnafous entitled *For a coherent transport strategy* (C.G.P., 1993) indicates the effort which is required in order to achieve consistency between basic options. This applies particularly to those which relate to intermodality, but also to evaluation tools and methods and, finally, pricing policy. All the reports on forecast and strategic coherence which have been drafted since the Carrère Committee have thus attempted to redefine the technical and economic approach which guides the State's action in the sector, for example, by trying to achieve methodological advances by which social costs and environmental constraints can be better included and pricing be allowed to play its full role. Although this work has essentially been centred on defining the conditions of competition in the sector, it constitutes, more broadly, an explanation of the central issues and the structure of problems, defining a new transport policy framework.

These efforts, which have been made to set the problems of transport system regulation, to improve ranking system for priorities, to broaden what can be included among the basic options, to assess the main issues around which public debate concerning the functions of an infrastructure can be organized, can thus be considered as a renewal of the approach to planning. Analyses of the 'French-style planning' of the sixties had stressed its consultation and learning functions which enabled it to produce standards for action which were shared by the representatives of social groups with opposing values (Nizard, 1974). This analysis is part of a view of planning as an arena in which opposing social approaches are in conflict over problems which have been designated as being of common concern.

The two parts of the considerations undertaken by the Carrère Committee seem to converge towards this dual function of planning, sharing an aim which is described as 'the reconciliation of local and global points of view' (Bonnafous, 1992). This new planning approach can therefore be represented as a process of problem-setting, consultation and learning involving the various collective interests which aim to define the content of a normative framework for public action as regards transport.

In this new approach to planning, problem setting runs from the most general to the most specific, from basic options to the final route. Problem setting results in a more analytical view of the

decision-making process. This view does not necessarily coincide with the operational hierarchy of the political system (from national or European to local levels) which controls the approach to construction. This vision pleads in favour of finding a single public economic rationality which extends from global to local levels, a common approach which overhangs all four stages of transport policy.

**Table 1 A new policy framework for the four stages of public action as regards transport**

<b>1. BASIC OPTIONS</b>		
<p><i>The legitimate principles:</i></p> <ul style="list-style-type: none"> <li>• choice of free movement (Rome and Maastricht Treaties);</li> <li>• the right to transport;</li> <li>• transparency of decision making</li> </ul>	<p><i>Regulation by market forces:</i></p> <ul style="list-style-type: none"> <li>• pricing principles of the system;</li> <li>• the role of costs in determining the modal split;</li> <li>• selection of assessment tools for a comprehensive approach which considers the long term.</li> </ul>	<p><i>The policy goals:</i></p> <ul style="list-style-type: none"> <li>• Improving the conditions of transport;</li> <li>• Economic and social effectiveness;</li> <li>• Promotion of the areas served ;</li> <li>• Human and natural environment;</li> <li>• Issues of industrial strategy.</li> </ul>
<p><b>CONTRADICTIONS TO BE REMOVED BY THE IMPLEMENTATION OF BASIC OPTIONS, AND DEBATES TO BE INSTITUTED:</b></p>		<ul style="list-style-type: none"> <li>• environment and mobility;</li> <li>• regional equilibria and concentration of flows;</li> <li>• growth of conurbations and urban transport;</li> <li>• financial needs and capacities.</li> </ul>
<b>2. NETWORKS AND ASSOCIATED MASTER PLANS</b>		
<b>3. PRIORITIZATION OF PROJECTS</b>		
<b>4. THE ALTERNATIVE ROUTES</b>		

This approach also makes a clear attempt to re-establish the dominance of the State in expressing the public interest. Thus, Bonnafous (1992) identified three types of rationale: that of clientelism (the local interest politics or the defence of sectoral interests), that of economic and financial benefits, that of socio-economic profitability, the latter expressing the broadest principle of social solidarity by extending the criterion of collective interest to effects which are other than economic in nature. It is easy to criticise this on the grounds that it considers only a restricted range of approaches and implicitly assigns a specific attitude to each player ('important members of the ruling party' or corporations, operators or project sponsors, the State), thereby assigning too much importance to the rationale adopted by the State and the State bodies which are responsible for long range forecasting.

However, while there is no question of denying that these approaches are real and significant, the field studies which we have recently conducted indicate the existence of other relevant approaches to problem setting. Representing and expressing these different approaches was of central importance in the Carrère report, and this is a process which the circular of 15 December 1992 aims to organize at different stages in the progress of a project. The 'Bianco' circular thus supplements the rational economic approach by adding a democratic content which takes account of a wide range of views.

**THE PROBLEMATIC INSTITUTIONALIZATION OF THE PUBLIC DEBATE**

Implementation of this new measure began in the spring of 1993. The first applications are too recent for any final conclusions to be drawn from them. The contribution of the 'Bianco' circular to the apparatus which deals with the management of projects depends nevertheless largely on the existence of a true debate before the drafting of the specification for a piece of infrastructure. Some problems can thus be perceived in the course of this upstream stage of public debate, and various types of criticism have been made. We shall classify these on the basis of the four major

aims drawn from the circular: renewing the approach to planning, opening the dialogue about public action, creating coherence between the various levels of legitimate interests, making expert appraisal more transparent.

### **The difficulty of finding common ground for a project**

In many cases a new infrastructure project aims to satisfy two different types of function: one of a more inter-regional nature and the other of a more local nature. We can observe this duality at different geographical scales in the context of motorway and TGV projects. In the case of a motorway, the new section, which is always fairly short, performs a regional role (or in the case of the Paris region provides a link between two suburban centres) but it also makes the existing road system better able to fulfil its local service function. In the case of a TGV, the new line aims first of all to perform a function in the inter-regional, national or even European network, but it also has a regional function if it also improves services between towns and cities by reorganizing the utilization of the entire regional network.

The opening up of a consultation procedure involving study zones, eg involving residents, provides a focus for the debate concerning local functions. On the other hand, when applying the circular, project sponsors and prefects apply 'rules' which favour the functional analysis of the transport system and its modal alternatives, which is generally only meaningful on a larger geographical scale. Thus, in the case of the TGV, elected representatives, the general public and popular associations wish to discuss topics such as the service and siting of stations and the integration of the track in the sites. In an urban motorway project the proposed options, which are founded on long term traffic forecasts based on past behaviour, are brought into question. What is demanded are other, more deliberate ways of controlling urban development and more local traffic solutions, which generally involve combining the development of public transport with the re-organization of the local road system. In both cases those who are against the project, or who are simply sceptical, wish the debate to refer to the day-to-day use of the new infrastructure and the scale of its environmental impacts—therefore to involve a level which is nearer their own responsibility. This is impossible without a clear statement of the routes which are under consideration. The reply of the Public Authorities to this is that such a debate must take place at a later stage of consultation.

One of the difficulties which is felt by all the players who take part in the first stage of debate is that the benefits and disbenefits which arise from a project are not produced at the same geographical level, and refer neither to the same scale of utilization nor to the same level of competence. From the outset, players share no common ground, they share no common 'territory for the project'. The sphere of a project does not involve only the tract of land under discussion but encompasses the geographical space crossed, the scales of governance with their actual hierarchy, the political arenas of decision-making process, etc. Taken together with a wider scope of issues, these various dimensions of the consultation make up what I call the 'territory for the project'. The upstream debate thus highlights the difficulty involved in reducing conflict between the scope of local negotiations and the rationale of comprehensive issues which shape the 'territory for the project'.

### **A procedure which defines possible arguments**

A frequent criticism of Public Inquiries is that, because they occur very late in the decision-making process, they place environmental defence associations in a 'NIMBY' position. The way upstream debate is conducted also highlights the resistance to a genuine expression of public opinion. The project sponsors constantly refer to the existence of a Master Plan as a normative statute which justifies consultation but also as a political decision which prevents the debate from bringing the project into question. Connections between the aims of a project as a link in a global plan and its functions in the context of a specific area are therefore hindered by the very nature of the procedure.

For the public, with the wide meaning which this term has now acquired, the main concern is for people to be able to express themselves from the project design phase. Thus, the criticisms made by environmental protection associations which take part in debates in the name of the public, relate to the limits of the circular and deal with the openness of the process which has been implemented. The credibility of the desire for transparency is impaired by the fact that it is the Prefect who organizes the debate. The Prefect is a representative of Government who is involved in local politics and who may prefer negotiations among a narrow circle of elected representatives to a genuine open and democratic public debate.

Then the criticisms deal with the scope of the debate which depends greatly on the formation and operation of the monitoring committee, in particular its independence from the project sponsor. The fact that the committee is designated by the Prefect does not add credibility to its impartiality. The members, chosen among prominent figures of local society, are not sufficiently distanced from the Authorities to play fully their role. When respected academics are selected, they do not have enough time to make an effective contribution to every public meeting. In any case, their very low numbers (3 members in the most recent debates to get under way) do not permit them to examine the technical documents in detail. The role of members, the mode of operation of the committees and their resources are also ill-defined. Thus the monitoring committee is frequently passive and does not assert a collective attitude.

The way debate is organized does not seem to give the public a role which meets its expectations as regards participating in the development of projects. It tends to predetermine the points of view expressed by the various protagonists and thereby exclude the public or even place it in a position of opposition. The procedure thus seems to continue existing information and public consultation practices. The 'rules' which make it impossible to discuss routes and their environmental consequences, the globalistic approach of economic and technical studies and the objectivity of the knowledge which backs them up are perceived as an extremely abstract mode of consultation where there is no place for the emotional attachment which people feel towards where they live.

### **A procedure which assigns precise roles to players**

Criticisms of the application of the circular show the large range of positions occupied by those taking part in the debate and the diversity of their aims. A number of those involved in the management of the Mediterranean TGV project have remarked that their behaviour in the first weeks of the public presentation of the project, during which period they had all acted competently but in pursuance of their own goals, had contributed to the creation of a conflict over the route. When a procedure assigns excessively rigid roles to players it may, without any intention on their part, lead to deadlock and conflict, particularly when the public feels that the lines of reasoning it considers legitimate are excluded.

#### *The management of projects, a prerogative of the project sponsor*

The first concern of the Infrastructure Departmental Divisions, which sponsor road projects, is for the new apparatus to contribute to the completion of projects and facilitate their implementation. But this authority finds it difficult to abandon its attitude of 'generator' to react with members of the public. It also has difficulty in accepting the public's belief that when the details of the project have been clarified it has the right—right to which implementation of the circular adds legitimacy—to question a process which has been in progress for a long period of time.

The Authorities hope that this first stage will allow the specification to be a formal expression of a broad public consensus concerning the functions of the project and its contributions to public interest. The specification is seen as being a type of contract between the public authorities and the members of society which cannot be brought into question during the later stages. The time spent during the debate will ultimately improve control of the total duration of the process and make the completion of projects more certain.

*A process of political mediation which poses difficulties for elected representatives*

As a matter for public debate, a project enters into the political system of the region involved and is subjected to specific constraints as regards political timetabling and the interplay of representation. Its institutionalization transforms the system in which local interests are represented, the type of relationships which exist amongst the political players and between them and the administrators. This is made even truer by the fact that the regional assemblies for the zones through which the project will pass are expected to vote on the matter. Local elected representatives rapidly express the wish to move on to the second stage of consultation, which involves routes over which their resolutions have some real influence.

The political arena created by the consultation procedure is an informal one which tends to reveal the split which exists between 'planners', 'decision makers', 'the political class' and 'public opinion'. The public debate thus emphasizes the weakening of local representatives and places those promoting a project in an insecure position with respect to the general public. The split between elected representatives and the State in a conflict, each of which represent local, regional or national scale, makes it almost impossible for political debate to take place in order to combine global and local concerns. The formulation of alternatives which aim at different mobility practices and are based on different views of the region's future quickly gives way to protests in defence of the interests of residents. Defining a 'territory for the project' thus raises the question already put about Public Inquiry (Warin, 1994) of the political nature of a consultation mechanism, eg the problematic link between participatory and representative democracy.

Finally, the effects of the 'Bianco' circular on future political activities is a topic for debate. While for the sponsors all that is involved is the use of local debate to give renewed validity to a basically unchanged technical-economic rationality, those who instigated the circular wished to see increased democracy in public decision making. Others see the circular as producing a form of participatory democracy which should ultimately give rise to popular referendums. Most fear such a change and prefer innovation to remain within the known limits of a conventional procedure of institutional consultation.

*Mobilization of the public by associations — a risky process*

Both associations of users and environmental protection associations frequently avoid simply displacing problems to neighbouring areas. Attitudes of opposition are supplemented by more constructive attitudes which relate to suitability and the public interest. The role of public debates as a forum for mobilization and action, the frequently exceptionally high numbers present at public meetings, their transformation into General Meetings which unanimously reject a particular route, or even an entire project, enable this strategy to produce compatibility between the direct interests of residents, the less localized interests of users and a new definition of the public interest. This link between strictly regional aims, a demand for democracy and for transparency in public life and the search for alternative solutions invites one to interpret the strategy of the associations as an attempt to construct an alternative definition of the public interest.

When the associative body does not only play the role of a spokesman but also wishes to be a player involved in the project with its own competences, the appearance of the public on the stage emphasizes the existence of several levels of public interest. In addition to the national conception there are also regional conceptions, or even local conceptions of the public interest which do not amount to the same thing as the defence of private interests. What is involved is a regionalized public interest which considers in a real way the unity of populations and spaces—a unity which is denied by the functional approaches of project sponsors or electoral ones of representatives. Environmental protection associations are well placed to represent this public interest, which combines what is meaningful at both global and local levels. It would appear to consist of considering the long term, the interrelationships between sectoral decisions for a particular area, the dissemination of information, encouragement to participate and environmental protection.

### **The issues involved in expert opinions**

Finally, the public debate brings to the forefront problems concerning the impartiality and openness of expert opinion. On this point the circular of 15 December 1992 is very vague. Although the public debate is institutionalized and there is openness of information there is no real capacity to seek a second expert opinion or guarantee of the impartiality of expert appraisal with respect to the project sponsor. The monopoly of SNCF as regards expert evaluation for the TGV and the Infrastructure Divisions for motorways has not been brought into question by the circular.

The issue of expert appraisal reveals uncertainty among those taking part in the debate as regards the role of evaluation in the progress of a project. Project sponsors are most unwilling to accept that, once the details of the project start to be defined, the public has the right to question studies which had been carried out with indubitable competence some time previously. Many elected representatives see such additional expert appraisals as a tactical means of delaying consultation about the route, which takes place in a more institutionalised and more conventional manner. For the associations, the formulation of such demands is a strategic decision which gets them involved in the project but which at the same time prevents them from returning to an attitude of protest. This transition from opposition to challenge is generally costly to them in terms of their ability to mobilize support. It requires them to become more 'professional' (eg learn techniques), a process which is reserved to the more educated sections of the population.

### **THE PUBLIC DEBATE PROVIDES A NECESSARY MEDIATION BETWEEN THE PROJECT AND THE TERRITORY**

From the first applications of the 'Bianco circular' it is difficult at the present time to conclude whether there has been either a renewal of management practices or a simple re-utilization of existing consultation practices. The two exist side by side and most of those involved in implementing the circular are agreed that it is a preliminary trial prior to drafting future statutes and regulations.

Generally, administrative working groups examining the initial experience make the criticism that the faults of a poorly conducted Public Inquiry have been moved to the preliminary debate. The review of the first 10 years of implementation of the Act concerning the democratization of Public Inquiry nevertheless emphasized the benefits of the approach outlined in the 'Bianco' circular but suggested two main modifications to the apparatus which is set up: the consultation process should be directed by an independent body which is fully aware of the nature and objects of its task; this body should have genuine powers as regards a second expert opinion.

In this regard, the Authorities have suggested improvements to the apparatus in the circular in order to strengthen the new decision-making process. They are now talking of 'the concerted design of projects which assumes the openness of procedures and the acceptance of a second expert opinion' (Leyrit-Guellec, 1994). At the same time they are reaffirming the prerogatives of the project sponsor as regards the management of projects and the responsibility of the State in achieving compromise when conflicts arise and in decision making. These recommendations have been adopted in February 1995 in environmental protection legislation which is to update the 1983 Act. This bill creates a national public debate committee under the aegis of the Council of State whose members will preside over and participate in the committees which are set up in order to organize and conduct consultation regarding each major infrastructure projects.

Thus, the main merits of the phase of public debate introduced by the Circular of 15 December 1992 have been recognized. It proves to be a way opened in order to find common ground for a project, to define a common 'territory for the project'. Such common terms of discussion involve the mediation between the project, more global planning options within which the project fits, and which are in turn shaped by the project, and the unique and complex situation on the site which the project intends to modify. These remarks agree with the analysis of the 'construction of users' by an infrastructure project (Tripier, 1995) which showed that it was possible for users to participate in the production of a piece of infrastructure, on condition that there is a change in the spatial and

temporal frames of reference of all involved. This phase of creation of a 'territory of prospects' (Soubeyran, 1993) is necessary in order to alter the time horizons of the players and for them to adopt jointly an approach to the project which considers the future of the site and not merely its present day use. It also allows the public to absorb the technical and legal rules which will enable them to make an effective contribution to the project.

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