

# 4 Economic Liberalisation of Road Freight Transport in the EU and the USA

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## Abstract

The free-market revolution prompted EU and US trucking deregulation, with deleterious consequences for truck drivers. Regulatory systems are similar, having replaced institutional regulation with markets. However, while nationwide fuel taxes fund US state-level regulatory enforcement, EU enforcement is uneven because it relies on discretionary national-level funding. We argue that lax EU enforcement and east-west regulatory arbitrage — enabled by institutional asymmetry between economic and social integration — creates a race to the bottom in the EU that is worse than in the US. Poorly paid drivers from Central and Eastern Europe and beyond replace Western European drivers, damaging trucking — and trucking jobs — throughout wealthier EU member states.

## Introduction

This chapter examines regulation of the road freight transport industry (hereafter referred to as ‘trucking’) in the European Union (EU) and compares it to regulation in the United States of America (USA). Most observers view the EU as more economically and socially regulated with a positive redistributive approach compared to the USA, which they see as a practical exemplar of free-market economics. However, this chapter will show that, in comparison to the USA, the lack of unified regulatory enforcement means that the EU effectively has a less regulated economic and social environment. To help understand this apparent paradox, we first explain the development of relevant EU institutions, including those regulating this sector, before comparing EU institutions with those in the USA. We build on Fritz Scharpf’s argument that there is a constitutional asymmetry in the EU between market integration and social protection.

We then compare institutional frameworks regulating market competition in trucking. In particular, we examine how market liberalisation has created low-cost competition by pushing costs outside of the market and on to workers and the public. In doing this, we highlight the ways in which enforcement institutions in the EU, compared with the USA, have enabled trucking companies and cargo owners (trucking customers) to transfer costs associated with potential risk — the externality — to the public through higher public safety risks.

We also explain how, despite policy and regulatory differences between the EU and the USA, the trucking industry has experienced deregulatory pressures that have produced a ‘race to the bottom’ — a process that started in the 1970s. The European trucking industry has become an exemplar of the processes by which demands for European integration, via liberalisation of international trade and the free movement of people and investment, have come into conflict with those for institutional legitimacy through democracy. Trucking has become the ‘canary in the coal mine’ that exemplifies the neoliberal threat to the legitimacy of European governance and demonstrates the unworkability of pure free-market ideology. Indeed, the EU governance model for trucking has created ‘sweatshops on wheels’ by allowing European businesses to engage in economic and regulatory arbitrage (‘social dumping’) while avoiding collective bargaining and the needed upward harmonisation of labour standards (Investigate Europe, 2018). In practice, this has meant the replacement of truck drivers in wealthier EU countries with more vulnerable drivers from poorer member states in Southern, Central and Eastern Europe, and increasingly even by extremely low-paid workers from outside the EU (Buelens and Michielsen, 2016; Hilal, 2008; Investigate Europe, 2018; Sitran and Pastori, 2013).

These trends have produced important negative outcomes for the economic, health and work–life well-being of truck drivers; for employers faced with intensified price, cost and regulatory competition; for public safety on and near roads; for public finances and social security funding; and more broadly for social cohesion and tolerance. In contrast, the US regulatory regime and available data show that the US focus on trucking industry safety inhibits the destabilising low-road practices afflicting EU trucking. In practice as well as policy then, the EU, not the USA, exemplifies free-market governance more thoroughly than hitherto understood. This contradiction between myth and reality may explain the extent of European workers’ anger with ‘Brussels’. Rebellion, after all, happens within individual EU member states, not in ‘Europe’.

## **Development of Institutional Frameworks in the EU**

Since the early 1950s, market integration based on an emerging neoliberal free-market ideology (Moses, 2011; Scharpf, 1999, 2009a), rather than social protection, has played a growing role in Europe’s process of economic unification. A crucial early step was the

establishment, in 1952, of what later became the European Court of Justice (ECJ). The ECJ's role was to arbitrate trade disputes arising among the founding six member states of the earliest institution of European integration, the European Coal and Steel Community (ECSC): Belgium, France, Italy, Luxembourg, the Netherlands and West Germany. Critically however, the ECJ's mandate was to adjudicate international treaties associated with economic efficiency, not equity — a core tenet of the neoliberal ideology that governs Europe today (Slobodian, 2018).

In 1957, the Treaty of Rome created the European Economic Community (EEC) to cement economic relationships among signatory countries through an economic union governed by multiple treaties. According to the Ohlin Report (1956) — drafted by an International Labour Organization (ILO) expert group as one of the reports contributing to the Treaty of Rome — European integration did not require social harmonisation. Moses (2011: 826) points out that this conclusion relied specifically on the expectation that strong national trade unions would secure social policy, which arguably the neoliberal model thwarted. The 1965 Merger Treaty then established the European Communities — later one of the 'three pillars' of the European Union (EU), created by the Maastricht Treaty of 1992. The 2007 Treaty of Lisbon established the EU's governance arrangements. International trade agreements among member states, therefore, bootstrapped the EU and its governance.

This multi-decade process primarily aimed to establish economic unification of Europe through free movements of goods, services, capital and people, including the free internal migration of people who could choose to live and work anywhere in the EU. According to Scharpf (1999), this free movement, the goal of which was economic integration, created an asymmetric liberal foundation for Europe that inherently emphasised individual economic rights and de-emphasised the corporatist social welfare equity model that embedded group rights.

While the ECJ was established as an international court to settle trade disputes among states, it adopted European unification as a mission and a concomitant activist judicial posture that created a 'joint-decision trap'. In the EU, legitimacy may be trapped between the need to satisfy the member states' politicians and the member states' voters, the demands of which may be different, and as Scharpf suggests, trapped specifically between the problem-solving and bargaining models (Scharpf, 1988). 'Power has been handed over to the central

institutions and the member states cannot act by themselves, but due to the national interests that the states keep in mind during the decision-making process, the Union cannot act either’ (Iersel, 2018). This greatly enabled the expansion of individualistic economic rights while delegitimising efforts to extend European social rights, particularly to workers. This risked the democratic legitimacy of the EU (Scharpf, 1988). Republican and liberal values refer here to two distinct traditions of political philosophy. Republics value the state over the individual, regardless of whether the state is autocratic or democratic. In contrast, liberal governance assigns ‘priority ... to the individual, rather than to the polity; the state is justified by the need to protect individual interests; and individual self-determination replaces the value of collective self-determination’ (Scharpf, 2009a: 175). In other words, the property right of the individual has priority over the equity rights of society.

Indeed, the asymmetry between democratic legitimacy and the dominance of the ECJ’s judge-made law made it impossible for the EU to become a social market economy that reflected democratic values while maintaining republican legitimacy. The ECJ

has, from early on, interpreted the Treaty commitment to establish a Europe-wide market and the free movement of goods, persons, services, and capital ... as a set of directly enforceable individual rights that will override all laws and institutional arrangements of EU member states.

(Scharpf, 2009a: 176)

It is an unelected core governing institution for the neoliberal EU, for which market integration supersedes democratically legitimised national policy (Scharpf, 2009a). Indeed, with economic stagflation during the 1970s, contradictions arose between ECJ decisions and member states’ own domestic decisions that may have reflected the post-war European Social Model. As in the USA, free-market ideology gained broad policy dominance over social democratic and social liberal welfare orientation (e.g. Bernaciak, 2014; Esping-Andersen, 1990). Growing public debate over these contradictions and the ECJ’s power exploded in the 2000s.

In particular, the debate concerned the ECJ judgements on the so-called *Viking*, *Laval* and *Rüffert* cases, which clearly prioritised free mobility and economic freedom over nation-based models of social protection (Moses, 2011).<sup>1</sup> Moses (2011: 823) strongly questions the perception that ‘Europe’s market integration can continue without undermining its nation-

based models of social protection'. The European Social Model implied that the member states should maintain and handle their own established social models. But both Scharpf (2002) and Moses (2011) strongly doubt if this is possible 'in the face of market integration' (Moses, 2011: 824). Popular dissent against the usurpation of national governance, by the ECJ and other EU governance institutions, has since boiled over and, as of 2019, radical ultranationalist right-wing parties have achieved significant influence in Britain, France, Germany, Italy, Hungary, Poland, Greece and other key EU member states. This development threatens the entire EU project.

## **Market Liberalisation in the EU and USA**

Flexible production using vertically disintegrated business models with low stock-keeping and just-in-time strategies requires responsive truck transport. Because of this pressure, road freight transport in the EU accounts more than 75%<sup>2</sup> of total inland freight transport in terms of tonne-kilometres and in the USA, more than 40%<sup>3</sup> of all ton-miles and 71%<sup>4</sup> of freight value (Bureau of Transportation Statistics, 2017; Eurostat, 2018a).

Free movement of intra-EU road freight has become normal since the early 1990s, except for cabotage (domestic transport carried out by non-resident carriers), which has technical limits that regulators appear unable to enforce effectively (Sternberg et al., 2015). While economic research generally asserts that free markets foster stability, growth and efficiency (Bayliss, 1998; Mačiulis, Vasiliauskas, and Jakubauskas, 2009; McKinnon, 1998), studies also suggest that negative environmental (Sternberg et al., 2015; Visser and Francke, 2010) and social externalities (Broughton et al., 2015; Buelens and Michielsen, 2016; Cremers, 2015; Hilal, 2008) have developed.

The break-up of the Soviet Union in 1991 and the enlargement of the EU into Central and Eastern Europe in 2004, 2007 and 2013 expanded the reach of neoliberal institutions, and the gap in wages and labour standards between the older (and wealthier) and newer (poorer) member states created opportunities for regime shopping and regulatory arbitrage (Bernaciak, 2014; Berntsen and Lillie, 2015; Fleischer, 2010).

Liberalisation of the interstate road freight transport market in the USA began with the Motor Carrier Act of 1980 and continued with the Federal Aviation Administration Authorization Act of 1994 (mandating intrastate deregulation) and the ICC Termination Act of 1995

(abolishing the Interstate Commerce Commission). Nonetheless, US trucking regulation has not permitted regulatory arbitrage on the same scale as in the EU. The Supremacy Clause (Article VI) of the US Constitution gives the Federal government legal authority over state and local law and the Commerce Clause (Article 1, Section 8, Clause 3)<sup>5</sup> gives the US Congress and Federal agencies supremacy over state and local rules. In addition, unlike in Europe, a Constitution, rather than a series of international treaties, establishes the social contract that defines the parameters of republican legitimacy in the USA. As a result, the Federal government's regulatory regime remains unified. Under the North American Free Trade Agreement (NAFTA), the Commercial Vehicle Safety Alliance — a not-for-profit consortium of enforcement authorities in Canada, Mexico, and the USA — maintains negotiated (if not fully unified) North American regulatory standards. Finally, since NAFTA does not permit cabotage, it is difficult for systematic abuses like those described in *Cabotagestudien* (Sternberg et al., 2015) to develop. While American researchers also emphasise the negative environmental and social effects of deregulation, including neglect of social consequences (Belman and Monaco, 2001; Belzer, 2000; Bensman, 2009; Boyer, 1993), an institutional framework remains in place to govern road freight transport. However, few studies have compared regulatory developments in the USA and the EU and their focus has generally been on the economics rather than the effects of institutions on industrial relations and social outcomes (Boylaud and Nicoletti, 2001; Button, 2010; Childs, 1985; Zahn, 2017).

Even free markets are regulated, however, and liberal markets need regulations to limit the consequences of negative externalities (Belzer, 2000; Bernaciak, 2014; Frank, 2011). Because people are not 'commodities' and market forces alone cannot determine outcomes without causing social and political upheaval (Polanyi, 2001), markets also presuppose a certain amount of social regulation, especially in the EU, given its lack of democratic legitimacy (Scharpf, 1999).

When weak enforcement institutions transfer risk to the public in the form of heavy commercial motor vehicle crashes, the public subsidises this risk, rendering that market inefficient (Pigou, 1950). Inherent difficulties in measuring performance quality, including safety and risk, means that truckers and cargo owners may lack sufficient information on cost to price efficiently. The lack of enforceable institutional frameworks — such as enforceable minimum wage rules, collective bargaining contracts, and state-led safety regulation and

enforcement mechanisms — may lead customers to make uninformed market choices, creating a price-led race to the bottom.

Institutional differences between the USA and the EU are important. In the USA, federal law — including on environmental protection and highway safety — governs the interstate road freight transport market. In contrast, across the EU, individual countries with their own languages and cultures have different political regimes, industrial relations arrangements and social security systems. The EU issues Regulations, Directives and other Acts that the member states must follow, but enforcement of these regulations relies on national-level discretion and funding. As a result, we argue that this produces a gap between EU regulatory aspiration and enforcement. As Scharpf (2009b) shows, there has always been a constitutional asymmetry in the EU between market integration and social protection. In the USA, on the other hand, a rough constitutional symmetry exists, albeit with a slim social model (Moses, 2011).

## **Shifting from Institutional Regulation to Market Regulation**

In North America as well as in Europe, government regulation of road freight transport markets started in the early 1930s, and these markets remained regulated for several decades. The motives behind these regulatory regimes were similar: to prevent destructive competition caused by over-supply and overcapacity; to regulate imbalances between revenue hauls and back hauls;<sup>6</sup> to regulate safe practices that protect infrastructure and other motorists; and to protect rail freight transport. According to the classical economic model, many economists understood the Great Depression as the product of overly intense competition; supply exceeded demand, driving prices down broadly and creating deflation. Their solution was to cut supply rather than increase demand (which J.M. Keynes supported). Also, because every revenue haul — whether passenger or freight — requires a corresponding (revenue-asymmetrical) low-rate back haul, policymakers thought that every transport move should pay for itself. This would ensure sustainable competition in transport markets that might otherwise destroy efficient market pricing (Button, 2010).

US interstate trucking regulation followed the urgings of state and local highway authorities frustrated with threats to public safety from an unregulated and rapidly growing interstate trucking industry. As competition intensified and truckers cut rates and intensified their labour



during the Great Depression, and as railroads also began to fear the threat from low-priced road transport, the movement to circumscribe destructive price competition gained traction. This culminated in legislation that gave regulatory jurisdiction to the Interstate Commerce Commission (ICC) (Childs, 1985). While the ICC regulated railroads to prevent them from abusing their monopoly power (reducing quantity and raising price), it regulated trucking to eliminate excessive competition (Kahn, 1988; Reynolds, 1940). Indeed, it reduced competition using the same tools with which it regulated railroads, controlling entry and rates, and allowing carriers to enter a market only if they could prove ‘public convenience and necessity’, and could show that their rates fully compensated them for the cost of service (Belzer, 2000).

In Western and Northern Europe too, most countries regulated their domestic road freight transport markets. Governments believed that market entry and rate regulation would reduce overcapacity and below-cost pricing, and thus prevent market failure (Bayliss, 1998). Governments restricted market access through licensing and needs tests and regulated the driving profession by creating licensing standards that restricted access and improved driver quality. As in the USA, some countries introduced price and domestic territorial controls as well. European countries also strictly regulated transnational road freight transport, mainly through bilateral agreements based on quotas. Special restrictions applied to ‘cross-trade’ (carriage of goods from country A to country B by a carrier from country C) and prohibited cabotage (Rothengatter, 1997).

Regulations remained after World War II despite rapid economic growth and increasing road freight transportation (Bayliss et al., 1994), but the emphasis shifted to free trade. The 1957 Treaty of Rome (Title IV, Article 74–84) stipulated that treaty signatories would implement a common policy for inland transport services by road, rail and inland waterway. However, the Council of Ministers made little progress on this, as most member states were not willing to change domestic market conditions (Rothengatter, 1997).

Support for liberalisation of the transport markets grew stronger in both regions with the post-war economic boom and increasing international trade, and with the promotion of neoliberal ideology (Slobodian, 2018). In the USA, the movement to deregulate trucking began in the late 1950s, as economists objected to the use of regulation to prevent competition. Economic and public policy debates developed on both continents between those who worried about



destructive competition and those concerned about regulation's negative efficiency consequences (Bain, 1968; Bayliss, 1998; Meyer et al., 1959).

These debates intensified during the 1970s, with increasing international competition from Japan and newly industrialising countries, and as established industrial countries faced inflation and stagnant growth. However, the political rationales for deregulation differed somewhat between the USA and the (then) EEC. Economic stagnation may have been a consequence of declining US post-war global economic and trade advantages, and its inflation problems were attributable to multiple factors, but economic problems were sufficiently real for proponents of regulatory liberalisation to find a receptive audience. President Carter appointed Alfred Kahn as his 'inflation fighter' with the goal of intensifying market competition in transport. Kahn then began the administrative deregulation of trucking that led to the Motor Carrier Act of 1980.

In the EEC, elimination of national institutional impediments to the consolidation of the Common Market (under the Treaty of Rome) became the main political rationale for liberalisation of transport markets. From the late 1970s, the creation of a strong European economic bloc also became a priority in response to global economic competition. Closer unification coupled with market liberalisation was the chosen model. In 1983, the European Parliament itself went to the ECJ, claiming that the European Council of Ministers had neglected to create a common transport policy (Bayliss, 1998; Rothengatter, 1997). Since the ECJ's mission was to liberalise economic relations among member states in support of integration, it ruled in favour of the Parliament. Given the ECJ's judgement (13/83 of 22 May 1985), and the plans to complete the European Single Market, the Council decided that member states must eliminate all quantitative restrictions inhibiting full and equal access to the intra-Union road freight transport market by the end of 1992 (Regulation EEC 1841/88).

## **Competition and Structural Change**

The replacement of institutional regulation with market regulation, following the passage of the Motor Carrier Act of 1980, changed the US trucking industry completely. Small truckload carriers in the for-hire sector flowed into the specialised sector, creaming high-revenue truckload freight from the general freight carriers with common carrier regulatory operating authority (Belzer, 1995).<sup>7</sup> Under the ICC's regulatory framework, common carriers of general

freight had been like public utilities in that they provided freight transport service at a fixed price to anyone who needed it — not discriminating based on quantity of freight either on a short- or long-term basis; liberalisation made such discrimination legal and necessary for survival. Amid the deep recessions of 1980–1982, cargo owners put pressure on motor carriers to reduce prices and shifted their business to low-cost, non-union truckload carriers, pushing freight rates especially low. Low rates and unemployment in trucking, combined with high unemployment in the farm, automobile manufacturing, construction, and agricultural and construction equipment industries, helped to drive hundreds of established general freight carriers into bankruptcy between 1980 and 1983; driver compensation plunged, along with union density. Real truck driver compensation declined 30% between 1977 and 1995 (Belzer, 2000), and at least 10% further in the next two decades. Total real decline was at least 40%. Union membership in the trucking industry declined from about 60% in the late 1970s (Hirsch, 1993) to 8.2% in 2018 (Unionstats, 2017), nearly eliminating truck drivers' collective bargaining power.

In both the USA and Europe, freight deregulation contributed to rapid growth in trucking, as fiercely competitive market forces reduced road haulage prices and firm revenues. In the USA, this created a net economic welfare gain of \$34 billion in 1988 (in 2018 US dollars) (Winston et al., 1990), although two-thirds of the welfare gain probably came from reduced truck driver compensation. Liberal competition rules in the EU, intended to encourage closer economic union, generated considerable structural change as well. Already high annual growth rates in commercial road freight transport increased further, from 3.8% in 1970–1985 to 4.3% in 1985–1990, as generous Community authorisations fostered liberalisation after the 1985 ECJ decision (Rothengatter, 1997: 31). For-hire transport also increased significantly in Europe, dominating, in the following decades, not only international transport but also the domestic transport sector in most member states (AECOM, 2014: 10; Bayliss et al., 1994). Transport rates declined due to productivity gains as well as intense competition (Boylaud and Nicoletti, 2001; Rothengatter, 1997).

Large companies — such as pan-European, multimodal logistics companies DHL, DB Schenker, XPO Logistics and DSV — gained increasingly strong market positions within the EU, especially in international transportation. At the same time, growing subcontracting allowed small carriers and owner-drivers to enter this market. As in the USA, many subcontracted owner-drivers were dependent on a single principal, which could mean both an

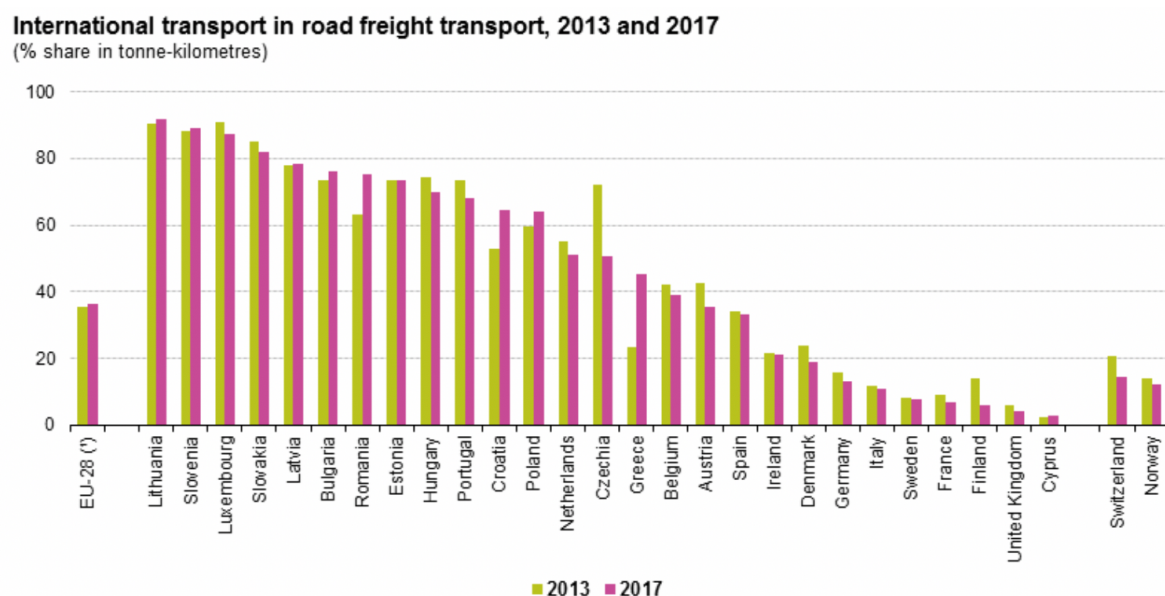
unclear employment status and poor working conditions (Bayliss et al., 1994; Rothengatter, 1997). However, it is difficult to estimate the immediate effects of liberalisation on structural changes and industrial relations, as data are limited and not standardised within the EU.

Overall, deregulation of member states' domestic markets proceeded gradually and with great national variation compared to the rapid nationwide change in the USA.

As structural changes in Europe happened in its unique multi-state regional context, industrial structures developed particular to that context. After liberalisation, trucking companies took advantage of economic and social differences between member states across both the EU's south–north and east–west divides. After the fall of the Soviet Union, German and Austrian haulage companies, for example, established networks of subsidiaries in Eastern Europe and used cheap Eastern European drivers while operating in Western Europe (Hilal, 2008). With the eastward enlargement of the EU in the 2000s, economic and regulatory arbitrage escalated rapidly, as did the proportion of trucking companies from the former Soviet bloc operating in Western Europe (Buelens and Michielsen, 2016; Cremers, 2015; Sitran and Pastori, 2013).

As Figure 4.1 shows, the shares of international transport in total road freight transport of member states in Central and Eastern Europe and in Portugal are considerably above the average EU level. This also means that the new member states have strongly increased their shares in intra-EU transport. Domestic recessionary effects following the 2008/2009 financial crisis and the euro crisis of 2010 sharply contracted transport demand, but like the 1980–1982 recessions in the USA, this allowed low-cost service providers to win market share (AECOM, 2014). In 'cross-trade transport' — the fastest growing segment in terms of ton-kilometres — eight of the new member states accounted for 78% of market share in 2015, and Poland alone accounted for 29% (European Commission, 2017a: 12).

**Figure 4.1** Share of international transport in total road freight transport in the EU, by country, in 2013 and 2017. *Source:* Eurostat (2018b).



(\*) Malta excluded (see chapter 'data sources')

Source: Eurostat (online data code: road\_go\_ta\_totl)

eurostat 

As in the USA, low-cost competition has mainly been concentrated in non-specialised, long-distance truckload trucking and port-trucking using tractor trailers pulling dry boxes and containers — the sectors with the most interchangeable drivers. However, the problem also appears in certain segments of specialised transportation. Big automotive manufacturers in Western Europe engage networks of transport companies using drivers from the former Soviet bloc countries and the Balkans. The Dutch trade union federation FNV Vakbond has revealed systematic evasion of taxes and social fees, as well as infringements of work safety and road safety regulations within these supply chains often using letterbox companies as intermediaries (Sectoral Policies Department of the ILO and Cruz-Ross, 2015). For example, a Romanian driver working for a multinational carrier in Western or Northern Europe has a Romanian contract based on a Romanian minimum wage. The truck is registered in Poland, but operates between Spain and Belgium, where minimum wages and consumer prices exceed Romanian levels by an order of magnitude. Like many other drivers commuting to Western Europe, the driver generally works for three consecutive months, sleeping and living in the truck in violation of EU Directives (Boros, 2018; FNV Vakbond, 2018). According to the

German trade union confederation, Deutsche Gewerkschaftsbund (DGB), Philippine drivers recruited via intermediaries to work in Western Europe were living in their trucks for up to 18 consecutive months (LabourNet Germany, 2018).

The Regulation on Cabotage (EC No. 1072/2009) and the Council Directive on Combined Transport (92/106/EEC) have both been widely used as a ‘legal way’ to practice ‘social dumping’. Transport companies in Central and Eastern Europe, as well transport companies in Western Europe with subsidiaries in low-cost Western EU countries, have increasingly established networks of bases in high-cost countries from which they work more or less permanently using loopholes in the EU acts (Thörnquist, 2019a).

This practice illustrates the increasing incentives for regulatory arbitrage between different regimes within the EU. Tight schedules force drivers to violate regulations on driving and working time, resulting in increasing accident risk due to fatigue and stress. According to a study by the European Transport Workers’ Federation (ETF), 80% of 1,000 non-resident drivers interviewed during 2008–2012 believed that fatigue was a major problem (ETF, 2012). In addition, many trucks used by low-cost transport providers are badly maintained. According to Dutch trade union officer Edwin Atema, ‘These drivers are bombs on wheels. Isolated from everyone and everything. They are driving and surviving, not focusing on their work’ (FNV Vakbond, 2018).

A European Commission report (2014: 12) on the state of the road haulage market claimed that there were indications that the wage-cleft between Eastern and Western Europe was ‘reducing to a point where the risk of unlawful behaviour is mitigated’. This may be wishful thinking, however, not an empirically verifiable statement. As Figure 4.2 shows, the differences in compensation remain considerable. Eastern European and Portuguese international drivers take most of their earnings as per diem remuneration — not subject to tax and social contributions in their home countries — and very little as wages. Belgian international drivers earn eleven times as much money in the form of wages and social contributions as Bulgarian drivers earn. The high proportion of salary in the form of per diem (€11,550 in per diem payments compared with only €4,410 in salary and social contributions) presumably contravenes the purpose of per diem: reimbursement for the driver’s travel expenses, leading to the health and safety problems journalists have found (Investigate Europe, 2018). Even though the daily total income may be higher than in the drivers’ home

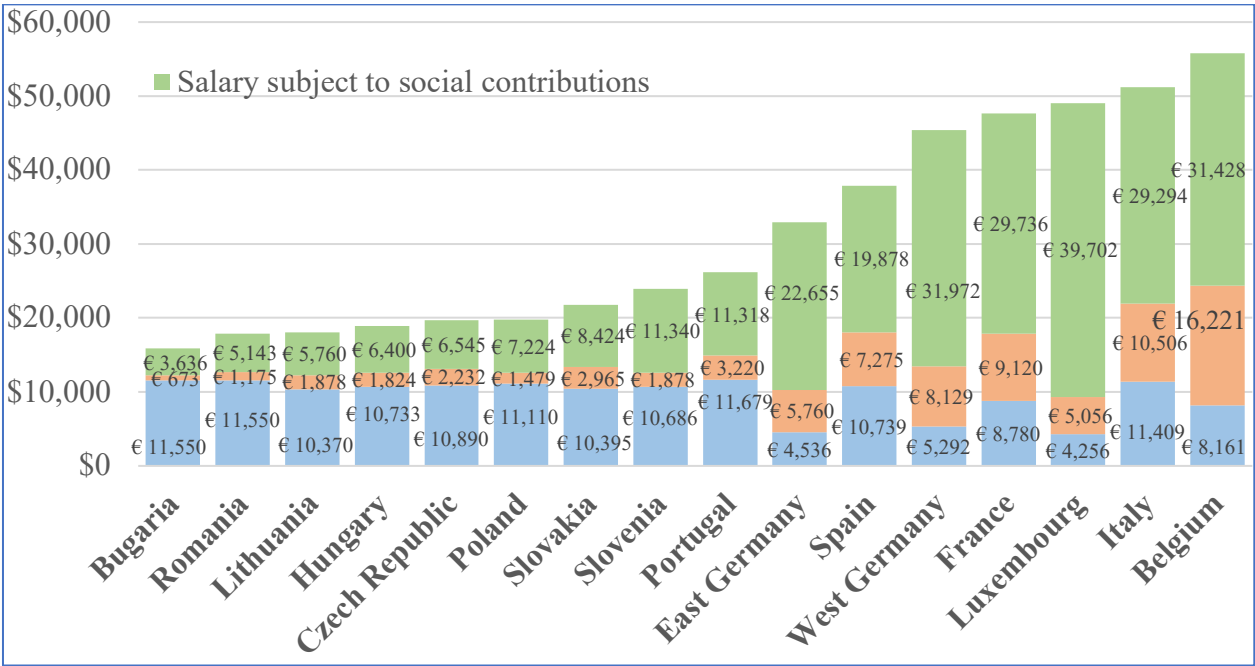
countries, allowances and bonuses are generally paid only when the drivers are carrying out transport operations (earning revenue for their employer), and the low taxable earned income means poor social protections and low tax receipts to member states. Distance-based pay also is common and often registered as an ‘allowance’ to circumvent income tax and social fees (Comité National Routier, 2016). Yet the EU does not permit

any payment, even in the form of a bonus or wage supplement, related to distances travelled and/or the amount of goods carried if that payment is of a such a kind as to endanger road safety and/or encourages [sic] infringement of this Regulation.

(Regulation EC No 561/2006, Article 10:1)

This formulation is vague, however, making the regulation ineffective, especially given the absence of adequate public safety data.

**Figure 4.2** Composition of Yearly Total Cost of a European International Driver for a Transport Company in 2016. *Source:* Comité National Routier (2016: 17).



Note: France has Competitiveness and Employment Tax Credit (CICE) credit, which reduces overall cost to the haulier. The overall cost after the tax credit is €45,852. *Source:* Comit. National Routier (2016: 17).

While destructive competition due to low-wage labour appears mainly in the USA's domestic road freight transport market (Viscelli, 2016), it is primarily (albeit not exclusively) a cross-border phenomenon in the EU, enabled by the ability to shop among different economic and social regimes (Buelens and Michielsens, 2016; Hilal 2008). Low wages, poor working conditions and lack of investment in truck driver skills and competence characterise employers using cheap temporary labour. It plays into the 'driver shortage' myth as well. In the EU, both 'old' and 'new' member states perceive this problem (Lodovici et al., 2009). Many non-EU truck drivers commute to the EU, especially via Poland. The number of driver attestations issued to allow non-EU truck drivers to drive in the EU increased by 46% between 2015 and 2016 to 76,000 attestations in circulation (Boros, 2018; European Commission, 2017a: 8); they all attest to a failed labour market for truck driving within the EU because Western, Central and Northern Europeans cannot survive on low Eastern European compensation. Letterbox companies help to turn this labour migration flow into an integral part of east-west regulatory arbitrage (Sectoral Policies Department of the ILO and Cruz-Ross, 2015). While a full examination of this issue is beyond the scope of this chapter, Gomory and Baumol (2000) have demonstrated that widely disparate wealth between rich and poor countries will cause Ricardian free trade to produce inefficient and untenable trade outcomes. This appears to have occurred in transnational trucking within the EU.

## **Blurred Borders between Employment and Self-employment**

Misclassification of drivers' employment status in order to reduce trucking labour costs is a common component of low-wage competition in North America and Europe. It undermines workers' employment rights and social benefits (e.g. unemployment compensation and workers' injury compensation) laid down in collective agreements and labour law, as well as social security and income tax collection (Broughton et al., 2015; Weil, 2017).

After the Motor Carrier Act of 1980, the use of contractors increased in the North American road freight transport market, as did the growth of owner-drivers (also known as 'owner-operators', even if they don't operate trucking companies), but estimates are hard to verify. The rise of such owner-drivers during the 1980s peaked late in the decade, as true owner-operators could not compete with giant truckload carriers with economies of scope sufficient to overwhelm owner-operators competitively (Corsi and Grimm, 1988).



While census data on owner-operators do not exist, some private and public efforts have been made to collect data. The University of Michigan Trucking Industry Program, supported by the Alfred P. Sloan Foundation, surveyed truck drivers in 1998 and determined that 25.5% of all drivers interviewed declared themselves to be ‘owner-operators’ (Belman et al., 2004: 14). The National Institute for Occupational Safety and Health (NIOSH) conducted a survey of long-distance truck drivers in the USA in 2010 and found that 28% of all long-distance drivers were owner-drivers (Chen et al., 2015). Genuine self-employment accounts only for a small fraction of these drivers, however; most are deliberately misclassified employees, blurring the line between independent business operation and employment. Individuals borrow money from a financial entity to buy or lease their truck — often from their employer or a subsidiary controlled by their employer — and contract to a trucking company under whose operating authority they haul freight, causing many of them to fall into a form of debt peonage; the company controls the source and volume of freight as well as both cost and revenue, and prohibits owner-operators from hauling freight for anyone else (Viscelli, 2016).

With the growth of this debt peonage model since the 1990s, large trucking firms have been able to expand their subcontracting base. Before regulatory liberalisation, the owner-driver model remained concentrated in specialised sectors and these drivers usually belonged to the International Brotherhood of Teamsters (IBT), which bargained collectively on their behalf until Federal Courts took away that right after 1970 (Belzer, 2000).<sup>8</sup> After liberalisation, intense competition in general freight and intermodal transport drove freight rates and compensation to an unsustainably low level (Belzer and Swan, 2011; Murphy, 2017).

The IBT has led a long campaign to organise intermodal drivers classified as owner-operators. That classification requires them to supply their own trucks, prevents them from organising for union representation and deprives them of rights to workers’ compensation and other social benefits. While a US Federal Court ruled against Federal Express on a case of misclassification and forced FedEx to pay delivery drivers US\$228 million, many such class-action cases continue to make their way through California and Federal Courts (Wood, 2015), and contracting and employment practices remain unchanged. A 2018 California Supreme Court decision, *Dynamex*, created a new, tougher standard for self-employment,<sup>9</sup> and in 2019 the California legislature passed, and the governor signed, legislation implementing this decision as law,<sup>10</sup> although Uber, Lyft and other gig employers have committed \$90 million in an attempt to overturn the law by referendum in 2020.

The trend among truck drivers to enter into self-employment, voluntarily or under duress, is a challenge to union density and collective agreements in the EU as well. Many logistics providers use small carriers and owner-drivers (often at the endpoint of long supply chains) in order to transfer costs and risks to the subcontractors (AECOM, 2014; Broughton et al., 2015; Thörnquist, 2019b).

Currently, most drivers from the newer EU countries in Central and Eastern Europe, or drivers from outside the EU who are engaged in intra-EU transport operations work for the statutory minimum wages in their home countries, with additional daily allowances and payment by the mile (Comité National Routier, 2016; Haidinger, 2017). However, over the past 15 years, many Eastern European drivers working in subcontracting chains in Northern and Western Europe, or drivers recruited to work temporarily for trucking companies in Western Europe, have had to become self-employed as well, reducing companies' costs. Letterbox companies and other middlemen often help to conceal the true employment status of such workers, including the identity of the real employer (Broughton et al., 2015; Thörnquist, 2015, 2019b).

Like the IBT, the ETF (2012, 2015) and member states' national trade unions work actively to combat dependent and false forms of self-employment in the trucking industry, through controls and public campaigns, as well as by taking employers to court. The main problem when pursuing cases in the court is that the drivers, especially migrant workers, generally are unwilling to participate in the process for fear of losing their jobs. This illustrates the complex relationship between work in the 'grey area' between employment and self-employment as a mode of exploitation and a strategy for survival (Thörnquist, 2019b). In the Netherlands, carriers are legally obliged to employ the drivers they engage to drive their trucks, unless they are independent subcontractors with their own traffic certificates and vehicles, or employed by staffing companies with collective agreements. The aim of this rule, laid down in the Dutch road haulage law (*Wet wegvervoer goederen* 2008, Article 2.11), is to prevent the use of dependent contracting and false self-employment. The Dutch social partners jointly support this model.<sup>11</sup>

## Regulatory Responses to Liberalisation

Economic liberalisation creates a need for social regulation to prevent negative externalities (Frank, 2011; Pigou, 1950; Polanyi, 2001). The removal of economic restrictions in the road haulage market has therefore stimulated a need for new social regulation. In the 1980s, as trucking grew after deregulation and carrier hiring drifted to the end of the labour market queue, motor carrier safety became a major political issue in the USA. In response to public concerns about declining driver quality, Congress passed the Commercial Motor Vehicle Safety Act of 1986, requiring all commercial drivers to obtain a commercial drivers' licence (CDL) that would apply uniformly across the country. Regulation of driver quality intensified, including drug and alcohol testing, new highway programs and extensive hazardous-materials handling rules (FHWA, 1994).

When the EU deregulated intra-EU trucking in 1993, as an important part of the establishment of the liberal Single Market, it introduced the Community License for trucking companies carrying out for-hire transport within the EU, and other regulations with which, as road transport operators, they had to comply (Directive 96/26/EC, later repealed by Regulation 1071/2009). The EU also issued common regulations on road safety, environmental protection and drivers' working conditions (including driving time and rest periods), plus minimum levels of compliance checks for social regulations relating to road transport activities.

However, these regulations have not been implemented effectively (Buelens and Michielsen, 2016; Sayer, 2016; Sitran and Pastori, 2013). Some regulations are unclear or difficult to apply to mobile workers. For example, ECJ rulings require that workers performing services temporarily in one EU country are covered by the laws in the country in or from which they work habitually (Regulation EC No. 593/2008, also called 'Rome I'). The 'habitual place of work', the indicator for the vast majority of legal jurisdiction cases, commonly is defined as where drivers begin and end their daily work. However, since many drivers work in transit across the EU, beginning and ending their work in different member states, their place of habitual work can be difficult to determine.<sup>12</sup> It also has been difficult to apply the Posting of Workers Directive (PWD) (96/71/EC) to drivers in transnational operations (Sayer, 2016). In sum, social regulations in the road freight transport market exist at the federal level in the EU and in the USA, but poor enforcement of regulations is pervasive in the EU.

## The Enforcement Problem

As Scharpf argues across all the publications cited here, social regulatory enforcement has never been an EU priority, and this is especially clear in road freight transport. While policies requiring integration and liberalisation have been required by the ECJ (enforcing international treaties), policies and directives made by EU legislators and regulators are unfunded mandates for member states. Data from the European Commission collected during 2013–2014 showed that roadside checks required by Directive 2006/22/EC decreased almost 24% in 2013 and 15% in 2014, compared to 2010–2012 (European Commission, 2017b). Even though the report indicates a general decline in the number of offences, violations related to working conditions and road safety remain common.

Implementation of the PWD of 1996 provides an example. Member states have interpreted the directive differently. The question of whether drivers carrying out cabotage are ‘posted workers’ has been highly controversial (Thörnquist, 2019a). In 2014, the EU imposed the Enforcement Directive (2014/67/EU) to clarify the PWD and encourage enforcement. Among other things, the Directive requires companies posting workers to register at the authority in charge of posting in the host country, and to designate a contact person; enforcement funding, however, remains the responsibility of the host country. While harmonisation has been required for economic activity across member states, it has not been enforced, exacerbating the asymmetry.

Conflicts of economic interests between east and west within the enlarged EU complicate the legal protection of transnational workers, especially in the transport sector. The recent protracted negotiation to revise the PWD, designed to clarify and tighten the rules, clearly illustrates this problem. Member states in the former Soviet bloc opposed revision, arguing that having to pay wages consistent with labour standards in the nation in which their posted drivers work would undermine their companies’ competitive cheap-labour advantage (Zahn, 2017). When the Council of Ministers eventually agreed in October 2017 to include the principle of ‘equal pay for equal work in the same place’ in the Directive, the Council decided to exempt the road transport sector until the adoption of the Commission’s proposal on posting of drivers presented in the Mobility Package (a substantial revision of EU legislation applicable to road transport). The transport unions strongly opposed this decision because it treated transport workers — and the transport industry — differently from other industries and

workers. According to the proposal, drivers should be regarded as posted workers after three days during one month in a host country — a concept sufficiently vague to invite mischief. It also suggested free cabotage during five days and a liberalisation of drivers' weekly rest in order to promote flexibility. In the words of Eduardo Chagas, General Secretary of the ETF:

The Council decision puts workers [sic] interest behind business interests, offering an easy way out for those road transport companies wanting to access domestic haulage markets on dumping wages.

(ETF, 2017)

The Council of Ministers subsequently made amendments to the Mobility Package proposals, with trade unions welcoming most of them. The European Parliament, however, repeatedly postponed the final vote, mainly due to conflict between western and eastern member states' interests. In January 2019, the European Parliament's Transport Committee agreed to a compromise on cabotage and measures to combat unfair competition, but rejected proposals to extend the application of the revised PDW to drivers as well as stricter regulations on drivers' weekly rest (European Parliament, 2019a). Before this vote, representatives of Bulgarian, Croatian, Hungarian, Lithuanian, Polish, Romanian and Slovenian trucking companies issued a joint declaration claiming that the revised proposals were 'discriminatory, raising barriers in road transport with tremendous effects, causing great administrative, organisational and financial burden, and fragmentation of the European market of transport services' (Free Transport for Europe on bridges, not walls, 2019). In response, the Swedish Transport Workers' Union signed an unprecedented posting agreement with a Romanian trucking company carrying out cabotage and combined transport<sup>13</sup> in Sweden, entitling that company's Romanian drivers to the same wages and working conditions as Swedish drivers (Thörnquist, 2019a).

During the following two months, the ETF and the member unions intensified their year-long campaign for 'A Fair Mobility Package', culminating in a joint mass demonstration for 'Fair Transport' in Brussels on 27 March 2019, a week before Parliament was to vote (ETF, 2019). Parliament subsequently voted that the new posting rules should also cover drivers, approved a clear ban on drivers obtaining their weekly rest in the vehicle, and confirmed that drivers must return home after no more than a month on the road. As well, Parliament agreed to stricter rules on cabotage, measures to combat letterbox companies and a rapid introduction of

digital tachographs in all goods and passenger vehicles (European Parliament, 2019b). The main problem with this kind of regulation, however, lies in enforcement. The regulations apply to the entire EU, but enforcement still relies on national-level discretion and funding.

In the US trucking industry, in contrast, such funding is consistent, and a dedicated funding source from federal fuel taxes helps ensure funding commensurate with need. Indeed,

[i]n fiscal year 2012, the US Department of Transportation Federal Motor Carrier Safety Administration (FMCSA) had a budget of approximately US\$550 million and more than 1,000 FMCSA staff members located at headquarters, four regional service centers, and 52 division offices.

(GAO 2014)

In addition, the Commercial Vehicle Safety Alliance (CVSA), a multinational not-for-profit organisation with nearly 4,000 organisational members and 13,000 enforcement officers (mostly in the USA but also in Canada and Mexico), coordinates safety standards and vehicle inspections in partnership with FMCSA and all state and provincial police agencies.<sup>14</sup>

Structural asymmetry, like that in the EU, does not exist in the USA because both regulation and regulatory enforcement funding is centralised. The FMCSA has responsibility for regulating both intrastate and interstate motor carriers and both trucks and drivers engaged in interstate commerce in the USA. FMCSA has a substantial enforcement division that employs motor carrier enforcement officers across the country and conducts approximately 3.5 million roadside truck and driver inspections annually, as well as regular motor carrier terminal level inspections.<sup>15</sup>

The FMCSA also maintains the Motor Carrier Management Information System, a comprehensive database of motor carriers authorised to operate in interstate commerce, including records for hundreds of thousands of trucking companies. Affiliates at state departments of motor vehicles license millions of truck drivers and maintain a record of these licences — the Commercial Driver's License Information System — and these systems interact with each other to manage motor carrier and CDL driver safety. Further, FMCSA issues regulations that cover all CDL drivers and motor carriers, including regulation of vehicles, carrier operations and driver qualifications, including medical certification. This elaborate system of regulatory control has been carefully designed, maintained and extended over decades to keep driver crashes at a minimum (see Panel on the Review of the

Compliance, Safety, and Accountability Program of the Federal Motor Carrier Safety Administration, 2017).

In sum, while both the USA and the EU have liberal freedom of movement for goods and people, and liberal trade relations for economic activity, the EU — where market integration and social protection have long been kept apart — lacks a similarly elaborate system to control the safe operations of trucking companies and commercial motor vehicle drivers.

Ironically, while application of fair labour standards (minimum wages and maximum hours of work) to trucking in the USA is very weak, the USA has weak but enforceable regulations on driver safety. The EU has high-minded regulations, including rules governing access to the occupation, work safety and general road safety rules, which drivers entering any location from lower-wage member states cannot legally undercut. However, actors can easily use loopholes that exist to circumvent the regulatory intent. Moreover, regulations governing the rights of mobile workers in the intra-national market, such as those in ‘Rome I’ and in the PWD, have been difficult to enforce practically. Without enforcement, regulations are empty.

Expansion of EU law into labour markets and welfare is controversial and may clash with the principle of subsidiarity and nation-based systems of social protection. In 2017, the EU adopted the European Pillar of Social Rights, a comprehensive policy program to reinforce the European project’s social dimension, mainly through ‘soft law’ (European Commission, 2017c). On the initiative of European Commission President Jean-Claude Juncker, the program also proposed a common European Labour Authority (ELA). The aim of this authority, which was formally established in July 2019, is to ensure ‘that EU rules on labour mobility and social security coordination are enforced in a fair and effective way and makes it easier for citizens and businesses to reap the benefits of the internal market’ (ELA, 2019).

Policymakers in countries with strong industrial relations and welfare traditions, such as in Scandinavia, do not question the need to reinforce the social dimension, but concerns have been raised that a supranational authority would interfere with established national labour market systems. This supports Scharpf’s (2009b: 6–7) contention that European integration may be ‘structurally hostile to the interests and values realised in the social market economies of Continental and Scandinavian Europe’.



## Conclusion

The processes of liberalisation in the North American and European road freight transport markets have many similarities. A comparative perspective helps to identify the main forces behind these deregulatory processes, their broader historical contexts and their social consequences. In both the USA and Europe, intellectual and political support for free markets emerged among economists during the late post-war expansion. Increasing international competition, and the economic and industrial crises that the USA and Europe experienced in the 1970s prompted structural shifts replacing institutional regulation with market regulation. While the argument for market deregulation in the USA centred on potential economic efficiency gains, the debate that preceded the liberalisation process in Europe was more political. There, it reflected a neoliberal policy ideology seeking ever greater European integration through a free internal market for transport services.

In the USA and the EU, deregulation contributed to rapid growth in road haulage. However, increased market competition undermined union power and established labour standards, creating safety issues in the USA that have been an ongoing public policy concern since the mid-1980s. Intense competition also contributed to failed skills reproduction and perceived shortages of qualified drivers on both continents, suggesting that these levels of competition have been destructive. In the USA, the negative social effects of liberalisation followed the 1980 Motor Carrier Act. In the EU, where deregulation of the internal market developed more gradually, the problems primarily emerged from southward and especially eastward enlargement of the Single Market. Imbalances between market expansion and social harmonisation created possibilities to exploit economic and social differences between old and new member states and, increasingly, between member and non-member states in Eastern Europe and Central Asia.

For scholars like Scharpf (1999) and Moses (2011), this lack of social harmonisation is partly a consequence of ECJ rulings intended to further European economic integration. Combined with the fundamental freedoms of services and establishment in the Single Market, it gives companies in low-wage member states a competitive advantage. Companies in high-wage member states can — and for competitive reasons, must — recruit cheap labour or flag-out trucking companies to low-wage countries, thereby creating systematic economic and regulatory arbitrage (Berntsen and Lillie, 2015; Cremers, 2015; Hilal, 2008).

We have shown that social and regulatory harmonisation has long lagged within the European project. The European trucking case provides support for Scharpf's argument that the EU suffers an institutional asymmetry, and one that has led to a crisis of legitimacy, which is necessary to support democratic values. Cross-border trucking within the EU shows that the drive for European integration, led critically by the ECJ — a trade tribunal that reinvented itself as a supranational supreme court — has created a crisis of legitimacy within the EU that threatens to destroy it. While the USA has weak but enforceable protective regulations created within a system of constitutional symmetry, the EU creates supranational regulations that are relatively easy to evade and difficult to enforce. The EU's regulatory framework was designed to reconcile (a) market liberalisation and (b) the EU's founding principles of the free movement of goods, capital, labour and services, with (c) fundamental human and workers' rights. Without sufficient enforcement of these regulations, the promotion of the former implies potential deterioration of the latter two, as well as public perceptions of inadequate legitimacy. This fundamentally neoliberal concept is not unique to road haulage but stands out starkly in this sector.

In recent years, the European Commission has launched initiatives to clarify regulations on worker protection and reinforce the EU's social dimension. However, where new member states can depend on extremely low wages for their competitive advantage, regulatory and economic arbitrage become, de facto, core EU policy. As the revision of the PWD and the Eastern European trucking companies' joint declaration against the Mobility Package's revised proposals illustrate, those new member states fear losing their competitive advantage if EU policy should block economic and regulatory arbitrage. As Bernaciak (2014: 22) argues, these governments have become 'vocal defenders of EU economic freedom', but if their freedom unleashes a race to the bottom, the entire EU may suffer severe political repercussions threatening its survival as a democratic institution.

Moreover, member states with well-established industrial relations and welfare systems may have little interest in an extension of EU social law, and even less in a supranational labour-market authority, that might work to their disadvantage. As Moses (2011: 825) notes, the ECJ 'too often sees variance in national standards as an obstacle to free mobility', and, through the EU's peculiar treaty foundations, the ECJ governs. Instead, the EU needs to resolve this asymmetry problem and weigh social Europe at least as strongly as it does integration, which free-market Europe promotes. Indeed, by comparing the US and EU paths to market

integration, Moses strongly questions the future of a ‘European social model’ unless the EU creates ‘an overarching European social policy’ or institutes ‘a new constitutional *asymmetry* that prioritises social protection over market integration’. While asymmetry favouring social protection might be necessary to rebalance the EU in relation to its emphasis on integration at all costs, an equity balance between the two needs seems urgent. Our comparative review of road freight transport liberalisation in the USA and the EU supports this conclusion.

Why is this important? As Crane Brinton’s (1965) masterful history of revolution in the modern era showed, revolution occurs when the middle classes experience declining opportunities — wages, working conditions, wealth and opportunity — for decades; then the middle class (not the peasants or the proletariat) may rebel successfully. The Milanovic (2016) ‘elephant’ demonstrates how free trade produced success for the global middle class and the upper class in wealthy countries. Most importantly for this study, however, it also graphically demonstrates the economic losses of the middle and working classes in wealthy countries, including truck drivers within the USA and in portions of the EU outside the former Soviet bloc nations. These declines, over decades, have been accompanied by ultranationalist movements that threaten the liberal foundations of Europe; Britain’s ultranationalist UK Independence Party (UKIP) has created the most extreme form of EU split (‘Brexit’), but there are many others. Germany’s Alternative for Germany, Marine Le Pen’s ultranationalists of France, the neofascist (Northern) League in Italy, the Golden Dawn in Greece, the sudden rise of a neofascist party in Spain and illiberal governance in Hungary and Poland demonstrate the growing risk of revolution from the right that directly threatens the EU project. The presidency of Donald Trump shows the USA is not immune to similar developments.

Inequality has grown dramatically in the USA and EU, largely due to a policy focus on economic efficiency at the expense of broad-based equity. The emerging challenge, however, is whether democracy can survive economic liberalisation in the absence of effective social regulation that ensures widely shared benefits. Political turmoil in Europe and in the USA suggests that there are no guarantees.

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<sup>1</sup> ECJ: C-438/05 *Viking*; C-341/05 *Laval* and C-346/06 *Rüffert*.

<sup>2</sup> [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Freight\\_transport\\_statistics\\_-\\_modal\\_split&oldid=385301](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Freight_transport_statistics_-_modal_split&oldid=385301)

<sup>3</sup> <https://www.bts.gov/content/us-ton-miles-freight>

<sup>4</sup> <https://www.bts.dot.gov/topics/freight-transportation/freight-shipments-mode>

<sup>5</sup> [https://en.wikisource.org/wiki/Constitution\\_of\\_the\\_United\\_States\\_of\\_America](https://en.wikisource.org/wiki/Constitution_of_the_United_States_of_America)

<sup>6</sup> [https://en.wikipedia.org/wiki/Backhaul\\_\(trucking\)](https://en.wikipedia.org/wiki/Backhaul_(trucking))

<sup>7</sup> A common carrier is ‘a for-hire carrier that offers its services to the public according to published rates...’ (Belzer, 2000: 201).

<sup>8</sup> Although the Teamsters union was created by both employee drivers and owner-operators with their own horses and wagons, and although they represented both employee- and owner-drivers throughout the 20th century, in 1970 Federal courts took away these rights. See *United States Steel Corp. v. Fraternal Association of*

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Steelhaulers, F.2d 1046 (3d Cir. 1970); and see also *Conley Motor Express, Inc., a corporation, Appellee, v. Harry M. Russell et al., Appellants*. United States Court of Appeals for the Third Circuit; 500 F.2d 124; 1974.

<sup>9</sup> <https://www.theverge.com/2018/5/1/17308178/uber-lyft-drivers-california-court-classification-dynamex>

<sup>10</sup> [https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB5](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB5)

<sup>11</sup> Personal information from Edwin Atema, 7 September 2018.

<sup>12</sup> See e.g. Ruling of the ECJ of 15 March 2011, the *Koelzsch* case, C-29/10.

<sup>13</sup> Intermodal transport in which road transport is minimised to the initial and final leg. Any haulier with access to the occupation and with a Community license can compete on this market in any Member State.

<sup>14</sup> [www.cvsa.org](http://www.cvsa.org)

<sup>15</sup> <https://www.fmcsa.dot.gov/>