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REPORT

From: General Secretariat of the Council

To: Permanent Representatives Committee / Council

No. prev. doc.: 7364/2/19 REV 2

Subject: Proposal for a Regulation of the European Parliament and of the Council
on electronic freight transport information
– General Approach

I. CONTEXT AND CONTENT OF THE PROPOSAL

1. On 17 May 2018, the Commission presented the abovementioned proposal to the European Parliament and the Council, as part of the third 'Europe on the Move' package, which is designed to make European mobility safer, cleaner, more efficient and more accessible, for the benefit of all EU citizens.

2. The general objective of the proposal is to establish a uniform legal framework for the transmission of digital freight transport information and thereby contribute to greater efficiency of the transport sector. More specific objectives of the proposal are:
 - the mandatory acceptance of electronic freight transport information (eFTI) by all relevant public authorities, when made available by the economic operators,
 - a uniform implementation of that obligation by authorities, and
 - interoperability of the different IT systems and solutions used for the exchange of freight transport information.

II. **WORK IN OTHER INSTITUTIONS**

3. At the European Parliament (EP), the Committee on Transport and Tourism has been designated as the committee responsible for this file and Ms Claudia Schmidt (EPP, AT) as the rapporteur. The Parliament voted on the report and adopted its first reading position on 12 March 2019.
4. The European Economic and Social Committee adopted an opinion at the plenary session on 17 October 2018.
5. The Committee of the Regions decided not to issue an opinion on the proposal.

III. **STATE OF PLAY IN THE COUNCIL**

6. The Working Party on Transport - Intermodal Questions and Networks started its work in June 2018 with a general presentation of the proposal and its impact assessment. The proposal was studied at two further meetings of the Working Party in July 2018, resulting in a progress report¹ presented to the Council on 3 December 2018.

¹ 14231/18.

7. The Presidency continued work on the proposal and has dedicated five meetings to the detailed examination of the file between February and May 2019. Based on the comments provided by delegations at the Working Party meetings and in the form of written comments, the Presidency prepared three compromise texts which proposed solutions and clarifications to the Commission proposal on a number of articles, the main ones being the following:
- **Article 1 (Subject matter and scope):** it has been clarified to which regulatory information requirements the draft regulation applies. The list of relevant EU legislative acts has been moved from part A of Annex I to Article 1, in order to avoid the list of acts being modified in the future by delegated acts. Regulatory information requirements laid down in a delegated or implementing act adopted by the Commission pursuant to the legislative acts referred to in paragraph 2(a), as well as in two other EU legislative acts have been added to the scope.
 - **Article 3 (Definitions):** some of the existing definitions have been clarified and some new ones added.
 - **Article 5 (Requirements for competent authorities):** in respect of Regulation (EC) No 1013/2006² on shipments of waste it has been clarified that as regards information required to accompany each transport of waste, the eFTI proposal establishes an obligation for the authorities to accept regulatory information in electronic format when the operators concerned choose to present it electronically under the conditions of the eFTI regulation, and therefore no prior consent by the authorities is needed.
- Furthermore, a new paragraph has been introduced to ensure that in cases where regulatory information required includes official validation, such as stamps or certificates, the respective authority shall provide this validation electronically.

² Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ L 190, 12.7.2006, p. 1).

- **Article 7 (Common eFTI data set, procedures and rules for access)**: a new paragraph has been added which provides more detail regarding the content of the implementing acts to be adopted by the Commission. It has been clarified that when defining the eFTI common data set and subsets via implementing acts, the Commission will seek to achieve the interoperability of these with data models that are accepted internationally or at EU level, take into account relevant international conventions and Union acts, seek to enhance the efficiency of the administrative procedures and minimise compliance costs.
- **Article 8 (Functional requirements for eFTI platforms)**: some of the existing requirements have been clarified and some new ones added.
- **Articles 10-12 (Conformity assessment bodies and certification)**: a number of clarifications have been introduced as regards the responsibilities of Member States' bodies and designated authorities concerning the list of accredited conformity assessment bodies, and the certification of eFTI platforms and eFTI service providers.
- **Article 16 (Monitoring)**: a simplification of the monitoring and reporting responsibilities of Member States has been introduced.
- **Article 17 (Entry into force and application)**: the date of application of the draft regulation has been extended to six years following its entry into force with the aim to allow sufficient time for Member States to implement the measures, in particular following the adoption by the Commission of implementing acts three years after the entry into force of the regulation.

8. At the Working Party on 17 May 2019, delegations generally supported the Presidency compromise³ in view of a General Approach, while some requested further clarifications or voiced concerns on some of the Articles.

³ 7364/2/19 REV 2.

9. The Presidency compromise, which has been updated in the light of the comments received at the Working Party meeting of 17 May, is annexed to the report. They concern mainly the addition of a new definition in Article 3, reverting to the text of the original Commission proposal in paragraph 1 of Article 10, and the deletion of paragraph 1 in Article 16.
10. At this stage, a scrutiny reservation is maintained by all delegations on the latest version of the compromise in the annex. One delegation maintains a parliamentary scrutiny reservation.

IV. CONCLUSIONS

11. In the light of the above, the Permanent Representatives Committee is invited to endorse the compromise text presented in the annex to this report, and to invite the Council (Transport, Telecommunications and Energy) to agree on a General Approach at its meeting on 6 June 2019.

Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on electronic freight transport information
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91 and Article 100(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁴,

Having regard to the opinion of the Committee of the Regions⁵,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The efficiency of freight transport and logistics is vital for the competitiveness of the Union economy, the functioning of the internal market and the social and economic cohesion of all regions of the Union.

⁴ OJ C , , p. .

⁵ OJ C , , p. .

- (2) The movement of goods, including waste, is accompanied by a large amount of information which is still exchanged in paper format, among businesses and between businesses and ~~the~~ **public competent** authorities. The use of paper documents represents a significant administrative burden for logistic operators.
- (3) The absence of a uniform legal framework at Union level requiring ~~public~~ **competent** authorities to accept relevant freight transport information, required by legislation, in electronic form, is considered to be the main reason for the lack of progress towards the simplification and greater efficiency made possible by available electronic means. The acceptance by ~~public~~-**competent** authorities of information in electronic form and with common specifications would ease not only communication between them and operators but, indirectly, also the development of a uniform and simplified business-to-business electronic communication across the Union.
- (4) Some areas of Union transport law require competent authorities to accept digitised information, but this concerns by far not all relevant Union legislation. It should be possible to use electronic means to make regulatory information on transport of goods available to the **competent** authorities throughout the territory of the Union and in respect of all relevant phases of transport operations conducted within the Union. Furthermore, that possibility should apply to all regulatory information, in all transport modes.
- (5) ~~Member States~~² **Competent** authorities should therefore be required to accept information made available electronically whenever economic operators are obliged to make information available as proof of compliance with requirements laid down in Union acts covered by this Regulation. The same should apply where a Member State's national law requires the provision of regulatory information identical, in whole or in part, to information to be provided under such Union acts.

- (6) Since this Regulation is only intended to facilitate the provision of information, specifically, by electronic means, it should not affect the provisions of Union or national law determining the content of regulatory information and, in particular, should not impose any additional regulatory information requirements. While this Regulation is intended to allow compliance with regulatory information requirements through electronic means rather than by means of paper documents, it should not otherwise affect **the possibility for the economic operators concerned to present that information in paper format, as provided for in the relevant Union or Member States' acts, nor** the relevant Union provisions on requirements regarding the documents to be used for the structured presentation of the information in question. **In respect** ~~The provisions of~~ **Regulation (EC) 1013/2006**⁶ ~~Union legislation on shipments of waste~~ **the provisions** containing procedural requirements for the shipments **of waste and the provisions referring to controls by customs offices** should equally remain unaffected by this Regulation. This Regulation should also be without prejudice to the provisions on reporting obligations, **including in respect of the customs or other authorities competences, as** set out in Regulation (EU) No 952/2013⁷ or in implementing or delegated acts adopted under its terms or in Regulation (EU) no. XXX/2019 on EMSWe.
- (7) The use of electronic means for the exchange of information in accordance with this Regulation should be organised in a way that ensures security and respects the confidentiality of sensitive commercial information.
- (8) In order to enable operators to provide relevant information in electronic form in the same way in all Member States, it is necessary to rely on common specifications, to be adopted by the Commission through implementing acts. Those specifications should ensure data interoperability by establishing a single comprehensive data set to be used for the electronic communication of the information. This comprehensive data set should contain all data elements corresponding to the information requirements contained in each of the respective Union and Member State legal acts, where all data elements common to one or more subsets is included only once. Those specifications should also determine common procedures and detailed rules for access and processing of that information by the competent authorities.

⁶ Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ L 190, 12.7.2006, p. 1).

⁷ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

- (9) In defining those specifications, due account should be taken of relevant data exchange specifications laid down in relevant Union law, and in relevant European and international standards for data exchange, including multimodal **standards**, as well as of the principles and recommendations set out in the European Interoperability Framework⁸, which provides an approach to the delivery of European digital public services commonly agreed by the Member States. Due care should also be taken that these specifications remain technology neutral and open to innovative technologies.
- 9(a) With a view to minimising costs for both authorities and operators, the establishment of access points for the competent authorities could be considered. These access points would act only as intermediaries between the eFTI platforms and the competent authorities, and should therefore neither store nor process the eFTI data to which they mediate access **except for metadata connected to eFTI data processing, such as operation logs necessary for monitoring or statistical purposes**. One or more Member States could also agree to establish joint access points for their respective competent authorities.
- (10) This Regulation should establish the functional requirements applicable to information and communication technology (ICT) based platforms (eFTI platforms) which should be used by economic operators to make available the regulatory freight transport information in electronic format (eFTI) to the competent authorities **in order to meet the conditions for mandatory acceptance of this information by authorities, as laid down in this Regulation**. Conditions should also be established for third party platform services providers (eFTI services providers). **Those requirements and conditions should ensure, in particular, that all eFTI data can be processed solely according to a comprehensive rights- based access-control system that provides assigned functionalities.**

⁸ European Interoperability Framework – Implementation Strategy, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (COM(2017) 134).

- (11) To build the confidence of both ~~the Member States~~ authorities and the economic operators as regards the compliance of the eFTI platforms and eFTI services providers with those functional requirements, the Member States ~~competent authorities~~ should put in place a certification system underpinned by accreditation in accordance with Regulation (EC) 765/2008 of the European Parliament and of the Council⁹. ICT systems already in use should also be eligible **to apply** for certification under this certification system, provided they comply with the requirements for eFTI platforms laid down in this Regulation.
- (11a) Notwithstanding the obligation for ~~Member States'~~ **all competent** authorities to accept the information ~~delivered~~ **made available** through a certified eFTI platform in accordance with this Regulation, the competent authorities may also accept information delivered electronically through other systems if the Member State so chooses. At the same time, this Regulation should not prevent business-to-business use, as well as additional functionalities, of the eFTI platforms, as long as this does not affect the processing of the regulatory information falling under the scope of this Regulation in compliance with the Regulation's requirements.
- (12) In order to ensure uniform conditions for the implementation of the obligation to accept the regulatory information made available in electronic format pursuant to this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁰.
- (13) In particular, implementing powers should be conferred on the Commission to establish a common data set and subsets in relation to the respective regulatory information requirements covered by this Regulation, as well as common procedures and detailed rules for competent authorities for the access to and processing of that information where the economic operators concerned make this information available electronically, including detailed rules and technical specifications.

⁹ Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218 13.8.2008, p.30).

¹⁰ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (14) Implementing powers should also be conferred on the Commission to establish detailed rules for the implementation of the requirements for eFTI platforms and for eFTI services providers.
- (15) In order to ensure the proper application of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission:
- to amend Part B of Annex I, in order to incorporate the lists of regulatory information requirements in Member States' legislation notified to the Commission by the Member States in accordance with this Regulation;
 - to amend Part A of Annex I to take into account any delegated or implementing acts adopted by the Commission which establish new Union regulatory information requirements in relation to the transport of goods;
 - to amend Part B of Annex I to incorporate any new provision of relevant national law which introduces changes to the national regulatory information requirements, or lays down new relevant regulatory information requirements falling under the scope of this Regulation notified to the Commission by the Member States in accordance with this Regulation;
 - to supplement certain technical aspects of this Regulation, namely as regards the rules for certification of eFTI platforms and of eFTI services providers.
- (16) It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making¹¹. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

¹¹ OJ L 123, 12.5.2016, p. 1

- (17) Since the objectives of this Regulation, namely to ensure a uniform approach to acceptance by ~~Member State~~ **competent** authorities of freight transport information made available electronically, cannot be sufficiently achieved by the Member States but can rather, by reason of the need to establish common requirements, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (18) Processing by electronic means of personal data required as part of freight transport regulatory information should be carried out in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council¹².
- (19) The Commission should carry out an evaluation of this Regulation. Information should be collected in order to inform this evaluation, and to assess the performance of the legislation against the objectives it pursues.
- (20) This Regulation cannot be effectively applied before the delegated and implementing acts provided for in it have entered into force. This Regulation should therefore apply with effect from [please insert the date], in order to give the Commission time to adopt those acts.
- (21) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council¹³ and delivered an opinion on xx XXX 20xx¹⁴,

¹² Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

¹³ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

¹⁴ OJ C....

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter and scope

1. This Regulation establishes a legal framework for the electronic communication of regulatory information between the economic operators concerned and ~~Member States'~~ competent authorities related to the transport of goods on the territory of the Union. For that purpose, this Regulation:
 - (a) lays down the conditions under which ~~Member States'~~ competent authorities are required to accept regulatory information when made available electronically by economic operators concerned;
 - (b) lays down rules for the provision of services related to making regulatory information available electronically by the economic operators concerned to the competent authorities.

2. This Regulation applies to:

(a) regulatory information requirements set out in:

- EEC Council Regulation No. 11¹⁵, article 6(1);
- Directive 92/106/EEC¹⁶, article 3;
- Regulation (EC) No 1072/2009¹⁷, article 8(3);
- Regulation (EC) 1013/2006¹⁸, article 16(c) and article 18(1);
- in respect of of Directive 2008/68/EC¹⁹, chapter 5.4 of the Annexes to RID, ADR and ADN as referred to in Annex I, section I.1, Annex II, section II.1 and Annex III, section III.1 of that Directive²⁰.

In respect of Regulation (EC) 1013/2006, this Regulation does not apply to controls by customs offices, as provided for in the applicable Union provisions.

¹⁵ EEC Council: Regulation No 11 concerning the abolition of discrimination in transport rates and conditions, in implementation of Article 79 (3) of the Treaty establishing the European Economic Community (OJ English special edition: Series I Volume 1959-1962 p. 60).

¹⁶ Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States (OJ L 368, 17.12.1992, p. 38).

¹⁷ Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market (OJ L 300, 14.11.2009, p. 72).

¹⁸ Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ L 190, 12.7.2006, p. 1).

¹⁹ Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods (OJ L 260, 30.9.2008, p. 13–59).

²⁰ References to ADR, RID and ADN must be understood within the meaning of Article 2(1), 2(2) and 2(3) of Directive 2008/68/EC.

(b) regulatory information requirements laid down in a delegated or implementing act adopted by the Commission pursuant to legislative acts referred to in point (a), ~~as well as~~ **as or pursuant to** Directive 2016/797/EU²¹ ~~and~~ **or to** Regulation (EC) No 300/2008²². Those delegated or implementing acts shall be listed in part A of Annex I.

(c) regulatory information requirements set out in national law and listed in Part B of Annex I.

3. By [OP insert one year from the entry into force of this Regulation], the Member States shall notify the Commission of the provisions of national law and corresponding regulatory information requirements that require the provision of information identical, in whole or in part, to the information to be provided pursuant to regulatory information requirements referred to in paragraphs 2(a) and 2(b).

Subsequent to that notification, the Member States shall notify the Commission of any new provision of national law that:

(a) introduces changes to regulatory information requirements listed in part B of Annex I; or

(b) lays down new relevant regulatory information requirements identical, in whole or in part, to the information to be provided pursuant to regulatory information requirements referred to in paragraphs 2(a) and 2(b).

Member States shall make such notifications within one month from the adoption of such provision.

²¹ Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (OJ L 138, 26.5.2016, p. 44).

²² Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002 (OJ L 97, 9.4.2008, p. 72).

Article 2
Adaptation of Annex I

The Commission shall adopt delegated acts in accordance with Article 13, amending Annex I in order to:

- (a) include a reference to any regulatory information requirements referred to in Article 1(2)(b);
- (b) incorporate or delete references to national law and regulatory information requirements in accordance with the notifications made under Article 1(3).

Article 3
Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) 'regulatory information' means information, whether or not presented as a document, related to transport of goods in the territory of the Union, including by way of transit, which is to be made available by an economic operator concerned in accordance with the provisions referred to in Article 1(2) in order to prove compliance with the relevant requirements of the acts concerned;
- (2) 'regulatory information requirement' means a requirement to provide regulatory information;
- (2a) 'competent authority' means any public authority, agency or other body which has competence to perform tasks under the acts referred to in Article 1(2) and for which access to regulatory information is necessary, such as checking, enforcing, validating or monitoring compliance on the territory of a Member State;**
- (3) 'electronic freight transport information' (eFTI) means any set of data elements processed on electronic support for purposes of exchanging regulatory information among the economic operators concerned and with the competent authorities;

- (3a) ‘eFTI data subset’ means the set of structured data elements corresponding to the regulatory information required in a specific Union or Member State legal act referred to in Article 1(2).
- (3b) ‘eFTI common data set’ means the comprehensive set of structured data elements corresponding to all the eFTI data subsets, where the data elements common to the different eFTI data subsets are included only once;
- (3c) ‘data element’ means the smallest unit of information which has a unique definition and precise technical characteristics such as format, length and character type;
- (4) ‘processing’ means any operation or set of operations performed on eFTI, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;
- (4a) ‘operation log’ means an automated record of electronic processing of eFTI.
- (5) ‘eFTI platform’ means any information and communication technology (ICT) based solution, such as an operating system, an operating environment, or a database, intended to be used for the processing of eFTI;
- (6) ‘eFTI platform developer’ means any natural or legal person which has developed or acquired an eFTI platform either for purposes of processing of regulatory information related to its own economic activity, or for putting that platform on the market;
- (7) ‘eFTI service’ means a service consisting of eFTI processing by means of an eFTI platform, alone or in combination with other ICT solutions, including other eFTI platforms;
- (8) ‘eFTI service provider’ means any natural or legal person which provides an eFTI service to economic operators concerned on the basis of a contract;

- (9) 'economic operator concerned' means any transport or logistic operator, or any other natural or legal person, who is responsible for making regulatory information available to the competent authorities in accordance with the relevant regulatory information requirement;
- (10) 'human-readable format' means a way of representation of the data in electronic form that can be used as information by a natural person without requiring any further processing;
- (11) 'machine-readable format' means a way of representation of the data in electronic form that can be used for automatic processing by a machine;
- (12) 'conformity assessment body' means a conformity assessment body within the meaning of point 13 of Article 2 of Regulation (EC) No 765/2008, which is accredited in accordance with that Regulation to carry out conformity assessment of an eFTI platform or an eFTI service provider-
- (13) 'shipment' means the transport of a determined set of goods, including waste, between the first place of pick-up and final place of delivery under the terms of a single transport contract or multiple consecutive transport contracts including, where applicable, the transfer between different modes of transport, irrespective of the quantity or number of containers, packages, or pieces concerned.

CHAPTER II

REGULATORY INFORMATION MADE AVAILABLE ELECTRONICALLY

Article 4

Requirements for economic operators concerned

For the purposes of Article 5(1) economic operators shall comply with the requirements set out in this Article.

Where economic operators concerned make regulatory information available electronically to ~~the Member States'~~ **a** competent **authority** ~~authorities~~, they shall do so on the basis of data processed in a certified eFTI platform and, if applicable, by a certified eFTI service provider. The regulatory information shall be made available by the economic operators in machine-readable format and, at the request of the competent authority, in human-readable format.

Information in machine-readable format shall be made available via an authenticated and secure connection to the data source of an eFTI platform. Economic operators concerned shall communicate the unique electronic identifying link referred to in Article 8(1) paragraph (c) allowing the competent authority to uniquely identify the regulatory information related to the shipment.

Information in human-readable format shall be made available on the spot, on the screen of electronic devices owned by the economic operator concerned.

Article 5

Requirements for competent authorities

1. ~~Member States~~² Competent authorities shall accept regulatory information made available electronically by the economic operators concerned in accordance with Article 4.

Where the economic operator concerned has made electronically available, in accordance with Article 4, regulatory information required under Regulation (EC) No 1013/2006 on shipments of waste the competent authorities concerned shall accept such regulatory information also without the agreement referred to in Article 26 paragraphs 3 and 4 of that Regulation.

Where regulatory information required in a specific Union or Member State legal act referred to in Article 1(2) includes official validation, such as stamps or certificates, the respective authority shall provide this validation electronically, in accordance with the requirements established pursuant to Article 7.

2. In order to comply with the requirements set out in paragraph 1, Member States shall take measures to enable their competent authorities to access and process the regulatory information made available by economic operators in accordance with Article 4. Those measures shall be in accordance with the provisions established pursuant to Article 7.

Article 6

Confidential commercial information

The competent authorities, eFTI services providers and economic operators concerned shall take measures to ensure confidentiality of commercial information processed and exchanged in accordance with this Regulation and ensure that such information can be accessed and processed only when authorised.

Article 7

Common eFTI data set, procedures and rules for access

1. The Commission shall, by means of implementing acts:
 - (a) establish and amend the eFTI common data set and data subsets in relation to the respective regulatory information requirements, as referred to in Article 1(2), including corresponding specifications for each data element included in the common data set and subsets;
 - (b) define common procedures and detailed rules, including common technical specifications, for competent authorities' access to eFTI platforms, including procedures for processing of regulatory information.
2. In adopting the implementing acts referred to in paragraph 1, the Commission shall:
 - a) take into account relevant international conventions and Union acts;
 - b) seek to achieve the interoperability of the eFTI common data set and data subsets with relevant **data models accepted** internationally **or at Union level** ~~accepted data models~~, including multimodal data models; and
 - c) seek to enhance the efficiency of the administrative procedures and minimise compliance costs both for the economic operators and authorities concerned.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14(2). The first such implementing act covering all elements referred to in paragraph 1 shall be adopted no later than [3 years after the date of entry into force of this Regulation].

CHAPTER III

EFTI PLATFORMS AND SERVICES

SECTION 1

REQUIREMENTS FOR EFTI PLATFORMS AND SERVICES

Article 8

Functional requirements for eFTI platforms

1. The eFTI platforms used for processing regulatory information shall provide functionalities that ensure that:
 - (a) personal data can be processed in accordance with Regulation (EU) 2016/679²³;
 - (b) commercial data can be processed in accordance with Article 6;
 - (ba) ~~Member States'~~ **competent** authorities can access and process the data in accordance with the specifications adopted pursuant Article 7;
 - (bb) economic operators concerned can make the information available to the **competent** authorities in accordance with Article 4.
 - (c) a unique electronic identifying link can be established between a shipment and the related eFTI data elements, including a structured reference to the eFTI platform where the data is made available, such as a unique reference identifier;

²³ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (*OJ L 119, 4.5.2016, p. 1*).

- (d) data can be processed solely on the basis of authorised and authenticated access and according to clearly defined and assigned processing rights;
 - (e) all data processing is duly recorded through operation logs in order to allow, at a minimum, the identification of each distinct processing operation, the natural or legal person having made the operation and the sequencing of the operations on each individual data element; if an operation involves modifying or erasing an existing data element, the original data element shall be preserved;
 - (f) data can be archived and remain accessible for the competent authorities for the period of time specified in the legislation laying down the respective regulatory information requirements;
 - (fa) the operation logs referred to in point (e) are archived and remain accessible for the competent authorities, for auditing ~~and monitoring~~ purposes, for the period of time specified in the legislation laying down the respective regulatory information requirements **and, for monitoring purposes, for the periods of time referred to in Article 16.**
 - (g) data is protected against corruption and theft;
 - (h) the data elements processed correspond to the common eFTI data set and subsets as established according to the provisions of Article 7, and can be processed in any of the official languages of the Union as provided by the act laying down the respective regulatory information requirements.
2. The Commission shall adopt, by means of implementing acts, detailed specifications regarding the requirements laid down in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14(2). The first such implementing act covering all elements referred to in the first paragraph shall be adopted no later than [3 years after the date of entry into force of this Regulation.]

Article 9
Requirements for eFTI service providers

1. eFTI service providers shall ensure that:
 - (a) data is processed only by authorised users and according to clearly defined and assigned processing rights within the eFTI platform, in accordance with the relevant regulatory information requirements;
 - (b) data is stored and accessible for the period of time specified in the legislation laying down the respective regulatory information requirements;
 - (c) competent authorities have immediate access to regulatory information concerning a freight transport operation processed by means of their eFTI platforms, free of any charges or fees;
 - (d) data is appropriately secured, including against unauthorised or unlawful processing and against accidental loss, destruction or damage.
2. The Commission shall adopt, by means of implementing acts, detailed rules regarding the requirements laid down in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14(2). The first such implementing act covering all elements referred to in the first paragraph shall be adopted no later than [3 years after the date of entry into force of this Regulation].

SECTION 2

CERTIFICATION

Article 10

Conformity assessment bodies

1. Conformity assessment bodies shall be accredited according to Regulation (EC) No 765/2008 for the purposes of performing the certification of eFTI platforms and service providers as set out in Articles 11 and 12 of this Regulation. ~~The Commission may, by means of implementing act, establish a reference number for the standard for accreditation of the conformity assessment bodies. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 14(2).~~
2. For the purposes of accreditation, a conformity assessment body shall meet the requirements laid down in Annex II. National accreditation bodies shall communicate to the ~~designated competent~~ authority **designated in accordance with** ~~referred to in~~ paragraph 3 the link to the website where they make public the available information on the accredited conformity assessment bodies, including an up-to-date list of these bodies.
3. Each Member States shall designate ~~an competent~~ authority that shall maintain an up to date list of the accredited conformity assessment bodies, the eFTI platforms and the eFTI service providers holding a valid certification on the basis of the information provided in accordance with Articles 10(2), 11(2) and 12(2). Those designated ~~competent~~ authorities shall make that list publicly available on an official government website.
4. By 31 March each year, the Member States' designated authorities shall notify the lists referred to in paragraph 3 to the Commission, together with the address of the website where that list has been published. The Commission shall publish a link to those website addresses on its official webpage.

Article 11
Certification of eFTI platforms

1. Upon request of an eFTI platform developer, conformity assessment bodies shall assess the compliance of the eFTI platform with the requirements laid down in Article 8(1). In case of a positive assessment, a compliance certificate shall be issued. If the assessment is negative, the conformity assessment body shall provide the necessary justification to the applicant.
2. Conformity assessment bodies shall maintain an up to date list of eFTI platforms they have certified and for which they withdrew or suspended the certification. They shall make this list publicly available on their website and shall communicate the link to that website address to the designated ~~competent~~ authority referred to in Article 10(3).
3. Information made available to competent authorities by means of a certified eFTI platform shall be accompanied by a certification mark.
4. The eFTI platform developer shall apply for a reassessment of its certification if the technical specifications adopted in the implementing acts referred to in Article 7(2) are revised.
5. The Commission is empowered to adopt delegated acts in accordance with Article 13 to supplement this Regulation with rules on certification and the use of the certification mark, including on the renewal, suspension and withdrawal of the certification of eFTI platforms.

Article 12

Certification of eFTI service providers

1. Upon request of an eFTI service provider, a conformity assessment body shall assess the compliance of the eFTI service provider with the requirements laid down in Article 9(1). In case of a positive assessment, a compliance certificate shall be issued. If the assessment is negative, the conformity assessment body shall provide the necessary justification to the applicant.
2. Conformity assessment bodies shall maintain an up to date list of the eFTI service providers they have certified and for which they withdrew or suspended the certification. They shall make this list publicly available on their website and shall communicate the link to that website address to the designated ~~competent~~ authority referred to in Article 10(3).
3. The Commission is empowered to adopt delegated acts in accordance with Article 13 to supplement this Regulation with rules on certification of eFTI service providers, including on the renewal, suspension and withdrawal of the certification.

CHAPTER IV

DELEGATIONS OF POWER AND IMPLEMENTING PROVISIONS

Article 13

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 2, Article 11(5) and Article 12(3) shall be conferred on the Commission for period of five years from [date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension no later than three months before the end of each period.
3. The delegation of power referred to in Article 2, Article 11(5), Article 12(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 2, Article 11(5) and Article 12(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 14

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

CHAPTER V

FINAL PROVISIONS

Article 15

Review

1. By [five years from the date of application of this Regulation] at the latest the Commission shall carry out an evaluation of this Regulation and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee.
2. Member States shall provide the Commission with the necessary information set out in Article 16 for the preparation of that Report.

Article 16

Monitoring

The Member States shall provide the following information to the Commission every five years and for the first time by [three years from the date of application of this Regulation] at the latest:

- ~~1. the number of competent authorities which have implemented measures to access and process information made available by economic operators concerned in accordance with Article 5(2);~~
2. based on the operation logs referred to in Article 8(1)(e) and 8(1)(fa), the number of times the competent authorities accessed and processed the regulatory information made available electronically by the economic operators concerned in accordance with Article 4.

The information shall be provided for each year covered by the reporting period.

Article 16a
Transitional measures

Without prejudice to the date of application provided for in Article 17, Member States shall notify national law to the Commission in accordance with Article 1(3) by [the date specified in that provision] and the Commission shall adopt the first implementing acts referred to Articles 7, second sub-paragraph, 8(2a) and 9(2) by [the date specified in those provisions].

Article 17
Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from [OP insert six years from the entry into force].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX I

REGULATORY INFORMATION FALLING UNDER THE SCOPE OF THIS REGULATION

PART A - Regulatory information requirements referred to in article 1(2)b

List of delegated and implementing acts referred to in article 1(2)b:

- 1) Commission Implementing Regulation (EU) 2015/1998 laying down detailed measures for the implementation of the common basic standards on aviation security: Annex 6.3.2.6 (a), (b), (c), (d), (e), (f) and (g).

PART B - Member States' law

The relevant Member States' national law requiring the provision of information identical, in whole or in part, to the information specified in point a) and b) of Article 1(2) are listed below.

[Member State]

1) Legal act: [provision]

ANNEX II
REQUIREMENTS RELATING TO CONFORMITY ASSESSMENT BODIES

[...]

2. A conformity assessment body shall be established under national law of a Member State and have legal personality.
3. A conformity assessment body shall be a third-party body independent of the organisation or the eFTI platform or platform service provider it assesses.

A body belonging to a business association or professional federation representing undertakings involved in the design, manufacturing, provision, assembly, use or maintenance of eFTI platform or platform service provider which it assesses may, on condition that its independence and the absence of any conflict of interest are demonstrated, be considered such a body.

4. A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks shall not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the eFTI platform or platform service provider which they assess, nor the representative of any of those parties.

A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks shall not be directly involved in the design, manufacture or construction, the marketing, installation, use or maintenance of that eFTI platform or platform service provider, or represent the parties engaged in those activities. They shall not engage in any activity that may conflict with their independence of judgement or integrity in relation to conformity assessment activities for which they are notified. This shall in particular apply to consultancy services.

Conformity assessment bodies shall ensure that the activities of their subsidiaries or subcontractors do not affect the confidentiality, objectivity or impartiality of their conformity assessment activities.

5. Conformity assessment bodies and their personnel shall carry out the conformity assessment activities with the highest degree of professional integrity and the requisite technical competence in the specific field and shall be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their conformity assessment activities, especially as regards persons or groups of persons with an interest in the results of those activities.
6. A conformity assessment body shall be capable of carrying out all the conformity assessment tasks assigned to it by Articles 11 and 12, whether those tasks are carried out by the conformity assessment body itself or on its behalf and under its responsibility.

A conformity assessment body shall have at its disposal the necessary:

- (a) personnel with technical knowledge and sufficient and appropriate experience to perform the conformity assessment tasks;
- (b) descriptions of procedures in accordance with which conformity assessment is carried out, ensuring the transparency and the ability of reproduction of those procedures.
- (c) procedures for the performance of activities which take due account of the size of an undertaking, the sector in which it operates, its structure and the degree of complexity of the technology in question.

A conformity assessment body shall have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner.

7. The personnel responsible for carrying out conformity assessment tasks shall have the following:
 - (a) sound technical and vocational training covering all the conformity assessment activities;
 - (b) satisfactory knowledge of the requirements of the assessments they carry out and adequate authority to carry out those assessments;

- (c) appropriate knowledge and understanding of the requirements set out in Article 9;
 - (d) the ability to draw up compliance certificates, records and reports demonstrating that assessments have been carried out.
8. The impartiality of the conformity assessment bodies, their top level management and of the personnel responsible for carrying out the conformity assessment tasks shall be guaranteed.

The remuneration of the top level management and personnel responsible for carrying out the conformity assessment tasks of a conformity assessment body shall not depend on the number of assessments carried out or on the results of those assessments.

9. Conformity assessment bodies shall take out liability insurance unless liability is assumed by the State in accordance with national law, or the Member State itself is directly responsible for the conformity assessment.
10. The personnel of a conformity assessment body shall observe professional secrecy with regard to all information obtained in carrying out their tasks under Articles 11 and 12 or any provision of national law giving effect to them, except in relation to the competent authorities of the Member State in which its activities are carried out. Proprietary rights shall be protected.
11. Conformity assessment bodies shall participate in, or ensure that their personnel responsible for carrying out the conformity assessment tasks are informed of, the relevant standardisation activities and relevant regulatory activities.

