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## **REPORT**

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/ Council
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Subject:	Preparation of the Council meeting ( <u>Transport</u> , Telecommunications and Energy) on 18 June 2024  Proposal for a Directive of the European Parliament and of the Council amending Council Directive 92/106/EEC as regards a support framework for intermodal transport of goods and Regulation (EU) 2020/1056 of the European Parliament and the Council as regards calculation of external costs savings and generation of aggregated data  – Progress report

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## **I. INTRODUCTION**

1. On 7 November 2023, the Commission submitted the above-mentioned proposal (hereinafter “Combined Transport Directive”) to the European Parliament and to the Council.
2. The proposal completes the Greening Freight Transport package adopted in July 2023 in the context of the Smart and Sustainable Mobility Strategy to improve the performance of freight transport and contribute to achieving the goal of climate neutrality by 2050.
3. The package also includes a proposal for amending the Directive on Weights and Dimensions for certain road vehicles, a proposal for a Regulation on the accounting of greenhouse gas emissions of transport services (‘CountEmissions EU’) and a proposal for a Regulation on the use of railway infrastructure capacity in the single European railway area.

4. The Combined Transport Directive proposes to amend the Directive currently in force<sup>1</sup>, aiming to further promote the shift of freight transport from road to more environmentally friendly modes such as rail, inland waterways and short-sea shipping, with a view to reduce the external costs of the Union transport system.
5. To achieve this objective, the proposal establishes an overall support framework for the uptake of intermodal transport carried out fully or in part in the territory of the Union. Most importantly, it sets dedicated incentives for boosting the competitiveness of combined transport defined as a subset of intermodal transport that saves a certain level of external costs.
6. The Combined Transport Directive also proposes to amend Regulation (EU) 2020/1056 on electronic freight transport information<sup>2</sup> (hereinafter “eFTI”), so that eFTI platforms can calculate the external costs and generate aggregated data for better monitoring, thereby replacing paper documents.
7. The proposal is the third attempt to amend the 1992 directive, which is considered outdated and limited in scope. The Commission proposals for a revision of the legal act in 1998 and in 2017 were subsequently withdrawn.

## **II. WORK AT OTHER INSTITUTIONS**

8. The European Parliament designated the Transport and Tourism Committee (TRAN) as responsible committee. On 5 December 2023 TRAN appointed Mr Massimiliano Salini (EPP, IT) as rapporteur.
9. On 1 March 2024, TRAN published a working document<sup>3</sup> with recommendations by the rapporteur.

The TRAN draft report will be tabled in the new parliamentary term.

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<sup>1</sup> 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. 38–42.

<sup>2</sup> Regulation (EU) 2020/1056 of the European Parliament and of the Council of 15 July 2020 on electronic freight transport information, *OJ L 249*, 31.7.2020, p. 33–48.

<sup>3</sup> [https://www.europarl.europa.eu/doceo/document/TRAN-DT-759727\\_EN.pdf](https://www.europarl.europa.eu/doceo/document/TRAN-DT-759727_EN.pdf)

10. The European Economic and Social Committee adopted its opinion at its 585<sup>th</sup> plenary session on 14 February 2024. The Committee of the Regions adopted its opinion at its 159<sup>th</sup> plenary session, 31 January – 1 February 2024.

### **III. WORK WITHIN THE COUNCIL**

11. The Commission presented the proposal and its impact assessment at the Working Party on Transport - Intermodal Questions and Networks on 19 November 2023 during the Spanish Presidency.
12. The in-depth examination of the proposal started under the Belgian Presidency. The Working Party held eleven discussions between 12 January and 31 May 2024 resulting in seven compromise texts. At the beginning of the discussions, the Commission clarified the complementarity between the proposal and the proposed revision of the directive on the weights and dimensions of certain vehicles after questions raised by several Member States.

#### ***Definition of combined transport (Article 1c)***

- *40% external costs savings*

Most of the questions and comments revolved around the newly proposed definition of combined transport, which significantly departs from the current rules. To qualify as combined transport (and hence be eligible for dedicated support measures), an intermodal transport operation needs to produce at least 40% less external costs (greenhouse gas emissions, air pollution, injuries and fatalities, noise and congestion) than an alternative road-only operation. The methodology for the calculation of external costs is envisaged to be established by means of an implementing act, using the unit values in the Handbook on the external costs of transport<sup>4</sup> in its future updated edition.

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<sup>4</sup> European Commission, Directorate-General for Mobility and Transport, Essen, H., Fiorello, D., El Beyrouty, K. et al., *Handbook on the external costs of transport – Version 2019 – 1.1*, Publications Office, 2020, <https://data.europa.eu/doi/10.2832/51388>

While some delegations supported the new approach, others questioned the rationale of the 40%, the lack of differentiation of external cost values according to national geography and the use of an implementing act. Many delegations found the definition too complex and non-transparent. Several Member States jointly suggested to revert to the distance-based definition from the 2018 Council general approach<sup>5</sup> as a starting point.

- *New simplified methodology*

In response to the calls for clarity and transparency, the Presidency, following a proposal by one delegation, developed a new simplified calculation method and suggested to add it as an annex to the basic act. The formula was based on the distance of the different legs of an intermodal operation and a bi-modal ratio between the external costs of road transport and the external costs of each non-road mode (rail, inland waterways and short sea shipping). The 40% threshold of external costs savings was kept in the proposal.

Although many delegations appreciated the effort to find a simplified and clear calculation, the Presidency proposal did not gather enough support, especially from those delegations who had suggested to go back to the definition from the Council general approach of 2018.

- *Ratio of non-road to road legs*

Following up on comments in the Working Party, the Presidency focused next on a new entirely distance-based solution expressed as a ratio between the length of non-road to road legs, without calculating external costs but implicitly saving them due to the use of non-road legs. The proposed amendment states that in a combined transport operation at least 50% of the total distance must be covered by non-road transport modes.

While some delegations found the new definition a step in the right direction, others expressed concerns that it could lead to very long road legs.

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<sup>5</sup> ST 15147/18

- *Islands and island Member States*

Since the condition defining combined transport was proposed to be changed from a threshold of external costs savings to at least 50% of non-road transport leg(s), the compromise introduced a new provision on islands and island Member States in Article 1c(2)(b) and Article 1b(8) to include in the scope of the Directive freight connections between islands and island Member States and the mainland. This provision was added by the Presidency at the request of the Member States concerned.

The Working Party explored various options for a coherent and effective definition of combined transport and further work will be needed to gather sufficient support from delegations.

***eFTI platforms (amended Article 3)***

The Commission proposal provides for combined transport organisers to record data in eFTI platforms before the start of an operation. Based on that input, the eFTI platforms will make the necessary calculations for proof of compliance, thereby determining the eligibility of an intermodal operation for the measures dedicated to combined transport.

The eFTI Regulation lays down an obligation on Member States' competent authorities to accept regulatory information made available electronically by the economic operators (Article 5). However, the obligation for the economic operators to make available electronically regulatory information to competent authorities is envisaged as a possible initiative following a review of the eFTI Regulation no later than 21 February 2029 (Article 16 of the Regulation).

During the discussions in the Working Party, some delegations supported the use of eFTI platforms in line with the objectives on digitalisation of freight transport in the Union.

The majority, however, expressed concerns that the platforms are not yet operational and opposed the provision which would, in effect, make their use mandatory for combined transport operators.

Responding to Member States' concerns, the Presidency proposed a review clause and a deferral of application of this provision.

Further work will be needed to define the use of eFTI platforms, especially as regards the correlation between the transposition of the Directive and the implementation and operationalisation of eFTI platforms.

### ***National policy frameworks (Article 3a)***

Article 3a establishes an obligation on Member States to adopt, publish, implement and evaluate national policy frameworks for supporting intermodal transport and, in particular, combined transport operations. It also sets a target of an overall reduction of at least 10% of the total costs of combined transport operations in their territory. A non-exhaustive indicative list of support measures is added in an annex.

Many delegations opposed the mandatory nature of the national policy frameworks and questioned the related target of 10% total cost reduction of combined transport operations.

The Presidency compromise text adapted the requirements for the national policy frameworks, deferring the adoption of the national policy frameworks from 24 to 36 months after the entry into force of the Directive. The period for aiming to achieve the 10% target was extended from 7 years and 6 months to 8 years after the entry into force of the Directive.

In addition, paragraph 5a was inserted according to which Member States may decide not to apply support measures to a road leg which is transiting their territory without loading or unloading freight.

### ***Exemption from weekend, night and holiday bans (Article 9a)***

The proposal introduces a new EU-wide regulatory exemption from national driving bans for vehicles carrying out the road legs of combined transport operations. Discussions in the Working Party showed that delegations are very much divided on this issue and further work needs to be done.

### ***Other suggested amendments***

In the course of seven compromises, the Presidency introduced various other changes to the Commission proposal in response to delegations' comments. These changes include, among others:

- *The title of the Directive was amended to specify that the support framework for intermodal transport includes “dedicated measures for combined transport of goods”.*

- *Definition of a transport organiser was added in Article 1b(14).*
- *An exception from the requirement for ISO identification of intermodal loading units was added for a road vehicle or a non-craneable unit transported by rail, inland waterways or sea for the non-road segment of the journey.*
- *The original wording of Article 2 from the 1992 directive was kept, as its rephrasing in the Commission proposal raised too many questions on interpretation.*
- *Clarification of the proof of compliance in amended Article 3(4) was added.*
- *Changed proposed amendments to the eFTI Regulation were included to take into account the calculation of the 50% minimum share of non-road leg(s).*
- *The list of taxes in Article 6(3) was updated at the request of several Member States.*
- *The references in Article 9 were updated but the original wording was kept, as the newly proposed rephrasing raised too many questions on interpretation.*
- *Minor additions were done to the non-exhaustive indicative list of support measures in Annex II.*
- *A detailed list of transparency requirements on terminals was added as Annex III, thereby revoking the implementing powers delegated to the Commission on this point.*
- *Transshipment points were added in recital 6.*

#### **IV. CONCLUSION**

13. Coreper, following its meeting on 5 June 2024, invites the Council to take note of the report with a view to preparing further progress on the Combined Transport Directive.