

## European Commission proposal to amend the EU Combined Transport Directive

**IRU Position on the European Commission proposal to amend Directive 92/106/EEC on the combined transport of goods.**

### I. IRU POSITION

IRU recognises the European Commission's efforts to revise and modernise Directive 92/106/EEC on combined goods transport. The use of intermodal and combined transport should be further encouraged. One way to achieve this is by enhancing modal cooperation rather than modal shift. More intermodal and combined transport is needed to manage expected freight transport demand increases until 2050.

IRU fears that the European Commission's proposed solutions are inadequate and too complex to encourage the freight transport and logistics sector to opt for intermodal and combined transport solutions more often.

IRU calls for a radical reconsideration of the proposal's key pillars: the incentives offered and the conditions to benefit from them. The proposed reduction of externalities and related reporting risks a reduction in opportunities to benefit from incentives as the proposal fails to consider that unimodal road freight transport will further decarbonise and continue to reduce its external costs. A simpler and more sustainable approach over time is needed.

IRU suggests the following key improvements to the proposal:

- The use of a simplified version of the distance criteria to determine **eligibility for combined transport incentives**. This is the most mode-neutral approach and always gives intermodal and combined transport an edge over unimodal transports.
- More **incentives** for road goods transport operators using intermodal and combined transport. These should include: no additional administrative burdens and costs; investment support in combined transport compatible road goods transport vehicles and vehicle units; environmental bonuses for road user charges of the road legs; and compensations for delays and cancellations under well-defined conditions. The incentives should be harmonised across the EU.

IRU also has the following additional proposals:

- A voluntary use of an electronic freight transport information platform (**eFTI platform**) in accordance with Regulation (EU) 2020/1056.
- Fine-tuning the **own account definitions** using elements of Regulation (EC) No 1072/2009 and of the current Directive 92/106/EEC.
- Ensuring that Member States' **national policy frameworks are compatible** to guarantee efficient cross-border intermodal and combined transport operations.
- Avoiding the deployment of **state aid measures** by Member States and instead focusing on other options such as taxes, charges and duties linked to performance criteria to enhance competitiveness.

## II. ANALYSIS

On 7 November 2023, the European Commission tabled a legislative proposal ([COM\(2023\) 702](#)) to amend Directive 92/106/EEC as the last component of the [Greening Freight Package](#). IRU is concerned that the European Commission's proposal will reduce the attractiveness of using intermodal and combined transport rather than improving it. It is essential that the logistics chain opts more frequently for intermodal and combined transport options. Simpler conditions are needed to make operations eligible for incentives and more incentives should be offered in a harmonised way.

### IRU calls for:

- A radical reconsideration of the key pillars of the proposal: the offered incentives and the conditions to benefit from them. The proposed reduction of externalities and related reporting risks a reduction in opportunities to benefit from incentives as the proposal fails to consider that unimodal road freight transport will further decarbonise and will also continue to reduce its external costs. A simpler and more sustainable approach over time is needed.
- A prioritisation of cooperation between freight transport modes rather than forcing a modal shift.

### 1. External cost approach

The newly proposed conditions to become eligible for incentives by demonstrating 40% lower external costs compared with a unimodal road transport operation have become excessively complex and burdensome and could discourage parties in the logistics chain from opting for intermodal and combined transport. The explanatory memorandum of the proposal indicates that rail and inland waterways have external costs three times lower than average road freight, which is already a very significant benefit for intermodal and combined transport. It does not make sense to ask for a further 40% reduction to benefit from incentives. The proposal does not provide a detailed description of how this will work and is not compatible with other relevant Union legal acts such as the Eurovignette Directive on road user charging. The proposal assumes that unimodal road freight transport will stagnate in terms of greening. It fails to appreciate the fact that unimodal road freight transport will further decarbonise and reduce its external costs. This failure will lead to reduced opportunities to benefit from intermodal and combined transport incentives.

Legal certainty is essential. Using an untested electronic freight transport information (eFTI) legal framework and making it mandatory does not contribute to providing certainty. Road goods transport operators already need to have guarantees about incentive eligibility at the stage where they participate in tenders, provide offers and negotiate contracts.

The new obligation could also introduce additional emission-related reporting whereas the freight transport and logistics industry already deals with several emission-related reporting obligations. A clear and uniform system across the EU should therefore be implemented to avoid fragmented reporting. The industry is not waiting for an additional administrative burden, even more so in the case of small and medium-sized enterprises (SMEs). Compatibility should be ensured with other Union legal acts, such as CountEmissionsEU, the Corporate Sustainability Reporting Directive (CSRD) and the European Sustainability Reporting Standards (ESRS).

Moreover, the proposal should adequately address the use of intermodal and combined transport operations in situations where there is simply no alternative, such as transports involving islands. Incentives should not only be provided to intermodal and combined transport where there are parallel unimodal road transport alternatives, they should also be granted to all intermodal and combined operations, including those where rail or maritime legs are insurmountable to reach islands.

IRU suggests replacing the burdensome external cost approach proposed by the European Commission by a simpler version of the currently used distance-based approach. It is the most mode-neutral approach and most sustainable over time.

**IRU calls for:**

- The use of a distance-based approach to determine the eligibility of an intermodal or combined transport operation for incentives. This could be done by either using a fixed distance for the road leg and minimum distance for the non-road leg or a ceiling for the distance of the road legs as a maximum of the total distance of the operation. If an appropriate intermodal or combined transport terminal could not be reached within a set distance, the terminal operator would be obliged to provide the road goods transport operator with the necessary justification to drive a longer distance. This justification should not be refused by control authorities.
- The recognition of operations with a maritime or inland waterway leg but without a parallel unimodal road goods transport alternative as intermodal or combined transport eligible for incentives.

**2. Additional incentives for combined transport**

The proposed incentives promoting combined transport operations are disproportionate to the complexity to benefit from them. If intermodal and combined transport are to be encouraged throughout the EU, the new rules must avoid creating disparities between Member States. Exemptions from traffic bans, for example, may pose a challenge for combined transport operations, since Member States could decide against granting them. Encouraging cross-border operations requires a harmonised approach to incentives, limiting the freedom of Member States to take unilateral decisions.

The inclusion of the incentive allowing a maximum authorised weight of 44 tonnes for all road legs of combined transport is positive. It is important to maintain compatibility between the combined transport and weights and dimensions rules. Additional weight allowed for alternatively fuelled and zero-emission vehicles should come on top of the 44-tonne maximum authorised weight.

More incentives should be granted and made available in a harmonised way across the EU to avoid distortions of competition and a level further development of intermodal and combined transport services in all EU Member States.

Firstly, no additional administrative burden and costs such as those to comply with certain standards should be imposed.

Secondly, support should be granted for the investment in intermodal and combined transport compatible road goods transport vehicles and vehicle units, including cranable trailers and semi-trailers; these are already offered by certain Member States such as Germany.

Thirdly, environmental bonuses should be given for road user and external cost charges that are paid for the road legs of an intermodal or combined transport operation. A vehicle used in a road leg should be placed in a more favourable charging category compared with a unimodal road freight transport operation.

Fourthly, a compensation scheme should be established for road goods transport operators to use under certain conditions in case of delays or cancellation of services occur on the non-road legs of an intermodal or combined transport operation. One condition is a contractual penalty incurred by a freight transport operator due to a delay or cancellation in the non-road leg. A shared liability clause should be included in the scheme to allow compensations to be claimed in such cases. A second condition is where a Member State makes the use of intermodal or combined transport mandatory on certain routes or for the carriage of certain types of goods as is the case in Austria. As road goods transport operators restricted in finding alternatives in such a situation, compensation should also be granted to road goods transport operators for delays and cancellations.

Lastly, the Combined Transport Directive should be aligned with other EU legal acts which offer incentives, such as state aid rules, the TEN-T Regulation and the weights and dimensions rules.

**IRU calls for:**

- No additional administrative burden or costs.
- Supporting investment in intermodal and combined transport compatible road goods transport vehicles and vehicle units.
- Allowing a maximum authorised weight of 44 tonnes for road legs of cross-border intermodal and combined transport operations. Additional weight for alternatively fuelled and zero-emission vehicles should be added to the 44 tonnes.
- An environmental bonus for vehicles used in a road leg of an intermodal or combined transport operation in the form of a more favourable charging class.
- The introduction of a compensation system to be usable in certain conditions, in case of delays and cancellations occurred during the non-road leg of an intermodal or combined transport operation.

**3. Proving compliance with the use of an eFTI platform**

A mandatory use of the eFTI framework is foreseen as one of the conditions to prove compliance with the EU intermodal and combined transport rules. Unfortunately, the eFTI framework has not yet been tested in a real operational framework and is not yet fully operational in all EU Member States. This makes it challenging to already make its use mandatory. Therefore, it is not without risk to only rely on an untested framework to prove compliance. IRU therefore supports a voluntary use of eFTI, as compatible with Regulation (EU) 2020/1056. It is essential that the information requirements used to prove compliance are compatible with what is determined by other relevant Union legal acts.

It is difficult to prove compliance with the provisions of Directive 92/106/EC, such as obtaining a stamp from the used intermodal or combined transport terminals. IRU is concerned that the current proposal does not include all the information elements which will make it possible for a road goods transport operator to prove that a road leg of a cross-border intermodal or combined transport operation. Today, transport operators use a mix of information to prove compliance, including information required under the current Directive, Regulation No 11, Regulation (EC) 1072/2009, and other information such as GPS and tickets for the use of another mode of transport. Road transport operators should be at least able to prove the following elements: start and end of a road leg, distances, the terminals used, and previous and subsequent carriers used during an operation with the possibility to indicate subcontractors. It should be noted that not all information is available before the start of the operation, it should be possible to add and complement with additional information on route as it becomes available.

Moreover, the obligation to make annual aggregated data on combined transport operations available to the European Commission is concerning. The transfer of data between an economic operator (in this case a road goods transport operator) and a competent authority should be limited to what is needed to verify compliance with the provisions of the Directive. It is equally necessary to respect the relevant rules relating to the confidentiality of corporate and personal data, including rules under Regulation (EU) 2016/679 (General Data Protection Regulation).

**IRU calls for:**

- A voluntary use of eFTI to prove compliance with this Directive. The possibility to use paper for proof of compliance should be kept.
- The following information elements to be made available for proof of compliance: start and end of a road leg, distances, the terminals used, and previous and subsequent carriers used during an operation with the possibility to indicate subcontractors.
- The possibility to complement the information elements during an intermodal or combined transport operation.

#### **4. Unaccompanied transport**

Several types of intermodal loading units, including different sizes of containers, swap bodies, trailers, and semitrailers, are used for unaccompanied operations. These units do not automatically receive identifications and markings established pursuant to the latest versions of the international standards ISO6346 or EN13044. The owners of the units must apply for the identification and markings and renew them every year at a cost. Currently, the request for identification and marking costs EUR 250 per loading unit with an annual renewal cost of EUR 100 per loading unit. It is understood that the intermodal loading unit code (ILU-code) is currently not mandatory. Making this mandatory could add an administrative burden and cost for the use of unaccompanied intermodal and combined transport solutions, without it being clear what are the advantages of an ILU-code. To encourage loading units, especially semi-trailers, to receive identification and markings could be useful to incentivise the receipt of an ILU-code.

##### **IRU calls for:**

- No additional administrative burden and cost for the use of unaccompanied intermodal and combined transport solutions.

#### **5. Own account transport**

The proposal introduces a new definition of “own account” which unfortunately no longer covers all the features of “own account transport” as found in the current Directive and in Regulation (EC) No 1072/2009. These should be reflected in the new definition.

##### **IRU calls for:**

- Keeping the current definition of “own account” and fine-tuning it with elements of the definition in Regulation (EC) No 1072/2009.

#### **6. National policy frameworks and state aid**

The obligation for Member States to develop national policy frameworks is positive. The European Commission should assume a supervisory role to ensure that the national policy frameworks are compatible and ensure efficient cross-border intermodal and combined transport operations.

The benefits of the requirement to reduce the overall average costs of primarily short- and medium-distance combined transport by 10% over a seven-year period should be further clarified, including what is understood by “average costs”. Member States have a wide range of options, such as using taxes, charges, and duties to intervene in the competitiveness of the various freight transport modes. It will also be important to make the cost reduction sustainable over time to avoid excessive state aid measures being deployed without tangible results.

IRU is strongly concerned that some Member States may artificially increase costs for unimodal road freight transport to achieve the proposed average cost reductions for intermodal and combined transport. It should also be noted that cost reductions will not suffice to encourage intermodal and combined transport. The efficiency of the combination of modes and their interoperability should also be continuously improved. The significant use of state aid by Member States to encourage a shift from road to non-road modes of transport has not always proven to be the most efficient way of encouraging intermodal and combined transport, as shown by a recent report of the European Court of Auditors.<sup>1</sup> Performance criteria should be added to the allocation of state aid to avoid that funds are allocated to projects that do not contribute to more combined and intermodal transport. It should also be avoided that unequal deployment of state aid measures by Member States leads to discrepancies in the development of intermodal and combined transport across the EU and to distortions of competition.

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<sup>1</sup> Special report on Intermodal freight transport, European Court of Auditors (2023).

**IRU calls for:**

- Ensuring that the national policy frameworks are compatible to guarantee efficient cross-border intermodal and combined transport operations.
- Avoiding the deployment of state aid measures by Member States and instead focusing on other options to enhance competitiveness.

**7. The bigger picture**

IRU notes that the revision of Directive 92/106/EEC is only one of the tools to encourage the use of intermodal and combined transport. All modes will have to increase their efforts to create an efficient and sustainable intermodal freight transport network in the EU. Individual modes should also make sure that their operational efficiency is improved to function in the wider network. Several elements which are not covered by the current proposal will have to be addressed to make intermodal transport a stronger success than it is today. These issues do not always require large investments but often involve improvements at a much smaller scale. One example could be addressing the standardisation of the working language in intermodal and combined rail freight transport to English. This simple measure, which can be considered rather easily achievable, will in the long run contribute to improved efficiency and speed in intermodal rail transport. This is crucial to remain competitive with road transport. A 2022 report<sup>2</sup> prepared by the European Union Agency for the Railways on “Cross-border Railway Potential” outlines concrete suggestions on how to improve the potential of intermodal and combined transport with small interventions. This is worthwhile pursuing.

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<sup>2</sup> Report on cross-border rail potential, European Union Agency for Railways (2022).