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European Commission proposal to amend the EU Combined Transport Directive – Scope

Complement on “scope” to the IRU Position on the European Commission proposal to amend the EU Combined Transport Directive.

I. IRU POSITION

The revision of the Combined Transport Directive must not impact the interpretation and application of Regulation (EC) No 1072/2009 on access to the road haulage market.

The geographical scope of the current Combined Transport Directive should remain unchanged and only include intra-EU combined transport operations between Member States involving at least one intra-EU border crossing with or without transit through a third country.

To improve legal certainty, the intermodal transport definition should be amalgamated with the combined transport definition and support measure conditions. Combined transport operations with a short-sea, inland waterway or rail leg but without a parallel unimodal road goods transport alternative should be recognised as combined transport eligible for incentives.

II. ANALYSIS

1. Intermodal versus combined transport

The European Commission proposal widens the geographical scope to intra-EU parts of international and national intermodal and combined transport operations. Whereas the main objective of Directive 92/106/EEC is to provide incentives for road legs of an intra-EU, cross-border combined transport operation, its Articles 2 and 4 make reference to the EU rules on access to the road haulage market¹. Changes in the Combined Transport Directive should not impact the interpretation and application of EU rules on access to the road haulage market.

In addition, the introduction of a definition for “intermodal transport” and the consideration of combined transport as a type of intermodal transport creates legal uncertainty. According to the proposal, Article 2 applies to intermodal transport operations. However, Article 4 remains unchanged and only applies to road legs of a combined transport operation, not to those of an intermodal transport operation.

Whereas the current Article 2 of Directive 92/106/EEC obliges Member States to remove all authorisation and quotas for combined transport - this is changed to “intermodal transport” in the new proposal - it should be noted that Article 10.7 of Regulation (EC) No 1072/2009 gives Member States the possibility to introduce quantitative restrictions to the road legs of a combined transport operation. It should also be noted that Article 10.7 only refers to combined transport operations between Member States, it does not cover purely domestic combined transport services without border crossing elements during the road or non-road leg.

¹ Regulation (EC) No 1072/2009 on common rules for access to the international road haulage market.

The newly proposed definition of an intermodal transport operation does not fully match the on-the-ground operational reality. A truck combination can carry several loading units during one single intermodal or combined transport operation and so can the various non-road modes.

UIRR² also proposes a new definition for combined transport based on distances which is an improvement to the current definition and a simpler alternative to what is suggested in the proposal³. The UIRR proposal defines a combined transport operation as an intermodal transport operation where the non-road modes of transport carry out more than 50% of the actual distance that the intermodal loading unit is carried. This proposal should be further considered as a solution for the combined transport definition and conditions for eligibility for support measures.

To improve legal certainty, IRU proposes to limit the scope of the Directive to “combined transport” and to integrate the definition of intermodal transport in the combined transport one. It should be specified that operations between two or more EU Member States with a transit through a third country are also covered. Operations originating in or with a third country as destination could be considered to fall within scope only for the part on EU territory providing an intra-EU border crossing element.

2. Scope of support measures or incentives

Combined transport operations falling within the scope as described in section 1 should be eligible for support measures. It should be noted that road legs of a combined transport are subject to quantitative restrictions. They remain road legs of a combined transport operation and could therefore still be considered eligible for support measures.

The support measures are either listed in the current Directive, the new EC proposal or are mentioned in other Union legal acts such as Directive 96/53/EC on weights and dimensions. IRU proposes additional incentives or support measures in the [IRU Position on the revision of the Combined Transport Directive](#).

3. Intermodal and combined transport without unimodal road alternative

Moreover, the proposal should adequately encourage the use of intermodal and combined transport operations in situations where there is simply no unimodal road alternative, such as transports involving islands. Incentives should not only be provided to intermodal and combined transport where there are parallel unimodal road goods 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 calls for:

- Maintaining the interpretation and application of the EU rules on access to the road haulage market due to the Combined Transport Directive revision.
- Keeping the geographical scope of the current Directive to maintain complementarity with other relevant Union legal acts such as Regulation (EC) No 1072/2009 and replacing “intermodal” by “combined” transport in the title.
- Integrating the definition of “intermodal” in the “combined” transport definition. Combined transport should be defined as follows: intra-EU, intermodal transport between EU Member States, with or without transit through a third country, of one or more intermodal loading units between their loading point and unloading point over two or more transport legs, where at least one leg takes place by rail, inland waterways or short-sea shipping for at least 50% of the total distance of the intermodal loading unit(s) and the initial or final leg, or both, take place by road, without handling of the goods during transshipment between the different transport legs, whether or not covered by a single multimodal transport contract or consecutive mode specific transport contracts. The 50% should change to 60%

² Union Internationale pour le transport combiné Rail-Route.

in 2035 reflecting the anticipated enhancements in terminal density and non-road mode infrastructure development. The intra-EU part of an operation to or from a third country also falls within scope providing an internal EU border crossing is included. Such combined transport operations can benefit from the support measures referred to in Article 1c (1)". Articles, 1b (1) and 1c (2) should be deleted. Article 2 should only apply to combined transport operations as defined by the Directive.

Recognising operations with a short-sea, inland waterway or rail leg but without a parallel unimodal road goods transport alternative as combined transport eligible for incentives, provided that they comply with the combined transport definition proposed by IRU and proof can be given that the departure or destination of the road leg is a multimodal hub or terminal, including a ferry terminal and the intermodal loading units will or have been carried by rail, short-sea or inland waterways on an intra-EU cross-border operation.

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