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IRU position on the European Commission proposal to modify the Combined Transport Directive

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I. ANALYSIS

1. General

On 8 November 2017, the Commission presented its proposal ([COM\(2017\) 648](#)) to modify the Combined Transport Directive 92/106/EEC as part of the “Clean Mobility Package”.

Directive 92/106/EEC has not been updated for over 20 years and has faced many calls for revision. IRU considers that the Commission proposal to modify and modernise Directive 92/106/EEC is long overdue.

IRU has been involved in the stakeholder consultations leading to the preparation of this proposal. IRU welcomes the Commission’s identification of the different concerns and challenges posed by the current EU legal framework and the transposition by the Member States.

The Commission proposal presents a number of improvements in comparison to the current rules. These include the definition of combined transport, the rules relating to evidence of involvement in combined transport operations and relating to the use of electronic documents. Unfortunately, new ambiguities have been created, for example regarding the documents to be used to provide evidence of a combined transport operation. No additional clarity has been provided on the rules applying to road freight transport in the framework of combined transport.

2. Modal shift

Within the EU, combined transport is promoted as a tool to contribute to shifting long-distance road transport to combined use of road, rail, inland waterways, and maritime transport. The concept of a forced modal shift has been identified as ineffective and should be completely abandoned. Instead, freight transport and logistics should be approached as a complementary multimodal chain aimed at further improving resource efficiency of the entire European freight transport network, rather than as a set of individual modes. Sustainability is not only about “clean vehicles” or “clean modes of transport” but about a combination of economically viable, socially acceptable, and environmentally friendly transport solutions.

3. Definition and scope

Newly introduced provisions in the proposal, including those relating to the enlarged scope of loading units, the vehicles that can be used, and the removal of the reference to “most suitable terminal”, can help to reduce existing legal uncertainty for road freight transport operators involved in combined transport. They could also lead to a more aligned implementation of the combined transport rules in the Member States.

Some unclear provisions remain in the proposal. The term “as the crow flies” is difficult to measure and has caused issues with enforcement.

The extension of the scope of the Directive to include purely domestic combined transport and the EU-legs of an extra-EU combined transport operation could further increase existing distortions of competition between operators carrying out pure road freight transport and those carrying out road freight legs of a combined transport operation. The use of combined transport to avoid EU road freight related rules, including cabotage restrictions, could be encouraged. Pure road freight transport could also be disadvantaged against combined transport when it comes to compliance with EU and national rules relating to social and working conditions for drivers.

4. Enforcement

The use of electronic documents to provide evidence of involvement in a combined transport operation is a positive development. Road freight transport operators could encounter difficulties in trying to prove the required elements with one single document, such as the electronic version of a CMR consignment note. Information relating to the non-road legs of transport operations and to the transshipment of goods could remain difficult to obtain or pass on through the multimodal logistics chain.

5. Incentives

The new proposal still gives a lot of flexibility to Member States for the provision of financial and investment incentives to combined transport operations. Generally, road freight transport operators active in combined transport have to deal with heavy administrative procedures in order to benefit from existing incentives. This does not encourage participation in combined transport operations. The new proposal insufficiently addresses this challenge. The flexibility provided to Member States could introduce distortions and legal uncertainty in international intra-EU cross-border combined transport operations involving several Member States because the same incentives are not provided everywhere. It should be noted that financial and investment incentives for the non-road activities are still not subject to performance-based evaluation criteria. Such criteria could encourage a gradual reduction of the dependency on state aid over time.

Few new incentives are introduced for the road legs of combined transport. A general 44 tonne maximum authorised weight for road trains and articulated vehicles carrying freight in an EU combined transport operation is still not proposed. In addition, the use of European modular concept vehicles as defined by Directive 96/53/EC is not encouraged in a combined transport framework in order to reduce the number of trucks needed to service other modes of transport with an ever increasing capacity.

II. IRU POSITION

- IRU welcomes the new Commission proposal to modify Combined Transport Directive 92/106/EEC. The proposal tables a number of improvements regarding the definition of combined transport and the introduction of electronic documents as evidence.
- IRU does not support the aim to force a modal shift. Efficient combined transport operations involving several freight modes of transport is not possible when one mode is discouraged and disadvantaged against the others.
- IRU proposes to have at least one intra-EU border crossing included before a combined transport operation can be considered within the scope of the EU Directive. IRU also proposes to further clarify the rules that should apply to all legs of road freight transport that are part of a combined transport operation and where special exemptions apply.
- IRU supports the introduction of electronic documents as evidence of compliance with the provisions of the EU Combined Transport Directive. IRU calls for the possibility of requesting road freight transport operators to provide

evidence of involvement in combined transport with one single electronic control document, which could be the consignment note or its electronic version, including eCMR.

- IRU calls for the introduction of performance-based evaluation criteria for the granting of financial and investment incentives for non-road parts of combined transport, with the aim of gradually reducing dependence on state aid over time
- IRU calls for the introduction of a number of additional direct incentives for road transport operators active in combined transport, including:
 - the general acceptance of 44 tonnes maximum authorised weight for road trains and articulated vehicles carrying freight in an EU combined transport operation.
 - the use of European modular concept vehicles as defined by Directive 96/53/EC.
 - the exemption of road freight transport vehicles in combined transport from all driving restrictions relating to weekends, nights, and public holidays during the time such vehicles are engaged in intra-EU combined transport and limited to the distances defined by the Directive.

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