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Common rules for certain types of combined transport of goods

Impact assessment (SWD(2017) 362, SWD(2017) 363 (summary)) of a Commission proposal for a directive of the European Parliament and of the Council amending Directive 92/106/EEC on the establishment of common rules for certain types of combined transport of goods between Member States (COM(2017) 648)

Background

This note seeks to provide an initial analysis of the strengths and weaknesses of the [European Commission's impact assessment](#) (IA) accompanying the above [proposal](#), submitted on 8 November 2017 and referred to Parliament's Committee on Transport and Tourism. The proposal aims to amend [Directive 92/106/EEC](#) (Combined Transport Directive, hereafter CTD) in order to improve its effectiveness and further enhance the shift towards intermodal transport, in particular combined transport,¹ as an alternative to road transport, through simpler use of the regulatory regime and greater effectiveness of economic support measures. Intermodal transport largely uses modes of transport – such as rail, inland waterways and maritime transport – that cause less negative externalities (emissions, noise and accidents). While aiming at the specific target for modal shift² defined in the European Commission's 2011 [White Paper on a Single European Transport Area](#), the proposal is expected to reduce the negative effects of transport activities (IA, p. 39).

The proposal, which is a REFIT³ initiative and part of the [2017 Commission work programme](#), aims at more sustainable and efficient freight transport and is in line with the [low-emission mobility strategy](#), the United Nations' [2030 Agenda on Sustainable Development](#) and the [Paris Agreement on climate change](#) (IA, p. 39). The European Parliament has supported multimodality and intermodality in transport in a number of resolutions.⁴

Problem definition

The [REFIT evaluation](#)⁵ of the CTD, carried out in 2014-2016, and the [CT Update Study](#) (2017),⁶ concluded that, although the impact of the CTD has been modest, it is one of the instruments enhancing the uptake of intermodal freight transport. According to the evaluation, its effectiveness and efficiency could be improved by addressing

¹ **Intermodal transport:** 'Movement of goods by successive modes of transport without handling of the goods themselves when changing modes'. **Combined transport,** OECD definition: 'Intermodal transport where the major part of the journey is by rail, inland waterways or sea and any initial and/or final leg carried out by road are as short as possible'. However, reference in the IA to 'combined transport' is defined by the CTD. **Multimodal transport:** 'Carriage of goods or passengers by at least two different modes of transport'. (IA, pp. 4, 24).

² To shift 30 % of long distance road freight (over 300 km) to rail or waterborne transport by 2030 and more than 50 % by 2050.

³ European Commission's Regulatory Fitness and Performance Programme.

⁴ See [European Parliament resolution of 15 December 2011](#) on the Roadmap to a Single European Transport Area; [European Parliament resolution of 9 September 2015](#) on the implementation of the 2011 white paper on transport; [European Parliament resolution of 19 January 2017](#) on logistics in the EU and multimodal transport in the new TEN-T corridors.

⁵ Evaluation report SWD(2016)140 and summary 141.

⁶ ISL + KombiConsult (2017), Updating EU combined transport data – final report.

identified shortcomings such as the ambiguous definition of combined transport (CT), inefficient support measures, lack of investments, inefficient implementation and outdated provisions on transport documents (IA, pp. 10-13 and 24).

The IA report considers the slow and limited use of intermodal transport to be a **general problem** resulting from i) less advantageous conditions compared to road transport and ii) insufficient capacity and density of the intermodal infrastructure (IA, p. 13). Ineffective implementation of the CTD and a lack of effective enforcement conditions are identified as **specific problems**. The underlying **problem drivers** are seen to lie in the complex and narrow eligibility criteria of CT, which lead to different interpretations and non-compliant transposition by Member States, and in ineffective and insufficient economic support (lack of investments in intermodal infrastructure, particularly in transshipment terminals) (IA, pp. 10-11).^{7 8}

Compared to unimodal road transport, intermodal services are less competitive (in terms of price, efficiency and reliability) (IA, p. 14). The higher costs relate to transshipment, complex transport chains, delays and longer delivery times. At present, road transport offers low prices with high cost to society. The IA report estimates that non-road modes, such as rail and inland waterways, would become more competitive if prices reflected the external costs to society (IA, p. 18 and figures 4 and 5). It also notes that different rules apply to different parts of the transport operation. One problem in particular is the application of cabotage rules to road legs of an international CT operation, as stakeholders interpret such rules in different ways (IA, pp. 15-17).⁹

The IA report estimates that without further EU measures (baseline scenario), road freight operations will increase by around 35 % between 2010 and 2030 and by 56 % between 2010 and 2050. The costs of negative externalities of the transport sector were estimated at 4 % of EU GDP in 2008 and they are estimated to increase by around 40 % by 2030. In addition, around 73 % of greenhouse gas emissions and 97 % of transport accidents are caused by the road sector, which dominates the freight transport market. CO₂ emissions are expected to increase by 6 % by 2030. According to the European Commission's 2016 transport reference scenario, the use of intermodal transport in Europe will not grow sufficiently to meet the modal shift target defined in the 2011 white paper. The loss of not reaching the modal shift target corresponds to €1.2 billion in external cost savings and 4.4 Mtons of CO₂ emissions that could be saved. The costs in terms of air pollution in 2030 are estimated at €27 billion and €100 billion in terms of accidents, while noise costs would increase by 17 % and congestion costs by 24 % (IA, pp. 33-37).

Under the baseline scenario, without a fair and efficient level playing field across modes of transport (unfair pricing) and with the 'polluter pays principle' not being applied, intermodal transport remains less competitive compared to road transport. The current regulatory support provided by the CTD applies to less than half (41.7 %), and its economic support to less than 2 %, of intermodal transport operations, which is too low to have an effect. In average market prices, intermodal transport as a whole remains about 23 % more expensive than unimodal road transport. Even those operations covered by the CTD, which thus benefit from regulatory and economic support, still remain on average 13 % more expensive than road transport (IA, pp. 33-34).

The IA report describes the problems and problem drivers identified in the REFIT evaluation of the CTD and the CT Update Study. It is also based on stakeholder consultation and studies, which are referred to in the IA. In line with the [Better Regulation Guidelines](#) (p. 24 and [Toolbox, Tool #17](#)), the costs of non-action are also estimated.

⁷ See also the problem tree (IA, Annex 7, p. 94).

⁸ For further information, see Remáč, M., [Multimodal and Combined Freight Transport](#), implementation appraisal, EPRS, July 2017.

⁹ According to the rulings of the European Court of Justice, cabotage limitations cannot be applied to road legs in international CT operations, even if not crossing a border (IA, p. 17).

Objectives of the legislative proposal

The **general objective** of the Commission proposal is to ‘support the modal shift by encouraging the use of non-road transport modes on long distance freight operations, while maintaining and reinforcing the necessary regulatory and market measures for international transport’ (IA, p. 39).

The IA identifies three **specific objectives**: i) clarification of the definition of the combined transport (CT) eligibility conditions; ii) further stimulation of the competitiveness of CT and iii) increase of the investment in intermodal terminals and their capacity. The problem drivers that the specific objectives aim to address are: the narrow and complex eligibility criteria of CT and the lack of effective enforcement conditions; the narrow scope of support measures and limited monitoring; the lack of a review mechanism and the lack of intermodal infrastructure, especially insufficient capacity of terminals (IA, pp. 39-40). It should be noted that the IA presents the operational objectives under the monitoring section.

The objectives are in line with the identified problems and the REFIT evaluation. According to the IA report, the defined objectives are supported by stakeholders. According to the Better Regulation Guidelines, objectives should be specific, measurable, achievable, realistic and time-bound (S.M.A.R.T.) ([Better Regulation Toolbox, Tool #16](#)). As regards the ‘time-bound’ criteria, the initiative aims to reach the transport white paper's modal shift target by 2030. The second and third specific objectives could have been formulated in a more measurable and specific manner.

Range of options considered

The IA report presents four policy options in addition to the baseline scenario, based on stakeholder consultation, studies and evaluation. A table describes the policy options in relation to the specific objectives and problem drivers (IA, pp. 46-48). The IA report provides the reasons for retaining and discarding policy measures (IA, pp. 41-43 and 48-49 and Annex 8). The policy measures have been retained on the basis of definition (geographical scope and road and non-road legs, load units), eligibility control (required data, data presentation, place of control), economic support measures (investment and operational support) and administrative measures (review, data collection, cooperation between Member States, transparency). The IA report explains that a non-legislative option is not proposed because it would not be effective in achieving the objectives (IA, p. 66).

Baseline: The current CTD would continue to apply.

Option 1: This option, which would seek to improve the transposition and implementation of the existing CTD, would simplify the eligibility criteria regarding the limitation on road legs (road-leg distance set at 150 km for all modes of transport). The reimbursement of the road vehicle tax would be extended to all modal combinations and all load units (IA, p. 44).

Option 2A: The geographical scope would be extended to include national CT operations. The road legs would be limited (in km or percentage terms). As regards non-road legs, the minimum 100 km limitation would be lifted. For waterborne transport, the eligibility would be limited to short sea shipping (SSS) connections to islands and ferry connections. As regards load units, only ISO/ILU identified load units¹⁰ would be accepted. Member States could provide additional economic support measures (IA, pp. 44-45).

Option 2B (preferred option): Under this option the Member States can have flexibility regarding the road leg distance and extend it to the nearest suitable transshipment point. It also provides an extension of the load units to all sizes. Furthermore, it makes it mandatory for the Member States to ensure investment support measures for building terminals, without, however, harmonising or prescribing those measures. As for the geographical scope and non-road legs, the measures would be the same as under option 2A (IA, pp. 45-46).

¹⁰ ISO: International Organization for Standardization; ILU: Intermodal Loading Unit.

Option 3: This option contains an extended geographical coverage similar to the 2A and 2B options. There is no limit to the road or non-road legs or load units. The Member States are obliged to take mandatory support measures for all intermodal transport (IA, pp. 46, 54).

The options have a clear link to the problem definition, problem drivers and defined objectives as required by the Better Regulation Guidelines. In addition, the IA report has explained the views of the stakeholders for the policy options, as also required. However, it could have specified in a more detailed way which stakeholders are concerned as the impacts of the initiative and the options vary for the different transport modes and stakeholders (for example, micro-enterprises, big companies, transport mode operators, Member States).

Scope of the Impact Assessment

The economic, social and environmental impacts of the policy options are assessed and compared against the results of the baseline scenario within the framework of the modal shift target of the transport white paper. The assessment builds on the baseline scenario (EU reference scenario 2016, Primes-Tremove model) and uses projections and an in-house model for analysing the impacts on intermodal and CT transport. Annex 4 describes the methodology and assumptions used (IA, pp. 49-50 and 80-90).

Economic impacts are considered in terms of costs of intermodal transport (market price and additional costs to shippers) and competitiveness of CT. The impacts are assessed for those intermodal operations that are covered and those that are not covered by the CTD, and also as regards the potential modal shift from road to CT operations. According to the IA report, option 1 would provide an additional modal shift of 2.31 billion tonne-km in 2030, but would not reach the modal shift target. Under this option, the market prices of intermodal transport would remain more expensive (around 21 %) than road transport. On the other hand, savings for the industry are estimated at €8.57 billion. While option 2A would provide more significant additional modal shift (44.45 billion tonne-km), it would not reach the target either. The economic support measures of this option would reduce the price level by around 4.5 %. The savings for the industry would be €44 billion. With the measures of option 2B, the modal shift target would be reached as this option would lead to an additional modal shift of 69.6 billion tonne-km. Due to mandatory investment support, this option would further reduce the price level, in that intermodal transport would be around 11 % more expensive than road transport. Savings for the industry are expected to be around €64.6 billion. Option 3 would also result in reaching the modal shift target by an additional shift of 176.5 billion tonne-km. The estimated savings for the industry would be around €101 billion. The price level of intermodal transport would be around 8.5 % higher than road transport (IA, pp. 50-55, 63).

The IA report estimates positive **environmental impacts** of the policy options resulting from the modal shift. Additional external cost savings relate to noise, congestion, air pollution and climate change. The average savings of the total external costs range between €13.7 billion and €16.7 billion, correlating with the modal shift that each option would induce (IA, p. 59-60). The IA report also notes that reduction of air pollutants, noise level and accident risks have impact on **public health** (IA, p. 62). As regards the **social impacts**, it notes that the modal shift would create more jobs as several modes of transport, transshipment and terminal services are required for the CT operations. In addition, support to terminals is estimated to have a positive impact on job creation. However, the IA report points out that short-term negative impacts are expected on long-distance road transport as the modal shift would mean jobs shifting to short-distance road transport. It estimates that in the medium and long term, long-distance road operators could adapt to the CT operations (IA, pp. 60-62 and Annex 3, pp. 78-79).

The IA estimates that benefits would be more significant in the **regions** with high transit traffic volumes. However, in these 'central regions', the intermodal transport volumes are already quite high and various measures supporting modal shift, such as national support programmes, tolls and congestion charges, are in place. Nevertheless, according to the IA, due to the high transport volumes, also in these regions, there is potential for further modal shift. As regards the terminal density, there are big differences between the regions. In the

peripheral regions, where the terminal density is low, an increase in terminals and operational support could enhance the modal shift significantly. On the other hand, the IA points out that in some regions the problem is not a lack of terminals but rather a lack of non-road alternatives (IA, pp. 20-22 and 58-59).

The policy options have been compared according to effectiveness, efficiency and coherence criteria. The IA report considers that the initiative is coherent with EU transport, environment and climate policies. Options 2B and 3 would reach the modal shift targets set for 2030 in the white paper on transport. Option 3 would have the biggest effect for the modal shift and the greatest absolute economic benefits. On the other hand, option 2B would have a higher return on investment and would be more environmentally efficient than option 3. Intermodal transport would remain more expensive than unimodal road transport under all the options. The preferred option is option 2B (IA, pp. 62-67).

The IA report states that proportionality concerns have been taken into account when considering the options. It explains that the options leave flexibility for the Member States regarding economic support, as it will be up to them to decide the level and methodology, and that the options do not go beyond what is necessary to achieve the objectives (IA, p. 66).

Social impacts are described in a rather limited manner. As modal shift would have a significant impact on long-distance road transport, which is basically run by micro-enterprises, it would have been useful to have further information and analysis of employment and market development (job creation, estimated job losses, scenario of adaptability of long-distance road operators). In addition, further analysis would have been helpful concerning the impact of international CT operations on national road operators.

Subsidiarity / proportionality

The legal basis of the proposal is Article 91(1) of the Treaty on the Functioning of the European Union (TFEU). The IA report stresses the international character of the transport sector and that coordinated EU action is necessary to achieve the goals set in the 2011 transport white paper and low-emission mobility strategy. The IA report notes that the aim of the proposed directive is to ensure uniform conditions that would boost CT, which therefore makes the EU the most appropriate level to address cross-border CT. A common definition and criteria are needed to ensure that the benefits of the CTD are applicable in the same way in all Member States. As lack of investment in terminal capacity has been considered the main bottleneck for effective modal shift, coordinated investments at EU level would be more effective than national measures and could clarify the investment aspect in relation to competition rules, notably concerning state aid. According to the IA report, the inclusion of national CT operations in the scope of the CTD would be needed in order to increase its effectiveness, taking into account that the negative effects of transport are trans-boundary. As regards proportionality, the IA report notes that the support measures do not set mandatory levels, which leaves flexibility for the national level and, in addition, the costs would be limited compared to the potential benefits, in particular in relation to the terminals (IA, pp. 38-39).

No reasoned opinions from national parliaments had been submitted at the time of the writing. The deadline for the subsidiarity check is 22 January 2018. See [Platform for EU Interparliamentary Exchange \(IPEX\)](#).

Budgetary or public finance implications

The cost of the preferred option 2B is expected to be €2.96 billion to the Member States between 2022 and 2030. The IA report notes that the level of additional budgetary burden depends on the measures decided by the Member States. In the preferred option, terminal support is mandatory and operational support is optional (IA, p. 58).

SME test / Competitiveness

Intermodal transport operations concern operators in rail transport, shipping, road transport and inland waterways. In the road transport sector, almost 100 % of operators are SMEs (90 % are micro-enterprises). In

addition, operators in inland waterways are also usually SMEs. In rail transport and shipping, the companies are often medium or large. As regards logistics operators and freight forwarders, the operators can be big companies but also SMEs. The IA report considers that SMEs undertaking CT operations would benefit from the initiative. Such SMEs would benefit from the support of the CTD, which allows them to compete with road transport operators. Furthermore, according to the IA report, those SMEs focusing on short distance CT road legs would benefit from an increase of CT operations, as more road legs would need to be carried out. On the other hand, the modal shift would have a temporary negative impact on long-distance road operators. The IA considers that some of these operators would switch to short-distance intermodal road leg operations (IA, pp. 55-56).

Given that the initiative and modal shift would apparently have a negative effect on micro-enterprises in the long-distance road transport sector, the IA report could have further analysed the employment and market scenarios for these players. According to the Better Regulation Toolbox ([Tool #22](#)), impacts should be assessed regarding the size of the enterprise, which does not appear to have been the case here. The IA estimates the competitiveness of CT transport in relation to unimodal road transport; however, it would have been interesting to also have an assessment of the impact on the competitiveness of the EU transport sector as a whole.

Relations with third countries

The economic benefits of the legislative proposal would be the same for third country operators as for EU operators, given that they carry out the road legs of CT operations in the EU or across the EU's external borders. To be eligible for the benefits of the CTD, third country CT operation managers (logistics companies, freight forwarders) have to comply with a specific set of criteria (IA, pp. 58-59).

Simplification and other regulatory implications

The initiative is part of the REFIT programme which aims to simplify EU legislation and reduce regulatory burden. The IA report notes that the initiative is consistent with other transport initiatives currently pursued (IA, p. 40). There is a direct interaction of the CTD with the Weights and Dimension Directive (53/96/EC) and with Regulation (EC) 1072/2009 on access to international road transport market (the CTD includes exemption for CT from cabotage restrictions). The IA report considers that EU level investment measures could simplify the burden related to respect of competition rules, in particular regarding state aid rules (IA, pp. 9, 16, 39).

Quality of data, research and analysis

The IA notes that the lack of systematic data collection concerning CT has made it difficult to regularly assess the effectiveness and efficiency of measures (IA, p. 33). In preparing the IA, studies by external contractors have been used for data collection (TRT), update of the CT market overview (ISL+KombiConsult) and summary of consultations supporting the IA (KombiConsult-Intermodality) (IA, p. 73). However, the IA report does not provide links to these studies, which would have been relevant, for example in order to have more information about stakeholder views. As regards the impact analysis, the IA report could have provided more information on the social and market impacts on long-distance road operators.

Stakeholder consultation

In addition to the public consultation in the REFIT context, stakeholder consultations were undertaken to gather feedback on the proposed measures and their likely impacts. An open public consultation (OPC) was held between 23 January 2017 and 23 April 2017. A targeted stakeholder consultation was organised between 10 and 31 March 2017. In addition, a stakeholder meeting was held on 30 March 2017 and a meeting of the Member States on 10 April 2017. According to the IA report, a clear majority of the stakeholders in the OPC and the targeted consultation were transport business associations and private enterprises. The IA report provides information on the stakeholder views on various problems and policy measures; however, the description of the type of respondents is quite general ('stakeholders', 'operators') (IA, Annex 2, pp. 74-77). Furthermore, the link to the relevant study

(summary of consultations) is not provided, despite many references to it. Therefore, it is not possible to verify the views on and support of policy options by various stakeholders. This would be relevant as the impact on different stakeholders varies (for example, between different operators in various transport modes, small operators, big operators, shippers, logistics operators, short- or long-distance road operators, Member States).

Monitoring and evaluation

The REFIT evaluation considered the current monitoring mechanism to be ineffective due to lack of comparable data. Consequently, the IA report lists the data that the Member States should report to the Commission every three years (for example, the distance matrix of terminal locations, number and average cost of transshipments, a share of different cost components in the price of intermodal transport) (IA, pp. 67-68). The IA report presents the operational objectives and indicators which are based on the preferred option in line with the Better Regulation Guidelines (IA, pp. 68-69):

Indicator	Operational objectives and targets
Modal shift from road transport (over 300 km) to intermodal transport and combined transport.	301 tonne-km (30 % of long distance road transport in 2005) of road transport shifted to intermodal transport.
Saving of external costs.	€ 4.04 billion in 2005-2030.
Increase of loading capacity of intermodal load units.	9 000 loading units per million euros of aid.
Reduction of average distance between intermodal terminals.	Reduction of 20 % of areas where distances between terminals are more than 300 km.
Cost difference between medium distance (300-650 km) road-only-transport and intermodal transport per km.	Less than 15 % on average.

Commission Regulatory Scrutiny Board

The European Commission's Regulatory Scrutiny Board (RSB) issued a [positive opinion](#) with reservations on a draft version of the IA report on 7 July 2017. The main comments concerned the need to further clarify the context in order to explain how this initiative relates to other initiatives aiming to disincentivise road-only transport and enhance other modes of transport, and how the Member States can support modal shift, taking into account competition rules (in particular state aid). In addition, the RSB considered that the IA should better justify the need for investment in transshipment terminal capacity and further explain the needs, strengths and weaknesses of different transport modes. The RSB also required more substantiated arguments for inclusion of strictly domestic transport in the scope of the CTD. Furthermore, the Board's reservations concerned the limited transparency of the model used in the impact analysis (assumptions, specifications of the model, limitations). The RSB also drew attention to the need to take better account of stakeholder concerns in relation to distortion of competition, loss of jobs and effects of cabotage rules on national CT operators. The considerations of the RSB and corresponding modifications in the IA report are described in its Annex 1 (pp. 70-73), as required by the Better Regulation Guidelines. The IA report seems to take into account many of the RSB recommendations, but it could have further addressed the stakeholder concerns.

Coherence between the Commission's legislative proposal and IA

The legislative proposal seems to be coherent with the recommendations expressed in the IA.

Conclusions

The IA report provides a good description of the problem definition, objectives and policy options, which are based on the REFIT evaluation and stakeholder consultation. However, in the impact analysis, more emphasis could have been placed on the scenario for the micro-enterprises which basically run the long-distance road transport sector and which would be negatively affected by the modal shift. The impact on SMEs could have been analysed in terms of their size as required by the Better Regulation Guidelines, and in terms of the transport mode they represent. It would also have been useful to have more detailed information about the stakeholders' views as it is not clear from the IA report which stakeholders are of which view and no link is provided to the study concerning the consultation of stakeholders. This would have been particularly relevant in order to have a clearer picture, as the impact of the initiative varies depending on the different stakeholders concerned (for example long-distance and short-distance road transport operators, small and big operators in various transport modes). While the IA report compares the competitiveness of CT transport to unimodal road transport, it could perhaps have also assessed the impact of the initiative on the competitiveness of the EU transport sector as a whole.

This note, prepared by the Ex-Ante Impact Assessment Unit for the European Parliament's Committee on Transport and Tourism, analyses whether the principal criteria laid down in the Commission's own Better Regulation Guidelines, as well as additional factors identified by the Parliament in its Impact Assessment Handbook, appear to be met by the IA. It does not attempt to deal with the substance of the proposal. It is drafted for informational and background purposes to assist the relevant parliamentary committee(s) and Members more widely in their work.

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