

Position Paper

Revision of the 1992 Combined Transport Directive

As part of the Clean Mobility Package, the European Commission published on 8 November its [proposed revision of the 1992 Combined Transport Directive](#). This legislation is linked to the Commission's own target to get more freight on both rail and inland waterways by 2030.

Summary

CLECAT has long supported a revision of [Directive 92/106/EEC](#), which is outdated, ambiguous and creates barriers to the effective operation of combined transport. The review is an opportunity to make the legislative preconditions realistic, transparent and up to date. Overall the Directive should be lighter, simpler and less costly to implement.

The Directive currently discourages some combined transport operations by imposing an arbitrary limit on the road leg. The proposed revision goes some way to overcoming these failings of the current Directive, which is welcome, but would also require improvement in places.

- CLECAT welcomes the extension of the scope of application of 'combined transport' to all operations in the Union, and all modes of transport. The provisions on operations with an element outside the Union need to be drafted with greater clarity.
- CLECAT welcomes removal of the specification of "*nearest suitable terminal*" and the flexibility offered in determining the length of the road leg (150km/20% of total distance, whichever is longest), as well as the removal of the restriction of the minimum length of 100km as the crow flies on the non-road leg.
- While the possibility to extend the road leg in order to reach the nearest terminal with appropriate facilities is a good innovation, this must be applied to all CT operations and not just road/rail. Furthermore, the proposal lacks clarity and certainty as to how such authorisations will be granted and on what basis.
- The authorisation of heavier loads for vehicles used in intermodal transport road legs is appropriate, but Member States should also allow an exemption for EMS vehicles.
- We support the continued inclusion of the cabotage exemption (Article 4).
- For reporting purposes, CLECAT supports the introduction of a system based on electronic documents, which could replace the outdated paper document and stamp system. The proposal makes good steps in this direction, but nonetheless opens the door to continued use of stamps and signatures, and must concentrate on the electronic provision of data, rather than documentation.
- It is vital that the measures to provide financial support for terminal investment are subject to proper ex-ante scrutiny, and coordination in order to avoid possible overlapping investment between Member States in close proximity.



Introduction

CLECAT is the Brussels based organization representing the interest of freight forwarders and logistics service providers. It has a collective membership of around 19000 members. The majority of freight forwarders and LSP's do not own assets but organize the logistics for their clients, the owners of the cargo. As such they depend heavily on reliable and efficient transport operations and have an interest in ensuring that carriers operate in a competitive and liberalized market.

EU policy should provide the right infrastructure policy and commercial framework for intermodal transport to flourish. If combined transport is to stand a better chance of securing a larger share of the European transport market, the right conditions for making this a success have to be understood. Combined transport requires high investment in transshipment points, vehicles and load units. A successful political strategy must think in the long term and be reliable for investors. It must support competition in the operation of transport and terminal operations and therefore any direct financial support should be of a digressive nature.

In general, CLECAT is of the opinion that a policy is needed that incentivises each mode to be more economically and ecologically efficient. Therefore, the optimisation of intermodal transport can only be reached if realistic and viable principles are applied, such as fair competition.

The most constructive support for combined and intermodal needs is the provision of infrastructure. The problem with direct subsidies is that once companies become accustomed to financial support, it is difficult for them to operate without it afterwards. With regards to support measures, care should be taken to avoid distortion of competition. Whereas economic support measures are welcome, it should not be forgotten that cost competitiveness of Combined Transport can be improved in the medium term by optimisation of integrated site logistics (24/7 operations), increased efficiency of terminals with further elimination of waiting times, reduction of terminal costs and liberalisation of the rail freight market. Prior to the construction of new terminals, the optimisation of existing facilities and services should be considered. Equally, new infrastructure should be based on demand and proper ex-ante evaluation of trade flows.

Detailed comments

Council Directive 92/106/EC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States determines the conditions under which combined transport operations can be executed. The new proposal from the European Commission introduces extensive amendments, outlined below with CLECAT's comments:

- The present definition of combined transport is ambiguous and has led to many different interpretations by various Member States. The UK and France define the road transport part of combined transport as a 1-leg operation whilst other Member States (Germany and the Netherlands) define combined transport as a 2-leg operation. CLECAT welcomes the clear definition whereby combined transport should be considered as a 2-leg road transport operation, as a 1-leg road transport operation would be conditional upon a direct port or a rail connection.
 - The maximum distance of the road leg is specified as 150 km or 20 % of the total distance, whichever is longer *as the crow flies*, irrespective of the non-road leg type (rail, inland waterways or maritime).
 - The specification of "*nearest suitable terminal*" is removed. This is highly welcome and must not be reintroduced. The introduction of the 20% alternative is welcome, and introduces necessary flexibility, although it remains possible that the appropriate

terminal may be further away, particularly due to the requirement to use total distance as the crow flies. A further increase in the threshold may be considered.

- Member States may allow the limit on the road leg to be exceeded where necessary, “in order to reach the geographically nearest transport terminal which has the necessary operational transshipment capability for loading or unloading in terms of transshipment equipment, terminal capacity and appropriate rail freight services”.
 - This would go some way to overcoming the restrictions imposed by the “as the crow flies” requirement, but obtaining such an exemption for each operation may be burdensome. The proposal does not specify how such an exemption may be obtained – this must be as simple as possible, avoiding distortions between Member States in how they grant such permission, bearing in mind that in many cases the appropriate terminal may be in another Member State. The experience to date of implementing Directive 2015/79 on Weights and Dimensions suggests that clarity is lacking on the conditions, authorities and procedures for the granting of such authorisations.
 - The Commission must therefore take a role in determining how such authorisations are granted, and not leave it to Member States to take potentially contradictory or confusing measures.
 - In line with the concept of combined transport as a fully multimodal activity, this provision should not be restricted to rail only, but also include waterborne transport. Road/inland waterway and road/maritime operations are inherent parts of combined transport and must therefore be included in this provision.
 - Furthermore, it is not clear how appropriate (rail) services would be defined. We would support a very broad definition in order to allow flexibility on a case-by-case basis, allowing discretion based on the specific needs of the operators when extending the distance of the road leg.
- The current Directive imposes a minimum length of 100km as the crow flies on the non-road leg. The new proposal removes this restriction. CLECAT welcomes the removal of this restriction, particularly with regard to maritime/inland waterway.
- CLECAT welcomes the extension of the scope of application of combined transport to all operations in the Union, therefore including intra-national combined transport operations (Article 1, par 4).
- Article 1, par 4 is furthermore drafted with the intention of allowing Combined Transport operations which originate in a country outside the EU and continue within the Union, which we support. However, the wording is unclear, leading to a lack of certainty among stakeholders as to whether such operations are in fact allowed. Article 1 should be redrafted in a manner which guarantees such clarity.
- The proposal more clearly specifies the load unit types that are admissible (i.e. ISO/CEN standardised) in combined transport operations, including trailers and semi-trailers. This should simplify the determination of whether an operation qualifies as combined transport while allowing adaptation to technical progress. However, clarification is needed on a number of ambiguous definitions for example on documentation and the benefits cross-referenced with the Weight and Dimension Directive.

- The present Directive is outdated with regards to the developments in the transport and logistics sector over the last years. There has been an increase in the use of different types of containers and different types of vehicles have been introduced (longer and heavier vehicles (EMS) and longer trailers (14.90 m). Equally important for industry is more harmonization of using the 45' container with a 44t transport throughout the EU (for efficiency and compensatory reasons).
- CLECAT believes that in order to allow more efficient ways to operate, optimize the payload of trucks and to reduce the number of trucks and trips required to satisfy transport demand and addressing recurring skilled driver shortages, more EMS vehicles should operate more widely in and throughout Europe. CLECAT would encourage trials with EMS (European Modular System) combinations in combined transport operations.
- Finally, to promote combined transport it would be useful to raise the maximum permissible weight of the road transport leg to 45 tonnes, also because the empty net weight of used equipment in combined transport is often higher due to parking legs of units and the use of heavier trailers, for instance.
- To further promote combined transport operations, the initial and final leg of the transport operation should be exempted from traffic bans. All other modes of transport are allowed to fully make use of the infrastructure, 24/7, whereas in most Member States road transport is subject to driving bans during weekends and holidays. In order to promote combined transport an exemption from these bans in the road transport legs should be created, so as to fully use the potential of combined transport.
- Article 3, par 2 (f): The requirement to have the description signed by the shipper is unrealistic, as Combined Transport is organized by the forwarder or operator, and not the shipper. It would furthermore be impractical to expect the forwarder to obtain such a signature from the shipper.
- Article 3, par 2 (j) (ii): This negates attempts to move away from paper-based stamp systems of providing evidence as articulated in Recital 11. It is essential that operators and authorities move to electronic means of data transmission, therefore this provision must be revised. The language “where available”, while drafted with the good intention of making this an optional requirement, nonetheless opens the door to stamps remaining a *de facto* obligation through the interpretation of Member States.
- Article 3, par 5: CLECAT welcomes the fact that the Commission is seeking to encourage the use and the transmission of electronic transport information as providing a list of paper-based transport documents is burdensome and bureaucratic. The requirement for authorities to approve a combined transport operation by means of a *stamp on a paper transport document* is replaced by a list of evidence which must be provided by the carrier to justify that an operation qualifies as combined transport. This consists of detailed information which must be provided to justify that the non-road leg forms part of a CT operation, as well as a *requirement for the signature of the carrier* to confirm that the non-road leg has been completed as well as that of the relevant terminal authorities. In line with the wider shift to electronic transmission of transport information, focus should be on the data provided, rather

than making mention of “documents” as the central element of compliance. This will require electronic data transmission to be available, legally-binding, and widely accepted and used.

- The ‘cabotage exemption’ (Article 4 of Directive 92/106/EEC) is maintained, which is welcomed.
- Article 6: Provisions are introduced for Member States to support investment in transshipment terminals. This should promote the development of combined transport and increase the number of available suitable terminals. The effective use of such funding must be ensured.
 - CLECAT in particular values inclusion of conditions for coordination between Member States and the Commission to prevent possible overlapping investment in the transshipment infrastructure, which could lead to excessive terminal capacity, particularly in the TEN-T corridors.

CLECAT is concerned that this freedom for Member States to adopt support measures may otherwise lead to difficulties in implementation and interpretation, in particular for cross-border combined transport operations.

Proper coordination between Member States and the Commission would furthermore ensure greater coherence between the provision of capacity and the thresholds for the road leg, in particular the option to exceed 150km/20% in order to reach the nearest terminal with appropriate capability. Equally, investments should be based on sufficient ex-ante evaluations on the demand side and of transport needs, in order to avoid ‘useless’ investments which would have a distortive effect on the market but which are only recognised as such afterwards.

- Paragraph 5 provides for additional support measures that Member States may adopt to complement existing ones in order to reduce the cost of a combined transport operation and to make it more competitive compared to the equivalent road-only operation. Such optional measures may address any part of the combined transport operation (any leg, the vehicle used in each leg, the load unit or the transshipment operation).
- The scope of the current economic support measures defined in Directive 92/106/EEC is very limited, consisting of fiscal measures (namely the reimbursement or reduction of taxes) which concern only combined rail/road transport operations. CLECAT welcomes extension of the scope of such measures to combined transport operations covering inland waterways and maritime transport. Other relevant types of measures, such as infrastructure investment support measures or different economic support measures, should also be supported. The revision will enable state aid measures to compensate the competitiveness gap caused by ‘regulatory imbalances among the different modes of transport’. CLECAT believes that this needs some further clarification.
- Overall, alignment of definitions and conditions with those laid down in Directive 2015/179 is essential in order to ensure a harmonised approach to intermodal transport (of which Combined Transport is a part).



CLECAT remains at the disposal of interested parties for any further information.

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