

Position Paper

Commission Proposal for a Regulation on Electronic Freight Transport Information (eFTI)

The European Commission published a proposal for a Regulation on electronic Freight transport information (eFTI) on 17 May 2018 as part of the third Mobility Package. Through this proposal the Commission wants to establish a fully digital environment for information exchange in freight transport, replacing paper transport documents, which will facilitate digital information flows for logistic operations.

Summary

- CLECAT, the European Association of Freight Forwarders, Logistics service providers and Customs Agents, welcomes the proposal which sets an important basis for the establishment of a 100% digital environment for information exchange in transport, to the benefit of both the business community and the authorities.
- CLECAT supports a Regulation as the most appropriate instrument to ensure uniform implementation of the measures envisaged; with common binding technical requirements, enabling the acceptance of digital freight transport information by authorities and at the same time harmonising this exchange. CLECAT supports the fact that through this Regulation the Commission wants to establish common eFTI data set(s), procedures and rules for access which are a condition for creating a harmonised environment.
- CLECAT considers it extremely important that harmonisation should not be introduced by replacing already existing and properly functioning systems, but by re-using the existing solutions and focusing on how to make these solutions more interoperable through data harmonisation and the way these systems exchange data.
- CLECAT supports the fact that the Commission addresses the legal acceptance by authorities of data provided digitally as a priority. International standards for B2B communication already exist, for example the UN/CEFACT e-CMR protocol. Therefore, it is not necessary to re-create B2B standards. The main issue is the acceptance by individual Member States of the existing standard preventing companies to use them.
- While establishing data sets and other requirements in legislation, CLECAT considers it also important that already existing standards are being considered, like the WCO data model and the UN/CEFACT Multimodal Transport Data Reference Model.
- Having said this, CLECAT considers that some parts of the proposal require more fine-tuning. If this is not addressed within the Regulation itself, it could potentially lead to unintended and unnecessary burdens. CLECAT is also concerned that the proposed delegation of power to the Commission will not lead to the desired harmonisation. A delegated act for listing data requirements, as is the case with customs legislation, might be more suitable.



- Finally, CLECAT calls for a more detailed work programme with more tangible and clearly defined goals to achieve digitalisation, harmonisation and especially less burdens. The foreseen implementation costs for both the public and the private sector are very high. Without a more detailed plan and a common vision of what the desired end state will be, the risk of wasting the foreseen investment is too high.

Introduction

CLECAT is the European organisation representing the interest of freight forwarders, logistics service providers and customs brokers. These 19.000 companies are users of all modes of transport and make extensive use of IT systems, dedicated terminals and warehousing to respond to the needs of their customers. Therefore, freight forwarders and other logistics service providers play a crucial role in global supply chains and the exchange of information within these supply chains.

Freight forwarders and logistics service providers support a move to a fully digital transport environment across all modes of transport providing the potential to improve efficiency, reliability and potentially reduce costs in freight transport logistics.

The current state of digitalisation in transport and logistics

On the occasion of the EU Digital Transport Days, 8 November 2017, CLECAT published a [position paper on Digitalisation in Transport and Logistics](#) which noted that in transport and logistics many processes are already digitalised or even automated. Companies are perfectly able to use these technologies, especially in a business-to-business environment. In most cases, the only part within a logistics chain that is not (yet) digital are the various transport documents, which can be seen as a result of a (digital) process of choosing, arranging and booking transport including various compliance related matters. For the remaining part, the transport documents, there is a steady increase in the acceptance and use of digitalised documents for different modalities. However, there are still obstacles for a complete transition to a fully digital environment.

The main obstacle are different authorities in different Member States which have not yet legally accepted the provision of digital data. Within the private sector there are equally obstacles to overcome, but as recognised by the European Commission and many other stakeholders, the main reason for the ongoing use of paper to exchange data are the continued reliance on paper documents by individual authorities in Member States. If such an authority has a role within a larger international supply chain, it results in paper documents still being necessary for the entire chain leading to double efforts; electronic processes and paper processes. Where there is a choice in those cases, businesses will solely use paper, because this is legally required and adding digital exchange of data leads to efficiency losses.

Where it is possible to work 100% digitally, still two other factors remain which in many situations result in a negative business case. Firstly, until now, the focus has mainly been on supporting existing procedures by replacing paper documents with electronic versions. This has not yet led to the intended benefit of reduced paper work (administrative burden). There might be less paper, but work and processes remained the same. Therefore, CLECAT considers that initiatives should not be about replacing paper documents with electronic equivalents, but should concern themselves with ways of exchanging data in a future-proof manner.

Secondly, a major hinderance for going towards a 100% digital environment is a very fragmented landscape for providing information digitally towards authorities. In recent years, many authorities and business communities have developed their own solutions to exchange information digitally.



However, even though they were created with the best intentions, these individual initiatives have led to a multitude of non-interoperable IT solutions. This non-interoperability has stalled progress in further digitalisation, because of the extra effort and investment needed to exchange information with all different parties in different ways. The current state of affairs makes a successful, EU-led initiative on aligning the exchange of digital transport data even more necessary.

CLECAT believes that these issues can only be solved at European level and through legislative measures taken by the EU Commission. Therefore, in its paper of November 2017, CLECAT made a number of recommendations to ensure that the logistics and transport industry can operate on a 100% digital basis and to reap its full benefits:

- firstly, legal acceptance by authorities of data provided digitally;
- and secondly encouraging or even enforcing by legal measures the interoperability between authorities

While doing so, CLECAT finds it important that the Commission looks beyond the current paper-based procedures in order to improve efficiency. Nonetheless, if there are existing systems, standards or processes in place that work, attempts should not be made to replace these. CLECAT also considers it of great importance that while authorities are moving towards digital and automated procedures, the benefits for trade are not lost, as has been the case with previous similar initiatives, and that the initiatives this time lead to tangible, measurable efficiency benefits and cost reductions.

The Commission's proposal for Electronic Freight Transport Information (eFTI)

After the Digital Transport Days, the Commission set forth to take tangible steps as advised by CLECAT and many other stakeholders. Through various discussions with targeted stakeholders (business representatives and Member States), legal assessment and discussions at the Digital Transport and Logistics Forum (DTLF), a legal proposal was published on 18 May 2018 as part of the third Mobility Package.

The proposal fully reflects the discussions held and respects the needs and concerns expressed by the various stakeholders. To address the main problem driver, namely the diverging and limitedly specified current legal framework, the proposal contains measures to:

(1) ensure the establishment, in all EU Member States, of the obligation of acceptance of electronic freight transport documents/information by all relevant public authorities;

(2) ensure that the authorities implement the obligation of acceptance in a uniform manner;

To address the second problem driver, which derives from the current co-existence of multiple and non-interoperable systems, the proposal contains measures to:

(3) ensure the interoperability of the IT systems and solutions used for the electronic exchange of freight transport information, and in particular for business-to-administration (B2A) regulatory information communication.

Supporting the principles

CLECAT welcomes and endorses the proposed legislation.

Despite the fact that it is expected that implementation will lead to substantial implementation costs for businesses in the shorter run, eventually it is expected that efficiency and other benefits will arise to the sector and the economy at large. Next to that, the alternative (no EU Regulation) would mean



that the national or local authorities will continue with the development of their individual digitalisation initiatives, without any further coordination or harmonisation efforts. The result would be an even more fragmented transport environment and much higher implementation costs for businesses. In the long run, an EU Regulation on this matter is therefore seen as crucial by CLECAT and its Members.

For businesses which might not be able to afford the investment in automation or IT investment, the proposed Regulation still provides the opportunity to exchange information on paper with authorities. This is also very much appreciated by CLECAT because in this way companies can't be forced to go digital on transport documents if they are not willing to. On the other hand, business which want to go 100% digital will have the opportunity to do so.

CLECAT also supports the focus on B2A communication instead of B2B, because B2B standards already exist on a global level. For example, the UN-CEFACT (United Nations centre for digital business and trade facilitation) has already created the standards for the e-CMR and the IMO and IATA set standards for B2B in maritime transport and air transport. The main issue for not using such electronic standards in a B2B environment, is national authorities not accepting such standards. This is also one of the main results of the impact assessment for the eFTI proposal. Germany, for example has not yet accepted this the e-CMR protocol which was created in 2008¹. Without acceptance of such a standard, companies are not able to use the already existing standards for B2B. Therefore, CLECAT considers it of great importance that the Regulation focusses on the B2A communication.

Fine-tuning

Furthermore, despite the fact that CLECAT largely supports the proposal in principle, some parts of the proposal require more fine-tuning and other parts are missing. An important missing aspect relates to the question of archiving electronic information. The proposal addresses various issues like exchange of information and spot-checks, but archiving is only mentioned in relation to requirements for eFTI platforms, but not for the actual economic operators. If this is not addressed the result might be that the process concerning transport documents itself becomes digital, but eventually all "documents" still have to be printed in order to comply with national or specific authority requirements. Such results should be prevented at all costs and thus be addressed by the Regulation.

On other parts the proposal is very detailed, where at this stage this kind of detailing in legislation could eventually lead to issues while actually implementing. The proposal mentions in article 4, for example, that Economic Operators shall communicate the Internet address via which the information can be addressed. What is meant exactly by internet address is not clear (which is an issue in itself), but what is commonly understood as an internet address might not be relevant at all, especially if communication can be done through platforms and system-to-system communication.

Another example is in article 8(e), where it is mentioned that all processing operations are duly recorded in order to [...]. But, it is not clear what is meant by "all". In the current situation, there is no such requirement and, despite the fact that the requirement is logical in a digital environment, choosing wording like "all" will very likely lead to additional unnecessary burden and costs for trade.

Therefore, CLECAT considers that such detailed requirements for economic operators should first be examined more carefully and might be better placed in secondary legislation instead of the overall (framework) legislation.

¹ https://www.unece.org/trans/conventn/legalinst_27_olirt_e-cmr.html



Delegation of power

CLECAT highly appreciates and supports the fact that through this Regulation the Commission wants to establish common eFTI data set(s), procedures and rules for access. Especially the common data set is an absolute condition for creating a harmonised environment. Freight forwarders, customs brokers and other logistics service providers already extensively use electronic tools for (synchro-modal) planning, warehouse management, fleet management, customs declarations and the creation of transport or other documents. So, for our industry there is little need to create solutions, demonstrate proof of concept or any other “soft” non-legislative measure.

The transfer of already electronic data to another party (customer, supplier, authority), however, remains in many cases paper-based, because of a lack of pan-European harmonisation and interoperability. This harmonisation should not be introduced by replacing already existing and properly functioning systems, but by re-using the existing solutions and focusing on how to make these solutions more interoperable through data harmonisation and the way these systems exchange data. Therefore, CLECAT finds it very important that the Commission has the opportunity to further elaborate on this with the support of Member States and the EP. While establishing data sets and other requirements in legislation, CLECAT considers it also important that already existing standards are being considered, like the WCO data model and the UN/CEFACT Multimodal Transport Data Reference Model.

For customs the efforts for digitalisation and harmonisation have already been successful for more than 30 years. The harmonisation is achieved by means of a delegated act, to which the defined data elements are included in an annex (ANNEX B). Specific requirements and other implementation aspects are then detailed in an implementing act. This set-up is fully in line with the Lisbon treaty and provides the private sector the harmonisation it needs through the delegated act and the Member States the room and explanation they need in the Implementing act.

Unfortunately, the Commission has not chosen the same approach in the eFTI proposal. Article 7 states that the Commission shall establish data sets, procedures and rules for access solely through an implementing act. CLECAT considers this a missed opportunity, as valuable lessons learned from data harmonisation in customs (which is very similar to transport information), are not being used and the same lengthy process of harmonisation over 30 years might be a result. Even with the delegated act which sets the data requirements for customs, recently, the European Court concluded in its special report, entitled “[A series of delays in Customs IT systems: what went wrong?](#)”, that one of the main causes of the delays is “a lengthy decision-making process due to the multi-layered governance structure between the Commission and the Member States”. Therefore, CLECAT urges to take these valuable lessons into account.

Next steps

Once the Regulation has been fine-tuned, the delegation of power suits the intended goals and the proposal is adopted, still the majority of the work to achieve the goals has to commence. Defining common data sets, procedures and rules for access is a complex task that requires on the one hand high levels of (technical and practical) expertise and on the other hand intense cooperation on policy aspects between the Commission, Members States (Authorities) and key private sector supply chain stakeholders. It also requires careful planning, allocation of resources, clear and measurable (sub) goals and performance indicators and most importantly a common vision of what the desired end-state of the digitalisation efforts will be.



CLECAT repeatedly requested such an approach in the various dedicated stakeholder meetings and as a member of the DTLF, because CLECAT sees this as a crucial factor for success for all parties involved. Unfortunately, today (October 2018, 5 months after the publication of the proposal) no such plan is known to CLECAT. Not knowing how the further detailing and implementation of the legislation and the cooperation between the involved stakeholders will continue, is leading to doubts on whether the outcome will eventually be successful. This doubt mainly arises because of negative experiences with other similar (recent) initiatives. The most comparable initiative is the Maritime Single Window (MSW) Environment, for which DG MOVE had to conclude after a few years that the objectives of the were not (or only partially) attained, because for example paper reporting is still used to a certain extent in more than 50% of ports, often as duplication, and reporting is only fully digitalised and harmonised in a few EU countries. Therefore, the positive impact of MSW was small, sometimes even negative for the transport industry.

CLECAT considers it of great importance that such negative results are not repeated and valuable time and resources are not wasted. Therefore, CLECAT unfortunately has to conclude that, despite all its good intentions and full alignment with our own goals, the Regulation cannot be adopted until the Commission has provided a concrete plan on how to proceed and how the intended goals will be achieved in practice.

Conclusion and final remarks

CLECAT very much appreciates the efforts of the Commission to propose a Regulation, which enables the acceptance of digital freight transport information by authorities and at the same time intends to harmonise this exchange. In most cases the only part within a logistics chain that is not (yet) digital are various transport documents. For the last remaining part, the transport documents, there is a steady increase in the acceptance and use of digitalised documents for different modalities. However, there are plenty of obstacles to overcome in order to transition to a fully digital environment. CLECAT strongly believes that this proposed Regulation provides the legislative basis to take away those last remaining obstacles and thus supports it in principle.

In order to achieve the desired results, the proposed Regulation needs adjustment on several points, because they might create unintended and unnecessary burdens at implementation. Furthermore, although CLECAT sees it as a necessity that this proposal is a Regulation, the delegation of power in the Regulation might not lead to the desired harmonisation or cause a lengthy process to achieve it. Lastly, a more detailed work programme with tangible and clearly defined goals seems to be lacking at this moment. The lack of such plans is leading to serious doubts on whether the goals of digitalisation, harmonisation and especially less burdens will be achieved. After having negative experiences in similar initiatives, the logistics industry absolutely needs more reassurance before it wants to start investing. This especially regarding the high estimated implementation costs and only an expected return on those investments in a longer time frame. CLECAT considers that the Commission should first establish a common understanding (vision) of what the desired end result should be for all stakeholders involved.

CLECAT has been an active participant of the DTLF and has supported and contributed to other Commission initiatives in the field of digital transport and logistics and will continue to do so. The efforts so far by the Commission are highly appreciated. Therefore, CLECAT hopes that any issues with this proposed legislation can be resolved as soon as possible, but with the attention, care and resources needed, so work on an actual digital transport environment can commence and the intended benefits can be achieved for all stakeholders involved.