



01.3.2024

WORKING DOCUMENT

on Proposal for a Directive of the European Parliament and of the Council amending Council Directive 92/106/EEC as regards a support framework for intermodal transport of goods and Regulation (EU) 2020/1056 of the European Parliament and the Council as regards calculation of external costs savings and generation of aggregated data

Committee on Transport and Tourism

Rapporteur: Massimiliano Salini

Combined Transport Directive

An overview of the development of combined transport in Europe

The Combined Transport Directive is nowadays the pillar of the European strategy to promote the uptake of transport operations involving different modes of transport, such as rail, short-sea shipping and inland waterways with limited road legs. Since 1992, the Directive has been the main legal text that addressed the issue of development of the combined transport in the EU.

Strengthening the development of combined transport is paramount for the European industry, as it promotes sustainable transport solutions, contributes to reducing pollution, noise, congestion and road accidents, while ensuring a more efficient utilization of transport resources to enable the sector to achieve economies of scale.

It is worth noticing that nowadays the modal split trend shows that in 2021 the EU road transport accounted for 77% of inland freight transport, while rail and inland waterways accounted for 17% and 6% respectively.¹ To ensure a future proof, smart and sustainable European transport system, all modes of transport have their role to play. It is important to unlock the potential of all modes of transports in order to boost the competitiveness of combined transport.

Combined Transport outside the EU

A similar situation can be found outside European borders. Indeed, since 1951 the UN Working Party on Intermodal Transport and Logistics (WP 24) represents a forum for exchange of policy and technical information and best practices on combined and intermodal transport. The goal is to encourage the uptake of combined transport across the 56 member countries of the UNECE, while also striving for optimal utilization of related equipment, infrastructure, and terminals.

In 1987, the Working Party started its work in designating a network of key combined transport lines complying with accepted uniform standards and best practices, aiming at strengthening qualitatively the standards of international combined transport services. This led to the implementation of the European Agreement on Important International Combined Transport Lines and Related Installations (AGTC Agreement), entered into force in 1993, that provides the technical and legal structure necessary for developing an efficient international intermodal and combined transport infrastructure across Europe. It determines important European railway routes utilized for intermodal transport, designates key terminals, border crossing points, and ferry connections.²

Since 2007, the WP 24 keeps track of national policy measures of 19 UNECE member states

¹ Modal split of inland freight transport

https://ec.europa.eu/eurostat/databrowser/view/tran_hv_frmod/default/table?lang=en

² UNECE WP.24 https://unece.org/DAM/trans/wp24/Tryptique_WP24_English.pdf

to promote intermodal transport and the respective national regulatory support measures.

The European Court of Auditors' report

As highlighted by the 2023 European Court of Auditors' special report on intermodal freight transport³, such uneven playing field for intermodal freight transport depends on several factors, such as the development of terminals infrastructures and the absence of a dedicated EU strategy on intermodality, that tackles the shortcomings in the design of realistic EU targets on intermodal transport. It is also worth underlining that the lack of data from Member States affected negatively the Commission's attempt in monitoring the development of intermodality.

The stakeholders interviewed pointed out that the 1992 Directive does not fully promote combined transport in the EU, highlighting that the minimum threshold of 100 km for non-road leg cuts off all those services connecting ports to the hinterland and the obsolete requirement for having paper document stamped by the rail and port authorities. The European Court of Auditors provided also recommendations for the Commission, calling for an improvement of the collection of intermodal transport data at national level, enhancing the cooperation between Eurostat and national offices. At the same time, the Commission was asked to remove the existing regulatory obstacles to increase the competitiveness of rail and inland waterway and increase the incentives for intermodal transport. Moreover, it highlighted the necessity of establishing the groundwork for a coordinated assessment by Member States of intermodal terminal needs.

The new Commission proposal: a new approach to combined transport?

The new proposal published by the Commission on 7 November 2023, amends the above-mentioned Directive as part of the Greening Freight Package and it represents the third attempt to revise this legal text. Indeed, the Commission has already proposed a revision of the Directive both in 1998⁴ and in 2017⁵, but since no agreement was reached in the inter-institutional negotiations, the Commission withdrew the proposals.

We acknowledge the efforts made by the Commission in their new proposal and we believe that a review is essential in order to contribute to a real and feasible development of the combined transport market in the EU and to make it more efficient and competitive. Indeed, according to the REFIT ex-post evaluation presented by the Commission in 2016, the 1992 Directive remains a viable mechanism for promoting combined transport, although there is

³ European Court of Auditors Special Report
https://ec.europa.eu/eurostat/databrowser/view/tran_hv_frmod/default/table?lang=en

⁴ Proposal for a Council Directive amending Council Directive 92/106/EEC on the establishment of common rules for certain types of combined transport of goods between Member States [https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:51998PC0414\(01\)](https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:51998PC0414(01))

⁵ 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 <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1510583870974&uri=COM:2017:648:FIN>

considerable room for improvement. The unclear definition of combined transport has not proven entirely effective. Its varied implementation across Member States, coupled with a lack of enforcement, has resulted in fostering legal uncertainty within the combined transport market and limiting the industry's ability to benefit from the Directive. Moreover, certain aspects of the combined transport's definition are considered outdated or overly restrictive, weakening the effectiveness of the directive itself. In addition, the role of digitalisation is key for guaranteeing the well-functioning of the sector, since it would avoid the use of paper-based documents, thus reducing additional administrative burden for operators. Further, the lack of comparable data on combined transport creates problems as not all Member States collect such information. Based on the Commission's data, only 13 Member States systematically collect and analyse statistical data on combined transport operations.⁶

In addition, in the public consultation launched by the Commission on 2022⁷ to provide feedback on how intermodal transport could be improved, 80% of stakeholders argued that there were significant differences concerning the competitiveness of intermodal transport in Member States, due to availability and quality of the infrastructures, such as terminals and railways, and also in the support provided by Member States such as infrastructure financing and State aid. In particular, six factors were highlighted as affecting the lack of competitiveness of intermodal transport, namely, transshipment costs, lack of suitable terminals and service offers in terminals, delays and longer transit times and the cost of door-to-door operations.

All in all, the regulatory and financial support for intermodal transport to date has not been sufficiently effective and promotional as it has not unlocked its potential and has not made it fully competitive due to legal unclarity and because of the existence of regulatory and infrastructural obstacles.

Re-defining combined transport

The new proposal of the Commission significantly changes Article 1, introducing new elements in order to adapt and align it to the profound economic, technological and regulatory changes that have occurred in the meantime. By introducing a support framework for intermodal transport operations, the Directive provides also a new set of definitions. In particular, the new definition of combined transport changes significantly compared to the current one.

Combined transport was defined for the first time in the Directive 92/106/EEC as “the transport of goods between Member States where the lorry, trailer, semi-trailer, with or without tractor unit, swap body or container of 20 feet or more uses the road on the initial or final leg of the journey and, on the other leg, rail or inland waterway or maritime services where this section exceeds 100 km as the crow flies and make the initial or final road transport leg of the journey;

⁶ REFIT EX-POST EVALUATION <https://transport.ec.europa.eu/system/files/2016-09/swd%25282016%2529140-final-report.pdf>

⁷ Public consultation https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13010-Sustainable-transport-revision-of-Combined-Transport-Directive_en

- between the point where the goods are loaded and the nearest suitable rail loading station for the initial leg, and between the nearest suitable rail unloading station and the point where the goods are unloaded for the final leg,
- or within a radius not exceeding 150 km as the crow flies from the inland waterway port or seaport of loading or unloading.”⁸

The new proposal significantly modifies the definition, adding the condition that the combined transport operation shall reduce by at least 40% external costs compared to the alternative road unimodal transport operation, following the methodology established based on the unit values from the Handbook of the external costs of transport. According to the new directive, the concrete methodology for calculation of external costs and eligibility for benefiting from supportive measures regarding combined transport should be established by means of an implementing act.

This change in the approach is due to the fact that the definition based on distance limits was criticised because it did not take into account the heterogeneity of the European regions and their characteristics, and most of all, it does not necessarily promote the reduction of external costs. For this reason, the new Directive calls for the introduction of a threshold of savings from external costs, in particular, air pollution, GHG emissions, injuries, noise and congestion, of an intermodal operation compared to the alternative unimodal transport. Moreover, the calculation of the external costs must consider all the intermodal transport phases, including those carried out at terminals.

We welcome the ambition of the Commission to foster sustainable transport solutions and to reduce external costs by supporting and promoting combined transport. Nonetheless we believe that the new definition is bringing a significant amount of uncertainty. It should indeed be preferable to provide simpler conditions to make operations eligible for incentives and to avoid any administrative and operational burden for intermodal operators. Moreover, most of transport stakeholders are quite sceptical on the new definition's operability. The new approach proposed by the Commission could make combined transport operations excessively complex and burdensome, thus discouraging actors in the logistic chain from opting for combined transport.

Currently, it is not clear how exactly the 40% threshold will be calculated and to which baseline regarding the unimodal transport it will be compared. For this reason, it is important to have more concrete technical information concerning the 40% threshold established by the Commission, especially in view of the upcoming revision of the Commission's Handbook on the external costs of transport.

It bears importance for this revision to ensure consistency with the new challenges to the European market and to technological development. It is then of paramount importance to provide data on external costs from all modes of transports and evaluate the need to include also other parameters or data consistent with scientific evidence and technical innovations and provide clarity. It is indeed imperative to have a reliable basis for developing a

⁸ Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31992L0106>

comprehensive approach that takes into account the key role that new technologies have in the European transport sector. For this reason, it could be useful for the Commission to actively engage with the stakeholders to assure that the legislation keeps the same pace with the transport industry.

Involving transport stakeholders in the gathering of technical inputs on the revision of the Handbook can contribute to an efficient and future proof development of combined transport in the European market. In order to make combined transport more competitive, additional incentives for operations that ensure the reduction of external costs by more than 40% could be considered.

The e-FTI Platform

To guarantee that only qualified intermodal transport operations can benefit from the support framework outlined in this Directive, it is crucial to verify the adherence of each operation to the conditions specified by the support framework. We welcome the idea of the Commission to rely on modern digital technologies that can verify compliance for all operations. The management of data, information and tools plays a key role to improve the transparency in establishing of eligibility criteria of the combined transport operation, consistently with the scope of this directive, tackling also administrative burden for the industry.

Digital tools can be vital to make combined transport more competitive and to enhance the creation of aggregated data and to promote exchange of information on traffic flows for users and public authorities, fostering investments planning and accessibility to the most efficient combined operation option.

We welcome the utilisation of an electronic freight transport information platform for digital transport data established pursuant to Regulation (EU) 1056/2020 of the European Parliament and of the Council (the so-called e-FTI platforms). According to the Directive, the enterprise that organises the combined transport operation shall provide transport information on the above-mentioned platform before the start of the combined operation concerned in order to avail of the support framework set forth by the Directive. The information required is necessary for proof of compliance, while no additional data should be requested by national authorities.

Employing this digital platform can be well aligned with the digital objectives and provide an effective tool to reduce the administrative burden and allow combined transport operation to keep pace with technological development. Digital tools can also contribute to a better availability of freight transport data also on the location and performance of the most efficient combined transport flows that can aim to further improve combined transport policies and to foster investments avoiding road congestion in specific routes.

On the other hand, we have to ensure that we employ the e-FTI Platform only when it is fully available and operational in Europe, in order to avoid that such framework raises several significant technical and implementation issues. The digitalisation tools can simplify quantitatively and qualitatively the procedures for eligibility for the support framework. Nonetheless, it is important to assure the coherence of the implementation of the e-FTI platforms with the entry into force of the Directive. It is important to keep track of the proper

implementation of the e-FTI regulation as a precondition to assess external costs saving. Moreover, it is crucial to clarify the timeframe for the adoption of the implementing acts concerning the calculation of external costs. This measure will prevent the risk of jeopardizing the development of combined transport in the Member States, avoiding any lack of transparency on the criteria adopted.

National strategic frameworks

Member States play a key role in defining and adjusting national policies to take the necessary measures to enhance the competitiveness of combined transport. While some of European countries already have national policies promoting intermodality in place, others do not have support measures, thus resulting in a fragmentation that reduces the effectiveness of the Directive in Europe. To address this issue, the new proposal establishes that all Member States should adopt a national policy framework for facilitating the uptake of intermodality, including both regulatory and non-regulatory measures. This new provision represent a key tool that tackles the fragmented approach across Europe.

As per the Directive, these measures shall aim to achieve a general cumulative reduction of at least 10% of the total costs of combined transport operations borne by the undertakings that organise combined transport operation by seven and a half years after the entry into force of the Directive. Additionally, they should also contribute to the development of technologies that can foster the uptake of combined transport operations and create new rail, inland waterway link between non-connected intermodal transshipment terminals.

It could be preferable to make sure that all Member States are in the conditions to guarantee an overall reduction of at least 10% of the total costs of combined transport operations in their territory, based on their technological and infrastructural elements. It would also be beneficial to have technical details on the calculation method of such 10% threshold to provide better clarity. Given the ambitious threshold proposed by the Commission, it could be appropriate to provide Member States with recommendations on the possible measures, specifying if they should be structural or temporary.

The Rapporteur's recommendations

- Combined transport has to be an efficient tool for the European transport sector. This is why we call for a realistic approach that can significantly increase the competitiveness of European industries while providing environmental benefits. The use of combined transport should be further encouraged.
- The strategy proposed by the Commission to drastically change the current definition with a 40% threshold of external cost reduction brings much uncertainty to the industry. This definition and underlying methodology needs further evaluation and clarification to avoid any uncertainties and administrative burden for the sector. It is important to assure a level playing field between all modes of transport, as all modes of transport have their role to play in our journey towards a sustainable transport system. It would be preferable to provide simpler and harmonised and clearly stated conditions to make operations eligible for incentives, removing all the ambiguities for all the actors involved and making combined transport more attractive for the

European market.

- For better clarity, it is imperative to obtain more technical references and methodology on the chosen 40% threshold. Moreover, the Commission's Handbook on the external costs of transport dates back to 2019 and the upcoming revision will change the overall external cost methodology. This revision should also benefit from transport stakeholders technical inputs.
- We call for the setting of a specific timeframe for the adoption of implementing acts from the Commission concerning the calculation of external costs, since this approach could jeopardize transparency of the criteria adopted, thus resulting in weakening the competitiveness of combined transport.
- It is important to give additional incentives to those transport operations that can produce more than 40% reduction of external costs in order to motivate the industry and to further improve sustainability of our transport system.
- While the digitalization of intermodal transport operations represents a key element for the development of the sector, it would be important to ensure that the operational launch of the e-FTI Platform is coherent with the entry into force of this Directive. Legal certainty is indeed essential.
- It would be useful to enhance the creation of an aggregated database and the exchange of information on traffic flows fostering investments planning and accessibility to the most efficient combined operation options.
- It is preferable to make sure that all Member States are in condition to guarantee an overall reduction of at least 10% of the total costs of combine transport operations in their territory, based on their socio-economic, technological and infrastructural development. It would be useful to have technical details on the calculation method used for this 10% threshold.
- We welcome the Commission's proposal concerning the exemption from weekend, night and holiday driving bans applying to heavy good vehicles which can ensure smoother traffic flows of combined transport as well as further improve the fragmentation of single transport area.