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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

(Text with EEA relevance)

{SEC(2023) 373 final} - {SWD(2023) 351 final} - {SWD(2023) 352 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The European Climate Law stipulates that the European Union needs to reduce its economy-wide greenhouse gas (GHG) emissions by at least 55% by 2030 as compared to 1990 levels and to achieve climate neutrality by 2050[1]. The European Green Deal Communication[2] pointed to the need to reduce transport GHG emissions by 90% by 2050 to achieve climate neutrality. The Zero Pollution Action Plan[3] promotes the switch to cleaner transport to reduce air and noise pollution. Furthermore, to reduce its dependence of fossil fuels, the EU also needs to improve its energy efficiency, as highlighted in the REPowerEU package[4], which lists the revision of the Combined Transport Directive (hereinafter 'CTD' or 'the Directive')[5] as an important tool in this regard[6].

The transformation towards low-emission and low-energy consumption freight transport requires a comprehensive approach. The Commission Communication on Sustainable and Smart Mobility Strategy (SSMS)[7] emphasises that all policy levers must be pulled to make all transport modes more sustainable, to make sustainable alternatives widely available in a multimodal transport system, and to put in place the right incentives to drive the transition. It calls for decisive actions towards using sustainable transport modes, notably by moving a substantial amount of freight onto rail, inland waterways, and short sea shipping. According to the milestones of the SSMS, rail freight traffic should double, and inland waterways and short sea shipping freight traffic should increase by 50% by 2050. Similarly, the European Green Deal also called for a substantial part of the 75% of inland freight carried today by road to be shifted to rail and inland waterways.

Intermodal freight transport including combined transport[8] (hereafter both together referred to as "intermodal transport") is essential in enabling a higher uptake of rail and waterborne freight transport, which alone only very rarely provide door-to-door transport solutions. At the same time, the average external cost for rail and inland waterway transport per tonne-km (tkm) are almost three times lower, at EUR 0.013 per tkm and EUR 0.019 per tkm, respectively, compared to the average external cost for Heavy Good Vehicles (HGV) at EUR 0.042 per tkm. Intermodal transport, which includes feedering road legs at the beginning and/or end of the operation, combines the better environmental performance and energy efficiency of these non-road modes with the accessibility and flexibility of road transport. Intermodal transport enables to use transport modes in an efficient combination, in particular promoting those with comparatively lower environmental footprints, thereby optimising the use of the existing transport network and resources and reducing emissions and energy consumption.

Therefore, intermodal transport is instrumental in achieving the ambition of both the SSMS and that of the European Green Deal. The SSMS accordingly announced that to support the greening of

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1 Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law'), OJ L 243, 9.7.2021, p. 1-17.

2 COM(2019)640 final.

3 COM(2021) 400 final.

4 REPowerEU:https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal/repowereu-affordable-secure-and-sustainable-energy-europe_en

5 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

6 EU 'Save Energy', COM(2022) 240 final.

7 COM(2020) 789 final.

8 Combined transport is a subset of intermodal transport meeting the definition in the CTD.

cargo operations in Europe, the existing framework for intermodal transport needs a substantial revamp and must be turned into an effective tool.

Even if the performance in volumes of intermodal transport has increased substantially over the last 30 years, road still dominates freight transport in the EU, because intermodal transport is often not competitive with road-only transport due to various factors. First, the success of intermodal transport depends on the performance (availability, reliability, punctuality, speed) and cost of each part of the chain, i.e., the services offered by rail and waterborne transport, transhipment terminals as well as the road transport for the 'last mile'. There are performance gaps in all those elements that need to be addressed by respective sectoral legislation and industry efforts. Second, as long as the level of internalisation of the external costs between the modes differs, non-road and intermodal transport on medium-long distances is not price-competitive with road-only operations. The SSMS stated that to deliver fair and efficient pricing across all transport modes, a comprehensive set of measures is needed. Only then would polluters and users take full responsibility for the costs they generate, allowing users to make choices aligned with what is best for society. The SSMS also expects full internalisation of external costs within the EU to be completed by 2050, thus making it indispensable to take additional action before such time, to fulfil the objectives of the above-described environmental objectives by 2050.

Since 1975, the EU has had an instrument[9] to support eligible intermodal transport operations (i.e. combined transport) with the objective to increase the competitiveness of combined transport vis-à-vis road only freight transport and thereby achieve a higher uptake of combined transport.

In 1992, this instrument was replaced by the Council Directive 92/106/EEC on the establishment of common rules for certain types of combined transport of goods between Member States (CTD). The purpose of the CTD is to complement other modal policies to make intermodal transport involving rail, inland waterway and short sea shipping transport in combination with limited road legs more competitive. The CTD is the only EU legal instrument that directly supports intermodal transport and thus incentivises the shift from road freight to lower emission transport modes.

To increase the effectiveness of the CTD, the Commission made a proposal in 1998 to amend it, but due to no result in negotiations withdrew it in 2001.

In 2016, the Commission conducted a REFIT evaluation[10]. It concluded that that the CTD continued to be a relevant instrument for supporting combined transport, but that there is a significant margin for further improving its effectiveness as some of its provisions are outdated or unclear. Shortcomings include a narrow eligibility, insufficient economic support and the use of paper documents. Subsequently, the Commission made a new proposal in 2017. This proposal was withdrawn in 2020 as negotiations between the co-legislators had resulted in an outcome that would have reduced the ambition of the CTD at a time when political objectives, as reflected in the European Green Deal Communication[11], required the opposite.

To meet these expectations, the Commission has prepared a new proposal to amend the CTD. The objective of the initiative is to refocus the support framework that this Directive creates and thereby increase the competitiveness of intermodal transport compared to long-distance road transport to stimulate the shift from road freight to other modes of transport, and thereby to reduce external costs.

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9 Council Directive 75/130//EEC of 17 February 1975 on the establishment of common rules for certain types of combined road/rail carriage of goods between Member States, OJ L 48, 22.2.1975

10 SWD(2016) 140 final.

11 COM(2019) 640 final.

The amended Directive applies to all intermodal transport insofar as the national policy frameworks, reporting and terminal transparency are concerned, and establishes a dedicated support framework for the subset of intermodal transport that saves a certain level of external costs. The latter, being a subset of intermodal transport, continues to be called combined transport.

The lessons learnt from the 1998 and 2017 proposals and negotiations' outcomes were taken into consideration when designing this proposal. Specifically, these are:

– The need for a fundamentally different approach to the conditions under which support could be granted. The conditions in the current CTD are defined in terms of the length of different road and non-road legs and distances from suitable terminals, which do not always reflect the actual geographical conditions and lead to difficulties in implementation. More importantly, these criteria do not reflect the environmental performance of the actual operation resulting in support not being focused on operations that ensure external costs savings.

– The provisions regarding investments to achieve sufficient terminal capacity, while necessary, do not fit well into the scope of the Directive and were opposed by many Member States. Therefore, these have been now addressed in the Commission proposal for the revision of the TEN-T Regulation[12].

– The use of digital solutions for compliance checks and enforcement, which can also facilitate access to data on market functioning and on improving the effectiveness of economic support measures.

– Differentiated situations in Member States that require different approaches to support measures.

To address its objectives, this initiative has been structured around four areas:

– Conditions for support and proof of compliance

The conditions under which intermodal operations fall within the scope of the support provided by this Directive are streamlined to cover a larger share of intermodal transport, to eliminate ambiguities and possibilities for misinterpretations and unequal treatment and to establish a clear basis for compliance decisions. This includes conditions on the geographical scope, loading units and their identification regime, the treatment of empty containers, the minimum of external costs savings to be achieved, the need for rules on calculating external cost savings, and the contents and rules for proof of compliance.

– Support frameworks

The rationale of the whole Directive is to provide a support framework for intermodal transport including appropriate regulatory and/or economic measures. However, according to the REFIT evaluation, the support framework established by the Directive to enhance the relative competitiveness of combined transport has had insufficient impact. Indeed, 70 out of the 100 responses to the open public consultation confirmed that this is an issue[13]. The recent European Court of Auditors special report on intermodal transport also concluded that support on intermodal transport was not sufficiently effective as there was still no level playing field for

12 COM(2021) 812 final

13 This included 11 public authorities (CZ, two public authorities from BE, AT, three public authorities from FR, NO, IT, DE, SE), 49 industry stakeholders, four citizens and six responses under the category 'others'.

intermodal freight transport in the EU[14]. The new rules introduce the following on top of existing support:

1. a new EU-wide regulatory exemption from national driving bans;
2. obligation on Member States to analyse their existing measures and extend or establish new national policy frameworks - including appropriate measures of regulatory and/or economic nature - to support the uptake of intermodal transport;
3. an objective of an overall 10% reduction in costs for combined transport in each Member State, to facilitate technological upgrades relevant to intermodal transport, and to establish new connections between previously unconnected terminals.

– Transparency of market functioning

As concluded by the REFIT evaluation, there is a lack of transparency as regards the existing national policy and market situation that would allow to assess whether support is tailored to the actual situation. 18 out of 49 survey respondents[15] agreed or strongly agreed that an empirical basis for determining the adequate level of support is missing. Reporting by the Commission stays, but with updated data and reporting periods, complemented by an obligation on Member States to ensure transparency of their national intermodal policy frameworks that they are implementing for supporting combined transport. Links to all national policy frameworks and national measures will be published in a central gateway managed by the Commission. Further, a review clause for reassessing this EU support framework is included.

– Terminal transparency requirements

The proposal introduces common transparency requirements for terminals ensuring that all terminals make data publicly available on terminal facilities and services. In addition, the proposal provides the possibility to establish a framework of terminal categories, based on service levels, for available services and facilities. These measures are complementary to the proposed revision of the TEN-T Regulation, which addresses terminal capacity and quality on the TEN-T network.

• **Consistency with existing policy provisions in the policy area**

The initiative has to be seen in the context of the European Climate Law[16] and the European Green Deal Communication[17], both setting GHG emissions reduction targets. Further, in the context of the REPowerEU package[18] aiming at improving the EU's energy efficiency and identifying the revision of the CTD as an important tool in this regard[19], and the Zero Pollution Action Plan[20] which

14 European Court of Auditors (2023), op. cit.

15 14 out of 31 industry respondents and 4/8 authorities.

16 Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law'), OJ L 243, 9.7.2021, p. 1-17.

17 COM(2019)640 final.

18 REPowerEU: https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal/repowereu-affordable-secure-and-sustainable-energy-europe_en

19 EU 'Save Energy', COM(2022) 240 final.

20 COM(2021) 400 final.

promotes the switch to cleaner transport to reduce air and noise pollution. Also, the SSMS calls for decisive action to shift freight transport to more sustainable transport modes.

It should be noted that specific policy considerations relevant to combined transport already existed in the past. In 1992 the Commission published a White Paper on Transport and an accompanying legislative package, which led to today's CTD, fully liberalising the combined transport market in the EU and providing today's support framework. In 1997, The Commission published a dedicated strategy on intermodal transport in Europe[21]. The 2011 Transport White Paper[22] set the specific goal of shifting 30% of long-distance road freight (over 300 km) to rail or waterborne transport by 2030, and more than 50% by 2050.

- **Consistency with other Union policies**

The proposal complements other transport policies, which (a) target the environmental performance of individual modes, (b) internalise external costs by applying the 'polluter pays' and 'user pays' principles, and (c) provide transparency about the available services and applicable rules for the sector or parts of it.

Making individual modes more sustainable in terms of their energy efficiency and use of sustainable fuels, and thus reducing the external costs of transport, has been addressed by a range of policy tools, such as CO_2 performance standards for heavy-duty vehicles[23], the revised Renewable Energy Directive (RED II)[24], and the Alternative Fuels Infrastructure Regulation.

Similarly, a range of measures already target the internalisation of external costs, with the aim to allow the society to make the right choices. These include carbon pricing, infrastructure charges, and energy and vehicle taxes, which are gradually adjusted and phased in. Eventually they must come together in a mutually compatible, complementary and coherent policy, however according to the SSMS this can take until 2050[25].

While various transparency and reporting obligations exist in mode-specific legislation, cross-modal reporting or information exchange (relevant for intermodal transport) is to a large extent not covered. Furthermore, the added value and attractiveness of intermodal transport depends on the performance of individual modes and available infrastructure capacity. Therefore, this initiative is developed in close coordination with other transport legislation and legislative proposals, including those within the Greening Transport Package, which this initiative is part of.

It also has strong connections with other parts of this package, notably the initiative for increasing the share of rail in international transport[26] and the revision of the Weights and Dimensions Directive[27] on road transport, which are both important for removing mode specific barriers to intermodal transport.

Moreover, the new common EU framework for GHG emissions accounting in transport and

21 COM(97) 243 final.

22 COM(2011) 144 final.

23 Regulation (EU) 2019/1242

24 COM(2021) 557 final

25 The SSMS sets a milestone for all external costs of transport within the EU to be covered by the transport users at the latest by 2050.

26 https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13134-International-freight-and-passenger-transport-increasing-the-share-of-rail-traffic_en

27 Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorized dimensions in national and international traffic and the maximum authorized weights in international traffic, OJ L 235, 17.9.1996, p. 59–75. It allows heavier and longer road vehicles to be used in intermodal transport, including combined transport road legs.

logistics (CEEU) and the implementation of the Electronic Freight Transport Information Regulation (eFTI)[28] contribute to the technical framework for the implementation of the revised CTD.

The revision is also consistent with the recently adopted Naiades Communication[29], which calls for the greater integration of inland waterways into a modern, trans-European intermodal transport system.

In addition, a precondition for the use of intermodal and multimodal transport is the availability of appropriate infrastructure at sufficient capacity. The recent study on transhipment technologies[30] showed that there are shortcomings on the TEN-T network for intermodal transport, and that the existing transhipment capacity is insufficient for rail and inland waterway transport. The issue of terminal capacity was addressed in the Commission proposal for the revision of the TEN-T Regulation[31], which for the first time includes an obligation on Member States to ensure sufficient multimodal freight terminal capacity based on a dedicated analysis and action plan. These measures can be expected to deliver better infrastructure capacity for intermodal transport over the next decade.

The obligations set out in this Directive are without prejudice to the application of the relevant State aid rules. This Directive will define the criteria for a category of operations with the highest potential for reducing external costs in transport and establish policy objectives for promoting this subset of operations. Member States may consider introducing inter alia State aid measures to achieve the policy objectives in the amended CTD. The mere inclusion of measures in national policy frameworks that are enacted based on this Directive does not exempt them from the compatibility assessment, which falls within the exclusive competence of the Commission.

This proposal is also in line with the final proposals of the Conference on the Future of Europe, in particular Proposal 3 on climate change, energy and transport, requesting to tackle climate change and respect the global climate goals.

Finally, it should be noted that a link between CTD and road cabotage is brought up by some stakeholders. It remains relevant and important to continue to treat international combined transport and international road transport equally as regards the use of non-resident hauliers as provided for in Article 4 of the CTD. In the revision of Regulation (EU) 1072/2009 in 2020[32], the co-legislators provided a derogation from Article 4 of the CTD (but only in case of it being misused) while reconfirming that Article 4 has been useful and remains in force[33].

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28 Regulation (EU) 2020/1056

29 COM(2021) 324 final.

30 Comparative analysis of transhipment technologies for intermodal transport and their costs, PWC, KombiConsult 2022, https://transport.ec.europa.eu/news/study-analyses-transhipment-options-more-competitive-intermodal-transport-and-terminal-capacity-ten-2022-05-05_en

31 COM(2021) 812 final.

32 Regulation (EU) 1055/2020 of the European Parliament and of the Council of 15 July 2020 amending Regulations (EC) No 1071/2009, (EC) No 1072/2009 and (EU) No 1024/2012 with a view to adapting them to developments in the road transport sector, *OJ L 249, 31.7.2020, p. 17–32.*

33 Actions for annulment in respect of this provision have been lodged with the Court of Justice by some Member States (C-542/20, Lithuania v. Parliament and the Council, C-545/20, Bulgaria v. Parliament and the Council, C-547/20, Romania v. Parliament and the Council and C-554/20, Poland v. Parliament and the Council).

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

Title VI (Articles 90-100) of the Treaty on the Functioning of the EU (TFEU) establishes the EU's prerogative to make provisions for the common transport policy. Article 91(1), point (c) TFEU provides that the EU has competence in the field of transport to lay down measures to improve transport safety, while Article 91(1) point (d) TFEU provides the same competence as regards "any other appropriate provisions".

• Subsidiarity (for non-exclusive competence)

EU dimension of the problem

Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the EU can act only if, and in so far, as the objectives of the proposed action cannot be sufficiently achieved by the Member States. External costs of transport, in particular those relating to climate change, are trans-boundary problems, which cannot be solved by national or local action alone. The pressing need to reduce GHG emissions produced by freight transport applies equally to cross-border and domestic operations. Thus, the problem identified needs to be addressed at EU level because it has a cross-border dimension.

Added value action at EU level

The aim of the initiative is to promote the uptake of intermodal transport, of which 81% is between Member States, across the EU through support measures based on common eligibility conditions. From the policy and the internal market perspective, it is important to ensure that the benefits provided for are applicable in a comparable way throughout the EU. Given the limited nature of the current CTD, some Member States designed differentiated support for intermodal transport operations both in the form of non-harmonised regulatory support as well as under the State aid rules. In certain cases, information about the availability of those support measures may not have been equally accessible to all operators, in particular in case of cross-border operations. Some operators may have gained a competitive advantage with impacts beyond their national border. EU action has the aim of helping to create comparable treatment for operators across the EU, simplifying administrative procedures for industry, the Member States and the Commission and improve the functioning of the internal market. This cannot be achieved by legislating at Member State level only.

• Proportionality

Choices concerning the relevant policy measures and policy option forming the structure of this initiative were made in due consideration of the proportionality principle, thus resulting in the most balanced approach possible. While the proposal puts an obligation on Member States to provide support to certain types of intermodal transport operations, the impact assessment showed that the policy option involving only Member States' voluntary support will not be sufficient to achieve the objective. The chosen policy option ensures sufficient modal shift at reasonable cost.

• Choice of the instrument

The choice of the instrument, the amendment of the existing Directive allows the satisfactory achievement of the objective of improving the competitiveness of intermodal transport, while ensuring adherence to the subsidiarity principles. To ensure the support, Member States will have freedom to set up their respective policy frameworks with the most relevant support measures.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

An evaluation[34] of the CTD was carried out in 2014-2016 and concluded that the Directive continues to be a relevant instrument for supporting freight transport combining different modes. It was estimated that the shift from road-only to intermodal transport had brought along an annual saving of up to EUR 2.1 billion in external costs in 2011. While not all of these savings can be attributed to the CTD, it was established that without EU action, cross-border combined transport services would likely have been faced with barriers due to different legal systems, making combined transport services less attractive and possibly unfeasible.

However, a number of provisions of the CTD, e.g. the requirement to use paper documents, are outdated as they reflect the market situation in 1992. Other provisions of the Directive suffer from diverging transposition and implementation at Member State level, which causes the industry practical problems on a daily basis and hence such provisions are not entirely effective. Furthermore, the economic support measures are very limited and therefore do not have a significant impact on the competitiveness of intermodal operations. In the public consultation, both the industry and public administrations indicated that the policy measures are proportionate for achieving the policy objectives.

- **Stakeholder consultations**

The Commission actively engaged with stakeholders and conducted comprehensive consultations throughout the impact assessment process.

Consultation activities took place in 2021 and 2022, from the publication of the Inception Impact Assessment (IIA) in August 2021, to the targeted consultation that closed in August 2022.

The objectives of the consultation activities were the following:

- to collect information and opinions of stakeholders on the key problems and associated drivers, the definition of relevant policy objectives linked to those problems, and the identification, definition and screening of policy measures that could be considered in the impact assessment;
- to gather information and opinions on the likely impacts of policy measures and options.

As part of the initial feedback mechanism, interested parties had the possibility to provide feedback on the IIA from 19 August to 16 September 2021. A total of 62 individual responses were received.

Subsequently, an open public consultation was accessible on the website "Have your Say" from 7 March to 30 May 2022. In total, 101 responses were received from different stakeholders. Some stakeholders also provided position papers together with their responses to the consultation.

Finally, the following targeted consultation activities were carried out:

- A targeted online survey aiming to validate the problem definition and the objectives of the policy options, obtain input to define in more detail the policy measures/options, and provide data needed to support the assessment of the impact of the measures and the expected costs. The survey ran from 16 May to 24 June 2022 and received 59 responses.

[34] SWD (2016) 140 final

- Targeted stakeholder interviews were conducted with 29 stakeholders between May and August 2022 (including three exploratory interviews conducted in February 2022).
- One stakeholder expert meeting with industry was held on 25 October 2022. There were 60 participants representing 55 organisations.

The stakeholder consultation activities revealed a large degree of agreement among stakeholders that the problems and objectives of the initiative are relevant for the development of intermodal transport.

The IIA consultation and open public consultation focused on the problem at a higher level, after which the survey and interviews took a more detailed and systematic approach to specifying the problem and an associated objective for the revision of the CTD. A common theme in the feedback on the IIA was a lack of clarity surrounding the definition in the current CTD, while others suggested that the CTD should focus more on inland waterway and short sea shipping transport in addition to road and rail transport.

As regards the problem definition, the consultation showed that there is a rather broad consensus among all stakeholders that when no support is provided, intermodal transport was competitive with road-only transport in the EU only in some situations (63 out of 95, 66%). Terminal operators were even more pessimistic, with three out of five considering intermodal transport never or almost never competitive with road-only transport unless supported. The vast majority of industry stakeholder groups agreed that the lack of price-competitiveness was an obstacle to the development of intermodal transport, with the exception of freight organisers (e.g. logistics operators, freight forwarders mostly active in the road transport), who were generally more sceptical in this regard.

Respondents identified six factors as affecting the competitiveness of intermodal transport compared with road-only transport: transhipment costs (87 out of 94; 93%) and lack of suitable terminals in the vicinity (85 out of 95; 89%) were the most prominent ones. For both of these factors, at least 75% of respondents from each stakeholder type and industry sub-category agreed that these were relevant factors. 80% of the respondents considered an additional four factors as being relevant, i.e.: road transport being cheaper than intermodal transport for door-to-door operations (78 out of 94; 83%); habit of using road-only transport (78 out of 94; 83%); lack of suitable service offer in terminals in the vicinity (76 out of 95; 80%); and delay/longer transit time compared with road-only transport (73 out of 92; 79%). For each of these, at least half of the respondents from each stakeholder type and industry sub-category felt that these factors were relevant, while among transport organisers only 3 out of 7 felt that road transport being cheaper than intermodal/multimodal transport for door-to-door operations was a relevant factor.

80 out of 100 respondents (80%) implied that there were differences in the competitiveness of intermodal transport in different Member States, with common reasons being differences in the infrastructure and services that were available, as well as differences in the support provided.

As regards the problem drivers, 26 out of 49 respondents to the stakeholders' survey agreed or strongly agreed that the current eligibility criteria are too narrow as only operations between Member States are covered, loading units must be of a minimum size to be eligible, and different eligibility conditions apply to different modal combinations. Moreover, 24 out of 49 survey respondents believed that the current eligibility criteria are not entirely relevant to promoting the uptake of intermodal transport and the reduction of externalities. 25 out of 49 survey respondents and 15 out of 29 interviewees considered that the current eligibility definition allows different interpretations.

18 out of 49 survey respondents agreed or strongly agreed that an empirical basis to determine the adequate level of support is missing, as the REFIT evaluation had already concluded that the CTD

lacks an effective market overview framework that would allow to tailor support measures to the actual situation either at EU or Member State level. 20 out of 49 survey respondents supported the objective to improve data, analysis and reporting on the status of intermodal transport.

According to the REFIT evaluation, the support measures established by the CTD to increase the relative competitiveness of combined transport are very limited. 70 out of the 100 responses to the open public consultation agree that this is an issue, and 19 out of 49 respondents to the stakeholders' survey agreed or strongly agreed with the low, ineffective and inefficient support measures being an issue.

The SSMS identifies the need to improve multimodal data interchange and smart traffic management to simplify the complex regulatory, administrative and business arrangements. Operators use different systems, with a wide variety of interfaces, dataset requirements and semantics. 13 out of 49 respondents to the stakeholders' survey agreed that there is lack of interoperability, and that the fragmentation of the different data sharing systems is an important limiting issue. As regards the operational inefficiencies in terminals, 37 of 100 respondents to the open public consultation considered the poor quality of service in terminals to be a factor that undermines the competitiveness of intermodal transport.

- **Collection and use of expertise**

A study was conducted by an external contractor to support the impact assessment underpinning the proposal (December 2021 - June 2023). It provided valuable insights, in particular as regards designing the policy options, assessing the expected impacts and to collecting the views of the directly impacted stakeholders.

- **Impact assessment**

The policy measures included in this proposal are based on the results of an impact assessment. The impact assessment report [SWD(2023)351] initially received a negative opinion from the Commission Regulatory Scrutiny Board [SEC(2023)373]. It was then resubmitted to the Board and received a positive opinion with reservations. The recommendations received from the Board have been addressed and Annex 1 to the impact assessment report provides a summary of how this was done.

Five policy options were considered in the impact assessment for achieving the identified objectives. These five options all address the following issues:

- covering a wider range of operations under effective compliance conditions
- increasing competitiveness through a support framework
- transparency, cooperation and simplification regarding market entry
- improving reporting and information on market functioning.

Policy option A is the option with the softest intervention at EU level. It applies to all intra-EU intermodal transport. Eligibility would be based on a wider set of externalities, requiring savings of at least 40% of external costs, with a methodology established based on the unit values from the Handbook on the external costs of transport[35]. The guidance for calculations would be established in an implementing act[36]. The data to be provided to prove eligibility would be reviewed and tied to

35 CE Delft (2019).

36 To ensure sufficiently precise comparison of operations, it would be necessary to continue updating the Handbook on regular basis, taking into account the latest scientific evidence. In addition, consistency and complementarity with the upcoming CEEU has to be ensured.

eFTI platforms[37]. The current biannual reporting obligation on the Commission would be replaced by a call to Member States to carry out regular analysis and strategic planning for sustainable modes of transport to choose appropriate support. While policy option PO-A does not oblige Member States to provide any support, it does provide a Toolbox with predefined support tools to choose from. For terminal transparency and cooperation, common transparency rules for terminals would be introduced with an implementing act.

Policy option B is the option that combines obligations at EU level with flexibility to take into account specific national situations. It obliges Member States to support intermodal transport but gives them the freedom to choose among the different support tools listed in the Toolbox, to address the challenges in national transport systems. This policy option is subdivided into three sub-options with different scope and eligibility conditions. Policy option B1 and policy option B2a apply to all intra-EU intermodal operations, while policy option B2b applies only to cross-border intra-EU operations. In policy option B1, eligibility is based on GHG savings with a threshold of 25% calculated using the methodology of the Common EU framework for GHG emissions accounting in transport and logistics (CountEmissions EU proposal). In policy options B2a and B2b, eligibility is based on a wider set of externalities with a required savings threshold of 40% as in option A. In all policy option B sub-options, the data to be provided for proof of eligibility would be reviewed and tied to eFTI platforms. For market analysis and reporting, all policy option B sub-options would rely on the current obligation on the Commission to prepare reports every 5 years with assistance from Member States and by using dedicated market analysis studies. In all policy option B sub-options Member States would be required to achieve an overall costs reduction as well as increase in technological upgrades, while being allowed to choose from a Toolbox to adapt their support to national circumstances within the given limits. Furthermore, Member States are called upon to facilitate start-up of new intermodal routes. All policy option B sub-options would include a regulatory benefit exempting road-legs of eligible operations from national driving bans. For terminal transparency and cooperation, the measures are the same as in policy option A.

Policy option C establishes the strongest EU level intervention. It applies to all intra-EU operations. Eligibility is the same as for policy option A and policy option B2 sub-options, based on a wider set of externalities with a 40% threshold. Like in other options, the data to be provided to prove eligibility would be reviewed and tied to eFTI platforms. The Commission's biannual reporting obligation would be replaced by an obligation on Member States to carry out regular analysis and strategic planning, covering the full transport system and including cross-modal analysis. For support tools, it obliges Member States to provide harmonised support to reduce the cost of (the part of) eligible operations taking place in their territory at a level that induces uptake of intermodal transport. This support level is assessed to be 10% of the total door-to-door cost of the operation for the shipper. Also, this policy option would include a harmonised regulatory benefit exempting road-legs of eligible operations from national driving bans. Policy option C would further require establishing a defined data set and obliges the use of common data sets and data exchange protocols. The measures for terminal transparency are the same as in policy options A and B.

Based on the assessment, policy option B2a is identified as the preferred option. It delivers on the objective by ensuring the highest modal shift and external cost savings with a good cost-benefit ratio, while also ensuring coherence and complying with proportionality and subsidiarity principles.

The preferred option is expected to deliver significant recurrent administrative cost savings for businesses operating in the intermodal sector. The recurrent costs savings for operators engaged in intermodal transport due to the use of electronic data and eFTI platforms are estimated at EUR 430 million per year. At the same time, terminals would incur administrative costs for updating the

[37] Platforms for business-to-authorities (B2A) electronic data exchange established according to Regulation (EU) 2020/1056.

information required to be published on their website. The recurrent annual average cost for all terminals in 2025-2035 are estimated at around EUR 6100. The administrative cost savings largely outweigh the negligible costs and the net administrative cost savings for businesses are estimated at EUR 430 million annually.

To ensure that subsidiarity principle is better served, beyond the outcome of the impact assessment, total flexibility is left for Member States to choose the type of measures they would implement, while they still need to meet the 10% cost reduction target. To ensure informed decisions and achievement of the targets, the preferred option includes an obligation for each Member State to evaluate their existing and potential measures and to consolidate all measures into a single National Policy Framework. This is, similar to, but less demanding than the obligation to have cross-modal strategies analysed under policy option PO-C. It is estimated to have a small impact on costs (additional one-off costs up to EUR 1.1 million plus recurrent costs of EUR 1.6 million every 5 years). These changes do not alter in a significant way the ranking of options and the choice of the preferred policy option.

- **Fundamental rights**

The proposal is in accordance with the Charter of Fundamental Rights of the European Union.

4. BUDGETARY IMPLICATIONS

The proposal raises net costs for the Union Budget of EUR 2 million over the period 2025-2050. The budgetary impact of the proposal is described in more detail in the Legislative Financial Statement annexed to this proposal.

The budgetary impact beyond the current multiannual financial framework (MFF) is described in the form of an indicative overview, without prejudice to the future MFF Agreement.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Member States are required to adopt and publish their National Policy Frameworks (NPF) compiling existing and new measures that impact intermodal transport at the latest two year after entry into force of this amendment and assess the impact of their NPFs every five years thereafter. They must notify to the Commission their NPFs as well as the results of their evaluations.

The Commission will follow the implementation, results and impacts of this proposal through reporting obligations established under this proposal. 1 year before the application of the Directive, it will establish the baseline situation on the market and then, 5 years after the application of the Directive, and every 5 years thereafter, it will draw up a report on the economic development of intermodal transport in the EU. It will be assisted in collecting the necessary information by the Member States and by aggregated data from eFTI platforms. The reports will address in particular the volume of intermodal transport traffic in the EU, the main intermodal transport corridors, the main barriers to increasing the uptake of intermodal transport, the competitiveness of intermodal transport compared to road-only transport (including an analysis of the support provided by Member States in their NPFs) and developments in terminal capacity.

At latest, after 10 years the Commission will evaluate whether it is appropriate to continue the support regime under this Directive.

- **Detailed explanation of the specific provisions of the proposal**

The title of the Directive is adjusted to reflect the extended scope by removing the wording 'between Member States' and replacing "combined transport" with "intermodal transport".

Article 1 of the amending Directive provides the following amendments to Directive 92/106/EEC:

- *Article 1 of the current Directive provided the scope of the CTD by setting conditions to be met to qualify for the support framework for 'combined transport'. In the revised Directive, to ensure clarity, two Articles are inserted describing the scope (Article 1a) and providing definitions (Article 1b), followed by a new Article 1c providing the new conditions for operations to qualify as "combined transport".*
- *Article 2 is replaced by updated language to remove the redundant target date in 1993.*
- *Article 3 is replaced by updated conditions for the proof of compliance.*
- *Article 3a is inserted establishing an obligation on Member States to adopt, publish, implement and evaluate National Policy Frameworks for supporting intermodal transport.*
- *Article 5 is replaced by updated language on reporting by the Commission.*
- *Article 6.1 is replaced by updated language to ensure compliance with State aid rules.*
- *Article 7 is deleted.*
- *Article 9 is replaced by new language to update obsolete references and simplify the language.*
- *Article 9a is inserted establishing an obligation to exempt the road legs of combined transport from national weekend and holiday driving bans.*
- *Article 9b is inserted, to establish transparency requirements for intermodal freight terminals.*
- *Article 9c is inserted, to establish the conditions conferring delegated powers to the Commission under this Directive.*
- *Article 9d is inserted, to establish the committee procedure for the exercise by the Commission of the power to adopt implementing acts.*
- *Article 10 is deleted.*
- *An annex is inserted, providing an indicative list of support measures referred to in Article 3a.*

Article 2 of the amending Directive amends Regulation (EU) 2020/1056 to introduce an obligation on eFTI platforms to provide a functionality for calculating the external costs savings and generation of aggregated data on annual volumes of combined transport.

Article 3 of the amending Directive establishes the obligation of transposition and deferred implementation.

Article 4 of the amending Directive establishes the date of entry into force and application of this Directive.

Article 5 of amending Directive establishes the addressees.

2023/0396 (COD)

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

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Regulation (EU) 2021/1119 of the European Parliament and of the Council[3] aims at reducing the Union's economy-wide greenhouse gas emissions by at least 55% by 2030 when compared to 1990 levels and achieving climate neutrality by 2050. For transport that goal means reducing greenhouse gas emissions by 90% by 2050. Furthermore, to reduce its dependence of fossil fuels, the Union also needs to improve its energy efficiency, as highlighted in the REPowerEU package[4] and switch to cleaner transport to reduce air and noise pollution as provided for in the Zero Pollution Action Plan[5].

(2) Intermodal transport combines better environmental performance and energy efficiency of rail and waterborne transport with the accessibility and flexibility of

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1 OJ C , , p. .

2 OJ C , , p. .

3 Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1, ELI: http://data.europa.eu/eli/reg/2021/1119/oj).

4 Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, REPowerEU Plan (COM(2022) 230 final).

5 Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, Pathway to a Healthy Planet for All EU Action Plan: 'Towards Zero Pollution for Air, Water and Soil' (COM(2021) 400 final).

road transport and is thus key in enabling the higher uptake of rail and waterborne freight transport. It also enables a more efficient allocation of volumes among transport modes and tackles effectively those road transport external costs which are hard to fully internalise, in particular congestion and accidents. However, the transport prices today do not yet reflect to the full extent the negative impacts caused by different modes and that hampers the effective reduction of the impacts of the externalities through the uptake of more sustainable freight transport options.

(3) Council Directive 92/106/EEC[6], established a framework to encourage the development of intermodal transport, and in particular combined transport operations. It supports intermodal transport operations which compete with a unimodal road transport, and it is the main legislative act of the Union to incentivise the shift from road freight to lower emission transport modes such as inland waterways, short sea shipping and rail. While Directive 92/106/EEC contributed to the development of the Union's policy on modal shift, its limited scope, insufficient support and shortcomings in the implementation reduced its effectiveness. It is therefore necessary to ensure that intermodal transport operations in the Union which reduce the external costs by being environmentally friendlier, safer, more energy efficient and causing less congestion than road transport, would become attractive for shippers.

(4) Only intermodal transport operations that have a commercially viable unimodal road transport alternative lead to saving of external costs. Intermodal operations connecting islands and mainland have no road-alternative but external cost savings can be achieved by different routing using longer short sea shipping legs or different short sea shipping legs that allow a combination with rail and inland waterways transport.

(5) About one fifth of intermodal transport operations take place exclusively within a single Member State. However, the negative effect of national road transport operations, and notably greenhouse gas emissions and congestion, have an impact beyond the national borders of Member States. Therefore, to ensure that all operations contributing to the reduction of external costs are treated in the same way, it is necessary to incentivise at the Union level both international and national intermodal transport operations, including different modal combinations.

(6) For developing intermodal transport, the availability of transhipment terminals is essential. However, support measures for increasing terminal capacity should not be covered by this Directive, as they are included in [*add a reference to the revised TEN-T Regulation, currently being negotiated by the co-legislators*].

(7) Eligibility for the benefits from Directive 92/106/EEC is based on distance limits of different parts of operation. That approach of defining “combined transport operations” does not sufficiently support the objective of reducing external costs as it is not targeted enough. Furthermore, it does not reflect objectively the conditions and circumstances in different regions and disregards the characteristics of the environmental performance of the actual operation, including for instance the type of vehicle and fuel used. Therefore, the support provided should apply only to intermodal transport operations that ensure a sufficient level of external costs savings and allow an optimised use of the transport network. To capture such operations, a

6 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 (OJ L 368, 17.12.1992, p.38, ELI: http://data.europa.eu/eli/dir/1992/106/oj).

threshold of savings from external costs, including greenhouse gas ('GHG') emissions, air pollution, injuries and fatalities, noise and congestion, of an intermodal transport operation compared to the commercially viable alternative unimodal road operation should be set. The threshold should allow all modal combinations to benefit, while ensuring that rail, inland waterways and short sea shipping legs would constitute a major part of an intermodal operation. Moreover, external costs of all integral parts of the intermodal transport operation need to be taken into account when calculating the external costs savings to allow for fair comparison with other transport options.

(8) In the case of operations starting or ending outside the Union, or both, or starting and ending in the Union, but passing through a third country, the part of that intermodal transport operation that takes place in the Union should fall within the scope of this Directive, if that part of the operation fulfils the conditions set out in this Directive, given that it brings along modal shift within the Union.

(9) The intermodal transport operations can differ widely from each other as regards combinations of modes and number of different operational parts, including different number of transport legs. Combined transport operations supported under this Directive could involve either one or two road legs and one or several non-road legs. Given that none of the different transport legs of a combined transport operation would take place without the other legs, and in line with the Court case law, an operation from shipper to final receiver constitutes one single inseparable transport operation[7]. Therefore, barriers to any part of the intermodal operation would undermine the viability of the total intermodal operation and thus result in an increased use of unimodal road transport.

(10) To be able to follow intermodal loading units through the intermodal chain with the objective to establish the intermodal transport operations that can benefit from the support framework under this Directive, it is essential that intermodal loading units used in all those operations use existing and widely used means of identification and marking. Standardised identification should also speed up the handling of intermodal loading units in terminals and facilitate the flow of the intermodal transport operations.

(11) In container transport, there may be a need to pick up or bring back an empty container in a container depot before or after it is used for an intermodal transport operation. Where such depot runs are made with dedicated empty containers and are covered by the transport contract of the intermodal transport operation or by part thereof, they should also be considered an integral part of an intermodal transport operation.

(12) In order to ensure that only eligible intermodal transport operations benefit from the support framework established by this Directive, it is important to be able to verify the compliance of any operation with the conditions set out by the support framework. Modern digital tools can perform the calculation of the external costs savings and assist in verifying compliance. The platforms for digital transport data established pursuant to Regulation (EU) 1056/2020 of the European Parliament and of the Council[8] ("eFTI platforms") provide a suitable tool as they are built to include

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7 Judgment of 7 May 1991, Commission / Italy (C-45/89, ECR 1991 p. I-2053) ECLI:EU:C:1991:185.

8 Regulation (EU) 1056/2020 of the European Parliament and of the Council of 15 July 2020 on electronic freight transport information (OJ L 249, 31.7.2020, p. 33, ELI: http://data.europa.eu/eli/reg/2020/1056/oj).

the regulatory information needed, including calculation of external costs savings. Therefore, the use of an eFTI platform should be mandatory for all operations that wish to benefit from the support framework.

(13) A common harmonised calculation methodology with reference values of external costs or sources of such reference values needs to be established and updated regularly, keeping the pace with developing knowledge and evidence base. Therefore, the exact methodology should be established by means of an implementing act, calculated in accordance with to the unit values established in the Handbook on the external costs of transport[9], in its up-to-date version.

(14) The transport information required should be recorded in eFTI platforms before the start of an operation and be strictly limited to the data and calculations necessary for proof of compliance. To avoid administrative burdens, no additional information should be requested by national competent authorities for the purpose of compliance checks.

(15) In order to allow the Commission to comply with its reporting obligations set out by this Directive, certain data on combined transport operations recorded on eFTI platforms should be made available to the Commission annually, in aggregated form.

(16) The use of intermodal transport can be cost-competitive with unimodal road transport at longer distances as transport costs of non-road transport modes are usually lower per unit. However, at medium and shorter distances unimodal road transport is often chosen by shippers and transport organisers due to competitive pressures, because on such shorter distances the lower transport costs per unit are not sufficient to compensate for the additional organisational and transhipment costs deriving from the fact that intermodal transport involves several modes of transport. For medium distances, that difference in cost-competitiveness is on average 10%. Therefore, to stimulate a rapid increase in the uptake of intermodal transport on medium distances, Member States should adjust national policies and take the necessary regulatory and non-regulatory measures that improve the competitiveness of intermodal transport.

(17) Some Member States have national policies to promote intermodal rail, inland waterway or short sea shipping transport, aiming to reduce the cost difference between road transport and alternative transport options. However, those modal policies are not always aligned between the modes or between the neighbouring Member States. Furthermore, some Member States have no support measures in place. The fragmentation caused by uncoordinated approach reduces effectiveness of the existing support and results in an uneven playing field between the modes and Member States. Therefore, all Member States should establish and implement national policy frameworks to support the uptake of intermodal transport, considering the potential of each modal combination as well as the interactions of all modes comprehensively; Member States should regularly reassess the effectiveness and relevance of the national measures.

(18) The national policy frameworks should include both existing and planned national regulatory and non-regulatory measures impacting the competitiveness of intermodal transport used by a Member State, such as regulatory exemptions or preferential treatments; charges, taxes, fees and levies, including infrastructure,

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9 Handbook on the external costs of transport. European Commission. Version 2019 – 1.1, Publications Office of the European Union, ISBN 978-92-76-18184-2

external-cost and congestion charges as well as those applying to unimodal road freight transport; and freight transport support schemes applying to individual modes or to intermodal transport, including those applying to unimodal road freight transport or specific parts of it. Support measures should apply equally to all operations meeting the conditions for being considered combined transport operations. Where necessary, Member States should cooperate with other neighbouring Member States, by means of consultation or joint policy frameworks. The coordination of those national policy frameworks and their coherence at the Union level should be supported by market analysis and reporting by the Commission.

(19) In order for medium-distance intermodal operations to become cost-competitive with unimodal road operations, and to motivate shippers to shift their operations to intermodal transport, the national policy frameworks should contribute to achieving a general cumulative reduction of at least 10% of total door-to-door costs of intermodal transport operations on the medium term. Measures to achieve such reduction can include legal, economic, fiscal, or administrative adjustments and arrangements. Member States may use the revenues generated according to Directive 1999/62/EC of the European Parliament and of the Council[10] to benefit the intermodal transport operations covered by this Directive. Subject to the rules applicable to specific programmes, the support can be also funded from existing Union financial instruments.

(20) Furthermore, to enable the use of intermodal transport, it is important to have dedicated support for investments allowing a necessary upgrade of intermodal technologies. That support can address technological needs in terminals or in any of the modes involved in intermodal transport.

(21) Where there are no connections other than road between certain terminals or in their vicinity, "start-up" support to open new intermodal connections could be necessary as demand for services at start-up phase may not be sufficient to ensure profitability of such services.

(22) Member States can introduce State aid measures to achieve the goals of the European Green Deal and the Climate Law, provided those measures are compatible with the internal market.

(23) Support measures introduced in national policy frameworks could constitute State aid. When a Member State establishes measures in its national policy framework, it should assess if any of those measures constitutes State aid, it is without prejudice to the application of Articles 107 and 108 TFEU. Where a measure constitutes State aid, the procedural and substantive State aid rules will apply. It is understood that the compatibility assessment of State aid measures falls within the exclusive competence of the Commission pursuant to Article 108 TFEU.

(24) To ensure that practical information about available support measures implemented by Member States is easily accessible publicly and free of charge to all operators in the Union, it should be made accessible on a dedicated webpage in a central location allowing the undertakings organising international operations to find it easily.

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[10] Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of vehicles for the use of road infrastructures (OJ L 187, 20.7.1999, p. 42, ELI: http://data.europa.eu/eli/dir/1999/62/oj).

(25) It is important to have an overview of market developments and the impact of the support measures on the uptake of intermodal transport. Such market overview should ensure comparability across the Union. The Commission should therefore continue reporting the market developments with assistance from the Member States. Such a report should establish first the baseline for cost-competitiveness of intermodal transport with road transport, and then be conducted every 5 years to allow sufficient time for any support measures to produce effects.

(26) Dedicated regulatory provisions at Union level that address specific situations in intermodal transport can support the uptake and efficiency of intermodal transport. To ensure efficient terminal and non-road capacity use, it is important that the operation of terminals and non-road transport is not hindered by temporal driving limitations on road legs.

(27) To ensure that information about services and facilities available in any intermodal transhipment terminal is easily accessible to all operators and transport organisers in the Union, that information should be published free of charge by terminal operators on their webpage. To provide a framework for identifying a service level of intermodal transhipment terminals in the Union, a detailed list of such information should be established in an implementing act.

(28) Comparability of service levels in different terminals in the Union should be ensured by establishing a categorisation for intermodal transhipment terminals. Such categorisation should avoid excessive complexity and burdens and should therefore be based on already published information.

(29) A dedicated support for intermodal transport is only necessary until the market price adequately represents the total cost of various transport operations to society. Therefore, a review should be carried out after 10 years to assess whether such support is still relevant and if so, how it may need to be adjusted.

(30) In order to allow implementation this Directive, eFTI platforms should provide functionalities to calculate external costs savings and generate aggregated data.

(31) In order to take into account the technical nature of certain requirements, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of supplementing this Directive with the list of further data needed for calculating the external costs saving of an intermodal transport operation, necessary for demonstrating the compliance with this Directive and rules for making the annual aggregated data on combined transport operations available for market analysis. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[11]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(32) In order to ensure uniform conditions for the implementation of this Directive and in particular of the detailed rules for the calculation of external costs, the list of predefined alternative intermodal operation routes for island and mainland

[11] OJ L 123, 12.5.2016, p. 1.

connections and the information to be provided for the services available in terminals and on terminal categorisation, implementing powers should be conferred on the Commission. Those powers should be *exercised* in accordance with Regulation (EU) No 182 /2011 of the European Parliament and of the Council[12].

(33) The objective of this Directive is to further promote the shift of freight transport from road to more environmentally friendly modes of transport, with a view to reduce the external costs of the Union transport system. Given that intermodal transport is primarily international in nature and infrastructure is interlinked, that objective cannot be sufficiently achieved by the Member States but can rather be better achieved at Union level. Therefore, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary to achieve those objectives.

(34) In order to allow for the continuation of seamless cross-border transport operations in the Union, the application of national laws, regulations and administrative provisions necessary to transpose this Directive should be deferred until eFTI platforms are available. That deferred application should be without prejudice to the obligations of the Member States relating to the time limit for the transposition into national law.

(35) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents[13], Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

(36) Directive 92/106/EC and Regulation (EU) 2020/1056 should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 92/106/EEC

Directive 92/106/EEC is amended as follows:

(1) the title is replaced by the following:

"Council Directive 92/106/EEC of 7 December 1992 on the establishment of a support framework for intermodal transport of goods";

(2) Article 1 is deleted;

(3) the following Articles 1a, 1b and 1c are inserted:

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[12] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 1313, ELI: http://data.europa.eu/eli/reg/2011/182/oj).

[13] OJ C 369, 17.12.2011, p. 14.

‘Article 1a

This Directive establishes a support framework for intermodal transport operations carried out fully or in part in the territory of the Union. It also lays down rules on transparency requirements for intermodal transhipment terminals.

Article 1b

For the purposes of this Directive, the following definitions apply:

(1) “intermodal transport operation” means the carriage of a single intermodal loading unit between its loading point and unloading point over two or more transport legs, where at least one leg takes place by rail, inland waterways or short sea shipping and the initial or final leg, or both, take place by road, without handling of the goods during transhipment between the different transport legs, whether or not covered by a single multimodal transport contract or consecutive mode specific transport contracts;

(2) “combined transport operation” means an intermodal transport operation that complies with the conditions set out in Article 1c(2) within the territory of the Union;

(3) “intermodal loading unit” means a container, swap body or semi-trailer or road vehicle or vehicle combination used in intermodal transport;

(4) “loading point” means the location at which the goods are loaded into an intermodal loading unit;

(5) “unloading point” means the location at which the goods are offloaded from an intermodal loading unit;

(6) “external costs” means costs generated by transport users and not borne by them but by the society as a whole, notably related to greenhouse gas emissions, air pollution, injuries and fatalities, noise and congestion;

(7) “alternative unimodal road transport operation” means a virtually planned commercially viable unimodal transport operation of the intermodal loading unit where all transport takes place on the road between the same starting point and end point as those of the actual combined transport operation;

(8) “alternative maritime intermodal operation” means a virtually planned commercially viable intermodal transport operation that uses one of the maritime legs in the list established in accordance with Article 1.c(7) for carrying the intermodal loading unit between the same starting point and end point as those of the combined transport operation concerned;

(9) “intermodal transhipment terminal” means an intermodal freight terminal having a structure equipped for the transhipment of intermodal loading units between at least two transport modes or between two different vehicles or vessels, such as terminals in inland or maritime ports, along inland waterways, in airports as well as rail-road terminals;

(10) “starting point of the transport leg” means the location where the intermodal loading unit starts the combined transport operation on the given mode of transport;

(11) “end point of the transport leg” means the location where the intermodal loading unit ends the combined transport operation on the given mode of transport;

(12) “starting point of the combined transport operation” means the location where the intermodal loading unit is loaded onto the vehicle or vessel carrying out the first transport leg of the combined transport operation in the Union and where the intermodal transport operation starts outside the territory of the Union, the entry point of the intermodal loading unit into the territory of the Union;

(13) “end point of the combined transport operation” means the location where the intermodal loading unit is unloaded from the vehicle or vessel carrying out the last transport leg of the combined transport operation in the Union and where the intermodal operation ends outside the territory of the Union, the exit point of the intermodal loading unit from the territory of the Union.

(14) “Support measures” means measures and actions of economic, regulatory, administrative or any other nature aiming at promoting the uptake of intermodal transport.

Article 1c

1. All combined transport operations shall benefit from the support measures referred to in Articles 2, 3a, 4, 6, 8, 9 and 9a, as applicable.

2. A combined transport operation shall meet the following conditions:

   (a) except for operations referred to in point (b), the operation produces at least 40% less external costs than the alternative unimodal road transport operation;

   (b) in the case of connections between an island and the mainland without a road alternative, the operation produces at least 40% less external costs than the alternative maritime intermodal operation;

   (c) the intermodal loading unit in unaccompanied transport has a unique reference in accordance with the identification and marking regime established pursuant to the up-to-date versions of international standards ISO6346 or EN13044.

3. The road transport of an empty container used for a given operation from or to a container depot before or after the loading or unloading point, where such transport is subject to the same transport contract, shall be considered an integral part of the combined transport operation. Any other movement of road vehicles before or after loading or unloading point shall not be considered part of the combined transport operation.

4. The calculation of external costs referred to in paragraph 2 shall take into account all parts of the operation, including terminal operations, which take place in the Union, including the transport of the empty container referred to in paragraph 3.

5. Support measures referred to in Articles 2, 3a, 4, 6, 8, 9 and 9a shall be applied in a non-discriminatory manner to all combined transport operations that are fully or in part carried out in the territory of the Union irrespective of the origin of the undertaking organising the operation or carrying out all or part of the operation.

6. The Commission shall adopt implementing acts establishing detailed rules for the calculation of external costs referred to in paragraph 2 of this Article. Those

implementing acts shall be adopted in accordance with the examination procedure referred to in Article 9d(2).

7. The Commission shall adopt implementing acts establishing the list of the predefined maritime leg of the alternative maritime intermodal operations referred to in paragraph 2, point (b), of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 9d(2).';

(4) Articles 2 and 3 are replaced by the following:

'*Article 2*

No quota systems and systems of authorisations shall apply to the intermodal transport operations.

Article 3

1. In order to benefit from the support framework established by this Directive, the undertaking which organises the combined transport operation, shall record and make available the transport information in accordance with Regulation (EU) 2020/1056 of the European Parliament and of the Council* on an electronic freight transport information platform ('eFTI platform').

2. The transport information referred to in paragraph 1 shall be recorded before the start of the combined transport operation concerned and shall cover all parts of such an operation. Such transport information shall include the following information:

   (a) the name, address, and contact details of the undertaking which organises the combined transport operation;

   (b) the name, address and contact details of the undertaking that receives the intermodal loading unit at end point of the combined transport operation;

   (c) the name, address and contact details of the intermodal transhipment terminal or terminals for that combined transport operation;

   (d) the type of the intermodal loading unit transported and its reference in accordance with Article 1c(2), point (c);

   (e) the location of the pickup or delivery of the empty container as indicated in the transport contract referred to in Article 1c(3), where relevant;

   (f) for each transport leg, the locations of the starting and end points of each transport leg of the combined transport operation in the Union, the respective expected start date and end date, and the mode of transport used for each leg;

   (g) additional transport information required for calculating the external costs of a combined transport operation as specified in the implementing act referred to in Article 1c(6).

3. Transport information recorded pursuant to paragraph 2 shall be used, through dedicated functionalities of the eFTI platforms, to:

   (a) calculate the external cost savings referred to in Article 1c(2), point (a);

   (b) generate annual aggregated data on combined transport operations referred to in Article 5(4) points (a), b and (c).

The calculation referred to in the first subparagraph, point (a), of this paragraph, shall be carried out in accordance with the rules established in the implementing act referred to in Article 1c(6).

The aggregation referred to in the first subparagraph, point (b), of this paragraph, shall be carried out in accordance with the rules established in the delegated act referred to in paragraph 7.

4. Proof of compliance with the conditions set out in Article 1c(2) shall consist of the transport information referred to in paragraph 1 of this Article and the results of the calculation of the external costs savings. Such proof of compliance shall be accessible to competent authorities as well as to the parties involved in that combined transport operation on the same eFTI platform where the transport information and calculation results were recorded. For the purpose of compliance checks with this Directive, no additional information shall be requested.

5. By 28 February of each year, the eFTI service providers or the undertakings that own or manage eFTI platforms for their own activities shall make available to the Commission the aggregated data referred to in paragraph 3, first subparagraph, point (b), of this Article, for the purposes of meeting the Commission's reporting obligations pursuant to Article 5(4) points (a), (b) and (c).

6. The Commission is empowered to adopt delegated acts in accordance with Article 9c to supplement this Directive by establishing further details for transport information referred to in paragraph 2, points (a) to (f), of this Article, and the list of additional transport information required referred to in paragraph 2, point (g) of this Article.

7. The Commission is empowered to adopt delegated acts in accordance with Article 9c to supplement this Directive by establishing a list of the annual aggregated data referred to in paragraph 3, first subparagraph, point (b), of this Article, detailed rules for generating that aggregated data and conditions for making that data available to the Commission.

8. In the case of roadside checks, a discrepancy between the combined transport operation and the provided information, in particular as regards the information referred to in paragraph 2, points (c) and (f), shall be permitted where it is duly justified and caused by exceptional and unforeseen circumstances outside the control of the carrier. To provide the required proof, the driver shall be allowed to contact the head office, the transport manager, the consignor or another undertaking who organises the combined transport operation concerned, or any other person or entity capable of providing additional justification regarding this discrepancy.

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* Regulation (EU) 1056/2020 of the European Parliament and of the Council of 15 July 2020 on electronic freight transport information (OJ L 249, 31.7.2020, p. 33, ELI: http://data.europa.eu/eli/reg/2020/1056/oj).';

(5) the following Article 3a is inserted:

'Article 3a

1. By *[PO, please insert the date: 24 months after entry into force of this Directive]*, each Member State shall adopt a national policy framework for facilitating the uptake of intermodal transport and, in particular, combined transport operations. Such framework shall contain at least the following elements:

(a) an overview of existing relevant regulatory and non-regulatory measures impacting the competitiveness of transport operations of different modes, including those falling within the scope of Articles 4, 6 and 9a, as well as an assessment of their impact on intermodal transport operations;

(b) a list of measures necessary to reduce the competitiveness gap of intermodal transport operations compared to unimodal road transport operations, which is established on the basis of the overview and the assessment referred to in point (a); an indicative list of suitable measures is set out in the Annex.

2. The measures referred to in paragraph 1 of this Article shall aim to achieve the following objectives when compared to the baseline assessment included in the report referred to in Article 5(1):

(a) an overall reduction of at least 10% of the total costs of combined transport operations in their territory borne by the undertakings organising combined transport operations by *[PO, please insert the date: 90 months, i.e. 7 years and 6 months after entry into force of this Directive];*

(b) an increased upgrade or uptake of technologies improving the efficiency of intermodal transport operations; and

(c) where relevant, the establishment of new rail, inland waterway or short sea shipping connections between previously not connected intermodal transhipment terminals.

3. The introduction of the measures referred to in paragraph 1 of this Article in a national policy framework shall not be an indication of their compatibility with Union law or otherwise. Where the measures referred to in paragraph 1 of this Article constitute State aid, they shall comply with the applicable procedural and substantive State aid rules, including those on notification, publication and transmission of information to the Commission.

4. Member States shall publish their national policy frameworks on the internet and notify them to the Commission without delay and no later than 1 month after their adoption together with a link to such publication and any underlying assessments or studies carried out, including on the contribution of those measures for reaching the objectives set out in paragraph 2 of this Article. as regards measures that constitute State aid which are not covered by a block exemption regulation, the publication and notification obligation provided for the national policy frameworks shall be in addition to the prior notification obligation and standstill obligation under State aid rules set out in Article 108(3) TFEU.

5. Member States shall implement the measures referred to in paragraph 1. They shall publish the practical information such as conditions, application procedure and any other information relevant for the potential beneficiaries of those measures after the adoption, but prior to application of such measures in an easily accessible way and free of charge on the internet. They shall, at the same time, provide the Commission with a link to that information.

6. Where necessary, Member States shall cooperate to maximise the effect of the measures referred to paragraph 1 on cross-border intermodal transport operations.

7. Member States shall assess the uptake and impact of the measures in their national policy frameworks referred to in paragraph 1, including their effectiveness and relevance in terms of reducing external costs and in terms of achieving the objectives set out in paragraph 2, at least every 5 years. On the basis on that assessment, they shall adapt their national policy frameworks as necessary to achieve those objectives. Member States shall communicate the results of their assessments and updated policy frameworks to the Commission without delay, to assist it in preparing the reports referred to in Article 5(2), and shall publish those updated national policy frameworks on the internet.

8. The Commission shall, without delay, publish the links to the national information provided by the Member States referred to in paragraphs 4, 5 and 7 on its webpage dedicated to support measures under this Directive.

(6) Article 5 is replaced by the following:

'Article 5

1. By *[PO, please insert the date: 18 months after entry into force of this Directive]*, the Commission shall prepare a report to the European Parliament and the Council, assessing the competitiveness of intermodal transport in comparison to unimodal road transport in Member States, including the analysis of the total door-to-door costs of the main categories of intermodal transport operations, including combined transport operations.

2. By *[PO, please insert the date: 90 months, i.e. 7 years and 6 months, after adoption of this Directive]* and every 5 years thereafter, the Commission shall draw up a report to the European Parliament and the Council on the economic development of intermodal transport, including combined transport operations, in the Union.

3. When drawing up the reports referred to in paragraphs 1 and 2, the Commission shall be assisted by the Member States to collect the information necessary for that purpose.

4. The reports referred to in paragraphs 1 and 2 shall present and analyse the developments related to intermodal transport operations, including combined transport operations. In particular, they shall cover:

   (a) the volume of intermodal operations in the Union per modal combination, per market segment, per transhipment technology and per type of intermodal loading units used and per geographical coverage (national and intra-Union);

   (b) the main transport corridors where intermodal transport is used and the main areas in the Union where it is not used, and the reasons for both;

   (c) number, location density and type of transhipment terminals providing services for combined transport operations

   (d) the main barriers identified by users for increasing the uptake of intermodal transport operations;

   (e) developments in available capacity of intermodal transhipment terminals and areas where additional developments are needed;

(f) availability, ease of access and completeness of information on intermodal transhipment terminals;

(g) an analysis of the effectiveness and efficiency of support provided by Member States in the context of their national policy frameworks as provided for in Article 3a(1) and (2);

(h) the competitiveness of intermodal transport compared to unimodal road transport;

(i) the environmental benefits of intermodal transport, notably in the light of the evolution of the environmental, energy efficiency and greenhouse gas emissions performance of different modes of transport.

5. The reports referred to in paragraphs 1 and 2 shall, where appropriate, propose solutions for the subsequent improvement of information availability and the measures to improve the situation in the intermodal transport sector.

6. On the basis on the reports paragraphs 1 and 2, the Commission shall evaluate, at least every 10 years, the effectiveness and relevance of the provisions of this Directive in facilitating combined transport operations.';

(7) In Article 6, paragraphs 1 and 2 are replaced by the following:

'1. Member States may take the necessary measures, in accordance with Union law, to ensure that the taxes listed in paragraph 3 which are applicable to road vehicles (lorries, tractors, trailers or semi-trailers) when routed in combined transport are reduced or reimbursed either by a standard amount, or in proportion to the journeys that such vehicles undertake by rail in the Member State concerned. Such reductions or reimbursements shall be granted by the Member State in which the vehicles are registered. Where such measures constitute State aid, they shall comply with the relevant procedural and substantive State aid rules.

2. Vehicles used exclusively for initial or final road legs of combined transport, or both, may be exempted, where they are taxed separately, from the taxes listed in paragraph 3, in accordance with Union law. In particular, where such measures constitute State aid, they shall comply with the relevant procedural and substantive State aid rules. '

(8) Article 7 is deleted;

(9) Article 9 is replaced by the following:

'Article 9

Where a semi-trailer or a trailer used in a combined transport operation is owned by the dispatching or the receiving undertaking and is transported on a road leg using a tractor owned, bought on deferred terms or hired pursuant to Directive 2006/1/EC of the European Parliament and of the Council* by the other undertaking concerned, that road leg shall be considered to fulfil the conditions of Article 1(5), point (d) of Regulation (EU) 1072/2009 of the European Parliament and of the Council**.

* Directive 2006/1/EC of the European Parliament and of the Council of 18 January 2006 on the use of vehicles hired without drivers for the carriage of goods by road (OJ L 33, 4.2.2006, p. 82, ELI: http://data.europa.eu/eli/dir/2006/1/oj).

** Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market (OJ L 300, 14.11.2009, p. 72, ELI: http://data.europa.eu/eli/reg/2009/1072/oj).';

(10) the following Articles 9a, 9b, 9c and 9d are inserted:

'Article 9a

Vehicles carrying out road legs of combined transport operations shall be exempted from weekend, night and holiday driving bans applying to heavy goods vehicles only. That exemption shall not apply in the event of general driving bans applicable to all vehicles used for private purposes.

Article 9b

1. All operators of intermodal transhipment terminals shall make available on their webpage, publicly and free of charge, information about available services and facilities in a terminal.

2. The Commission shall lay down, by means of implementing acts, a detailed list of the information referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 9d(2).

3. To provide a framework for identifying a service level of intermodal transhipment terminals in the Union, the Commission may adopt implementing acts laying down criteria for intermodal transhipment terminal categories. Such criteria shall be established by defining service levels for available services and facilities from the list established in accordance with paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 9d(2).

4. Where a framework for service level of intermodal transhipment terminals in the Union is established, intermodal transhipment terminal operators shall publish the applicable service levels pursuant to paragraph 1.

Article 9c

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 3(6) and 3(7) shall be conferred on the Commission for an indeterminate period of time from *[PO, please insert the date of entry into force of this Directive]*.

3. The delegation of powers referred to in Article 3(6) and 3(7) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in line with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. Delegated acts adopted pursuant to Article 3(6) and 3(7) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 9d

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011*.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

_____

* Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13, ELI: http://data.europa.eu/eli/reg/2011/182/oj).

(11) the text set out in the Annex to this Directive is added as the Annex.

Article 2

Amendments to Regulation (EU) 2020/1056

Regulation (EU) 2020/1056 is amended as follows:

In Article 9(1), the following point (l) is inserted:

'(l) the calculation of external costs savings, referred to in Article 3(3), first subparagraph, point (a) of Directive 92/106/EEC, is made in accordance with the methodology established in the implementing act referred to in Article 1c(6) of that Directive.

(m) the generation of aggregated data, referred to in Article 3(3)), first subparagraph, point (b) of Directive 92/106/EEC, is made in accordance with the rules established in the delegated act referred to in Article 3(7) of that Directive.'.

Article 3

Transposition

1. Member States shall adopt and publish, by *[PO, please insert the date: 24 months after entry into force of this Directive]* at the latest, the laws, regulations and

administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from [*PO, please insert the date: 30 months after entry into force of this Directive]*.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 4

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 5

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

LEGISLATIVE FINANCIAL STATEMENT

Contents

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Directive of the European Parliament and of the Council amending 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.

1.2. Policy area(s) concerned

Mobility and Transport

1.3. The proposal/initiative relates to:

☒ **a new action**

☐ **a new action following a pilot project/preparatory action**[51]

☐ **the extension of an existing action**

☐ **a merger or redirection of one or more actions towards another/a new action**

1.4. Objective(s)

1.4.1. General objective(s)

The generable objective of the Directive is to facilitate an increase of intermodal transport in total intra-EU freight transport, to reduce external costs and energy consumption of freight transport. The Directive will contribute to SDG 13 (Take urgent action to combat climate change and its impacts), SDG 9 (Build resilient infrastructure, promote inclusive and sustainable industrialisation and foster innovation) and SDG 11 (Make cities and human settlements inclusive, safe, resilient and sustainable).

1.4.2. Specific objective(s)

The specific objectives of the Directive are to:

- Provide support to a wider range of intermodal operations under effective compliance conditions
- Ensure better support by improving reporting on intermodal transport
- Increase the competitiveness of intermodal transport to reduce external costs
- Improve transparency and simplify market entry

1.4.3. Expected result(s) and impact

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

The proposal is expected to increase the competitiveness of intermodal transport vis-à-vis unimodal road transport and thereby to promote its use, resulting in a reduction of external costs.

1.4.4. Indicators of performance

The effectiveness of the proposed Directive with respect to the Specific Objective 1 will be determined based on the following indicator:

[51] As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

- the volume of intermodal transport operations in the EU, per modal combination, per market segment, per transhipment technology and per type of loading units;
- the main corridors where intermodal transport is used and those where not and reasons for that.

The effectiveness of the proposed Directive with respect to the Specific Objective 2 will be determined based on the following indicators:

- provision of a report in the intervals stipulated by the Directive on the economic development of intermodal transport in the Union.

The effectiveness of the proposed Directive with respect to the Specific Objective 3 will be determined based on the following indicators:

- the competitiveness of intermodal transport compared to unimodal road transport and the evolution of the support provided by Member States.
- *changes to modal split and share of intermodal transport.*

The effectiveness of the proposed Directive with respect to the Specific Objective 4 will be determined based on the following indicators:

- developments in transhipment terminal capacity;
- availability, ease of access and completeness of information on intermodal terminals.

1.5. Grounds for the proposal/initiative

1.5.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

The proposal will provide a support framework to increase the competitiveness of intermodal transport vis-à-vis unimodal road transport in order to stimulate its uptake and thereby reduce the external costs of freight transport. It includes:

- common and effective conditions for compliance and rules for the proof of compliance;
- economic and regulatory measures to help increasing the competitiveness of intermodal transport;
- requirements to ensure terminal transparency as regards facilities and services;
- rules for and contents of market reports and a review clause to reassess the usefulness of the support framework after a given time.

All these provisions should be fully applicable 30 months after the entry into force of this Directive.

This legislative financial statement specifically relates to a study to be conducted to assess whether there is a need for developing a terminal categorisation/labelling framework, subject to the outcome of the study on the need for the development of such a framework, and to market studies as input for the reports to be established.

1.5.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting

from Union intervention, which is additional to the value that would have been otherwise created by Member States alone.

Reasons for action at European level (ex-ante)

Providing harmonised rules for (a) effective compliance conditions and their proof and (b) for types of support will help to create comparable treatment of operators across the EU, simplify administrative procedures for the industry, Member States and the Commission and improve the functioning of the internal market. Currently, due to the shortcomings of the CTD, this level of harmonisation could not be achieved.

Expected generated Union added value (ex-post)

The EU transport sector has a strong cross-border dimension and plays an important role for the free flow of people and goods on the EU internal market. Efficient transport services are key for the functioning of supply chains and the growth of the EU economy. But transport, expected to further increase, still constitutes one of the largest emitters of GHG emissions and creates considerable other external costs related to congestion, accidents and noise.

This Directive is clearly conceived as an instrument to reduce the external costs of transport through increasing the competitiveness of intermodal transport vis-à-vis unimodal road transport and thereby promoting its uptake.

1.5.3. Lessons learned from similar experiences in the past

The EU has a long-standing history of supporting modal shift towards more environmentally friendly transport modes and preferably using the different transport modes in their best combination possible, in order to optimise the transport system and network and to reduce external costs.

Since 1975, the EU has had an instrument in place to support eligible combined transport operations as a sub-form of intermodal transport. In 1992, this instrument was replaced by the current Combined Transport Directive (CTD).

To increase the effectiveness of the CTD, the Commission made a proposal in 1998 to amend the CTD, proposing an extension of eligibility to domestic road operations, a road leg limit based on a 20% share in total operation, the exclusion of island transport, and combined transport exemption from weekend driving bans. Due to the fact that no agreement could be reached during the interinstitutional negotiations, the Commission withdrew the proposal in 2001.

In 2016, the Commission conducted a REFIT evaluation, which concluded that the CTD continued to be a relevant instrument for supporting combined transport, but that there was a significant potential for further improving the effectiveness of the CTD as some of the provisions of the CTD were outdated or unclear, providing significant room for ambiguous interpretation of the Directive and therefore a non-harmonised implementation.

Subsequently the Commission made a new proposal in 2017 to amend the CTD with a focus on clarifying the definition in light of existing case law and complaints without changing the approach based on fixed distances for different parts of the operation. It also proposed to promote investments into terminal infrastructure and considerably improve the fiscal and economic support tools.

While all Member States welcomed the amendment and supported the objective to improve the competitiveness of combined transport, any proposals to extend the eligibility, and in particular to extend the scope to operations in Member States, were met rather with resistance. Similarly, many Member States were against an obligation to facilitate the increase of terminal capacity, while they could agree on an obligation to promote terminal investments. As regards an increased support to combined transport operations Member States views diverged, meaning Member States did not support a harmonised mandatory support, but an obligation to provide support when the choice of support tool was left to the Member States. The current proposal has been prepared keeping those Member States' concerns in mind.

The European Parliament broadly supported the proposal, proposed further ambition as regards the economic support, but also requested some exemptions. Several amendments introduced by the co-legislators modified the proposal in a manner which, if adopted, would have significantly reduced the ambition and effectiveness of the Commission proposal. Therefore, the Commission withdrew its proposal.

1.5.4. Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments

The proposed Directive is a key deliverable of the Communication from the Commission on a Sustainable and Smart Mobility Strategy (SSMS), which sets out the EU vision for the transport system of the future. The strategy announced that the Commission is planning to conduct a review of the regulatory framework for intermodal transport, including the Combined Transport Directive (under Flagship 4 – Greening Freight Transport).

The Directive will create synergies with other transport policies and pieces of the EU regulatory framework which either target the environmental performance of individual modes and the transport system or the internalisation of external costs. As regards the environmental performance, those pieces include notably Regulation (EU) 2019/1242, COM(2021) 557 and COM(2021) 559. Measures targeting the internalisation of external costs include carbon pricing, infrastructure charges, energy and vehicle taxes.

The proposal is compatible with the Multiannual Financial Framework. The initiative requires funding to finance at least three market studies necessary to comply with the reporting obligations established under the Directive and a study to assess whether there is a need to develop a terminal categorisation/labelling framework as stipulated by the Directive.

1.5.5. Assessment of the different available financing options, including scope for redeployment

The budgetary implications of this proposal are dealt with under this legislative financial statement. In terms of expenditures, the specific budgetary impact of this initiative is limited to appropriations for studies as mentioned under 1.5.4. The execution of these activities does not require an increase of human resources of the European Commission. Within the current MFF, the needs can be met by redeployment within the transport prerogative budget line for EUR 0.4 million. No additional cost is foreseen within the current MFF. In the post-2027 MFF, the cost for the studies is proposed to be financed through the subsequent MFF, without pre-empting the agreement on the MFF and programmes.

1.6. Duration and financial impact of the proposal/initiative

☐ **limited duration**

☐ in effect from [DD/MM]YYYY to [DD/MM]YYYY

☐ Financial impact from YYYY to YYYY for commitment appropriations and from YYYY to YYYY for payment appropriations.

☒ **unlimited duration**

Implementation with a start-up period from 2027-2037

followed by full-scale operation.

1.7. Method(s) of budget implementation planned

☒ **Direct management** by the Commission

☒ by its departments, including by its staff in the Union delegations;

☐ by the executive agencies

☐ **Shared management** with the Member States

☐ **Indirect management** by entrusting budget implementation tasks to:

☐ third countries or the bodies they have designated;

☐ international organisations and their agencies (to be specified);

☐ the EIB and the European Investment Fund;

☐ bodies referred to in Articles 70 and 71 of the Financial Regulation;

☐ public law bodies;

☐ bodies governed by private law with a public service mission to the extent that they are provided with adequate financial guarantees;

☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that are provided with adequate financial guarantees;

☐ bodies or persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

If more than one management mode is indicated, please provide details in the 'Comments' section.

Comments

N/A

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

The Commission will be overall accountable for implementing the proposed Directive as well as for reporting to the European Parliament and the Council (a) on the competitiveness of intermodal transport compared to unimodal road transport prior to the application of the Directive and afterwards (b) every five years on the economic development of intermodal transport in the Union. After ten years the Commission will assess whether the support scheme is still needed.

The tasks directly implemented by DG MOVE will follow the annual cycle of planning and monitoring, as implemented in the Commission and the executive agencies, including reporting the results through the Annual Activity Report of DG MOVE.

2.2. Management and control system(s)

2.2.1. Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed

The Commission and more specifically, DG MOVE, will manage the implementation of the proposed Directive. Funding will be provided through procurement agreements. The expenditure will be implemented through directly managed procurements, in full application of the provisions of the Financial Regulation. The control strategy for procurements and grants in DG MOVE includes specific ex-ante legal, operational and financial controls on the procedures as well as on the signature of contracts and agreements. In addition, expenditure made to procure goods and services is subject to ex-ante and, when necessary, ex-post financial controls.

2.2.2. Information concerning the risks identified and the internal control system(s) set up to mitigate them

The risk of error at payment and at closure is expected to remain under 2%.

The potential risks related to the procurement of services of this value are considered low.

These risks are linked to use of procurement procedures: delays, availability of data, timely information to the market, etc. These risks would be covered by the existing mechanisms of the Financial Regulation and mitigated by the set of internal controls deployed by DG MOVE (systematic ex-ante legal and financial controls before publication of calls for proposals and before the award of the contract, monitoring and assessment of deliverables, ex-post audits of expenditure as defined in the yearly Audit work plans).

2.2.3. Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)

Considering the limited scope and amount of EU funding to be granted, and since beneficiaries of EU funds are regarded as low-risk, the tasks resulting from the

proposed Directive are not expected to generate additional control costs beyond the existing cost of controls of DG MOVE.

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.

The regular Commission prevention and protection measures would apply, specifically:

- Payments for any services are checked by the Commission staff prior to payment, taking into account any contractual obligations, economic principles and good financial or management practice. Anti-fraud provisions (supervision, reporting requirements, etc.) will be included in all contracts concluded between the Commission and recipients of any payments.

- To combat fraud, corruption and other unlawful activities, the provisions of Regulation (EU, Euratom) No 883/2013 concerning investigations conducted by the European Anti-fraud Office (OLAF) and the European Public Prosecutor's Office (EPPO) established by Council Regulation (EU) 2017/1939 shall apply without restriction.

The Commission further maintains a robust antifraud strategy, CAFS, currently under revision.

In addition, DG MOVE adopted a revised Anti-fraud Strategy (AFS) in 2020. The MOVE AFS is based on the Commission Anti-fraud Strategy and anticipates a specific risk assessment carried out internally to identify the areas most vulnerable to fraud, on the controls already in place, and the actions necessary to improve DG MOVE's capacity to prevent, detect and correct fraud.

The contractual provisions applicable to public procurement ensure that audits and on-the-spot checks can be carried out by the Commission services, including OLAF, using the standard provisions recommended by OLAF.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff.[52]	from EFTA countries [53]	from candidate countries and potential candidates [54]	from other third countries	other assigned revenue
1	02.20.04.01	Diff.	NO	NO	NO	NO

[52] Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

[53] EFTA: European Free Trade Association.

[54] Candidate countries and, where applicable, potential candidates from the Western Balkans.

3.2. Estimated financial impact of the proposal on appropriations

3.2.1. Summary of estimated impact on operational appropriations

☐ The proposal/initiative does not require the use of operational appropriations

☒ The proposal/initiative requires the use of operational appropriations, as explained below:

EUR million (to three decimal places)

Heading of multiannual financial framework	1	Single Market, Innovation and Digital

DG: MOVE			Year **2027**	**TOTAL**[55]
○ Operational appropriations				
Budget line 02.20.04.01	Commitments	(1a)	0,4	**0,4**
	Payments	(2a)	0,4	**0,4**
TOTAL appropriations for DG MOVE	Commitments		0,4	**0,4**
	Payments		0,4	**0,4**

○ TOTAL operational appropriations	Commitments	(4)	0,4	**0,4**
	Payments	(5)	0,4	**0,4**
TOTAL appropriations under HEADING 1 of the multiannual financial framework	Commitments		0,4	**0,4**
	Payments		0,4	**0,4**

[55] Beyond 2027, the cost of the proposal is estimated at EUR 0.6 million in 2032, EUR 0.7 million in 2037 and a final additional EUR 0.3 million later bringing the total costs for the EU budget to EUR 2 million, which is proposed to be financed through the subsequent MFFs, without pre-empting the agreement on the MFFs and programmes.

○ TOTAL operational appropriations (all operational headings)	Commitments	(4)	0,4	**0,4**
	Payments	(5)	0,4	**0,4**
TOTAL appropriations of an administrative nature financed from the envelope for specific programmes (all operational headings)		(6)		
TOTAL appropriations under HEADINGS 1 to 6 of the multiannual financial framework (Reference amount)	Commitments	=4+ 6	0,4	**0,4**
	Payments	=5+ 6	0,4	**0,4**

Heading of multiannual financial framework	**7**	'Administrative expenditure'

This section should be filled in using the 'budget data of an administrative nature' to be firstly introduced in the Annex to the Legislative Financial Statement (Annex 5 to the Commission decision on the internal rules for the implementation of the Commission section of the general budget of the European Union), which is uploaded to DECIDE for interservice consultation purposes.

EUR million (to three decimal places)

		Year **N**	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)			**TOTAL**
DG: <…….>									
○ Human resources									
○ Other administrative expenditure									
TOTAL DG <…….>	Appropriations								

TOTAL appropriations under HEADING 7 of the multiannual financial framework	(Total commitments = Total payments)								

EUR million (to three decimal places)

		Year **2027**	Year **2032**	Year **2037**	Year **tbc**	**TOTAL**
TOTAL appropriations under HEADINGS 1 to 7 of the multiannual financial framework	Commitments	0,4	0,6	0,7	0,3	**2,0**
	Payments	0,4	0,6	0,7	0,3	**2,0**

3.2.2. Estimated output funded with operational appropriations

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and outputs ⇩			Year **N**		Year **N+1**		Year **N+2**		Year **N+3**		Enter as many years as necessary to show the duration of the impact (see point 1.6)						**TOTAL**	
	OUTPUTS																	
	Type [56]	Average cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1 [57]…																		
- Output																		
- Output																		
- Output																		
Subtotal for specific objective No 1																		
SPECIFIC OBJECTIVE No 2 ...																		
- Output																		
Subtotal for specific objective No 2																		
TOTALS																		

[56] Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

[57] As described in point 1.4.2. 'Specific objective(s)…'

3.2.3. Summary of estimated impact on administrative appropriations

☒ The proposal/initiative does not require the use of appropriations of an administrative nature

☐ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	Year **N** [58]	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)			**TOTAL**
HEADING 7 of the multiannual financial framework								
Human resources								
Other administrative expenditure								
Subtotal HEADING 7 of the multiannual financial framework								

Outside HEADING 7 [59] **of the multiannual financial framework**								
Human resources								
Other expenditure of an administrative nature								
Subtotal outside HEADING 7 of the multiannual financial framework								

TOTAL								

The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

[58] Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

[59] Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

3.2.3.1. Estimated requirements of human resources

☒ The proposal/initiative does not require the use of human resources.

☐ The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full time equivalent units

		Year 2025	Year 2026	Year 2027	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
O Establishment plan posts (officials and temporary staff)								
20 01 02 01 (Headquarters and Commission's Representation Offices)								
20 01 02 03 (Delegations)								
01 01 01 01 (Indirect research)								
01 01 01 11 (Direct research)								
Other budget lines (specify)								
O External staff (in Full Time Equivalent unit: FTE)[60]								
20 02 01 (AC, END, INT from the 'global envelope')		0	0	0	0			
20 02 03 (AC, AL, END, INT and JPD in the delegations)								
XX 01 xx **yy zz** [61]	- at Headquarters							
	- in Delegations							
01 01 01 02 (AC, END, INT - Indirect research)								
01 01 01 12 (AC, END, INT - Direct research)								
Other budget lines (specify)								
TOTAL		**0**						

XX is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	
External staff	

[60] AC= Contract Staff; AL = Local Staff; END= Seconded National Expert; INT = agency staff; JPD= Junior Professionals in Delegations.

[61] Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

3.2.4. Compatibility with the current multiannual financial framework

The proposal/initiative:

☒ can be fully financed through redeployment within the relevant heading of the Multiannual Financial Framework (MFF).

The initiative is financed by the transport policy support budget line (02.20.04.01), no reprogramming is required.

☐ requires use of the unallocated margin under the relevant heading of the MFF and/or use of the special instruments as defined in the MFF Regulation.

Explain what is required, specifying the headings and budget lines concerned, the corresponding amounts, and the instruments proposed to be used.

☐ requires a revision of the MFF.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

3.2.5. Third-party contributions

The proposal/initiative:

☒ does not provide for co-financing by third parties

☐ provides for the co-financing by third parties estimated below:

Appropriations in EUR million (to three decimal places)

	Year **N**[62]	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Specify the co-financing body								
TOTAL appropriations co-financed								

[62] Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

3.3. Estimated impact on revenue

☒ The proposal/initiative has no financial impact on revenue.

☐ The proposal/initiative has the following financial impact:

☐ on own resources

☐ on other revenue

please indicate, if the revenue is assigned to expenditure lines ☐

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative[63]						
		Year **N**	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
Article …….								

For assigned revenue, specify the budget expenditure line(s) affected.

Other remarks (e.g. method/formula used for calculating the impact on revenue or any other information).

[63] As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.