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European Union

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**'I/A' ITEM NOTE**

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From: General Secretariat of the Council  
To: Permanent Representatives Committee (Part 1)/Council  
Subject: Proposal for a Regulation of the European Parliament and of the Council  
on electronic freight transport information  
- Political agreement

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1. On 17 May 2018, the Commission presented the abovementioned proposal to the European Parliament and the Council, as part of the third 'Europe on the Move' package, which is designed to make European mobility safer, cleaner, more efficient and more accessible, for the benefit of all EU citizens.
2. The general objective of the proposal is to establish a uniform legal framework for the transmission of digital freight transport information and thereby contribute to greater efficiency of the transport sector.

3. The European Economic and Social Committee adopted an opinion at the plenary session on 17 October 2018. The Committee of the Regions decided not to issue an opinion on the proposal.
4. The European Parliament voted on the report and adopted its first reading position on 12 March 2019. Subsequently, following the start of the ninth parliamentary term, Mr Andor DELI (EPP, HU) was appointed rapporteur on behalf of the Committee on Transport and Tourism (TRAN).
5. The Council reached a general approach on the proposal at its meeting on 6 June 2019.
6. Negotiations with the European Parliament started on 25 September 2019. The third and final informal trilogue was held on 26 November 2019 resulting in an overall provisional agreement.
7. The Permanent Representatives Committee examined and approved the provisional compromise text<sup>1</sup> on 18 December 2019.
8. The TRAN committee of the European Parliament voted in favour of the compromise text on 21 January 2020. Subsequently, the Chair of the European Parliament's TRAN Committee addressed a letter dated 23 January to the Chair of the Permanent Representatives Committee stating that, if the Council adopts its position at first reading in accordance with the text attached to the said letter, she would recommend to the Plenary that the Council's position be accepted without amendment at Parliament's second reading, subject to legal-linguistic verification.
9. Consequently, the Permanent Representatives Committee is invited to recommend to Council to endorse the political agreement as set out in the Annex to this note.

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<sup>1</sup> docs. 14793/1/19 REV 1, 14793/19 ADD 1 and 14793/1/19 REV 1 COR 1.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on electronic freight transport information**

(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, and Article 100(2) 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<sup>2</sup>,

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<sup>2</sup> OJ C , , p. .

Having regard to the opinion of the Committee of the Regions<sup>3</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The efficiency of freight transport and logistics is vital for the growth and competitiveness of the Union economy, the functioning of the internal market and the social and economic cohesion of all regions of the Union.
- (1a) The aim of this Regulation is to encourage the digitalisation of freight transport and logistics to reduce administrative costs, improve enforcement capabilities of the authorities, and enhance the efficiency and sustainability of transport.
- (2) The movement of goods, including waste, is accompanied by a large amount of information which is still exchanged in paper format, among businesses and between businesses and competent authorities. The use of paper documents represents a significant administrative burden for logistic operators and an additional cost for logistic operators and related industries (such as trade and manufacturing), in particular for SMEs, and has a negative impact on the environment.

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<sup>3</sup> OJ C , , p. .

- (3) The absence of a uniform legal framework at Union level requiring competent authorities to accept relevant freight transport information, required by legislation, in electronic form, is considered to be the main reason for the lack of progress towards the simplification and greater efficiency made possible by available electronic means. The acceptance by competent authorities of information in electronic form and with common specifications would ease not only communication between them and operators but, indirectly, also the development of a uniform and simplified business-to-business electronic communication across the Union. It would also lead to significant administrative cost savings for economic operators, and particularly SMEs, which constitute the largest majority of transport and logistics companies within the EU.
- (4) Some areas of Union transport law require competent authorities to accept digitised information, but this concerns by far not all relevant Union legislation. It should be possible to use electronic means to make regulatory information on transport of goods available to the competent authorities throughout the territory of the Union and in respect of all relevant phases of transport operations conducted within the Union. Furthermore, that possibility should apply to all regulatory information, in all transport modes.

- (5) Competent authorities should therefore be required to accept information made available electronically whenever economic operators are obliged to make information available as proof of compliance with requirements laid down in Union acts covered by this Regulation. This requirement should also cover information requested by the authorities as additional information, in accordance with the provisions of those acts, when for example some information is missing. The same should apply where a Member State's national law requires the provision of regulatory information identical, in whole or in part, to information to be provided under such Union acts. Authorities should also endeavour to communicate electronically with the economic operators concerned in relation to that information. Such communication should be without prejudice to relevant Union and national law provisions related to follow-up measures during or after regulatory information checks. The obligation for competent authorities to accept information made available electronically by the economic operators should also apply whenever Union acts or Member States' law covered by this Regulation require information that is also referred to in relevant international conventions such as the conventions governing the international contracts of carriage in the different transport modes, for example the Convention on the Contract for the International Carriage of Goods by Road (CMR), the Convention concerning International Carriage by Rail (COTIF), the Resolution 672 on E-air Waybill, the Montreal Convention, and the Budapest Convention on the Contract for the Carriage of Goods by Inland Waterways (CMNI).

- (6) Since this Regulation is only intended to facilitate and encourage the provision of information between the economic operators and administrative bodies, specifically, by electronic means, it should not affect the provisions of Union or national law determining the content of regulatory information and, in particular, should not impose any additional regulatory information or language requirements. While this Regulation is intended to allow compliance with regulatory information requirements through electronic means rather than by means of paper documents, it should not otherwise affect the possibility for the economic operators concerned to present that information in paper format, as provided for in the relevant Union or Member States' acts, nor the relevant Union provisions on requirements regarding the documents to be used for the structured presentation of the information in question. In respect of Regulation (EC) 1013/2006<sup>4</sup>, the provisions containing procedural requirements for the shipments of waste and the provisions referring to controls by customs offices should equally remain unaffected by this Regulation. This Regulation should also be without prejudice to the provisions on reporting obligations, including in respect of the customs or other authorities competences, as set out in Regulation (EU) No 952/2013<sup>5</sup> or in implementing or delegated acts adopted under its terms or in Regulation (EU) no. XXX/2019 on EMSWe.

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<sup>4</sup> Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (*OJ L 190, 12.7.2006, p. 1*).

<sup>5</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (*OJ L 269, 10.10.2013, p. 1*).

- (7) The use of electronic means for the exchange of regulatory information can reduce administrative costs for transport operators and can enhance the efficiency of competent authorities. Both operators and authorities would need to take the necessary measures, including acquiring the necessary equipment, for electronic exchanges in machine readable format via the eFTI platforms. However, economic operators should remain responsible for providing information in human readable format whenever specifically requested by the competent authorities to allow them to perform their duties in situations where access to the eFTI platform is not available.
- (8) In order to enable operators to provide relevant information in electronic form in the same way in all Member States, it is necessary to rely on common specifications, to be adopted by the Commission.
- (8a) Common specifications on the definition and technical characteristics for data elements should ensure, in the first place, data interoperability by establishing a single comprehensive data set to be used for the electronic communication of the information. This comprehensive data set should contain all data elements corresponding to the information requirements contained in each of the respective Union and Member State legal acts, where all data elements common to one or more subsets is included only once.
- (8b) Common specifications should determine common procedures and detailed rules for access and processing of that information by the competent authorities, including any related communication between the authorities and the economic operators, such as requests for additional information, necessary for authorities to carry out their respective regulatory enforcement competences in accordance with the relevant Union and Member States acts.



- (9) In defining those specifications, due account should be taken of relevant data exchange specifications laid down in relevant Union law, and in relevant European and international standards for data exchange, including multimodal standards, as well as of the principles and recommendations set out in the European Interoperability Framework<sup>6</sup>, which provides an approach to the delivery of European digital public services commonly agreed by the Member States. Due care should also be taken that these specifications remain technology neutral and open to innovative technologies.
- 9(a) With a view to minimising costs for both authorities and operators, the establishment of access points for the competent authorities could be considered. These access points would act only as intermediaries between the eFTI platforms and the competent authorities, and should therefore neither store nor process the eFTI data to which they mediate access except for metadata connected to eFTI data processing, such as operation logs necessary for monitoring or statistical purposes. One or more Member States could also agree to establish joint access points for their respective competent authorities.
- (10) This Regulation should establish the functional requirements applicable to information and communication technology (ICT) based platforms (eFTI platforms) which should be used by economic operators to make available the regulatory freight transport information in electronic format (eFTI) to the competent authorities in order to meet the conditions for mandatory acceptance of this information by authorities, as laid down in this Regulation. Requirements should also be established for third party platform services providers (eFTI services providers). Those requirements should ensure, in particular, that all eFTI data can be processed solely according to a comprehensive rights- based access-control system that provides assigned functionalities; that all competent authorities can have immediate access to that data in accordance to their respective regulatory enforcement competences; that the processing of personal data can respects the provisions of Regulation (EU) 2016/679; and that the processing of sensitive commercial information can respects the confidentiality of that information.

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<sup>6</sup> European Interoperability Framework – Implementation Strategy, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (COM(2017) 134).

- (10a) The Commission should adopt specifications regarding the functional requirements for eFTI platforms. In adopting these specifications, the Commission should seek to ensure the interoperability of the eFTI platforms, to facilitate data exchange between these platforms and allow economic operators to use any platform of their choice. In order to facilitate implementation and minimize costs, the Commission should also take into account relevant technical solutions and standards used by existing ICT systems. At the same time, the Commission should ensure that those specifications remain technologically neutral to the largest extent possible, in order to encourage continuous innovation and to avoid technological lock-in.
- (11) To build the confidence of both authorities and economic operators as regards the compliance of the eFTI platforms and eFTI services providers with those functional requirements, the Member States should put in place a certification system underpinned by accreditation in accordance with Regulation (EC) 765/2008 of the European Parliament and of the Council<sup>7</sup>. To take advantage of the benefits of this certification, providers of ICT systems already in use are encouraged to seek compliance of those systems with the requirements for eFTI platforms laid down in this Regulation, and apply for certification. The certification of ICT systems should be done without delay.
- (11a) The use of eFTI platforms provides economic operators with guaranteed acceptance of regulatory information and competent authorities with reliable and secure access to this information. Nevertheless and notwithstanding the obligation for all competent authorities to accept the information made available through a certified eFTI platform in accordance with this Regulation, the use of other electronic systems should remain possible, if a Member State so chooses. At the same time, this Regulation should not prevent business-to-business use, as well as additional functionalities, of the eFTI platforms, as long as this does not affect the processing of the regulatory information falling under the scope of this Regulation in compliance with the Regulation's requirements.

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<sup>7</sup> Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218 13.8.2008, p.30).

- (12) In order to ensure uniform conditions for the implementation of the obligation to accept the regulatory information made available in electronic format pursuant to this Regulation, 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<sup>8</sup>.
- (13) In particular, implementing powers should be conferred on the Commission to establish common procedures and detailed rules for competent authorities for the access to and processing of that information where the economic operators concerned make this information available electronically, including detailed rules and technical specifications.
- (14) Implementing powers should also be conferred on the Commission to establish detailed rules for the implementation of the requirements for eFTI platforms and for eFTI services providers.
- (15) In order to ensure the proper application of this Regulation, 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:
- to amend Part B of Annex I, in order to incorporate the lists of regulatory information requirements in Member States' legislation notified to the Commission by the Member States in accordance with this Regulation;
  - to amend Part A of Annex I to take into account any delegated or implementing acts adopted by the Commission which establish new Union regulatory information requirements in relation to the transport of goods;

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<sup>8</sup> 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 the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- to amend Part B of Annex I to incorporate any new provision of relevant national law which introduces changes to the national regulatory information requirements, or lays down new relevant regulatory information requirements falling under the scope of this Regulation notified to the Commission by the Member States in accordance with this Regulation;
- to establish a common data set and subsets in relation to the respective regulatory information requirements covered by this Regulation;
- to supplement certain technical aspects of this Regulation, namely as regards the rules for certification of eFTI platforms and of eFTI services providers.

(16) 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<sup>9</sup>. 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. Furthermore, the engagement of all relevant stakeholders in the appropriate fora, such as the group of experts established by Commission Decision C(2018) 5921 ('Digital Transport and Logistics Forum')<sup>10</sup> is important in the development and preparation of those acts.

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<sup>9</sup> OJ L 123, 12.5.2016, p. 1

<sup>10</sup> *Decision C(2018) 5921 final of 13.09.2018 – insert full reference*

- (17) Since the objectives of this Regulation, namely to ensure a uniform approach to acceptance by competent authorities of freight transport information made available electronically, cannot be sufficiently achieved by the Member States but can rather, by reason of the need to establish common requirements, be better achieved at Union level, 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 Regulation does not go beyond what is necessary in order to achieve those objectives.
- (18) Processing by electronic means of personal data required as part of freight transport regulatory information should be carried out in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>11</sup>.
- (19) The Commission should carry out an evaluation of this Regulation. Information should be collected in order to inform this evaluation, and to assess the performance of the legislation against the objectives it pursues.

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<sup>11</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

(19a) Effective and efficient enforcement necessitates that all competent authorities have direct and real-time access to relevant regulatory information in electronic form. To this end, and in accordance with the “digital by default” principle, as mentioned in the Commission's Communication: "EU eGovernment Action Plan 2016-2020 Accelerating the digital transformation of government", the use of electronic means should become the predominant way to exchange regulatory information between the economic operators and the competent authorities. Therefore, the Commission should assess possible initiatives with a view to establishing an obligation for the economic operators to use electronic means for making available regulatory information to the competent authorities. The Commission should propose, where appropriate, corresponding initiatives, including possible revisions of this Regulation and other relevant Union legislation. With a view to improving the authorities' enforcement capabilities and minimise costs for both authorities and economic operators, the Commission should also consider further measures such as enhanced interoperability of and a common access point to ICT systems and platforms used for recording and processing regulatory information as provided for in different EU transport legal acts.

- (20) This Regulation cannot be effectively applied before the delegated and implementing acts provided for in it have entered into force. For this reason, the Commission has a legal obligation to adopt these delegated and implementing acts and should start immediately to work on them, in order to ensure the timely adoption of the relevant specifications, where possible, also in advance of the respective deadlines set in this Regulation. The timely adoption of these delegated and implementing acts is essential in order for the Member States and the economic operators to have enough time to take the necessary measures in compliance with this Regulation, and the different application periods in this Regulation are set accordingly.
- (20a) At the same time, the Member States' notification obligation in the first paragraph of Article 1(3) should be performed within one year following the entry into force of this Regulation, so as to allow the Commission to timely adopt the first delegated act referred to in Article 2 of this Regulation.
- (21) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council<sup>12</sup> and delivered an opinion on xx XXX 20xx<sup>13</sup>,

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<sup>12</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

<sup>13</sup> OJ C....

HAVE ADOPTED THIS REGULATION:

## CHAPTER I

### GENERAL PROVISIONS

#### *Article 1*

#### *Subject matter and scope*

1. This Regulation establishes a legal framework for the electronic communication of regulatory information between the economic operators concerned and competent authorities related to the transport of goods on the territory of the Union. For that purpose, this Regulation:
  - (a) lays down the conditions under which competent authorities are required to accept regulatory information when made available electronically by economic operators concerned;
  - (b) lays down rules for the provision of services related to making regulatory information available electronically by the economic operators concerned to the competent authorities.
2. This Regulation applies to:
  - (a) regulatory information requirements set out in:
    - EEC Council Regulation No. 11<sup>14</sup>, article 6(1);
    - Directive 92/106/EEC<sup>15</sup>, article 3;

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<sup>14</sup> EEC Council: Regulation No 11 concerning the abolition of discrimination in transport rates and conditions, in implementation of Article 79 (3) of the Treaty establishing the European Economic Community (OJ English special edition: Series I Volume 1959-1962 p. 60).

<sup>15</sup> 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*).



- Regulation (EC) No 1072/2009<sup>16</sup>, article 8(3);
- Regulation (EC) 1013/2006<sup>17</sup>, article 16(c) and article 18(1);
- in respect of of Directive 2008/68/EC<sup>18</sup>, chapter 5.4 of the Annexes to RID, ADR and ADN as referred to in Annex I, section I.1, Annex II, section II.1 and Annex III, section III.1 of that Directive<sup>19</sup>.

In respect of Regulation (EC) 1013/2006, this Regulation does not apply to controls by customs offices, as provided for in the applicable Union provisions.

- (b) regulatory information requirements laid down in a delegated or implementing act adopted by the Commission pursuant to legislative acts referred to in point (a) or pursuant to Directive 2016/797/EU<sup>20</sup> or to Regulation (EC) No 300/2008<sup>21</sup>. Those delegated or implementing acts shall be listed in part A of Annex I.
- (c) regulatory information requirements set out in national law and listed in Part B of Annex I.

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<sup>16</sup> 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*).

<sup>17</sup> Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (*OJ L 190, 12.7.2006, p. 1*).

<sup>18</sup> Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods (*OJ L 260, 30.9.2008, p. 13–59*).

<sup>19</sup> References to ADR, RID and ADN must be understood within the meaning of Article 2(1), 2(2) and 2(3) of Directive 2008/68/EC.

<sup>20</sup> Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (*OJ L 138, 26.5.2016, p. 44*).

<sup>21</sup> Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002 (*OJ L 97, 9.4.2008, p. 72*).

3. By [OP insert one year from the entry into force of this Regulation], the Member States shall notify the Commission of the provisions of national law and corresponding regulatory information requirements that require the provision of information identical, in whole or in part, to the information to be provided pursuant to regulatory information requirements referred to in paragraphs 2(a) and 2(b).

Subsequent to that notification, the Member States shall notify the Commission of law that:

- (a) introduces changes to regulatory information requirements listed in part B of Annex I;  
or
- (b) lays down new relevant regulatory information requirements, identical, in whole or in part, to the information to be provided pursuant to regulatory information requirements referred to in paragraphs 2(a) and 2(b).

Member States shall make such notifications within one month from the adoption of such provision.

*Article 2*  
*Adaptation of Annex I*

The Commission shall adopt delegated acts in accordance with Article 13, amending Annex I in order to:

- (a) include a reference to any regulatory information requirements referred to in Article 1(2)(b);
- (b) incorporate or delete references to national law and regulatory information requirements in accordance with the notifications made under Article 1(3).

*Article 3*  
*Definitions*

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

- (1) 'regulatory information' means information, whether or not presented as a document, related to transport of goods in the territory of the Union, including by way of transit, which is to be made available by an economic operator concerned in accordance with the provisions referred to in Article 1(2) in order to prove compliance with the relevant requirements of the acts concerned;
- (1) 'regulatory information requirement' means a requirement to provide regulatory information;
- (2a) 'competent authority' means any public authority, agency or other body which has competence to perform tasks under the acts referred to in Article 1(2) and for which access to regulatory information is necessary, such as checking, enforcing, validating or monitoring compliance on the territory of a Member State;
- (2) 'electronic freight transport information' (eFTI) means any set of data elements processed on electronic support for purposes of exchanging regulatory information among the economic operators concerned and with the competent authorities;
- (3a) 'eFTI data subset' means the set of structured data elements corresponding to the regulatory information required in a specific Union or Member State legal act referred to in Article 1(2).
- (3b) 'eFTI common data set' means the comprehensive set of structured data elements corresponding to all the eFTI data subsets, where the data elements common to the different eFTI data subsets are included only once;

- (3c) ‘data element’ means the smallest unit of information which has a unique definition and precise technical characteristics such as format, length and character type;
- (3) ‘processing’ means any operation or set of operations performed on eFTI, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;
- (4a) ‘operation log’ means an automated record of electronic processing of eFTI.
- (4) ‘eFTI platform’ means any information and communication technology (ICT) based solution, such as an operating system, an operating environment, or a database, intended to be used for the processing of eFTI;
- (5) ‘eFTI platform developer’ means any natural or legal person which has developed or acquired an eFTI platform either for purposes of processing of regulatory information related to its own economic activity, or for putting that platform on the market;
- (6) ‘eFTI service’ means a service consisting of eFTI processing by means of an eFTI platform, alone or in combination with other ICT solutions, including other eFTI platforms;
- (7) ‘eFTI service provider’ means any natural or legal person which provides an eFTI service to economic operators concerned on the basis of a contract;
- (8) ‘economic operator concerned’ means any transport or logistic operator, or any other natural or legal person, who is responsible for making regulatory information available to the competent authorities in accordance with the relevant regulatory information requirement;
- (9) ‘human-readable format’ means a way of representation of the data in electronic form that can be used as information by a natural person without requiring any further processing;

- (10) 'machine-readable format' means a way of representation of the data in electronic form that can be used for automatic processing by a machine;
- (11) 'conformity assessment body' means a conformity assessment body within the meaning of point 13 of Article 2 of Regulation (EC) No 765/2008, which is accredited in accordance with that Regulation to carry out conformity assessment of an eFTI platform or an eFTI service provider-
- (12) 'shipment' means the transport of a determined set of goods, including waste, between the first place of pick-up and final place of delivery under the terms of a single transport contract or multiple consecutive transport contracts including, where applicable, the transfer between different modes of transport, irrespective of the quantity or number of containers, packages, or pieces concerned.

## CHAPTER II

### REGULATORY INFORMATION MADE AVAILABLE ELECTRONICALLY

#### *Article 4*

#### *Requirements for economic operators concerned*

For the purposes of Article 5(1) economic operators shall comply with the requirements set out in this Article.

Where economic operators concerned make regulatory information available electronically to a competent authority, they shall do so on the basis of data processed in a certified eFTI platform and, if applicable, by a certified eFTI service provider. The regulatory information shall be made available by the economic operators in machine-readable format and, at the request of the competent authority, in human-readable format.

Information in machine-readable format shall be made available via an authenticated and secure connection to the data source of an eFTI platform. Economic operators concerned shall communicate the unique electronic identifying link referred to in Article 8(1) paragraph (c) allowing the competent authority to uniquely identify the regulatory information related to the shipment.

Information in human-readable format requested by the competent authorities shall be made available on the spot, on the screen of electronic devices owned by the economic operator concerned.

## *Article 5*

### *Requirements for competent authorities*

1. As from [30 months] after the entry into force of the first of the delegated and implementing acts in Articles 7 and 7a, competent authorities shall accept regulatory information made available electronically by the economic operators concerned in accordance with Article 4, including where such regulatory information is requested by the competent authorities as additional information.

Where the economic operator concerned has made electronically available, in accordance with Article 4, regulatory information required under Regulation (EC) No 1013/2006 on shipments of waste the competent authorities concerned shall accept such regulatory information also without the agreement referred to in Article 26 paragraphs 3 and 4 of that Regulation.

Where regulatory information required in a specific Union or Member State legal act referred to in Article 1(2) includes official validation, such as stamps or certificates, the respective authority shall provide this validation electronically, in accordance with the requirements established pursuant to Article 7 and Article 7a.

2. In order to comply with the requirements set out in paragraph 1, Member States shall take measures to enable all their competent authorities to access and process the regulatory information made available by economic operators in accordance with Article 4. Those measures shall be in accordance with the provisions established pursuant to Article 7 and Article 7a.

*Article 6*  
*Confidential commercial information*

The competent authorities, eFTI services providers and economic operators concerned shall take measures to ensure confidentiality of commercial information processed and exchanged in accordance with this Regulation and ensure that such information can be accessed and processed only when authorised.

*Article 7*  
*Common eFTI data set*

1. The Commission shall adopt delegated acts in accordance with Article 13 to establish and amend the eFTI common data set and data subsets in relation to the respective regulatory information requirements, as referred to in Article 1(2), including corresponding specifications on the definition and technical characteristics for each data element included in the common data set and subsets;
2. In adopting the delegated acts referred to in paragraph 1, the Commission shall:
  - a) take into account relevant international conventions and Union acts; and
  - b) seek to ensure the interoperability of the eFTI common data set and data subsets with relevant data models accepted internationally or at Union level, including multimodal data models.
3. The first such delegated act covering all elements referred to in paragraph 1 shall be adopted no later than [30 months after the date of entry into force of this Regulation].



## *Article 7a*

### *Common procedures and rules for access*

1. The Commission shall, by means of implementing acts define common procedures and detailed rules, including common technical specifications, for competent authorities' access to eFTI platforms, including procedures for processing of regulatory information and for communication between authorities and economic operators in relation to that information.
2. In adopting the implementing acts referred to in paragraph 1, the Commission shall seek to enhance the efficiency of the administrative procedures and minimise compliance costs both for the economic operators and authorities concerned.
3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14(2). The first such implementing act covering all elements referred to in paragraph 1 shall be adopted no later than [30 months after the date of entry into force of this Regulation].

## CHAPTER III

### EFTI PLATFORMS AND SERVICES

#### SECTION 1

#### REQUIREMENTS FOR EFTI PLATFORMS AND SERVICES

##### *Article 8*

##### *Functional requirements for eFTI platforms*

1. The eFTI platforms used for processing regulatory information shall provide functionalities that ensure that:
  - (a) personal data can be processed in accordance with Regulation (EU) 2016/679<sup>22</sup>;
  - (b) commercial data can be processed in accordance with Article 6;
  - (ba) competent authorities can access and process the data in accordance with the specifications adopted pursuant Article 7;
  - (bb) economic operators concerned can make the information available to the competent authorities in accordance with Article 4.

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<sup>22</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (*OJL 119, 4.5.2016, p. 1*).

- (c) a unique electronic identifying link can be established between a shipment and the related eFTI data elements, including a structured reference to the eFTI platform where the data is made available, such as a unique reference identifier;
- (d) data can be processed solely on the basis of authorised and authenticated access;
- (e) all data processing is duly recorded in operation logs in order to allow, at a minimum, the identification of each distinct processing operation, the natural or legal person having made the operation and the sequencing of the operations on each individual data element; if an operation involves modifying or erasing an existing data element, the original data element shall be preserved;
- (f) data can be archived and remain accessible for the competent authorities in accordance with Union and national law laying down the respective regulatory information requirements;
- (fa) the operation logs referred to in point (e) are archived and remain accessible for the competent authorities, for auditing purposes, for the period of time specified in the legislation laying down the respective regulatory information requirements and, for monitoring purposes, for the periods of time referred to in Article 16.
- (g) data is protected against corruption and theft;
- (h) the data elements processed correspond to the common eFTI data set and subsets as established according to the provisions of Article 7, and can be processed in any of the official languages of the Union as provided by the act laying down the respective regulatory information requirements.

2. The Commission shall adopt, by means of implementing acts, detailed specifications regarding the requirements laid down in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14(2). In adopting those specifications, the Commission shall:

- seek to ensure the interoperability of the eFTI platforms;
- take into account relevant existing technical solutions and standards;
- ensure that those specifications remain, to the largest extent possible, technologically neutral.

The first such implementing act covering all elements referred to in the first paragraph shall be adopted no later than [3 years after the date of entry into force of this Regulation.]

*Article 9*  
*Requirements for eFTI service providers*

1. eFTI service providers shall ensure that:
  - (a) data is processed only by authorised users and according to clearly defined and assigned processing rights within the eFTI platform, in accordance with the relevant regulatory information requirements;
  - (b) data is stored and accessible in accordance with the Union and national law laying down the respective regulatory information requirements;
  - (c) competent authorities have immediate access to regulatory information concerning a freight transport operation processed by means of their eFTI platforms, free of any charges or fees;
  - (d) data is appropriately secured, including against unauthorised or unlawful processing and against accidental loss, destruction or damage.
2. The Commission shall adopt, by means of implementing acts, detailed rules regarding the requirements laid down in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14(2). The first such implementing act covering all elements referred to in the first paragraph shall be adopted no later than [3 years after the date of entry into force of this Regulation].

## SECTION 2

### CERTIFICATION

#### *Article 10*

#### *Conformity assessment bodies*

1. Conformity assessment bodies shall be accredited according to Regulation (EC) No 765/2008 for the purposes of performing the certification of eFTI platforms and service providers as set out in Articles 11 and 12 of this Regulation.
2. For the purposes of accreditation, a conformity assessment body shall meet the requirements laid down in Annex II. National accreditation bodies shall communicate to the authority designated in accordance with paragraph 3 the link to the website where they make public the available information on the accredited conformity assessment bodies, including an up-to-date list of these bodies.
3. Each Member States shall designate an authority that shall maintain an up to date list of the accredited conformity assessment bodies, the eFTI platforms and the eFTI service providers holding a valid certification on the basis of the information provided in accordance with Articles 10(2), 11(2) and 12(2). Those designated authorities shall make that list publicly available on an official government website.
4. By 31 March each year, the Member States' designated authorities shall notify the list referred to in paragraph 3 to the Commission, together with the address of the website where that list has been published. The Commission shall publish a link to those website addresses on its official webpage.

*Article 11*  
*Certification of eFTI platforms*

1. Upon request of an eFTI platform developer, conformity assessment bodies shall assess the compliance of the eFTI platform with the requirements laid down in Article 8(1). In case of a positive assessment, a compliance certificate shall be issued. If the assessment is negative, the conformity assessment body shall provide the necessary justification to the applicant.
2. Conformity assessment bodies shall maintain an up to date list of eFTI platforms they have certified and for which they withdrew or suspended the certification. They shall make this list publicly available on their website and shall communicate the link to that website address to the designated authority referred to in Article 10(3).
3. Information made available to competent authorities by means of a certified eFTI platform shall be accompanied by a certification mark.
4. The eFTI platform developer shall apply for a reassessment of its certification if the technical specifications adopted in the implementing acts referred to in Article 7(2) are revised.
5. The Commission is empowered to adopt delegated acts in accordance with Article 13 to supplement this Regulation with rules on certification, and the use of the certification mark, including on the renewal, suspension and withdrawal of the certification of eFTI platforms.

## *Article 12*

### *Certification of eFTI service providers*

1. Upon request of an eFTI service provider, a conformity assessment body shall assess the compliance of the eFTI service provider with the requirements laid down in Article 9(1). In case of a positive assessment, a compliance certificate shall be issued. If the assessment is negative, the conformity assessment body shall provide the necessary justification to the applicant.
2. Conformity assessment bodies shall maintain an up to date list of the eFTI service providers they have certified and for which they withdrew or suspended the certification. They shall make this list publicly available on their website and shall communicate the link to that website address to the designated authority referred to in Article 10(3).
3. The Commission is empowered to adopt delegated acts in accordance with Article 13 to supplement this Regulation with rules on certification of eFTI service providers, including on the renewal, suspension and withdrawal of the certification.



## CHAPTER IV

### DELEGATIONS OF POWER AND IMPLEMENTING PROVISIONS

#### *Article 13*

#### *Exercise of the delegation*

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 2, Article 7, Article 11(5) and Article 12(3) shall be conferred on the Commission for a period of five years from [date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension no later than three months before the end of each period.
3. The delegation of power referred to in Article 2, Article 7, Article 11(5), Article 12(3) 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 accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 2, Article 7, Article 11(5) and Article 12(3) shall enter into force only if no objection has been expressed either by the European Parliament or 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 14*

##### *Committee procedure*

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.

## CHAPTER V

### FINAL PROVISIONS

#### *Article 15*

##### *Review*

1. By [four-and-a-half years from the date of application of this Regulation as set out in Article 17(2)] at the latest the Commission shall carry out an evaluation of this Regulation and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee.

The Commission shall also assess possible initiatives with a view to in particular:

- a) establish the obligation for economic operators to make available electronically regulatory information to the authorities, in accordance with this Regulation;
- b) establish further interoperability and interconnectivity between the eFTI environment and the different ICT systems and platforms used for recording and processing regulatory information as provided for in the different EU transport legal acts.

This assessment shall cover notably the amendment of this Regulation and other relevant Union legislation and shall be accompanied, where appropriate, by a legislative proposal.

2. Member States shall provide the Commission with the necessary information set out in Article 16 for the preparation of that Report.

#### *Article 16*

##### *Monitoring*

The Member States shall provide the following information to the Commission every five years and for the first time by [three years from the date of application of this Regulation as set out in Article 17(2)] at the latest:

1. based on the operation logs referred to in Article 8(1)(e) and 8(1)(fa), the number of times the competent authorities accessed and processed the regulatory information made available electronically by the economic operators concerned in accordance with Article 4.

The information shall be provided for each year covered by the reporting period.

#### *Article 17*

##### *Entry into force and application*

1. This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.
2. It shall apply from [OP insert four years from the entry into force].

3. By way of derogation from paragraph 2 of this Article, Article 1(3), Article 5(2), Article 7, Article 7a, Article 8(2), Article 9(2), shall apply from the date of entry into force of this Regulation.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*

*For the Council*

*The President*

*The President*

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**ANNEX I**

**REGULATORY INFORMATION FALLING UNDER THE SCOPE OF THIS  
REGULATION**

**PART A - Regulatory information requirements referred to in article 1(2)b**

List of delegated and implementing acts referred to in article 1(2)b:

- 1) Commission Implementing Regulation (EU) 2015/1998 laying down detailed measures for the implementation of the common basic standards on aviation security: Annex 6.3.2.6 (a), (b), (c), (d), (e), (f) and (g).

## **PART B - Member States' law**

The relevant Member States' national law requiring the provision of information identical, in whole or in part, to the information specified in point a) and b) of Article 1(2) are listed below.

**[Member State]**

1) Legal act: [provision]

**ANNEX II**  
**REQUIREMENTS RELATING TO CONFORMITY ASSESSMENT BODIES**

[...]

2. A conformity assessment body shall be established under national law of a Member State and have legal personality.
3. A conformity assessment body shall be a third-party body independent of the organisation or the eFTI platform or platform service provider it assesses.

A body belonging to a business association or professional federation representing undertakings involved in the design, manufacturing, provision, assembly, use or maintenance of eFTI platform or platform service provider which it assesses may, on condition that its independence and the absence of any conflict of interest are demonstrated, be considered such a body.

4. A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks shall not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the eFTI platform or platform service provider which they assess, nor the representative of any of those parties.

A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks shall not be directly involved in the design, manufacture or construction, the marketing, installation, use or maintenance of that eFTI platform or platform service provider, or represent the parties engaged in those activities. They shall not engage in any activity that may conflict with their independence of judgement or integrity in relation to conformity assessment activities for which they are notified. This shall in particular apply to consultancy services.



Conformity assessment bodies shall ensure that the activities of their subsidiaries or subcontractors do not affect the confidentiality, objectivity or impartiality of their conformity assessment activities.

5. Conformity assessment bodies and their personnel shall carry out the conformity assessment activities with the highest degree of professional integrity and the requisite technical competence in the specific field and shall be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their conformity assessment activities, especially as regards persons or groups of persons with an interest in the results of those activities.
6. A conformity assessment body shall be capable of carrying out all the conformity assessment tasks assigned to it by Articles 11 and 12, whether those tasks are carried out by the conformity assessment body itself or on its behalf and under its responsibility.

A conformity assessment body shall have at its disposal the necessary:

- (a) personnel with technical knowledge and sufficient and appropriate experience to perform the conformity assessment tasks;
- (b) descriptions of procedures in accordance with which conformity assessment is carried out, ensuring the transparency and the ability of reproduction of those procedures.
- (c) procedures for the performance of activities which take due account of the size of an undertaking, the sector in which it operates, its structure and the degree of complexity of the technology in question.

A conformity assessment body shall have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner.

7. The personnel responsible for carrying out conformity assessment tasks shall have the following:
  - (a) sound technical and vocational training covering all the conformity assessment activities;
  - (b) satisfactory knowledge of the requirements of the assessments they carry out and adequate authority to carry out those assessments;
  - (c) appropriate knowledge and understanding of the requirements set out in Article 9;
  - (d) the ability to draw up compliance certificates, records and reports demonstrating that assessments have been carried out.
8. The impartiality of the conformity assessment bodies, their top level management and of the personnel responsible for carrying out the conformity assessment tasks shall be guaranteed.

The remuneration of the top level management and personnel responsible for carrying out the conformity assessment tasks of a conformity assessment body shall not depend on the number of assessments carried out or on the results of those assessments.

9. Conformity assessment bodies shall take out liability insurance unless liability is assumed by the State in accordance with national law, or the Member State itself is directly responsible for the conformity assessment.

10. The personnel of a conformity assessment body shall observe professional secrecy with regard to all information obtained in carrying out their tasks under Articles 11 and 12 or any provision of national law giving effect to them, except in relation to the competent authorities of the Member State in which its activities are carried out. Proprietary rights shall be protected.
  
  11. Conformity assessment bodies shall participate in, or ensure that their personnel responsible for carrying out the conformity assessment tasks are informed of, the relevant standardisation activities and relevant regulatory activities.
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