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2017/0290 (COD)

This document corrects document COM(2017) 648 final of 8 November 2017.

Concerns all language versions.

The corrected errors include : a comment to be deleted in Recital(1), a typo in Recital (14), typos in new Articles 1.4, 5.3 and 6.4.

The text shall read as follows:

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Directive 92/106/EEC on the establishment of common rules for certain types of combined transport of goods between Member States**

(Text with EEA relevance)

{SWD(2017) 362 final} - {SWD(2017) 363 final}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • Reasons for and objectives to the proposal

The 2017 State of the Union Address gives a clear message: The EU should become a world leader in decarbonisation, and transform actions into jobs, growth and innovation<sup>1</sup>. With the Paris Agreement on Climate Change in force, the transition to a modern and low-carbon economy will need to accelerate. The June 2017 European Council<sup>2</sup> reaffirmed the commitment of the EU and its Member States to swiftly and fully implement the Paris Agreement and to continue to lead in the fight against climate and recognised the Paris Agreement as a "key element for the modernisation of the European industry and economy".

Owing to the major contribution of transport to greenhouse gas emissions and air pollution, making transport more sustainable is central to EU transport policy. A transition to an energy efficient and decarbonised transport sector was identified as of critical importance in the Energy Union Strategy of February 2015<sup>3</sup>. Such a transition is supported by concrete measures outlined in the Strategy for Low-Emission Mobility<sup>4</sup> adopted in July 2016 and whose aim is to i) optimise transport system efficiency through digitalisation and greater promotion of multimodality, and (ii) boost the use of low-emission alternative energy for transport by rolling out an appropriate alternative fuel infrastructure in order to move towards zero-emission vehicles. Those measures are now being implemented. In May 2017, the "Europe on the Move" Communication presented an agenda for a socially fair transition towards clean, competitive and connected mobility for all<sup>5</sup>, accompanied by a first package of proposals. Additional measures, including the revision of the Clean Vehicles Directive or the amendment of the Combined Transport Directive, are now proposed as part of this second "Europe on the Move" package.

Directive 92/106/EEC<sup>6</sup> (the Combined Transport Directive) is the only legal instrument at Union level to directly incentivise the shift from road freight to lower emission transport modes such as inland waterways, maritime transport and rail. It aims to increase the competitiveness of cross-border intermodal (and more specifically 'combined') transport compared to road-only freight transport.

Regulatory measures include i) safeguarding the freedom to provide the cross-border service, i.e. protecting combined transport from national restrictions (authorisation schemes, regulated tariffs and quotas); ii) clarifying that road cabotage limitations (Regulation (EC) 1072/2009) do not apply to the road legs of international combined transport; and iii) allowing, by adding a cross-reference to the Weights and Dimensions Directive (Directive 53/96/EC), heavier loads for vehicles used in intermodal transport road legs to compensate for the tare weight of the load unit as well as the use of 45 ft containers.

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<sup>1</sup> [https://ec.europa.eu/commission/news/president-juncker-delivers-state-union-address-2017-2017-sep-13\\_en](https://ec.europa.eu/commission/news/president-juncker-delivers-state-union-address-2017-2017-sep-13_en)

<sup>2</sup> [http://www.consilium.europa.eu/press-releases-pdf/2017/6/47244661588\\_en.pdf](http://www.consilium.europa.eu/press-releases-pdf/2017/6/47244661588_en.pdf)

<sup>3</sup> COM(2015) 80

<sup>4</sup> COM(2016) 501.

<sup>5</sup> COM(2017) 283

<sup>6</sup> Directive 92/106/EEC 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- 42.

Economic support measures include granting certain fiscal incentives as regards some taxes applicable to road vehicles when routed in combined transport and extending the definition of own-account transport. These were meant to partially correct the imbalance between combined transport and road-only transport caused by the existence of negative externalities not fully reflected in the price of road freight.

However, since the Directive was adopted in 1992, some of these conditions, e.g. the use of paper transport documents and stamps as proof of eligibility for combined transport and the freight market environment have undergone considerable changes. While the Directive is still relevant for achieving the EU transport policy's objective of reducing negative externalities, its effectiveness and efficiency could be further improved if properly reviewed.

**The objective of the initiative is to further increase the competitiveness of combined transport compared to long-distance road freight and therefore strengthen the shift from road freight to other modes of transport. This should reduce the share of transport externalities from freight transport. This will be done by:**

- clarifying and extending the definition of combined transport;
- improving the monitoring of eligibility and enforcement conditions;
- increasing the effectiveness of incentives; and
- improving the reporting and monitoring conditions of the Directive.

The initiative contributes to the Regulatory Fitness Programme (REFIT) as it aims to update and simplify the Directive.

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

This initiative aims to support multimodality and strengthen the shift from road freight by addressing the shortcomings of the existing legislation (Directive 92/106/EEC) and in particular by extending its scope using a broader set of possible support measures. This includes investment support for transshipment infrastructure, which would provide additional incentives and reduce the competitiveness gaps between intermodal transport and road-only freight transport.

The initiative complements other measures aimed at building a Single European Transport Area and also contributing to a shift towards more sustainable modes of transport. These include the Regulation (EU) No 913/2010 establishing international rail freight corridors, the Directive 2012/34/EU on the Single European Rail Area, the Directive 2005/44/EC on harmonised River Information Service (RIS) and the Regulation (EU) No 1315/2013 (TEN-T) which sets EU guidelines on the development of the trans-European transport network.

- **Consistency with other EU policies**

The initiative is part of the Commission's effort to create 'a resilient Energy Union<sup>7</sup> with a forward-looking climate change policy' and proposals related to low-emission mobility. The Communication 'Europe on the Move'<sup>8</sup> outlined the strategy for 'a socially fair transition towards clean, competitive and connected mobility for all.' It was accompanied by a series of proposals such as revision of the Eurovignette Directive (Directive 1999/62/EC), a recast of

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<sup>7</sup> COM(2015) 80 final

<sup>8</sup> COM(2017) 283 final.

Directive 2004/52/EC on interoperability of electronic toll systems, the revision of regulations on market access and on working conditions for the road haulage sector, as well as further steps to lay the foundations for cooperative, connected and automated mobility.

To further implement this transition to low-emission mobility, these measures are now complemented by other proposals such as the revision of the Clean Vehicles Directive (Directive 2009/33/EC), the revision of Regulation (EC) No 1073/2009 on access to the international market for coach and bus services, a proposal for new CO<sub>2</sub> standards for cars and vans post-2020, an initiative to boost the deployment of an alternative fuels infrastructure and this proposed amendment to the Combined Transport Directive.

In addition to helping optimise transport efficiency by providing direct support to multimodality, the proposal will also help deploy a modern and efficient transport infrastructure for which more investment is needed, as underlined in the Investment Plan for Europe<sup>9</sup>. With the proposed broadening of support measures, in particular infrastructure investment support for transshipment terminals, the initiative supports investment in the required transshipment facilities along the TEN-T network.

The proposed amendment is consistent with the existing and proposed new rules on the conditions of cabotage and the posting of road transport workers. The current text of the Combined Transport Directive includes in Article 4, the so-called ‘cabotage exemption’, which provides that all hauliers established in the EU who meet the conditions of access to the market for transport of goods between Member States have the right to carry out the road leg of a combined transport operation, whether the road leg may or may not include the crossing of a frontier.

Under the current definition, combined transport operations are to be considered exclusively as international operations. This has been confirmed by several rulings of the Court of Justice<sup>10</sup> and is underlined in recital 16 of Regulation (EC) No 1072/2009<sup>11</sup>. In order to incentivise such operations, international combined transport must be compared with international road-only transport and have the same rules. Most stakeholders and operators agree that this is a fundamental condition for international intermodal transport to compete on equal grounds with international road-only transport and should be maintained.

However, some stakeholders argue that the Combined Transport Directive opens the door to possible circumvention of cabotage rules because of the difficulty in proving the ‘international combined transport’ aspect of the operation. To address this, the new measures in the proposed amendment of the Combined Transport Directive, in the proposed revision of

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<sup>9</sup> [https://ec.europa.eu/commission/priorities/jobs-growth-and-investment/investment-plan\\_en](https://ec.europa.eu/commission/priorities/jobs-growth-and-investment/investment-plan_en).

<sup>10</sup> E.g. in Case C-2/84, *Commission v Italy*, the Court confirmed that the combined transport road leg is an integral part of a single international combined transport journey from the point of departure to the point of arrival, and that therefore they are not to be considered as national carriage. ‘...combined carriage should be regarded as a single operation from the point of departure to the point of arrival [...]. The mere fact that in the Member State of destination the goods are carried solely by road cannot remove the advantages of combined road/rail carriage.’

<sup>11</sup> ‘This Regulation is without prejudice to the provisions concerning the incoming or outgoing carriage of goods by road as one leg of a combined transport journey as laid down in 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. National journeys by road within a host Member State which are not part of a combined transport operation as laid down in Directive 92/106/EEC fall within the definition of cabotage operations and should accordingly be subject to the requirements of this Regulation.’

the cabotage rules in Regulation (EC) 1072/2009 and in the proposed specific rules as regards certain aspects of Directive 96/71/EC relating to the posting of drivers in the road transport sector and of Directive 2014/67/EU, introduce simpler definitions and fully embrace the opportunity offered by the ‘digital mobility revolution’ to enhance the efficiency of operations by better harnessing the benefits of digitalisation. Allowing transport operators to make use of electronic means to provide the authorities with the required evidence data would reduce the administrative burden and cost of enforcement procedures. This would also make it much easier for national authorities to clearly distinguish road legs in international combined transport from cabotage operations and prevent possible abuses.

The proposed extension of scope of combined transport to national operations will support the further development of combined transport in the EU. Such extension will not impact the volume of cabotage operations as the ‘cabotage exemption’ will not apply for such national combined transport operations. In this case, the road leg of the combined transport would be subject to the cabotage rules as per Regulation (EC) 1072/2009, as amended, and the new proposed rules on ‘posting of workers’ would also apply. This should ensure that possible cabotage in national combined transport does not lead to unfair competition on the EU market.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

### **• Legal basis**

The legal bases for Directive 92/106/EEC are Articles 75 and 84(2) of the EC Treaty.

The legal basis for the proposed amendment is Article 91(1) of the Treaty on the Functioning of the European Union (‘TFEU’) (ex Article 71 TEC). This article provides the basis for adoption of EU legislation, laying down in particular: (a) common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States; (b) the conditions under which non-resident carriers may operate transport services within a Member State; [...] (d) any other appropriate provisions.

### **• Subsidiarity (for non-exclusive competence)**

The objective of amending the Combined Transport Directive is to further promote the shift from road freight to more environmentally friendly modes of transport, and therefore further reduce the negative externalities of the EU transport system. This objective involves extending the framework of measures in support of combined transport and simplifying and clarifying the Directive. It cannot be achieved sufficiently at Member State level given that the majority of freight combined transport is cross-border and relies on an intermodal infrastructure across Member States. A coordinated approach for investing in intermodal transshipment infrastructure is required.

Considering that almost 20 % of European intermodal transport is national (in a single Member State) and currently not covered in the Directive, extending the scope to national combined transport operations would enlarge the scope of support measures needed to promote a modal shift. This would reduce at the same time overall externalities, in particular greenhouse gas emissions and congestion, which have an impact beyond national borders. Congestion at regional or national level directly affects all road users. Greenhouse gas emissions and air pollution also have a European dimension.

In addition, common objectives for the support measures to be taken by the Member States prevent specific measures taken at national level in support of combined transport from having overlapping or different results. On investment support measures for terminals in particular, a common target for terminal coverage is needed to avoid overcapacity.

- **Proportionality**

The proposed measures help achieve the objectives set in the original Directive.

Extending the scope in order to include national operations is needed to increase the impact of the Directive. The definition of combined transport and the conditions for eligibility need to be clarified to ensure that the Directive is applied more effectively, in particular in term of the benefits provided by the regulatory and economic support measures.

The support measures do not impose mandatory levels of economic support, leaving the extent and methodology to provide such support to national competence. Costs to Member States, businesses and individuals are limited compared to the potential benefits. In particular, the investment support for terminals is expected to continue to yield benefits beyond the period under review.

- **Choice of instrument**

Since the legal act to be amended is a Directive, the amending act should take the same form.

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

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

The Commission published its evaluation of Directive 92/106/EEC in 2016<sup>12</sup>. An external study entitled ‘Analysis of the EU Combined Transport’ was also published in January 2015<sup>13</sup>.

The evaluation concluded that the Directive continues to be a relevant instrument for supporting combined transport. It was established that without EU action, cross-border combined transport services would be faced with barriers resulting from different legal systems, making such services less attractive and possibly unfeasible. The evaluation underlined that combined transport helps reduce negative externalities through a modal shift. However, the evaluation showed that there is ‘significant margin for further improving the effectiveness of the Directive, owing to the fact that some of its provisions are outdated, its language is sometimes obsolete and ambiguous, and its scope is limited.’ The shortcomings relate in particular to the definition of combined transport, the limitations of fiscal incentives and the outdated provisions relating to transport documents.

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<sup>12</sup> REFIT ex-post evaluation of Combined Transport Directive 92/106/EEC Final Report, SWD(2016) 140 final.

<sup>13</sup> <http://ec.europa.eu/transport/sites/transport/files/themes/strategies/studies/doc/2015-01-freight-logistics-lot2-combined-transport.pdf>.

- **Stakeholder consultations**

Stakeholder consultations were complied with the minimum standards for the consultation of interested parties as set out in the Commission Communication of 11 December 2002 (COM (2002) 704 final).

Consultations were carried out to gather feedback on the proposed policy measures and the likely impact of such measures. The stakeholders were consulted on the issues that were not addressed in previous public consultations (REFIT). The consultations provided an overview on how different stakeholder groups view the proposed policy measures and options, how these are expected to influence them as well as how to determine the stakeholders' preferred option.

The consultation activities included the following:

- (1) A public consultation was carried out in the form of an open internet-based public consultation that ran for 12 weeks. The consultation was held from 23 January 2017 to 23 April 2017 using the EUSurvey tool and DG MOVE's consultation page. The Commission received 79 full questionnaires and six position papers from 17 Member States and from Switzerland, mainly from the transport and logistics sector: 43% from business associations (among which 13 European or international organisations), 36% from private enterprises, 11% from authorities, 8% from NGOs and 2% from academia.
- (2) A targeted online stakeholder consultation was held from 10-31 March 2017 with the help of an external consultant. It focused mainly on the definition and the economic incentives and was tailored to different groups of stakeholders (industry, Member States, social partners and other interest groups). The Commission received 122 full questionnaires from 12 Member States and from Switzerland: 44% from operators of transport services or operators trade associations, 17% from users of transport services or transport users' trade associations, 25% from national authorities and 14% from other transport associations.
- (3) A stakeholder meeting was organised on 30 March 2017, which allowed stakeholder groups participating in the targeted consultation to exchange views. The 35 participating stakeholders represented all modes of transport as well as sea and inland ports, terminals, wagon owners and the combined transport industry.
- (4) An additional meeting of Member States was held on 10 April 2017, in which 14 Member States were represented.

*Summary of input received and use of results*

Both the transport and logistics sector (represented by transport users, operators and their respective associations) and the authorities have expressed the need for an urgent amendment of the Combined Transport Directive. The existing legislation is considered outdated, the regulatory and economic support for combined transport operations is seen as inadequate and the conditions for eligible operations are viewed as not suitable for modern supply chain solutions and the competitive situation of combined transport services.

On the definition of combined transport, the majority of stakeholders advocated an extension of the scope of the Directive to include national transport and operations with non-EU countries, anticipating a substantial positive impact on combined transport volumes and the

environment. The possible change to the distance limit of the road leg in combined transport operations generated the most comments, with often opposing views: many stakeholders and national authorities want to keep the current limitations, possibly introducing some flexibility, while the private sector supports lifting limitations on the length of the road leg.

Despite these differences, a possible compromise identified could involve retaining the current definition and keeping the 150 km distance, while creating some flexibility by keeping the notion of nearest suitable terminal if it was better defined. As for the non-road leg, stakeholders did not express strong views on modifying the current minimum length of 100 km; this threshold was considered insignificant for rail/road operations, but counter-productive for combined operations by inland waterways.

Stakeholders expressed the view that the support offered under the current Directive was insufficient in general to promote combined transport operations in the Union. However, two of the regulatory support measures were considered to be particularly effective:

- the exemption from ‘cabotage restrictions’ for the road legs; and
- the 44 tonnes derogation from the 40 tonnes limit for combined transport operations in accordance with the Weights & Dimensions Directive.

On economic support measures, there was general support for extending economic support to all combined transport movements in each modal combination. The measures considered to deliver the strongest positive impact on combined transport volumes were: i) support for direct investment in combined transport terminals, possibly accompanied by grants per transhipped load unit; ii) incentives for combined transport-related IT investment or the use of innovative solutions such as cleaner trucks; and iii) reduction in access charges for rail-specific combined transport operations. Member States expressed reservations on mandatory support measures.

Most stakeholders favoured clearer conditions on the proof of eligibility of combined transport operations. They also supported the introduction of a system based on electronic documents, which could replace the outdated paper document and stamp system. This was supported by Member States.

Stakeholders generally expressed a strong interest in regularly receiving information on the state of combined transport operations. They called for the regular collection and publication of combined transport related data. They also supported the preparation and publication of more detailed reports. In addition, they suggested reviewing the amended Directive within a certain period of time, e.g. every 5 years, to keep it updated.

- **Data collection and use of expertise**

The problem definition was based mainly on the REFIT<sup>14</sup> evaluation and the external study<sup>15</sup>.

External contractors were used to lay the ground for the Impact Assessment:

- a study on the collection of cost-related data<sup>16</sup>, concluded in March 2017;

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<sup>14</sup> SWD(2016) 140 final.

<sup>15</sup> CT Study - Analysis of the EU Combined Transport, 2014, <http://ec.europa.eu/transport/sites/transport/files/themes/strategies/studies/doc/2015-01-freight-logistics-lot2-combined-transport.pdf>.

- a study on updating the combined transport market overview<sup>17</sup>, concluded in March 2017; and
- a study summarising the consultations in support of the Impact Assessment<sup>18</sup>, concluded in July 2017.

- **Impact Assessment**

The initiative is supported by an impact assessment, which has received a positive opinion, with reservations, from the **Regulatory Scrutiny Board**. The Board has made recommendations requiring adjustments to be made and clarifications on the following:

- the description of the context and how the initiative fits in with the other EU acquis and other complementary efforts for a modal shift;
- the identification and qualification of the infrastructure bottlenecks (in particular transshipment terminals) for the development of combined transport;
- the justification, from the point of view of subsidiarity, of the inclusion of national combined transport in the scope of the Directive; and
- the expected impact, in particular the underlying assumptions.

**The comments have been taken into account in the revised Impact Assessment, as indicated in Annex I of the Impact Assessment Report.** The following modifications were made to address the issues mentioned above:

- Explanations on the complementarity of the revision of the Combined Transport Directive with other existing initiatives (to address the promotion of multimodality and the support for a modal shift) were added mainly in the section on policy context.
- Further explanations on the infrastructure bottlenecks and how they affect the overall problems that this initiative addresses have been added. Specific references, in particular on the existing limitations and needs in terms of rail infrastructure terminals, have been added to help quantify such bottlenecks and the expected investments needed.
- Further explanations on the subsidiarity, in particular on the inclusion of national combined transport in the definition, but also on the adoption of infrastructure investment measures, have been added.
- A more detailed description of the underlying assumptions about the impact and a description of the internal model used to derive this impact were added in the relevant sections, in particular in the annex on analytical models.

The assessed **policy options** consist of packages of policy measures that address the specific objectives, and more specifically the main problem drivers identified:

- definition of ‘combined transport’, i.e. geographical coverage, road leg, non-road leg, load unit;

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<sup>16</sup> TRL (2017) – Gathering additional data on EU combined transport.

<sup>17</sup> ISL+KombiConsult (2017), Updating EU combined transport data – Final Report.

<sup>18</sup> KombiConsult-Intermodality (2017), Consultations and related analysis in the framework of impact assessment for the amendment of Combined Transport Directive (92/106/EEC).

- eligibility control, i.e. required data (for control), data presentation, place of control;
- economic support measures, i.e. investment support and operational support (e.g. vehicle tax breaks); and
- administrative measures, i.e. review of support measures, data collection, cooperation between Member States, transparency.

The policy options were based on increasing levels of clarification, ambition and ‘cumulative’ expected impact.

The first policy option (PO1) consists of a minor amendment to the Directive with the focus on simplification: the definition of combined transport is simplified by a unique road leg distance for all modes. Simple electronic documents (e.g. PDFs) are accepted as proof of eligibility, and the fiscal incentive to road hauliers for the road leg of the combined transport operation is extended to all types of combined transport (not only rail/road).

Policy option 2 (PO2) targets simplification of the eligibility criteria (definition), a better definition of the enforcement conditions and broadening of the economic support measures. The option is divided into two sub-options, depending on the level of ambition:

- In sub-option PO2A, the scope is extended to include national (domestic) combined transport operations. There is a common definition of the road leg, irrespective of the non-road mode of transport (150 km or 20 %, whichever is greater). Only intermodal load units with ISO/ILU identification are considered acceptable. New data requirements are specified for the proof of eligibility conditions, together with the acceptance of electronic data in revisable data format. A set of different economic support options is also offered.
- In sub-option PO2B, in addition to the measures described in PO2A, the definition of combined transport includes, for the road leg part, some flexibility, with the possibility for Member States to use the ‘nearest suitable terminal’ as the limit. Load units of all sizes are accepted. Among all the economic support measures, the one on investments in terminals becomes mandatory.

Finally, policy option 3 (PO3) consists of an extension of the measures set out in the Directive on all intermodal transport, irrespective of distances limits, types of load units. With this option, there are no data requirements for proof of eligibility. The option also stipulates that all possible support measures are mandatory.

The Impact Assessment identified PO2B as the preferred option.

While PO3 would bring about the largest absolute economic benefits, its cost to Member States, and with it the overall return on investment, makes it less appealing than the other options, which have a higher return on investment ratio. PO3 is also less environmentally efficient than PO2A and PO2B. PO1 and PO2A do not deliver on the modal shift target of the 2011 White Paper for 2030. Given that PO2B ensures that the modal shift target for 2030 is reached and delivers a higher return on investment and environmental efficiency than PO3, PO2B is therefore the preferred option.

SMEs – in particular those performing the road leg of combined transport operations and small inland waterway operators – benefit from the support of the Combined Transport Directive, which helps them compete with cheaper long-distance road transport, and will benefit from PO2B thanks to an increase in combined transport volumes. However, it should

be noted that the introduction of electronic structured data for control purposes may bring with it some initial investment costs, although this would be offset by savings provided by the use of electronic data in the overall supply chain.

- **Regulatory fitness and simplification**

The REFIT dimension of this proposal comes from simplifying and updating the definition of combined transport as well as clarifying the conditions and means for enforcement (proof of eligibility of the operation as being combined transport).

The definition of combined transport consists of:

- Clarification and simplification of the definition of the road leg, opting for a precise definition (150 km or 20 % of total distance) applicable in combination with any mode of transport.
- Removal of any distance limitation for the non-road leg.
- Further specification that only standardised load units will be considered. This will make it easier to track and count the load units when calculating the volumes of combined transport for which support measures are requested.

For the conditions on proof of eligibility, by clearly specifying the evidence required and by allowing the use of electronic documents, verification of the ‘combined transport’ aspect of transport will be made easier for both the authorities performing roadside checks and those dealing with the support measures.

Finally, the simplifications also apply to some outdated references such as the specific liberal regime made for ‘own-account transport’. As explained in the REFIT report, this is no longer relevant or effective given the overall decrease of own-account transport in road freight transport.

- **Fundamental rights**

The proposal respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.

#### **4. BUDGETARY IMPLICATIONS**

The proposal has no budgetary implications for the EU budget.

#### **5. OTHER ELEMENTS**

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

The Impact Assessment Report lists a set of eight indicators that should be used to monitor the effectiveness and efficiency of the measures taken in order to meet the main policy objectives:

- the share of intermodal transport and combined transport;
- the modal shift from road transport;
- the resulting savings of external costs;
- the increase of intermodal transport volume per € 1 of support provided;

- the increase of loading capacity of intermodal load units;
- the reduction of average distance between intermodal terminals (by transport mode);
- the return on investment (ROI) of economic support to intermodal transport; and
- the cost comparison and development of road-only transport and same distance intermodal transport.

To assess the impact of the legislation, a thorough evaluation would be needed once all the changes have been implemented. 27 months after the deadline for the transposition of the Directive, the Commission would conduct a first evaluation, which would be repeated every two years. The proposal includes specific reporting requirements for Member States related to the uptake of combined transport as well the evolution of infrastructure and the support measures implemented.

- **Explanatory documents (for directives)**

Given the scope of the proposal, the fact that it only amends Directive 92/106/EC, which Member States have transposed in full, it does not seem justified or proportional to require explanatory documents.

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

The title of the Directive addressed ‘...combined transport of goods between Member States.’ The title is now adjusted to reflect the extended scope by removing the wording ‘between Member States’ to reflect the extension of the definition of ‘combined transport’, as provided for in modified Article 1, to national (intra-Member State) operations.

### **Article 1**

Article 1 provided the scope of the Directive and the definition of ‘combined transport’. Because of the ambiguities, the lack of clarity of such a definition and its limited scope, the article is replaced with an adapted and clearer definition of ‘combined transport’ in the Directive. The new definition, as presented in this new Article 1, is as follows:

- Extends, in paragraph 4, the scope of application of ‘combined transport’ to all operations in the Union, including national combined transport operations.
- Clarifies and further specifies, in paragraph 3, the maximum distance of the road leg as 150 km or 20 % of the total distance, irrespective of the non-road leg type (rail, inland waterways or maritime), while ensuring that flexibility is allowed due to specific geographical or operational constraints in Member States.
- Removes, in paragraph 2, the limitation on the non-road leg to bring important combined transport with inland waterways into the scope of the Directive.
- Further specifies, in paragraph 2, the load unit types that are admissible (i.e. ISO/CEN standardised) in combined transport operations.

### **Article 3**

Article 3 included a reference to a transport document that can be used as proof of eligibility (reference to Article 6 of Council Regulation No 11 of 27 June 1960), and provided additional specification for information to be added, in particular the usage of stamps to confirm or verify parts of the operation. Because these conditions were deemed unclear, and because stamps are no longer used in many facilities, the article is replaced with a more precise

specification of the conditions and types of evidence to be used as proof of eligibility for combined transport for the purposes of road checks performed in a Member State on a road leg of the transport operation:

- Paragraph 1 defines the condition for road transport to be considered as part of a combined transport operation..
- Paragraph 2 lists and details the data to be provided as evidence.
- Paragraph 3 states that no additional document shall be required to prove the combined transport operation.
- Paragraph 4 provides the conditions of presentation of the evidence, including for the purposes of a roadside check.
- Paragraph 5 describes the acceptable format of the evidence data to be provided, in particular the possible usage of existing transport documents, but also the possibility to use electronic means with a revisable structured format.
- Paragraph 6 consists of a safeguard for operators if there is a discrepancy between the actual operations and the information provided in the evidence, when discrepancies are due to exceptional circumstances.

## **Article 5**

Article 5 included reporting obligations for the Commission (with the assistance of the Member States), but lacked any systematic obligation to collect the relevant data in support of such an obligation. It is now proposed to modify the reporting conditions and obligations necessary to ensure the proper application of the Directive:

- Paragraph 1 introduces the obligation for Member States to report to the Commission, 18 months after the date for transposition of the Directive, data on the conditions of the combined transport market in their territory, including on the relevant infrastructure and the adopted national support measures. It also provides for the possibility for the Commission to adopt, by means of delegated acts, measures to help Member States in their obligation by further detailing the content of the information to be reported.
- Paragraph 2 provides that the Commission assesses, on the basis of these national reports, the implementation of the Directive, including its effectiveness and efficiency and may also envisage additional measures.
- Paragraph 3 stipulates that the information provision and reporting by the Member States is periodical, every two years.

## **Article 6**

Article 6 included the economic support conditions applicable to combined transport. Five new paragraphs are added in order to extend the scope of these support measures:

- Paragraph 4 introduces mandatory support measures to promote new investments by Member States in infrastructures and facilities for combined transport and focuses on the underlying priorities, in particular the density of transshipment terminals. It also includes the conditions for coordination between Member States and the Commission to prevent possible overlapping investment in the transshipment

infrastructure, which could lead to excessive terminal capacity, particularly in the TEN-T corridors.

- Paragraph 5 provides for additional support measures that Member States may adopt to complement existing ones in order to reduce the cost of a combined transport operation and to make it more competitive compared to the equivalent road-only operation. Such optional measures may address any part of the combined transport operation (any leg, the vehicle used in each leg, the load unit or the transshipment operation).
- Paragraph 6 requests Member States to report to the Commission the adopted support measures.
- Paragraph 7 provides for a regular review of the adopted measures to ensure their effectiveness.
- Paragraph 8 provides the general objective that support measures should address

### **Articles 7 and Article 9**

Articles 7 and 9 included specific provisions addressing own-account transport and aimed at facilitating such transport. Articles 7 and 9 are deleted. According to the REFIT evaluation, the importance of own-account transport in road transport has considerably decreased from 30 % in 1986 to 15 % in 2012, and the perceived benefit of the specific own-account articles for stakeholders has been limited.

Given the simplification in the proposed new definition for combined transport and the clarification on the evidence for combined transport operations, it is no longer reasonable to make a distinction, in the context of this Directive, between combined transport for hire or reward and own-account combined transport. Unless otherwise specified, the rights and obligations of the Directive are the same for both types of transport.

### **Article 9a**

This article is added to ensure that transparency is provided to all stakeholders involved in combined transport operations with regard to the implementation of the Directive, and in particular the support measures available and the conditions for their application.

To this end, a network of competent authorities will be established to foster cooperation among Member States by exchanging relevant information and best practices, in particular on support measures, and by providing a list of main contact points for stakeholders. In addition, paragraph 4 provides that the Commission will be make available the list of competent authorities and relevant measures adopted by the Member States.

### **Article 10a**

This article is added to provide with the procedure for the exercise of Commission delegated powers.

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Directive 92/106/EEC on the establishment of common rules for certain types of combined transport of goods between Member States**

(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<sup>19</sup>,

Having regard to the opinion of the Committee of the Regions<sup>20</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The negative impact of transport on air pollution, greenhouse gas emissions, accidents, noise and congestion continue to pose problems to the economy, health and well-being of European citizens. Despite the fact that road transport is the main contributor of those negative effects, road freight transport is estimated to grow by 60 per cent by 2050.
- (2) Reducing the negative impact of transport activities remains one of the main goals of the Union's transport policy. Council Directive 92/106/EEC<sup>21</sup> which establishes measures to encourage the development of combined transport, is the only legislative act of the Union to directly incentivise the shift from road freight to lower emission transport modes such as inland waterways, maritime and rail.
- (3) The goal of reaching 30% of road freight over 300 km shifted to other modes of transport such as rail or waterborne transport by 2030, and more than 50% by 2050, in order to optimise the performance of multimodal logistic chains, including by making greater use of more energy-efficient modes, has been slower than expected and according to the current projections, will not be reached.

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<sup>19</sup> OJ C , , p. .

<sup>20</sup> OJ C , , p. .

<sup>21</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).

- (4) Directive 92/106/EEC has contributed to the development of the Union's policy on combined transport and has helped shift a considerable amount of freight away from road. Shortcomings in the implementation of that Directive, notably ambiguous language and outdated provisions, and the limited scope of its support measures, have significantly reduced its impact.
- (5) Directive 92/106/EEC should be simplified and its implementation improved by reviewing the economic incentives to combined transport, with the aim of encouraging the shift of goods from road transport to modes which are more environmentally friendly, safer, more energy efficient and cause less congestion.
- (6) The volume of national intermodal operations constitutes 19,3% of the total intermodal transport in the Union. Such operations currently do not benefit from the support measures provided by Directive 92/106/EEC because of the limited scope of the definition of combined transport. However, the negative effect of national road transport operations, and notably greenhouse gas emissions and congestion, have an impact beyond the national borders. Therefore it is necessary to broaden the scope of Directive 92/106/EEC to national (intra-Member State) combined transport operations in order to support the further development of combined transport in the Union, hence an increase in the modal shift from road to rail, inland waterways and short sea shipping.
- (7) A combined transport operation is to be seen as one single transport operation that directly competes with a unimodal transport operation from the point of departure to the final destination. Regulatory conditions should ensure equivalence between international combined transport and international unimodal transport, and national combined transport and national unimodal transport respectively.
- (8) The current definition of combined transport includes different distance limits for the road legs of a combined transport operation, according to the mode of the non-road leg, and, for rail, the absence of a fixed distance limit but instead takes account of the notion of “nearest suitable terminal” to provide some flexibility to take account of specific situations. That definition has raised many difficulties in its implementation due to various interpretations and specific difficulties to establish the conditions for implementation. It would be useful to lift those ambiguities while also ensuring that some measure of flexibility is retained.
- (9) In the current definition of combined transport, the minimum distance of 100 km for the non-road leg of a combined transport operation ensures that most combined transport operations are covered. Rail and short sea shipping legs run over large distances to be competitive with road-only transport. That minimum distance also ensures exclusion from the scope of specific operations such as short ferry crossings or deep sea transport which would occur anyway. However, with such limitations, a number of inland waterways operations around ports and in and around agglomerations, which contribute greatly to decongesting the road networks in sea ports and in the immediate hinterland and to reducing environmental burdens in agglomerations, are not considered for the purposes of combined transport operations. It would therefore be useful to remove that minimum distance while maintaining the exclusion of certain operations such as those including deep sea shipments or short-distance ferry crossings.
- (10) The minimum size limit of load units currently specified in the definition of combined transport could hamper the future development of innovative intermodal solutions for urban transport. On the contrary, being able to identify load units through existing

standards could speed up their handling in terminals and facilitate the flow of the combined transport operations in order to ensure the easier treatment of defined load units and ensure that they are future-proof.

- (11) The outdated usage of stamps in proving that a combined transport operation has occurred prevent the effective enforcement or the verification of eligibility for the measures provided for in Directive 92/106/EEC. The evidence necessary to prove that a combined transport operation is taking place should be clarified as well as the means by which such evidence is provided. The use and transmission of electronic transport information, which should simplify the provision of relevant evidence and its treatment by the relevant authorities, should be encouraged. The format used should be reliable and authentic. The regulatory framework and initiatives simplifying administrative procedures and the digitalisation of transport aspects, should take into consideration developments at Union level.
- (12) The scope of the current economic support measures defined in Directive 92/106/EEC is very limited, consisting of fiscal measures (namely the reimbursement or reduction of taxes) which concern only combined rail/road transport operations. Such measures should be extended to combined transport operations covering inland waterways and maritime transport. Other relevant types of measures, such as infrastructure investment support measures or different economic support measures, should also be supported.
- (13) The main infrastructure bottleneck hampering the shift from road freight to other modes of transport is at the transshipment terminal level. The current distribution and coverage of transshipment terminals in the Union, at least along the existing TEN-T Core and Comprehensive network, is insufficient yet the capacity of existing transshipment terminals is reaching its limit and will need to develop in order to cope with overall freight traffic growth. Investing in transshipment terminal capacity may reduce overall transshipment costs, and hence produce a derived modal shift, as demonstrated in some Member States. Member States should therefore ensure, in coordination with the neighbouring Member States and with the Commission, that more combined transport transshipment terminals and transshipment capacity are constructed or made available to transport operators. This would incentivise the use of freight transport alternatives and increase modal shift, thus making combined transport operations more competitive than road transport alone. The increased coverage and capacity of transshipment terminals should, at the very minimum, be established along the existing TEN-T Core and Comprehensive networks. There should be on average at least one suitable transshipment terminal for combined transport located no further than 150 km from any shipment location in the Union.
- (14) Member States should implement additional economic support measures in addition to the existing ones, targeting the various legs of a combined transport operation, in order to reduce the road freight and to encourage the use of other modes of transport such as rail, inland waterways and maritime transport, thereby reducing air pollution, greenhouse gas emissions, road traffic accidents, noise and congestion. Such measures may include the reduction of certain taxes or transport fees, grants for intermodal load units effectively transported in combined transport operations, or the partial reimbursement of transshipments cost.
- (15) Support measures for combined transport operations should be implemented in compliance with the State aid rules contained in the Treaty on the Functioning of the European Union (TFEU).

- (16) Support measures should be coordinated, as needed, between Member States and the Commission.
- (17) Support measures should also be reviewed on a regular basis by the Members States to ensure their effectiveness and efficiency.
- (18) For the purposes of this Directive, there should not be a distinction between combined transport for hire or reward and own-account combined transport.
- (19) To cope with the evolution of Union transport, and in particular the combined transport market, relevant data and information should be gathered by the Member States and reported to the Commission on a regular basis and the Commission should submit a report to the European Parliament and the Council on the application of this Directive every four years.
- (20) Transparency is important for all stakeholders involved in combined transport operations, notably those affected by this Directive. To support such transparency, and promote further cooperation, competent authorities should be identified in each Member State.
- (21) In order to take into account market developments and technical progress 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 further details on the information on combined transport operations to be reported by the Member States. 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>22</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and their experts should systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (22) Since the objectives of this Directive to further promote the shift from road transport to more environmentally friendly modes of transport, and hence reduce the negative externalities of the Union transport system, cannot be sufficiently achieved by the Member States but can rather, by reason of the primarily cross-border nature of freight combined transport and interlinked infrastructure, and of the problems this Directive is intended to address, 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 Directive does not go beyond what is necessary in order to achieve those objectives
- (23) Directive 92/106/EC should therefore be amended accordingly,

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<sup>22</sup> OJ L 123, 12.5.2016, p. 1.

HAVE ADOPTED THIS DIRECTIVE:

*Article 1*

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 common rules for certain types of combined transport of goods”;

(2) Article 1 is replaced by the following:

“Article 1

1. This Directive applies to combined transport operations.

2. For the purposes of this Directive, ‘combined transport’ means carriage of goods by a transport operation, consisting of an initial or final road leg of the journey, or both, as well as a non-road leg of the journey using rail, inland waterway or maritime transport:

(a) in a trailer or semi-trailer, with or without a tractor unit, swap body or container, identified in accordance with the identification regime established pursuant to international standards ISO6346 and EN13044, where the load unit is transhipped between the different modes of transport; or

(b) by a road vehicle that is carried by rail, inland waterways or maritime transport for the non-road leg of the journey.

Non-road legs using inland waterway or maritime transport for which there is no equivalent road transport alternative or which are unavoidable in a commercially viable transport operation, shall not be taken into consideration for the purposes of the combined transport operations.

3. Each road leg referred to in paragraph 2 shall not exceed the longest of the following distances in the territory of the Union:

(a) 150 km in distance as the crow flies;

(b) 20% of the distance as the crow flies between the loading point for the initial leg and the unloading point for the final leg, when it amounts to more than the distance referred to in point (a).

That road leg distance limit shall apply to the total length of each road leg, including all intermediary pick-ups and deliveries. It shall not apply to the transport of an empty load unit or to the pick-up point of the goods or from the delivery point of the goods.

The road leg distance limit may be exceeded for combined road/rail transport operations, when authorised by the Member State or Member States on whose territory the road leg takes place, in order to reach the geographically nearest transport terminal which has the necessary operational transhipment capability for loading or unloading

in terms of transshipment equipment, terminal capacity and appropriate rail freight services.

4. A combined transport operation shall be deemed to take place in the Union where the operation or the part thereof taking place in the Union fulfils the requirements laid down in paragraphs 2 and 3."

- (3) Article 3 is replaced by the following:

“Article 3

1. Member States shall ensure that road transport is considered forming part of a combined transport operation covered by this Directive only if the carrier can produce clear evidence that such road transport constitutes a road leg of a combined transport operation, including the transport of empty load units before and after the transport of goods.
2. The evidence referred to in paragraph 1 shall comprise the following details for each combined transport operation:
  - (a) the name, address, contact details and signature of the shipper;[.]
  - (b) the place and date where the combined transport operation begins in the Union;
  - (c) the name, address and contact details of the consignee;
  - (d) the place where the combined transport operation ends in the Union;
  - (e) the distance as the crow flies between the place where the combined transport operation begins and the place where the combined transport operations ends in the Union;
  - (f) a description, signed by the shipper, of the combined transport operation routing including at least the following details for each leg, including for each mode of transport which constitutes the non-road leg, of the operation within the Union:
    - (i) leg order (i.e. first leg, non-road leg or final leg);
    - (ii) name, address and contact details of the carrier;
    - (iii) mode of transport and its order in the operation;
  - (g) identification of the intermodal load unit transported;
  - (h) for the initial road transport leg:
    - (i) the place of transshipment to the non-road leg;
    - (ii) the distance of the initial road transport leg as the crow flies between the place of shipment and the first transshipment terminal;
    - (iii) if the initial road leg is completed, a signature of the carrier confirming that the transport operation of the road leg has been carried out;
  - (i) for the final road transport leg:

- (i) the place where the goods are taken [over] from the non-road leg (rail, inland waterways or maritime transport);
  - (ii) the distance of the final road transport leg as the crow flies between the place of transshipment and the place where the combined transport operation ends in the Union);
- (j) for the non-road leg:
- (i) if the non-road leg is completed, a signature of the carrier (or carriers in the case of two or more non-road operations on the non-road leg) confirming that the transport operation on the non-road leg has been carried out;
  - (ii) when available, a signature or seal of the relevant rail or port authorities in the relevant terminals (railway station or port) concerned along the non-road leg operation confirming that the relevant part of the non-road leg has been completed.
3. No additional document shall be required in order to prove that the carrier is carrying out a combined transport operation.
4. The evidence referred to in paragraph 1 shall be presented or transmitted upon the request of the authorised inspecting officer of the Member State where the check is carried out. In case of road side checks, it shall be presented within the duration of such check. It shall be in an official language of that Member State or in English. During a roadside check, the driver shall be allowed to contact the head office, the transport manager or any other person or entity which may support him in providing the evidence referred to paragraph 2.
5. The evidence may be provided through a transport document fulfilling the requirements laid down in Article 6 of Council Regulation No 11, or through other existing transport documents such as the Convention on the Contract for the International Carriage of Goods by Road (CMR) transport document or the Uniform Rules Concerning the Contract of International Carriage of Goods by Rail (CIM) transport document.
- Such evidence may be presented or transmitted electronically, using a revisable structured format which can be used directly for storage and processing by computers, including supplementing the electronic consignment note under the Convention on the Contract for the International Carriage of Goods by Road (eCMR) for the road part
6. For the purposes of road side checks, a discrepancy of the transport operation with the provided evidence, notably as regards the routing information in point (g) of paragraph 2 shall be permitted, if duly justified, in case of exceptional circumstances outside the control of the carrier(s) causing changes in the combined transport operation. To that end, the driver shall be allowed to contact the head office, the transport manager or any other person or entity which may provide additional justification on this discrepancy between provided evidence and actual operation.
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\* 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 52, 16.8.1960, p. 1121).";

(4) Article 5 is replaced by the following:

“Article 5

1. Member States shall submit to the Commission in the first instance by [xx/xx/xxxx - 18 months after transposition of the Directive] and every two years thereafter a report providing the following information related to the combined transport operations covered by this Directive on their territory:

- (a) national and cross-border transport network links used in combined transport operations;
- (b) the volume in twenty-foot equivalent unit (TEU) and in tonne kilometres of combined transport operations by type of operation (rail, road/inland waterways, etc...) and by geographic coverage (national and intra-Union);
- (c) the number and geographic coverage of terminals servicing combined transport operations and the yearly number of transshipments on those terminals;
- (d) an overview of all national support measures used and envisaged, including their respective uptake and assessed impact.

2. The Commission is empowered to adopt delegated acts in accordance with Article 10a supplementing this Directive by describing the content and details of the information on combined transport operations referred to in paragraph 1.

3. On the basis of an analysis of the national reports, in the first instance by [xx/xx/xxx - 9 months after the MS report submission deadline] and every two years thereafter the Commission shall draw up and submit a report to the European Parliament and to the Council on:

- (a) the economic development of combined transport, notably in light of the evolution of the environmental performance of different modes of transport;
- (b) the effects of the implementation of the Directive and related legislative acts of the Union in this area,
- (c) the effectiveness and efficiency of the support measures provided for in Article 6,
- (d) possible further measures, including a revision of the definition of combined transport as defined in Article 1 and an adaptation of the list of measures provided for in Article 6."

(5) In Article 6 the following paragraphs 4, 5, 6, 7 and 8 are added :

"4. Where necessary for the achievement of the aim referred to in paragraph 8, Member States shall take the necessary measures to support investment in transshipment terminals as regards :

- (a) the construction and, where necessary, the expansion of such transshipment terminals for combined transport;
- (b) the increase of operational efficiency in existing terminals.

Member States shall coordinate with neighbouring Member States and with the Commission and ensure that, when such measures are implemented, priority is given

to ensuring a balanced and sufficient geographical distribution of suitable facilities in the Union, and notably on the TEN-T Core and Comprehensive networks, allowing that any location in the Union is not situated at a distance farther than 150 km from such terminal.

Member States shall ensure that the supported transshipment facilities are accessible to all operators without discrimination.

Member States may establish additional conditions for the eligibility for the support.

5. Member States may take additional measures, to improve the competitiveness of combined transport operations as compared to equivalent alternative road transport operations.

Such measures may address any or part of a combined transport operation, such as the operation of a road or non-road leg including the vehicle used on such a leg, or such as the load unit or the transshipment operations.

6. Member States shall report to the Commission on the measures taken pursuant to this Article and their specifications.
7. Member States shall assess the impact of such support measures, and re-evaluate their needs at least every four years and where necessary adapt the measures.";
8. Member States shall ensure that support measures for combined transport operations aim at reducing the road freight and encourage the use of other modes of transport such as rail, inland waterways and maritime transport, thereby reducing air pollution, greenhouse gas emissions, road traffic accidents, noise and congestion.";

(6) Articles 7 and 9 are deleted.

(7) The following article is inserted:

“Article 9a

1. Member States shall designate one or more competent authority to ensure the implementation of this Directive and to act as the main point of contact for its implementation.

Member States shall notify the other Member States and the Commission of the competent authorities referred to in the first subparagraph.

2. Member States shall ensure that national competent authorities cooperate with the competent authorities from other member States. For such purpose, Member States shall ensure that competent authorities provide each other with the information necessary for the application of the present Directive. In respect of the information exchanged, the receiving authority shall ensure the same level of confidentiality as the originating authority.
3. Member States shall publish in an easily accessible manner and free of charge the relevant information concerning the measures adopted pursuant Article 6, as well as other relevant information for the purposes of the application of the present Directive.
4. The Commission shall publish and update, where necessary, the list of competent authorities referred to in paragraph 1, as well as a list of the measures referred to in Article 6.";

(8) The following article is inserted:

“Article 10a

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 5(2) shall be conferred on the Commission for an indeterminate period of time from [date of entry into force of this (amending) Directive]
3. The delegation of power referred to in Article 5(2) 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. A delegated act adopted pursuant to Article 5(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within 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.

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\* OJ L 123, 12.5.2016, p. 1.; "

*Article 2*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by XXXXXX [one year after adoption of the Directive.] at the latest. They shall immediately communicate the text of those measures to the Commission.

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. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

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 3*

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

*Article 4*

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*