EUROPEAN COMMISSION

Brussels, 29.06.2023
SEC(2022)373 final

***REGULATORY SCRUTINY BOARD OPINION***

# Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Directive 92/106/EEC as regards a support framework for intermodal transport of goods and Regulation (EU) 2020/1056 of the European Parliament and the Council as regards calculation of external costs savings and generation of aggregated

{COM(2023) 702 final}
{SWD(2023) 351 final}
{SWD(2023) 352 final }

EUROPEAN COMMISSION
REGULATORY SCRUTINY BOARD

Brussels,
RSB

# Opinion

## Title: Impact assessment / Combined Transport Directive

## Overall 2nd opinion: POSITIVE WITH RESERVATIONS

**(A) Policy context**

Transport has significant external costs for society (GHG emissions, other pollution, accidents, congestion, etc.). Most of these are caused by road transport, which dominates the freight transport market. Rail, short sea shipping and inland water transport tend to incur overall lower external costs. However, this is not adequately reflected in the costs of all freight transport modes. The 1975 Combined Transport Directive (CTD) provides a regime for eligible intermodal operations called 'combined transport'. A 2016 REFIT evaluation concluded that the CTD is not fully effective and that some provisions are outdated.

This initiative reviews which transport operations should be supported and which support measures would be most effective in this regard.

**(B) Summary of findings**

**The Board notes the additional information added to the report in response to its previous opinion.**

**However, the report still contains significant shortcomings. The Board gives a positive opinion with reservations because it expects the DG to rectify the following aspects:**

**(1) The rationale for action and the interaction with parallel instruments tackling transport externalities under the dynamic baseline scenario remain unclear.**

**(2) Subsidiarity issues are not sufficiently assessed.**

**(3) The comparison of options is not sufficiently balanced and the choice of the preferred option is not adequately justified, including in terms of compliance with the proportionality and subsidiarity principles.**

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**(C) What to improve**

1) The report should set out more clearly and consistently what the main motivation behind this initiative is. It should further clarify whether the dominant objective is to tackle the remaining negative transport externalities or to increase the competitiveness of intermodal transport more generally. While the revised report takes better account of the policy context for broad parallel initiatives such as ETS transport, CO2 and air pollution standards, energy taxation, road safety and charging, Eurovignette etc, it remains unclear as to how these measures interact and work together in tackling negative road transport externalities and what gap remains. Under the dynamic baseline the report should be clearer on how the expected contribution of the other instruments and initiatives would affect the current disadvantages of intermodal transport in terms of uneven internalisation of external costs. In doing so, the report should clearly indicate which type of external cost (e.g. congestion, accidents, air pollution, GHG emissions) is the most problematic one under the evolving gap to be tackled and whether any prioritisation of externalities is needed. It should explain more convincingly why this gap is apparently only (or best) to be tackled via a revision of the CTD and why adaptations of the other instruments were not considered as alternative measures.
2) While the revised report presents a new option that does not bring domestic transport under the scope of the CTD and thus provides greater policy choice in terms of complying with the subsidiarity principle, it still needs to better argue and substantiate why Member States would be not be able to take appropriate measures on domestic transport issues and why incentives based arguments such as better utilisation of transport 2nfrastructure should override justified public interest considerations they may have (e.g. certain fixed driving bans). In this context the report should clarify whether exempting certain operations from fixed driving bans would also apply to purely domestic combined transport. It should justify why no options were considered that would allow Member States to continue to impose justified public interest measures regarding transport.
3) The report should present a more balanced comparison of options. It should ensure consistency between the impact analysis and the scoring of the comparison summary table. For instance, it is not clear why options PO-B1 and PO-B2a receive a different score in terms of effectiveness despite having quite comparable net benefits. Similarly, it is difficult to understand why PO-B2a performs significantly better than PO-B2b in terms of proportionality, despite the latter having a better Benefit-Cost-Ratio. It is also not clear why PO-B2b performs only slightly better than options PO-B1 and PO-B2a in terms of subsidiarity, given that it excludes domestic transport from the scope.
4) In view of above, the report should better justify the choice of the preferred option, including in terms of compliance with the proportionality and subsidiarity principles. It should also better demonstrate that the envisaged substantial financial public support is a more effective, efficient and coherent policy response than what could be achieved via parallel instruments tackling externalities of transport.

The Board notes the estimated costs and benefits of the preferred option(s) in this initiative, as summarised in the attached quantification tables.

| | |
|---|---|
| **(D) Conclusion**<br>**The DG must revise the report in accordance with the Board's findings before launching the interservice consultation.**<br>**If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.** | |
| Full title | Combined Transport Directive |
| Reference number | PLAN/2020/8707 |
| Submitted to RSB on | 12 June 2023 |
| Date of RSB meeting | Written procedure |

**<u>ANNEX: Quantification tables extracted from the draft impact assessment report</u>**

*The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.*

*If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.*

## 1. SUMMARY OF COSTS AND BENEFITS

| **I. Overview of Benefits (total for all provisions) – Preferred Option (PO-B2a)** | | |
|---|---|---|
| ***Description*** | ***Amount*** | ***Comments*** |
| ***Direct benefits*** | | |
| Administrative cost savings for businesses, expressed as present value over 2025-2050 relative to the baseline | EUR 4.3 billion | Administrative cost savings derive from simplified procedures thanks to the use of eFTI digital transport data platforms for proof of eligibility and for reporting eligible operations in support to the application process, as well as from easier access to information about upcoming support schemes. The beneficiaries are transport organisers. |
| Administrative cost savings for Member State authorities, expressed as present value over 2025-2050 relative to the baseline | EUR 2.3 million | Mandatory use of eFTI platforms for proof of eligibility reduces the road-side check time. |
| ***Indirect benefits*** | | |
| Reduction in external costs of transport, expressed as present value over 2025-2050 relative to the baseline | EUR 15.3 billion | Indirect benefit to society at large, as the shift from road-only transport to intermodal transport saves external costs of GHG emissions, air pollutant emissions, noise, accidents and congestion |
| Reduction in energy consumption (cumulative over 2025-2050 relative to the baseline) | 10.5 million of tonnes of oil equivalent | Indirect benefit to society at large, as the shift from road-only transport to intermodal transport reduces overall energy consumption. |
| Positive impact on GDP relative to the baseline | GDP increase of 0.1% in 2030 and 0.3% in 2050 relative to the baseline | Indirect benefit to society at large. The increase in the competitiveness of intermodal transport operations is expected to have knock-on effects throughout the entire economy, leveraging the initial impact on the transport sector. This is also expected to lead to positive impacts on GDP, which is estimated to increase by around 0.1% in 2030 and 0.3% in 2050 relative to the baseline. |
| Positive impacts on employment relative to the baseline (additional persons employed over 2025-2050) | 24,000 additional persons employed in 2030 and 83,000 in 2050 | Indirect benefit to society at large. The shift to intermodal transport solutions involves several transport modes, transhipment and terminal services that will generate more employment. |
| ***Administrative cost savings related to the 'one in, one out' approach**** | | |
| Administrative cost savings for businesses | EUR 0.43 billion | Recurrent administrative cost savings derive from simplified procedures thanks to the use |

| I. Overview of Benefits (total for all provisions) – Preferred Option (PO-B2a) | | |
|---|---|---|
| ***Description*** | ***Amount*** | ***Comments*** |
| (**annual savings** relative to the baseline) | | of eFTI digital transport data platforms for proof of eligibility. The beneficiaries are transport organisers. |

| **II. Overview of costs – Preferred option (PO-B2a)** | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | **Citizens/Consumers** | | **Businesses** | | **Administrations** | |
| | | **One-off** | **Recurrent** | **One-off** | **Recurrent** | **One-off** | **Recurrent** |
| Direct adjustment costs, expressed as present value over 2025-2050 relative to the baseline | | - | - | For operators in the intermodal transport: EUR 0.3 million. | - | For the European Commission: EUR 0.3 million. | For the European Commission: EUR 1.7 million. |
| Direct administrative costs, expressed as present value over 2025-2050 relative to the baseline | | - | - | - | For operators in the intermodal transport: EUR 6.6 million | - | - |
| Economic cost of support, expressed as present value over 2025-2050 relative to the baseline | | - | - | - | - | - | For national public administrations: EUR 7.5 billion. |
| ***Costs related to the 'one in, one out' approach*** | | | | | | | |
| **Total** | Direct adjustment costs, expressed as present value over 2025-2050 relative to the baseline | - | - | For operators in the intermodal transport: EUR 0.3 million. | - | | |
| | Indirect adjustment costs | - | - | - | - | | |
| | Administrative costs (for offsetting), **annual costs** relative to the baseline | - | - | - | EUR 6,100 | | |

## 2. RELEVANT SUSTAINABLE DEVELOPMENT GOALS

| III. Overview of relevant Sustainable Development Goals – Preferred Option (PO-B2a) | | |
|---|---|---|
| **Relevant SDG** | **Expected progress towards the Goal** | **Comments** |
| **SDG 9: Industry, innovation and infrastructure**<br><br>Indicator: **9.1.2:** Passenger and freight volumes, by | PO-B2a is expected to result in 6.8% increase in intermodal volumes across all non-road modes relative to the baseline scenario (cumulative over 2025-2050). | This is largely attributed to PM9, PM10, PM11 and PM13, which are expected to engender an increase in intermodal freight transport using support tools. These measures are expected to drive a shift away from road freight and towards rail, IWW and SSS freight transport. |

| III. Overview of relevant Sustainable Development Goals – Preferred Option (PO-B2a) | | |
|---|---|---|
| mode of transport | | |
| **SDG 13: Climate action**<br><br>Indicator: **13.2.2:** Total greenhouse gas emissions per year | PO-B2a is expected to result in a reduction in the $CO_2$ emissions of freight transport by 0.7% of the $CO_2$ emissions of freight transport in the 2025-2050 period, relative to the baseline scenario. | This is largely attributed to PM9, PM10, PM11 and PM13, which are expected to engender an increase in intermodal freight transport using support tools. The shift away from road freight will support a reduction in $CO_2$ emissions relative to the baseline scenario. |
| **SDG 7 - Affordable and clean energy**<br>Indicator: **7.3.1** is the "Energy intensity measured in terms of primary energy and GDP". | By replacing road-only transport with intermodal transport, energy consumption in freight transport per tkm transported is expected to reduce. Cumulatively over 2025-2050 period, the energy consumption will reduce by 10.5 million of tonnes of oil equivalent. | This is largely attributed to PM9, P10, P11 and PM13, which are expected to engender an increase in intermodal freight transport using support tools. The shift away from road freight will reduce energy consumption as rail, IWW and SSS freight transport is more energy efficient per tkm transported due to larger loading capacity. |

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# Opinion

## Title: Impact assessment / Combined Transport Directive

## Overall opinion: NEGATIVE

**(A) Policy context**

Transport has significant external costs for society (GHG emissions, other pollution, accidents, congestion, etc.). Most of these are caused by road transport, which dominates the freight transport market. Rail, short sea shipping and inland water transport tend to imply lower external costs. However, these intermodal operations may not be competitive since the lower external costs are not sufficiently reflected in the prices of freight transport.

The 1975 Combined Transport Directive (CTD) provides a beneficial regime for eligible intermodal operations called 'combined transport'. A 2016 REFIT evaluation concluded that the CTD is not fully effective and that some provisions are outdated.

This impact assessment reviews which transport operations should be supported and which support measures would be most effective in this regard.

**(B) Summary of findings**

**The Board notes the additional information provided and commitments to make changes to the report.**

**However, the Board gives a negative opinion because the report contains the following significant shortcomings:**

**(4) The report does not bring out clearly the rationale for action and how the initiative would interact with other instruments in tackling transport externalities.**

**(5) Subsidiarity issues are not sufficiently considered.**

**(6) The presentation and comparison of options is not sufficiently clear.**

**(C) What to improve**

(1) The report should clearly set out the overarching rationale for promoting combined transport. It should better explain why combined transport is important, which market failure it aims to correct and how it helps to deliver on key EU policies. While the overall purpose of this initiative seems to be to reduce various negative externalities from freight transport, this should be made more explicit upfront or clarified if this is not the case. The

report should describe more clearly which policy instruments aim to tackle transport externalities and explain why these alone are not sufficient. It should explain better the role of combined transport in this and how its expected effects interact with those from the broader instruments addressing transport externalities (e.g. ETS transport, CO2 standards, energy taxation, road charging, etc.). It should identify the remaining gap that might be tackled best through combined transport (and fiscal incentives) while reflecting parallel measures aiming to increase terminal availability and performance. The report should consequently consider corresponding objectives and make the reduction of externalities and ensuring a level playing field across transport modes the guiding principle throughout the report. It should consider the magnitude and importance of reducing externalities and possible prioritising between them, as some external costs seem higher than others. The reduction of specific externalities could find its way into the intervention logic via the specific objectives.

(2) The report should better explain the subsidiarity dimension of the initiative. It should better justify why domestic intermodal operations need to be included in the scope of the Directive and why such decision is not presented as a policy choice. Regarding the measure to remove bans imposed by Member States on driving at night-time, holidays and weekends for the road legs of eligible combined transport, the report should demonstrate whether and how such measure would respect the subsidiarity and proportionality principles. It should also discuss why Member States should not be allowed to continue to impose such bans (including for purely domestic transport), if justified by public interest reasons.

(3) The construction of broad policy options appears arbitrary. The features of options should be presented clearer (e.g. in terms of voluntary or mandatory state aid and the possibility to add further subsidies than prescribed). The options should be more clearly linked to the specific objectives and the underlying problem drivers as clarified above. Given the broad scope of transport externalities to be tackled, the report should explain why it considers options that address only one externality. It should clarify whether alternative eligibility saving rates were considered, and if so, why these were not included as variants for the relevant support measures. More generally, the report should consider the implications of other combinations of policy measures.

(4) The report should further explain the modelling approach. It should better justify the assumption that the 10% reduction of door-to-door transport costs would lead to higher uptake of intermodal transport. It should provide evidence of the effectiveness of financial support measures on the uptake of intermodal transport and modal shift. It should better explain the analysis to establish what levels of financial support is required to have an impact on volumes and modal shift and what that increased support would mean in terms of budgetary implications for Member States.

(5) The report should present a more balanced comparison of options and better justify the choice of the preferred one. It should clearly demonstrate that the envisaged financial support/fiscal incentives are a more effective and efficient policy response than what could be achieved via the broader instruments tackling externalities of transport. It should discuss the risk of overcompensating intermodal transport because of the combination of various measure such as those contributing to the internalisation of external cost of road transport expected to be achieved by 2050.

*Some more technical comments have been sent directly to the author DG.*

| (D) Conclusion<br><br>**The DG must revise the report in accordance with the Board's findings and resubmit it for a final RSB opinion.** | |
|---|---|
| Full title | Combined Transport Directive |
| Reference number | PLAN/2020/8707 |
| Submitted to RSB on | 12 April 2023 |
| Date of RSB meeting | 10 May 2023 |