

Amendment of the CT Directive 92/106 - the sector proposal to the triologue negotiators

In this paper the European Combined Transport sector, represented by its industry association UIRR, suggests solutions to the triologue negotiations between the Commission, the European Parliament and the European Council.

The three European co-legislators will begin their triologue negotiations in the next days **to come to a common agreement regarding the amendment of the 27-year-old Combined Transport Directive.**

The challenge is to **reach an agreement within a month's time** in order for the European Parliament to take a plenary vote before the European elections of May 2019.

As 80% of Combined Transport within the European Union is performed on cross-border relations, the amendment should strengthen the commitment to **set European rules for an activity that dominantly occurs within the common market.** Member States already recognised this more than 40 years ago when adopting the first Directive 1975/130 on Combined Transport.



Positions of the EU co-legislators

UIRR endorsed the position of the European Parliament¹ concerning the amendment of the CT Directive, as it contains effective improvements compared to the current legislative text, especially regarding its EU-level harmonisation. UIRR also welcomed the Commission's amendment proposal² unveiled in November 2017.

The intermodal sector, however, is **quite alarmed by the position of the Member States**³ adopted at the Transport Council meeting on 3 December 2018 under the Austrian Presidency, because:

- Member States propose to correct the imprecisely worded European provisions of the current Directive by relegating the rule-making competence to national governments. This will **deconstruct the presently common regulatory framework of Combined Transport**, instead of ensuring competitiveness, efficient enforcement and transparency through the creation of a European rule-set and a level playing field between the modes of transport.
- Member States initiated the **discontinuation of the legal equivalence between international combined transport operations and cross-border road transport**, which was declared in 1975⁴. This would severely compromise the competitiveness of Combined Transport.
- Member States would **refrain from compensating Combined Transport for the disadvantages** coming from unfair allocation of infrastructure costs and for some other benefits given to road-only transport in terms of reduced social costs. (See the graph on modal coverage of average costs on p.2)

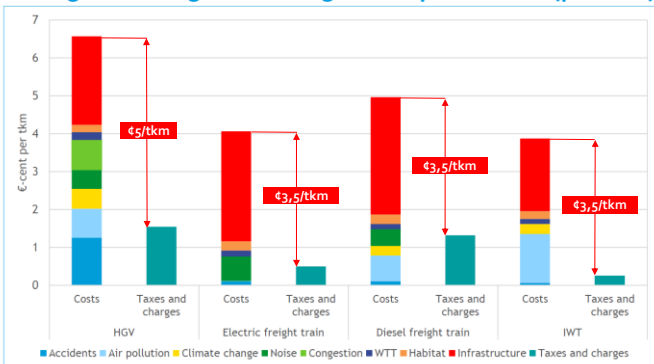
¹ <http://www.uirr.com/en/media-centre/press-releases-and-position-papers/2018/mediacentre/966-uirr-press-release-ct-directive-amendment-milestone-reached.html>

² <http://www.uirr.com/en/media-centre/press-releases-and-position-papers/2017/mediacentre/907-uirr-press-release-commission-proposes-new-rules-for-ct-dir-92106.html>

³ <http://www.uirr.com/en/media-centre/press-releases-and-position-papers/2018/mediacentre/1075-joint-press-release-council-abandoning-european-combined-transport.html>

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31975L0130&from=en>

Coverage of average cost - freight transport modes (per tkm)



The graph on the left shows that **trucks receive a 5-cent public subsidy for each tonne-kilometre whereas the other modes [(electric) freight trains, barges and coastal navigation vessels], which operate with an inherently lower negative externality, are afforded 40% less.** (The finding is from the recently unveiled EU Transport Internalization Study by CE Delft-led consortium.)

In case non-road modes of transport continue to suffer a disadvantaged status within European Union Member States, intermodality will not be able to deliver the needed modal shift to stop climate change, air pollution, congestion, neither to reduce the human toll of road transport, nor to mitigate transport-noise disturbance and habitat destruction.

Proposed compromise solutions to the trialogue negotiators

European shippers and logistics service providers agree with the actors of the intermodal sector to focus on the following topics:

- Scope of the CT Directive:** Domestic Combined Transport should be included in the scope of the CT Directive.
- Suitable terminal and rules of enforcement:** The suitability of a terminal should be described in the new CT Directive by clear harmonised criteria such as appropriate rail freight services, terminal opening times, transshipment equipment and terminal capacity; to minimise the bureaucratic burden of the enforcement on the sector only must-have information should be required to determine the compliance with the definition of combined transport.
- Legal standing:** The uncompromised legal equivalence between cross border road haulage and international combined transport operations – contained in Article 4 of the current Directive – should be maintained.
- Promotional measures:** Temporary compensation and financial support of non-road modes of transport are necessary as long as the imbalance of the regulatory framework of transport prevails and the level playing field between the transport modes has not been established; Member States shall commit to co-finance the development of intermodal-specific infrastructure like transshipment terminals, just like they do for road, rail or any other mode of transport.
- Monitoring and reporting:** A regime ensuring comparable transparency among the different Member States should be created as a basis for accountability and learning; the present biennial reporting frequency should be implemented.

Why should domestic Combined Transport be recognized?

Combined Transport is an efficient bridge that connects the various modes of freight transport not only on border-crossing trade lanes but also on domestic relations mainly within larger Member States. People and their living environment could benefit from fewer transport externalities, less congestion, a smaller human toll of road transport if the scope of the CT Directive would be extended to domestic Combined Transport operations. **A truly European regulatory framework requires that domestic Combined Transport is equally recognized under the CT Directive.**

What are the criteria for the nearest suitable terminal?

In case there is no suitable terminal within the 150km distance from the point of origin or the destination, it is possible for Rail/Road Combined Transport users to choose the geographically *nearest suitable terminal* for their Combined Transport operation. While geographic proximity is indisputable, the question what makes a terminal *suitable* or not remains to be answered. **UIRR agrees to take at least the four criteria of the European Parliament: (i) transshipment capability, (ii) terminal capacity, (iii) terminal opening hours, and (iv) the availability of the required rail freight services.**

Regarding the **enforcement**, practice-oriented rules are needed and only must-have information should determine the compliance with the definition of the Combined Transport operation.

Why is the legal equivalence between cross-border trucking and International Combined Transport so important?

The existing CT Directive recognises the integrity of an international door-to-door Combined Transport operation as one single transport action from a logistics and economics point of view. Combined Transport operations bring together the strengths of different modes of transport in an optimal way. The road and the non-road legs are integral parts of the Combined Transport operation and the logistics solution. Therefore, **Combined Transport is an alternative to longer distance trucking and must compete on an equal footing**. With the proposal of the European Council, however, the components of a CT transport chain would be separated and considered as independent transport operations. Combined Transport and cross-border trucking would be treated on a different footing, whereby Combined Transport would lose competitiveness and efficiency.

Since the early 1990's, the price levels of domestic and international road freight transport have been drifting apart. The freight rates on most of the border crossing trade lanes are significantly lower than the price levels of domestic relations, which is largely due to more intense competition in a free market economy. **Domestic road legs, when performed as part of an international Combined Transport operation, require equivalent prices to match the costs of road-only transport**. Over the decades domestic haulage capacities have adapted to the new prices. Today, adequate capacities in many, though not in all, EU Member States are ensured by non-residential hauliers contracted by logistics service providers who organize the door-to-door intermodal solution. **Unrestricted access to these haulage capacities, including the truck drivers, who have become one of the scarcest resource in European freight transport, are essential to uphold existing international Combined Transport operations**.

One of the key success factors of intermodal logistics is the employment of specialized hauliers executing the initial and final road legs irrespective of whether they are residents or established in another EU Member State. Due to their specialization, the hauliers are contracted by various users of CT services and able to employ their assets in an optimal way ensuring economies of scale, for example by organising several daily rotations of the lorry and the truck driver.



Some Member State governments today are having second thoughts, influenced by concerns like *“the road legs of an international Combined Transport operation are systematically used to circumvent the temporary nature of cabotage”* and *“the continuous presence of vehicles in a Member State other than that of their establishment”*.

In UIRR's opinion the working time rules of drivers and the protection of their social rights should be solved within road legislation, i.e. through imposing sectoral minimum wage rules and their consistent and effective enforcement. The continuous presence of foreign vehicles on the territory of a Member State, on the other hand, could be addressed by mandating local vehicle registration and roadworthiness testing (like it is done in the USA).

Neither of these problems warrants the discontinuation of the recognition of equivalence between the legal standing of cross-border road haulage and an international Combined Transport operation established in 1975. The compromising of this equivalence would only result in a reverse modal shift, more congested roads and a severe setback for the climate change policy. Therefore, **UIRR calls on the European co-legislators to maintain the status quo enshrined in Article 4 of the current CT Directive**.

What justifies promotional measures?

Transportation of passenger and freight in Europe has been road-centred since the end of World War II. The construction of an extensive motorway and secondary road network using public funds, which can be used for a lower charge than the cost of its operation, is just one proof of this.

The realization came slowly that Europe has no more space to pave and turn into roads. Yet traffic congestion continues to bite into our free time and is causing hundreds of billions of euros of losses annually. The excessive burning of fossil fuels not only exposes Europe to the producers of oil, a resource our continent is short of, but it also results in a deterioration of air quality causing illness and premature death, and ultimately climate change.

There has been a public and a corresponding political consensus for many years already that Europe's dependence on oil and on road transport will somehow have to be reduced. We just do not know how. **The obligation to adopt at least one measure to promote the system of Combined Transport, which offers the most efficient method to inserting non-road modalities into longer distance transport chains, would be the logical step.**

Infrastructure is key to any form of transportation. Intermodal terminals are the key infrastructure enablers of Combined Transport, just as passengers need railway stations to board trains. Whereas rail infrastructure reconstruction projects routinely extend to the modernisation of all passenger stations and stops along the route, transshipment points that connect the various modes of transport do not. **Member State support of investments into transshipment terminal construction is therefore crucial to open access for freight to the gradually modernised European railway network. UIRR strongly encourages Member States to undertake such an obligation.**



Transparency and the measurement of government interventions



A biennial reporting on the development of Combined Transport is required of the European Commission within the current CT Directive. The reports, however, were not easy to compile without a regular and standardized flow of data from the Member States.

The positive example of the Rail Market Monitoring Scheme (RMMS)⁵, under which the Member States provide data in a jointly agreed form to the Commission to enable the preparation of a biennial RMMS Report, served as the basis for the proposal to create a similar reporting system for Combined Transport.

UIRR recommends that the EU Member States agree to a similar reporting scheme, with detailed rules defined in a Commission Delegated Act. This would be even more necessary as there is no comparable opportunity to monitor the closing of the regulatory gap between road and the other modes of transport. Moreover, citizens should be informed of the efficiency with which public funds are used to promote Combined Transport.

⁵ https://ec.europa.eu/transport/modes/rail/market/market_monitoring_en