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IRU Position on the EU Commission proposal on electronic freight transport information

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I. ANALYSIS

1. General

On 17 May 2018, the EU Commission published a [proposal](#) on the EU wide introduction of electronic freight transport information.

According to the EU Commission, road freight transport is expected to grow by 57% during 2010 – 2050 and will have strong environmental impacts. A shift towards digital freight information and away from the use of paper documents will reduce these impacts. The uptake of e-freight information in the EU has been rather slow in recent years for two reasons:

- A fragmented legal framework of inconsistent implementation requirements for authorities when accepting electronic information; and
- A fragmented IT environment with a multitude of non-interoperable systems/solutions for electronic transport information and documentation exchange, both for business-to-administration and business-to-business communications.

Inconsistent implementation and incompatible IT systems discourage investment in digital solutions for electronic information. Furthermore, these hinder efficiency for market players in multimodal and cross-border transport and hinders the functioning of the EU single market.

2. Electronic freight transport information and the benefits for road transport operators

The introduction of e-freight information entails significant benefits for the EU road freight transport and logistics industry. E-freight information reduces administrative burden and facilitates information exchange between the multimodal parties in the logistics chain, industry and Governments. It can also make enforcement more efficient, including overcoming language barriers. At present, the movement of goods is accompanied by a large amount of paper information exchange among businesses and public authorities. Road freight transport and logistics operations can already today be conducted in a successful manner using digital tools and applications, as demonstrated by several eCMR pilots supported by IRU and its members in Spain and France.

It should however be noted that in some specific branches of the road freight transport sector, a harmonised and mutually accepted freight document comparable to CMR does not yet exist. This could potentially be challenging to encourage electronic exchange of freight and logistics-related information.

3. The legal basis

To ensure a uniform application of the legal framework, the EU Commission opted for a regulation. The policy measure aims at a full obligation for Member State authorities to accept electronic regulatory cargo transport information or documentation. This would require investments by the industry of about 4.4 billion Euros, in order to be in compliance with the new policy requirements.

The EU Commission has not opted for a full harmonisation of implementation, as suggested in option 4 of the impact assessment, due to the very high amount of investment for businesses and governments to adapt to the new requirements. Industry representatives from different modes of transport have repeatedly said that a one-size-fits-all' solution should be avoided. Significant investments have already been made in the different mode sectors. Different electronic information solutions have been developed, on the basis of existing international conventions and EU law which are mode-specific. Priority should be given to the way in which funding is allocated.

4. Article 4: Requirements for relevant economic operators

According to article 4 of the proposal, the necessary information on requirements can be made available in machine-readable format by the operators. IRU appreciates the EU Commission's commitment to pave the way towards the mandatory acceptance by governmental authorities of electronic freight transport information. However, IRU would like to reiterate that communication is a two-way street. If authorities may request information in a machine-readable format from the operators, then the operators should have the right to receive relevant information by the authorities in a machine-readable format.

However, IRU would like to emphasise that many road transport companies are small and medium-sized. Therefore the usage of e- freight information should be optional for carriers and not mandatory. Authorities should accept the use of e-freight information by private operators, as stipulated in the current draft by the EU Commission.

Article 4 stipulates that, "where economic operators concerned make regulatory information - information, whether or not presented as a document, related to transport of cargo in the territory of the Union, including by way of transit - available electronically, they shall do so on the basis of data processed in a certified eFTI (electronic freight transport information) platform and, if applicable, by a certified eFTI service provider. The regulatory information should be made available in machine-readable format and, at the request of the competent authority, in human-readable format."

An eFTI platform, in this context, should be understood as any Information and Communication Technology (ICT) based solution, intended to be used for the processing of eFTI, such as an operating system, an operating environment, or a database.

5. Interoperability

Flexibility is provided to Member States in the implementation of these new rules. To ensure a smooth continuation of international and multimodal operations, however, guarantees are needed to ensure alignment, compatibility and seamless interoperability among current, new systems and applications used by the industry, local and regional authorities and Governments.

Interoperability should not only consider dataset standardisation. The business rules of platforms, the status of the digital document and the digital signature it requires, should also be considered.

6. EU Law and International Conventions - the relationship between the EU-initiative and the e-protocol of the UN CMR convention

There is no direct link between the EU Commission proposal and International Conventions which are equally applicable in the European Union, including the eProtocol of the UN CMR Convention. As draft article 1, paragraph 2 of the proposal stipulates: "This Regulation applies to regulatory information requirements set out in

Union acts, laying down the conditions for the transport of goods on the territory of the Union..." UN law goes beyond the territory of the EU.

The scope of this proposed regulation could be extended to include electronic freight information pertaining to matters covered by International Conventions. Member States could be obliged to implement the eProtocol, for instance, so that they may not refuse the electronic version of a CMR waybill.

7. Delegated and Implementing Acts

As important details on the confidentiality of commercial information will be regulated, the creation of delegated and implementing acts should be closely monitored. The EU Commission will use such delegated and implementing acts to further fine-tune the legal act under discussion, as indicated in several provisions of the EU proposal such as articles 7, 8 and 9.

II. IRU POSITION

1. General

IRU is in favour of Intelligent Transport System (ITS) applications for the road transport sector as long as they provide environmental and economic benefits and improvements to driver and road safety. ITS applications must be standardised, harmonised and interoperable, in order to improve the effectiveness and reliability of transport as a whole.

IRU supports having one electronic freight transport information channel which covers all relevant aspects of road freight transport and logistics, notably those aspects related to customs and transport matters.

A transition period should be introduced to put an end to the acceptance of paper documents. During such a transition period, transport operators should be encouraged to use electronic freight information, but they must not be obliged.

Further alignment is required in terms the acceptance and exchange of freight and logistics information in some branches of the road freight transport sector. Such an alignment will be necessary before those branches integrate themselves into an electronic information exchange system.

2. Interoperability

The introduction of seamlessly interoperable multimodal systems and platforms should be accompanied by adoption of a "standard" signature protocol. This would enable much more efficient dissemination of digital consignment notes.

3. Legal Basis

IRU agrees that a regulation is the right tool for achieving EU-wide acceptance of electronic freight transport information. The EU Commission's proposal for the partial harmonisation of implementation is a step in the right direction as it lowers the required investment on the side of the operators.

4. Scope

IRU regrets that the EU Commission has not shown more ambition to introduce official documents concerning the road transport industry in electronic format. The Community Licence and its True Certified Copies, roadworthiness testing certificates, Vehicle Registration Certificate, Drivers' License, etc... are some examples.

IRU also regrets that the scope of the Regulation does not include regulatory requirements set out in international conventions which also apply in the European Union.

5. Protection of commercial data

IRU urges EU decision-makers to ensure that commercial data is effectively protected in the case of multimodal operations. Effective protection of commercial data means that access to that data is restricted and limited in time, and that only competent enforcement authorities should have such access.

6. Ratification of e-protocol provisions in UN CMR convention

IRU calls on all EU and EEA Member States to ratify the e-protocol of the UN CMR Convention in the framework of the implementation of the upcoming EU rules on e-freight transport information.

7. Detailed legal and policy analysis

A detailed legal and policy analysis of the EU Commission proposal can be found in Annex 1 to this document, including IRU Recommendations on how the EU proposal could be further improved.

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**IRU recommendations for improvement of the EU Commission proposal on
electronic freight transport information**

1. Article 1: Scope

The proposal establishes a legal framework for the electronic communication of regulatory information related to the transport of goods on the territory of the Union.

IRU Recommendations:

Article 1 should be modified to reflect that the Regulation should cover regulatory information either directly or indirectly related to the transport of goods. The regulation should not only be limited to requirements set out in Union acts covering the conditions for the transport of goods in the EU. Requirements set out in international conventions applying in the EU should also be included.

Goods transport to and from the EU should also be covered by this Regulation. Requirements relating to customs clearance could for example be included as well. These apply indirectly to the transport of goods.

2. Article 5: Obligations of authorities accepting e-freight information:

Member States' competent authorities shall accept regulatory information that has been made available electronically by the economic operators concerned, in accordance with article 4.

IRU Recommendations:

It is important to note that the phrasing in the article is a "shall", which explicitly obliges EU Member States, subject to certain conditions, to accept EU freight transport information. The fact that the EU Commission intends to make e-freight information mandatory should therefore be considered a major motivator for its uptake by law enforcement agencies and emergency responders.

3. Article 7: Implementing acts on Common eFTI data set, procedures and rules for access

Implementing acts will establish common eFTI data sets and subsets to the regulatory information requirements, with corresponding definitions for each data element included in the common data set and subsets. The implementing acts will define common procedures and detailed rules, including common technical specifications for competent authorities' access to eFTI platforms and procedures for processing of regulatory information that is made available by operators.

IRU Recommendations:

Existing data models should be used as a starting reference for defining common eFTI data sets. For example, the eCMR data model was standardised in February 2018 by UN/CEFACT. As a next step, a data model for the transport of dangerous goods (ADR) should also be standardised. Alignment of the eCMR and ADR data models has already started. All relevant stakeholders should be engaged in the development of the implementing acts, in order to ensure confidential, secure and cost effective implementation.

4. Article 8: Functional requirements for eFTI platforms

Paragraph I 1 (c) states: "a unique electronic identifying link can be established between the data processed and the physical shipment of a determined set of goods to which that data is related, from origin to destination, under the terms of a single transport contract, irrespective of the quantity or number of containers, packages, or pieces."

IRU Recommendations:

IRU calls for clarifications of the term “single transport contract” and suggests replacing it with “single shipment”. The term “single transport contract” is ambiguous as it can be used to describe a clustered shipment, a subcontract or even a multi-modal contract.

All eFTI platforms have to be effectively protected in a reliable way. Such protection should address the risks that arise from data base crashes which can lead to disruptions and delays for road transport operations.

5. Article 9: Requirements for eFTI service providers

According to article 9 I(c), eFTI service providers shall ensure authorities have immediate access to regulatory information concerning freight transport operations processed by means of their eFTI platforms.

IRU Recommendations:

IRU identifies the risk of “data fishing” if access is limited to shipment for road transport. The provision of access needs to be clarified, bearing in mind that the data belongs to the sector and not to the government. IRU proposes that access to key information be provided only while the vehicle operates on the road.

6. Article 10: Requirements with respect to conformity assessment bodies

Conformity assessment bodies who will certify eFTI platforms shall be accredited according to Regulation (EC) No 765/2008¹. The above mentioned EU law sets out accreditation and market surveillance requirements relating to the marketing of products. Service providers and Member States shall maintain an updated list of the accredited conformity assessment bodies, and of eFTI platforms and eFTI service providers.

IRU Recommendations:

IRU sees a risk to interoperability in the provision of article 10 paragraph III. The update window is one year, which seems to be too long. IRU is proposing instead to shorten it to one month.

7. Article 11: Criteria for the certification of eFTI platforms

Upon request by an eFTI platform developer, conformity assessment bodies shall evaluate compliance of the eFTI platform (paragraph 1). If the assessment is positive, a compliance certificate should be issued. If the assessment is negative, the compliance assessment body should inform the applicant why the platform does not comply with the requirements.

IRU Recommendations:

Certification of solutions and platforms are required to ensure the compliance with the eCMR protocol, data security and interoperability of the eFTI data set. IRU has experience with regard to the “certification” example within the eCMR Benelux pilot, which could provide a basis for such structure. Certification should be independent and countries should not favour their own solution providers. Conditions for certification need to be predefined and commonly applicable within the EU. A clear definition of the “allowed/approved” variations of signature procedures and security standards, as well as a clear definition of “data” protection, is needed.

8. Article 15: Review of the Regulation

¹ Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products

Five years after the regulation will have been applied, the EU Commission will carry out an evaluation of this regulation and present a report on the main findings to the EU Institutions.

IRU Recommendations:

Because the industry will have to invest significantly in order to get prepared for the implementation of the regulation, IRU proposes that a review take place after a three-year period rather than five years.

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