



REPLIES OF THE EUROPEAN COMMISSION TO THE EUROPEAN COURT OF AUDITORS' SPECIAL REPORT

Intermodal freight transport
EU still far from getting freight off the road

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This document presents the replies of the European Commission to observations of a Special Report of the European Court of Auditors, in line with Article 259 of the [Financial Regulation](#) and to be published together with the Special Report.

I. THE COMMISSION REPLIES IN BRIEF

The Commission welcomes the Court of Auditors special report on intermodal freight transport as the European Green Deal calls for a substantial part of the 75% of inland freight carried today by road to shift to rail and inland waterways. This means in practice using intermodal transport, where the longest part of the journey is run on railways or on water, while only the first and the last miles are carried on road. This requires efficient transshipment facilities and technologies that make shifting loading units between the modes fast and cost efficient.

Even though there are no specific intermodal targets set at the European Union (EU) level, the Commission's preferred approach is to base transport policy on a comprehensive strategy. The Commission adopted on 19 December 2020 the Sustainable and Smart Mobility Strategy which defines EU objectives and measures for transport policy with a view to transition to a climate-neutral Europe by 2050 and contribute to the European Green Deal.¹

The Commission agrees with the Court of Auditors' analysis that at present there are information gaps as to existing intermodal terminals and the needs for future intermodal terminals. The ongoing revision of the TEN-T Regulation is expected to address these challenges. Additionally, the Commission plans to revise the Combined Transport Directive and the Weights and Dimensions Directive which aim to facilitate intermodal operations along with the new legislative proposal addressing the legal rules on rail infrastructure capacity and traffic management.

The Commission accepts recommendations 1c, 2a, 2b, and 3 and does not accept recommendations 1a, 1b, 4a and 4b.

II. COMMISSION REPLIES TO MAIN OBSERVATIONS OF THE ECA

1. The targets for intermodality

The Commission acknowledges that there are no specific intermodal targets set at the EU level. Transport is a network industry and functions as a system. For this reason, it has been the Commission's choice and preferred approach to base transport policy on a comprehensive strategy rather than modal or segment - specific approaches.

System level sustainability targets such as that set by the European Green Deal for transport (90% reduction in GHG emissions by 2050) are the most relevant for transport policy and sufficient flexibility needs to be left for the market and for the stakeholders in achieving them as external factors (e.g. change of transport patterns, type of transported goods, regional and external development, technological progress such as the continuously increasing sustainability of road transport) play an important role in this pathway.

¹ https://transport.ec.europa.eu/transport-themes/mobility-strategy_en

2. The impact of the regulatory framework on the attractiveness of intermodal transport

The Commission adopted on 19 December 2020 the Sustainable and Smart Mobility Strategy which defines EU objectives and measures for transport policy with a view to transition to a climate-neutral Europe by 2050 and to contribute to the European Green Deal. Greening freight transport plays an important part in this strategy and the Commission acknowledges that the existing framework for intermodal transport needs a substantial revamp and must be turned into an effective tool. The regulatory framework such as the Combined Transport Directive as well as introducing economic incentives for both operations and infrastructure will be considered. Incentive mechanisms are expected to be based on impartial performance monitoring, according to a European framework to measure transport and logistics emissions.

Setting user fees (charges paid to the owner / operator of an infrastructure for the use of an infrastructure) at levels below market prices threatens to distort the level playing field on which owners / operators of such infrastructures compete. This is the reason why State aid rules either require market prices to be charged (in cases of investment aid under the general block exemption regulation²), or make lower charges subject to Commission assessment laid out in individual notifications (in schemes designed to incentivise a modal shift) ensuring that any such potential distortion is limited to the minimum. Support from centrally managed funds should not lead to offering the infrastructure on terms below market fees, as this would distort competition between infrastructures benefitting from such centrally managed funding on the one hand, and infrastructures financed with purely private funds as well as infrastructures supported with State aid on the other. While for the latter two categories it is necessary to charge market prices (either to recoup the private investment or to comply with conditions attached to the State aid), the former could undercut prices of such competitors.

EU rail legislation aims to render EU rail more efficient and affordable and to increase capacity. Adopted in 2016, the 4th Railway package in particular brings about more technical and operational harmonization and more interoperability on the one hand, as well as market opening for more competition friendly service conditions on the other hand. Making railways more attractive is the overarching objective of any EU level legislation in the area. Efficient processes to launch seamless rail operations are expected to encourage freight carriers to move away from polluting transport options and increase their use of rail transport for more transports and larger journey legs and thereby enhance intermodal transport.

In addition, technical rules set at EU level for the railways can also support the development of intermodal transport. For example, the revision of the technical specifications for interoperability (TSIs) planned for 2023 aims to introduce a new common framework for the technical and operating conditions of intermodal transport. This framework is expected to grant intermodal transport operators and freight services more flexibility and independence from ad-hoc authorisations by rail infrastructure managers. The new rules are also to allow to fully integrate intermodal transport operations with the normal train operations everywhere in the EU. In fact, today, in some parts of Europe, intermodal transport operations are still considered exceptional transport and require a pre-authorisation of infrastructure managers as a pre-journey intervention which is not needed for standard train operations. In addition, the new rules should render freight wagons more adjusted to intermodal transport needs.

² <https://eur-lex.europa.eu/legal-content/EN/AUTO/?uri=celex:32014R0651>

3. The EU infrastructure network

The Commission agrees with the Court of Auditors' analysis that at present there are information gaps as to existing intermodal terminals and the needs for future intermodal terminals. The 2021 proposal for a revision of the TEN-T Regulation, as referred to by the Court of Auditors, aims to remedy these gaps to a significant extent both in terms of terminal location and digitalization. According to the Commission proposal, within two years after the entry into force of the proposal, Member States shall conduct a market and prospective analysis on multimodal freight terminals on their territory. This analysis is to examine the current and the future traffic flows of freight, including traffic flows of freight transported by road; identify the existing multimodal freight terminals of the trans-European transport network on their territory, and assess the need for new multimodal freight terminals or additional transshipment capacity in existing terminals. It is expected also to analyse how to ensure adequate distribution of multimodal freight terminals with adequate transshipment capacity in order to meet the identified needs. This shall take into account the terminals located in border areas of neighboring Member States. Based on the analysis, Member States shall elaborate an action plan for the development of a multimodal freight terminal network. The results of the analysis and the action plan shall be submitted to the Commission no later than six months after finalizing the analysis, together with a list of rail-road terminals which the Member State proposes to add in Annex II of the proposed Regulation.

The draft regulation is now being examined under ordinary legislative procedure, and the outcome will be decided by the co-legislators. The General Approach adopted by the Council in December 2022, while maintaining the general objectives and main obligations on Member States, grants more flexibility to Member States: the market analysis will have to be done within 3 years after the entry into force of the Regulation and, if the analysis identifies the need for new terminals, Member States will have one additional year to elaborate the action plan.

The Commission highlights the on-going work on a legislative initiative addressing the legal rules on rail infrastructure capacity and traffic management. The initiative aims to improve capacity management and adapt the process of train path allocation to the needs of all market segments, overcoming some of the difficulties faced, in particular, by freight operators. It expects also to speed up the digitalisation of capacity-related services and introduce incentives to improve the performance and reliability of both infrastructure managers and rail undertakings. The Commission carried out the consultation with stakeholders in 2022 and is planning to put forward a legislative proposal in the second quarter of 2023.³

III. COMMISSION REPLIES TO THE RECOMMENDATIONS OF THE ECA

1. Recommendation 1 – Set targets regarding the modal share along the Core Network Corridors and report on them

The Commission should:

³https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13134-International-freight-and-passenger-transport-increasing-the-share-of-rail-traffic_en

- a. **specify, in close cooperation with the Member States concerned, targets per Core Network Corridor regarding the modal share of freight traffic flows, including intermodal flows;**

Target implementation date: by end of 2024

- b. **require the European Coordinators to report on the achievement of these targets and identify the investment needed to comply with them;**

Target implementation date: by end of 2024

The Commission does not accept recommendations 1a and 1b.

The Commission would like to emphasize that the role of European Coordinators is currently limited to ensuring that the infrastructure basis to enable successful modal shift is in place along their respective European Transport Corridors (ETC). The revised TEN-T proposal aims to significantly strengthen the role of European Coordinators and enable a coordinated development and efficient implementation of infrastructure along their respective ETC.

Article 53 of the proposal for a revision requires that each European Coordinator of the European Transport Corridors and the two horizontal priorities draws up, at the latest two years after the entry into force of the Regulation and thereafter every four years, a work plan that provides a detailed analysis of the state of implementation of the corridor or horizontal priority under his/her competence and its compliance with the requirements of this Regulation as well as the priorities for its future development. The work plan is to be prepared in close cooperation with the Member States concerned and in consultation of the Corridor Forum. The work plan is expected to take into account the results of the market and prospective analysis on multimodal freight terminals that Member States shall conduct on their territory.

- c. **improve the collection of national data on intermodal freight transport, in collaboration with EUROSTAT and the national statistical offices, notably by assessing the need for data provision requirements to be included in a legislative act.**

Target implementation date: by end of 2026

The Commission accepts recommendation 1c.

The Commission will assess the possibility of introducing additional legislative requirements, including notably the generation of administrative data on transport operations that can be used to improve national statistics on intermodal freight transport. The Commission will do so respecting the better regulation principles (public consultations, impact assessment...). The outcome of this process can therefore not be prejudged.

2. Recommendation 2 – Prepare regulatory changes to improve the competitiveness of intermodal transport

The Commission should prepare the revision of the regulatory framework for:

- a. **rail to remove the existing regulatory obstacles so that it can be a competitive alternative to road-only transport. In particular, provisions are needed on capacity management to better suit the needs of freight services, and to regulate technical and operational standards that are currently national;**

Target implementation date: by end of 2024

- b. **both combined transport, enlarging its scope to intermodal transport, and road only transport. These revisions should aim to reduce the diversity of implementation by**

Member States, include provisions on the digitalisation of information flows, and reinforce the incentives for intermodal transport in comparison with road-only transport.

Target implementation date: by end of 2024

The Commission accepts the recommendations 2a and 2b.

The Commission plans to revise the regulatory framework, and will do so respecting the better regulation principles (public consultations, impact assessment...). The outcome of this process can therefore not be prejudged.

The impact assessments for the revision of the Combined Transport Directive, and for Weights and Dimensions Directive are ongoing. Subsequent to successful finalisation, the proposals are planned to be adopted in the second quarter of 2023.

The proposal for revision of Combined Transport is expected to extend its coverage to a wider set of intermodal operations under a condition that these save a certain level of external costs compared to road-only operations. The impact assessment is currently analyzing options for the extension of the scope as well as increasing the level and effectiveness of the regulatory and financial incentives. It intends to make use of digital transport data through deploying the eFTI platforms, to be established according to Regulation (EU) 2020/1056 on electronic freight transport information, for digital implementation of proof of eligibility.

The proposal for revision of Weights and Dimensions Directive is expected to include new incentives for making the road legs of intermodal transport more efficient.

3. Recommendation 3 – Lay the groundwork for a coordinated assessment by Member States of intermodal terminal needs

As a further step to the 2021 proposal for the revision of the TEN T regulation, the Commission should provide Member States with clear guidelines on (i) how to perform the market study and (ii) how to draw up a terminal development plan, with particular regard to cross-border aspects and along the Core Network Corridors.

Target implementation date: 12 months after entry into force of the new TEN-T regulation

The Commission accepts the recommendation.

Within one year after the entry into force of the revised TEN-T Regulation, the Commission will develop guidelines for Member States on how to perform the market study on multimodal freight terminals on their territory.

4. Recommendation 4 – Assess the modal shift potential in cost-benefit analyses for EU-funded projects

To further stimulate modal shift with EU-funded projects, the Commission should:

- a) require beneficiaries of projects funded by the Connecting Europe Facility (direct management) and targeting a modal shift (in particular terminal or port infrastructure) to include in the cost-benefit analysis that is already a mandatory part of grant applications a quantified estimate of the project's potential to generate modal shift and the level of charges at which modal shift would be induced;**

Target implementation date: by end 2023

- b) for projects under shared management, promote the concepts under (a) to managing authorities, in particular when designing operational programmes, and to the monitoring committees of the programmes.**

Target implementation date: by end 2023

The Commission does not accept recommendations 4a and 4b.

The promotion of a shift towards more sustainable transport remains a key objective of the transport policy, in particular in the context of the climate objectives set for 2030 and 2050 as presented in the Green Deal Communication and the European Climate law and further underlined in the Sustainable and Smart Mobility Strategy.

The improvement of all transport modes remains key in order to achieve the greening of the sector, including for instance the greening of road transport through alternative fuels. This materialises when the correct conditions within a specific market are met. These conditions depend on the type of freight concerned, the available infrastructure, the administrative barriers, the costs set by the stakeholders involved and on specific case-by-case other conditions (e.g. urgencies, like in the case of Ukrainian grain crisis, or specific market developments).

In this framework, the Commission considers that collecting estimated modal-shift values for Connecting Europe Facility (CEF) and cohesion policy co-funded projects would represent an additional burden for project promoters, without bringing a sufficient added value to the selection procedure linked with the award of funds.

In fact, CEF and cohesion policy funds projects often represent minor parts of only the infrastructural investments concerning a global project related to a specific transport mode or multimodal platform. For this reason, requesting each project applicant to compulsorily include modal-shift values within their application forms is not considered efficient or relevant, even more so, considering that no common methodology for its identification has been developed and modal-shift considerations can only be done on a case-by-case situation.

The Commission notes that for the CEF programme, in the application form part B, applicants are invited to develop under point 4.3 the narrative to substantiate the expected impact of the project in terms of modal split. Moreover, for CEF, applicants for some works projects are required to provide detailed information (assumptions and justifications of assumptions) with regard to expected demand and if relevant the forecasts on the cargo volumes (e.g. per rail, road etc.). This analysis should be “incremental” or done against a counterfactual scenario (in general without the project). This demand analysis might identify expected modal split, where it is material, and feed into the cost-benefit analysis or in the Cohesion Fund template that goes with the standalone report.

The Commission would also like to point out that transport investments financed by ERDF and CF under Policy Objective 3 in the 2021-2027 programming period are subject to an enabling condition, which requires multimodal mapping of existing and planned infrastructure, including those that would contribute to modal shift, by 2030. It should contain an economic assessment of the planned investments based on demand analysis and traffic modelling, ensure interoperability of the rail network, and promote multimodality, identifying needs for multimodal or transshipment freight and passengers terminals. Moreover, the Commission has continuously supported Member States in strengthening the capacity for preparing high-quality projects, including conducting cost-benefit analyses and feasibility studies, notably with the help of Joint Assistance to Support Projects in European Regions (JASPERS).

For the same reasons defined above, considering the infrastructural nature of the CEF, with reference to the charges to be applied during operation, they often are decided by actors that do not participate in the grant agreement, and are not involved at the stage of the CEF application, ex. PPP schemes. It all depends on the financial scheme that is chosen for the operation of the infrastructure.