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This document corrects document COM(2018) 279 final of 17.5.2018.

Concerns the English version.

Adding of references on page 9.

The text shall read as follows:

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on electronic freight transport information**

(Text with EEA relevance)

{SEC(2018) 231 final} - {SWD(2018) 183 final} - {SWD(2018) 184 final}

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

#### **• Reasons for and objectives of the proposal**

Technological change is touching all parts of society and the economy and transforming the lives of EU citizens. Transport is no exception to this trend. New technologies are radically changing the mobility landscape. Against this background, the EU and its industries must meet the challenge to become a world leader in innovation, digitisation, and decarbonisation. The Commission has therefore adopted a comprehensive approach to ensure that the EU's mobility policies reflect these political priorities in the form of three 'Europe on the Move' mobility packages.

Following the Low-Emission Mobility Strategy, the Commission adopted two mobility packages in May and November 2017. These packages set out a positive agenda delivering on the low-emission mobility strategy and ensuring a smooth transition towards clean, competitive and connected mobility for all. The European Parliament and Council should ensure the rapid adoption of these proposals.

This initiative is part of the Third "Europe on the Move" Package, which delivers on the new industrial policy strategy of September 2017, and is designed to complete the process of enabling Europe to reap the full benefits of the modernisation of mobility. It is essential that tomorrow's mobility system is safe, clean and efficient for all EU citizens. The aim is to make European mobility safer and more accessible, European industry more competitive, European jobs more secure, and to be cleaner and better adapted to the imperative of tackling climate change. This will require the full commitment of the EU, Member States and stakeholders, not least in strengthening investments in transport infrastructure.

Total freight transport in the EU has increased by almost 25 % over the last 20 years<sup>1</sup>, and is projected to further increase by 51 % during 2015-2050<sup>2</sup>. All this movement of goods is accompanied by a large amount of information being exchanged among a variety of parties, in both the private and the public domain. Today, this information is mostly printed on paper, in a variety of standard format documents.

About 99 % of cross-border transport operations on the territory of the EU still involve paper-based documents at one stage of the operation or another<sup>3</sup>. Yet the digitalisation of information exchange has the potential to significantly improve the efficiency of transport and therefore to contribute to the smooth functioning of the single market.

The Commission carried out an impact assessment on the barriers to digitalisation of freight transport documents and options to support wider use of electronic documents and information exchange. The main problem it identified is the authorities' low and varying degree of acceptance of information or documents made available electronically by

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<sup>1</sup> Measured in billion tonne-kilometres (tkm). Source: EU transport in figures 2017.

<sup>2</sup> A description of developments under current trends and policies (i.e. baseline) is available in Annex 4 of the accompanying Impact Assessment report.

<sup>3</sup> More specifically, they require the use of paper documents at one point or another during the transport operation. In other words, only 1% of such operations is accompanied by a fully digital information and documentation exchange. However, their share varies depending on the transport mode. The estimate draws on the Ecorys et al. (2018) impact assessment support study.

businesses, when the authorities require them to provide evidence of compliance with regulatory conditions for the transport of goods on the different EU Member States' territory.

There are two main drivers behind this problem:

- (a) a **fragmented legal framework** setting **inconsistent obligations** for authorities when accepting electronic information or documents<sup>4</sup>, and permitting different administrative practices to implement them; and
- (b) a **fragmented IT environment** characterised by a multitude of **non-interoperable systems/solutions** for electronic transport information and documentation exchange, both for business-to-administration and business-to-business communication.

The two drivers are mutually reinforcing. The fragmented legislation and the resulting lack of acceptance by authorities discourage investment in digital solutions for electronic documents. The fragmented IT environment, specifically the lack of well-established or interoperable solutions, discourages authorities from trusting the use of electronic documents.

As a consequence, the large majority of freight transport operators and other transport business stakeholders in the EU continue to use paper documents. This prevents considerable gains in efficiency for the various market players, in particular in multimodal and cross-border transport, and hinders the functioning of the EU single market.

The Commission has acknowledged the need to foster acceptance and use of electronic transport documents in a number of policy initiatives: the White Paper on Transport, 2011<sup>5</sup>, the Digital Single Market Strategy, 2015<sup>6</sup>, the ICT Standardisation Priorities for the Digital Single Market, 2016<sup>7</sup> and the EU eGovernment Action Plan 2016-2020<sup>8</sup>. The case for intervention has also been recognised by a wide range of stakeholders.

Since 2015, participants in the Digital Transport and Logistics Forum (DTLF) — a Commission expert group formed by more than one hundred private and public stakeholders<sup>9</sup> — have repeatedly emphasised the need for EU-level intervention to support wider uptake of electronic transport documents. In October 2017, in the Tallinn Declaration on eGovernment, the Member States urged the Commission to step up efforts to achieve efficient, user-centric, electronic procedures in the EU, pointing out the significance of the eGovernment Action Plan<sup>10</sup> and the vision of the European Interoperability Framework<sup>11</sup>.

In November 2017, during the Tallinn Digital Transport Days, several public and private stakeholders from all transport sectors concluded that it is about time to reap the benefits of

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<sup>4</sup> The electronic representation of the information currently contained in paper documents does not need to amount to a document *format* in the sense of a standardised representation of the data. In that sense, the term 'documents' might be misleading. An explanation of the merits of moving away from a document-centred to a data-centred approach is provided in Annex 8 of the accompanying Impact Assessment report.

<sup>5</sup> [COM/2011/0144](#), pp. 13, 19.

<sup>6</sup> [COM\(2015\) 192](#), pp. 82-84.

<sup>7</sup> COM(2016) 176, p. 11.

<sup>8</sup> [COM\(2016\) 179](#), p. 8.

<sup>9</sup> The [DTLF](#) was set up by the Commission in April 2015 (Decision C(2015)2259), to provide a platform where Member States and relevant transport and logistics stakeholders can exchange technical knowledge, cooperate and coordinate with a view to supporting measures to promote efficient electronic exchange of information in transport and logistics.

<sup>10</sup> The [Tallinn Declaration on eGovernment](#) was signed at the ministerial meeting during the Estonian Presidency of the Council of the EU on 6 October 2017.

<sup>11</sup> [https://ec.europa.eu/isa2/eif\\_en](https://ec.europa.eu/isa2/eif_en).

digitalisation, including paperless data sharing<sup>12</sup>. Following up, the Council called on the Commission, in its December 2017 Conclusions on the digitalisation of transport, to continue working with the DTLF to develop ‘*measures to support*<sup>13</sup> *more systematic use and acceptance of e-documents and the harmonised exchange of information and data in the logistic chain*’<sup>14</sup>. Back in May 2017, Parliament had also called on the Commission to ‘*increase harmonisation in passenger transport and transport of goods*’, and ‘*speed up the mandatory use ... of electronic consignment notes (e-CMR)*’ in particular<sup>15</sup>.

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

This proposal is consistent with current EU legislative provisions on the electronic exchange of information applicable in the transport sector. These legislative provisions vary significantly in: (i) their material scope — i.e. the information or documents concerned; (ii) the regulatory purpose for which the information or documents are required; (iii) whether the possibility to communicate the information electronically is established; and (iv) whether more detailed technical specifications are provided on the means of electronic communication and form of the electronic information or documents when this possibility is established. This proposal complements the existing EU legislation in this area and, in the case of certain transport sector-specific EU acts, supplements these legal acts through more detailed functional requirements and technical specifications.

Regulation (EU) No 910/2014 of the European Parliament and of the Council<sup>16</sup> provides that an electronic document shall not be denied legal effect and admissibility as evidence in legal proceedings solely on the grounds that it is in electronic form. It also lays down the conditions for cross-border recognition and acceptance of electronic identification means and trust services in the internal market. However, it does not oblige Member States to accept electronic documents, or information therein, as evidence in other cases than in legal proceedings. By establishing a uniform Union legislative framework requiring the cross-border acceptance of electronic freight transport information by public authorities, this proposal complements the provisions in that Regulation.

Regulation (EU) No 952/2013 on the Union Customs Code<sup>17</sup> and the Directive No 2010/65/EU on reporting formalities for ships<sup>18</sup> already contain provisions allowing fulfilment of reporting formalities by means of electronic information communication, including as regards the cargo and, respectively, the transport operation. This proposal aims to allow electronic communication for fulfilling regulatory information requirements also beyond the points of entry, or before the point of exit, of the EU, on the entire territory of the Union. Geographically therefore, the scope of this initiative begins where that of the Union

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<sup>12</sup> The Digital Transport Days Declaration was signed in Tallinn on 10 November 2017 and is available at [https://ec.europa.eu/transport/modes/road/news/2017-11-10-digital-transport-days-declaration\\_en](https://ec.europa.eu/transport/modes/road/news/2017-11-10-digital-transport-days-declaration_en).

<sup>13</sup> P8\_TA(2017)0228.

<sup>14</sup> Council Conclusions on the digitalisation of transport, 15050/17, 5.12.2017.

<sup>15</sup> European Parliament resolution [2017/2545\(RSP\)](#) of 18 May 2017 on road transport in the EU.

<sup>16</sup> Regulation (EU) No 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

<sup>17</sup> Regulation (EU) No 952/2013 laying down the Union Customs Code (UCC); Commission Implementing Regulation (EU) 2015/2447 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013; Commission Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013 as regards detailed rules concerning certain provisions of the UCC.

<sup>18</sup> Directive No 2010/65/EU on reporting formalities for ships arriving in and/or departing from ports of the Member States.

Customs Code Regulation and/or the Maritime Reporting Formalities Directive the RFD ends (or, conversely, ends there where that of the latter begins).

In terms of the transport operations concerned by the information requirements, however, these scopes overlap: this initiative concerns both purely intra-EU international transport (not falling under Union Customs Code's Regulation scope or that of the Maritime Reporting Formalities Directive), as well as international transport having its origin, destination or transiting an EU Member State's territory . As a result, the combined application of this initiative and that of these two EU acts will further facilitate international freight transport having its origin and destination outside the EU, as well as intra-EU maritime traffic. It will enable the use of electronic means for transmission of regulatory information on cargo transport to the authorities not just at the point of entry and exit of the EU, but also on the entire EU territory.

In relation to Union legislation regulating the conditions of transport on the territory of the Union, this proposal does not amend existing provisions in existing relevant legal acts, but rather seeks to ensure:

- a) the **establishment of a uniform legal framework** for the acceptance, including specific requirements, of electronic information or documents containing this information, in the case of legal acts which:
- either **do not provide** at all for the possibility to present the information/documents electronically, namely:
- Regulation no 11/1960 on concerning the abolition of discrimination in transport rates and conditions ;
- Council Directive 92/106/EEC on the establishment of common rules for combined transport of goods between Member States; and
- Regulation (EC) No 1072/2009 on common rules for access to the international road haulage market; or
- **include such possibility, but do not indicate, or provide very limited** indication, on how this information should be presented electronically, namely:
- Directive 2008/68/EC on dangerous goods in rail, road and inland waterways;
- Commission Regulation 2015/1998 implementing Regulation (EC) No 300/2008 on common rules for aviation safety;

Regulation (EC) No 1013/2006 on shipments of waste;

- the proposals, currently under consideration by the European Parliament and the Council, for the revision of Directive 92/106/EEC (Proposal No 2017/0290 (COD)) and, respectively, of Regulation (EC) No 1072/2009 (Proposal No 2017/0123 (COD)).
- b) the **interoperability of the different IT systems** currently used for those legal acts which:
- already provide **very detailed technical specifications**: on the format of the electronic data and message exchange for acceptance by authorities for certain goods related and transport operation related information, regardless of the transport mode concerned, namely Regulation (EU) No. 952/2013 on the Union Customs Code and

its implementing and delegated acts, and the Directive 2010/65/EU on maritime reporting formalities;

- contain **detailed but transport mode-specific specifications**, namely Commission Regulation No. 164/2010 on the technical specifications for electronic ship reporting in inland navigation referred to in Article 5 of Directive 2005/44/EC on harmonised river information services (RIS) and Commission Regulation EU No 1305/2014 on the technical specification for interoperability relating to the telematics applications for rail freight (TAF TSI).
- **Consistency with other Union policies**

The general objective of the initiative is to enable wider use of digital technologies to contribute to: (i) removing barriers to the smooth functioning of the single market; (ii) the modernisation of the economy; and (iii) the greater efficiency of the transport sector. By establishing uniform conditions for the further development and deployment of digital technologies for electronic exchange of freight transport information, it will also contribute to the development of the Digital Single Market.

## 2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis is provided by Article 91, 100(2) and Article 192(1) of the Treaty on the Functioning of the European Union (TFEU).

Articles 91 and, respectively 100(2), which must be understood in light of Article 90 requiring Member States to pursue a common transport policy, set out the requirement that 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 and, respectively, appropriate provisions for sea and air transport, be laid down by the European Parliament and the Council.

Article 192(1), which must be understood in light of Article 191, establishes that the European Parliament and the Council shall decide on the action to be taken by the Union in order to achieve the objective for protecting inter alia human health and the environment.

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

Unilateral initiatives by Member States to facilitate the uptake of electronic transport documents and information exchange would have limited effect if similar action was not taken in other Member States whose territory is also concerned by the transport operations in question.

At the same time, even if most EU Member States were to enact legislation facilitating the use of electronic documents, there is a high risk that by legislating unilaterally, each Member State would adopt different requirements for the acceptance of electronic documents, and the communication of regulatory information more generally, as valid and authentic. In practice, electronic documents and regulatory information communication which fulfilled the requirements for acceptance in one Member State would not be accepted in the other(s), thus creating barriers in the EU single market.

The most appropriate level to address the problem and its drivers is therefore the EU level, where a uniform approach to the acceptance of electronic documents, and common standards for this, can be set. In that respect, this initiative takes further and complements measures already taken at EU level to ensure uniform conditions for acceptance of electronic freight transport information and documents, including by ensuring trust in the electronic means used to communicate them<sup>19</sup>.

- **Proportionality**

The proposal contains measures intended to achieve three distinct specific policy objectives that directly address the two main problem drivers identified.

To address the main problem driver, namely the diverging and limitedly specified current legal framework, this proposal contains measures to:

- (1) ensure the establishment, in all EU Member States, of the obligation of acceptance of electronic freight transport documents/information by all relevant public authorities;
- (2) ensure that the authorities implement the obligation of acceptance in a uniform manner;

To address the second problem driver, which derives from the current co-existence of multiple and non-interoperable systems, the proposal contains measures to:

- (3) ensure the interoperability of the IT systems and solutions used for the electronic exchange of freight transport information, and in particular for business-to-administration (B2A) regulatory information communication.

None of these measures go beyond what is necessary to address the problems. The first set of measures establish the obligation for authorities to accept electronic information/documents, but do not impose an obligation on businesses to use the electronic form, neither in B2A nor in B2B (business-to-business) relations. Imposing such an obligation on B2B exchanges would ensure full digitalisation of freight transport information and document exchanges, but it is not necessary in order to ensure acceptance on the part of the authorities. Furthermore, most industry associations argued that businesses are ready and will move towards full digitalisation when the authorities eventually allow it.

At the same time, the authorities are not required to accept just any electronic source of information provided by businesses. Rather, the measures take into account the authorities' need for the information/documents presented to be authentic and for assurances about their integrity. The measures also require the authorities to accept the information/documents if the electronic means used to present them comply with a determined set of requirements.

The second set of measures requires Member States to cooperate in order to align their (future) digitalised processes for checking information/documents communicated electronically. This includes cooperation over the set of data elements Member State authorities require as necessary for fulfilling the information requirements established in the relevant EU and national legal acts. These measures will ensure uniform rules for electronic information/document verification, and will contribute to reducing administrative compliance costs (and therefore burden) for businesses. However, the measures do not require uniformity

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<sup>19</sup> Including the framework for the cross-border use of eIDs and electronic signatures as established by the eIDAS Regulation.

of the information requirements themselves as established in the respective EU and Member State legislation.

The third set of measures establishes the functional requirements for the electronic means that businesses could use to provide authorities with the requested regulatory information. These measures also provide for the development of technical specifications to implement the requirements. These requirements and the related technical specifications will ensure that the IT systems used by the different Member State authorities are interoperable with each other and with the solutions used by businesses. The requirements and specifications will also facilitate interoperability across the (currently highly transport mode-specific) B2A and B2B solutions.

- **Choice of the instrument**

The impact assessment established that binding, regulatory measures are necessary to achieve the objectives. A regulation is the more appropriate instrument to ensure uniform implementation of the measures envisaged. A directive would establish the obligation to accept electronically presented information, with common functional requirements to be complied with by the electronic means by which the information is made available, but it would not impose common binding technical requirements.

Current developments, including in the context of the implementation of the Reporting Formalities Directive, indicate that having no guidelines or voluntary guidelines for technical specifications would result in the introduction of multiple and non-interoperable systems by the different Member States<sup>20</sup>. That would increase compliance costs for businesses, as they would need to invest in different systems responding to different Member States' requirements. As a result, businesses might prefer to continue carrying paper, severely hampering the attainment of the objective.

The initiative is highly technical, and there is a high likelihood that it will have to be regularly adapted to technical and legal developments. To respond to this, a number of implementing measures are also planned. These will focus particularly on the technical specifications to implement the functional requirements.

### **3. RESULTS OF STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENT**

- **Stakeholder consultations**

The Commission actively engaged with stakeholders and conducted comprehensive consultations throughout the impact assessment process. The consultation activities included:

- an open public consultation (OPC) organised by the Commission, running from 25 October 2017 to 18 January 2018;
- an SME panel survey organised by the Commission, running from 24 November 2017 to 22 January 2018;

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<sup>20</sup> Differences in requirements between the different authorities, both within and between Member States, are to be expected. Examples collected during the impact assessment process are clear testimony to this.



- a legal survey of private and public stakeholders organised by the consultant responsible for the impact assessment support study, running from 23 October 2017 to 1 January 2018;
- a targeted survey of private and public stakeholders organised by the consultant responsible for the impact assessment support study, running from 27 October 2017 to 7 January 2018;
- 50 interviews with stakeholders, including industry representatives and national authorities, conducted by the consultant responsible for the impact assessment support study and its partners between 20 October 2017 and 15 January 2018;
- stakeholder meetings and workshops at several different events;
- five case studies examined by the consultant responsible for the impact assessment support study between 6 November 2017 and 15 January 2018.

These consultation activities provided significant input that helped validate and elaborate the definition of the problem and estimate its size, and map stakeholders' preferences for the possible policy options. Input in this area came primarily from the OPC, the SME panel survey and from the other stakeholder engagement tools used<sup>21</sup>.

The large majority of the stakeholder consulted — i.e. more than 90 % of the 265 SME respondents to the SME panel survey<sup>22</sup>, and 88 of the 100 respondents to the OPC survey, indicated significant or at least some expected benefits from adopting electronic information exchange.

90 % of the private companies and associations responding to the OPC indicated the non-acceptance of electronic transport documents/information by Member State authorities as a significant driver of the problem. For the smaller companies, the SME panel survey found that the main reason for not using electronic transport documents was that their clients and business partners do not use transport documents in an electronic format. The next most widely cited reason for this group (following closely behind) was non-acceptance by the authorities. At the same time, respondents to the targeted surveys and interviews highlighted that the main reason why businesses do not accept electronic documents is uncertainty as to whether the authorities will accept them. More than 70 % of the respondents to both the OPC and the SME panel also cited the lack of interoperability of current B2A and B2B IT systems and solutions.

Mirroring this assessment, around 90 % of the respondents of the OPC considered ensuring acceptance by Member State authorities, while 88% found a legally binding approach to ensuring such acceptance more effective than a non-binding one. 90% of all OPC respondents also indicated as important the interoperability of B2A and B2B communications. Similarly, 75% of the SME panel respondents indicated ensuring acceptance by authorities as a very important policy objectives, and another 13% as moderately important.

More than 70 % of both the OPC and SME panel respondents would also welcome standardised technical specifications for sharing data between logistics operators and the public administration, with 88 % of OPC respondents considering a legally binding approach

<sup>21</sup> The summary below is based on the responses received to the OPC and SME panel surveys. For a more detailed description of the consultation results, including input received in the interviews and case studies undertaken by the external consultant, see Ecorys et al. (2018) Impact Assessment support study, Annexes VIII-XI.

<sup>22</sup> The number of respondents who answered the benefits-related questions in the SME panel survey varied between 230 and 250, depending on the specific benefits identified in the different questions.

more effective than non-binding measures. For B2B communication, 67 % of all 100 OPC respondents considered the legally binding approach more effective, while 84 % preferred voluntary measures. 77% of the SME panel survey respondents indicated as very important (65%) or moderately important (22%), the ability to use one IT application/system to exchange electronic transport documents with the authorities, on par with the ability of use such a single application/system for electronic exchange with all other companies (68% indicating it as very important, and the additional 19% as moderately important).

- **Collection and use of expertise**

The proposal is based on fact-finding and consultation with experts, particularly for the estimates of costs and benefits, including modelling of the indirect effects and modal shift impact. External consultants prepared a support study on costs and impacts. External consultants have also been used for modelling the indirect effects and assessing the modal shift impact.

Experts from all main stakeholder categories, both from the industry and from Member State authorities, were closely involved, particularly in the Digital Transport and Logistics Forum. This helped to ensure a comprehensive and multimodal perspective on the issues at stake.

- **Impact assessment**

The policy measures included in this proposal are informed by the results of an impact assessment. The impact assessment report [ SWD(2018) 184] received a positive opinion from the Commission Regulatory Scrutiny Board [SEC(2018) 231]. In its opinion, the Regulatory Scrutiny Board provided a number of recommendations about the presentation of the arguments in the impact assessment report. These recommendations have been addressed; Annex 1 to the impact assessment report provides a summary outline of how this was done.

A long list of policy measures addressing the two main problem drivers was considered after extensive consultations with stakeholders, expert meetings, independent research and the Commission's own analysis. The list was subsequently screened based on the following criteria: (i) legal, political and technical feasibility; (ii) effectiveness; (iii) efficiency; and (iv) proportionality. Based on this initial screening, a number of policy measures were discarded.

The selected policy measures were grouped into four distinct policy options:

- Option 1: Full obligation for Member States to comply with the current legal framework as regards acceptance of electronic transport contracts, with voluntary harmonisation of implementation
- Option 2: Full obligation for Member State authorities to accept electronic transport contracts, with minimum harmonisation of implementation
- Option 3: Full obligation for Member State authorities to accept regulatory cargo transport information or documentation, with partially harmonised implementation
- Option 4: Full obligation for Member State authorities to accept regulatory cargo transport information or documentation, with fully harmonised implementation

All options contained, for the most part, the same set of policy measures. These measures could be implemented either in non-binding form, as support measures promoting voluntary action by the Member States, or regulatory form, such as the adoption of a new dedicated EU

legal act and the signature of bilateral agreements with third countries. The logic of the policy options building followed a combination of these measures, with variation along two axes: the material scope of the policy initiative, on the one hand, and levels of regulatory strength of the intervention, on the other.

A comparative analysis of the effectiveness, efficiency, costs and benefits of the four options was then conducted. This analysis showed that: (i) the implementation of policy options 3 or 4 would produce very similar cost and benefit ratios; and (ii) both options would significantly contribute to solving the identified problems, with significantly higher effectiveness in achieving the specific and overall policy goals than options 1 or 2.

The high effectiveness of options 3 and 4 results, on the one hand, from the wider scope of information coverage in the obligation of acceptance and, on the other hand, from the higher degree of specification of the binding requirements for acceptance of electronic means. The obligation of acceptance is not defined in terms of specific documents, as is the case of options 1 and 2, but in terms of ‘information’ required by EU and national legislation regulating the conditions of international freight transport on the territory of the EU Member States. As such, not only electronic contracts of carriage are covered, but also any electronic information rendition formats, provided there is compliance with: (i) the information content requirements of the applicable legislation; and (ii) the requirements for the electronic means by which this information can be made available, established in the framework of the new legal act proposed.

**Option 3 was the preferred policy option** on the basis of which this proposal has been developed. The choice between options 3 and 4 took account of the views of stakeholders, as well as considerations about proportionality. Industry stakeholders in the maritime, aviation and rail sectors in particular clearly made the point that while a multimodal approach is necessary, the Commission should avoid proposing a ‘one-size-fits-all’ solution<sup>23</sup>. The main considerations relate to the investments in related solutions already made in these sectors. These solutions have been developed on the basis of current provisions in international conventions and EU law which, as the legal analysis in this report has also highlighted, are mode-specific and differ significantly.

The imposition of fully common technical specifications for interoperability, for all solutions used for B2A regulatory information communication and in all transport modes, as proposed in option 4, would require higher upfront investments by businesses in these sectors to adapt to the new requirements.

Under option 3, the extent to which such cross-modal common technical specifications will be established would be determined on the basis of a specific impact assessment. The purpose of this impact assessment would be to more accurately establish the minimum necessary common cross-sectoral technical specifications that would ensure interoperability between all related systems used by authorities and with the solutions used by businesses, while achieving the best cost-benefit ratio for compliance costs by businesses and future benefits.

The assumption, based on industry stakeholders’ arguments, is that a sufficient level of interoperability can be ensured without requiring full harmonisation of requirements across all transport modes. More specifically, according to most industry stakeholders, interoperability

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<sup>23</sup> See for e.g. ECSA and WSC (maritime), as well as CER (rail) position papers sent in reaction to the inception impact assessment (IIA). IATA has been actively participating in almost all stakeholder consultation seminars organised, where they have also clearly stated such position.

would require, as a minimum, a common multimodal data dictionary<sup>24</sup>. Technical specifications implementing other requirements, such as those related to authenticity or integrity, may be developed specifically for the different transport modes, should a separate, dedicated impact assessment analysis conclude that such an approach would be most cost-efficient for some of the (common) requirements.

The **main expected benefits** of the preferred policy option are of an economic and environmental nature. The industry is expected to make savings worth EUR 20-27 billion over 2018-2040, compared to a scenario where no policy intervention at EU level is made (the baseline), thanks to reduction in administrative costs (i.e. costs related to the management and exchange of transport information and documentation). This is equivalent to 75-102 million hours saved yearly (or 36-49 thousand full-time employees equivalent). Road transport operators, 99% of which are SMEs, are expected to benefit of about 60% of all industry administrative costs savings.

Positive environmental impacts are also expected, due to a decrease in road transport's modal share in 2030 relative to the baseline. In cumulative terms, CO<sub>2</sub> emissions savings are estimated to be cut by at above 1,300 thousand tonnes over 2018-2040, relative to the baseline, equivalent to €74 million external costs savings. Congestion costs are projected to be reduced by almost EUR 300 million relative to the baseline over the same time period. In addition, with an average of 1-5 copies of each document per shipment not printed anymore about 2-8 billion sheets of paper would be saved, or the equivalent of 180-900 thousand trees annually.

The **main expected costs**, are related to investments necessary to comply with the new policy requirements. The costs for public authorities are estimated at around EUR 268 million over the full deployment horizon of electronic transport documents, relative to the baseline, of which EUR 17 million related to the certification of solution providers and EUR 251 million to enforcement. In addition, national administrations will be expected to invest in new IT systems, or to adjust the existing ones; these costs are unlikely to be significant. For businesses, the compliance costs are expected to be in the range of EUR 4.4 billion.

Employment impacts can be slightly negative in case personnel made redundant by reduced documentation management activities is not redeployed to other tasks. This negative impact is expected to be offset to a large extent by the overall sector growth. Greater demand for IT solutions and systems is likely to bring more opportunities for the IT providers, leading to an increase in high-skilled employment.

Slight negative externalities may occur from the increase of air pollution from waterborne transport, estimated at around EUR 41 million over the full deployment horizon of electronic transport documents, relative to the baseline.

- **Regulatory fitness and simplification**

The proposal offers significant simplification and improved efficiency by reducing the administrative burden for economic operators when fulfilling regulatory information requirements in connection with the transport of goods on the territory of the Union.

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<sup>24</sup> 73% of the respondents in an interactive feedback session during the workshop on e-docs in Tallinn were in favour of the establishment of standardised technical specifications for sharing data between logistics operators and public administrations. Likewise, the TLF Union proposed the establishment of a single data set at EU level. According to the targeted interviews (source Ecorys et al.) the group of freight forwarders stressed the importance of a common data set enforced through EU legislation. The need for a common data set was also specifically indicated in the position paper of Finland's government on this initiative.

**Reduced administrative burden** is expected to be achieved by: ensuring that economic operators can make regulatory information available to authorities electronically; and aligning the procedures used by Member State authorities to check regulatory information made available electronically. As highlighted earlier, administrative costs for the industry are expected to fall significantly.

SMEs and micro-enterprises will especially benefit from being able to provide authorities with the required regulatory information in a simplified and aligned manner regardless of the Member State or competent authorities. This is because SMEs and micro-enterprises are proportionally more vulnerable to inefficient administration and lost staff hours.

- **Fundamental rights**

The proposal has an impact on the protection of personal data guaranteed in Article 8 of the Charter. Any processing of personal data under the proposal shall be done in accordance with the EU legislation on the protection of personal data, in particular the General Data Protection Regulation.

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

The preferred option does not have budgetary implications.

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

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

The Commission will follow the progress, impacts and results of this initiative through a set of monitoring/evaluation mechanisms. The Commission will measure progress towards achieving the specific objectives of the new proposal.

Requests for information (reports, survey replies) will be carefully balanced so as not to put an additional burden on stakeholders by creating disproportionate new reporting requests.

Five years after the end of the implementation date of the legal proposal, the Commission will initiate an evaluation to verify whether the initiative's objectives have been reached. The evaluation will be based on Member States' reports, stakeholder surveys and other inputs (such as complaints) from shipping operators. Subsequently, the evaluation will inform future decision-making processes to ensure the necessary adjustments for reaching the set objectives.

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

The proposal is divided into five chapters. The first and last chapters introduce the general scope and some horizontal provisions, while Chapters II-IV provide the more detailed instruments.

Article 1 lays down the scope of this Regulation.

Article 2 contains provisions on powers delegated to the Commission to amend non-essential elements in the Annex 1 to this Regulation, where the regulatory information requirements falling under the scope of the Regulation are listed.

Article 3 contains the definitions.

Article 4 lays down requirements relative to the electronic format in which regulatory transport information (eFTI) should be made available by the economic operators concerned.

Article 5 establishes the obligation of the Member States' competent authorities of regulatory information made available electronically by the economic operators concerned in compliance with the conditions laid down in Article 4.

Article 6 requires the competent authorities, eFTI services providers and economic operators concerned to take measures to ensure the confidentiality of the information processed and exchanged in accordance with this Regulation.

Article 7 establishes the obligation of the Commission to adopt implementing acts establishing a common data set and subsets in relation the regulatory requirements under the scope of this Regulation, and laying down common procedures and rules for access to and processing by the competent authorities of regulatory information provided electronically. This should ensure uniform implementation by Member States' authorities of the measures implementing the obligation to accept regulatory information made available electronically.

Article 8 sets out the functional requirements for the eFTI platforms by the means of which the regulatory information could be made available by the economic operators concerned, and empowers the Commission to adopt implementing acts laying detailed rules for their implementation. These requirements aim to ensure that management of data by means of these platforms can be done in a manner that ensures essential aspects such as the availability, authenticity, integrity, confidentiality and security of data. These requirements are general, and the detailed rules for their implementation are also envisaged to be drawn such that they remain open to any current or future technology that would be able to ensure these functionalities.

Article 9 sets out requirements for the eFTI services providers that would provide regulatory information services to the economic operators concerned on the basis of eFTI platforms.

Article 10, Article 11 and Article 12 establish the rules for a certification system of the eFTI platforms and the eFTI services providers.

Article 13 establishes the conditions for the conferral of delegated powers to the Commission under this Regulation.

Article 14 establishes the committee procedure for the exercise by the Commission of the power to adopt implementing acts under this Regulation.

Article 15 requires the Commission to carry out an evaluation of the implementation of this Regulation, in order to assess performance of this Regulation against the objective it has been set out to pursue. It also requires the Member States to assist the Commission in gathering the necessary information to prepare the evaluation report.

Article 16 establishes the obligation of the Member State to provide every two years, on a yearly basis, specific information aimed at monitoring the impacts of the implementation of this Regulation.

Article 17 contains provisions related to the date of entry into force and, respectively, of application of this Regulation.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on electronic freight transport information**

(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, Article 100(2) and Article 192(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>25</sup>,

Having regard to the opinion of the Committee of the Regions<sup>26</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The efficiency of freight transport and logistics is vital for the competitiveness of the Union economy, the functioning of the internal market and the social and economic cohesion of all regions of the Union.
- (2) The movement of goods is accompanied by a large amount of information which is still exchanged in paper format, among businesses and between businesses and the public authorities. The use of paper documents represents a significant administrative burden for logistic operators.
- (3) The absence of a uniform legal framework at Union level requiring public authorities to accept relevant freight transport information, required by legislation, in electronic form, is considered to be the main reason for the lack of progress towards the simplification and greater efficiency made possible by available electronic means. The lack of acceptance by public authorities of information in electronic form affects not only ease of communication between them and operators but, indirectly, also hampers the development of simplified business-to-business electronic communication across the Union.
- (4) Some areas of Union transport law require competent authorities to accept digitised information, but this concerns by far not all relevant Union legislation. It should be possible to use electronic means to make regulatory information on freight transport available to the authorities throughout the territory of the Union and in respect of all

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<sup>25</sup> OJ C , , p. .

<sup>26</sup> OJ C , , p. .

relevant phases of transport operations conducted within the Union. Furthermore, that possibility should apply to all regulatory information, in all transport modes.

- (5) Member States' authorities should therefore be required to accept information made available electronically whenever economic operators are obliged to make information available as proof of compliance with requirements laid down in Union acts adopted in accordance Title VI of Part Three of the Treaty or, given the similarity of the situations, with Union legislation on the shipments of waste. The same should apply where a Member State's national legislation dealing with matters governed by Title VI of Part Three of the Treaty requires the provision of regulatory information identical, in whole or in part, to information to be provided under such Union legislation.
- (6) Since this Regulation is only intended to facilitate the provision of information, specifically, by electronic means, it should not affect the provisions of Union or national law determining the content of regulatory information and, in particular, should not impose any additional regulatory information requirements. While this Regulation is intended to allow compliance with regulatory information requirements through electronic means rather by means of paper documents, it should not otherwise affect the relevant Union provisions on requirements regarding the documents to be used for the structured presentation of the information in question. The provisions of Union legislation on shipments of waste containing procedural requirements for the shipments as should equally remain unaffected by this Regulation. This Regulation should also be without prejudice to the provisions on reporting obligations set out in Regulation (EU) No [952/2013](#) or in implementing or delegated acts adopted under its terms.
- (7) The use of electronic means for the exchange of information in accordance with this Regulation should be organised in a way that ensures security and respects the confidentiality of sensitive commercial information.
- (8) In order to enable operators to provide relevant information in electronic form in the same way in all Member States, it is necessary to rely on common specifications, to be adopted by the Commission. Those specifications should ensure data interoperability for the various data sets and subsets concerning the relevant regulatory information, and determine common procedures and detailed rules for access and processing of that information by the competent authorities.
- (9) In defining those specifications, due account should be taken of relevant data exchange specifications laid down in relevant Union law, and in relevant European and international standards for multimodal data exchange, as well as of the principles and recommendations set out in the European Interoperability Framework<sup>27</sup>, which provides an approach to the delivery of European digital public services commonly agreed by the Member States. Due care should also be taken that these specifications remain technology neutral and open to innovative technologies.
- (10) This Regulation should establish the functional requirements applicable to information and communication technology based platforms which could be used by economic operators to make available the regulatory freight transport information in electronic

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<sup>27</sup> European Interoperability Framework – Implementation Strategy, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (COM(2017) 134).



format (eFTI) to the competent authorities (eFTI platforms). Conditions should also be established for third party eFTI platform services providers (eFTI services providers).

- (11) To build the confidence of both the Member States authorities and the economic operators as regards the compliance of the eFTI platforms and eFTI services providers with those requirements, the Member States competent authorities should put in place a certification system underpinned by accreditation in accordance with Regulation (EC) 765/2008 of the European Parliament and of the Council<sup>28</sup>.
- (12) In order to ensure uniform conditions for the implementation of the obligation to accept the regulatory information made available in electronic format pursuant to this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>29</sup>.
- (13) In particular, implementing powers should be conferred on the Commission to establish a common data set and subsets in relation to the respective regulatory information requirements covered by this Regulation, as well as common procedures and detailed rules for competent authorities for the access to and processing of that information where the economic operators concerned make this information available electronically, including detailed rules and technical specifications.
- (14) Implementing powers should also be conferred on the Commission to establish detailed rules for the implementation of the requirements for eFTI platforms and for eFTI services providers.
- (15) In order to ensure the proper application of this Regulation, 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:
  - to amend Part B of Annex I, in order to incorporate the lists of regulatory information requirements in Member States' legislation notified to the Commission by the Member States in accordance with this Regulation;
  - to amend Part A of Annex I to take into account any delegated or implementing acts adopted by the Commission which establish new Union regulatory information requirements in relation to the transport of goods;
  - to amend Part B of Annex I to incorporate any new provision of relevant national legislation which introduces changes to the national regulatory information requirements, or lays down new relevant regulatory information requirements falling under the scope of this Regulation notified to the Commission by the Member States in accordance with this Regulation;
  - to supplement certain technical aspects of this Regulation, namely as regards the rules for certification of eFTI platforms and eFTI services providers.
- (16) 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

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<sup>28</sup> 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 and repealing Regulation (EEC) No 339/93 (OJ L 218 13.8.2008, p.30).

<sup>29</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Agreement of 13 April 2016 on Better Law-Making<sup>30</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

- (17) Since the objectives of this Regulation, namely to ensure a uniform approach to acceptance by Member State authorities of freight transport information made available electronically, cannot be sufficiently achieved by the Member States but can rather, by reason of the need to establish common requirements, 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 Regulation does not go beyond what is necessary in order to achieve those objectives.
- (18) Processing by electronic means of personal data required as part of freight transport regulatory information should be carried out in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>31</sup>.
- (19) The Commission should carry out an evaluation of this Regulation. Information should be collected in order to inform this evaluation, and to assess the performance of the legislation against the objectives it pursues.
- (20) This Regulation cannot be effectively applied before the delegated and implementing acts provided for in it have entered into force. This Regulation should therefore apply with effect from [please insert the date], in order to give the Commission time to adopt those acts.
- (21) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council<sup>32</sup> and delivered an opinion on xx XXX 20xx<sup>33</sup>,

HAVE ADOPTED THIS REGULATION:

## CHAPTER I

### GENERAL PROVISIONS

#### *Article 1*

#### *Subject matter and scope*

1. This Regulation establishes a legal framework for the electronic communication of regulatory information related to the transport of goods on the territory of the Union. For that purpose, this Regulation:

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<sup>30</sup> OJ L 123, 12.5.2016, p. 1

<sup>31</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

<sup>32</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

<sup>33</sup> OJ C....

- (a) lays down the conditions under which Member States' competent authorities are required to accept regulatory information when made available electronically by economic operators concerned;
  - (b) lays down rules for the provision of services related to making regulatory information available electronically by the economic operators concerned.
2. 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 in accordance with Title VI of Part Three of the Treaty, or laying down the conditions for the shipments of waste. In respect of the shipment of waste, this Regulation does not apply to controls by customs offices, as provided for in the applicable Union provisions. The Union acts to which this Regulation applies and the corresponding regulatory information requirements are listed in part A of Annex I.
- This Regulation also applies to regulatory information requirements set out in Member States' law dealing with matters governed by Title VI of Part Three of the Treaty and requiring the provision of information identical, in whole or in part, to the information to be provided pursuant to regulatory information requirements referred to in the first subparagraph.
- The national legislation and the corresponding regulatory information requirements referred to in the second subparagraph shall be listed in part B of Annex I, in accordance with the procedure set out in Article 2(b).
3. By [OP insert one year from the entry into force of this Regulation] at the latest, the Member States shall notify the Commission of the provisions of national legislation and corresponding regulatory information requirements referred to in the second subparagraph of paragraph 2, to be included in part B of Annex I. The Member States shall also notify the Commission of any new provision of national legislation subsequently adopted, covered by the second subparagraph of paragraph 2, and which introduces changes to those regulatory information requirements or lays down new relevant regulatory information requirements, within a month from the adoption of such provision.

*Article 2*  
*Adaptation of Annex I*

The Commission is empowered to adopt delegated acts in accordance with Article 13, concerning the amendment of Annex I in order to:

- (a) include a reference to any delegated or implementing acts adopted by the Commission, which establish new regulatory information requirements in relation to Union legal acts governing the transport of goods in accordance with Title VI of Part Three of the Treaty;
- (b) incorporate references to national legislation and regulatory information requirements notified by Member States in accordance with Article 1(3).

*Article 3*  
*Definitions*

For the purposes of this Regulation, the following definitions apply:

- (1) 'regulatory information' means information, whether or not presented as a document, related to transport of cargo in the territory of the Union, including by way of transit, which is to be made available by an economic operator concerned in accordance with the provisions referred to in Article 1(2) in order to prove compliance with the relevant requirements of the acts concerned;
- (2) 'regulatory information requirement' means a requirement to provide regulatory information;
- (3) 'electronic freight transport information' (eFTI) means any set of data elements processed on electronic support for purposes of exchanging regulatory information between the economic operators concerned and with the competent public authorities;
- (4) 'processing' means any operation or set of operations performed on eFTI, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;
- (5) 'eFTI platform' means any information and communication technology (ICT) based solution, such as an operating system, an operating environment, or a database, intended to be used for the processing of eFTI;
- (6) 'eFTI platform developer' means any natural or legal person which has developed or acquired an eFTI platform either for purposes of processing of regulatory information related to its own economic activity, or for putting that platform on the market;
- (7) 'eFTI service' means a service consisting of eFTI processing by means of an eFTI platform, alone or in combination with other ICT solutions, including other eFTI platforms;
- (8) 'eFTI service provider' means any natural or legal person which provides an eFTI service to economic operators concerned on the basis of a contract;
- (9) 'economic operator concerned' means any transport or logistic operator, or any other natural or legal person, who is responsible for making regulatory information available to the competent authorities in accordance with the relevant regulatory information requirement;
- (10) 'human-readable format' means a way of representation of the data in electronic form that can be used as information by a natural person without requiring any further processing;
- (11) 'machine-readable format' means a way of representation of the data in electronic form that can be used for automatic processing by a machine;
- (12) 'conformity assessment body' means a conformity assessment body within the meaning of point 13 of Article 2 of Regulation (EC) No 765/2008, which is accredited in accordance with that Regulation to carry out conformity assessment of an eFTI platform or an eFTI service provider.

## CHAPTER II

### REGULATORY INFORMATION MADE AVAILABLE ELECTRONICALLY

#### *Article 4*

##### *Requirements for economic operators concerned*

1. Where economic operators concerned make regulatory information available electronically, they shall do so on the basis of data processed in a certified eFTI platform and, if applicable, by a certified eFTI service provider. The regulatory information shall be made available in machine-readable format and, at the request of the competent authority, in human-readable format.

Information in machine-readable format shall be made available via an authenticated and secure connection to the data source of an eFTI platform. Economic operators concerned shall communicate the Internet address via which the information can be accessed, together with any other elements that are necessary to allow the competent authority to uniquely identify the regulatory information.

Information in human-readable format shall be made available on the spot, on the screen of electronic devices owned by the economic operator concerned or by the competent authorities.

2. The Member States shall take measures to enable their competent authorities to process regulatory information made available by the economic operators concerned in machine-readable format pursuant to the second subparagraph of paragraph 1, in accordance with the provisions established by the Commission pursuant to Article 7.

#### *Article 5*

##### *Acceptance by competent authorities*

Member States' competent authorities shall accept regulatory information made available electronically by the economic operators concerned in accordance with Article 4.

#### *Article 6*

##### *Confidential commercial information*

The competent authorities, eFTI services providers and economic operators concerned shall take measures to ensure confidentiality of commercial information processed and exchanged in accordance with this Regulation.

#### *Article 7*

##### *Common eFTI data set, procedures and rules for access*

The Commission shall establish the following by means of implementing acts:

- (a) a common eFTI data set and subsets in relation to the respective regulatory information requirements, including corresponding definitions for each data element included in the common data set and subsets;
- (b) common procedures and detailed rules, including common technical specifications, for competent authorities' access to eFTI platforms, including procedures for

processing of regulatory information made available electronically by the economic operators concerned.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14(2).

## **CHAPTER III**

### **EFTI PLATFORMS AND SERVICES**

#### **SECTION 1**

#### **REQUIREMENTS FOR EFTI PLATFORMS AND SERVICES**

##### *Article 8*

##### *Functional requirements for eFTI platforms*

1. The eFTI platforms used for processing regulatory information shall provide functionalities that ensure that:
  - (a) personal data can be processed in accordance with Regulation (EU) 2016/679;
  - (b) commercial data can be processed in accordance with Article 6;
  - (c) 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;
  - (d) data can be processed solely on the basis of authorised and authenticated access;
  - (e) all processing operations are duly recorded in order to allow, at a minimum, the identification of each distinct operation, the natural or legal person having made the operation and the sequencing of the operations on each individual data element; if an operation involves modifying or erasing an existing data element, the original data element shall be preserved;
  - (f) data can be archived and remain accessible for an appropriate period of time, in accordance with the relevant regulatory information requirements;
  - (g) data is protected against corruption and theft;
  - (h) the data elements processed correspond to the common eFTI data set and subsets, and can be processed in any of the official languages of the Union.
2. The Commission shall adopt, by means of implementing acts, detailed rules regarding the requirements laid down in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14(2).

*Article 9*  
*Requirements for eFTI service providers*

1. eFTI service providers shall ensure that:
  - (a) data is processed only by authorised users and according to clearly defined user role and processing rights within the eFTI platform, in accordance with the relevant regulatory information requirements;
  - (b) data is stored and accessible for an appropriate period of time, in accordance with the relevant regulatory information requirements;
  - (c) authorities have immediate access to regulatory information concerning a freight transport operation processed by means of their eFTI platforms, when this access is given to the authorities by an economic operator concerned;
  - (d) data is appropriately secured, including against unauthorised or unlawful processing and against accidental loss, destruction or damage.
2. The Commission shall adopt, by means of implementing acts, detailed rules regarding the requirements laid down in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 14(2).

**SECTION 3**  
**CERTIFICATION**

*Article 10*  
*Conformity assessment bodies*

1. Conformity assessment bodies shall be accredited according to Regulation (EC) No 765/2008 for the purposes of performing the certification of eFTI platforms and service providers as set out in Articles 11 and 12 of this Regulation.
2. For the purposes of accreditation, a conformity assessment body shall meet the requirements laid down in Annex II.
3. Member States shall maintain an updated list of the accredited conformity assessment bodies, and of the eFTI platforms and eFTI service providers certified by those bodies in accordance with Articles 11 and 12. They shall make that list publicly available on an official government Internet website. The list shall be regularly updated, and by the latest by 31 March each year.
4. By 31 March each year, Member States shall submit the lists referred to in paragraph 3 to the Commission, together with the address of the website where those lists have been published. The Commission shall publish a link to those website addresses on its official webpage.

*Article 11*  
*Certification of eFTI platforms*

1. Upon request of an eFTI platform developer conformity assessment bodies shall assess the compliance of the eFTI platform with the requirements laid down in Article 8(1). If the assessment is positive, a compliance certificate shall be issued. If the assessment is negative, the compliance assessment body shall inform the applicant why the platform does not comply with those requirements.

2. Conformity assessment bodies shall maintain an up to date list of certified eFTI platforms and of those that received a negative assessment. The updated list shall be transmitted to the competent authorities concerned each time a certificate or a negative assessment is issued.
3. Information made available to competent authorities by means of a certified eFTI platform shall be accompanied by a certification mark.
4. The eFTI platform developer shall apply for a reassessment of its certification if the technical specifications adopted in the implementing acts referred to in Article 7(2) are revised.
5. The Commission is empowered to adopt delegated acts in accordance with Article 13 to supplement this Regulation with rules on certification, use of the certification mark and renewal of the certification of eFTI platforms.

*Article 12*  
*Certification of eFTI service providers*

1. Upon request of an eFTI service provider, a conformity assessment body shall assess the compliance of the eFTI service provider with the requirements laid down in Article 9(1). If the assessment is positive, a compliance certificate shall be issued. If the assessment is negative, the compliance assessment body shall inform the applicant why the provider does not comply with those requirements.
2. Conformity assessment bodies shall maintain an up to date list of the certified eFTI service providers and of those that received a negative assessment. The updated list shall be made available to the competent authorities concerned each time a certificate or a negative assessment is issued.
3. The Commission is empowered to adopt delegated acts in accordance with Article 13 to supplement this Regulation with rules on certification of eFTI service providers.

## CHAPTER IV

### DELEGATIONS OF POWER AND IMPLEMENTING PROVISIONS

*Article 13*  
*Exercise of the delegation*

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 2, Article 11(5) and Article 12(3) shall be conferred on the Commission for an indeterminate period of time from [date of entry into force of this Regulation].
3. The delegation of power referred to in Article 2, Article 11(5), Article 12(3) 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 accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
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 2, Article 10(5) and Article 11(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 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.

*Article 14*  
*Committee procedure*

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

**CHAPTER V**

**FINAL PROVISIONS**

*Article 15*  
*Review*

1. By [five years from the date of application of this Regulation] at the latest the Commission shall carry out an evaluation of this Regulation and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee.
2. Member States shall provide the Commission with the information necessary for the preparation of that Report.

*Article 16*  
*Monitoring*

The Member States shall provide the following information to the Commission every two years and for the first time by [two years from the date of application of this Regulation] at the latest:

1. the number of competent authorities which have implemented measures to access and process information made available by economic operators concerned in accordance with Article 4(2);

2. the number of economic operators concerned which have made regulatory information available to the Member State's competent authorities in accordance with Article 4(1), broken down by transport mode.

The information shall be provided for each year covered by the reporting period.

*Article 17*

*Entry into force and application*

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

It shall apply from [OP insert four years from the entry into force].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*

*For the Council*

*The President*

*The President*