



Decarbonisation & Transporting Freight on the Continent – the EU strategy – are we on (the railway) track?

The European Court of Auditors (ECA) published a Special Report (08/2023) earlier this year addressing intermodal freight transport within the European Union (EU) (the “Report”). A copy of the report can be found [here](#). The audit took place within seven member states and examined a sample of 16 projects that had received part of €1.1 billion fund to support intermodality projects (the transportation of goods in a single loading unit using various different modes of transport) between 2014 and 2020.

The report examined the EU’s strategies and their implementation alongside the primary legislation governing the Europe-wide transport network (the Trans-European Network for Transport (TEN-T) Regulation) and other relevant legislation, such as the Combined Transport Directive from 1992. The latter is the only piece of EU legislation that is specific to intermodal freight transport.

In its concluding comments, the ECA found that:

- there remains a significant imbalance in favour of road transportation;
- the EU’s regulatory and financial support has so far been ineffective at promoting intermodal transportation; and
- the EU’s targets for 2030 and 2050, which aim to double rail traffic and increase inland waterway use by 50%, are unrealistic.

The drive to adopt intermodal transportation; why?

Decarbonisation lies at the core of this issue. The Report estimates that road transportation (i.e. transporting goods solely using the road networks) accounted for 72% of the transport sector’s total Greenhouse Gas

Emissions (GGE) in 2019. The wider transport sector was said to be held accountable for almost a quarter of the total emissions within the EU the same year.

European Environment Agency data shows that road transport emits over twice as much CO₂ emissions (137 grams per tonne-km) than inland waterways (33 gCO₂ per tonne-km), rail (24 gCO₂ per tonne-km) and maritime (7 gCO₂ per tonne-km) combined. Whilst the efficiency of road transportation has undoubtedly improved - demand for freight has cancelled out any progress.

It is thought that reducing the reliance on road transportation would make a material contribution to achieving a 90% reduction in GGE by 2050, as set out in the EU's strategy document, 'The European Green Deal'. The idea is to achieve this goal through intermodal transportation, set out within the EU's 'Sustainable and Smart Mobility Strategy' (2020), which called for a substantial shift to rail, inland waterways and short-sea shipping.

Despite the drive for this modal shift, rail and inland waterway's share of inland freight carried has declined from around 25% in 2010 to below 23% by 2020. Road transportation remains the most economical and offers the fastest, cheapest and most flexible way of transporting freight. The ECA estimates intermodal freight transport is 56% more expensive than by road.

Unsurprisingly, the economic and green incentives of a particular mode of shipment are not one and the same. At the heart of the movement for an intermodal shift, therefore, is the principle of taking advantage of the relative strengths of different transport modes to counteract this conflict between GGE and expense.

Over time, we expect to see a shift in priorities from the 'most economical' to the 'most carbon efficient' transportation as cargo interests and logistics and transport companies become under increasing pressure to manage their emissions.

The ECA's Conclusions

Some of the problems identified within the report include:

- An underlying weakness in the design and monitoring of the EU targets for intermodal transport.
 - The EU's strategies set ambitious targets that are not necessarily based on robust assumptions. For example, it was assumed that trains up to 1,500 metres long would be allowed on the European rail network, whereas the TEN-T regulation currently limits a permitted train's length to 740 metres.
 - Under the 2020 strategy, there is a gap in funding of €100 billion per year for the period between 2021-2030 and no details on how the Commission would ensure member states made those funds available. Broadly speaking, there appears to be a lack of cohesion between EU strategy and implementation by member states at a national level.

- Some existing EU regulations counteract and dissuade the adoption of intermodal transport.
 - The Combined Transport Directive dates back to 1992 and should be updated. At this time, the Directive still requires a paper document to be stamped by the rail or port authorities throughout the journey. A revision of the directive would make better use of digitisation, but to date, the Commission has struggled to reach an agreement with member states.
 - Other regulatory issues in the absence of new legislative action surround the planning slots for rail freight, priority rules for passenger versus freight trains and language requirements for train drivers.

- Infrastructure challenges
 - As referred to above, maximising the length of trains would contribute to improving the cost-effectiveness of rail and intermodal transport. The Report estimates, however, that only half of the nine core TEN-T corridors can theoretically accommodate 740m trains and some stations not designed for such lengths. One of the new requirements in the Commission's proposal to revise the TEN-T regulation is for freight lines to comply with the P400 rail gauge (the standard of measurement for semi-trailers loaded on a wagon), which can accommodate the largest type of containers. Similarly, the Report found that only 40% of the core network corridors are P400 compliant.
 - A further barrier to logistic operators adopting intermodal transport is the difficulty in obtaining in-depth data about intermodal terminals. Intermodal journeys are inherently more complex than road journeys, and therefore, stakeholders are conscious of the time and cost investment required in planning routes. The Commission launched a website in 2015 (the 'Rail Facilities Portal') with a view to making such data readily available. The Report found that terminal information for the majority of the 10,000 entries was limited to basic party details, so whilst it is a start, it is the technical data that is needed for logistic operators to design intermodal journeys. They need (amongst others), terminal loading technology, infrastructure characteristics, access conditions, digital capabilities and service charge information.

The ECA's Recommendations

Following the challenges identified above, the Report issued a number of recommendations:

(i) Set targets regarding the modal share along the Core Network Corridors and report on them.

a. In response, the Commission agreed to “*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.*”

(ii) Prepare regulatory changes to improve the competitiveness of intermodal transport.

a. In response, the Commission advised that 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.*”

(iii) Lay the groundwork for a coordinated assessment by member states of intermodal terminal needs. This will include providing member states with clear guidelines on performing market studies and drawing up terminal development plans.

a. The Commission agreed that “*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.*”

(iv) Assess the modal shift potential in cost-benefit analyses for EU-funded projects. This recommendation was set to require beneficiaries of projects that had received funding from the Connecting Europe Facility to share their cost analyses. This recommendation was rejected by the Commission.

Concluding comments

- The Report identifies the benefit of multi-modal transport as an effective way to achieve decarbonisation, but it is somewhat unutilised.
- Whilst logistics companies are stuck between a rock and a hard place as they seek to maximise their bottom lines and adapt to a new carbon-efficient way of transportation, increasing regulation identifies that it is only a matter of time before this becomes mandatory.
- Going forward, we feel the industry will be guided by cargo interests. If cargo interests are responding to moral pressures and national regulation to drive down their scope 3 emissions, the decision-making

progress may shift from the ‘most economical’ to the most carbon efficient.

This post was overseen by [Linda Jacques](#), who heads our [Shipping & Logistics team](#) at Lester Aldridge. To get in contact with Linda or the team, email info@la-law.com or call 023 8082 7416

Sources:

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