Regulation (EU) 2020/1056 of the European Parliament and of the Council of 15 July 2020 on electronic freight transport information (Text with EEA relevance)

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on electronic freight transport information

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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 and Article 100(2) 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[(1)],

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) The efficiency of freight transport and logistics is vital for the growth and 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 aim of this Regulation is to encourage the digitalisation of freight transport and logistics to reduce administrative costs, improve enforcement capabilities of competent authorities, and enhance the efficiency and sustainability of transport.

(3) The movement of goods, including waste, is accompanied by a large amount of information which is still exchanged in paper format among businesses, and between businesses and competent authorities. The use of paper documents represents a significant administrative burden for logistics operators and an additional cost for logistics operators and related industries (such as trade and manufacturing), in particular for SMEs, and has a negative impact on the environment.

(4) The absence of a uniform legal framework at Union level requiring competent 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 of information exhanges made possible by available electronic means. The acceptance by competent authorities of information in electronic form with common specifications would ease not only communication between competent authorities and economic operators but, indirectly, also the

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development of uniform and simplified business-to-business electronic communication across the Union. It would also lead to significant administrative cost savings for economic operators, and particularly SMEs, which constitute the large majority of transport and logistics companies within the Union.

(5) Some areas of Union transport law require competent authorities to accept digitised information, but this concerns far from all relevant Union legal acts. It should be possible to use electronic means to make regulatory information on the transport of goods available to competent authorities throughout the territory of the Union in respect of all relevant phases of transport operations conducted within the Union. Furthermore, that possibility should apply to all regulatory information and to all transport modes.

(6) Competent 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 legal acts covered by this Regulation. This requirement should also cover information requested by the authorities as additional information in accordance with the provisions of those Union legal acts, for example, when some information is missing. The same should apply where national law requires the provision of regulatory information identical, in whole or in part, to information to be provided pursuant to Union legal acts falling within the scope of this Regulation. Authorities should also endeavour to communicate electronically with the economic operators concerned in relation to that information. Such communication should be without prejudice to relevant provisions of Union legal acts and national law related to follow-up measures during or after regulatory information checks. The obligation for competent authorities to accept information made available electronically by economic operators should also apply whenever provisions of Union legal acts or national law falling within the scope of this Regulation require information that is also referred to in relevant international conventions such as the conventions governing the international contracts of carriage in the different transport modes, for example the UN Convention on the Contract for the International Carriage of Goods by Road (CMR), the Convention concerning International Carriage by Rail (COTIF), the IATA Resolution 672 on E-air Waybill, the Convention for the Unification of Certain Rules for International Carriage by Air (Montreal Convention), and the Budapest Convention on the Contract for the Carriage of Goods by Inland Waterways (CMNI).

(7) Since this Regulation is only intended to facilitate and encourage the provision of information between the economic operators and competent authorities by electronic means, it should be without prejudice to the provisions of Union legal acts or national law determining the content of regulatory information and, in particular, should not impose any additional regulatory information or language requirements. While this Regulation is intended to allow the compliance with regulatory information requirements by electronic means rather than by means of paper documents, it is without prejudice to the possibility for the economic operators concerned to present that information in paper format, as provided for in the relevant provisions of Union legal acts or national law, and should be without prejudice to relevant Union requirements regarding the documents to be used for the structured presentation of the information in

question. This Regulation should be without prejudice to the provisions of Regulation (EC) No 1013/2006 of the European Parliament and of the Council[(3)] concerning procedural requirements for shipments of waste and to the provisions referring to controls by customs offices. This Regulation should also be without prejudice to the reporting obligations, including those relating to the competence of customs offices or the competence of other authorities, set out in Regulation (EU) No 952/2013 of the European Parliament and of the Council[(4)] or in implementing or delegated acts adopted thereunder or in Regulation (EU) 2019/1239 of the European Parliament and of the Council[(5)].

(8) The use of electronic means to exchange regulatory information can reduce administrative costs for economic operators and can enhance the efficiency of competent authorities. Both economic operators and competent authorities would need to take the necessary measures to make possible electronic exchanges of regulatory freight transport information (eFTI) in machine-readable format via platforms based on information and communications technology (eFTI platforms), including acquiring the necessary equipment. However, the economic operators concerned should remain responsible for providing information in human-readable format whenever specifically requested by competent authorities in order to allow competent authorities to perform their duties in situations where access to an eFTI platform is not available.

(9) In order to enable economic operators to provide relevant information in electronic form in the same way in all Member States, it is necessary to rely on common specifications, which should be adopted by the Commission by means of delegated and implementing acts referred to in this Regulation.

(10) Common specifications on the definition and technical characteristics of data elements should ensure data interoperability by establishing a single comprehensive data set to be used for the electronic communication of the information. This comprehensive data set should contain all the data elements corresponding to the information requirements contained in the relevant provisions of Union legal acts and national law, where each data element that is common to one or more subsets is included only once.

(11) Common specifications should also set out common procedures and detailed rules for access and processing of that information by competent authorities, including any related communication between competent authorities and the economic operators concerned, such as requests for additional information, necessary for competent authorities to exercise their respective regulatory enforcement competences in accordance with the relevant provisions of Union legal acts and national law.

(12) When laying down those common specifications, due account should be taken of relevant data exchange specifications laid down in relevant Union legal acts and contained in relevant European and international standards for data exchange, including multimodal standards, and of the principles and recommendations set out in the Commission's Communication of 23 March 2017 entitled the 'European Interoperability Framework – Implementation Strategy', which provides an approach to the delivery of European digital public services commonly agreed by the Member

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States. Due care should also be taken that those specifications remain technologically neutral and open to innovative technologies.

(13) With a view to minimising costs for both competent authorities and economic operators, the establishment of access points for competent authorities could be considered. Those access points would act only as intermediaries between the eFTI platforms and competent authorities, and should therefore neither store nor process the eFTI data to which they mediate access, except for metadata connected to eFTI data processing, such as operation logs necessary for monitoring or statistical purposes. Member States could also agree to establish joint access points for their respective competent authorities.

(14) This Regulation should establish the functional requirements applicable to eFTI platforms which should be used by economic operators to make regulatory freight transport information available to competent authorities in electronic form in order to meet the conditions for the mandatory acceptance of this information by competent authorities, as laid down in this Regulation. Requirements should also be established for third-party platform service providers (eFTI service providers). Those requirements should ensure, in particular, that all eFTI data can be processed solely in accordance with a comprehensive rights-based access-control system that provides assigned functionalities, that all competent authorities can have immediate access to that data in accordance to their respective regulatory enforcement competences, that the processing by electronic means of personal data can be carried out in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council[(6)], and that the processing of sensitive commercial information can be carried out in a way that respects the confidentiality of that information.

(15) The Commission should adopt specifications regarding the functional requirements for eFTI platforms. When adopting those specifications, the Commission should seek to ensure the interoperability of the eFTI platforms in order to facilitate the exchange of data between such platforms and to allow economic operators to use the eFTI platform of their choice. In order to facilitate implementation and minimise costs, the Commission should also take into account relevant technical solutions and standards used by existing ICT systems. At the same time, the Commission should ensure that those specifications remain technologically neutral to the greatest extent possible, in order to encourage continuous innovation and to avoid technological lock-in.

(16) To build the confidence of both competent authorities and economic operators as regards compliance by eFTI platforms and eFTI service providers with those functional requirements, the Member States should put in place a certification system underpinned by accreditation in accordance with Regulation (EC) No 765/2008 of the European Parliament and of the Council[(7)]. To take advantage of the benefits of certification, providers of ICT systems that are already in use are encouraged to ensure that those systems comply with the requirements for eFTI platforms laid down in this Regulation, and to apply for certification. The certification of ICT systems should be carried out without delay.

(17) The use of eFTI platforms provides economic operators with guaranteed acceptance of regulatory information and provides competent authorities with reliable and secure

access to that information. Nevertheless, and notwithstanding the obligation for all competent authorities to accept the information made available through a certified eFTI platform in accordance with this Regulation, the use of other ICT systems should remain possible if a Member State so chooses. At the same time, this Regulation should not prevent the business-to-business use of eFTI platforms, or prevent the use of additional functionalities on eFTI platforms, provided that this does not adversely affect the processing of the regulatory information that falls within the scope of this Regulation, in compliance with the requirements of this Regulation.

(18) In order to ensure uniform conditions for the implementation of the obligation to accept regulatory information made available in electronic form pursuant to this Regulation, implementing powers should be conferred on the Commission. In particular, implementing powers should be conferred on the Commission to establish common procedures and detailed rules for competent authorities for the access to and processing of that regulatory information where the economic operators concerned make that information available electronically, including detailed rules and technical specifications, and to establish detailed specifications for the implementation of the requirements for eFTI platforms and for eFTI service providers. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[(8)].

(19) 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 in respect of amending 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; and amending Part B of Annex I, in order to incorporate the lists of regulatory information requirements in national law that have been notified to the Commission by the Member States in accordance with this Regulation, and in order to incorporate any new provision of relevant national law which introduces changes to the national regulatory information requirements, or lays down new relevant regulatory information requirements that fall within the scope of this Regulation that have been notified to the Commission by the Member States in accordance with this Regulation; and in respect of supplementing this Regulation by establishing and amending the common data set and data subsets in relation to the respective regulatory information requirements covered by this Regulation; and supplementing certain technical aspects of this Regulation, namely as regards the rules on certification and the use of the certification mark of eFTI platforms and the rules on certification of eFTI service providers. 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 Agreement of 13 April 2016 on Better Law-Making[(9)].

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. Furthermore,