



The INTERTRAN Research Group on Sustainable Business and Law

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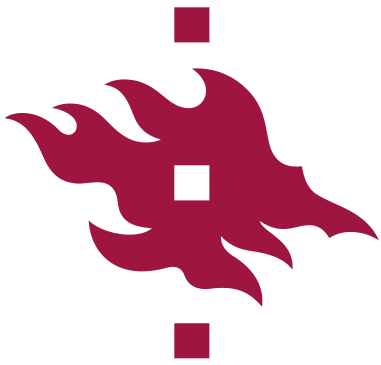


Who we are: The Inter Tran Research Group



**Interdisciplinary research in sustainable (transport) law
and business (logistics)**

**University of Helsinki & Aalto University School of
Economics, Helsinki Finland**

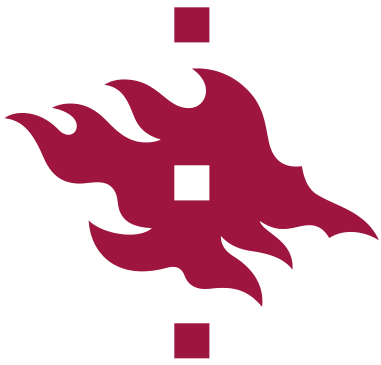


What we do: European Sustainable Carriage of Goods

1. Previous research:
2. The EU Policy goal of Sustainable Carriage of Goods and the idea of utilising **private law** as a tool.

The idea of a harmonised liability regime for multimodal contracts of carriage.

3. Our results
4. Plans for future studies



EU Internal Competence in Transport

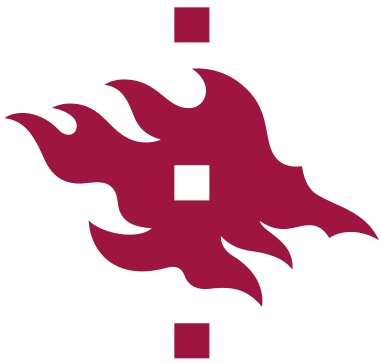
Conferred and Shared

Article 90 TFEU

The objectives of the Treaties shall, in matters governed by this Title, be pursued **within the framework of a common transport policy.**

Article 91

1. For the purpose of implementing Article 90,... the Council (and the EP) shall ... lay down:
 - (a) 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;



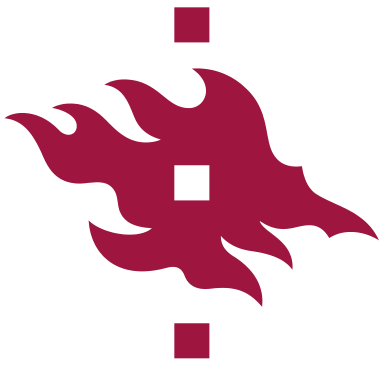
The European Union's Common Transport Policy

1992 WHITE PAPER

The future development of the common transport policy – A global approach to the construction of a **Community framework for sustainable mobility**

COM (92) 494 final

“The end of 1992 will mark the beginning of a new departure for the Community’s common transport policy (CTP).”



The European Union's Common Transport Policy

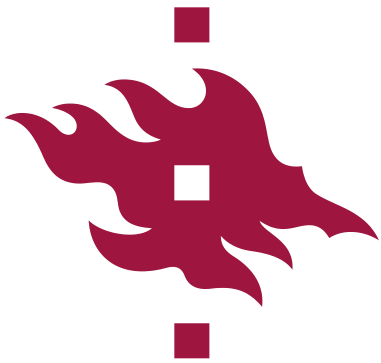
1997 **Intermodality and Intermodal Freight** in the European Union/ COM(97) 243

2001 European transport policy for 2010: time to decide /COM(2001) 370 (**shifting the balance between modes of transport**)

2006 Keep Europe moving – sustainable mobility for our continent/ COM(2006) 324 (**mid-term review**)

2007 **The Freight Transport Logistics Action Plan**/ COM(2007) 607

2009 The Future of Transport COM(2009)279

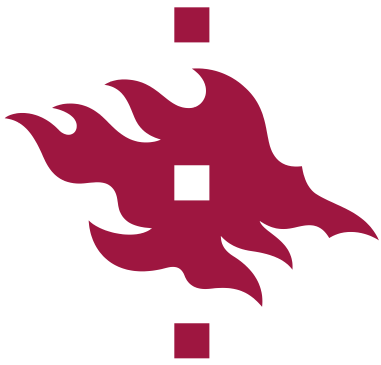


The European Union's Common Transport Policy

“ a reduction of at least 60% of GHGs by 2050 with respect to 1990 is required from the transport sector, which is a significant and still growing source of GHGs.”

“clear that transport cannot develop along the same path”

WHITE PAPER Roadmap to a Single European Transport Area –
Towards a **competitive and resource efficient** transport
system COM/2011/0144 final



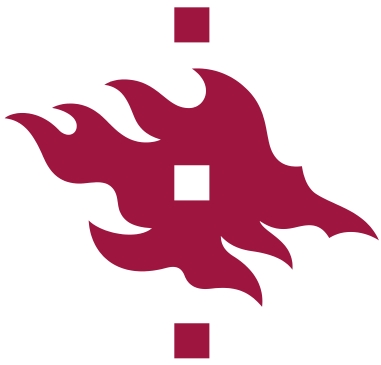
The European Union's Common Transport Policy

What path should EU transport develop along?

Developing and deploying new and sustainable fuels and **transport systems**

Optimizing the performance of **multimodal logistic chains**, including by making greater use of more energy-efficient modes

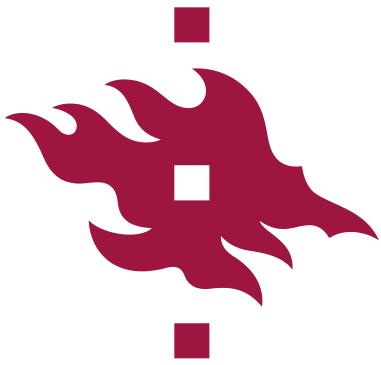
Increasing the efficiency of transport and of infrastructure use with **information systems** and **market-based incentives**



The European Union's Common Transport Policy

Create the appropriate framework to allow tracing goods in real time, **ensure intermodal liability** and promote clean freight transport:

- Put in practice the concepts of 'single window' and 'one-stop administrative shop'; by creating and deploying a **single transport document** in electronic form (electronic waybill), and creating the appropriate framework for the deployment of tracking and tracing technologies, RFID etc.).
- **Ensure that liability regimes promote rail, waterborne and intermodal transport.**



The Current regulatory situation

Hague-Visby
rules/Hamburg
rules



COTIF-CMI



CMR

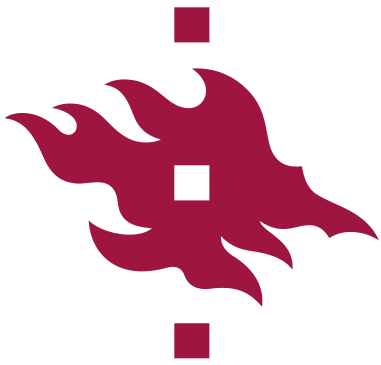


Montreal/Warzew



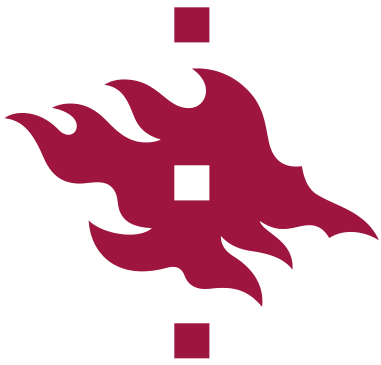
Mandatory liability rules for contracts of carriage
Governed by international conventions **agreed by national states**
Different conventions for different modes of transport

A regulatory gap in multimodal carriage on an international level



EUROPEAN UNION: Common Law, Continental Law and Nordic Law





The InterTran project – results:

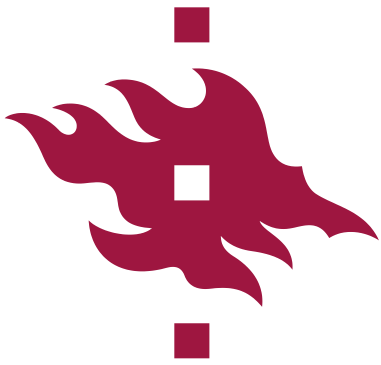
Harmonizing the liability systems will have little or no impact on transport flows

The “friction costs” are minor

Bask, Rajahonka and Eftestøl-Wilhelmsson: Are Liability Systems of any Interest in European Multimodal Transport? Views from Finnish Logistics Service Providers and Shippers. (Marlus Special Issue 2015)

Eftestøl-Wilhelmsson: European Sustainable Carriage of Goods – The Role of Contract Law. (Routledge 2015)





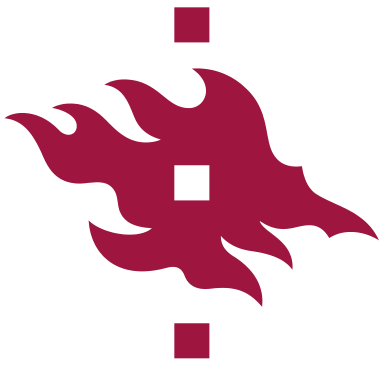
The European Union's Common Transport Policy

Promoting **more sustainable behaviour:**

Promote awareness of the availability of alternatives to individual conventional transport (COM 2011 at p.26)

How can this be achieved in carriage of goods?

- ❖ **What is the role of the Transport Integrator?**
- ❖ **What could it be?**



The Role of the Freight or Integrator

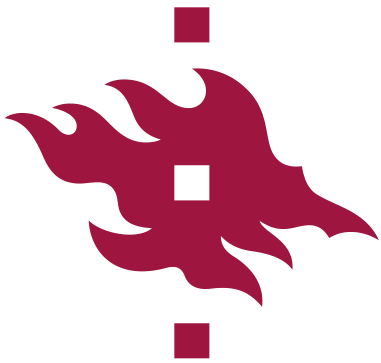
What is a Freight Integrator?

A practical definition - Carriers or Freight Forwarders that focus on green logistics.

Freight Integrators should be able to;

*“...combine the specific strengths of each mode at European and world level to offer their clients and, consequently, society at large the best service in terms of **efficiency, price and environmental impact** in the broadest sense (economic, ecological energy etc.)”*

White Paper: European transport policy for 2010: time to decide. **COM(2001)370**p. 47.



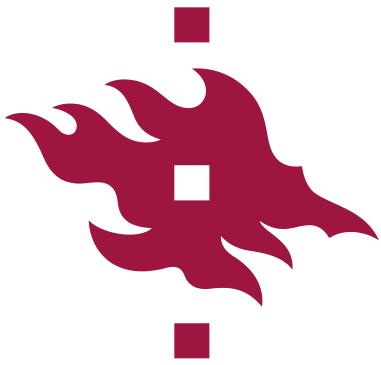
The Role of the Freight Integrator

A legal definition:

According to the 2005 EU draft, the **Transport Integrator** is a legal person that

*“concludes a contract of transport whereby ... [it] undertakes to **perform or procure** the transport of goods from a place in one country to a place in another country, whether or not through a third country, involving at least two different modes of transport, and to deliver the goods to the consignee.”*

The **2005-EU draft** Art 1. (f).



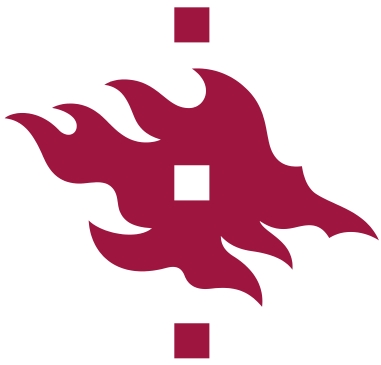
The Role of the Freight Integrator

Freight Integrators could also be defined as:

*“...transport service providers who arrange **full load, door-to-door transportation** by selecting and combining without prejudice the **most sustainable and efficient mode(s) of transportation.**”*

Commission of the European Communities: Study on Freight Integrators. Final Report, Berlin, 16.09.2003 at p. 1

They are planning the transport



Environmental obligations of the Freight Integrator

The Carrier has **an obligation to carry:**

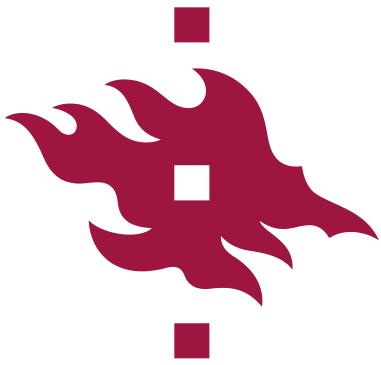
current legal framework

Ex Hague-Visby rules: “*properly and carefully load, handle, stow, carry, keep, care for and discharge **the goods** carried*”

Suggested Frameworks

Rotterdam Rules: “*properly and carefully receive, load, handle, stow, carry, keep, care for, unload and deliver **the goods.***”

*EU proposal: **same as the above***



Environmental obligations of the Freight Integrator

The Freight forwarder:

As far as the choice of method and route of transportation, this is regulated in **FIATA model rules art. 5:**

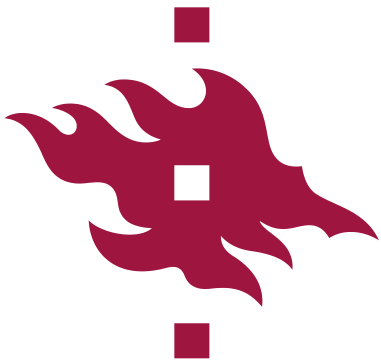
*“The Freight Forwarder shall carry out his services according to the **Customer’s instructions as agreed**. If the instructions are inaccurate or incomplete or not according to contract, the Freight Forwarder may at the risk and expense of the Customer **act as he deems fit**. Unless otherwise agreed, the Freight Forwarder may without notice to the Customer arrange to carry the Goods on or under deck and choose or substitute means, route and procedure in the handling, stowage, storage and transportation of the Goods.”*



Environmental obligations of the Freight Integrator

Promoting the Environment

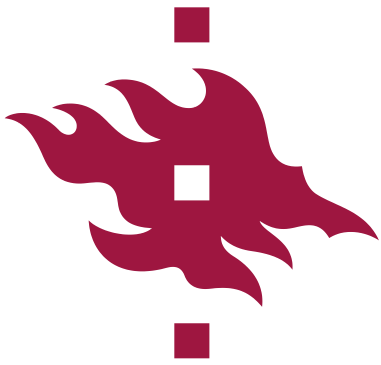
Congestion, pollution, safety. These are among the watchwords in today's society. Everyone is aware of them and it is clear that concern for the environment is the responsibility of everyone. The transport industry arguably has a greater responsibility than many, because [of] it[s] ... ever visible effects on ... [everyone's] daily life. Forwarders invest heavily in environmentally friendly transport modes and support policies for cleaner vehicle emissions."



Study on Freight Integrators 2003

The Study discloses a “hidden” potential for multimodal transport within existing unimodal transport:

The potential consists of transport which would be efficient from an economic point of view but which is still performed unimodally because transport providers **do not have the relevant information and knowledge.**

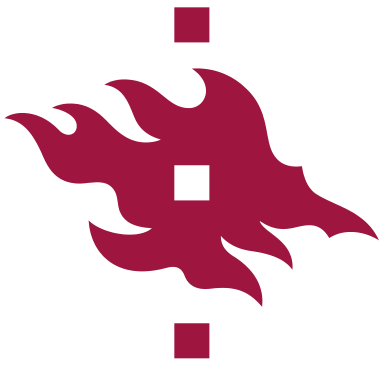


The Freight Integrator Study

Barriers to more sustainable integrated carriage of goods are identified in the Study.

These are: infrastructure and technical problems, lack of incentives, “**mentality/attitude**” and issues related to liability and documentation.

Op. cit. at 6.3.



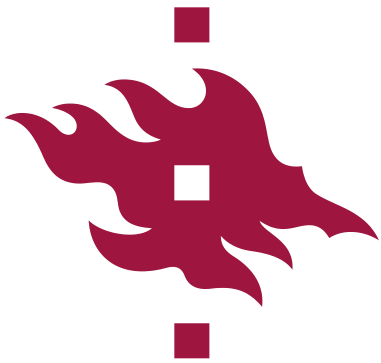
The Freight Integrator Study

“Although environmental issues are definitely on people’s minds, they do not in any way influence their behaviour”.

The desired modal shift can,, *“...only happen if no additional costs or longer transport costs would result.”*

There are *no incentives* to change this attitude:
“Companies today not engaging in the field of intermodal transportation often see no reason why they should do so”.

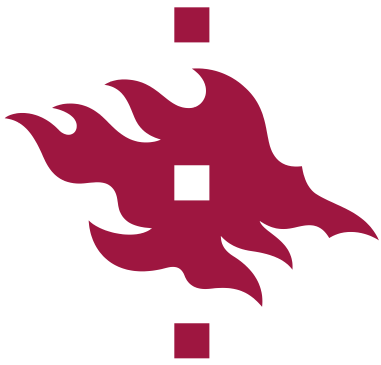
Freight Integrator Study (2003) at 6.3.7.



The Freight Integrator Study

*“If governments want more balance between the different modes of transport to become more environmental[ly] and social[ly] friendly (sustainability), they have to create the atmosphere, the legislation and control it. ... In our opinion, there are two possibilities: **Firstly, the use of intermodal transport should be obligatory where possible, defined by ... governments o[r [the] EU, for all forwarders.**”*

Op. cit. at 6.3.8.



Possible Future Environmental Obligations

A duty to chose the more environmental friendly way of transport

The proposal of the Norwegian Maritime Law Commission as regards the Rotterdam Rules

A duty to inform on the environmental costs of a specific consignment?

Requires a harmonized tool on measuring carbon footprints (COFRET project)

<http://www.cofret-project.eu/>



THANK YOU!

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