

Newsletter Issue 7/14 February 2014

MARITIME

DEBATE ON PORT SERVICES REGULATION POSTPONED

At the January Transport Committee of the European Parliament it was decided to postpone the discussion on the amendments and the vote on the proposal for a Regulation establishing a framework on market access to port services and financial transparency of ports to the 18th March. The Rapporteur Mr Knut Fleckenstein (S&D; DE) and Shadow Rapporteurs needed more time to find compromises. The vote in Plenary is now expected for 16 April.

Meanwhile, the council will have a first in-depth discussion of the articles of the COM proposal next week, 18/2.

Unfortunately, CLECAT fears that the file is not going on the right direction. So far the compromises on the table seem to weaken the Commission's text.

CLECAT, ESC and ECSA issued last month an open letter to the MEPs of the TRAN committee urging them to vote for a Ports Regulation which covers all port services, respects market functioning and ensures correct implementation of the basic Treaty principles. The letter can be viewed [here](#).

ASIA-EUROPE RATES PLUNGE AGAIN – JUST AS CARRIERS ANNOUNCE MARCH PRICE RISES

Freight rates on the “lunatic” Asia-Europe trade have once more hit a period of steep decline with the Shanghai Container Freight Index today posting its steepest weekly loss since its inception. The Shanghai-North Europe rate today stood at \$1,379 per teu, down \$188 from last week's level of \$1,567 per teu and representing a decline of 12% in just seven days. That said, the present rate is still a long way from the sub-\$500 per teu depths that was seen at points in the past couple of years.

Richard Ward, a container derivatives broker at Freight Investor Services, said the decline had hit carriers' earnings badly and he predicted further woe. “As a result, the liner industry has lost roughly \$65m in one week across the Asia-Europe tradelane. No doubt further declines will be seen in the weeks to come,” he said. The fall follows the end of the Chinese New Year holiday and the ensuing traditionally slack period, during which rates remained stable – indeed, the week before last the SCFI Shanghai-North Europe was at \$1,580.

This latest decline had also been predicted by supply chain research firm Drewry, which at the beginning of the month forecast: “Spot freight rates from Asia to Northern Europe will become

more volatile again after the Chinese New Year, and remain that way until at least the end of second quarter of 2014.” It also pointed out that, with the impending arrival of the P3 Alliance, market share was once more uppermost in the minds of senior shipping line executives.

The decline in rates comes against a backdrop of carriers once more beginning the process of trying to force prices up through a series of general rate increases, although in contrast to the incredible unanimity displayed during 2013 when carriers introduced GRIs at remarkably similar levels – now the subject of a EC investigation into whether carriers were colluding over pricing levels through signalling – the latest announcements show wildly different pricing. China Shipping and Yang Ming have separately announced an increase \$500 per teu on the Asia to North Europe and the Mediterranean legs for March 1; Maersk has chosen March 15 to implement a \$400 per teu GRI on the Asia-Mediterranean leg; and NYK has announced a GRI of \$730 per teu, also on March 15, for destinations in both North Europe and the Mediterranean.

A silver lining may come in the form of increasing confidence from freight forwarders, according to new research released by Danske Bank yesterday. Its monthly European freight forwarding index showed January’s sea freight volumes at 50, which means they were unchanged from December, while the expectations for March came in at 66, which was slightly higher than February’s figure of 65 and indicates that forwarders believe they will be handling higher volumes over the next two months.

Loadstar 14/2/14

For the [FULL ARTICLE](#)

APPROVAL ON P3 STILL PENDING

Lloyd’s List reported this week that the US FMC has now 45 days to review fresh information filed last Friday by the world’s three largest container lines. They are hoping to receive regulatory approval in the US before the end of March after submitting fresh information to the Federal Maritime Commission.

On a related issue; the Federal Maritime Commission voted Jan. 15 to request more information on a proposal to expand the G6 Alliance Agreement among six major ocean carriers. Currently this agreement authorizes the parties to share vessel space with each other and also to enter into cooperative working arrangements in the trade between Asia and the U.S. On Dec. 2 an amendment was filed with the FMC that would extend this cooperation to the major east-west trades, including between Asia and the U.S. West Coast and between Northern Europe/Mediterranean and all U.S. coasts.

The G6 proposal follows an effort to create the P3 Network Vessel Sharing Agreement, which would authorize the world’s three largest container carriers (which are different from the G6 carriers) to share vessels and engage in related cooperative operating activities on routes between Asia and Europe, Asia and the U.S., and Europe and the U.S. Early estimates put the market control of such an alliance, which participants want to launch this spring, at about 42%, 24% and 40-42%, respectively.

The FMC is taking more time to investigate both the G6 and the P3 agreements due to concerns about their effects on consumer interests, the U.S.-flag international fleet, small businesses, suppliers, and third parties such as terminals, vendors and bunker operators. The FMC notes that the P3 agreement proposes an initial deployment across all U.S. trades with an

annual capacity of 130 vessels that range in capacity between 4,000 and 12,250 twenty-foot-equivalent units, with an eventual expansion to a maximum of 180 vessels of up to 19,200 TEUs. By contrast, the expanded G6 agreement calls for the operation of 180-220 ships with a maximum capacity of 14,000 TEUs, as well as the operation of one or more service centers. Approval from Europe and Japan also remains pending.

ROAD

DISPUTE BETWEEN BULGARIA/TURKEY ON TRUCK TRAFFIC PERMITS

Between Monday 10th February 2014 and Thursday 13th February 2014, Bulgarian representatives of small and medium-sized carriers blocked the processing of trucks at the border with Turkey following an escalation on the issue of transit traffic permits. The blockade was finally lifted on 13 February 2014, after Bulgarian authorities committed to deliver 110,000 extra transit entry permits to Turkey, to start the formal negotiations which will be held on 17 February in Istanbul. According to the customs officials the normal traffic will be restored till Monday.

The dispute between Turkey and Bulgaria regarding traffic permits is not new and recent events revealed the loopholes contained in the bilateral agreement between the two countries. The meeting planned next week will be important in view to seek a solution and define some clarifications on the quotas of transit traffic permits, as the European Union has no competency on that matter.

Indeed, Commissioner Kallas stated on this matter that *“Currently the EU does not have a road transport agreement with Turkey and the EU-Turkey Customs Union does not cover transport which belongs to the sector of services. Besides, in the EU-Turkey Association Agreement the movement of goods is treated separately from the provision of transport services. In the absence of an EU road transport agreement with Turkey, Member States continue to apply their bilateral agreements.”*

Therefore, in spite of the end of the blockade, it is not excluded that there will be further protests depending on the outcomes of the negotiations between Bulgaria and Turkey. CLECAT will continue to monitor the evolution of the situation and will keep the members informed.

VOTE ON WEIGHT AND DIMENSIONS DIRECTIVE POSTPONED

On 10 February 2014, the coordinators of the TRAN committee held a meeting and decided to postpone the vote on the Review of Regulation 96/53 (Weight and Dimensions Directive), which was planned to take place on the 11th February 2014. The vote has therefore been postponed to 18 March 2014. The vote in plenary session is maintained for the plenary session of April 2014.

The reason for the delay is that the rapporteur Jorg Leichtfried (S&D/Austria) and the shadow-rapporteurs were not able to reach agreement on the wording of the compromise amendments on cross border transport of longer, heavier and higher vehicles. On 11 February, the rapporteur Jorg Leichtfried (S&D/Austria) said in the TRAN Committee that the rapporteurs were very close to a final agreement. He noted that he was satisfied with the

compromise defined with the other rapporteurs, especially on the issues related to safety and working conditions. He also said the rapporteurs were close to find an agreement on cross border transport and weight captors.

Finally, Mr Leichtfried said that some MEPs were in favour of delaying the entire proposal to the next legislature. He cautioned about the fact that the next Commissioner for Transport may have a different position on the cross border transport of longer vehicles. He warned that this manoeuvre could be counterproductive in the end.

IRU MEETS EC AND LITHUANIAN GOVERNMENT ON TIR IN RUSSIA

On the 11th of February, an IRU delegation met the European Commission to discuss the political and legal options to solve the ongoing problems with the TIR convention in Russia. A letter was sent to Commissioner Siim Kallas, and Commissioner Algirdas Semeta, co-signed by IRU's members from Estonia, Latvia, Lithuania and Poland which are experiencing problems by the restrictions because of their common border with Russia.

The letter notes explains that currently only three Russian customs office accept TIR carnets for the import of goods to Russia, exclusively at the borders of Norway and Finland, in spite of the fact that at the end of November 2013 the Russian government had confirmed that the functioning of the TIR system shall be re-established with immediate effect on the whole territory of Russia. Reference was made to discrimination of European operators vis-à-vis Russian transport operators. Most of Russian operators can freely continue their transport operations under cover of TIR carnets through the Finnish-Russian border.

The IRU is urging the European Commission to take steps to obtain a clear reply from the Russian government about whether Russian customs will reopen the TIR procedure at all Russian crossing points in the coming weeks.

In the meantime, an IRU delegation met the Lithuanian Deputy Minister of Transport, Vladislav Kondratovic, and Deputy Director of Customs, Jonas Miskinis, to discuss the ongoing TIR crisis in Russia and agree on next steps to be jointly undertaken for its resolution. Lithuania is highly impacted by the restrictions in Russia as it is amongst the biggest user of the TIR system, with 200,000 operations per year mostly to Russia.

The letter sent to Commissioners Kallas and Semeta is available [HERE](#).

Source IRU – 11/02/2014

WORKSHOP ON WEIGHTS AND DIMENSIONS OF INTERMODAL TRANSPORT UNITS

CLECAT participated in a workshop organised by the UNECE on 'Weights and dimensions of intermodal transport units (in a pan-European context)' on the 6th Feb in Paris. Moderated by Mr. Henri Maillard, former chair of the Working Party, the workshop reviewed, on the basis on concrete examples, the interoperability requirements for road, rail and inland water transport of various intermodal transport units (ITUs), particularly the pallet-wide 45 foot European container providing a loading space for 33 Europallets. The workshop noted that the safe transport by road of such rectangular ITUs would require an additional permissible loading length of around 15 cm, beyond the currently allowed 13.60 m loading length for road semi-trailers. Rail transport of such ITU was also possible without major technical difficulties

on standard container waggons even though with a loss of capacity and operational safety due to loading gaps between such units. Similarly, standard inland water vessels could transport such containers. Optimal stowage of such ITUs (i.e. four-wide) would, however, require a widening of the hold to 10.20 meter which would only be possible for newly-built vessels and with modified safety regulations.

While international road transport of 45 foot European containers is at present not allowed in the EU, France intends to transmit proposals, via its national standardization organization AFNOR, to CEN for a possible standardization of such ITUs.

The workshop also reviewed various proposals to improve the aerodynamics and road safety of ITUs that necessarily will increase the overall length of ITUs or road transport vehicles. It felt that the environmental and energy effects of such devices on road transport operations had not yet been studied thoroughly and under realistic circumstances. Also the impact of such devices, foldable or not, on intermodal transport had not yet been analysed. Concerning the present exception of a 44 tonnes gross weight as maximum permissible weight of ITUs for intermodal transport hauls to and from terminals, the workshop felt that such an exception should be applicable for all ITUs and not only for ISO containers. In many EU countries such allowances are already provided.

RAIL

4TH RAILWAY PACKAGE - CLECAT, ESC AND ERFA ISSUE OPEN LETTER TO MEPS

CLECAT, ESC (shippers) and ERFA (private rail operators) issued a joint letter asking MEPs to reject all new amendments which could jeopardize the good compromise on the 4th Railway Package reached by the TRAN Committee in December 2013.

These new amendments, drafted by the CER – representing incumbent railways - in anticipation of the Plenary vote of the 4th Railway Package scheduled for the 26th February 2014, are totally unacceptable. They seek to water down the TRAN Committee compromise on the governance part (art. 6 and 7,a,b,c) as they seek to weaken the power and independence of the infrastructure managers by calling, for instance, for the deletion of provisions for institutional separation in new cooperation agreements and the deletion of the points which note that the IM performs ALL functions.

The joint letter draws the attention of the Members of the Parliament on the importance of the 4th RP to finalize the European Railway Reform. It calls especially for the technical and administrative harmonization, competition and non-discrimination, the clear empowerment of European Railway Agency (ERA), the full independence of the IMs with ALL functions, VIU (Vertically Integrated Undertakings) BUT with strong Chinese walls, as well as the EC watch dog role and the increased role of Regulators.

There is a risk that the amendments by CER will be supported in view of the division in the EPP and the majority driven by the German (CDU-CSU) MEPs. Therefore CLECAT, ERFA and ESC have decided on the Open Letter to MEPs (and also to the Press).

The joint open letter can be found [HERE](#). More information is available in CLECAT Circular 2014/24.

UIC'S PRIORITIES TOWARDS THE IMPLEMENTATION OF RAIL FREIGHT CORRIDORS

On 11 February 2014, UIC (International Union of Railways) published a brochure entitled "Requirements of Railway Undertakings for the implementation of European Rail Freight Corridors". This brochure represents the outcome of a project launched last spring by UIC, together with Railway Undertakings (namely DB Schenker Rail, BLS, FS/Trenitalia, SNCF, CFL multimodal, Captrain, Rail Cargo Austria, Rail Cargo Hungaria, B Logistics, SBB, CP, and PKP). It presents a list of priority topics on which progress needs to be made on all corridors, in order to ensure the proper implementation of the [REGULATION \(EU\) N°913/2010](#) concerning a European rail network for competitive freight.

The brochure is highlighting 12 priorities which can be divided into three categories:

- Improve processes and coordination between Infrastructure Managers (IMs) and Railway Undertakings (RUs);
- Better cooperation between IMs along and across all RFCs to ensure seamless transport along the entire Rail Freight Corridors (RFCs) networks, with other RFCs, and along feeder and parallel/diversionary routes;
- Allow greater technical and operational interoperability across and along RFCs.

UIC advocates the greater involvement of RUs at the Management Boards and the establishment of working groups dealing with specific topics involving RUs and IMs. It also calls for ensuring interoperability along and across the RFCs, explaining that while each corridor may require specific action to improve its own freight operations, a coordinated approach to corridor improvements should be pursued across Europe.

The brochure is available [HERE](#).

AVIATION

EU-ASEAN AVIATION SUMMIT PROPOSES "OPEN SKIES" AGREEMENT

On Wednesday this week, following a 2 days EU-ASEAN Aviation Summit, the European Commission and the Association of Southeast Asian Nations (ASEAN) adopted a Joint Declaration proposing to take aviation cooperation to a new level by negotiating a comprehensive air transport agreement between the EU and ASEAN.

The Summit brought together some 300 political and business leaders including a number of EU and ASEAN Transport Ministers. The Summit discussed the rich opportunities in the EU and ASEAN aviation markets and the benefits which both the EU and ASEAN stand to achieve from greater market access and integration in air services and the aviation industry, cooperation to enhance the efficiency of air traffic management and harmonization of safety and security standards, amongst others.

Commission Vice-President Siim Kallas in charge of Transport commented: *"If Europe works together with ASEAN to the fullest extent, we can extend the proven benefits of our respective single aviation markets to a much larger inter-regional one. The Summit has created much new momentum for closer cooperation and made a convincing case for embarking on what could be a first aviation agreement in the world between two important blocs of countries like the EU and ASEAN"*.

Vice-President Kallas also announced at the Summit that he will propose to the European Commission to seek authorisation from the Council of the European Union at the earliest possible to start negotiations on an EU-ASEAN comprehensive air transport agreement.

Click [here](#) for the Press Release of the European Commission.

TRAN VOTE ON NNOISE-RELATED OPERATING RESTRICTIONS AT EU AIRPORTS

On 11 February, with 25 votes for, five against and five abstentions, the European Parliament's Committee on Transport (TRAN) approved the compromise that was negotiated with the Council of Ministers on the regulation which introduces noise-related operating restrictions at Union airports.

CUSTOMS

IMCO COMMITTEE DISCUSSED THE PROPOSAL ON CUSTOMS INFRINGEMENTS

The Commission presented its Proposal on a Union legal framework for customs infringements to the IMCO Committee of the European Parliament on 11 February 2014 (for more information please refer to CLECAT circular 2014/22).

It explained that this proposal is based on the outcomes of a project done between 2008 and 2010 together with 24 Member States. The project revealed significant differences in the way Member States are defining and treating customs infringement.

The Commission revealed that the objective of this proposal is to harmonize infringement definitions and the sanctions applied. However, the differences between Members are so important that it appeared more pragmatic to propose a Directive and not a Regulation, letting some flexibility to the Member States in the implementation of the requirements. 3 categories of infringement are defined: strict liability, negligence and intentional infringement. For each of these categories, the Commission proposes a scale of financial penalties. The severity of the infringement is defined by the value of the items concerned.

The co-rapporteurs, namely MEP's Ms C. Le Grip and Ms E. Gebhardt, welcomed the proposal of the Commission but regretted the choice of article 33 of the TEU (customs cooperation) as a legal basis. They said they would prefer the article 83.2 of the TEU which addresses criminal offences. They explained that the IMCO Committee will propose a Resolution on this proposal, because of the limited timeframe before the end of the current legislature. The next European Commission and European Parliament could use this resolution for their future works on this proposal.

The agenda planned is the following:

- 17 February 2014: proposal for a resolution will be sent to members of the IMCO Committee
- 25 February 2014: deadline for comments from the members of the IMCO Committee
- 3 March 2014: vote on the resolution in IMCO Committee
- April 2014: vote on the resolution in plenary session

CHINESE VAT - OFFICIAL CLARIFICATION OF THE VAT EXEMPTION POLICY

At the end of January 2014, the People Republic of China's Ministry of Finance and State Administration of Taxation provided clarification for freight forwarding agent companies in China with regard to Circular 106 and especially on the VAT exemption policy. It also provided clarification on the definition of "agents" of international goods transportation services.

The official interpretation given by the Chinese Ministry of Finance is good news for freight forwarders. It provides that the term "agent," as defined in Article 1.4.6 of Appendix 2 of Circular 106, does include those direct agents and indirect agents, regardless of whether they deal with the international shipping/transportation/cargo companies directly. All these agent companies should be eligible to enjoy the VAT exemption policy for their agency services. This means that shipping and airline agents who make payments to international transportation providers directly or indirectly are entitled to VAT exemption.

The Circular 106, which was released on 13 December 2013 and came into force on 1 January 2014, brought significant confusion for freight forwarders with regard to the exemption policy. According to an analysis of KPMG from December 2013, *"Circular 106 provides that the amount upon which VAT is levied is the revenue less international freight paid to international transportation enterprises. It implies that only agencies which make payments to international transportation providers (i.e. airlines and shipping companies) directly can use the net basis method. This seems to be inconsistent with the principle in Circular 106 that broadly defines "international goods transportation agency service providers". If the taxpayers eligible to benefit from these policies are only those who pay directly, the tax burden of freight forwarders providing international goods transportation agency services may still be adversely affected."*

COMMISSIONER SEMETA PLEA FOR FAIR TAX COMPETITION IN THE EU

On 11 February 2014, Algirdas Semeta, Commissioner in charge of customs, gave a speech at the Competition Forum on fair tax competition.

Mr Semeta explained the importance of fair tax competition in the EU, for the Single Market, the fiscal sustainability of the Member States, and to protect undistorted competition amongst businesses. He said however that the EU *"still faces many challenges to fair tax competition today. Global cooperation between countries in their approach to taxation is limited. An uncoordinated tax design leads to unintentional double non-taxation, and loopholes for abusive tax planners to exploit"*.

The Commissioner explained what the EU is doing to promote fair tax competition. He mentioned particularly the Code of Conduct on Business Taxation and the Action Plan to tackle tax evasion and avoidance presented in 2012.

The entire speech is available [HERE](#).

VAT: NEW REPORTS OF EC ON COLLECTION AND ADMINISTRATIVE COOPERATION

On 12 February 2014, DG TAXUD published two reports namely on VAT collection and control procedures (Seventh report under Article 12 of [REGULATION \(EEC, EURATOM\) N° 1553/89](#))

and on the application of Council [REGULATION \(EU\) NO 904/2010](#) concerning administrative cooperation and combating fraud in the field of value added tax.

The report on VAT collection and control procedures reports on the current situation observed in EU Member States regarding VAT collection and control procedure. It concludes that Member States need to modernise their VAT administrations in order to reduce the VAT Gap, which was around €193 billion in 2011 and gives individual recommendation to each Member State on where they could improve their procedures.

The report on administrative cooperation looks at how effectively administrative cooperation and other available tools are being used in order to combat VAT Fraud in the EU. It finds that more effort is needed to enhance cross border cooperation, and recommends solutions such as joint audits, administrative cooperation with third countries, more resources for enquiries and controls and automatic exchange of information amongst all Member States on VAT.

These reports are not legally binding but present the state of play regarding the implementation of EU Regulation regarding VAT. The report on VAT collection and control procedures can be found [HERE](#) and the report on administrative cooperation can be found [HERE](#).

GENERAL

POOR CONTAINER PACKING COSTING INDUSTRY MILLIONS

Analysis by specialist transport and logistics insurer TT Club has revealed that as many as two thirds of accidents that involve the loss of, or damage to, containerised cargo are thought to be caused by poor or improper packing and securing. The same conclusion is shared by the ocean carriers' Cargo Incident Notification System (CINS), where a third of incidents investigated were found to have this cause. The loss to the industry is substantial, resulting in direct expense, operational disruption and management distraction, not to mention litigation or insurance costs.

The TT Club's claims history is strewn with incidents that indicate inadequate awareness of the dynamic forces that can be encountered during intermodal transport, in addition to lack of consideration of the consequences of inappropriate load distribution within the cargo transport units (CTU). However, since the modern container typically passes through so many handling processes during its journey, it can be difficult to pinpoint liability for an incident, even where poor packing is suspected.

The importance of creating new educational tools to train operators on improving how cargo is packed has driven TT Club to develop the CTUpack e-learning™ course. This course is an online training tool for those involved in the packing and unpacking of CTU, comprising freight containers, swap bodies, trailers and suchlike used in intermodal transport.

The course takes account of the recent revisions to the ILO/IMO/UNECE* Guidelines, anticipated to be approved as a non-mandatory, but enforceable, Code of Practice later this year.

Click [here](#) to access the full article

FORTHCOMING EVENTS

- 4 March 2014, [FERRMED CONFERENCE](#): “Efficient multimodal transport in Europe through FERRMED standards’ EU Parliament in Brussels
- 6 March, [TRANSPORT WEEK](#), Gdansk
- 20-23 March 2014, HQ meeting FIATA , Zurich
- 27 March 2014, Transport Business Summit 2014, Brussels
- 15-16 May 2014, [ESPO 2014 CONFERENCE](#): “Level Playing Field between Ports: a Must or a Myth?”, Gothenburg, Sweden
- 21-23 May, [ITF SUMMIT](#), Leipzig
- 2-3 April, [MARKET PLACE SEMINAR](#), Trieste

CLECAT MEETINGS

Security Institute

- 6 May (morning)

Air Freight Institute

- 6 May (afternoon)

Maritime Institute

- 7 May (morning)

Sustainable Logistics Advisory Body

- 7 May (afternoon)

Road Institute

- 19 March 2014, Zurich (joint meeting with FIATA)

Board and General Assembly

- 3rd June, Brussels

Customs and Indirect Taxation Institute

- 13th June, Stockholm

EUROPEAN PARLIAMENT

Transport and Tourism Committee Meeting

- 20 February 2014
- 17-18 March 2014

Plenary Session

- 24-27 February 2014
- 10-13 March 2014
- 2-3 April 2014 (Brussels)
- 14-17 April 2014

COUNCIL

Transport Council

- 14 March 2014
- 5 June 2014