CLECAT
european association for forwarding, transport, logistics and customs services

NEWSLETTER
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News from Brussels

EC TAKES LEGAL ACTION AGAINST FRANCE AND GERMANY ON MINIMUM WAGE LEGISLATION

On 16 June 2016, the European Commission decided to take legal action against France and Germany owing to the consequences of the application of their respective minimum wage legislation to the road transport sector.

While fully supporting the principle of a minimum wage, the Commission considers that the systematic application of the minimum wage legislation by France and Germany to all transport operations touching their respective territories restricts in a disproportionate manner the freedom to provide services and the free movement of goods.

Following an exchange of information with the French authorities and a thorough legal assessment of the applicable French legislation, which will become applicable on 1 July 2016, the Commission has decided to send a letter of formal notice to France. This constitutes the first step in the infringement procedure.

In addition, the Commission decided to send a supplementary letter of formal notice to the German authorities. This follows the launch of an infringement procedure in May 2015 and subsequent extensive talks with the German authorities with a view to reaching an amicable solution. However, neither the reply of the German authorities to the letter of formal notice nor the subsequent discussions have dispelled the Commission's main concerns.

In both cases, the Commission considers that the application of the minimum wage to certain international transport operations having only a marginal link to the territory of the host Member State cannot be justified, as it creates disproportionate administrative barriers, which prevent the internal market from functioning properly. The Commission considers that more proportionate measures should be taken to safeguard the social protection of workers and to ensure undistorted competition, whilst allowing for free movement of services and goods. The French and the German authorities now have two months to respond to the arguments put forward by the Commission.

Source: European Commission (full press release available here)

CLECAT SUPPORTS EC ON LEGAL ACTION

Nicolette van der Jagt, Director General of CLECAT has welcomed the Commission’s decision as the French decree is too complex and burdensome for companies and would disrupt the internal market. She said: ‘We are pleased with the Commission’s decision. The application of this new employment rule needs to be reconsidered because, as stated by the Commission, it would restrict in a disproportionate manner the freedom to provide services and move goods in the EU.‘

Under the new French law, foreign vehicles operating on French soil will have to implement new reporting requirements to demonstrate compliance. This includes submitting a ‘posting’ certificate for each worker, which must be renewed every six months, and appointing a company representative in France to liaise with staff of the enforcement body for the duration of the transport operation and for 18 months following. With less than two weeks before the deadline, the French government has still not given full guidance to foreign operators.

The IRU called earlier this week on French authorities to introduce a moratorium on the Loi Macron enforcement for international transport operators as of 2 July 2016. “Already in March 2015, more than one year ago, we voiced our concerns about the practical implications of Loi Macron if the implementation is not thoroughly explained, in consultation with the industry,” said Michael Nielsen, who leads IRU’s work in the EU. ‘Two months ago, IRU submitted more than 40 legal and practical questions to the French administration on Loi Macron in order to inform our members. Until today this IRU request remains unanswered.’

TEN-T DAYS 2016

CLECAT is looking forward to attend the TEN-T days next week in Rotterdam. Of particular interest is the Business Conference on the Rail Freight Corridors organised with the Dutch Presidency on the 21th June. Rail freight stakeholders and their customers will be calling for a stronger cooperation on and among rail corridors.

CLECAT is also joining the workshop on “China One Belt One Road: opportunities and challenges for the EU.” Interesting questions will be discussed such as: ‘will the OBOR projects correspond to the real economic and transport needs.’ Uncoordinated investments in capacity, for example in ports or terminals, bear the risk of creating overcapacity. It seems clear that there is a need for coordination and complementarity between the EU plans and the Chinese ‘connectivity’ plans.

This year, the TEN-T Days 2016 features a dedicated "Investors Conference" on how to boost funding and financing in transport infrastructure. The "Investors Conference" will target investors, project promoters, Member State representatives, European Coordinators and the EIB in a number of interactive working sessions in order to give practical advice on how to successfully use the opportunities offered by the Investment Plan for Europe as well as the Connecting Europe Facility.

CLECAT's Board, General Assembly and Rail Logistics Institute will also meet in Rotterdam next week in conjunction with the TEN-T days.

EC INJECTS €6.7 BILLION IN TRANSPORT INFRASTRUCTURE

The European Commission published today a list of 195 selected transport projects that will receive €6.7 billion of funding under the Connecting Europe Facility (CEF).

In a press release issued today by DG MOVE it was noted that 'this investment is expected to unlock additional public and private co-financing for a combined amount of €9.6 billion. The selected projects will notably contribute to the digitalisation and decarbonisation of transport, in line with the broader political agenda of this Commission. The Member States eligible for the Cohesion Fund received almost 85% of the funding, which will help bridge the infrastructure disparities across the EU.'

Launched in November 2015, the second CEF calls for proposals generated 406 eligible project proposals. With €12.49 billion of requested EU funding, the calls were widely oversubscribed. The Commission has selected the projects with the highest European added value, while guaranteeing a balanced distribution geographically and between the transport modes. €5.6 billion has been earmarked for Member States eligible for the Cohesion Fund.

EU Commissioner Bulc said, "The total investment of €9.6 billion could create up to 100,000 jobs in the European economy by 2030. The projects will make European infrastructure safer, more sustainable and more efficient for passengers and business alike. I am pleased to see that the Western Balkan Region will also receive some funding, bringing its transport infrastructure closer to the EU's."

The EU's financial contribution is made in the form of grants, the co-financing rate of which is between 20% and 50% of the eligible costs of a given project, depending on its type. As regards projects submitted under the Cohesion call, the maximum co-funding rates can go up to 85% of the eligible costs.

The proposed funding decision must now be formally approved by the Connecting Europe Facility Coordination Committee, which will meet on 8 July 2016. Adoption of the decision by the Commission is expected for end July 2016. The individual grant agreements will then be prepared by the Innovation and Networks Executive Agency (INEA) and signed with the project beneficiaries in the second half of 2016.

Source: DG MOVE

2016 BENELUX REPORT ON FREIGHT TRANSPORT

CLECAT participated yesterday in a panel debate during the official launch of a study on the importance and added value of freight transport in the Benelux. This report was handed to the General Secretariat Benelux, to the transport sector of the Benelux countries, in the presence of M. Zakonjšek, Head of Cabinet for Commissioner Bulc.

Welcoming the report, Mr Zakonjšek noted that the conclusions of this study could and should be used for Europe. CLECAT's DG Nicolette van der Jagt said in the panel debate that the Benelux has been a success story, in particular for road transport. The Benelux is a forerunner in reaching an Internal Market for Transport. The Benelux allows the cross border transport of EMS vehicles, 44 tonnes trucks, 45 ft containers. Of all German states, Nordrhein-Westfalen is by far the most important trade partner of the Benelux. Even so, trade between the Benelux and Nordrhein-Westfalen can still be boosted further. The large volume makes it possible to set up innovative logistics services (e.g. truck platooning but equally allowing for EMS vehicles), and closer cooperation between the Benelux and Nordrhein-Westfalen can contribute to this. Also pilots with platooning in both road and inland waterways, which are upcoming, demonstrate that the Benelux can be a great testing lab for innovative and cross border projects which are all seeking to increase sustainability of transport.

One of the recommendations was that policy attention is needed in order to be able to continue to handle the relatively large and still growing volume of freight transport in the Benelux in an efficient and sustainable manner in the future as well. The Benelux is the hub for international freight transport in Europe. The recommendation is to keep the smooth and sustainable handling of the flows of goods high on the policy agenda in the Benelux in terms of infrastructure, multimodal transport, regulations, traffic management (e.g. ITS) and availability of alternative fuels. The focus is on active collaboration and coordination of policies in the Benelux Union in order to in particular make possible the administrative simplification and computerisation of the documents associated with the various modes of transport. An active participation in and fast execution of activities in the three corridors of the TEN-T network in the Benelux is also desirable in order to achieve a more optimal use of that network.

The 2016 Benelux Report on Freight Transport is available here.

Road

EC PUBLIC CONSULTATION ON ROAD TRANSPORT

Earlier this week the European Commission launched a public consultation to review Regulation (EC) No 1071/2009 on access to the occupation of road transport operator and Regulation (EC) No 1072/2009 on access to the international road haulage market.

These Regulations were adopted as part of a package of measures aimed at modernising the rules governing admission to the occupation of road transport operator and access to the international road transport market. The Regulations aimed to support the completion of the internal market in road transport, its efficiency and competitiveness, while guaranteeing a level playing field.

Based on studies performed by the European Commission and based on a big stakeholder conference in April 2015, the European Commission is preparing a set of legislative proposals to make the European road transport sector perform better – both in terms of costs, social conditions and from an environmental perspective. The Commission has on several occasions noted that certain rules are unclear and are implemented differently depending on the Member State. This is the case regarding restrictions on cabotage for example. The Commission plans to update the current rules to make it easier to enforce them, to cut red tape and reduce the administrative burden. Road transport operators will become more competitive, which will foster job creation.

This consultation will last for 12 weeks. Questionnaires should be returned by 15 September 2016 at the very latest.

More information on the public consultation is available here.

DENMARK AND FINLAND FAIL TO COMPLY WITH CABOTAGE RULES

The European Commission decided yesterday to refer Denmark and Finland to the Court of Justice of the EU for failing to properly apply the "cabotage" rules, as laid down in the Regulation (EC) 1072/2009 on access to the international road haulage market.

The European Commission decided today to refer Denmark and Finland to the Court of Justice of the EU for failing to properly apply the "cabotage" rules, as laid down in the Regulation (EC) 1072/2009 on access to the international road haulage market.

The Regulation allows hauliers with a Community licence to perform up to three national carriage operations in a Member State other than their own, following the unloading of an international transport, a practice known as "cabotage". There are no further restrictions under EU law.

Finnish law, however, limits cabotage to ten operations in a three-month period. The Commission considers that this additional restriction is not warranted. Additionally, under the Regulation each cabotage operation may involve several loading and unloading points. However, Finnish law considers that each loading or unloading constitutes a cabotage operation. Under Danish law, a single cabotage operation can involve several loading 'or' unloading points, but not both. In the Commission's view, these further restrictions are also not warranted.

The European Commission sent reasoned opinions to the Danish and Finnish authorities on 24 September 2015 and 29 April 2015, respectively. As Denmark and Finland have failed to bring their legislation in line with EU law, the European Commission has decided to refer both Member States to the Court of Justice of the EU.

The Commission is aware that the Finnish Parliament will shortly vote on a draft Government decree which could adequately address its concerns. If the adoption of this decree is confirmed, the Commission will reconsider the decision adopted today.

Source: DG MOVE Press Release

EC PUBLISHES STUDY ON EU SOCIAL RULES IN ROAD TRANSPORT

The European Commission has published the ex-post evaluation in road transport social legislation evaluating Regulation (EC) 561/2006, Directive 2002/15/EC and Directive 2006/22/EC.

All three pieces of legislation had the general objectives to ensure a level-playing field for drivers and transport operators, improve and harmonise working conditions and improve road safety levels across the EU.

The study provides insights into the effectiveness, efficiency, relevance, coherence, EU added value and coordination of the legislation. The findings have been based on analysis of reporting data for national authorities, literature review and on consultations with national transport ministries, enforcement authorities, associations, undertakings, trade unions and drivers across the EU. The study's authors have made a number of recommendations to improve the functioning of the social legislation in road transport.

Road social legislation is found to remain a relevant and proportionate tool to address the three **risks** of the sector - 1) an unlevelled playing in the transport market, 2) deterioration in social and working conditions of drivers and 3) deterioration in road safety levels – especially since market competition in the road transport sector has become increasingly intense and this exacerbates the risk of non-compliance by undertakings or drivers who are under greater pressure to remain competitive.

One of the recommendations is to improve the enforcement of the co-liability principle. It is recommended to:

- Issue guidance (or clarifications) at a European level, which define the duties, roles and responsibilities of different parties in the subcontracting chain.
- Raise awareness of the road social rules among the clients of transport operators by promoting best practice examples.
- Analyse the impacts of introducing mandatory co-liability in an Impact Assessment.
- Consider introducing co-liability provisions into the Working Time Directive.

The full report can be found on the Commission's website here.

CALAIS MIGRANTS 'USING GAS BOTTLES IN TRUCK BARRICADES'

Migrants are using increasingly dangerous methods in their attempt to stop and enter trucks heading for the port of Calais, police sources have claimed. Unions representing police officers said that in the past fortnight, migrants had begun resorting to burning mattresses, tree trunks, and branches and placing them near gas bottles as they seek to barricade the ring road leading to the Channel port, in order to force trucks to slow down or stop. "If a vehicle hits a barricade where there is a gas bottle, the consequences will be extremely serious," one official warned. Officers were being advised "to intervene with prudence", with police "overstretched and taking more and more risks".

Tighter security in place at Eurotunnel's French terminal since the end of last year has made intrusions very rare there, leaving the ring road as the main focus of migrant incursions. An indication that the dismantling of part of 'The Jungle' camp earlier this year has had little effect came last month when, in a single night, police found around 250 migrants hiding in more than 80 HGVs. Several days later, a second major incident saw police fire more than 400 tear gas grenades in order to disperse migrants who had set up at least five barricades on the ring road - two of which were on fire - and were attempting to gain entry to trailers.

The police union official complained that the number of police patrolling the ring road had diminished since the beginning of the year, when the situation had demanded reinforcements.

Work to install anti-intrusion fencing along the ring road is due to be completed by the middle of this month. There are also plans to build a 'green' wall four to five metres high along the ring road, with the €700,000 project to be financed by the UK authorities.

Source: Lloyd's Loading List

4TH RAILWAY PACKAGE TECHNICAL PROVISIONS ENTER INTO FORCE

On the 15th June the technical provisions of the Fourth Railway Package entered into force. These are a series of measures adopted by the European Parliament and the 28 Member States to make European railways more innovative and competitive. They will in particular promote common EU rail standards and approvals, thereby contributing to the competitiveness of the rail sector and to the creation of a deeper internal market.

From now on the European Railway Agency (ERA) will in particular streamline the large number of national technical rules and develop an improved safety culture in Europe. After a three year transition period, ERA will be empowered to issue single EU-wide certificates for rolling stock and railway undertakings. This will significantly cut red-tape and administrative costs for companies, as they previously had to get authorisations in each Member State of operation.

Source: DG MOVE

GERMANY FAILS TO FULFIL ITS DUTY OF SINCERE COOPERATION

Yesterday, the European Commission decided to refer Germany to the Court of Justice of the EU owing to the conduct adopted by the German authorities at the 25th session of the Revision Committee of the OTIF held in Bern, Switzerland, on 25-26 June 2014.

Germany voted against two of the proposed amendments to the Convention concerning International Carriage by Rail (COTIF), contrary to the European Union's position as established by way of Council Decision 2014/699/EU, and it openly distanced itself from the vote that had been cast in accordance with that decision. In one of the two cases, where that decision provided for the exercise of the voting right by the Union itself and where the Union had voted accordingly, Germany openly contested this exercise of the voting right by the Union.

By adopting such conduct, Germany failed to fulfil its obligations under this Council Decision as well as under Article 4(3) of the Treaty on EU, which establishes the principle of sincere cooperation. In so doing, Germany weakened the Union's position in its discussions with its international partners.

More information available here.

RAIL AS KEY TO DECARBONISING TRANSPORT

The upcoming Communication of the Commission on transport decarbonisation should take into account rail's environmental performance vis-à-vis comparable transport modes and therefore aim at turning the modal shift objectives of the 2011 Transport White Paper into a reality.

This was the main message of Rail Forum Europe's dinner debate held in Brussels on 15th June and sponsored by Transport & Environment. Jos Dings, Transport & Environment Executive Director, highlighted that the upcoming Communication on decarbonisation and the Effort Sharing Decision are a tremendous opportunity for rail to enhance its role in the near future. He stated: "Efficiency and electrification are key to decarbonising the EU transport system. The EU needs to make sure that investment made in transport infrastructure is in line with our climate objectives. Railways have a big opportunity to contribute to reducing CO2 emissions from the sector but change is needed to make rail more customer-orientated. This is key to attracting more passengers and companies onto the tracks."

Johan Gemels, B Logistics Business Development Manager, explained how B Logistics significantly increased its market share by radically changing internal logistics procedures, in order to launch products that respond better to the customer needs. This led to reduced greenhouse gas emissions and increased revenues for the company. He said: “In order to increase its market share, rail should change its way of thinking. B Logistics demonstrates that modal shift from road to rail can be triggered without significant investments in infrastructure and rolling stock; however, in order to improve interoperability and to truly boost modal shift, regulatory support is crucial.”

Jocelyn Fajardo, Member of cabinet of European Commissioner for Transport Violeta Bulc, provided an overview of the Commission’s initiatives aimed at ensuring that rail can contribute effectively to transport decarbonisation and referred to the upcoming Commission’s Communication on transport decarbonisation. He concluded: “Rail, which is already one of the most decarbonised modes of transport, has an important role to play to achieve our climate targets. But to do so, the rail sector needs to become more attractive to passengers and businesses.” Intervening in the open discussion, Alberto Mazzola (FSI and member of the European Economic and Social Committee) referred to the EESC position on COP21 and transport and stressed the importance of linking decarbonisation and transport investments. “The Commission’s evaluation of EU-funded projects should take into account the objectives of COP21. Rail shall be integrated with other modes in a network to get the best out of the transport system,” he said.

Source Rail Forum Europe, 16th June 2016

Maritime

EUROPEAN FORWARDERS LEADING VGM PREPARATIONS

According to INTTRA president Inna Kuznetsova, European forwarders are leading the way in their verified gross mass (VGM) preparations with advance testing of their processes and systems ahead of the 1 July deadline for new container-weighing rules.

INTTRA has played a leading role in coordinating the freight sector’s response to the changes. Meanwhile, some cargo owners are making progress but trailing a little further behind, and many businesses in parts of Asia and Latin America are still awaiting information from their respective authorities, while a lot of companies may not have even started the process yet, the electronic marketplace and information service provider believes.

In an interview with Lloyd’s Loading List, INTTRA president Inna Kuznetsova told that some of the top European freight forwarders and carriers are very far ahead in testing their software and processes – and the equally important task of preparing their customers and staff for the changes required by the amendments to the IMO’s Safety of Life at Sea (SOLAS) convention.

Alongside the world’s biggest ocean freight forwarder, Kuehne + Nagel – which announced last month that it would use INTTRA’s eVGM software as its exclusive channel to communicate its VGM information to ocean carriers – were dozens of other companies that are less active in their communications but who are working hard on preparing for the changes ahead of the 1 July deadline, using INTTRA’s eVGM products.

The full blog is available here.

Customs

DG TAXUD OPENS ITS YOUTUBE CHANNEL

On 16 June 2016, DG TAXUD announced the opening of its Youtube channel dedicated to EU Taxation and Customs Union, following several EU Commission departments which had already done so.

This dedicated channel gives access to several types of information in video format: Commissioner's speeches, announcement of new legislations, tutorials on specific topics, etc.

Several videos related to the UCC and the VAT Action Plan have already been published online.

The DG TAXUD Youtube channel is available here.

Sustainable logistics

"AVIATION'S GLOBAL OFFSETTING SCHEME: FLIGHTPATH TO THE ICAO ASSEMBLY"

On 16 June 2016, CLECAT attended an event organised by ATAG (Air Transport Action Group), an independent coalition of members organisations and companies throughout the global air transport industry, and entitled "Aviation's Global Offsetting Scheme: Flightpath to the ICAO Assembly". The event was hosted by Ismail Ertug MEP (S&D/Germany) at the European Parliament. Around 30 representatives from the European institutions, NGOs, the air transport and logistics industry attended the meeting.

The aim of the meeting was to discuss the September ICAO General Assembly during which a global aviation climate agreement should be adopted. The agreement should lead to the implementation of a Global Market-Based Measure (GMBM) scheme in the form of the Carbon Offsetting Scheme for International Aviation (COSIA), to address any annual increase in total CO_2 emissions from international aviation above the 2020 levels. The discussions focused on the need for aviation to get this global agreement and the remaining issues to be addressed at ICAO level.

The conclusions of the meeting were the following:

- Stakeholders are calling for one single global system for the monitoring, reporting and verification of aviation emissions, instead of fragmented ones;
- Stakeholders are optimistic on the chances of reaching an agreement during the September ICAO General Assembly but the content of the agreement is still unknown and will depend on the political will of ICAO members;
- This agreement answers to a specific objective for aviation related to CO_2 emissions, but it was said that work should be pursued on alternative ways to reduce aviation environmental footprint such as new technologies and the upgrade of the infrastructures.

General

ENVIRONMENTAL COUNCIL MEETING

On 20 June, during the Environmental Council of the European Union, the Ministers will adopt a statement on the ratification of the Paris Agreement, the global legally-binding agreement on climate agreed in December 2015. Ministers will also hold a policy debate on the revision of the emission trading system (ETS), one of EU's main tools to reduce greenhouse gas emissions. The European Commission presented its proposal in July 2015 and the Council is currently analysing the text before starting negotiations with the European Parliament. Moreover, the Council will also address the proposed directive on the reduction of national emissions of certain atmospheric pollutants, the so-called NEC directive.

Furthermore, the Council is expected to adopt conclusions on the EU action plan for the circular economy, which aims to maintain the value of products, materials and resources in the economy for as long as possible and reduce waste. Under any other business, the Council will address emissions by diesel cars and endocrine disruptors. The Slovak delegation will present its working programme as incoming presidency (July-December).

Forthcoming events

CLECAT MEETINGS

Board/General Assembly
22 June 2016, Rotterdam

Rail logistics institute
22 June 2016, Rotterdam

Road Logistics Institute
20 October, Berlin

Sustainable Logistics Institute
20 October, Berlin

Supply Chain Security Institute
21 October, Berlin

Air Logistics Institute
21 October, Berlin

OTHER EVENTS WITH CLECAT PARTICIPATION

TEN-T Days and Dutch Presidency Conference
20-22 June, Rotterdam

Rail Freight Corridors' Business Conference
21 June, Rotterdam

UIC Global Rail Freight Conference
22-23 June, Rotterdam

T&E Rail Freight Workshop
5 July, Brussels

ELP Forum
15 November, Brussels

FEPORT Second Annual Stakeholders' Conference
1 December, Brussels

EP/COUNCIL MEETINGS

European Parliament
Transport and Tourism Committee
11/12 July, Brussels
1 September, Brussels

Council of the European Union
14 October 2016 - Transport, Telecommunications and Energy Council

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