CLECAT european voice of freight logistics and customs services •

Newsletter Issue 46 / 18 December 2015

NEWS FROM BRUSSELS

Dutch EU Presidency Website launched

The upcoming TRIO Presidency is getting ready for eighteen months of successful collaboration. In the first semester of 2016 The Netherlands will chair the meetings of the EU Transport Council, followed by Slovakia in the second semester of 2016 and Malta in the first semester of 2017. The WEBSITE of the NL Presidency was launched this week. During its EU Presidency, the Netherlands will focus on:

- the European Aviation Safety Agency (EASA), drones and mandates for aviation negotiations. The Netherlands hopes to bring about a number of agreements
- the Fourth Railway Package and the proposed Port Services Regulation. During its Presidency the Netherlands hopes to reach an agreement with the European Parliament on these issues.
- Intelligent Transport Systems (ITS). The Netherlands wants to move developments forward and encourage collaboration.
- the Innovation Expo, where various innovations can be seen and experienced.

The Presidency wants to show that Europe is about more than regulation. It about progress through the exchange of knowledge, innovation and best practice. The combined informal Environment and Transport Council will take place on 14 and 15 April 2016. This will be the first time that the EU environment and transport ministers have met informally to discuss smart and green mobility. The overarching theme of the combined informal Environment and Transport Council will be innovation in technology and policy to produce green and smart solutions for mobility. The Dutch Presidency will organise only one Formal Transport Council (7 June Luxembourg).

CLECAT had the opportunity to discuss the priorities and events organized by the Dutch Presidency, at an informal meeting organized by the Dutch Permanent Representation and hosted by the TRIO Presidency (NL, Slovakia and Malta) in Brussels last week. During round-table debates stakeholders discussed expectations and suggestions of TRIO Presidency.

CLECAT adopts position paper on EU Aviation Strategy

CLECAT adopted today a position paper on the new EU Aviation Strategy, which was published by the European Commission on 7 December. The CLECAT position welcomes the Commission's initiative in assessing the competitiveness of European aviation and the EU's place in a global aviation market, but stresses that actions to ensure fair global competition for European airlines must not lead to protectionism. The position paper calls for cargo issues to be fully integrated into the policy proposals which are necessary to implement the strategy's broad goals.

This includes a call for the Commission to examine granting fifth freedom rights to all-cargo services, and removing existing barriers to internal EU flights which then continue to a third country. CLECAT also calls for the Commission to readdress the state of the ground handling market by allowing liberalisation and greater competition, to focus on removing barriers to the uptake of digitalisation in air cargo, and to pursue a coordinated approach to cybersecurity in aviation.

The aviation strategy will be the subject of a hearing in the European Parliament Transport Committee on 22 December, which CLECAT will follow.

The position paper may be found HERE.

ROAD

DSLV publishes German Freight Forwarders' Conditions 2016

On Monday this week the German Association for Freight Forwarding and Logistics (DSLV) published the new version of the most commonly used general conditions in Germany, the Allgemeine Deutsche Spediteursbedingungen (ADSp 2016). DSLV recommends the use of the new ADSp as of 1st of January 2016.

The ADSp 2016 have been modernised and adapted to the existing legislation and recent case law as well as current developments in the freight forwarding practice. Although the associations of shippers have opted out of the process of publishing joint conditions, DSLV ensured that the modernised ADSP strike a balance of interests for both sides of the market. With this DSLV wants to keep the opportunity for joint general conditions together with the shippers in the future.

The ADSp 2016 include for the first time clauses for electronic communication and documentation. In addition, provisions have been added, which specify legal rules for loading and unloading, demurrage and pallet exchange. Although the associations of shippers are no longer involved in the revision of the new ADSp, numerous interests of the clients were taken into account in the new conditions. The liability clauses are now based clearly on the legal principles of the German Commercial Code (HGB) and the liability was increased from 5 €/kg to 8.33 SDR/kg (app 10.50 €/kg).

Today, more than 90 percent of all freight forwarding and logistics companies work in Germany on the basis of ADSp. DSLV is convinced that the ADSp 2016 will retain their high market acceptance - both for freight forwarding and logistics companies as well as on the shippers' side.

The German version of the ADSP 2016 is available HERE. English versions will be published in January 2016.

IRU begins important safety work in European i_HeERO Project

IRU Projects begins an important transport safety related work, as part of the European Commission funded i_HeERO project. The project seeks to speed up the deployment of eCall for commercial vehicles and develop the important safety link with eCMR electronic waybills that detail vehicle cargos. At the first working meeting IRU Projects has bought together a consortium of partners, from 16 EU Member States, across the transport and technology sectors. The aim of the i_HeERO project is to maximise the safety potential for road transport operators and the wider travelling public from the development of automated in-vehicle safety systems. These systems automatically alert emergency services in the event of road traffic accidents, reducing response times and providing accurate location information to first responders.

Zeljko Jeftic, who leads IRU Projects' work said, "This is an important initiative for IRU Members and the wider public that could see significant safety gains across the European Union. I am pleased that IRU Projects is able to bring its extensive knowledge and experience to this European funded project." Mr Jeftic added, "As eCall is rolled out across the European Union I hope that the work we are ramping-up today will underline the major safety benefits that can be additionally achieved by linking with other electronic data systems such as eCMR. I hope this encourages the widespread uptake, by EU member states, of digitised transport documents. Digital transport documents are essential for further efficiency improvements of transport operations, but could also provide a strong contribution to increased road safety.
Source: IRU, 15th December 2015

TAPA to address Secure Parking

Every day all over Europe truck drivers transporting loads of high value, theft attractive cargoes are being forced to park in unsecured parking locations when they need to take their mandatory rest breaks. This is one of the main contributing factors to the growing number of cargo crimes involving truck-based thefts. The professional secure truck parks that do exist are not always located in the right places for transport operators while in some of the main crime hotspots on the continent, companies say there are no secure parking options available to them. It is clearly a situation that has to be addressed – and TAPA EMEA has in its December issue Vigilant issued an interesting article on how they seek to address these issues.

It is well documented by TAPA that the vast majority of cargo crime incidents are now related to trucking (theft from vehicle, hijacking, fraudulent pick-up, theft from a moving truck etc). In last month's Vigilant, of all the cargo crimes reported to IIS during October 2015, over 83% involved a truck in one way or another and 63.9% of these incidents occurred at unsecured parking locations.

RAIL

Shift2Rail launches first calls for projects worth €170 million

Shift2Rail, the Joint Undertaking backed by the Commission and the rail industry, has published its first calls for proposals, endowed with €170 million to support innovation in railways. The Commission will contribute €90 million, with the other €80 million being brought by the members of Shift2Rail. In order to be funded, projects will have to demonstrate their ability to increase the quality, reliability and punctuality of rail services while cutting its costs and facilitating cross-border travel.

This first batch of calls covers the five Shift2Rail Innovation Programmes and is split into two categories: calls reserved for Shift2Rail Joint Undertaking members only, for a total value of €63.7 million, and open calls for a total value of €26.1 million. The open calls will be available to companies, universities, research institutes and others who are not Shift2Rail members.

Violeta Bulc, European Commissioner for Transport said: *"Investing in innovation is critical to create jobs and get Europe to grow, two main priorities of the Commission. With today's calls for proposals, we want to pool the expertise from stakeholders towards these goals. Keeping European rail at the forefront of innovation will open new markets globally for our companies. It will also make rail more* *attractive for passengers and businesses. This is essential to reach our ambitious transport decarbonisation objectives."*

The calls for proposals and all relevant documents are accessible via the PARTICIPANT PORTAL and the SHIFT2RAIL JOINT UNDERTAKING WEBSITE.

AIR

COURT OVERTURNS €790M EU AIR CARGO CARTEL RULING

The General Court of the European Union has annulled the air cargo price-fixing ruling by the European Commission and penalties of around €790 million against 11 airlines, on “procedural grounds”, concluding that the European Commission’s case was “incoherent”. The decision by the EU’s second-highest court makes no judgment on whether the 11 airlines in question did engage in price-fixing, but instead concluded that there were inconsistencies in the arguments made by the European Commission in its case.

In November 2010, eleven airlines were fined by the European Commission for their participation in an alleged cartel in air freight, following investigations initiated by the European Commission on 14 February 2006. The European Commission in a 2010 finding said that 11 air cargo carriers fixed surcharges for fuel and security costs from December 1999 to February 2006.

Air France received the biggest fine of €182.9 million while KLM came in second at €127 million. The two carriers merged to form Air France-KLM in 2004. Other airlines found guilty of alleged price-fixing included: Air Canada (€21m), Martinair, British Airways (€104m), Cargolux (€79.9m), Cathay Pacific Airways (€57m), Japan Airlines (€35.7m), LAN Chile (€8m), SAS (€32m) and Singapore Airlines (€74m). The airlines subsequently challenged the EU antitrust enforcer's decision. Lufthansa, which escaped a sanction because it blew the whistle on the cartel, also took legal action. Qantas, which had been fined €8.9 million, did not challenge the Commission's decision.

The General Court of the European Union yesterday announced that it agreed with the airlines’ arguments, annulling the 2010 decision by the European Commission. The court backed the airlines' view that the Commission had considered four distinct cartel infringements, while the grounds for its decision was based on the sense of there being one single and continuous period of wrongdoing. The court said that penalised companies must be able to understand and to contest liability. “The grounds and the operative part of the decision are contradictory,” the judges said.

A spokesman for the General Court of the European Union told *Lloyd’s Loading List.com* that the European Commission now had the option to appeal against the decision or to begin the process to take a new decision – or do nothing. An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision. A spokesman said there had been several instances in the past in which the Commission had opted to take a new decision following an annulment of a cartel decision on ‘procedural grounds’ by the General Court.

The Commission did not immediately indicate whether it would appeal.

Lufthansa Cargo, which received immunity in the decision of the EU in 2010 and therefore is not directly affected by the decision, said it would review the court decision, particularly its potential implications for civil claims made against cargo carriers by shippers and freight forwarders. “We will now closely examine what today's decision means for Lufthansa – especially with regards to the ongoing claims for damage," a spokesman told *Lloyd's Loading List.com*.

Cargolux said: "Cargolux Airlines International welcomes the decision of the General Court of the European Union delivered today, annulling articles 1 to 5 of the European Commission's 2010 decision in the alleged air freight cartel, including the full annulment of the €79.9 million fine previously levied on Cargolux. Cargolux will conduct a detailed analysis of the Court's decision."

Source: Lloyd's Loading List, 17/12/2015

AMAZON CONSIDERS OWN FREIGHTER FLEET

Amazon is said to be sourcing up to 60 767 freighters as it looks to launch its own air freight operation, The Loadstar has learned. The news has sent the US air freight industry into something of a spin, sources said, as leasing companies begin jostling for position.

"No existing express company can cope with Amazon's growth," said one involved source. "Ultimately, it is looking for up to 60 767s for its exclusive use." This month, Kalitta Air, which has always operated 747s, acquired three 767-300ERs, one from Business Air Thailand and two from Japan Airlines. Two will be converted and one left for spare parts. It seems likely that other operators will be searching for 767Fs as quickly as possible. "Amazon has made its intentions clear, and everyone in the US is scrambling to get a piece, such as Kalitta Air, Atlas Air and so on."

Amazon currently works with all the large integrators, but is said to be frustrated at the limited pace of growth it can achieve with outsourced logistics. However, it is also likely to find itself competing with them to acquire the 767s, as UPS, FedEx and DHL all favour that aircraft type. In July 2015, FedEx announced an order for 50 767-300Fs, with options for another 50 – altogether, the company has at least 75 firm orders for delivery between 2018 and 2023. Amazon's logistics spend was $8.7bn last year and analysts have been predicting Amazon would be likely to roll out its own logistics operation. Analysts agreed that not only would Amazon's delivery economics improve, but it would have greater control of capacity at peak times.

Source: THE LOADSTAR

MARITIME

BELGIUM ANNOUNCES PLAN FOR PORT LABOUR REFORM

Following to the pressure of the ongoing infringement procedure against it, Belgium has submitted a port labour reform plan to the European Commission. Some of the key elements of the proposal are as follows:
1. From now on dock labour may be recruited from outside the pool. For contracts of indefinite duration this will come into effect as of 1 July 2016. Transitional arrangements will be put into place for other contracts?
2. It will still be necessary for dock workers to be recognized as such. This recognition will in future apply throughout Belgium (not in just one port)
3. In the future there will be a free market in training courses. No training centre will have exclusive rights. Training establishments may have to submit to quality inspections.
4. All employers, even those who do not make use of the pool, will have to pay a contribution of 2.5 percent of the gross pay of all the port labour in their employ, even if these employees have been

recruited from outside the pool, with the object of financing of common services such as canteens. This revenue will not be used to finance the phasing out of contracts. Employers who effectively make use of the pool will be liable for an additional contribution.
5. The special registry for logistics will be scrapped. Logistics workers will be supplied with a special identity card, which will be delivered by a representative employer organization upon simple request and the presentation of the employment contract.
6. The Dock Labour Law (known as the 'Major Law' after the then Labour Minister Louis Major), which says that only recognized dock workers may carry out dock labour, will continue to exist. The reforms will be implemented by amending various royal decrees and collective labour agreements.
Should the social partners refuse to amend these agreements, the government will step in with measures. Should the reform proposals receive official blessing, the European Commission will suspend, but not end, its infringement procedure against Belgium. If the proposed reforms are not implemented or the timetable is ignored, the procedure will be resumed.

The proposed reform follows the filing with the European Commission of about ten complaints by businesses that feel themselves disadvantaged by the current rigid system. Although Belgium’s dock workers have a reputation for being highly productive, a study prepared by Eric Van Hooydonk for the European Commission clearly demonstrates that the way dock work is organized in Belgium’s ports is by far the most inflexible in the European Union.

Source: Newsletter - Eric Van Hooydonk Lawyers

NEW GRIs SET FOR NEW YEAR

The Shanghai Containerised Freight Index (SCFI) has declined on both North Europe and the Medit erranean legs, leaving container lines in a precarious position going into the new year.

After a brief recovery last week, when SCFI spot rates for North Europe registered a gain of $428, this week saw a $145 drop to $558 per teu, a figure that is around half of the average freight rates over the year when they enjoyed the benefit of much higher-paying contract cargo. But contract negotiations this year have been hijacked by the increasing influence of spot cargo, to which carriers have been forced to resort to a much greater extent this yeart in order to fill their ships.

As a consequence, shippers not prepared to agree contract rates at double what is available in the spot market, while carriers are reluctant to commit to anything other than short-term agreements to carry containers at what they regard as sub-economic rates. Thus a classic Catch-22 situation has developed on the Asia-Europe liner trades. Carriers are pinning their hopes on a dramatic pick-up in trade and a reduction in capacity in order to force spot rates back via new general rate increases (GRIs). The theory is that once they have achieved this, they will be in a position to begin contract rate negotiations with shippers from a position of greater strength.

There is perhaps an increasing sense of the unhinged about both the quantum and the timing of carrier GRIs in recent times. For example, the next raft of Asia-North Europe GRIs is scheduled for January 1, with most carriers asking for an increase of around $1,000 per teu – although MSC is actually trying to get customers to pay another $1,500.

But with no immediate sign of an upturn in trade, and an estimated 1.3m teu of new capacity due to swell the world’s already obese fleet next year, the fundamentals remain weak and the prospect of carriers getting even moderate increases seems remote.

It is also difficult to visualise how the current merger and acquisition activity in the industry will improve conditions, given that the joining of the two Chinese state-owned lines and the acquisition of APL by CMA CGM would still leave the same number of vessels plying the trade, which would do little for the overcapacity glut.

The only ray of hope is that the carrier consolidation would result in two fewer players in the volatile market place, and thus marginally less competition. London container derivatives broker FIS agrees that 2016 is not looking good for carriers and accuses the container lines of "invoking Einstein's definition of insanity": doing the same thing repeatedly and expecting a different result.

Source: THE LOADSTAR

CUSTOMS

UCC IMPLEMENTING ACT AND TRANSITIONAL DELEGATED ACT

On 17 December 2015, the European Commission adopted the UCC Transitional delegated Act to establish transitional rules for operators and customs authorities pending the introduction of new IT systems.

The Transitional delegated Act is the last element of the Union Customs Code (UCC) package. It joins the Delegated Act (DA) and the Implementing Act (IA) as the three pillars of the implementation of the UCC. It lays down provisions for a transitional period during which the electronic systems for the exchange of information between customs authorities and the Commission and for the storage of such information as laid down in the UCC Work Programme are finalized.

Specifically, the Transitional delegated Act lays down the rules on the exchange and storage of data in the absence of certain information technology (IT) systems, i.e. the use of existing systems or the use of paper-forms, to allow implementation of the UCC while work continues on the development and deployment of the relevant IT systems. In addition, and in order to ensure predictability and legal certainty, the Transitional delegated Act contains suspensions of certain provisions in the Delegated Act where they are needed, to clarify, where necessary, that paper forms or existing systems can continue to be used by customs authorities and stakeholders.

The Transitional delegated Act will be notified to the European Parliament and to the Council, both of which then will have a period of two months, which can be extended by another two months, to express an objection.

The European Commission will publish the Transitional delegated Act soon. An information note can be found HERE.

SERBIA TO JOIN COMMON TRANSIT AND SIMPLIFICATION OF FORMALITIES CONVENTIONS

On 9 December 2015, Serbia has deposited its instrument of accession to the Convention of 20 May 1987 on a common transit procedure and to the Convention of 20 May 1987 on the simplification of formalities in trade of goods. Serbia will formally join the conventions on 1 February 2016.

This means that common transit operations with Serbia and the current contracting parties (the EU, the EFTA countries, the former Yugoslav Republic of Macedonia and Turkey) can begin from this date with Serbia.

SUSTAINABLE LOGISTICS

GLEC Multimodal Action Group Meeting

CLECAT attended the meeting of the Global Logistics Emissions Council Multimodal Action Group at Schiphol on 17 December. The meeting discussed numerous issues concerning GLEC's progress in creating a framework for measuring and monitoring emissions from the logistics chain. This included feedback from the consultation events which have been held throughout 2015, and next steps to finalise the framework prior to its publication in 2016. Other topics discussed included studies on empty running and emissions factors for electricity.

Maritime sector split on Paris climate deal

International shipping groups remain divided over how to reduce carbon emissions after being left out of the climate-change pact reached over the weekend in Paris. The International Chamber of Shipping (ICS), representing the global shipping industry, has welcomed the Paris climate change agreement, which was adopted on 12th December. ICS says that the global shipping industry remains committed to ambitious CO2 emission reduction across the entire world merchant fleet, reducing CO2 per tonne-km by at least 50% before 2050 compared to 2007. The International Maritime Organization (IMO) has welcomed the historic achievement of the 2015 Paris Climate Change conference (COP21). IMO Secretary-General Koji Sekimizu said, "The Paris Agreement represents remarkable progress and builds on the 1992 Rio Earth Summit, which itself was a significant step forward. The absence of any specific mention of shipping in the final text will in no way diminish the strong commitment of IMO as the regulator of the shipping industry to continue work to address GHG emissions from ships engaged in international trade."

But several key industry players, including Maersk Line, the world's largest ocean container carrier, expressed disappointment at the exclusion of shipping from the agreement after it was deleted from a draft accord. John Kornerup Bang, the chief climate advisor at Maersk explained that the company had hoped that the agreement would also include global requirements of the shipping industry, but that this was omitted from the final agreement. "We are disappointed that it didn't end up in the final agreement," he said. Maersk argues that international regulation is inevitable and that a lack thereof simply encourages shipping lines to sail under the flags of countries with the least stringent rules. Headed by the Maersk Group, European shipowners will meet on one of the first days of 2016 to outline a Plan B after the failure to include shipping in COP21. "The political will failed," said the Danish Shipowners Association (DSA), representing almost one tenth of the world fleet. "It's grotesque to have an industry directly asking to be included in a climate agreement but which is not allowed to," said Marie Bruun Skipper, Vice-President of the association. DSA fears that a lack of agreement in the IMO on reducing CO2 emissions on a flag-neutral basis will prompt the EU to draw up its own legislation.

See also the response from Transport and Environment

Technological solutions and behavioural change needed to decarbonise transport

While the transport sector contributes significantly to society and the economy it also can cause substantial adverse impacts on the environment, global climate and human health. A new report by the European Environment Agency (EEA) analyses key environmental trends with a view to identifying what has improved and what has hampered the past performance of the transport sector. The transport sector affects the environment in different ways. It leads to emissions of greenhouse gases (GHG) and air pollutants, it is the main source of environmental noise and it leads to habitat fragmentation. The European Union has a wide range of policies from nature protection, noise, fuel quality to air quality, which have resulted in some significant improvements in environmental performance. For example, new cars and vans sold in Europe are using less fuel per kilometre, releasing less carbon dioxide and air pollutants. On the other hand, however, an increasing number of Europeans are buying cars, driving and travelling longer distances, and buying goods transported across the world.

The EEA's NEW REPORT 'TERM 2015, Evaluating 15 years of transport and environmental policy integration' analyses the evolution of the transport sector (freight and passenger) and its impacts on the environment since 2000, including the impacts of the economic recession in 2008. The report concludes that a fundamental decarbonisation of the transport sector will require not just technological solutions but also policies that stimulate significant behavioural changes, including the correct pricing of transport externalities and planning approaches that stimulate the use of sustainable modes of transport.

FORTHCOMING EVENTS

CLECAT MEETINGS:

Air Logistics Institute
- 2 March 2016, Brussels new!

Supply Chain Security Institute
- 2 March 2016, Brussels new!

Road Logistics Institute
- 3 March 2016, Brussels new!

Sustainable Logistics Institute
- 3 March 2016, Brussels new!

Customs and Indirect Taxation Institute
- 4 March 2016, Brussels

Board/General Assembly
- 22 juni 2016, Rotterdam

OTHER EVENTS with CLECAT PARTICIPATION

Swiss Shippers' Council Conference
- 21-22 January, Interlaken

ALICE workshop
- 2-3 February, Vienna

ACEA Stakeholders event
- 16 February, Brussels

DTLF Plenary meeting
- 16 March & 20 September 2016

ITF 2016 Summit on Green and Inclusive Transport
- 18-20 May Leipzig, Germany

Conference on the rail freight corridors – NL Presidency
- 21 June Rotterdam, Netherlands

European Parliament

Transport Committee

- 21 December 2015, (afternoon), Brussels
  Draft Agenda (tbc) available HERE:
  - Presentation by the Policy Department of the Study on "The Results and Efficiency of Railway Infrastructure Financing within the EU";
  - Exchange of views with the Commission and stakeholders on Uber;
- 22 December 2015, (morning and afternoon), Brussels
  Agenda (tbc) available HERE:
  - Hearing on competition in international aviation
- 25 January 2016, Brussels
- 15-16 February 2016, Brussels