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Brussels News

ESC AND CLECAT URGE CARRIERS TO SWITCH TO A 'NEW NORMAL' AS CURRENT PRACTICES SLOW ECONOMIC RECOVERY

Since the outbreak of the global pandemic, the container imbalance and the reduction of capacity in liner shipping has seriously impacted on the shippers and freight forwarders who have been seeking to ensure the fluidity of their global supply chains, which remains crucial during the ongoing crisis. Since these problems perpetuate, ESC and CLECAT urge carriers to review their operational and business practices to ensure a regular flow of cargo and containers, whilst respecting schedule reliability and service quality in accordance with contractual terms.

Mr Denis Choumert, President of the European Shippers' Council, noted: 'The lack of vessel capacity and container shortages, partly caused by hundreds of thousands of containers stranded in US logistics chains, cannot alone explain the liners' shortcomings. Customers are righteously irked that liners have been taking advantage of the capacity crunch to increase revenues much beyond their costs.' He continued: 'Ongoing service unreliability, coupled with the record profits of shipping companies at times of crisis, clearly depicts a seriously disrupted market and demonstrates that carriers have been passing tremendous hikes on spot rates, imposing heavy surcharges above the fixed-term contractual rates.'

Mr Willem van der Schalk, President of CLECAT noted: 'Further frustration comes from the fact that we continue to be obliged to work under a responsive emergency planning mode to adapt to the very short carrier notices of equipment and slot availability, multiple container roll-overs and numerous additional surcharges. The costs for the freight forwarding industry are huge: they range from the re-

booking of shipments to sometimes even losing customers, because there is simply no service made available by carriers.’

European shippers and forwarders call on liner carriers to put an end to the present situation and to return to a situation whereby contractual agreements are respected, as further supply chain delays may risk the speed of the post-pandemic recovery of the European economy. Coming out of the crisis will need cooperation and good will from all the stakeholders. ESC and CLECAT, therefore, call on all parties in the supply chain to work together to ensure that the maritime supply chain becomes more reliable, predictable, and resilient.

Liner shipping companies benefit from special legal privileges through the Consortia Block Exemption Regulation, which has been renewed in April this year, to the dissatisfaction of the customers of liner services. The European Commission has granted and extended this exemption from normal competition rules several times, as it believes that customers benefit from efficiency gains, achieved through coordinated capacity management by the members of a consortia. However, this is not the case today. Such privileges are now excessive as they allow carriers to use tools to manipulate the market.

Whereas the US Federal Maritime Commission stepped up its scrutiny of liner activity this week, European industry is perplexed that the European Commission has not responded in any way to the current crisis. ESC and CLECAT are convinced that the ‘new normal’ will need a better monitoring of the liner shipping activities and a new EU policy framework, which would benefit Europe’s economy and its citizens.

FREIGHT FORWARDERS FORUM 2020

On 12 November CLECAT hosted its web-based annual Freight Forwarders’ Forum, under the theme ‘Logistics Put to Test at Times of Crisis’. Gathering nearly 250 industry experts and policymakers, the event discussed sustainable logistics, the future EU-UK relations and the need to keep global supply chains running at the time of COVID-19 crisis.



The summary of the event, as well as the presentations, have been made available on the [CLECAT website](#).

SAVE THE DATE – ELP WEBINAR ON SMART AND SUSTAINABLE MOBILITY



**European
Logistics
Platform**

ELP members, MEPs, policy makers and other stakeholders are invited to a virtual event of the European Logistics Platform (ELP), which will be organised just one day after the European Commission presents its “Strategy for a Sustainable and Smart Mobility.

The members of the ELP will showcase how green and digital solution are being implemented in day-to-day business. Many companies are already working towards making the logistics sector more sustainable and innovative continuing to provide the same high-quality services in the future just as



they are doing today. The webinar will provide the opportunity to discuss with policy makers and stakeholders how the new strategy will help the sector to further progress.

The event will take place on 10 December from 13.30-15.00h in an online format. More information on the programme and confirmed speakers, as well as the registration, is available on the [ELP website](#).

Maritime

EPP DISCUSSION ON THE FUTURE OF EU MARITIME TRANSPORT

On 26 November, CLECAT joined a meeting on the future developments in the EU maritime transport sector and the EU maritime shipping industry, organised by the European People's Party (EPP) Coordinator of the EP Transport Committee (TRAN), MEP Marian-Jean Marinescu. The purpose of the exchange of views with a number of stakeholders, including shipping lines, ports, terminal operators and freight forwarders, was to support the EPP in developing its vision on a regulatory 'roadmap' of EU maritime transport for the coming years.

CLECAT President Willem van der Schalk made an intervention, focusing on the need for a holistic approach towards maritime transport and logistics, without singling out the EU maritime shipping industry. He emphasised that a new EU approach towards maritime transport and logistics should help the container shipping industry become more responsive in its role of serving European exporters and importers, trading in the global marketplace.

He also took the opportunity to highlight CLECAT competition and state aid concerns with respect to liner shipping, calling on the European Commission to bring it under normal competition rules and to effectively monitor compliance, also in view of recent transformations in the maritime shipping sector with respect to digitalisation, allowing carriers to make use of big data, and its potentially anti-competitive effects on the rest of the supply chain.

The broader maritime logistics policy objectives of CLECAT were also addressed, including connectivity and access to infrastructure, public funding and support for private investments, modal shift towards more sustainable transport modes, smart operations in the context of European Maritime Single Window and the industry uptake of sustainable alternative fuels.

US FMC STEPS UP SCRUTINY OF GLOBAL LINER ALLIANCES

On 25 November, the US FMC stepped up its scrutiny of liner activity by issuing letters to the three global carrier alliances – 2M, THE Alliance and the Ocean Alliance – requiring that certain carrier-specific trade data, currently filed with the FMC quarterly, must now be submitted on a monthly basis.

The Commission's Bureau of Trade Analysis (BTA) has traditionally relied on a combination of individual vessel operator confidentially provided data and information from commercially available industry data to monitor and analyse container carrier freight rates and service market trends. The BTA has determined that given recent fluctuations in the markets, with rates on the transpacific soaring to around the \$4,000 mark, they need to receive key trade data directly from alliance carriers on a more frequent basis in order



to better position staff economists to timely evaluate changes in the transpacific and transatlantic trades and report findings to the Commission.

“If we detect any indication of carrier behaviour that may violate the Shipping Act’s competition standard, we will immediately seek to address these concerns with direct carrier discussions. If necessary, the FMC will go to federal court to seek an injunction to enjoin further operation of the alliance agreement,” confirmed FMC Chairman Michael Khouri.

This follows an investigation launched by the FMC last week into liner activity in the ports of New York, Los Angeles and Long Beach, as shippers voiced ever louder concerns about the lack of available containers to shift their exports. The investigation is looking at the policies and practices of global liners relating to detention and demurrage, container return and container availability for US export cargoes amid a near historical tightness of available equipment this autumn.

Source: US FMC ([here](#) and [here](#)).

Air

WASB JOINT RECOMMENDATION ON SLOT USE RELIEF

On 26 November, the Worldwide Airport Slot Board (WASB), comprising Airports Council International (ACI World), the International Air Transport Association (IATA), and the Worldwide Airport Coordinators Group (WWACG) [released](#) a [joint recommendation for airport slot use relief](#) for the northern summer 2021 season. The organisations called on regulators worldwide to temporarily adopt more flexible slot rules in line with the recommendation as quickly as possible in order to preserve essential air transport connectivity.

The WASB, which brings together representatives from the airport, airline and slot coordinator community to agree positions on slot rules, has worked on a proposal to regulators that preserves the best of the existing rules, while providing the necessary flexibility to aid recovery. The WASB position recommends the following be adopted before the end of 2020:

- Airlines that return a full series of slots by early February to be permitted to retain the right to operate them in summer 2022.
- A lower operating threshold for retaining slots the following season. In normal industry conditions this is set at 80-20. The WASB recommends this be amended to 50-50 for Summer 2021.
- A clear definition for acceptable non-use of a slot. For example, force majeure as a result of short-term border closures or quarantine measures imposed by governments.

Acknowledging the joint recommendation for airport slots use relief on a global level, which was presented by the WASB, CLECAT would like to highlight the action that is being taken by the European Commission as a relief measure for the European industry. On 14 October, the European Commission [extended](#) the slot waiver for the 2020/2021 Winter Season, as [previously announced](#), until 27 March 2021, by means of [Delegated Regulation \(EU\) 2020/1477](#), expecting the industry to respect the [conditions agreed voluntarily](#) between all market players, pending the adoption of fully enforceable conditions. These conditions, as well as possible further measures to ensure an effective and efficient return back to the pre-crisis situation, shall be enshrined in a legislative act for a possible extension of



the waiver to the Summer Season 2021, which the Commission is currently working on. The legislative act is expected to be published before the end of the year.

IATA LAUNCHES NEW EXCHANGE FOR OFFSETS TRADING

On 25 November, the International Air Transport Association (IATA) launched the Aviation Carbon Exchange (ACE), a new tool designed to help airlines meet their climate commitments. ACE is the first centralised, real-time marketplace that is integrated with the IATA Clearing House (ICH) for the settlement of funds on trades in carbon offsets. IATA's Clearing House ensures that ACE can offer a seamless and secure settlement system which guarantees payment and delivery of the carbon credits.

"Airlines are serious in their commitment to reduce emissions. And they need a reliable tool to access quality carbon credits in real time. ACE will be a key tool helping airlines efficiently manage these important transactions," said Alexandre de Juniac, IATA's Director General and CEO. Airlines reiterated the [industry's commitment](#) to cut net emissions to half 2005 levels by 2050 in a resolution of the 76th IATA Annual General Meeting (AGM). IATA noted that the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) is a key step therein which shall deliver carbon neutral growth for international emissions from 2021.

Source: [IATA](#)

EASA PROPOSES CONDITIONS FOR RETURN TO SERVICE OF BOEING 737 MAX

On 24 November, the European Union Aviation Safety Agency (EASA) published a [Proposed Airworthiness Directive](#) (PAD) concerning the Boeing 737 MAX for public consultation, signalling its intention to approve the aircraft to return to Europe's skies within a matter of weeks.



The Boeing 737 MAX was grounded by EASA on March 12, 2019, following two accidents with total loss of aircraft in which 346 people died. Intense work was performed involving around 20 EASA experts over a period of around 20 months, which has now led EASA to declare the aircraft will be safe to fly again. The Federal Aviation Administration of the United States (FAA), State of Design for Boeing aircraft, published its final approval of the modified 737 MAX in the Federal Register on November 20, 2020. "EASA made clear from

the outset that we would conduct our own objective and independent assessment of the 737 MAX, working closely with the FAA and Boeing, to make sure that there can be no repeat of these tragic accidents, which touched the lives of so many people. [...] The result was a thorough and comprehensive review [...] giving us the assurance that it is now safe to fly," said EASA Executive Director Patrick Ky.

Source: [EASA](#)



Rail

GERMAN BAN ON NOISY FREIGHT WAGONS TAKES EFFECT

As of mid-December, a ban on particularly noisy freight wagons on the German rail network will take effect in order to protect people living near railway lines from noise. According to a letter from the German Federal Ministry of Transport to the industry, checks will be carried out and railway companies will be required to comply with the regulations. However, penalties will only be imposed after one year. The background to this is that workshop capacities have been severely restricted due to the corona pandemic and the conversion of freight wagons has been delayed or even completely interrupted since early summer.

The new regulations, which will apply from 13 December, are based on a law that was passed in 2017. According to the Transport Ministry, 98.6 per cent of the 183,000 freight wagons operating on the German network now comply with the permissible noise levels. The German government has been promoting retrofits to quieter wagons for several years.

Exceptionally, freight trains with noisy wagons are still allowed if they run so slowly that they are no louder than modern quieter wagons. Exceptions are also made on lines with a certain condition, or if freight wagons cannot be converted to quieter brake pads for technical reasons. The German Federal Railway Authority is to monitor the new regulations.

Source: [Bundesministerium für Verkehr und digitale Infrastruktur BMVI](#), [Deutsche Verkehrszeitung DVZ](#)

EC APPROVES AUSTRIAN MEASURES TO SUPPORT RAIL FREIGHT

On 25 November, the European Commission approved, under EU State aid rules, two Austrian measures supporting the rail freight sector and one measure supporting the rail passenger sector in the context of the coronavirus outbreak.

The two measures supporting the rail freight sector will ensure increased public support to further encourage the shift of freight traffic from road to rail. The first measure amends the 2020 budget of an existing support scheme (last approved in case SA.55507), which will cover grants for a total estimated amount of €150.7 million in 2020. The second measure has an estimated budget of €115.7 million and will enable Austria to relieve rail freight operators of the costs related to track access charges (i.e. the charges that railway undertakings have to pay for the use of the rail network) during the period 1 March to 31 December 2020. This will allow rail freight operators in Austria to cope with the difficult situation caused by the coronavirus outbreak and prevent the loss of market shares to road operators.

The Commission found that the measures are beneficial for the environment and for mobility as they support rail transport, which is less polluting than road transport, while also decreasing road congestion. It also found that the measures are proportionate and necessary to achieve the objective pursued, namely to support the modal shift from road to rail whilst not leading to undue competition distortions. Finally, the waiver of infrastructure access charges is in line with the recently adopted Regulation (EU) 2020/1429, which allows and encourages Member States to temporarily authorise the reduction, waiver or deferral of charges for accessing rail infrastructure below direct costs. As a



result, the Commission concluded that the measures comply with EU State aid rules, in particular the [2008 Commission Guidelines on State aid for railway undertakings](#) (“the Railway Guidelines”).

The non-confidential version of the decision will be made available under the case number SA.57371 in the [State aid case register](#) on the Commission's [competition](#) website once any confidentiality issues have been resolved.

Source: [European Commission](#)

Digitalisation

EC PROPOSES REGULATION ON EUROPEAN DATA GOVERNANCE

On 25 November, the European Commission published its [proposal for a Regulation on European data governance](#), marking the first deliverable under the [2020 European strategy for data](#). The proposed Regulation shall facilitate data sharing across the EU and between sectors to create wealth for society, increase control and trust of both citizens and companies regarding their data, and offer an alternative European model to data handling practice of major tech platforms.

The amount of data generated by public bodies, businesses and citizens is constantly growing, and the Commission has noted that it is expected to multiply by five between 2018 and 2025. These new proposed rules shall allow this data to be harnessed and shall pave the way for sectoral European data spaces to benefit society, citizens and companies. In the Commission's [data strategy](#) of February this year, nine such data spaces have been proposed, including a Common European mobility data space. Such a data space shall facilitate access, pooling and sharing of data from existing and future transport and mobility databases.

Delivering on the announcement in the [data strategy](#), the Regulation shall create the basis for a new European way of data governance that is in line with EU values and principles, such as personal data protection (GDPR), consumer protection and competition rules. It offers an alternative model to the data-handling practices of the big tech platforms, which can acquire a high degree of market power because of their business models that imply control of large amounts of data. This new approach proposes a model based on the neutrality and transparency of data intermediaries, which are organisers of data sharing or pooling, to increase trust. To ensure this neutrality, the data-sharing intermediary cannot deal in the data on its own account (e.g. by selling it to another company or using it to develop their own product based on this data) and will have to comply with strict requirements.

The proposed Regulation includes:

- A number of measures to **increase trust in data sharing**, as the lack of trust is currently a major obstacle and results in high costs.
- Create new **EU rules on neutrality** to allow novel data intermediaries to function as trustworthy organisers of data sharing.
- Measures to **facilitate the reuse of certain data held by the public sector**.
- Means to **give Europeans control** on the use of the data they generate, by making it easier and safer for companies and individuals to voluntarily make their data available for the wider common good under clear conditions.



More dedicated proposals on data spaces are expected to follow in 2021, complemented by a Data Act to foster data sharing among businesses, and between business and governments.

Forthcoming Events

EVENTS AND MEETINGS

CLECAT Road Logistics Institute

15 December 2020, **Online Meeting**

EVENTS WITH CLECAT PARTICIPATION

Competition Law in Transport

1 December 2020, **Online Event**

Rail Freight Day 2020

10 December 2020, **Online Event**

EU MEETINGS

Council of the European Union

Transport Council

8 December 2020, Brussels

Environment Council

14 December 2020, Luxembourg

European Parliament

European Parliament Transport Committee

30 November - 1 December 2020, Brussels

European Parliament Plenary

14-17 December 2020, Brussels

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