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Brussels News

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.

Hosted by Marian-Jean Marinescu, Member of the EP TRAN Committee & EPP Coordinator, the event will include speakers from the Commission and industry including Annika Kroon, Deputy Head of Unit, Maritime Transport and Logistics, DG MOVE, Daan Schalk, CEO, North Sea Port, Frank de Lint from Samskip and a CER representative (N.N.).

The event will take place online on the 10th December from 13.30-15.00h. The meeting is open for registration, see also the [ELP website](#).



DG MOVE Q&A ON THE MP1 DRIVING & REST TIMES LEGISLATION

On 30 November, the European Commission published a first set of questions and answers (Q&A) on the implementation of the Mobility Package I legislation, addressing the rules that are already applicable as of 20 August 2020, i.e. the Regulation (EU) 2020/1054 on the driving and rest times.

The Q&A, which can be found on a dedicated [landing page](#) of the DG MOVE website, provides clarification in the following areas:

- Return of a driver.
- Ban on taking a regular weekly rest in the cabin of the vehicle.
- Ferry rule.
- Reduced weekly rests.
- Exceptional circumstances for exceeding the driving time.
- Multi-manning.
- Manual recording of border crossing.

Whereas the extent to which these guidelines will be binding depends on how much all the stakeholders want a harmonised approach, they will still carry a heavy weight with the enforcement authorities and may impact on the possible interpretations of the EU Court of Justice.

Ms Adina Vălean, EU Commissioner for Transport, noted in a press release announcing the Q&A that “these explanations will help operators and Member State authorities implement the new rules correctly. The sector must have clarity on how to comply with the new provisions in various situations, and enforcers must share the same understanding of the rules in place to ensure compliance.”

EU TRANSPORT COUNCIL VIDEO-CONFERENCE NEXT WEEK

The EU Transport Ministers will hold an informal video conference on 8 November 2020, whereby ministers will hold a policy debate on the proposal to revise the **EU road charging rules** (the so-called Eurovignette Directive). At the beginning of November 2020, the German Presidency resumed work on the dossier at the Council’s Working Party on Land Transport, while proposing a new compromise text. The aim of the discussion is to provide guidance to the Presidency for further work on the compromise proposal that it intends to submit to the Permanent Representatives Committee (COREPER) as a draft negotiating mandate at a later stage. For more information, please see the [background note](#) on the revision of the Eurovignette Directive.

Ministers will also hold a policy debate on the European Commission’s proposals concerning the **Single European Sky**. The aim of the debate is to guide further work on the proposals in the Aviation Working Party. The proposals under discussion are an amended proposal for the recast of the Single European Sky regulation (SES 2+) and a proposal for a regulation amending the EU Aviation Safety Agency (EASA) basic regulation. For more information, please see the [Presidency discussion paper](#) on improving the performance of European air traffic management.

Ultimately, the Presidency will brief ministers on a new mobility approach and the state of play of current rail transport proposals. The incoming Portuguese Presidency will present its work programme for the first half of 2021.

The video-conference will be fully [live-streamed](#).



Road

EU COURT CLARIFIES THE DEFINITION OF POSTING

This week, the Court of Justice of the European Union (CJEU) ruled on the working conditions for posted transport workers in case [C-815/18](#). The case concerned contracts for international transport operations and whether they fell within the scope of the Posted Workers Directive. More specifically, the Dutch Supreme Court, which referred the question to the EU court, asked under which conditions it can be said that workers are posted “to the territory of a Member State” in the international road transport sector.

The Court ruled that the Posted Workers Directive applies in general to the road transport sector but that a driver cannot be regarded as “posted” if he/she merely transits the territory. The driver’s transport operation must have “sufficient connection with the territory for the limited period at issue”, the Court said. The court explained that to assess whether there is such a connection, one must make an “overall assessment of factors, such as the nature of the activities carried out by the worker concerned in that territory, the degree of connection between the worker’s activities and the territory of each Member State in which the worker operates, and the proportion represented by those activities in the entire transport service”.

The Court added that posted transport workers are entitled to certain terms and conditions of employment. With the adoption of the Mobility Package I, drivers will be considered as posted when carrying out cross trade and cabotage in international transport operations as of February 2022.

The full CJEU ruling can be found [here](#).

Maritime

CONTAINER SHORTAGES EXACERBATED BY SLOW TURNAROUND TIMES

A study the Fraunhofer Center for Maritime Logistics and Services and container repositioning service Container xChange found that equipment was sitting empty for 45 days on average, despite the high levels of demand. In regions with low container availability, such as China and the US, the average rose to 61 days and 66 days, respectively. “Container availability across China is still at a record-low, while US ports are overwhelmed by a surge of shipping containers from Asia, full of products retailers are eager to get on shelves for the holidays,” Container xChange said. The number of available empty containers at Asian ports fell as more containers made their way to the US. Overloaded US ports slowed down container turnaround time, further exacerbating the problem, contributing to rising prices and further delays for US importers. “China to US west coast container shipping costs climbed 135% from \$1,648 per feu at the end of May to \$3,850 per feu by mid-September,” it said. “Over the same period, container availability in Asia, as measured by the Container xChange Index, fell by 37% to a severe shortage of 0.17, nearly 50% lower than September 2019.” Efforts by Chinese regulators to lobby carriers to refrain from raising freight rates on the transpacific trade had put a cap on rates to the US, it added, but the continued shortage of equipment had just led to rates surging on other



trades. Some efforts have been made to return more containers to export markets in Asia, with BIMCO reporting that a record 325,980 empty containers were shipped from Los Angeles in October. For US exporters, this too was causing problems, as carriers were prioritising the fast turnaround of empties over sending export containers, in order to capitalise on the strong headhaul freight rates. But those strong rates are creeping into other trades. “As empty containers are prioritised for the more lucrative transpacific lane, fewer containers are available on other lanes,” said Container xChange. “This capacity shortage contributed to rates from Asia to North Europe spiking 30% in November to \$2,772 per feu, up 86% year on year.”

Source: [Lloyd's Loading List](#)

BOX FREIGHT RATES TO RISE FURTHER ON EQUIPMENT SHORTAGES

Bottlenecks in the containerised freight supply chain could mean that surges in spot freight rates on some trade lanes have further to run, as reported this week by the Lloyd's Loading List. “Vessels, equipment, berthing space, yard space, chassis and trucks are becoming a scarce commodity in an increasing number of locations,” said Sea-Intelligence chief executive Alan Murphy, adding that “the effect of some of this scarcity has global ripple effects.”

“When equipment becomes scarce, this means a carrier has to choose which customers to grant access to the equipment. At the end of the day, they would tend to favour those who are willing to pay more,” he explained. While the situation was likely to resolve itself in the medium term, in the short term demand for equipment and slots would continue to put pressure on freight rates.

A “spill-over” effect was pushing high rates seen on the transpacific onto other trades. This has already been seen on the Asia-Europe trades, where spot rates jumped by a quarter last week alone. “Under more normal conditions, the freight rate development tend to some degree to be isolated within each individual trade lane,” said Mr Murphy, adding that “the spill-over effect between trades tends to pop up on rare occasions, where there is a shortage of vessel capacity, in which case carriers can choose to redeploy vessels from one trade to another.” However, the shortage of equipment was hitting all trades equally, hence rates would head up on all routes and geographies. “As long as this effect is in play, it also means that trades that are paying less are more likely to see an upwards rate pressure, as shippers want to secure equipment for their goods,” he forecasted.

By analysing rates on a dollar per TEU per mile basis, Sea-Intelligence found that some trades indicated potential for further rates growth. On a TEU per mile basis, rates to Europe were still lower than those to the US west coast. “This means we might expect the rates to increase another 10%-15% from the current level,” the analyst said. “However, if the strength to US west coast continues unabated, we cannot rule out that it will be the other trades that will go further up towards that level. In that case, spot rates to northern Europe might increase another 50%.”

Source: [Lloyd's Loading List](#)

COMPETITION LAW EVENT DEBATES CBER

CLECAT Director General Nicolette van der Jagt spoke this week at Informa's 'Competition Law in Transport: Aviation, Shipping and Motor Vehicles' conference about the current situation in liner shipping. She noted that the situation is getting worse day by day and that her members are having difficulties to book containers, without even speaking about the price levels, creating harm to European industry. She was supported in her arguments by James Hookham, Secretary General of the



Global Shippers Forum. Invited to speak about the renewal of the consortia block exemption in liner shipping both CLECAT and the GSF expressed their disappointment with the outcome of the Commission's review and disagreed on several points with its reasoning. CLECAT did set out its concerns and arguments in response and campaigned for greater policing of shipping lines' activities. Last year CLECAT argued that the continuing exemptions from normal competition rules provided by the Block Exemption are no longer fit for purpose and that shippers and freight forwarders should get better support from the European competition authority. This is now more true than ever. Ms van der Jagt also referred to other special regimes for liner shipping in terms of competition, state aid and taxation. All of these special regimes continue to create increasing market distortions and call for a serious reform.

Air

CORSIA OFFSETTING ON TRACK FOR 2021 PILOT PHASE

On 26 November, the International Civil Aviation Organisation (ICAO) announced that the efforts to offset emissions from international flights have been kept on track during the 221st Session of the ICAO Council, with new decisions being adopted on eligibility units and sustainability certification schemes supporting the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA). The latest endorsements mean that all implementation elements for CORSIA are now complete, and that everything is prepared for the start of its pilot phase in 2021. Details around these latest decisions are available [here](#).

Pursuant to recommendations from its CORSIA Technical Advisory Body (TAB), the ICAO Council decided on a second set of eligible emissions units for use with offsetting requirements in the 2021-2023 pilot phase of CORSIA. The units were issued to activities under approved programmes, subject to their respective scope of eligibility and eligibility dates. Based on the recommendations of the Committee on Aviation Environmental Protection (CAEP), the Council also approved the organisations which are now eligible to certify the sustainability and lifecycle emissions values of CORSIA eligible fuels.

Since the adoption of the CORSIA-related Standards and Recommended Practices (SARPs) in 2018, ICAO has developed the remaining elements needed for the programme's implementation. This includes the ICAO CORSIA CO₂ Estimation and Reporting Tool (CERT), harmonised methodologies to account for lifecycle CO₂ reductions from sustainable aviation fuels, and the CORSIA Central Registry (CCR) to facilitate the CO₂ reporting from States to ICAO.

Source: [ICAO](#)

EASA GUIDELINES ON THE USE OF CARGO TRACKING DEVICES FOR COVID-19 PANDEMIC

On 2 December, the European Union Aviation Safety Agency (EASA) published the first [guidance document](#) related to the transport of vaccines for COVID-19. At this stage of the COVID-19 pandemic, preparedness for the safe transport of vaccines is crucial. Once the vaccines become available, air cargo operators will face a huge logistical challenge to ensure quick and efficient delivery. Among the



associated logistical needs is the use of location-tracking and temperature-monitoring devices, to guarantee the integrity of the vaccines and facilitate shipment monitoring.

Authorising the use of cargo tracking devices on board the aircraft is a responsibility of each operator. To ensure that they do not create a risk to safety, the criteria of AMC1 CAT.GEN.MPA.140 of the [Air Operations Regulation](#) have to be met. The purpose of the document is to provide guidance and recommendations to facilitate the evaluation of cargo tracking devices used in the context of the COVID-19 pandemic for compliance with the [Air Operations Regulation](#). It provides technical considerations related to electromagnetic interferences (EMI) and batteries. Passive radio frequency identification (RFID) tags, not powered by any battery or external power source, may be considered as not being PED and can be authorised without any assessment.

Source: [EASA](#)

Rail

CHANNEL TUNNEL RAIL TRAFFIC AFTER TRANSITION PERIOD

On 2 December, the Council's Permanent Representatives Committee (COREPER) agreed on a negotiating mandate for discussions with the European Parliament on a [proposal](#) aimed at ensuring that rail traffic can continue in the Channel Tunnel as of 1 January 2021. The Council did not make any changes to the Commission proposal.

The proposal follows on from the Council and the European Parliament's decision of 21 October 2020 to empower France to negotiate with the United Kingdom a [continuation of the binational administration of the Channel Tunnel](#).

According to the [draft regulation](#), the safety authorisation issued to the infrastructure manager of the Channel Tunnel would remain valid for two months after the end of the transition period defined in the withdrawal agreement. This is the time period which the French authorities consider would be needed to allow the French National Safety Authority to issue its own authorisation for the section of the Channel Fixed Link under French jurisdiction.

Moreover, the measure provides that certain safety certificates and licences which have been issued under EU law to rail companies established in the UK and using the cross-border infrastructure linking the EU and the UK through the Channel tunnel should be extended for nine months from the date of application of the regulation.

By temporarily extending the validity of these safety authorisations and certificates, the measure gives the French authorities more time to arrange the future binational administration, so that railways can continue to operate in the Channel Tunnel after 1 January. Without this measure, traffic in the Channel Tunnel, a fundamental connectivity link between the EU and the UK, would be interrupted. Both the Council and the European Parliament will need to agree on the final text. The negotiations between the co-legislators on the proposal are taking place as a matter of urgency.

Source: [Council of the EU](#)



EC LETTERS OF FORMAL NOTICE ON SINGLE EU RAILWAY AREA

On 3 December, the European Commission decided to send letters of formal notice to Greece, Austria and Luxembourg for failing to comply with EU rules aiming at establishing a Single European Railway Area ([Directive 2012/34/EU](#)). The legislation regulates different domains, such as principles of establishing, determining and collecting charges and infrastructure costs, exceptions to these principles, the signing of a contractual agreement between the competent authority and the infrastructure manager, as well as cooperation between regulatory bodies. All provisions had to be transposed into national law by 16 June 2015, which did not occur in Greece, Austria or Luxembourg. Additional letters of formal notice were sent to Austria and Luxemburg for non-communication of measures foreseen under the same Directive. The three Member States now have two months to address the Commission's concerns. Otherwise, the Commission may decide to send a reasoned opinion.

Source: [European Commission](#)

Supply Chain Security

SLOVENIA URGED TO APPROVE ITS UPDATED NATIONAL CIVIL AVIATION SECURITY PROGRAMME

On 3 December, the European Commission decided to send a reasoned opinion to Slovenia for failing to approve the updated National Civil Aviation Security Programme (NASP). According to Article 10 of [Regulation \(EC\) No 300/2008](#) laying down common rules in aviation security, every Member State must draw up, apply and maintain a national civil aviation security programme. It came to light in March 2018 that the relevant Slovenian authority had not updated its NASP since 2016. In September 2020 the Slovenian authorities indicated that its Civil Aviation Authority has now drawn up an updated version of the NASP. However, the NASP still needs to be formally adopted. Slovenia now has two months to reply to the reasoned opinion; otherwise the Commission may refer the matter to the Court of Justice of the EU (CJEU).

Source: [European Commission](#)

LATVIA URGED TO COMMUNICATE ON SAFE AND SECURE PARKING

On 3 December, the European Commission [addressed a reasoned opinion](#) to Latvia for failing to communicate information on safe and secure parking. More specifically, Latvia has failed to make digitally available, through National Access Points, information related to parking places (e.g. location of parking areas and available facilities and amenities) as well as on parking places providing dynamic information (e.g. availability of parking spaces or priority zones). This is required by [Regulation \(EU\) N° 885/2013](#), which was adopted under the Intelligent Transport Systems (ITS) Directive.

Truck drivers in Europe are often confronted with insufficient parking facilities and information on such facilities, and therefore often park in non-secured zones or unsafe locations. Latvia now has two months to take the necessary measures, otherwise the Commission may refer the matter to the Court of Justice of the EU (CJEU).



Brexit

UK PREPAREDNESS

With less than 30 days until the end of the transition period, the UK Government has further stepped up its preparedness efforts, to ensure that businesses are ready for the upcoming changes in EU-UK trade. The UK government has published [Brexit transition communications resources](#), designed to help stakeholders and intermediaries support their members, clients and customers prepare for the end of the Brexit transition. Additionally, guidance for EU businesses has been developed to help them prepare for [importing from the UK](#), [exporting to the UK](#), as well as determine [what taxes and tariffs might apply](#).

The UK Government will also organise dedicated [webinars/industry days for EU based businesses](#) on the new border processes and formalities between the EU and the UK. Additional [webinars have been organised or pre-recorded for various sectors](#), including the automotive and chemicals, and for exporters. There are also a number of [videos covering what businesses need to know about exports and imports, customs, commodity codes and controlled goods](#). The [EU Transition Trader and Industry Forum](#) can also help businesses find answers to remaining questions regarding the transition period.

Customs and Trade

EU REPORTS ON TRADE NEGOTIATIONS

On 1 December, the European Commission [announced](#) that the EU and New Zealand had reached provisional agreement on two more chapters of their future trade agreement during the ninth round of negotiations, held virtually from 23 to 30 November. That round of negotiations resulted in a provisional agreement on the chapters on 'Small and Medium Enterprises (SMEs)' and 'Capital Movements'. So far, the parties had provisionally agreed on two other chapters – 'Transparency' and 'Customs and Trade Facilitation', as well as on the text of the 'Anti-Fraud clause'.

On 2 December, the European Commission also published a [report](#) summarising the progress made during the latest negotiation round to deepen the existing Economic Partnership Agreement (EPA) with five Eastern and Southern African partners (Comoros, Madagascar, Mauritius, Seychelles and Zimbabwe). The Commission reported that during the third round of negotiations, held virtually from 24 to 27 November, the parties had made progress on the five issues already discussed in the first two rounds, namely customs and trade facilitation, technical barriers to trade, food safety and plant and animal health standards, rules of origin and agriculture. A first text-based discussion had also taken place on trade and sustainable development. The next round is foreseen for April 2021.

For more information regarding the progress of the negotiations on other EU free trade agreements you will find in the [Overview of Trade Negotiations](#) developed and regularly updated by the European Commission.



Forthcoming Events

EVENTS AND MEETINGS

CLECAT Maritime Logistics Institute
10 December 2020, **Online Meeting**

CLECAT Road Logistics Institute
15 December 2020, **Online Meeting**

EVENTS WITH CLECAT PARTICIPATION

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
25-26 January, Brussels (tbc)

European Parliament Plenary
14-17 December 2020, Brussels


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