

POSITION PAPER

Road Transport in the European Single Market – EC Road Package

This position paper addresses CLECAT's response on the 4 road transport issues on which CLECAT has been consulted over the last 18 months:

- The review of Regulation 1071/2009/EC on access to the occupation of road transport operator and Regulation 1072/2009/EC on access to the international road haulage market;
- The enhancement of social legislation in road transport: driving and rest time periods, working time and posting of workers (Regulation (EC) No 561/2006, Directive 2002/15/EC and Directive 2006/22/EC)
- The review of Directive 1999/62/EC ('Eurovignette Directive') as amended, on the charging of heavy goods vehicles for the use of certain roads.
- The review of Directive 2004/52/EC and Decision 2009/750/EC on the European Electronic Toll Services (EETS).

SUMMARY

- European road transport policy should seek to achieve a competitive and liberalised market, in the interest of guaranteeing the best possible service for the users, whilst respecting the applicable legal framework which should ensure not only harmonization and common ground but also a system which is predictable and foreseeable.
- CLECAT is concerned about incomplete and incorrect implementation of existing rules which is hindering the free movement of goods in the single market. For freight forwarders it remains essential to have regulation in place which seeks to improve the overall efficiency and quality of road freight services, without adding to the burden of bureaucracy associated with regulating an industry.
- Fair competition can best be reached through better enforcement. It remains the task of national governments to ensure enforcement of regulation and to exchange information and national control practices. CLECAT is worried to see enforcement being replaced more and more by national initiatives and regulation, and an increased administrative burden on freight forwarders, to the level of taking over the role of enforcement.
- CLECAT supports the need to *clarify* and *simplify* existing regulation and ensure *homogenous implementation and enforcement across Member States*, with the ultimate aim to have a better functioning internal market. CLECAT calls for a realistic and pragmatic approach, at a time when Europe needs to refrain from further protectionism which will ultimately not bring benefits to the European economy and society at large.

Introduction

CLECAT represents the interest of the vast majority of logistics service providers, freight forwarding and customs services providers both within the EU and continental Europe. Freight forwarders are agents or contractual carriers that use all transport modes and are not limited to road transport; they utilise the entire and complex logistics infrastructure with an unprejudiced and cost-efficient approach. As such CLECAT has an interest in the Commission's initiative to review the current situation of the internal market in road freight transport.

Overall, CLECAT's position is governed on the basis that measures taken:

- do not create shortages of road freight services
- enhance the quality of road freight services
- increase the efficiency of road freight services rather than adding bureaucracy
- strengthen the internal market
- do not inhibit innovation in the road freight and logistics sector
- improve reliability through more certainty of compliance with future environmental and security regulations and standards

Access to the occupation of road transport operator and Regulation 1072/2009/EC on access to the international road haulage market (Review of Regulation 1071/2009 EC and Regulation 1072/2009/EC)

- The overarching goal of EU policy as outlined in the White Paper on transport is to create a European Single Transport Area where road hauliers from different Member States are free to access the transport profession in different countries as well as to undertake transport operations across the EU. At this moment the internal market for road transport services is not fully completed.
- CLECAT continues to observe differences and ongoing attempts by Member States to enforce access to the market in a more stringent manner, leaving industry with a costly and confusing patchwork of rules. This is particularly the case for cabotage in road freight, rules for which are set out in Regulation (EC) No 1072/2009, which at the time of its adoption increased certainty by removing national interpretations of the previous rules.
- CLECAT supports EU initiatives to make the regulation simpler and easier to enforce. To enable and facilitate enforcement, CLECAT proposes to do away *the number of cabotage operations which may be carried out within a 7-day period*. These rules should enable operators to stay in any one Member State (other than the country of registration) for no more than a week in order to perform legitimate business operation.
- Cabotage operations should not be restricted to the fulfilment and completion of an international transport, but also as soon as the vehicle has entered the host country. This should ensure a better utilization of capacity, reduce empty runs which bring economic and environmental benefits and represent a clearer and better understandable definition of cabotage.

- Much of the current problems stem from the different implementation of the current rules by Member States, whereby the additional national requirements may not be in line with EU regulation. It has been observed that additional administrative requirements and controls largely occur in those Member States with a relatively high number of cabotage operations and therefore have a protectionist nature.
- CLECAT is of the opinion that there is currently not sufficient data to support a proposal to extend the rules on access to the profession to vehicles below 3.5 tonnes. However, in case a part of the requirements is extended to vehicles below 3.5 tonnes, administrative and financial burdens should be kept to a minimum level for the industry, in particular for small and medium-sized enterprises operating vehicles below 3.5t.

The enhancement of social legislation in road transport: driving and rest time periods, working time and posting of workers (Regulation (EC) No 561/2006, Directive 2002/15/EC and Directive 2006/22/EC)

- CLECAT remains of the opinion that the Posting of Workers Directive is not suitable for the international (road) transport sector as it does not take into account the sector's highly mobile workforce, transnational character nor the administrative burdens and enforcement difficulties of applying it to road transport operations. The Commission has recognised this noting that it would be most suited for these challenges to be addressed through sector-specific legislation. However, as the revised Posting of Workers directive is now under review in the European Parliament, the legal consequences of the so called 'sector-specific regulation' which are embedded in the transport directions are still unclear.
- CLECAT has raised concerns with regards to the introduction of national measures which prevent the internal market from functioning properly. We publicly supported the investigation and infringement procedures initiated by the European Commission to determine whether such national provisions can legitimately be applied to international transport operations, including cabotage and transit, and whether they can be considered effective and proportionate. Both the Mindestlohngesetz and the Loi Macron add significant uncertainty, administrative and financial burdens to operators and the forwarders/logistics service providers. We urge the Commission to move forward on these issues and to ensure legal certainty for freight forwarding and logistics service providers operating in a single European market.
- It has been suggested that the posting of workers Directive would apply if a driver stays in a Member State more than X amount of calendar days in a calendar month. This requires a considerable administrative burden for companies, especially small and medium-sized enterprises, and Member States, plus the installation and maintenance of digital tachographs in all vehicles to which the rules apply.
- The rules on posting of workers and cabotage are closely interlinked. By extending local labour law to cabotage activities - applying the Posting of Workers Directive with minimal wages, paid leave, health, safety and registration of cabotage activities - the rules that restrict

cabotage activities would become obsolete. However, when a period of stay would indicate a more permanent business arrangement this would require registration by the enforcement agencies seeking to regulate road freight operations within each Member State.

- CLECAT would support more flexibility with regard to the weekly rest periods to take account of the availability of secure parking and other resting facilities. This would allow for increased efficiency and flexibility for the transport operations and also consider the situation of the driver. Currently, drivers are sometimes forced to spend their weekly rest period close to their destination or home base, simply to comply with the EU rules on driving and rest time. Also, the different application of rules in different Member States (such as the possibility to sleep in the cabin) creates problems and leads to unnecessary administrative burdens.
- Fair competition can best be reached through better enforcement. It should be recognised that it remains the task of national governments to ensure enforcement of regulation and to exchange information and national control practices. CLECAT is worried to see enforcement being replaced more and more by national initiatives and regulation, and an increased administrative burden on freight forwarders, to the level of taking over the role of enforcement.
- CLECAT is of the view that responsible freight forwarders seek to ensure, before contracting a service from a carrier, that rules are being respected, including the legislation with regard to the minimum wages and driving and resting times. There are however limits to what can reasonably be controlled by them to avoid carriers committing offenses, whether intended or unintended.
- It has been observed by many that there is currently not sufficient cooperation between the authorities responsible for the enforcement of the rules in different Member States. CLECAT supports the following initiatives:
 - A strengthened European Register of Road Transport Operators (ERRU) should enforce the mutual cooperation between Member States. The register should be used to enable enforcement authorities to carry out targeted roadside checks using real time information. These initiatives should bring about faster checks and a reduction in the administrative burden for compliant firms (without stopping vehicles that fully comply).
 - Better exchange of information on infringements between national authorities and strengthening the exchange of national control practices and cooperation in the fight against fraud through existing multilateral bodies for police cooperation such as ECR and TISPOL.
 - Improve and publish statistics to give the industry better knowledge to better target the companies with recurring infringements and help the exemplary companies.
 - In support of fair competition, developing better cooperation against letterbox companies and other fraud – including shortening the introduction period of the smart digital tachograph. CLECAT would however not support additional legislation with regard to letterbox companies. There are rules on establishment in place and

these should be better enforced. Nonetheless, CLECAT would be supportive of a more uniform control and enforcement with regards to establishment.

- The digitalisation of transport documents, such as the electronic consignment note (eCMR) could be used for reducing administrative burdens and, when ratified in a large number of Member States, could support enforcement.

The review of Directive 1999/62/EC ('Eurovignette Directive') as amended, on the charging of heavy goods vehicles for the use of certain roads and The review of Directive 2004/52/EC and Decision 2009/750/EC on the European Electronic Toll Services (EETS).

- Efficient road transport infrastructure and its maintenance is of key importance to EU business. Europe's current transport infrastructure, especially its road network, is falling behind what is required for a modern economy. This is mainly due to lack of investment in maintenance and addressing cross-border bottlenecks and links. Together with the priority often given to building new infrastructure over the maintenance of existing infrastructure when allocating scarce public funds, this has resulted in a chronic state of underinvestment on the existing network.
- CLECAT welcomes the Commission's initiatives to prioritise Europe's investment challenges. We do believe that despite the recent call which seeks to increase, through blending (equity, loans and/or guarantees), the participation of private sector investment in the financing of TEN-T, significant investments remain necessary to remove bottlenecks along the TEN-T networks and to remedy missing links.
- Current legislation (Eurovignette directive) continues to allow for different models of road charging in Europe, creating a patchwork of incompatible systems. The current rules on **vignettes** for heavy goods vehicles, and the absence of such rules for light vehicles and buses, often lead to situations of **discrimination** against non-resident drivers and HGVs and a diversion away from the tolled network.
- The lack of harmonisation of tolls, charges and vignettes is a source of administrative burden and creates costs for transport and logistics companies. Only a limited number of functioning interoperability arrangements have appeared across the EU, so international hauliers and logistics companies continue to suffer administrative burden and costs linked to the handling of numerous tolling contracts and carrying several on-board units.
- CLECAT has always advocated that it is fundamental to implement an *interoperable and easy to use electronic system for collecting existing and future tolls and user charges*. This must be a prerequisite for the implementation of any new tolls and user charges in order to avoid disruption to the free flow of traffic and barriers to the Internal Market.
- A revised Eurovignette Directive should address the charging differentiation of the existing system and result in the further harmonisation of technologies and charging systems used throughout the EU.

- CLECAT would support an EU initiative to establish a European framework for electronic interoperable *distance based charging* for the use of road infrastructure on the conditions that the charging is fair, transparent, simple and non-discriminatory. This would mean that:
 - All types of road vehicles (both freight and passenger transport, heavy- and light-duty vehicles) should be part of EU legislation in the area of charges linked to the use of roads.
 - EU legislation in the area of charges linked to the use of roads should cover all infrastructures of European importance i.e. the main trade lanes of the TEN-T roads, motorways and national roads carrying significant international traffic
 - Revenues from tolls and road user charges should be earmarked for road transport projects aimed at reducing the external cost. Without strict earmarking provision, there could be discrimination vis-à-vis road freight users having paid the external cost charges and who would expect that the revenues will be invested into schemes reducing external costs of road transport.
 - The introduction of road charges should be (partly) compensated by the reduction in other taxes and charges (vehicle taxation, labour charges, VAT on reduction transport,...) to avoid double-charging (via CO2 external cost charge and existing taxes on fuel or VAT on fuel). In order to avoid inflation and safeguard EU competitiveness, a new charging scheme should be revenue neutral, which means that the introduction of a new charge should be compensated by a decrease of other taxes.
- CLECAT is of the view that road charges should reflect the environmental performance of vehicles to create incentives for the purchase and use of cleaner vehicles. Initiatives to charge for environmental costs will be far more acceptable to industry if the revenue generated from any related charges and taxes are earmarked.
- By putting a price on the external costs generated by transport users, road charges should in principle guide the users towards more sustainable transport choices. EU legislation provides for maximum levels of time-based charges (vignettes) applicable to heavy goods vehicles and specifies the maximum ratios between the prices of long-term and short-term vignettes. This cap should be maintained as long as vignettes have not been phased-out in Europe.
- Taking punitive action against users of road freight transport infrastructure, by raising external costs, raising the costs of trade and doing business, is no way to encourage greater use of alternative modes or helping EU competitiveness.
- Varying charges according to the time of day is effectively a congestion charge. Since the cost of congestion (delays) is borne by those that form part of it, CLECAT considers that congestion related charges are unjustified in so far they do not produce a very substantial reduction in traffic. This can only be expected if all road users pay the charges, private cars and commercial vehicles alike.
- It should also be noted that curfews in and around urban areas will restrict access for goods moving by road at different times of the day or week (e.g. night time or week-end lorry bans).

These restrictions are imposing more costs on those businesses that could otherwise benefit from off-peak distribution schedules.

- Standardisation work to further harmonise the technological solutions used in the different toll domains should be extended. This means a possible mandatory compliance to standards of all interoperability constituents and migration obligation in case of non-compliance and mandatory acceptance in a toll domain of OBUs certified as compliant to standards.
- CLECAT rather agrees that dynamic road pricing should be applied on congested interurban roads if it allowed more reliable/shorter travel times in peak hours. However, 'dynamic' road pricing can only be put in place when there are interoperable digital technologies through common standards and platforms. CLECAT supports the implementation of the ITS directive as these devices would lead to better traffic management as well as smarter and eco-friendly driving.