

Brussels, 26th of January 2011

RE: Joint reply on the EC consultation on the drafting of a handbook for the implementation of Regulation (EC) No 913/2010 concerning a European rail network for competitive freight

CLECAT represents European freight forwarders, logistics service providers and Customs agents. Neutral towards transport modes, logistics service providers are large users of rail freight services and, hence, important customers of railway undertakings. Aware of the fact that rail could and should play a more substantial role in the supply chain, CLECAT has been promoting a liberalised European rail freight market where full and fair competition takes place throughout the European territory.

The European Shippers' Council (ESC) represents the interests of European industry as users of freight transport services in all modes of freight transport including rail. Shippers are primarily producers, retailers or buyers of goods. Through the network of European national shippers' councils, ESC represents the interests of an estimated 100,000 companies involved in international trade, within, to and from the EU. For many years ESC has said that the drive to full liberalisation of the rail freight sector remains a priority.

We would like first of all to thank the European Commission for consulting the relevant stakeholders on the draft handbook on Regulation (EC) No 913/2010¹ concerning a European rail network for competitive freight. In order for the reader to understand the track changes that CLECAT and ESC have introduced in the attached Commission's draft handbook, we would like to explain our views in the framework of this document. We also draw the reader's attention to the previous CLECAT position paper² and CLECAT-ESC joint position paper³ on the EC proposal for a regulation concerning a European rail network for competitive freight.

According to the European Commission, the purpose of establishing guidelines for Regulation (EC) No 913/2010 would be to give Member States examples of methods and practices for a successful implementation of the Regulation. CLECAT and ESC are in agreement but would also like to stress that the Regulation should be used as a base document for national governments who could use these guidelines to expand on the scope of the Regulation if they want to. This is the reason why we believe that the future handbook should explicitly encourage Member States to think proactively with regards to the requirements and possibilities presented in the future guidelines.

We would also like to underline that the guidelines should have a role of clarification to avoid misinterpretations of the legal text and should be used to encourage Infrastructure Managers to apply certain practices. In this respect:

¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:276:0022:0032:EN:PDF>

² <http://www.clecat.org/dmdocuments/pp002oetra090119eurorailntwk.pdf>

³ <http://www.clecat.org/dmdocuments/pp005oetra090327jntposeurorailntk.pdf>

- In order to avoid confusions in the interpretation of the directive and to help the implementation phase in the Member States, it is important that the Commission makes clear in the future handbook that the terms "make operational" (Art.3) and "establishment" (Art.3, 4(d),5(1,2,3,5,6,7), 7, 9(3),22, Annex) are understood synonymously in the regulation.
- We also recommend the Commission to include within the guidelines a more detailed milestones list or an indicative roadmap for the implementation of the rail freight corridors in order to ensure that Infrastructure Managers find sufficient guidance in meeting the implementation deadlines imposed by the Regulation.

CLECAT and ESC would also like to comment on the inclusion for the rail freight corridors in the TEN-T network. We believe that the Commission should indeed use the guidelines to explain that if the corridor is built and managed in accordance with the regulation, this would contribute to meeting the qualifications for receiving EU financial contributions (TEN-T and cohesion funds). This is important as it represents an important reason for investing in these corridors.

After having introduced these general points, CLECAT and ESC would now like to further comment on the following two topics that are also discussed in the draft handbook of the Commission:

❖ **Setting up the governance structure for a Rail Freight Corridor**

As regards this topic, CLECAT and ESC would like to underline that the success of rail freight development in Europe is dependent on the willingness of shippers and forwarders to use rail freight. This is the reason why we believe that not only railway undertakings should be involved in the governance of the rail corridors (more particularly in the setting up of advisory groups), but also other applicants and logistics service providers in particular, in order to allow them to contribute to improve the rail freight sector. The handbook should also explicitly mention the need to avoid discrimination towards new EU market entrants during the setting up of the advisory groups.

CLECAT and ESC do not believe that Infrastructure Managers would face severe logistics and administrative costs for the setting up of the advisory groups and we take the view that the possible additional costs may be handsomely rewarded by the additional market opening. On this issue, CLECAT and ESC would also comment that logistics service providers would accept to be more closely involved in the structures of the management boards and possibly cooperate actively with the management. Finally, CLECAT and ESC would find it useful if the Commission includes in the handbook the possibility to set up, not only regular advisory groups, but also ad hoc advisory groups on selected items that may be of interest in certain specific areas or sector.

❖ **The Implementation Plan**

CLECAT and ESC would like to say a few words on the scope and content of the Transport Market Study mentioned in the draft handbook and which would periodically analyse the customers' needs and the transport market pertaining to the corridor:

- We believe it is important that applicants that will not operate on the corridor, but might become interested to do so, are consulted for the study. The purpose of Regulation (EC) No 913/2010 is to attract more traffic and fresh competition and to have the widest range of applicants involved in the Transport Market Study; this therefore represents a very

useful source of information as well as potential consistent cargo to be brought into the corridor market.

- We also believe it would be judicious to include the role of passenger transport and other transport modes in the study, at least by referencing major trends. As it is mentioned in the draft handbook, the Transport Market Study is a study on the socio-economic costs of the rail freight corridors, and there are therefore no reasons for keeping data about other transport modes, or services, out of the study. We would also suggest that the handbook should encourage the inclusion within the study of information relating to the pricing policy for passenger traffic, especially with regards to public compensation (specifying the percentages that are paid by individual passengers and those that stem from public compensation schemes).

As regards the corridor descriptions, CLECAT and ESC believe that the draft guidelines should explicitly mention the need to include the levels of deployment and compliance with TSI. Such information would indeed be very useful for applicants on how to use corridors and would certainly help ensure the gradual implementation of TSI in the rail freight corridors.

As a more general comment, we believe that cooperation among rail freight corridors is highly desirable and should therefore be explicitly stressed in the handbook. This concerns for instance the structure and content of Corridor Descriptions as well as the parameters in and methodologies for Performance Monitoring Reports and User Satisfaction Surveys. We would also like to stress that explicit reference should be made in the guidelines that the Corridor Description, the Transport Market Study, the Performance Monitoring Report and the Satisfaction Survey shall be made public.

Next steps:

CLECAT and ESC suggest the Commission to organise a meeting in March to present the results of this consultation. It would then be useful to finalise the guidelines before summer so that rail freight users know which decisions will be taken.

CLECAT and ESC remain at the disposal of the European Commission and any other interested parties for any further information about our views on these future guidelines and other rail freight related issues.

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