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Mr Marco Leonardo Sorgetti
Director General
CLECAT
Rue du Commerce 77
B-1040 Brussels

Dear Mr. Sorgetti,

Thank you for your letter of 30 April 2010 with which you submitted to the Commission a position paper from the European Association for Forwarding, Transport, Logistics and Customs Services (CLECAT) on the cross-border operation of the European Modular System (EMS/modular concept) combinations in the European Union.

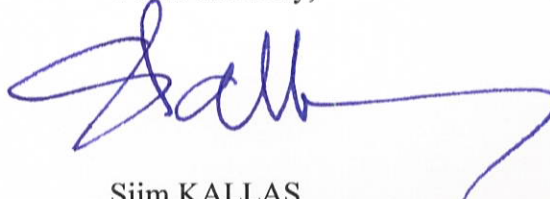
As I understand, CLECAT has recently analysed the consolidated text of Directive 96/53/EC of 25 July 1996 as amended by Directive 2002/7/EC and concluded that the Directive 96/53/EC might be interpreted as allowing the cross-border operation of Modular Concepts between the Member States which authorise circulation of the EMS combinations in their respective territories.

While I appreciate that CLECAT's experts have carried out such a thorough analysis of the legal text of the Directive, we should keep in mind that similar analysis had been done by the Commission services. Their conclusion is that the Directive and the legislator's intention should be understood as not allowing the cross-border operation of the European Modular System combinations in the EU. I would furthermore like to emphasise that the only institution entitled to provide the Commission with formal and legally-binding interpretations of the Directives is the European Court of Justice.

In light of the above, only amending the Directive 96/53/EC with respect to permitting international circulation of the European Modular System combinations between the Member States that allow their operation in their national traffic can change current situation and open the possibility for cross-border circulation of the Modular Concept combinations.

However, it should be pointed out that any legislative proposals that could lead to amending the Directive 96/53/EC can only be considered as a policy option once the Commission will have completed its own in-depth analysis and fully understood all the critical decision-making factors, including the effects of the possible policy changes on modal split, future traffic generation, transport infrastructure capacity as well as the upgrade and maintenance costs.

Yours sincerely,



Siim KALLAS