

# Position Paper

## The European Voice of Freight Logistics and Customs Representatives

Brussels, June 22<sup>nd</sup> 2007

### European Commission's consultation on a future EU seaport policy

## INTRODUCTION

### **About CLECAT**

CLECAT ([www.clecat.org](http://www.clecat.org)), the European Association for Forwarding, Transport, Logistic and Customs Services, was established in 1958 in Brussels. Today it represents 28 national federations of European multinational, medium and small freight forwarders, logistics operators and Customs agents, thus representing the largest and oldest institution of its kind in Europe. Our members voice the interests of more than 20,000 companies, directly employing in excess of 1,000,000 staff.

### ***Freight forwarders, logistics service providers & Customs agents***

Our companies provide logistic solutions that satisfy a wide variety of clients, from multinationals to SMEs, ensuring that the movement of goods is completed from origin to destination in the right place, at the right time and with the goods 'fit for purpose'. They do so for the vast majority of the world trade, utilising the entire, complex logistic infrastructure with a totally neutral and cost-efficient approach, without any bias toward particular transport means or modes. When acting as Customs agents, our members are the real experts of international trade. Familiar with its subtleties, they are the first and foremost efficient facilitators at our borders.

### ***CLECAT & seaports***

Logistic service providers and forwarders handle the majority of containerised cargo transported by sea. Hence, they are amongst the main port users. This status gives them a comprehensive perspective of the situation in European Ports; this understanding is supplemented by direct participation in port committees, where they exist. They are always on the frontline to face the consequences, be they good or bad, arising out of both the performance of port infrastructure and the quality of port services.

### ***EU seaports: current and future challenges***

As for many actors in the supply and transport chain, one of the biggest enemies of logistics service providers is congestion. Environmental damage, delays and costs are just a few of the negative consequences congestion entails.

Due to several factors, including the soaring trade with China and the Far East generally, EU ports struggle to cope with an ever-increasing amount of cargo to be handled. Many EU seaports

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thus are on the point of being congested – some may even be considered as such already. According to traffic forecasts, this trend is not likely to slow down in the near future.

In addition, ports must face new types of ships, the main characteristic of which is an increasing size. Bigger ships entail bigger volumes with substantial consequences, not only for ports and port authorities but also for port services providers and logistics operators.

These two trends make it necessary for EU seaports to adapt to new and more exigent demands. Port development is therefore not an option but a necessity. In view of the fact that ports are the point of entry/departure of some 90% of external trade, it is essential not only for the port/transport sector but also to the overall EU economy, especially if Europe is to successfully tackle current and upcoming commercial, environmental and social challenges, as laid out in the Lisbon Strategy. We see this global objective of development encompassing three aspects.

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## **I- SUSTAINABLE INFRASTRUCTURE DEVELOPMENT**

For freight forwarders, it is important to have as many transport options available as possible in order to choose those that best match customer's requirements. We believe the same logic should apply to ports. It is of the utmost importance to **avoid a concentration of traffic at a few major ports**. If the European port system is to successfully absorb the rise in traffic, port development must occur harmoniously all over the EU territory.

Coping with current and in particular upcoming traffic will oblige ports to develop and extend their infrastructure. As indicated above, the question is not whether ports should or should not develop; it is now about setting a clear and transparent legal framework for the completion of port development projects, whilst remaining sensitive to environmental considerations. Indeed, the fact that port development projects must incorporate **environmental requirements** is not itself in question. Problems however arise when projects are brought to a standstill because the assessment of the project's environmental impact becomes unnecessarily burdensome. Such projects involve big investments. **Legal certainty:** this is undoubtedly an important criterion to secure such investments. Procedures should therefore provide for such certainty. Consequently, there should be some level of harmonisation as regards the competence for evaluating environmental effects of a project and/or the possibility to appeal a decision. All in all, the most important thing is that, once a project is given "environmental clearance", this should carry legal certainty and not be open to reconsideration.

## **II- FAIR COMPETITION**

In addition to good infrastructure, the key element to service quality and performance is full and fair competition, both among ports and within a port.

### **A- Fair inter-port competition**

As explained above, CLECAT believes that port development should occur harmoniously over the EU in order for all seaports to make their contribution to the functioning of the supply and transport chain. In this perspective, it is equally important to provide for fair competition among EU seaports. In order to set a level playing field, CLECAT therefore supports the development of Commission's **guidelines on state aid in the port sector**.

The Commission has mentioned a possible **categorisation of seaports** in the guidelines; indeed CLECAT sees some logic in such an exercise, as the Commission rightly points "*it would*

*be unbalanced to come to the conclusion that there is competition among all ports in all cases".* That said, the exercise may prove rather complicated, in particular when it comes to setting criteria. Indeed, many different aspects could be taken into account: port dimensions, volumes handled, geographical competition, types of goods, origin/destination of goods etc. There is therefore a clear risk of embarking into lengthy discussions. The merits of a categorisation should be carefully assessed and clearly visible before starting such discussions.

Finally, CLECAT believes that EU ports must compete not only within the EU but also with ports outside the Union. That said, we sympathise with the difficulties faced by some EU ports as regards "**unfair" competition from non-EU seaports**". We share the European Commission's credence in 'international demarches' and we believe that discussions between the EU and non-EU countries concerned could be worthwhile, in particular in the context of EU neighbourhood policy.

### **B- Fair intra-port competition**

From CLECAT's perspective, the only requirement is that the services which are offered within port areas should enjoy a decent level of competition, no more and no less than services offered outside ports.

In principle CLECAT supports liberalisation in the transport industry, because we believe that free competition contributes to improving quality and efficiency. Indeed, in the total or partial absence of competition, the exploitation of infrastructure may induce inflated revenues and the loss of proportion between service and price. Furthermore, liberalisation proves generally a good tool for promotion of investments as well. This said, a careful approach, with particular attention being paid to, social, safety, security and environmental rules is required by the specificity, complexity and diversity of the European port system.

The Commission's first and second proposals on **market access to port services** tried to provide a 'global' solution but their successive failures showed that a 'one size-fits-all' solution is not possible at EU level at this point in time. However this should not lead to a situation where access to, and the provision of, port services are regulated in a fragmented way, through case law from the European Court of Justice. In order to strike a balance between, on the one hand, a variety of national/local situations and, on the other, the need to respect EU competition and internal market legislation, CLECAT would welcome an **assessment of relevant EU legislation and the establishment of a framework through guidelines**. We believe such a solution would provide the necessary approximation to legal certainty.

On the more specific issue of **access to infrastructure's operation**, CLECAT believes that tender procedures would provide the best solution to ensure non-discriminatory access to the operation of port facilities. However, the **duration of authorisations** remains of concern. The founding principle should be that durations be long enough to encourage investments, i.e. to allow a proper return. On the other hand, authorisations' duration should not become a hidden means of preventing competition, nor a legacy. At present concessions in the EU are granted for very different periods, and in some cases for as long as 99 years. A balance has to be found between these two requirements. This point could be included in the assessment of EU competition and internal market legislation for seaports that we propose above.

Finally, as regards **port tariffs**, CLECAT would limit itself to a simple observation: full and fair inter-port & intra-port competition would surely provide the best level of transparency for port tariffs.

### **III- PORTS IN THE SUPPLY CHAIN**

Because some 90% of the world's external trade is carried by sea, ports are the main point of entry/departure of goods in the EU. Ports therefore play a central role as nodal points in the supply chain. In order for ports to best fulfil this role, administrative and Customs procedures must be as simple and transparent as possible, whilst taking account of the contribution ICT and innovation make. Furthermore, logistics service providers must be able to count on reliable and diverse hinterland connections.

#### **A- Administrative simplification**

CLECAT is very supportive of the **administrative simplification** that may be brought about by the implementation of the Common European Maritime Space (CEMS). The fulfilment of administrative and Customs procedures both in the ports of departure and arrival remains an important hindrance, particularly for short sea shipping and other costal services. The added value that the CEMS concept could bring is therefore substantial. As for "**local traditions**" it is however debatable whether the CEMS would have any harmonisation effect since many of these traditions actually are local/national interpretations of procedures and requirements set at EU level.

As regards the '**single window concept**', CLECAT has no objection in principle. One may however wonder whether too much emphasis is placed on this issue. Freight forwarders and all kinds of logistics service providers have given life to this concept *ante litteram* for a number of years. This does not mean that a simplification exercise would be worthless: whereas one-stop-shop has always existed (as offered by freight forwarders), there may be an advantage in simplifying processes and procedures and creating a transparent and more efficient regulatory environment. In other words, our sector is quite happy to enter a more user-friendly future. On the other hand we are concerned that the excessive expectations created by insufficient or incorrect information might backfire, if the current performance of a number of service providers is not adequately recognised and appreciated.

#### **B- ICT & innovation**

The Commission suggests developing the concept of **e-maritime platform**. The European e-maritime platform would indeed be an interesting concept to develop in the interests of simplifying procedures. One should however recognise that we are talking about a project for the longer term....

It should be noted that logistics service providers are big users and developers of ICT products, as the latter play an important role in the quality and reliability of the services offered. It must be pointed out however that ICT products are only a tool that helps logistics service providers. The same logic prevails as regards the impact of logistics on transport performance. Logistics should not be seen as the panacea to transport problems. Indeed, logistics is not just about transport: logistics services are more complex, wide-ranging and go well beyond the mere organisation of a transport journey. Moreover, as far as transport is concerned, logistic service providers can only operate within the limits of what is available in terms of infrastructure, modal options and services. Therefore, as with transport in general, the main issue for ports is, and will continue to be, infrastructure and competition, within the port and between ports.

#### **C- Hinterland connections**

When choosing a port, logistics service providers use a few decisive criteria: quality, frequency, reliability and price of port services, as well as variety and quality of hinterland connections. Hinterland connections play a crucial role in order not to asphyxiate port areas with huge

quantities of immobilised goods. With bigger and bigger ships, this role becomes more and more critical.

Whilst the number of available hinterland connections (road, rail, inland waterway etc.) is important, the quality of these connections also counts. Ideally, **each transport solution should offer an equivalent level of quality**, efficiency, reliability, infrastructure availability, etc. In other words, logistics service providers should be able to use them indifferently depending on customers' requirements, types of goods etc.

In the future, **infrastructure charging policies** will be implemented. They may make the transport chain more sustainable, but one should not think that they will result in a sudden re-mapping of EU transport patterns. Indeed, once all modes pay for their external costs (which may happen with unexpected results), quality, reliability, frequency will remain important factors in customers' choices. Unless all available transport modes provide these features at an equivalent level, **artificially** privileging one mode (e.g. rail) over the others may just result in increasing congestion, instead of the contrary. A lot of attention must therefore be paid to keeping a level playing field among the various modes that will provide hinterland connections. Their natural aptitudes must be respected and the best features of each mode (e.g. price, flexibility, reliability, volume capacity) brought to fruit.

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## CONCLUSION

CLECAT has been closely involved in the consultation on a future EU seaport policy. Throughout the process, we have tried to provide ideas and opinions on all the topics that are relevant to forwarding, logistics and Customs service providers.

Ports play a key role in the supply chain. Their performance is of the utmost importance because it sets the pace of a successful transport journey. Indeed, the very structure of the supply chain creates a 'domino effect': a performance failure in a port will directly impact on subsequent transport and transport-related services' performance.

With this in mind, the main objective of the future EU seaport policy should be the maintenance and development of ports' performance commensurate with respecting environmental and social constraints, as well as the diversity of local/national situations across the EU. The successive failures of the first and second port packages have shown that striking a balance between these various requirements is anything but easy. Since mandatory legislation seems impossible at present, CLECAT believes that the solution lies in a different approach through soft law instruments that would analyse and clarify the current EU legislation applicable, so as to set a framework, which would provide the necessary certainty for ports to thrive, today and tomorrow.