

The European Voice of Freight Logistics and Customs Representatives

Brussels, September 11th 2006

RE: Revised ELAA proposal for the forthcoming Commission's guidelines on competition in maritime transport

INTRODUCTION

CLECAT was established in 1958 in Brussels, where it represents today 29 national organisations of European multinational, medium and small freight forwarders and Customs agents, thus representing the largest and oldest institution of its kind.

What is a freight forwarder?

A freight forwarder is the real master of the supply and value chain. He crafts logistic solutions that satisfy both production and consumption, both supply and demand and makes sure their expectations are satisfied, ensures that goods move from the point of origin to reach their final destination at the right place, at the right time and in good shape. For this purpose, freight forwarders utilise the entire and complex logistic infrastructure with a totally unprejudiced and cost-efficient approach. Freight forwarders do not privilege any means of transport or transport infrastructure as such, although some may own a great many equipment and infrastructure. Customs agents are on the other hand the real experts of international trade and its subtleties, ensuring that our borders do not allow for fraud and infringement, in close contact with the competent Authority

Who does CLECAT represent?

Our members voice the interests of more than 19.000 companies employing in excess of 1.000.000 staff. European freight forwarders and Customs agents clear 95% of all goods in Europe and handle 65% of the cargo transported by road, 95% of the cargo transported by air and 65% of the maritime. CLECAT also plays a major role in rail and inland waterways, intermodality being the real "pièce de résistance" of our members' activities CLECAT also represents FIATA, the World Federation of Freight Forwarders, on European issues, thus indirectly representing 38 European countries and 100 countries more worldwide.

What does CLECAT do?

CLECAT promotes the activity and defends the interests of its members in connection with a large number of institutional and non-institutional counterparts. It has a voice where a regulatory environment concerning transport formalities and transport modes is created, in the intent of securing a uniform and seamless environment, where cargo can move freely and securely for the benefit of the whole international trade, with due respect to issues such as security and environment.

As expressed in its position in January 2005¹, CLECAT, representing freight forwarders, logistics operators and Customs representatives in Europe, supports a liberalised shipping market. Therefore, we welcome the proposal for repealing Regulation 4056/86² that the European Commission issued at the end of last year.

We acknowledge the Commission's wish to draw up some guidelines on competition in the maritime sector in order to "*smooth the transition to a fully liberalised shipping market*". Despite some scepticism about what these guidelines will bring about, CLECAT ready to discuss their content as long as 3 conditions are fulfilled:

- 1- In order to achieve the aim of 'smooth transition', the guidelines must be of a brief, temporary nature and not simply "replace" the current arrangements;
- 2- Freight forwarders must be recognised as a negotiating party and therefore regularly consulted on the development of the guidelines;
- 3- CLECAT will only take a firm stand on the guidelines after an initial period of application.

CLECAT notes the revised proposal³ recently put forward by the ELAA. In 2005, CLECAT made clear that any possible alternative arrangement to the Conference system should be "*compatible with the normal rules and disciplines of EU competition law, with no exemption privileging one party above the others*".

In light of the above, we would like to comment on the core principles around which this revised proposal revolves.

Port-to-port aggregated volume database + industry supply and demand forecast

These two elements could prove useful. However, one should not forget that ports themselves already make some of this information available. In addition, CLECAT has some concerns about the preservation of confidentiality and the risk, inherent in this kind of information, of capacity manipulation.

Industry-wide consultation through Liner Shipping Associations

In principle the conference system provided for such consultation. However, over the years the absence of a legal obligation progressively diminished the significance of this consultation. In some areas they were even considered unessential. In addition, CLECAT doubts that the discussion and interpretation of statistics and other data would prove sufficient justification for the existence of such associations or whether the time and money saved in leaving this idea aside would not be a better alternative.

Simple aggregated price index by trade direction

CLECAT is strongly opposed to any discussion on or reference to prices. The proposed price index entails the risk of similar results to "conference tariffs" whereas the Commission's proposal for repealing Regulation 4056/86 expressly excludes the possibility of price fixing.

Transparency of cost elements + currency costs

CLECAT does not see much added value in this proposal, all the more so since a lot of this information is already publicly available.

Surcharges⁴

As regards surcharges, CLECAT believes that all elements of ocean freight must be included in freight rates. Since it is however understood that some parts of the costs may fluctuate, CLECAT would advocate the following:

- The permanent part of surcharges must be included in freight rates
- The fluctuating part must be kept as small as possible

¹ See : <http://www.clecat.org/dmdocuments/PP001IOMa050114WPReg4056.pdf>

² See : http://ec.europa.eu/comm/competition/antitrust/legislation/maritime/com_2005_0651_en.pdf

³ See: <http://www.elaa.net/documents/RevisedELAAProposal.pdf>

⁴ FEDESPEDI, Full Members from Italy, have taken exception on the item of surcharges and reserved the right to express their individual views on this point