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POSITION PAPER

EU maritime transport and logistics policy: freight forwarders' perspective on the recent and future developments

Introduction

CLECAT is the European Association for Forwarding, Transport, Logistics and Customs Services. CLECAT members, operating at EU and global level, utilise all modes of transport, including road, rail, air, maritime and inland waterways, as well as intermodal solutions.

CLECAT would like to offer its views to the Members of the European Parliament on the recent and future developments in the EU maritime transport and logistics sector, setting out the needs and objectives of European freight forwarders and logistics service providers. To that end, we would like to outline our vision on how to enable a shift to a sustainable maritime logistics supply chain, whilst supporting digitalisation and building a resilient transport system in the EU, fit for future challenges.

In doing so, we would like to highlight the need for a holistic approach towards maritime transport and logistics. It would be a mistake to single out the EU maritime shipping industry, given that it is embedded within a much wider maritime logistics sector. A 'silo approach' would therefore be harmful, as it ignores the highly interconnected nature of container shipping as well as the dynamics of different segments of the maritime logistics chain.

We believe that a new EU approach towards maritime transport and logistics should help the container shipping industry become more responsive in its role of serving European exporters and importers, trading in the global marketplace. In this regard, CLECAT would be willing to assist the European Commission and the co-legislators in creating a clearer policy framework, which would benefit Europe's public interest and ultimately serve the EU economy and its citizens. This policy should take into account the economic interests of the EU, address the competition concerns and consider the climate change and other environmental objectives.

The first part of this paper addresses the concerns of CLECAT with regards to the container shipping industry. CLECAT calls on the European Commission to bring it under normal competition rules and to effectively monitor compliance, also in view of recent transformations in the maritime shipping sector with respect to digitalisation, allowing carriers to make use of big data, and its potentially anti-competitive effects on the rest of the supply chain.

The second part of the paper evaluates the broader maritime transport and logistics policy objectives of the EU and outlines the needs for a revised strategy in terms of connectivity, sustainability and digitalisation.

I. Liner shipping: are current EU policies fit for purpose?

The container industry has traditionally been protected; first by the liner shipping conferences (legal cartels), which were abolished in 2008, and now by a block exemption from normal competition rules for liner shipping consortia, i.e. agreements between shipping companies (also called ‘vessel sharing agreements’ or in short VSAs) to operate joint liner shipping services and engage in certain types of operational cooperation, leading to the economies of scale and better utilisation of the space on vessels.

Notably, shippers and freight forwarders have objected to the recent renewal of Consortia Block Exemption Regulation (BER) on the basis that it allows shipping lines to jointly manage capacity. Due to the proliferation of operational consortia agreements, we have observed a number of trends and developments over the last decade – resulting in increased port and terminal congestion, skyrocketing detention and demurrage charges and deteriorating schedule reliability and other service levels – which in turn have seriously affected the fluidity of the wider logistics supply chain:

1) Proliferation of ever-ultra large container vessels

Liner shipping alliances – within which consortia operate – have heavily invested in ultra large container vessels (ULCVs). This has largely affected the economics of international liner shipping, which in turn has changed cost structures for logistics and infrastructure providers. ULCVs put pressure on the hinterland connections because of capacity peaks at terminals as well as inland transport restrictions (e.g. gate opening hours). These operational peaks place demands upon the flexibility of the logistics sector to handle cargo flows. Whereas the rates as such have been relatively low (pre-COVID) because of overcapacity and the race to build ever-bigger ships, shippers and forwarders have witnessed a continuous erosion of service quality.

2) Vertical integration and the promotion of carrier haulage

Global container shipping companies are increasingly focusing on vertical integration, moving also into the provision of door-to-door logistics services. Carriers aim to become fully involved in the container supply chain, adding land-side logistics trucking, barge and rail services to their seafreight portfolio, thus offering ‘carrier haulage’. By doing so, they compete directly with freight forwarders who traditionally offer door-to-door services in ‘merchant haulage’.

Whereas we understand that vertical integration is a legitimate commercial practice as such, we are seriously concerned that vertically-integrated shipping lines take advantage of their position due to the fact that the EU legislation continues to provide benefits to carriers, not provided to other parties in the maritime logistics supply chain. This in turn threatens a level playing field and a healthy competitive environment. When it comes to commercial considerations, we see that carriers give preference to containers in carrier haulage: for instance, they provide preferential treatment to containers moving in carrier haulage related to demurrage and detention free times and tariffs, as well as inland container pick up or return. In the context of the ongoing COVID-19 crisis, we have observed that containers moving in merchant haulage have been more likely to be rolled to another vessel, unless a premium was paid, or that containers would be guaranteed to goods moving in carrier haulage, whereas forwarders would have to book transport service without any assurance of container availability, unless – again – a substantial premium was paid.

Whereas the Consortia BER was originally designed to provide an exemption to seafreight services, i.e. port-to-port services, carriers are increasingly becoming integrated logistics service providers and consequently compete with freight forwarders in the door-to-door supply chain. It should also be noted that whilst container lines can easily become forwarders, the reverse is not the case because of the barriers of market entry, posed by alliances.

3) Information exchange enabled by digitalisation / capacity management

The operational activities that the Consortia BER purports to facilitate are mainly exchanges of information between competing carriers, necessary to give effect to the VSAs. It is well known that nowadays container carriers have the possibility to exchange data within the framework of their VSAs. They use digitalisation as a vehicle for exchanging strategically sensitive information, which, combined with joint capacity planning as allowed under the BER, provides carriers with tools to manipulate the market. This makes an exemption from normal competition rules largely redundant.

In the context of COVID-19, the global maritime supply chain has become extremely unreliable, above all due to the introduction of blank sailings as part of the capacity management strategies of carriers. What European industry has witnessed since the initial outbreak of the pandemic is that shipping lines have continuously reduced capacity (=vessels) via blanked sailings, with the objective of keeping rates on the high level. Whilst carriers are registering record profits over 2020, inflated rates and reduced capacity puts the rest of the maritime supply chain at a disadvantage – to an extent that this situation may risk the speed of the post-pandemic recovery of some economies.

4) State aid and tonnage tax

The market distortion is more widespread, as also highlighted by the International Transport Forum (ITF). There are now clear cases that vertically integrated carriers can benefit from the preferential tax schemes (e.g. the tonnage tax), which provide incentives for carrier haulage rather than merchant haulage. Moreover, particularly in the context of COVID-19, concerns have been raised regarding the allocation of state aid into carriers' vertically integrated structures, giving them a substantial competitive advantage vis-à-vis freight forwarders.

Call for fair competition

In view of the points addressed above, CLECAT calls on the European Commission to review its policies from the perspective of the maritime transport and logistics sector and not restrict this solely to the shipping industry. Most major liner companies have integrated other activities, including terminal operations, freight forwarding and intermodal transport, aiming to provide door-to-door services. Nonetheless, EU regulation does not currently take these developments into account, perpetuating special regimes for liner shipping in terms of competition, state aid and taxation. All of these special regimes continue to create increasing market distortions, calling for a serious reform.

A need for a reform in Europe is all the more exposed when looking at the activities of competition authorities in other parts of the world. For instance, the US Federal Maritime Commission (FMC) has undertaken a number of transparent formal investigations into shipping practices, perceived unfair by shippers, forwarders, truckers and other container transport interests, which have led to concrete

results in the form of best practices and interpretive rules. Most recently, the US FMC has stepped up its scrutiny of liner activity by requesting global carrier alliances to submit key trade data on a more frequent basis, aiming to better monitor and analyse container carrier freight rates and service market trends in the context of the COVID-19 crisis. The Chinese and South Korean regulators have also recently launched scrutiny initiatives into record carrier profitability and mismatching service levels.

Hence, European regulators should address the following questions:

- Should the EU continue to give excessive privileges to the shipping lines operating as oligopolies at the detriment of European supply chains?
- Should the EU and the Member States continue to provide state aid and other subsidies – such as tonnage tax – to shipping companies, which are through acquisitions in the supply chain extending business activities where they compete with non-subsidised logistics companies?
- Are current EU competition rules still fit for purpose in view these market developments?

II. Broader maritime transport and logistics policy issues

1) Better connectivity and access to infrastructure

The lack of well-developed, connected and accessible infrastructure remains a barrier to achieving fully sustainable cross-border freight movements across the EU. For European freight forwarders to remain competitive, it is important to have appropriate port logistics infrastructure and efficient and easily accessible connectivity to the hinterland. Interfaces between different transport modes, such as intermodal terminals, are crucial for promoting intermodal transport services and ensuring efficient intermodal supply chains across the EU. The lack of such infrastructure often leads to a decision against combined transport operations, which have a potential to reduce emissions. Better infrastructure availability and accessibility, focusing in particular on the lacking intermodal connections and transshipment facilities, should therefore be fostered at EU level.

CLECAT would also support initiatives to address restrictive labour practices and further liberalisation of port services, making port services more competitive, whilst allowing for high standards in quality and the safety of the services.

2) Public funding & support for private investments

Substantial investments (including from private funds), required to develop better port logistics infrastructure, create multimodal transport corridors, enable a switch to sustainable alternative fuels and facilitate the circulation of information between the different parties of the logistics chain must be acknowledged. The Commission should therefore provide legal certainty and reassurances for companies that industry investments will be beneficial in the long-term. The Commission should also guide private investors willing to invest in cleaner technologies.

Appropriate public funding is equally needed to support private investments. CLECAT therefore argues that the Connecting Europe Facility (CEF), the dedicated funding instrument of the EU designed to facilitate the realisation of European transport infrastructure policy, offers the best guarantee to deliver high EU added-value in the maritime sectors under the next Multi-Annual

Financial Framework (MFF). The use of other EU funding instruments, such as the InvestEU or the NextGenerationEU, should also be encouraged.

3) Modal shift towards more sustainable transport modes

CLECAT supports the EU modal shift objectives and the wider use of short-sea and inland shipping services, but there has been an overreliance on transport charging policies, which CLECAT has always said would not be able to steer the modal choices alone; more has to be done to increase the attractiveness of short-sea shipping and inland waterways transport. In this regard, the removal of persistent bottlenecks in the loading operations between seagoing vessels and hinterland modes (including barges) remains important.

The failed revision of a Combined Transport Directive is a missed opportunity to increase the uptake of combined transport across national borders in the EU. The Commission should therefore ensure that the 2021 revision fully addresses the market reality and creates a feasible framework for the Member States that incentivises the shift from long-haul road freight to low-emission transport modes, including inland waterways and maritime, subsequently reducing transport emissions and congestion on road networks.

4) Smart operations in the context of European Maritime Single Window

CLECAT has worked closely with European legislators to enable the adoption of the Regulation on Electronic Freight Transport Information (eFTI), an important legislative initiative, which should create a digital environment for information exchange in transport, benefitting both the business community and the authorities. eFTI will support the interoperability between various stakeholders and data sharing systems (such as port community systems, EMSWe, TAF/TSI etc.).

Progress was also made last year with the adoption of the revised Regulation for the European Maritime Single Window (EMSWe), which took most of the CLECAT recommendations on board. The EMSWe Regulation enables a secure EU harmonised reporting for ships, the establishment of a maximum dataset and the efficient re-use of data. This will encourage and support the sharing and re-utilisation of data, which is part of the core business of freight forwarders and customs agents due to legal requirements or because of customers' or other supply chain partners' demands and wishes.

CLECAT believes that this pan-EU legislative initiative, focusing on the exchange of data for the B2A and A2A communication, can ensure that electronic communication is possible in all the Member States and for all relevant authorities in those Member States. In this regard, it is important that this happens in a harmonised way, whereby a common data set should also be enforced. Over the last months of the ongoing pandemic, we have noted the further integration of new technologies and digitised processes; however, the digitalisation of administrative processes on corridors remains a priority.

5) Industry uptake of sustainable alternative fuels

Whilst CLECAT supports the decarbonisation ambitions of maritime transport, as outlined in the EU Green Deal, the EU must use its weight at the International Maritime Organisation (IMO) to

achieve a global carbon offsetting scheme for international shipping and to ensure an ambitious path towards emissions reduction.

At EU level, CLECAT welcomes the Green Deal intention to ramp up the production and deployment of sustainable alternative fuels, which is essential for reducing European transport sector's dependency on the fossil-based energy, as well as for mitigating the environmental and societal impacts of transport. In deep-sea shipping, sustainably sourced hydrogen, ammonia and methanol, which can be used as fuel in internal combustion engines and also in fuel cells, could be considered as zero-carbon alternatives to heavy bunker fuel, although commercial and technical limitations to their use remain. Such alternatives as biofuels and green methanol, as well as bio-LNG/CNG, which are already used on some short-sea services, could be a suitable option for compliance with the more stringent global sulphur regulations. However, fossil-based fuels, including LNG and CNG, should only be regarded as transition fuels – although they will remain necessary in the near future, they are not the solution in the long term. CLECAT however recognises that all the sustainable alternative fuel options must be pursued in a technology-neutral way, including through increased research and innovation efforts.

The lack of infrastructure to supply sustainable alternative fuels and onshore power to vessels remains a major obstacle for waterborne transport to replace heavy bunker fuel. The bunkering and storage infrastructure for sustainable alternative fuels such as bio-LNG, green methanol and green hydrogen, as well as shore-side electricity, must therefore be facilitated across the maritime and inland ports in the EU. For instance, short-sea shipping can only further develop if sufficient alternative bunkering infrastructure in ports is deployed, with a possibility to quickly adapt to changes in fuels used. The safety concerns must also be ensured with regards to bunkering and storage of certain alternatives such as hydrogen, ammonia or LNG.

Accelerating the deployment of alternative fuels infrastructure is essential to ensure the market uptake of latest fuelling technologies in the maritime sector. Efforts should also be increased with respect to shore-side electricity supply for inland and maritime shipping. This could be done by setting binding national deployment targets for the alternative fuels infrastructure and onshore power solutions in ports across the TEN-T Core Network and beyond.