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**Wachsende Frustration unter Spediteuren in Krisenzeiten –
CLECAT tadelt Containerreedereien als Krisengewinnler**

Sehr geehrte Damen und Herren,

der europäische Spediteurverband CLECAT hat in einer Presseveröffentlichung Anfang September in deutlichen Worten die Container-Reedereien für ihr Geschäftsgebaren in der Corona-Pandemie kritisiert, die wir Ihnen nachfolgend zur Kenntnis bringen möchten:

“Recently, various shipping consultants reported in glorious terms about the multi-billion-dollar profits made by carriers at times of the global pandemic. Capacity discipline brought a silver lining to carrier circles: Maersk’s Q2 net profit increased year-on-year from \$154m to \$443m, despite volumes plunging 16%; Hapag-Lloyd’s net profit increased from \$56m to \$287m, alongside an 11% drop in volumes; and HMM’s net profit was \$23m, compared to a \$54m loss in Q2 19, even though its liftings fell 22%. Sea-Intelligence noted that the combination of stronger rates and lower operating costs had helped those carriers increase their profits by 160%.

Drewry has concluded that ‘shippers should get used to a much more concentrated marketplace in which shipping lines have more power’, while warning that the container shipping costs and service levels are ‘at risk of spiralling out of control.’ The massive withdrawal of capacity since the start of the COVID-19 pandemic – 468 blanked departures on east-west trades – coincided with extremely low schedule reliability of the remaining sailings. Consequently, blanked sailings and poor schedule reliability resulted in widespread rollovers of containers. Whereas some carriers now offer no-roll or guaranteed services, they do so at premium rates, which basically is just a normal service offering at increased price.

Apart from the increase in freight rates, there are other costs implications caused by the operational problems for shippers and forwarders. The costs for the freight forwarding industry are huge: they range from the re-booking of shipments to sometimes even losing customers because there is simply no service made available by carriers. Let me emphasize that bookings made by forwarders are not some sort of flexible agreements with carriers. At the time of booking forwarders receive a booking confirmation with a clearly identified vessel. Imagine the extra costs and stress for the logistics sector caused

by the blanked sailing and rolled shipments by seeking to make new bookings, detention and demurrage costs, as well as other charges, and financial booking costs.

Carriers blame the pandemic. But at a time when European industry is in a serious recession, and when the competitiveness of European exporters and importers and their service providers – collectively employing far greater numbers of people than carriers, contributing far more to economic prosperity and making bigger investments in Europe, is at risk – everybody is at the mercy of carriers, without tools or means to control their behaviour, at least in Europe.

This comes at a time a few months after joint efforts with shippers and terminal operators to bring liner shipping back under normal competition rules. Today's carrier behaviour is excessive and frustrating for many. The prolongation of the Consortia Block Exemption Regulation (CBER) was a missed opportunity to help the container shipping industry become more responsive in its role of serving European exporters and importers, trading in the global marketplace. Whereas carriers are saying that they have the ambition to become more service-minded, the reality proves to be different.

When calling for a repeal of the exemptions from the normal competition rules for consortia, CLECAT made the point that the operational activities that the CBER purports to facilitate are mainly exchanges of information between competing carriers, necessary to give effect to vessel-sharing agreements (VSAs). It is well known that nowadays container carriers have the possibility to exchange data within the framework of their VSAs. The reality today is that carriers operate in alliances with no competition from outside on the main east-west trades with three container shipping alliances that cover 95% or more of the East-West traffic. Modern digital tools allow them to jointly keep space below demand, which is the way to make money.

As so eloquently described by August Braakman in Lloyd's List, 'the effects of the exchange of strategically sensitive data within the framework of conference and discussion agreements are significantly reinforced within VSAs/alliances that make use of advanced state-of-the-art logistics solutions and the ensuing semantic interoperability of the computer programmes used by participating lines and possible other actors involved, both towards one another and towards the BI&A system that governs the logistics chain.' He concludes that the shipping sector uses digitalisation as a vehicle for exchanging strategically sensitive information, which makes exemptions from competition rules redundant.

CLECAT and others also concluded that the evidence to date is that the carriers have used the CBER as a basis to extend the exemption to Voluntary Discussion Agreements, which include prices. The Commission has in our view overlooked the impact of the fundamental drivers of collaborative behaviour in the container shipping industry. Not willing to look at the alliances, as they have a market share beyond 30%, the fact that the different shipping consortia and alliances are heavily intertwined allowing detailed coordination between them was largely ignored.

The enthusiasm with which the Commission supported the case for carriers to be granted continued generous exemptions from European competition law took us by surprise, in particular since the Commission has no adequate means of monitoring compliance or behaviour. Meanwhile, the surging freight rates seen on the transpacific trade has gained the interest of the Chinese Ministry of Transport, which has reportedly written to six of the largest carriers seeking “an explanation” for the rises. Moreover, the US FMC Commissioner wants a closer review of the blank sailing monitoring. In the US, regulators analyse the impact vessel capacity changes and capacity projections have on freight rates.

The distortion is more widespread as also highlighted by the International Transport Forum. Following the clearing of state aid of the maritime industry in Italy, CLECAT called on EU Commissioner Vestager to clarify the state aid rules in order to avoid risks of distortion of competition and to ensure a level playing field.

There are now clear cases that more vertically integrated carriers can benefit from tax schemes, which provide incentives for carrier haulage (door-to-door transport arranged by the carrier) rather than merchant haulage (where door-to-door transport is arranged by the shipper or freight forwarder), which obviously is not acceptable to us.

CLECAT now urges European policy makers to address some important questions: Should the EU continue to give excessive privileges to the shipping sector operating as oligopolies at mercy of European supply chains? Should the EU and Member States continue to give 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 logistics companies that are not subsidised? Are current EU competition rules still fit for purpose in view these market developments?”

Mit freundlichen Grüßen

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