FEPORT

The Federation of European Private Port Companies and Terminals

Newsletter – May 2020

Stronger together thanks to a new breath

As mentioned by the President of the EU Commission, Ms Von der Leyen during her presentation, on May 27th, 2020, of the EU recovery plan, "*Next Generation EU*" *is more than* a help for Member States to recover from the COVID 19 crisis. It is a means to build up their long-term resilience capacity.

Part of this resilience will hopefully result from a successful European Green Deal and an ambitious Digital agenda including transparent rules of governance in terms of data sharing as well as a digital tax.

The success will also depend on the ability of the EU to strengthen its main industrial value chains, and to support Member States' investments and reforms to relaunch economy, restore growth and create jobs.

The Solvency Support Instrument which aims at providing support companies in the most affected sectors, countries and regions and levelling-up the playing field for Member States who have been less able to support their companies with State aid throughout the crisis than others is a positive news for many corporations currently struggling to survive. However, it is important to make sure that the granting of State Aid to several companies will not compromise fair competition with the other actors who shall not receive public support.

The Mobility-Transport-Automotive ecosystem is and will be undergoing transformations. Business models are evolving. The role of competition authorities be it EU or national level will also be to make sure that State Aid that will be given for instance to some companies of the transport and logistics chain will not distort competition both horizontally and vertically. we need clear, transparent, and fair rules and a review of EU Competition rules.

As mentioned by the President of the Commission, we will overcome this crisis together and all the 14 ecosystems identified by the Commission will play their role. So while one can understand the "natural tendency" for some industries to claim or proclaim that they are more important than others and that they deserve more attention, the success of the recovery will certainly depend on how the different industries composing the above mentioned ecosystems will create value, not in solo or in silos, but collectively.

Many industries have been severely hit by the economic impact of the COVID 19 crisis and will need significant investments but the recovery will also require from the EU to adopt efficient instruments to ensure a real level playing field and a fair competition with other regions of the world.

Our strong belief is that the Mobility-Transport-Automotive ecosystem can be one of the engines of the recovery and contribute to the EU objectives in terms of sustainability, employment, long-term resilience capacity and reindustrialization. This can happen under the condition that the necessary investments are made and a constructive dialogue between EU policy makers and all the industries composing the ecosystem is established.

FEPORT members will certainly remain mobilized and will continue to contribute to the attractiveness of the European ports and look forward to a good cooperation with all EU institutions.

05.05.2020 – ALICE webinar on 2020 workplan and future activities

On the 5th of May, European Technology Platform ALICE organised a webinar on changes to its planned activities for 2020 in view of the COVID-19 pandemic, explaining which activities had been maintained without changes, got cancelled or had been rescheduled.

The deadline for the completion of the ALICE roadmap *"Towards the Physical Internet"*, for instance, has been moved forward from the end of February to the end of September 2020, mainly to take into account the lessons of COVID-19 as regards to supply chain resilience.

As regards to the TRA2020, which was scheduled April 27-30, 2020, various sessions focussing on *Ports of the Future* and *intelligent maritime logistics and data Exchange* will be held online in September 2020.

08.05.2020 – Commission extends State Aid Temporary Framework

On the 8th of May 2020, the European Commission has adopted a second amendment to extend the scope of the State aid Temporary Framework enabling Member States to support the economy in the context of the coronavirus outbreak.

This second amendment complements the types of measures already covered by the Temporary Framework and existing State aid rules, by setting out criteria based on which Member States can provide recapitalisations and subordinated debt to companies in need, whilst protecting the level playing field in the EU.

The Temporary Framework sets a number of safeguards to avoid undue distortions of competition in the Single Market.

At the same time, Member States are free to design national measures in line with additional policy objectives, such as further enabling the green and digital transformation of their economies or preventing fraud, tax evasion or aggressive tax avoidance.

- **Conditions on the necessity, appropriateness, and size of intervention:** Recapitalisation aid should only be granted if no other appropriate solution is available. It must also be in the common interest to intervene, for example to avoid social hardship and market failure due to significant loss of employment, the exit of an innovative or systemically important company, or the risk of disruption to an important service. Finally, the aid must be limited to enabling the viability of the company and should not go beyond restoring the beneficiary's capital structure to before the coronavirus outbreak.

- **Conditions on the State's entry in the capital of companies and remuneration**: The State must be sufficiently remunerated for the risks it assumes through the recapitalisation aid. Moreover, the remuneration mechanism needs to incentivise beneficiaries and/or their owners to buy out the shares acquired by the State using State aid to ensure the temporary nature of the State's intervention.

- **Conditions regarding the exit of the State from the capital of the companies concerned**: Beneficiaries and Member States are required to develop an exit strategy, in particular for large companies that have received significant recapitalisation aid from the State. If six years after recapitalisation aid to publicly listed companies, or up to seven years for other companies, the exit of the State is in doubt, a restructuring plan for the beneficiary will have to be notified to the Commission.

- **Conditions regarding governance**: Until the State has fully exited, beneficiaries are subject to bans on dividends and buybacks of shares. Moreover, until at least 75% of the recapitalisation is redeemed, a strict limitation of the remuneration of their management, including a ban on bonus payments is applied. These conditions also aim at incentivising the beneficiaries and their owners to buy out the shares owned by the State as soon as the economic situation allows this.

- **Prohibition of cross-subsidisation and acquisition ban**: To ensure that beneficiaries do not unduly benefit from the recapitalisation aid by the State to the detriment of fair competition in the Single Market, they cannot use the aid to support economic activities of integrated companies that were in economic difficulties prior to 31 December 2019.

  Moreover, until at least 75% of the recapitalisation is redeemed, beneficiaries, other than small and medium-sized enterprises (SMEs), are in principle prevented from acquiring a stake of more than 10% in competitors or other operators in the same line of business, including upstream and downstream operations.

- **Public transparency and reporting:** If recapitalisation aid is granted to beneficiaries as part of schemes, Member States have to publish details on the identity of the companies that have received aid and the amount within three months of the recapitalisation. Furthermore, beneficiaries other than SMEs have to publish information on the use of the aid received, including on how the use of the aid received supports the company's activities in line with EU and national obligations linked to the green and digital transformation.

The amendment also introduces the possibility for Member States to support undertakings by providing subordinated debt to companies at favourable terms. This concerns debt instruments that are subordinated to ordinary senior creditors in case of insolvency proceedings and complements the toolbox available to Member States under the existing Temporary Framework including to grant debt with senior ranking to companies in need. Subordinated debt cannot be converted into equity whilst the company is a going concern and the State assumes less risk.

08.05.2020 – Evaluation of the Rail Freight Corridors Regulation

In the context of the evaluation of the Rail Freight Corridors (RFC) Regulation, the European Commission has asked transport consultancy TRT to conduct a study mapping the impacts of the RFC Regulation that entered into force in 2010.

FEPORT argued that it is important that Terminal Advisory Groups (TAGs) have a stake in the governance of the Rail Freight Corridors in order to allow intermodal and port terminals to exchange information and issue recommendations in view of improving the management of the corridors.

FEPORT underlined that a revised RFC regulation should contain adequate instruments to facilitate the shift of freight to rail. This will contribute to the decarbonisation of transport and will help reduce road congestion at the same time.

To achieve this modal shift, it is crucial to promote intramodality between rail and other modes of transport. Rail infrastructure must, for this reason, be properly connected to port terminals and intermodal facilities in the hinterland.

Policy should therefore focus on removing bottlenecks and improving last-mile connections. Only then can freight transport by rail be cost-effective and thereby attractive to customers.

Other ways to better connect rail to other modes of transport, would be to promote investment in intermodal transshipment facilities in seaports and in the hinterland, as well as to look into the position of rail freight vis-à-vis passenger traffic and the development of freight only corridors.

08.05.2020 – TEN-T survey on digitalisation

A team of independent evaluators is currently undertaking a comprehensive evaluation of Regulation (EU) No 1315/2013 - the TEN-T Regulation.

This evaluation comprises several thematic case studies on specific TEN-T policy areas.

FEPORT underlined that digitalisation should be viewed as a means to improve efficiency in transport and thereby reduce costs and emissions. Digitalisation should be regarded as a tool to facilitate low-cost, clean and safe transport, and not as a goal in itself.

It has been also stressed that it is important to develop infrastructure to allow for more efficient cargo flows along the different TEN-T corridors. However, adopting a corridor-wide approach should not impede policy makers to focus on the removal of local bottlenecks.

Solving local bottlenecks, for example, in ports with a sub-optimal connection to adjacent rail infrastructure, is crucial in facilitating multimodal transport and shifting more cargo to rail.

Such an approach will contribute to the objectives of the Green Deal, which calls to boost multimodal transport and to shift a substantial part of the inland freight today carried by road, to rail and inland waterways.

To make transport more efficient and sustainable, physical infrastructure is not enough. Investments in ICT infrastructure are crucial as well. With improved ICT infrastructure, both emissions and congestion can be significantly reduced.

When trucks enter the terminal, for example, the digitalisation of documents can reduce waiting times and thereby congestion.

Terminals could benefit from improved interconnected systems to have better information about which mode of transport will collect the container. With improved access to this information, terminals can better manage the allocation of containers on their yard, allowing them to reduce the amount of container moves and by extension emissions.

Finally, optimised communication and data-sharing between the shipping line and logistics chain actors in the hinterland, such as terminals, has very promising potential benefits as regards reducing emissions and operational costs.

Electronic exchange of Business to Government (B2G) information has the potential to increase the efficiency of supply chains. A clear framework on data-sharing for B2G information throughout Europe is needed to increase industry buy-in by ensuring a B2G environment built on open standards and reducing costs for digital communication.

One of the main barriers to further cooperation on digital innovation is the lack of a clear framework on data ownership. This leads to companies being hesitant to share non-personal information as they are unsure of their rights regarding how their potentially sensitive data is used or their obligations regarding data-sharing.

It is therefore important that EU legislators clarify the rules of governance in terms of data-sharing so as to boost the uptake of new technologies and facilitate the exchange of information between different parties of the supply chain.

13.05.2020 – Commission releases new COVID-19 Transport and Tourism package

On the 13th of May, the European Commission has presented a package of guidelines and recommendations to help Member States gradually lift travel restrictions and allow tourism businesses to reopen, after months of lockdown, while respecting necessary health precautions.

Among others, the Commission's Tourism and Transport package includes:

1. A common approach to restoring free movement and lifting restrictions at EU internal borders in a gradual and coordinated way.

2. A framework to support the gradual re-establishment of transport whilst ensuring the safety of passengers and personnel.

Safely restoring freedom of movement and lifting internal border controls

The President of the European Commission together with the President of the European Council, issued a Joint European Roadmap towards lifting COVID-19 containment measures. It provides a set of recommendations to Member States for a gradual unwinding of the measures taken and calls for a phased approach to restoring unrestricted free movement and lifting the temporary internal border controls applied by most Member States.

The Joint Roadmap calls on the Commission to continue to analyse the proportionality of measures taken by Member States in view of the COVID-19 pandemic as the situation evolves and to request the lifting of measures considered disproportionate, especially when they have an impact on the Single Market. It also stresses the common European interest in de-escalating the COVID-19 measures in a coordinated manner. Beyond the urgency of fighting the COVID-19 pandemic and its immediate consequences, Europe's societies and economies have to go back to a normal state of functioning. The lifting of travel restrictions and internal border controls should be reviewed alongside the process of lifting restrictions inside the territories of the Member States.

In case a generalised lifting of restrictions is not justified by the health situation, the Commission will propose a phased and coordinated approach that starts by lifting restrictions between areas or Member States with sufficiently similar epidemiological situations. The approach must also be flexible, including the possibility to reintroduce certain measures if the epidemiological situation requires.

Member States should act on the basis of the following 3 criteria:

- **epidemiological**, notably focusing on areas where the situation is improving, based on guidance by the European Centre for Disease Prevention and Control (ECDC) and using the regional map developed by the ECDC;
- the ability to apply **containment measures** throughout the whole journey including at border crossings, including additional safeguards and measures where physical distancing may be difficult to ensure and
- **economic and social considerations,** initially prioritising cross-border movement in key areas of activity and including personal reasons.

Moreover, the **principle of non-discrimination** is of particular importance: when a Member State decides to allow travel into its territory or to specific regions and areas within its territory, it should do so in a non-discriminatory manner – allowing travel from all areas, regions or countries in the EU with similar epidemiological conditions. In the same vein, any restrictions must be lifted without discrimination, to all EU citizens and to all residents of that Member State regardless of their nationality and should be applied to all parts of the Union in a similar epidemiological situation.

Guidelines on the progressive restoration of transport services and connectivity

The guidelines on the progressive restoration of transport services and connectivity present general principles for the safe and gradual restoration of passenger transport by air, rail, road and waterways.

The guidelines put forth a series of recommendations, such as the need to limit contact between passengers and transport workers, and among passengers themselves, reducing, where feasible, passenger density.

The guidelines also include indications on the use of personal protective equipment such as face masks and on adequate protocols in case passengers present coronavirus symptoms and contain recommendations for each mode of transport and call for coordination among Member States in light of re-establishment of gradual connections between them.

15.05.2020 – DG Comp's notice on State Aid in the context of the COVID-19 crisis

On the 15th of May, DG COMP released a **notice** authorizing Member States to grant support to port operators through rebates or deferrals of concession fees or land-lease fees.

The document states that, in order to avoid the disruption of essential maritime transport services and safeguard their operations for the future, Member States may use different instruments to support maritime operators (shipping companies and port operators). The intervention measures may consist in, *inter alia*, the support of maritime and/or port operators through grants, loans, public guarantees, tax rebates or deferrals, and rebates or deferrals of concession fees or land-lease fees.

20.05.2020 – Upcoming Horizon 2020 Green Deal call Green ports and airports

The European Commission and Member States are currently shaping the content of a "European Green Deal call" as an amendment to the Horizon 2020 work programme 2018-2020. According to the planning, the call will be opened and published by mid-September 2020. The deadline to submit project proposals will be at the end of January 2020.

Also, companies and associations can give online feedback to the content of the call.

The text consists of 11 call areas of which in particular call area 5 dealing with *sustainable and smart mobility* can be of relevance as this area contains a topic on *Green Ports and Airports.*

The current call text on *Green Ports and Airports,* for example, looks into demonstrations of alternative fuel infrastructure in ports for ships and other vehicles, integration of smart logistics and port operations as well as the performance of pilot activities to showcase the positive environmental effects of digitalisation in ports.

Companies and associations can give feedback to the content of the call until the 3rd of June, 2020, by sending an email to **RTD-H2020-GREEN-DEAL-CALL@ec.europa.eu.**

20.05.2020 – DG TAXUD issues third revision of Customs COVID-19 guidance

Over the past two months, DG TAXUD has been working on a guidance document on the usage of EU Customs regulations during the COVID-19 pandemic. The guidance lists a number of provisions from the UCC and related delegated and implementing acts that can be used as solutions to cope with problems arising due to the corona crisis.

The document – of which the first version was published on the 30th of March – is meant as a living document that can be amended or supplemented in view of the evolving situation surrounding COVID-19.

The third revision has been published on the 20th of May and addresses a number of relevant topics.

25.05.2020 – Adoption of Regulation (EU) 2020/697 amending Port Regulation (EU) 2017/352

On the 25th of May, 2020, the European Parliament and the Council adopted Regulation (EU) 2020/697 amending Regulation (EU) 2017/352, so as to enable managing bodies or competent authorities to provide flexibility in respect of the levying of port infrastructure charges in the context of the COVID-19 outbreak.

The amendments will give ports the possibility to waive, suspend, reduce or defer the charges for port users due between March 1st 2020 and October 31st 2020.

The Council approved the European Parliament's position, resulting in the adoption of the Regulation in the form of the Commission's proposal with the agreed minor amendments.

With respect to the deferral or reduction of land lease or concessions charges which are not part of port infrastructure charges as defined in Regulation (EU) 2017/352, DG Comp has issued, on May 15th, 2020, a notice (see above in the newsletter) authorizing Member States or competent authorities to grant support to port operators through rebates or deferrals of concession fees or land-lease fees.

25.05.2020 – First annual EU report on CO2 emissions from maritime transport

On the 25th of May, the European Commission has published the first annual report on CO_2 emissions from maritime transport.

This annual report is based on data from emissions in 2018, reported by companies until September 2019 under the EU Regulation on monitoring, reporting and verification (MRV) of CO_2 emissions from maritime transport. The data and report will be published each year, to allow a better understanding of the characteristics, CO_2 emissions and energy efficiency of the monitored fleet.

The report analyses the CO_2 emissions and energy efficiency information of all the ships over 5,000 gross tonnage, which performed maritime transport activities related to the EEA in 2018. Emissions reported by 11,600 ships have added up to over 138 million tonnes of CO_2 emissions in that year, representing 3.7% of total EU CO_2 emissions according to the European Environment Agency's greenhouse gas emissions data.

The report shows that around two-thirds of the reported CO_2 emissions are related to voyages to or from a port outside the EEA. Voyages inside the EEA represented only 32% of total CO_2 emissions, and emissions from ships in EEA ports stood for 6% of total emissions. When comparing CO_2 emissions across different ship types, container ships represented the largest share of total emissions, with over 30%.

28.05.2020 – Next Generation EU, the emergency temporary recovery instrument

The 27th of May, the European Commission has proposed an updated version of the EU budget proposal for 2021-2027. *Next Generation EU*, an emergency temporary recovery instrument to repair the economic and social damages caused by the COVID-19 pandemic, forms an integral part of the next multi-annual framework (MFF).

Next Gen EU Communication

The *Next Generation EU* communication underlines that in the context of the corona crisis, the digital and green transitions have become even more important, as well as the need for the EU to enhance its strategic autonomy, while continuing to reap the fruits of an open economy.

Recovery instrument *Next Generation EU* will be part of an updated long-term EU budget. In sum, the proposed MFF 2021-2027, labelled the European Recovery Plan, amounts to a total of EUR 1.85 trillion.

Next Generation EU has a total value of EUR 750 billion. The European Commission will lend this money on the financial markets. The funds will be repaid through future EU budgets, between 2028 and 2058. EUR 500 billion of *Next Generation EU* will be distributed as grants, while the remaining 250 billion can be accessed as loans by the Member States.

This sum of EUR 750 billion will, among others, be spent through the following financial programmes with an end date by 31 December 2024:

Pillar 1 - support to Member States for investments and reforms

- The Recovery and Resilience Facility worth EUR 560 billion will help Member States to put in place the investments and reforms needed for a sustainable recovery.

- With REACT-EU, EU Cohesion support will be increased with an amount of EUR 55 billion.

Pillar 2 - kick-starting the EU economy by incentivizing private investment

- Through a Solvency Support Instrument, private resources will be mobilised to provide support to healthy companies. Investments are meant for companies in the most affected sectors, countries and regions. The instrument aims at levelling-up the playing field for Member States who have been less able to support their companies with State aid throughout the crisis than others. The budget of the Solvency Support Instrument will amount to EUR. 31 billion aiming to unlock more than EUR 300 billion in solvency support.
- The Commission is proposing to upgrade Invest EU, by doubling its capacity.
- In order to increase the EU's resilience and strategic autonomy across key technologies and value chains and channel investments towards this end, a Strategic Investment Facility worth EUR 15 billion will be created which aims to unlock 150 billion euros of investments.

Pillar 3 – learning the lessons of the crisis

- The Commission proposed to create an EU4Health programme with a budget of EUR 9.4 billion, to invest in prevention, crisis preparedness and the procurement of vital medicines and equipment.

Other changes to the MFF 2021-2027

- Aside from amending the 2021-2027 MFF proposal, the MFF for 2014-2020 has also been amended to make an additional EUR 11.5 billion available for 2020, which will be used for the Solvency Support Instrument, and the European Fund for Sustainable Development.
- An additional EUR 1.5 billion will be made available for the Connecting Europe Facility.
- Additional funds will be reserved for Horizon Europe, meaning the programme will dispose of a budget of EUR 94.4 billion.

The policy fundamentals of the new MFF

The Commission underlines that public investments in the context of the post-corona economic recovery should respect the green deal principle of "do no harm", meaning they do not jeopardise the EU's emission reduction targets. Also, in the guidelines accompanying the Solvency Support Instrument, the need to prioritise Green investments will be reflected. 25% of the EU budget shall be spent on climate.

Other

As the crisis has shown the importance of digital skills, the Commission will come forward with a Skills Agenda for Europe and an updated Digital Education Action Plan.

Moreover, the Commission acknowledges that the crisis has demonstrated the crucial role of transport. In order to create jobs, the production and deployment of sustainable vehicles/vessels shall be accelerated. Investments in sustainable transport infrastructure is therefore necessary and will be supported by European funds.

Next steps

As a first next step, the Commission proposal will be discussed in the European Council on June 19th, 2020.

By July 2020, according to the planning of the Commission, the European Council should reach a political agreement on the Multiannual Financial Framework 2014-2020 and 2021-2027.

By early autumn 2020, the revised MFF for 2014-2020 should be adopted. By December 2020, the European Parliament and Member States will adopt the amended MF 2021-2027. The implementation of the MFF 2021-2027 will start by 1 January 2021.

FEPORT meetings

08.04.2020	Board of Directors – Remote
16.04.2020	Environment, Safety and Security Committee – Remote
22.04.2020	Social Affairs Committee – Remote
27.04.2020	Port Policy Committee – Remote
28.04.2020	Customs and Logistics Committee – Remote
06.05.2020	Board of Directors – Remote
02.09.2020	Port Policy Committee – Brussels – P.M
09.09.2020	Social Affairs Committee – Brussels – P.M
10.09.2020	Environment, Safety and Security Committee – Brussels – P.M
17.09.2020	Board of Directors – Brussels – A.M
21.10.2020	Customs and Logistics Committee – Brussels – P.M
04.11.2020	Port Policy Committee – Brussels – P.M
05.11.2020	Environment, Safety and Security Committee – Brussels – P.M
12.11.2020	Social Affairs Committee – Brussels – P.M
18.11.2020	Board of Directors – Brussels – A.M

Institutional meetings

08.06.2020	TRAN Committee Meeting – Brussels
08.06.2020	EMPL Committee Meeting – Brussels
08.06.2020	ENVI Committee Meeting – Brussels
11.06.2020	EMPL Committee Meeting – Brussels
23.06.2020	TRAN Committee Meeting – Brussels
22-23.06.2020	EMPL Committee Meeting – Brussels
24-25.06.2020	ENVI Committee Meeting – Brussels
02.07.2020	ENVI Committee Meeting – Brussels
13-14.07.2020	TRAN Committee Meeting – Brussels
15-16.07.2020	EMPL Committee Meeting – Brussels
15-16.07.2020	ENVI Committee Meeting – Brussels

Other meetings

24.06.2020 European Environmental Ports Conference – Rotterdam

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Avenue des Arts 3-5, 1210 Brussels, Belgium