DOOR-TO-DOOR FICHES[1]

Updated in July 2006

[1] The contents of these fiches do not necessarily reflect the opinion of the individuals or entities submitting them, nor do they prejudge their position in any way.

DOOR-TO-DOOR

Door-to-Door – RISK, INSURANCE & LIABILITY Fiche 1

A BOTTLENECK IN DOOR-TO-DOOR SHORT SEA SHIPPING (SSS) AND A POTENTIAL SOLUTION

Fiche Submitted for consideration by Bureau de Promotion (BP2SS) et Comité des Armateurs – France (27 April 2000) et Port de Nantes St-Nazaire (11 May 2000). Updated by DG TREN in 2003 and comments from Dutch FoP 2004.

Description of the bottleneck:

- Liability regimes in the field of international multimodal transportation are complex and they are very much modal. The Warsaw Convenion (1929) covers air transport, the Hague Rules (1924 as amended by Visby 1968) and Hamburg Rules (1978) cover sea transport, COTIF/CIM (1980) covers rail, the CMR Convention (1956) covers road, and CMNI (2001) covers inland waterways.

- In the past the target was zero product damage, now it is the expectation. If SSS does not meet this expectation - or it is not perceived to meet it - it cannot compete with other modes.

Hampering effects of the bottleneck:

- Duplication of work to arrange modal insurance to cover the land and the sea legs of journey. Difficulty in establishing which modal regime applies if goods have been damaged.

Measures towards a solution (if available):

- In a survey among shippers on the dominant carrier selection criteria (service parameters)[2], cargo safety requirement was perceived by the shipper to be met to a high degree in SSS.

- Intermodal transport always includes at least one additional loading/unloading. Cargo safety should constantly be considered in all phases of the transport chain.

- Damage rates could be made public or be used in company strategies to show the reality and not give room for contradictory perceptions.

- Liability

The 'United Nations Convention of International Multimodal Transport of Goods' (MT Convention) was adopted on 24 May 1980. It has not entered into force. The MT Convention covers liability in international multimodal transport and is based very closely on the Hamburg Rules. It follows the principle of uniform liability whereby the multimodal transport operator would assume liability for the whole transport operation from pick-up to delivery. The Convention does not, however, harmonise the monetary limits of liability.

[2] Cf. COM(1999) 317 final, chapter 9.1.

In 1992 UNCTAD (United Nations Conference on Trade and Development) and ICC (International Chamber of Commerce) co-operated in producing a set of voluntary rules. They are meant to be used by private parties, who may base their private contracts on the new rules.

Furthermore, some countries and regions either have their own regimes (e.g. Germany and Austria, excluding sea) or are considering establishing one (e.g. USA).

A group of EU experts produced its final report in 1999[3]. It recommended a non-mandatory uniform liability arrangement. The arrangement would be an overriding 'default' system that would be applicable to intermodal transport operations within the EU or into and out of the EU. However, a carrier who did not want to assume extensive liability could opt out of the regime. The liability levels should be higher than the current minima.

A further EU study was finalised in 2001[4]. It examined today's friction costs in relation to a regime with strict and full insurance for the cargo throughout its journey and removal of some uncertainties (e.g. notice of loss, liability for delay, exemption from liability). Such a regime could, in some cases, allow shippers to do away with cargo insurance, even though this would not result in net gain in system costs because the savings would probably be annulled by higher freight costs. However, some net gains could emerge from avoidance of some brokerage costs (unless the shippers need a new intermediary to handle the claims), and duplication in insurance administration. Most of the benefits would accrue to forwarders and insurers. As far as intermodal transport is concerned this saving would amount to not more than € 50 M per annum.

The UN/ECE (United Nations Economic Commission for Europe) has recently taken up multimodal liability on its agenda and since 2002 UNCITRAL (United Nations Commission on International Trade Law) is discussing a 'Draft Instrument on Transport Law" that was prepared by CMI (Comité Maritime International). The draft intends to cover door-to-door transport operations and it is based on an amalgamation of the Hague-Visby and Hamburg rules entailing uniform liability.

There is some scepticism as to whether harmonisation efforts would bring about real added value in financial or other terms. Even if some friction costs could be saved by a uniform, harmonised liability regime, the EU study of 2001 points out that elimination of all uncertainty is an elusive target because a revision of existing regimes would create, by its very nature, further uncertainties. And, new uncertainties can result in new friction costs. Also, there are no clear indications that an improved intermodal liability regime would actually increase the attractiveness of multimodal transport solutions.

Parties needed to be involved in the solution (and their roles):

Primarily industries: ship-owner/transport operators and ports (to keep up excellent cargo safety records and, potentially, make their records public or use them as part of their commercial strategies) but also Member States (to examine cargo safety in SSS).

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[3] Intermodal Transport and Carrier Liability, final report, University of Southampton, June 1999.

[4] The Economic Impact of Carrier Liability on Intermodal Freight Transport, final report, IM Technologies Limited, January 2001.

Insurance companies should provide multimodal cover even if the regimes of responsibility differ between modes.

Any available best practices related to this bottleneck:

Concerning the liability issue there are already today carriers that offer shippers single and uniform liability for multimodal transport. Some even go a step further to offer full liability. This additional risk can be covered, for instance, on the London market.[5] On the other hand, even without such a one-stop solution, difficulties in obtaining insurance liability cover for multimodal transport operators usually do not exist.[6]

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[5] 'The MT Legal Quandary' by Hans Carl, UNCTAD, September 1999

[6] UN/ECE TRANS/WP.24/2000/3, 3 July 2000

COMMENTS RECEIVED 30.1.2004 FROM DUTCH FOP

1. RISK, INSURANCE & LIABILITY

- From the fiche it can be concluded that insurance can be obtained for every segment of intermodal transportation, although presently there exist too many different liability regimes for each mode.

- As with other forms of intermodal transport also Short Sea Shipping will greatly benefit from and be facilitated by further harmonization of conditions related to the contract of carriage in order to secure the potential reduction in friction costs. Therefore there is a need to address the issue of harmonization of civil liability regimes governing intermodal transport at regional European level(UN/ECE;CCR;OTIF).

- If harmonization is to be achieved on a European level of the basic rules dealing with liability in connection with the contract of carriage, it is incumbent to have a closer review of existing conventions is this field. A core problem in respect of multimodal carriage is the avoidance of possible conflicts between the various transport conventions (CMR, COTIF and CMNI). A complicating factor is that the scope of application of the various unimodal conventions may be interpreted differently. As a first step each unimodal convention could be adapted for a multimodal application.

- A ready and practical step in this process would be a 'unimodal plus approach' in case more than one of the unimodal liability regimes could be applicable to a single multimodal door-to-door carriage. This approach implies insertion of conflict of convention provisions in each existing unimodal convention. Thereby it would be possible for commercial parties (shippers, carriers) to make a choice on the appropriate application of the underlying regime for their transport contract (CMR, COTIF, CMNI, Hague-Visby or others applicable).

- This approach should allow shippers and freight forwarders to use the regime that is familiar to them and provides thus transparency promoting the use of multimodal transport and Short Sea Shipping in Europe. The same regime would then become applicable throughout the multimodal transport for all particular modes of transport involved which will facilitate Short Sea Shipping in Europe.

- In case sufficient experience has been obtained within the three relevant modes of transport a truly multimodal transport convention could be considered within the European context. Such a convention could (and should) then also be applicable for unimodal transportation in the future.

The EU Member States should be engaged in the process to create harmonisation across the EU, the accession countries and neighbouring countries as the CMR and CIM/COTIF conventions have similar spatial coverage and the CMNI convention is very much a pan-European issue. It will therefore be sensible to address the issue of 'unimodal plus' to the relevant international institutions eg. UN/ECE and OTIF, as this is currently ongoing in the framework of UNCITRAL.

DOOR-TO-DOOR

Door-to-Door – COST/PRICE	**Fiches 2 - 4**

Fiche No. 2 DOOR-TO-DOOR (Cost/Price)

A BOTTLENECK IN DOOR-TO-DOOR SHORT SEA SHIPPING (SSS) AND A POTENTIAL SOLUTION

Fiche submitted for consideration by the Belgian SSS Focal Point **on** 20 April 2000 **and by** Italian National Round Table on Short Sea Shipping and Ministero dei Trasporti e della Navigazione **on** 20 April 2000.

Description of the bottleneck:

Distortion of competition by railway companies resulting from subsidization by the National Authorities: On some routes, railway companies are offering rates below cost price, in order to be able to compete with SSS or IWT.

Hampering effects of the bottleneck:

- Shipping lines are not able to operate cost-effective services when they have to lower their tariffs due to unfair competition.

- Unequal distribution of incentive measures among the various modes might lead to cases of distortion of competition between modes.

Measures towards a solution:

Community and national policy should aim at creating a greater balance, including through further liberalisation of European railways.

Parties needed to be involved in the solution (and their roles):

Member States and European Commission

Any available best practices related to this bottleneck:

N/A.

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A BOTTLENECK IN DOOR-TO-DOOR SHORT SEA SHIPPING (SSS) AND A POTENTIAL SOLUTION

Fiche submitted for consideration - under the auspices of the Danish SSS Focal Point - **by** the Danish Shipbrokers' Association **on** 17 April 2000 and SPC Greece in October 2005.

Description of the bottleneck:

In principle each mode of transportation should cover its own share of the costs, including all external costs. In reality it is difficult for Short Sea Shipping to compete with transportation by road and rail, as those two modes are far from covering <u>their</u> costs.

(Update by SPC Greece, 2005)
The Short Sea Initiative has progressed during the last fifteen years with minimal resources and it has achieved results that have surprised pleasantly. Recent evidence suggests, however, that road transport is gaining again, fuelled by lack of actions on behalf of the EU that would effectively restrict its further expansion. We have seen no taxation on carbon emissions, no restriction to the maximum distance allowed for cargo carried on trucks, no change in the tolls policies, no inclusion of external costs in the cost structure of road transportation. Conversely, there is a continuous stream of new road-works which aim at improving road infrastructure rather than a slowdown which would result in intolerable, for their customers, delays. It must be understood that Short Sea Shipping assisted by Focal Points and the ESP cannot reverse the progress of the trucks by dealing with small things such as the FAL forms, when the EU with its institutions acts against its own initiative. It is our firm opinion that this matter needs to be addressed, otherwise we shall continue to see unclear policy developed for the Transport sector.

Hampering effects of the bottleneck:

For price reasons the individual customer will not choose Short Sea Shipping.

Measures towards a solution:

Introduction of price covering infrastructural costs/dues.

Parties needed to be involved in the solution (and their roles):

Governmental authority level; European Commission.

Any available best practices related to this bottleneck:

None.

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A BOTTLENECK IN DOOR-TO-DOOR SHORT SEA SHIPPING (SSS) AND A POTENTIAL SOLUTION

Fiche submitted for consideration by Seehafen Kiel GmbH & Co. KG **on** 08/09/2005

Description of the bottleneck:
Since the EU enlargement in 2004, traffic volumes at all ferry lines between Germany and the Baltic States decreased. For instance, the number of freight units (trucks and trailers) transported between Klaipeda/Lithuania and Kiel/Germany declined by up to 40%. This effect is caused by distortions of competition in favour of road traffic, resulting in "from sea to road effect" in full contrary to the common aim and objectives of the European Transport policy.

Hampering effects of the bottleneck:

Until April 30th 2004 a tax free import of only 200 litres of diesel fuel was permitted from third countries to Germany, for instance via Poland, according to § 113 of Council Regulation No. 918/83. Following said paragraph, each EU member state is allowed to limit import of diesel fuel from third countries to 200 litres per vehicle. Till today Poland and the other new European EU-members have unfortunately not used this possibility neither have received respective recommendations to do so for reasons of fair and free inter-modal competition. After EU accession these states are border regions of EU.
Missing customs and vehicle inspections at German/Polish border brought up time savings but practically the overall abolishment of diesel import schemes hence ferry companies are not able to compensate resulting economic burden. In operational terms, there is no fuel-consumption related contribution to road cost within the EU any longer as import of Russian or Belarusian diesel in quantities of some 1,500 litres per vehicle allows for transiting EU Europe without tank stop within the European Community. Road transport benefits from an extra cost saving of up to EUR 400,00 per roundtrip by using roads through Poland an Germany instead of the environment friendly and overall more economic ferry links.

However, even tanking in the Baltic States leads to savings of about EUR 300,00 per roundtrip underlines that payments for using infrastructure (road pricing) in Poland and Germany as well as expenses for increased wear out do not compensate the consequences of the imbalances of full taxation at all. Factoring all additional costs, savings of land-based transportation sum up to about EUR 250,00 per truck.

Dissimilar control intensities at land and at sea borders aggravate the situation. In German ports, truck-drivers are controlled by up to 4 authorities (water police, frontier protection, customs office, federal office for road haulage). The probability to be controlled when passing the German/Polish land border is considerably poor.

Measures towards a solution (if available):
There is a need for harmonisation of fuel tax regulations which has not been complied with during negotiations of the accession contracts. Any successful "from road to sea" concept needs to comply with economic competitiveness. Implementations of diesel import schemes fat the new eastern borders of the EU, combined with road toll systems in Poland and harmonised control level at land and sea border could be sustainable steps towards fair competition between road and sea..

Parties needed to be involved in the solution (and their roles):
European Commission and governments of affected member states should harmonise and implement the a.m. conditions by immediate negotiations under the tutelage of the European Commission or other competent moderation.

Any available best practices related to this bottleneck:
None except the experiences made in Germany with the implementation of § 133 fuel import limitation and relevant control schemes.

Note:

FACTUAL BACKGROUND NOTE FROM DG FOR ENERGY AND TRANSPORT

(1) For intra-community transport the rule in EU legislation that sets a maximum limit for importing diesel in the fuel tanks of motor vehicles is contained in Article 24 of the Council Directive **2003/96/EC**.

Article 24(1): *"Energy products released for consumption in a Member State, contained in the standard tanks of commercial motor vehicles and intended to be used as fuel by those same vehicles, as well as in special containers, and intended to be used for the operation, during the course of transport, of the systems equipping those same containers shall not be subject to taxation in any other Member State."*

(2) As concerns fuel contained in tanks of a vehicle entering the EU from a third country, Article 113 from Council regulation **918/83** applies.

Article 113: *"Member States may limit the application of the relief in respect of fuel contained in the standard tanks of commercial motor vehicles to 200 litres par vehicle per journey."*

(3) Minimum levels of taxation of diesel fuel (gas oil) used as propellant are set in **Annex 1** of the Directive **2003/96/EC**.

Minimum level as from…	1 January 2004	1 January 2010
Gas oil (in euro per 1000l) CN Codes 2710 19 41 to 2710 19 49	302	330

Minimum levels of taxation applicable to motor fuels (gas oil per 1000l) [€]

(4) New Member States that joined the EU on 1 May 2004 were granted certain transitional periods from the provisions of the Directive 2003/96/EC. These are listed in Council Directives **2004/74** and **2004/75** amending the Directive 2003/96/EC.

Recital (3) of Directive 2004/74: *"Those Member States should therefore be permitted, on a temporary basis, to apply additional exemptions from or reduced levels of taxation, where it will not be detrimental to the proper functioning of the internal market and will not result in the distortion of competition. Moreover, consistent with the principles in accordance with which transitional periods were originally granted pursuant to Directive 2003/96/EC, any such measures should be designed to bring about a progressive alignment with the applicable Community minimum rates."*

The Directive itself sets the following minimum levels:

Minimum level as from…	1 May 2004	1 January 2008	1 January 2010	1 January 2011	1 January 2012	1 January 2013
Estonia	245		330			
Latvia	245	274		302		330
Lithuania	245	274		302		330
Poland	245	274	302		330	

Minimum levels of taxation applicable to motor fuels during transition periods (gas oil per 1000l) [€]

DOOR-TO-DOOR

Door-to-Door –WEIGHTS AND DIMENSIONS **Fiche 5**

UN GOULET D'ETRANGLEMENT DANS LE SECTEUR DU TRANSPORT MARITIME A COURTE DISTANCE (SSS) DE PORTE À PORTE ET UNE SOLUTION POSSIBLE

Fiche soumise par le Bureau de Promotion du Shortsea Shipping France, janvier 2006.

Description du goulet d'étranglement :
Le développement du transport maritime à courte distance se heurte à des réglementations nationales disparates en matière de poids roulant total en charge qui ne permettent pas d'obtenir une intégration de la chaîne logistique et remettent en cause, dans certains cas, l'intérêt même du TMCD.

En effet, certains pays acceptent un PTR de 40 T, d'autres de 44 T et celui-ci va jusqu'à 60 T dans certains pays.

Les effets négatifs du goulet d'étranglement:
Le transport de remorques non accompagnées sur un bateau n'est véritablement attractif économiquement que si les remorques peuvent circuler sur les territoires aux deux extrémités du transport maritime avec la même charge qui doit être au minimum de 44 T. Plus le PTR autorisé en continuité d'un TMCD est élevé, plus le SSS est attractif par rapport à la route.

Mesures à prendre pour trouver une solution :

Directive autorisant un PTR de 44 T minimum à 60 T, lorsque le transport routier est en continuité directe avec un TMCD. Cet acheminement routier pourrait être limité à un rayon de 200 km autour du port de rupture de charge.

Un instrument juridique supra-national paraît le moyen le plus efficace pour obtenir un résultat rapide et harmonisé tout en sauvegardant certaines prérogatives nationales en matière de circulation routière.

Ceci constituerait une première étape dans l'harmonisation des PTR au sein de l'U.E. qui doit être considéré comme un objectif fondamental pour éviter les distorsions de concurrence entre transporteurs routiers des différents pays de l'Union Européenne.

Parties qu'il faudrait impliquer dans la solution (et leurs rôles) :

Meilleures pratiques existantes en ce qui concerne ce goulet d'étranglement :

Free translation

A BOTTLENECK IN DOOR-TO-DOOR SHORT SEA SHIPPING (SSS) AND A POTENTIAL SOLUTION

Fiche Submitted for consideration by Short Sea Promotion Centre, France

Description of the bottleneck:
The development of Short Sea Shipping is hindered by national regulations that vary from one Member State to another concerning the maximum allowable weight of goods vehicles, which prevents full integration into the logistic chain and works against the interest of Short Sea Shipping.

In reality, some Member States accept 40 T traffic, others 44 T and some others up to 60 T.

Hampering effects of the bottleneck:
The movement of unaccompanied trailers by ship is not economically attractive if the trailer cannot be moved at each end of the journey with the same load, which should be minimum 44 T.

Measures towards a solution:

A Directive is needed requiring Member States to allow a minimum of 44 T and up to 60T, in this way the road and short sea leg could be seamless and could be limited to a radius of 200km of the port.

A supra-national legal instrument seems the most efficient means to obtain a rapid and harmonised result while respecting certain national prerogatives concerning traffic circulation.

This would constitute a first step in harmonising the maximum allowable weight of good vehicles in the Union which should be seen as a fundamental objective to avoid distortion of competition between hauliers in the different Member States.

Parties needed to be involved in the solution (and their roles):

Any available best practices related to this bottleneck: