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Economic Commission for Europe**Inland Transport Committee****Working Party on Intermodal Transport and Logistics****Fifty-ninth session**

Geneva, 31 October–1 November 2016

Item 8 (b) of the provisional agenda

Annual themes on Intermodal Transport and Logistics:**Follow-up to the 2014 Theme: Role of freight forwarders
and logistics in intermodal transport chains****Survey of the freight forwarders market****Note by secretariat****I. Mandate**

1. In accordance with ECE/TRANS/254, para. 156 of the Inland Transport Committee (ITC) report and its programme of work for the period 2016–2017 (ECE/TRANS/2016/28/Add.1, Cluster 6, 6.1), the Working Party on Intermodal Transport and Logistics decided at its fifty-sixth session, that the theme for substantive discussion in 2014 was to be “Role of freight forwarders and logistics in intermodal transport chains”. The discussions were prepared at a workshop, hosted by the Government of Belgium (12 and 13 June 2014, Brussels).

2. At its fifty-seventh session, the Working Party decided, based on the outputs of this workshop, that a study should be prepared by the secretariat on the role of freight forwarders in different countries. This study should be based on a questionnaire which will address all the relevant issues. The questionnaire was discussed at the fifty-eighth session of the Working Party and approved (with amendments). The survey was sent out in April 2016. This document presents the responses that have been received.

II. Survey responses

A. Austria

<i>Questions</i>	<i>Responses</i>
1 What is the role of freight forwarders in your country?	It is a regularized business sector
2 Does your country require freight forwarders to be registered?	According to Austrian trade regulations a trade permission is obligatory. Due to that, a membership to the Austrian Economic Chambers is automatically issued. A registration is therefore required
3 Do you plan to introduce any form of regulation on freight forwarders?	The regulation already exists
4 If so, what are the views of freight forwarders in your country to this subject?	-
5 If regulations have not been introduced, why not?	-
6 Does your country offer tax relief or other incentives to freight forwarders? (National/Regional)	No
7 Can you provide statistics on the freight forwarding industry in your country?	
Number of freight forwarders	Freight forwarders (only) 1,178, freight forwarders and related professional branch 1,681 (as of 31 December 2015)
Total volume of activity	Turnover 10,484 Mio. Euro (data 2013)
Percentage of domestic and international traffic	Freight transport volume 349,488 (in 1,000 tons); domestic 92.5%, international traffic 7.5% (data 2014)
Type of cargo forwarded	53% stones, soil and building materials, 20% vehicles, machines, half- and finished products, 11% agricultural and forestry products and living animals, 16% other products (data 2014)

B. Czech Republic

<i>Questions</i>	<i>Responses</i>
1 What is the role of freight forwarders in your country?	Private companies. Voluntary membership of forwarders in Association of Forwarding and Logistics of the Czech Republic
2 Does your country require freight forwarders to be registered?	Forwarders are registered by the Trading Offices. Forwarding is free licence (according to Trade Act No 455/1991 Col.)
3 Do you plan to introduce any form of regulation on freight forwarders?	No
4 If so, what are the views of freight forwarders in	-

<i>Questions</i>	<i>Responses</i>
your country to this subject?	
5 If regulations have not been introduced, why not?	According to the Czech legislation this area is not within the competencies of the Ministry of Transport
6 Does your country offer tax relief or other incentives to freight forwarders? (National/Regional)	No
7 Can you provide statistics on the freight forwarding industry in your country?	
Number of freight forwarders	Not known. Association of Forwarding and Logistics of the Czech Republic has 189 members
Total volume of activity	No statistics available
Percentage of domestic and international traffic	No statistics available
Type of cargo forwarded	Machinery, heavy machinery, automotive, coal, food, wood

C. Germany

<i>Questions</i>	<i>Responses</i>
1 What is the role of freight forwarders in your country?	<p>1. Rights and obligations of the freight forwarder</p> <p>From a purely (civil law) legal perspective, the role of a freight forwarder (“Spediteur”) is – according to section 453 paragraphs 1 and 2 of the German Commercial Code – “to arrange for the dispatch of the goods” in exchange for the “agreed remuneration” by the sender. The main obligation of the freight forwarder is the organization of the transport and not the carriage of the goods. This includes – according to section 454 paragraph 1 of the German Commercial Code – “in particular 1. the determination of the means and route of transport, 2. the choice of performing enterprises, the conclusion of the contracts for the carriage of goods, for warehousing and for freight forwarding required for the dispatch, as well as providing information and giving instructions to the performing enterprises, and 3. securing the sender’s claims for damages”. Paragraph 2 of the said section foresees that “the duties of the freight forwarder shall also include the provision of other agreed services relating to carriage such as insuring and packaging the goods, labelling and marking them and processing for customs clearance”. Although the freight forwarder has a certain degree of discretion with respect to the way he fulfills his obligations towards the sender, he “shall act in the interest of the sender and carry out his instructions” according to section 454 paragraph 4 of the German Commercial Code. The freight forwarder is free to conclude any contracts that are necessary either in his own name (but on the sender’s account) “or, if he is authorised to do so, in the name of the sender” (section 454 paragraph 3 of the German Commercial Code).</p>

*Questions**Responses*

According to section 458 of the German Commercial Code, the freight forwarder is, despite his actual obligation to only “arrange for the dispatch of the goods” (see above) “entitled to perform the carriage of the goods himself”. If the freight forwarder exercises this right, he is treated like a “carrier” (see Book 4 Chapter 4 Subchapter 1 of the German Commercial Code) or a “sea carrier” (see Book 5 Chapter 2 Subchapter 1 of the German Commercial Code) with respect to the rights and duties (including liability) regarding the performance of the carriage. The same applies if the freight forwarder agrees to “a fixed amount ... as remuneration which includes the costs for the carriage” according to section 459 of the German Commercial Code. Furthermore, the same applies if the freight forwarder conducts the transport of the goods together with goods of other senders (section 460 of the German Commercial Code). Although these three provisions are constructed as exceptions from the general definition of a freight forwarder, they govern a significant number of forwarding contracts in Germany. Therefore, a clear distinction between freight forwarders and freight carriers has become less important since the introduction of these three provisions.

2. Liability of the forwarder

The liability regime for freight forwarders is twofold:

(a) According to section 461 paragraph 1, the freight forwarder is liable for damages, irrespective of fault, that result “from the loss of, or damage to, the goods occurring during the time the goods were in his custody”. In this case, a number of possible exemptions from and limitations on the liability of the freight carrier applies *mutatis mutandis* according to section 461 paragraph 1 sentence 2 of the German Commercial Code. Most noteworthy among these provisions is section 435 of the German Commercial Code, which foresees that the said exemptions from and limitations on the liability do not apply “if the damage was caused by an act or omission ... done with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result”. On the other hand, section 426 of the German Commercial Code foresees that a liability is excluded “insofar as the loss of, or damage to, the goods or the delay in delivery was due to circumstances which the [freight forwarder] could not avoid even by exercising the utmost diligence and the consequences of which he was unable to prevent”. This shows again that – due to these huge similarities with respect to the liability of freight carriers and freight forwarders – the distinction between the two has become less significant.

<i>Questions</i>	<i>Responses</i>
	<p>(b) On the other side, paragraph 2 of section 461 of the German Commercial Code foresees that “(f)or any damage not resulting from the loss of, or damage to, the goods occurring during the time the goods were in his custody, the freight forwarder ... shall be liable only if he acted in breach of a duty he owes under Section 454. He is released from such liability if the damage could not have been avoided by due diligence of a prudent businessman”.</p> <p>Deviating agreements relating to liability are to some extent feasible according to the requirements set out in section 466 of the German Commercial Code.</p> <p>Translations of the cited provisions from Book 4 of the German Commercial Code provided by the Deutsche Gesellschaft für Transportrecht (German Society for Transport Law), can be found here: www.transportrecht.org/dokumente/HGB_4_Buch_2013_DGTR_d_en_2016_01_26_RS.pdf.</p> <p>A translation of Book 5 of the German Commercial Code provided by Samson-Übersetzungen GmbH, Dr. Carmen v. Schönig can be found here: www.gesetze-im-internet.de/englisch_hgb/index.html#gl_p0012.</p>
2 Does your country require freight forwarders to be registered? -	
3 Do you plan to introduce any form of regulation on freight forwarders? -	
4 If so, what are the views of freight forwarders in your country to this subject? -	
5 If regulations have not been introduced, why not? -	
6 Does your country offer tax relief or other incentives to freight forwarders? (National/Regional)	Freight forwarders are treated for tax purposes just as any other company. There are no special tax rules for freight forwarders.
7 Can you provide statistics on the freight forwarding industry in your country?	
Number of freight forwarders	10,403 in 2013 (Source: Statistisches Bundesamt Fachserie 9 Reihe 4.1 Jahr 2013, page 11, www.destatis.de/DE/Publikationen/Thematisch/DienstleistungenFinanzdienstleistungen/Struktur/VerkehrLagerei.html)
Total volume of activity	Transport of freight forwarders not available. Total transport performance (freight forwarders and others) of road transport in Germany in 2014: 463.9 bn tkm (Source: Verkehr in Zahlen 2015/2016, page 245, www.bmvi.de/viz)

<i>Questions</i>	<i>Responses</i>
Percentage of domestic and international traffic	Transport of freight forwarders not available. Total transport performance (freight forwarders and others) of road transport in Germany: ≈60% domestic, ≈25% international with origin or destination in Germany, ≈15% transit (Source: Verkehrsprognose 2030 Schlussbericht Los 3, page 297, www.bmvi.de/verkehrsprognose2030)
Type of cargo forwarded	Transport of freight forwarders not available. Total transport performance (freight forwarders and others) of road transport in Germany: cf. Verkehrsprognose 2030 Schlussbericht Los 3, page 294, www.bmvi.de/verkehrsprognose2030)

D. Serbia

<i>Questions</i>	<i>Responses</i>
1 What is the role of freight forwarders in your country?	Customs agent freight-forwarder is a natural person employed by the legal entity i.e. by indirect representative, who has the authority to take action against the customs authorities both indirectly when acting on their own behalf and for the account of third parties and directly on behalf and for the account of another person
2 Does your country require freight forwarders to be registered?	The Customs Administration makes records in the Information System of the customs service on all persons who have been issued licenses for customs representation in the customs procedure-i.e. freight forwarders
3 Do you plan to introduce any form of regulation on freight forwarders?	Customs Law and the Rulebook on the program and content of special professional exam and licensing representatives in customs procedures, regulates the rights and obligations of the customs agents freight-forwarders
4 If so, what are the views of freight forwarders in your country to this subject?	Customs agents – freight forwarders feature associations through which they can express their views and influence the amendments of their legally granted rights and protect their interests
5 If regulations have not been introduced, why not?	Regulations have been introduced
6 Does your country offer tax relief or other incentives to freight forwarders? (National/Regional)	The Republic of Serbia does not offer tax relief or other incentives to customs agents-freight forwarders
7 Can you provide statistics on the freight forwarding industry in your country?	
Number of freight forwarders	Number of freight forwarders submitted customs' transit declarations: 2013: 1,002 2014: 991 2015: 925 According to official data from Chamber of Commerce and Industry of Serbia there are 1,314 active Joint stock companies whose main activity is considered freight forwarding

<i>Questions</i>	<i>Responses</i>
Total volume of activity	Brutto mass in customs' transit declarations for all transit types (Tonnes): 2013: 36,641,924 2014: 37,402,052 2015: 37,517,181
Percentage of domestic and international traffic	N/A – Serbian Customs administration doesn't have information on domestic traffic. Data from Statistical Office of the Republic of Serbia: domestic transporters: 52.36%, foreign transporters: 47.64% in the international transport of goods. (Processing of mentioned data started in 2015)
Type of cargo forwarded	Commodity code is optional in customs' transit procedures. In export, main type of goods are: cars, fruit, grain, tin products, oil products

E. Slovenia

<i>Questions</i>	<i>Responses</i>
1 What is the role of freight forwarders in your country?	Freight forwarder does not have any specific status.
2 Does your country require freight forwarders to be registered?	At the moment of the establishment of the company the company is registering as their main activity upon the standard classification of activities the H52.290 – Other transportation support activities.
3 Do you plan to introduce any form of regulation on freight forwarders?	No
4 If so, what are the views of freight forwarders in your country to this subject?	-
5 If regulations have not been introduced, why not?	There is free access to the market.
6 Does your country offer tax relief or other incentives to freight forwarders? (National/Regional)	No
7 Can you provide statistics on the freight forwarding industry in your country?	
Number of freight forwarders	398 (main activity; 52,290 – Other transportation support activities)
Total volume of activity	Total revenue in 2015 – €635,757,988
Percentage of domestic and international traffic	Revenue on domestic market in 2015: 310,730,418; revenue other markets (EU, non EU): 325,027,570
Type of cargo forwarded	All kind of cargo.