

Complaint to the European Commission from the Federation of Small Businesses



Federation of Small Businesses
The UK's Leading Business Organisation

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Introduction

Founded in 1974 and with over 215,000 members, the Federation of Small Businesses (FSB) is the largest voluntary-membership business organisation in Europe. At a European level the FSB is a founding member of the European Small Business Alliance (ESBA). The FSB represents the interests of 1,695 small haulage companies (see Annex One for more detailed information).

The situation

Between 14 April 2009 and 18 April 2009 French fishermen blockaded the ports of Calais, Dunkirk, Dieppe and Boulogne in a protest against EU fishing quotas.

The protest caused severe disruption for thousands of holidaymakers and HGV (Heavy Goods Vehicles) drivers trying to cross the Channel, with long queues forming in both France and the UK.

These blockades were not a one-off incident; sadly, disruption of this nature caused by French fishermen happens on a regular basis – at least once a year. In 2008, French fishermen blocked the Straits of Dover with slow-moving trawlers. In 2004, French fishermen blockaded the ports of Calais and Dunkirk with no warning. In 2003, French fishermen blockaded the Port of Calais; these blockades also affected the ports of Marseille and Nice, and Bastia and Ajaccio on Corsica. In 2000, French fishermen blockaded not only the Port of Calais, but also the Calais end of the Channel Tunnel (see Annex Two for more detailed information and other examples).

Perhaps the most visible symbol of this disruption are the thousands of HGVs that are forced to park up on the coastbound carriageway of the M20 as part of Operation Stack (see Annex Three), put in place by Kent Police to reduce traffic congestion close to Dover.

It is clear that the French Government's failure to prevent these blockades from taking place is a manifest breach of their obligations under the Treaty. Their subsequent failure to bring these disputes quickly to a close and their failure to compensate haulage firms that have suffered as a result only makes matters worse.

The FSB therefore wishes to make a formal complaint to the European Commission under Article 226 of the Treaty Establishing the European Community. The FSB considers that the French Government is in breach of Articles 28, 29, 43 and 49 of the said Treaty and asks that the European Commission take action against the French Government to prevent such blockades in the future and to secure compensation for those haulage firms affected by the blockades.

The case

The free movement of goods, freedom of establishment and freedom to provide services are cornerstones of the internal market. Member States act contrary to the treaty if they fail to secure these freedoms within their territory. For the reasons set out below, the FSB is firmly of the opinion that the French Government has failed to secure these freedoms, to the detriment of the UK haulage industry and the wider UK economy.

The FSB notes that action was taken against France, in similar circumstances, for failure to prevent vandalism against goods from Member States by French farmers, see Case C-265/95 Commission v France of 9 December 1997 (see Annex Four) and Regulation (EC) No 2679/98 - Rapid Intervention Mechanism (see Annex Five) introduced following judgment in that case. The FSB considers that the current situation of blockades is comparable to that in C-265/95 and merits the same action by the European Commission.

The facts

The UK haulage industry provides extensive cross-border transport services to businesses in the European Union. The Department for Business, Innovation and Skills states that there are 100,000 haulage companies in the UK, of which 99 per cent are SMEs. From these companies, the Department states that 400,000 UK-registered HGVs regularly travel to mainland Europe, 80 per cent of which do so using the Dover Straits. The UK haulage industry transports 5.1 million tonnes of goods out of the UK annually. Additionally, 6.1 million tonnes of goods are carried into the UK via the Dover Straits.

It is evident that any interference with this transport route has a severe negative impact on UK HGV operators' freedom to provide goods and services within the European Union.

The impact on the UK haulage industry

Blockades such as the one in April of this year have a severe impact on the UK haulage industry. The April blockade not only prevented UK and foreign HGVs from leaving the UK via Dover, it also prevented many UK and foreign HGVs already on the continent from entering the UK via their usual routes. Figures produced by the Freight Transport Association show that the closure of Calais for just one day imposes a cost of £1 million on the UK haulage industry.

The implementation of Operation Stack saw thousands of HGVs parked up on the M20 for several days. The Freight Transport Association states that it will cost on average £40 per hour for each HGV parked on the M20. The Road Haulage Association puts the cost at £200 per day purely for having an HGV sitting idle.

Under the Working Time Directive, HGV drivers are allowed to be on the road for a maximum of nine hours per day or 90 hours per fortnight. These time restrictions also include time spent in traffic jams, in Operation Stack, etc. Blockades such as the one in April of this year place added stress on many small businesses operating within the haulage industry. These companies are required either to source additional drivers and somehow get them to the location of the blockaded HGV, or to accept lengthy delays in delivery times to ensure compliance with this legislation; either option imposes huge costs on those haulage companies concerned.

The impact on the wider economy and society

Research carried out by the Freight Transport Association shows that the delays and disruption associated with Operation Stack cost the UK economy £500,000 for each day it is in operation. This means that the introduction of Operation Stack this April cost the UK economy £2 million, in addition to the cost imposed on the UK haulage industry, as detailed above.

For the past 20 years Kent Police have been tasked with setting up and managing Operation Stack. This work costs Kent Police £15,000 for every day that Operation Stack is in operation and takes up to 90 police officers away from their usual work. Operation Stack causes chaos for non-freight traffic travelling to East Kent, adding substantial costs to the business sector due to missed deadlines and spoiled stock and to families through cancelled holidays.

The impact on FSB members

The FSB currently has 1,695 small haulage companies among its membership. These are the companies that are suffering the most from the recession and high fuel prices, and as a result can least afford the delays and loss of business incurred as a result of these blockades. Some examples of the impact on FSB members are detailed below. Further examples may be found at Annex Six.

The impact of the April 2009 blockades on FSB members

"One of our lorries was held up for 10hrs on Tuesday 14th April on Dover-Calais crossing, Reg.No.BX56 UXR. Wage wise this cost us £100 and on top of that we had loss of earnings of a full day rate for the vehicle of £600."

Richard James, I J Haulage Ltd

"My company suffered last week due to the blockades in France. I was transporting horses from just south of Paris and was travelling back to the UK when all the strikes were on. Unfortunately the Euro tunnel is out of the question as they will not allow livestock to travel in the tunnel. I therefore had to travel to Caen which is 220 miles drive from Calais, and the Dover - Calais ferry costs me £130 where as this crossing cost me £528 plus the extra fuel to get there! I don't think it is fair as these animals that had a long journey any way were made to travel on an even longer journey which was more stressful for them".

Philip Hirst, Skye Horse Transport Ltd

"I run a European freight forwarding company. These blockades over last 5-6 years cause us nothing but aggravation. We utilise UK and European hauliers to collect our customer's loads predominantly from the UK to Europe. Although we do not run our own equipment, availability of equipment in the UK to collect our work is very low / non-existent when the blockades are on. We have to turn work away as we cannot guarantee having a lorry in the UK to collect it. I know that some of our customers who are manufacturer's have had to use airfreight to deliver shipments to Europe that they would have normally ran through us as road freight. Considerable extra costs involved there too.

I would say that on the days of the blockades we were about 20 per cent down on business costing me £1,000 per day. What I really cannot understand is why French fisherman are allowed to massively inconvenience the whole of the European Road freight industry and innocent holiday makers and get away with it year on year. Causing an obstruction in the UK is an offense, why not in France?"

Tony Shally, Espace Europe Ltd

The long-term impact of these regular blockades

The UK haulage industry is currently going through a very difficult period as a result of the recession. Figures released on 7 May 2009 by the Department for Transport (see Annex Seven) show a decrease of 3.5 per cent in overall traffic levels between the first quarters of 2008 and 2009, with a 12 per cent decline in heavy goods traffic – that is a further 5 per cent decrease on the 7 per cent announced at the end of last year. These figures also show five times more HGV drivers claiming out-of-work benefits than this time last year.

A recent survey of Road Haulage Association members carried out at the end of January this year has shown that 70 per cent had seen a downturn in business of at least 10 per cent against January 2008; there was a clear expectation of further pressure on rates and little expectation of an upturn in 2009. The April 2009 blockades could therefore not have come at a worse time.

The frequency of the blockades by French fishermen and the lack of advance warning have caused many smaller haulage companies to radically scale back the nature of their business. As the blockades occur at short notice, the Road Haulage Association states that haulage firms cannot factor in the costs of delays into their process and so cannot recoup, via their customers, any losses incurred. Several FSB members have stated that they deliberately maintain a much smaller company than they would desire so that they can avoid having to use the Channel. The blockades are therefore acting as a clear deterrent to their freedom of establishment under Article 43 of the Treaty Establishing the European Community.

The Road Haulage Association stated that these blockades hit the smaller haulage companies disproportionately, as they cannot adapt to them owing to the fact that they may have only one or two HGVs, so if one is stuck in France they cannot do any work whatsoever.

"Fortunately we were not affected this time round on the blockade but have been with past episodes etc. We have had to send extra drivers by flights or cover the drivers we had assigned on the tours as because they had been held up at ports etc. they had ran out of their tachograph time. I really do believe something has to be done about this so I am right behind you. I believe somebody somewhere has to be held to account."

Phil Wade (Director), Events 2 Go Ltd

"I organise passenger transport for events and conferences - for the past three years I have refused to handle any transportation through Calais or Boulogne due to frequency and unpredictability of the strikes and blockades that affect these ports. I either direct transport through the tunnel or, ideally, recommend clients fly and arrange local transportation. I also turn down work such as school tours etc leaving the headache to others."

Richard Asghar-Sandys, Coach Logistics

Conclusion

On its own, the April blockade may be estimated to have cost the UK economy and haulage industry in excess of £6 million. This is before the impact on the future health of the UK haulage industry is considered. The UK haulage industry is going through a very difficult period, not only as a result of the recession, but also as a result of high fuel prices and other factors. These problems disproportionately affect the smaller haulage companies. The blockades of French ports by French fishermen serve only to make an already difficult environment almost impossible, and again it is the smaller haulage companies that suffer most as they cannot adapt to take account of the blockades owing to the fact that they may have only one or two HGVs, so if one is stuck in France they cannot do any work whatsoever. In this situation, many

haulage companies are going out of business. According to research released by accounting firm UHY Hacker Young, haulage companies are three times more likely than the average business to go bust in the UK. Figures showed that 17.3 per cent of courier and haulage companies go out of business every year.

This document has highlighted the very real damage caused not only to the UK haulage industry but also to the UK economy as a whole. This document has also set out in detail how the French Government's failure to prevent these blockades from taking place is a clear breach of their obligations under the Treaty Establishing the European Community. Their subsequent failure to bring these disputes quickly to a close and to compensate haulage firms that have suffered as a result only makes matters worse. The situation is comparable to that of the attacks on produce by French farmers which was the subject of Case C-265/95 Commission v France and in the FSB's view similar action is required.

The FSB is firmly of the opinion that this complaint meets all the requirements laid down by the European Commission (see Annex Eight). The FSB asks the European Commission under Article 226 of the Treaty Establishing the European Community to consider seriously the facts contained within this complaint, with particular reference to breaches of Articles 28, 29, 43 and 49 of the said Treaty, and urges the European Commission to take whatever action is necessary to ensure that the UK haulage industry cannot be held to ransom in the future as a result of the French Government's failure to prevent the near-annual fishermen's blockades from taking place.

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Annex One

The Federation of Small Businesses (FSB)

The FSB is non-profit-making and non-party-political and is the UK's largest campaigning pressure group promoting and protecting the interests of the self-employed and owners of small firms. Formed in 1974, it now has 215,000 members across 33 regions and 230 branches.

Our lobbying arm – led by the Westminster Press and Parliamentary Office – applies pressure on MPs, Government and Whitehall and puts the FSB viewpoint over to the media. The FSB also has Press and Parliamentary Offices in Glasgow, Cardiff and Belfast to lobby the devolved assemblies. Policy Managers work alongside Regional Development Agencies to further FSB influence at a regional level.

In addition, Member Services is committed to delivering a wide range of high-quality, good-value business services to members of the FSB. These services will be subject to continuing review and will represent a positive enhancement to the benefit of membership of the leading business organisation in the UK.

Vision

A community that recognises, values and adequately rewards the endeavours of those who are self-employed and small-business owners within the UK.

Mission Statement

To be and remain the largest and most effective organisation promoting and protecting the interests of the self-employed and small-business owners within the UK.

Principal Objectives to Achieve the Mission Statement

- *To recruit continuously at a high level*
- *To retain as many members as possible*
- *To promote the interests of members*
- *To protect members' business*
- *To publicise the benefits of self-employment and business ownership*
- *To identify the continuously changing needs of members*

About

The Federation of Small Businesses is the trading name of the National Federation of Self-Employed and Small Businesses Limited. Our registered office is Sir Frank Whittle Way, Blackpool Business Park, Blackpool, Lancashire, FY4 2FE. Our company number is 1263540 and our Data Protection Act registration number is Z7356876. We are a non-profit-making organisation and we have registered with the Information Commissioner on a voluntary basis.

We have two associated companies, FSB (Member Services) Limited (company number 02875304 and Data Protection Act registration number Z7356601) and NFSE Sales Limited (company number 01222258 and Data Protection Act registration number Z7315310).

What we do

The FSB exists to serve the interests of its members and our core objectives are set out in our Memorandum and Articles of Association. FSB Member Services Ltd is party to a contract with Warren Hill (Insurance Brokers) and NFSE Sales Limited produces the FSB's journal, First Voice. NFSE Sales Limited also acts as a reseller of selected merchandise and products.

European Small Business Alliance (ESBA)

Founded in 1998 by eight independent national small-business associations, the European Small Business Alliance is a non-party-political group which cares for small-business entrepreneurs and the self-employed and represents them through targeted EU advocacy and profiling activities. ESBA also works towards the development of strong independent advocacy and benefits groups in European countries. ESBA's new website, which provides an innovative approach to communication among business organisations, reflects these three main fields of activity.

Today, ESBA is one of the largest organisations based on voluntary membership in Europe. Through its direct membership, associate membership and cooperation agreements, the Alliance now represents almost one million small businesses and covers 35 European countries. Increased support and recognition, internally and externally, however will, be only achieved through tangible results. Through implementation of its 'Vision 2020' and the corresponding business plan, this is what ESBA is constantly striving to achieve on behalf of its members and SMEs in Europe.

Annex Two

The Independent newspaper – 24th May 2008

(<http://www.independent.co.uk/news/world/europe/french-trawlers-blockade-straits-of-dover-in-fuel-protest-833584.html>)

French fishermen blocked the straits of Dover, the world's busiest seaway, with slow-moving trawlers yesterday in a dispute over catch-quotas and fuel prices.

The 25 trawlers, sailing abreast, dawdled along at three knots, instead of the normal 25-knot speed of freighters and oil-tankers passing between Kent and the Pas de Calais. The maritime go-slow escalated a week-long series of protests, including blockades of French oil refineries and attacks on the fish counters of supermarkets. The fishermen say diesel fuel forms 40 per cent of their costs and they cannot survive the steep increases in oil prices of the past three months. They have been demanding direct government subsidies to reduce the dock-side price of diesel oil from €0.75 (60p) a litre to €0.40.

Such a direct subsidy would be illegal under EU laws which guarantee free and fair competition between member states. The French Agriculture Minister, Michel Barnier, attempted to resolve the dispute yesterday, by promising a €40m package of "direct compensation" which would refund fishermen the difference in their fuel bills between €0.75 a litre and €0.40 a litre.

Some leaders said this was an "advance" but many grass-roots fishermen are insisting the protests must continue until they have received cheap fuel at the dockside and higher fishing quotas for cod in the North Sea.

The go-slow in the Pas de Calais and some oil refinery blockades were suspended last night but fishermen's leaders admitted they had lost control of the "base", or grass-roots and further protests could explode over the British bank holiday weekend.

President Sarkozy promised fishermen a €310m package of aid after he braved a noisy demonstration in Brittany in January. Fishermen now complain that a 30 per cent rise in oil prices in three months has made the Sarkozy aid programme inadequate.

After talks with fishermen's leaders yesterday, M. Barnier promised to bring forward payments of €110m, including an extra €40m to compensate for high fuel prices. Earlier in the week, this money was presented as a down-payment on the existing €310m Sarkozy aid package. Yesterday M. Barnier said that the €40m was additional".

President Sarkozy insists he is a reforming President, but in his handling of the sometimes violent fishermen's protests, he has followed the same line of appeasement and concession as his predecessors.

He finds himself squeezed, however, between the fishermen's demands, EU rules and the risk that French farmers and lorry drivers will demand the same kind of concessions. Paris insisted yesterday its fuel compensation package would not breach EU law. Brussels said it was not so sure and would investigate.

There were also threats from Belgian and Portuguese fishermen to take action of their own if French – and Spanish – fishermen received what they saw as "unfair" subsidies from their governments.

M. Barnier appeared to have persuaded fishermen's leaders yesterday that his offer amounted to the same thing as subsidised diesel prices. The difference was, he said, that it would not breach EU law.

Some trawlermen predicted, however, that the offer would be rejected.

Freight Transport Association press release – 29th November 2006

(<http://www.fta.co.uk/assets/files/press-release-archive/061129-french-strikes---100-million-bill.html>)

The Freight Transport Association says that over the last ten years there have been at least 20 strikes and blockades in the Port of Calais, resulting in over 100 days of disruption and a cost to the UK and European transport industry of at least £100 million. FTA says that the problems of yesterday and today, and the imposition of Operation Stack on the M20 in Kent, will cost at least £2 million as well as all of the pain, inconvenience, delays and discomfort for both the lorry drivers marooned on the motorway and motorists in the surrounding road network suffering the overflow of the traffic.

BBC news website – 2nd December 2004
(<http://news.bbc.co.uk/1/hi/england/kent/4063061.stm>)

A blockade of the French ports of Calais and Dunkirk, which left thousands of Channel ferry passengers stranded, has come to an end.

French fishermen apparently blocked the ports in protest at colleagues being arrested for fishing in banned areas.

Two P&O ferries due to sail back to Dover on Thursday afternoon were stuck in the port and two more had to return to Dover after setting off for Calais.

The blockade came to an end in the evening and the backlog began to clear.

No warning

Long queues of traffic built up on the M20 in Kent and near the French ports after the blockade began at about 1200 GMT.

The fishermen ended their protest at 1815 GMT, with P&O saying it would take two hours to clear the backlog of passengers and traffic.

No warning was given in advance of the protest.

Ferries from SeaFrance and Norfolkline were also affected by the blockade.

At about 1600 GMT, Kent Police launched Operation Stack, which sees part of the M20 closed due to a build-up of lorries unable to get into Dover.

A police spokeswoman said: *"The M20 is closed coastbound between junction 11, the Hythe turn-off, and the Cheriton turn-off at Folkestone."*

"All coastbound traffic has to leave the motorway at junction 11, lorries are allowed back down onto the motorway where they park up until they can get into the Port of Dover."

"All other traffic is diverted onto the A20."

Later, police said Operation Stack should be lifted by 2200 GMT.

A P&O Ferries spokesman said: *"We had been quite busy today and had got a lot of day-trippers across to France."*

'Not that bad'

"Now these passengers will have difficulty in getting back."

He said one ship carrying 1,215 people, had to sail back to Dover without being able to dock at Calais.

After the blockade was lifted he said: *"We have seven ships which can carry about 600 cars or 120 trucks, so we expect to clear the backlog in about two hours or so, as each sailing is 45 minutes."*

"All the ships are in position and ready to load, the backlog is not that bad, it's not even outside the dock gates."

The blockade also affected Norfolkline ferries on the Dover to Dunkirk route.

Geoff Dossiter, of the Freight Transport Association said: *"Previous experience suggests that the closure of Calais for a day imposes a cost of around £1m on the transport industry."*

The Guardian newspaper – 11th December 2003
(<http://www.guardian.co.uk/uk/2003/dec/11/france.world>)

Thousands of Channel ferry passengers faced severe disruption yesterday when French fishermen blockaded the port of Calais in protest at proposed EU cuts in their catch quotas.

The industrial action, which began at 7.30am UK time, forced ferry companies to cancel more than 40 sailings.

As more than a dozen fishing boats blocked the entrance to the harbour to prevent ferries docking, P&O said it had laid on four "mini-cruises" that would sail into French waters so that passengers could take advantage of low duty rates on board.

"We managed to get about 220 passengers away on the first of the mini cruises at 8.15am," the company said.

"Sadly, the blockade has ruined the day-tripper market today, and those booked can either go on another day or get a refund."

Many freight sailings were completed overnight before the blockade began. Along with some holidaymakers who decided to take the Eurostar train to the continent, many lorries travelled to France under the Channel, on Eurotunnel freight shuttle trains.

The dispute, which was due to end at 4pm, saw the cancellation of 30 P&O Ferries sailings, and 14 operated by SeaFrance.

Other affected ports included Marseille and Nice, and Bastia and Ajaccio on Corsica.

Protesting fishermen say their livelihoods are threatened by the proposals for further cuts to quotas and more restrictions on the number of days fishing fleets can be out at sea.

BBC news website – August 31st 2000

(<http://news.bbc.co.uk/1/hi/uk/904664.stm>)

French fishermen have called off their blockade at the Channel tunnel in Calais after reports that their government had agreed to compensate them for the rising cost of fuel.

And P&O Stena Line have announced that its ferry sailings between Dover and Calais have also resumed.

Protest leaders said they were “satisfied” with the outcome of talks with French agriculture minister Jean Glavany.

It is understood the French government has agreed to reduce social security contributions for the fishermen, offsetting the cost of diesel.

There were also reports that the government may reduce their port charges.

Eight boats, which had been blocking ferry traffic at Calais, tooted their horns and let off a red smoke flare before returning to the quayside.

The last fisherman to step off his boat was Jose Huleux, president of the Calais union of fishermen.

Waving in triumph, he said: “It is over and we have won.”

Heading home

Stranded holidaymakers were allowed through all eight lanes of the Eurotunnel terminal within 20 minutes of the blockade being lifted.

The ferry companies were however waiting for news of the apparent deal to reach demonstrators at the ports of Boulogne, St Malo, Cherbourg and Dunkirk. P&O Stena said one of its ferries which had been diverted to Zeebrugge in Belgium had redirected back to Calais.

A spokesman for the company said services would not be back to normal until Friday morning.

Secretary of the Fishermen’s Union Andre Fauchet was unable to confirm whether the blockades at these ports had been lifted.

It is expected to take some time to clear the backlog of passengers waiting to get across the Channel.

Similarly, in the UK there are queues of truckers on the M20 motorway in Kent reported to be five miles long.

Angry scenes

Deputy Prime Minister John Prescott told BBC News 24 that a long-term strategy should be introduced to prevent the British being affected by “what is essentially a French problem”.

“It is totally unacceptable that Britain could be held to ransom in this kind of blockade arising out of a dispute in France,” Mr Prescott said.

The disputes began in channel ports, forcing their closure on Wednesday. It spread to the Calais entrance of the Eurotunnel on Thursday.

This sparked fury among stranded British holidaymakers in Calais, because the tunnel was the only French-UK route that was available.

There were angry scenes between demonstrators and British holidaymakers enraged at the blockade after queuing overnight, with tourists forcing their way through the barricades.

Caroline Chetwood, 46, of Surrey, said: “I am never coming to France again. I do not see how a very few fishermen can hold so many people to ransom. In my book that is blackmail.”

Farm workers' support

The protests had struck a chord with workers in other sectors of the French economy, and there were fears the disruption could spread to farmers, truck drivers and taxi drivers.

The protest also hit ports on the Atlantic coast and shut down the huge Mediterranean port of Marseille, blocking traffic to Corsica and North Africa.

In Paris, French fishermen clashed with the police, BBC News 24 reported.

About 700 protesters took part in an unauthorised demonstration ahead of a union meeting with French Agriculture Minister Jean Glavany.

Annex Three

What is Operation Stack?

Operation Stack is the name given to the traffic management plan used by Kent Police when, as a result of restrictions at the Port of Dover, it is necessary to transform sections of the M20 motorway into a lorry park.

When Operation Stack is running, Kent Police park lorries in three rows on parts of the carriageway on the M20 until they can direct them to either the Channel Tunnel or to ferries at Dover, as space becomes available. Other traffic is diverted from the motorway.

What junctions of the M20 are affected by Operation Stack?

Kent Police can implement three phases of Operation Stack:

Phase 1

Channel-bound lorries are parked on the M20 coast bound carriageway between Junctions 11 (Hythe) and 12 (Cheriton) while other traffic is diverted along the A20 via Junction 11.

Phase 2

When the M20 between junctions 11 and 12 becomes full, the coast bound carriageway between Junctions 8 (Maidstone) and 9 (Ashford) is also closed for lorry parking. This helps to reduce road congestion in and around Dover and at the Channel crossing terminals.

Phase 3

This involves closing the M20 London bound between junctions 9 and 8 (Ashford to Maidstone).

When is Operation Stack used?

Operation Stack is used when there are restrictions at the Port of Dover. Restrictions may be caused for such reasons as bad weather affecting channel crossings, or strike action.

Operation Stack remains an emergency provision for Kent Police and is only implemented following a thorough assessment of issues, including safety concerns and disruption on the road network.

Who manages Operation Stack?

Kent Police works with the Highways Agency, Kent County Council and other partner agencies to manage Operation Stack.

Once the decision has been made to use Operation Stack, Kent Police use their own emergency powers to close sections of the M20.

As the network operator for strategic roads, the Highways Agency is responsible for the M20 and for the A20 and provides traffic management in support of the police to enable them to implement Operation Stack.

The Highways Agency, Kent Police and Kent County Council review the extent to which Operation Stack has been implemented and are considering what improvements might be possible, both in the short and longer term - to reduce the delay for cross-Channel and local travellers.

Can non HGV vehicles use the M20 when Operation Stack is in place?

During Operation Stack cars are diverted off of the M20 where junctions have been closed. When Operation Stack is running, motorists are advised to avoid the area unless their journey is absolutely necessary.

What do lorry drivers need to do during Operation Stack (ticket system)?

A ticket system for lorries is used during Operation Stack. Drivers are given paperwork when at the front of the queue that they must present on arrival at the Port of Dover. If drivers arrive without this paperwork they will be turned away and directed back up the A2/M2/A249 to join the rear of the Stack queue.

Judgment of the Court of 9 December 1997.

Commission of the European Communities v French Republic.

Free movement of goods - Agricultural products - Trade barriers resulting from actions by private individuals - Obligations of the Member States.

Case C-265/95.

European Court reports 1997 Page I-06959

Parties

In Case C-265/95,

Commission of the European Communities, represented by Hendrik van Lier, Legal Adviser, and Jean-Francis Pasquier, a national civil servant on secondment to its Legal Service, acting as Agents, with an address for service in Luxembourg at the office of Carlos Gómez de la Cruz, of its Legal Service, Wagner Centre, Kirchberg,

applicant,

supported by

Kingdom of Spain, represented by Alberto José Navarro González, Director General of Community, Legal and Institutional Affairs, and Rosario Silva de Lapuerta, Abogado del Estado, of the Community Litigation Service, acting as Agents, with an address for service in Luxembourg at the Spanish Embassy, 4-6 Boulevard E. Servais,

United Kingdom of Great Britain and Northern Ireland, represented by John E. Collins, of the Treasury Solicitor's Department, acting as Agent, with an address for service in Luxembourg at the British Embassy, 14 Boulevard Roosevelt,

interveners,

v

French Republic, represented by Jean-François Dobelle, Assistant Director in the Legal Affairs Directorate of the Ministry of Foreign Affairs, Catherine de Salins, Deputy Director in the same directorate, Anne de Bourgoing, Chargé de Mission in the same directorate, and Philippe Martinet, Foreign Affairs Secretary in the same Ministry, acting as Agents, with an address for service in Luxembourg at the French Embassy, 8 B, Boulevard Joseph II,

defendant,

APPLICATION for a declaration that, by failing to take all necessary and proportionate measures in order to prevent the free movement of fruit and vegetables from being obstructed by actions by private individuals, the French Republic has failed to fulfil its obligations under the common organization of the markets in agricultural products and Article 30 of the EC Treaty, in conjunction with Article 5 of that Treaty,

THE COURT,

composed of: G.C. Rodríguez Iglesias, President, C. Gulmann, H. Ragnemalm, M. Wathelet and R. Schintgen (Rapporteur) (Presidents of Chambers), G.F. Mancini, J.C. Moitinho de Almeida, P.J.G. Kapteyn, J.L. Murray, D.A.O. Edward, J.-P. Puissochet, G. Hirsch and P. Jann, Judges,

Advocate General: C.O. Lenz,

Registrar: H.A. Rühl, Principal Administrator,

having regard to the Report for the Hearing,

after hearing oral argument from the parties at the hearing on 10 June 1997, at which the Commission was represented by Hendrik van Lier and Jean-Francis Pasquier, the Kingdom of Spain by Rosario Silva de Lapuerta and the French Republic by Jean-François Dobelle and Kareen Rispal-Bellanger, Deputy Director in the Legal Affairs Directorate of the Ministry of Foreign Affairs, acting as Agent, after hearing the Opinion of the Advocate General at the sitting on 9 July 1997,

gives the following

Judgment

Grounds

- 1 By application lodged at the Court Registry on 4 August 1995, the Commission of the European Communities brought an action under Article 169 of the EC Treaty for a declaration that, by failing to take all necessary and proportionate measures in order to prevent the free movement of fruit and vegetables from being obstructed by actions by private individuals, the French Republic has failed to fulfil its obligations under the common organization of the markets in agricultural products and Article 30 of the EC Treaty, in conjunction with Article 5 of that Treaty.
- 2 The Commission states that for more than a decade it has regularly received complaints concerning the passivity of the French authorities in face of violent acts committed by private individuals and by protest movements of French farmers directed against agricultural products from other Member States. Those acts consist, inter alia, in the interception of lorries transporting such products in France and the destruction of their loads, violence against lorry drivers, threats against French supermarkets selling agricultural products originating in other Member States, and the damaging of those goods when on display in shops in France.
- 3 The Commission has noted that as from 1993 certain groupings of French farmers, including an organization known as 'Coordination Rurale', launched a systematic campaign to restrict the supply of agricultural products from other Member States, which takes the form in particular of threats to wholesalers and retailers in order to induce them to stock exclusively French products, the imposition of a minimum selling price for the products concerned, and the organization of checks to verify whether those traders are complying with the instructions given.
- 4 Thus, from April to July 1993 that campaign was directed particularly at strawberries originating in Spain. In August and September 1993 tomatoes from Belgium were treated in the same way.
- 5 In 1994 the same type of action, involving threats against shopping centres and destruction of goods and means of transport, was directed against Spanish strawberries in particular. Violent incidents took place on two occasions at the same place within a period of two weeks but the police who were present took no action to provide effective protection for the lorries and their loads.
- 6 The Commission also refers to other cases of vandalism which have hindered the free movement in France of agricultural products originating in Italy and Denmark.
- 7 After the Commission had raised the matter on several occasions with the French authorities, it took the view that, by failing to take all necessary and proportionate measures in order to prevent the free movement of agricultural products from being obstructed by criminal acts of private individuals, the French Republic had failed to fulfil its obligations under the common organizations of the markets in agricultural products and Article 30 of the EC Treaty, in conjunction with Article 5 of that Treaty. Consequently, by letter of 19 July 1994, the Commission gave the French Government formal notice under Article 169 of the Treaty to submit its observations within a period of two months on the failure to fulfil obligations with which it was charged.
- 8 In a letter dated 10 October 1994 the French Government replied that it had always strongly condemned the acts of vandalism committed by French farmers. It stated that the preventive measures which it had taken by way of surveillance, protection and the gathering of information had brought about a notable reduction in incidents between 1993 and 1994. Moreover, the fact that public prosecutors had systematically conducted criminal investigations showed the French authorities' determination to bring prosecutions in respect of all criminal conduct aimed at obstructing imports of agricultural products from other Member States. However, unpredictable commando-type operations conducted by small, highly mobile groups made it extremely difficult for the police to intervene and explained the often unsuccessful nature of the criminal proceedings initiated. Lastly, the practices of 'Coordination Rurale' that aimed to regulate the market for agricultural products through threats and destruction were the subject of proceedings before the Conseil de la Concurrence (Competition Council).
- 9 None the less, on 20 April 1995 further serious incidents occurred in the south west of France, in the course of which agricultural products from Spain were destroyed.
- 10 On 5 May 1995 the Commission therefore delivered a reasoned opinion under the first paragraph of Article 169 of the Treaty. In that opinion it stated that, by failing to take all necessary and proportionate measures in order to prevent the free movement of fruit and vegetables from being obstructed by actions by private individuals, the French Republic had failed to fulfil its obligations under the common organizations of the markets in agricultural products and Article 30 of the EC Treaty, in conjunction with Article 5 of that Treaty. Pursuant to the second paragraph of Article 169 of the Treaty, the Commission called upon the French Republic to adopt the measures necessary in order to comply with that opinion within a period of one month from the date thereof.

- 11 On 16 June 1995 the French Government stressed that it had adopted all the measures open to it in order to ensure the free movement of goods on its territory and that the means of deterrence introduced had substantially contained the number of acts of violence committed in 1995. At national level, joint action to combat the recurrence of acts of vandalism had been agreed between the ministries concerned. This included, in particular, increased surveillance and instructions to prefects and the police to take firm action. Moreover, at the local level, an early-warning scheme consisting of a system of close surveillance of premises at risk had enabled a number of incidents to be prevented. Although it was impossible to prevent all risk of destruction, since the actions concerned were unforeseeable, isolated acts, whose perpetrators were very difficult to identify, in 1994 the Tribunal Correctionnel de Nîmes (Criminal Court, Nîmes) had convicted 24 farmers on charges of damage to property. Since the entry into force on 1 March 1994 of Article 322-13 of the new Criminal Code, prosecution and punishment for threats of damage to property had been made more effective. Finally, responsibility for the damage caused was assumed by the State and instructions had been given to expedite settlement of compensation for the loss or damage sustained by the economic operators concerned.
- 12 According to the Commission, however, in 1995 the French Minister for Agriculture stated that, although he disapproved of and condemned the violence by the farmers, he in no way contemplated any intervention by the police in order to put a stop to it.
- 13 On 3 June 1995 three lorries transporting fruit and vegetables from Spain were the subject of acts of violence in the south of France, without any intervention by the police. At the beginning of July 1995 Italian and Spanish fruit were once again destroyed by French farmers.
- 14 The Commission therefore brought the present action.
- 15 By orders of 14 and 27 February 1996 respectively, the Court granted the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Spain leave to intervene in support of the form of order sought by the Commission.
- 16 In support of its application the Commission claims that Article 30 of the Treaty and the common organizations of the markets in fruit and vegetables, which are based on the same principle of the elimination of obstacles to trade, prohibit quantitative restrictions on imports between the Member States and any measures having equivalent effect. Furthermore, in accordance with Article 5 of the Treaty, the Member States are required to take all appropriate measures to ensure fulfilment of their obligations arising out of that Treaty.
- 17 Consequently, the interception of means of transport and the damaging of agricultural products originating in other Member States, and also the climate of insecurity caused by the threats made by various farmers' organizations against distributors of fruit and vegetables from those States, which have been found to have taken place in France, constitute an obstacle to intra-Community trade in those products, which the Member States are required to prevent by adopting appropriate measures, including measures against private individuals who imperil the free movement of goods.
- 18 In the present case, the fact that, year after year, serious incidents continued to hinder the importation and transit in France of fruit and vegetables originating in other Member States shows that the preventive and penal measures to which the French Government refers in defence are in practice neither adequate nor proportionate for the purpose of deterring the perpetrators of such offences from committing and repeating them. Moreover, it is clear from the factual evidence before the Commission that the French authorities have persistently abstained from taking effective action to prevent violent acts by farmers in France or to prosecute and punish them for the commission of such acts.
- 19 The United Kingdom Government and the Spanish Government support the form of order sought by the Commission.
- 20 On the other hand, the French Government contends that there is no foundation for the Commission's action.
- 21 Thus, it claims that it put into effect, under conditions similar to those applicable to comparable breaches of domestic law, all necessary and appropriate means to prevent actions by private individuals that impeded the free movement of agricultural products and to prosecute and punish them for such actions. The surveillance measures implemented in 1993 enabled the number of acts of violence committed during subsequent years to be contained to a substantial degree.
- 22 However, in view of the large number of lorries transporting agricultural products in France and the wide variety of their destinations, on the one hand, and the unforeseeable nature of actions by farmers acting in small, commando-type groups, on the other, it is not possible to eliminate all risk of destruction. The latter reason also explains why

it is very difficult to identify the perpetrators and to prove their individual participation in the acts of violence so as systematically to prosecute and punish such persons. Six more persons have, however, been convicted or placed under investigation since 1994. Moreover, the police must be allowed a discretion in deciding whether they should intervene in order to safeguard public order. In any event, the State compensates the victims of the offences on the basis of liability without fault on the part of the public authorities. Thus, a sum in excess of FF 17 million was paid by way of damages in respect of the years 1993, 1994 and 1995.

- 23 The French Government adds that the dissatisfaction of French farmers is due to the considerable increase in exports of Spanish products since the accession of the Kingdom of Spain, which has led to a substantial fall in prices magnified by the competitive devaluation of the peseta and the dumping prices charged by Spanish producers. The French market for fruit and vegetables was seriously disrupted by the fact that the transitional period provided for on that accession had not been accompanied by any mechanism for monitoring the export prices charged by Spanish producers. The French Government also states that, far from having adopted a protectionist attitude, in this case it had demonstrated its constructive approach by taking steps in the Council to resolve the difficulties on the market for fruit and vegetables and in conferring with the Spanish authorities.
- 24 In order to determine whether the Commission's action is well founded, it should be stressed from the outset that the free movement of goods is one of the fundamental principles of the Treaty.
- 25 Article 3(c) of the EC Treaty provides that, for the purposes set out in Article 2, the activities of the Community are to include an internal market characterized by the abolition, as between Member States, of, inter alia, obstacles to the free movement of goods.
- 26 Pursuant to the second paragraph of Article 7a of the EC Treaty, the internal market is to comprise an area without internal frontiers in which the free movement of goods is ensured in accordance with the provisions of the Treaty.
- 27 That fundamental principle is implemented by Article 30 et seq. of the Treaty.
- 28 In particular, Article 30 provides that quantitative restrictions on imports and all measures having equivalent effect are prohibited between Member States.
- 29 That provision, taken in its context, must be understood as being intended to eliminate all barriers, whether direct or indirect, actual or potential, to flows of imports in intra-Community trade.
- 30 As an indispensable instrument for the realization of a market without internal frontiers, Article 30 therefore does not prohibit solely measures emanating from the State which, in themselves, create restrictions on trade between Member States. It also applies where a Member State abstains from adopting the measures required in order to deal with obstacles to the free movement of goods which are not caused by the State.
- 31 The fact that a Member State abstains from taking action or, as the case may be, fails to adopt adequate measures to prevent obstacles to the free movement of goods that are created, in particular, by actions by private individuals on its territory aimed at products originating in other Member States is just as likely to obstruct intra-Community trade as is a positive act.
- 32 Article 30 therefore requires the Member States not merely themselves to abstain from adopting measures or engaging in conduct liable to constitute an obstacle to trade but also, when read with Article 5 of the Treaty, to take all necessary and appropriate measures to ensure that that fundamental freedom is respected on their territory.
- 33 In the latter context, the Member States, which retain exclusive competence as regards the maintenance of public order and the safeguarding of internal security, unquestionably enjoy a margin of discretion in determining what measures are most appropriate to eliminate barriers to the importation of products in a given situation.
- 34 It is therefore not for the Community institutions to act in place of the Member States and to prescribe for them the measures which they must adopt and effectively apply in order to safeguard the free movement of goods on their territories.
- 35 However, it falls to the Court, taking due account of the discretion referred to above, to verify, in cases brought before it, whether the Member State concerned has adopted appropriate measures for ensuring the free movement of goods.
- 36 It should be added that, by virtue of the combined provisions of Articles 38 to 46 and Article 7(7) of the EC Treaty, the foregoing considerations apply also to Council regulations on the common organization of the markets for

the various agricultural products (see Joined Cases 3/76, 4/76 and 6/76 Kramer and Others [1976] ECR 1279, paragraphs 53 and 54, and Case C-228/91 Commission v Italy [1993] ECR I-2701, paragraph 11, relating to regulations on the common organization of the markets in fishery products).

- 37 As regards more specifically the present case, the facts which gave rise to the action brought by the Commission against the French Republic for failure to fulfil obligations are not in dispute.
- 38 The acts of violence committed in France and directed against agricultural products originating in other Member States, such as the interception of lorries transporting those products, the destruction of their loads and violence towards drivers, as well as threats to wholesalers and retailers and the damaging of goods on display, unquestionably create obstacles to intra-Community trade in those products.
- 39 It is therefore necessary to consider whether in the present case the French Government complied with its obligations under Article 30, in conjunction with Article 5, of the Treaty, by adopting adequate and appropriate measures to deal with actions by private individuals which create obstacles to the free movement of certain agricultural products.
- 40 It should be stressed that the Commission's written pleadings show that the incidents to which it objects in the present proceedings have taken place regularly for more than 10 years.
- 41 It was as long ago as 8 May 1985 that the Commission first sent a formal letter to the French Republic calling on it to adopt the preventive and penal measures necessary to put an end to acts of that kind.
- 42 Moreover, in the present case the Commission reminded the French Government on numerous occasions that Community law imposes an obligation to ensure de facto compliance with the principle of the free movement of goods by eliminating all restrictions on the freedom to trade in agricultural products from other Member States.
- 43 In the present case the French authorities therefore had ample time to adopt the measures necessary to ensure compliance with their obligations under Community law.
- 44 Moreover, notwithstanding the explanations given by the French Government, which claims that all possible measures were adopted in order to prevent the continuation of the violence and to prosecute and punish those responsible, it is a fact that, year after year, serious incidents have gravely jeopardized trade in agricultural products in France.
- 45 According to the summary of the facts submitted by the Commission, which is not contested by the French Government, there are particular periods of the year which are primarily concerned and there are places which are particularly vulnerable where incidents have occurred on several occasions during one and the same year.
- 46 Since 1993 acts of violence and vandalism have not been directed solely at the means of transport of agricultural products but have extended to the wholesale and retail sector for those products.
- 47 Further serious incidents of the same type also occurred in 1996 and 1997.
- 48 Moreover, it is not denied that when such incidents occurred the French police were either not present on the spot, despite the fact that in certain cases the competent authorities had been warned of the imminence of demonstrations by farmers, or did not intervene, even where they far outnumbered the perpetrators of the disturbances. Furthermore, the actions in question were not always rapid, surprise actions by demonstrators who then immediately took flight, since in certain cases the disruption continued for several hours.
- 49 Furthermore, it is undisputed that a number of acts of vandalism were filmed by television cameras, that the demonstrators' faces were often not covered and that the groups of farmers responsible for the violent demonstrations are known to the police.
- 50 Notwithstanding this, it is common ground that only a very small number of the persons who participated in those serious breaches of public order has been identified and prosecuted.
- 51 Thus, as regards the numerous acts of vandalism committed between April and August 1993, the French authorities have been able to cite only a single case of criminal prosecution.
- 52 In the light of all the foregoing factors, the Court, while not discounting the difficulties faced by the competent authorities in dealing with situations of the type in question in this case, cannot but find that, having regard to the frequency and seriousness of the incidents cited by the Commission, the measures adopted by the French

Government were manifestly inadequate to ensure freedom of intra-Community trade in agricultural products on its territory by preventing and effectively dissuading the perpetrators of the offences in question from committing and repeating them.

- 53 That finding is all the more compelling since the damage and threats to which the Commission refers not only affect the importation into or transit in France of the products directly affected by the violent acts, but are also such as to create a climate of insecurity which has a deterrent effect on trade flows as a whole.
- 54 The above finding is in no way affected by the French Government's argument that the situation of French farmers was so difficult that there were reasonable grounds for fearing that more determined action by the competent authorities might provoke violent reactions by those concerned, which would lead to still more serious breaches of public order or even to social conflict.
- 55 Apprehension of internal difficulties cannot justify a failure by a Member State to apply Community law correctly (see, to that effect, Case C-52/95 Commission v France [1995] ECR I-4443, paragraph 38).
- 56 It is for the Member State concerned, unless it can show that action on its part would have consequences for public order with which it could not cope by using the means at its disposal, to adopt all appropriate measures to guarantee the full scope and effect of Community law so as to ensure its proper implementation in the interests of all economic operators.
- 57 In the present case the French Government has adduced no concrete evidence proving the existence of a danger to public order with which it could not cope.
- 58 Moreover, although it is not impossible that the threat of serious disruption to public order may, in appropriate cases, justify non-intervention by the police, that argument can, on any view, be put forward only with respect to a specific incident and not, as in this case, in a general way covering all the incidents cited by the Commission.
- 59 As regards the fact that the French Republic has assumed responsibility for the losses caused to the victims, this cannot be put forward as an argument by the French Government in order to escape its obligations under Community law.
- 60 Even though compensation can provide reparation for at least part of the loss or damage sustained by the economic operators concerned, the provision of such compensation does not mean that the Member State has fulfilled its obligations.
- 61 Nor is it possible to accept the arguments based on the very difficult socio-economic context of the French market in fruit and vegetables after the accession of the Kingdom of Spain.
- 62 It is settled case-law that economic grounds can never serve as justification for barriers prohibited by Article 30 of the Treaty (see, inter alia, Case 288/83 Commission v Ireland [1985] ECR 1761, paragraph 28).
- 63 As regards the suggestion by the French Government, in support of those arguments, that the destabilization of the French market for fruit and vegetables was brought about by unfair practices, and even infringements of Community law, by Spanish producers, it must be remembered that a Member State may not unilaterally adopt protective measures or conduct itself in such a way as to obviate any breach by another Member State of rules of Community law (see, to that effect, Case C-5/94 R v MAFF, ex parte Hedley Lomas [1996] ECR I-2553, paragraph 20).
- 64 This must be so a fortiori in the sphere of the common agricultural policy, where it is for the Community alone to adopt, if necessary, the measures required in order to deal with difficulties which some economic operators may be experiencing, in particular following a new accession.
- 65 Having regard to all the foregoing considerations, it must be concluded that in the present case the French Government has manifestly and persistently abstained from adopting appropriate and adequate measures to put an end to the acts of vandalism which jeopardize the free movement on its territory of certain agricultural products originating in other Member States and to prevent the recurrence of such acts.
- 66 Consequently, it must be held that, by failing to adopt all necessary and proportionate measures in order to prevent the free movement of fruit and vegetables from being obstructed by actions by private individuals, the French Government has failed to fulfil its obligations under Article 30, in conjunction with Article 5, of the Treaty and under the common organizations of the markets in agricultural products.

Decision on costs

Costs

67 Under Article 69(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the French Republic has been unsuccessful, it must be ordered to pay the costs. Under Article 69(4) of those rules the Member States and the institutions which have intervened in the case must bear their own costs.

Operative part

On those grounds,

THE COURT

hereby:

- 1 Declares that, by failing to adopt all necessary and proportionate measures in order to prevent the free movement of fruit and vegetables from being obstructed by actions by private individuals, the French Republic has failed to fulfil its obligations under Article 30 of the EC Treaty, in conjunction with Article 5 of that Treaty, and under the common organizations of the markets in agricultural products;
 - 2 Orders the French Republic to pay the costs;
 - 3 Orders the Kingdom of Spain and the United Kingdom of Great Britain and Northern Ireland to bear their own costs.
-

Annex Five

Regulation 2679/98 - eliminating obstacles to trade

Council Regulation (EC) No 2679/98 of 7 December 1998 on the functioning of the internal market in relation to the free movement of goods among the Member States establishes an information and monitoring mechanism in order to eliminate the major obstacles to trade which inflict serious losses on individuals, such as the obstacles which were the subject of the so-called "strawberries" Judgement (**Case C-265/95**, Commission v. France).

The Regulation should make it possible to apply the principle of the free movement of goods quicker and more efficiently in order to deal with this kind of obstacle, as requested by the Amsterdam European Council of 16 and 17 June 1997.

This intensified approach is also the subject of commitments laid down in the **Resolution of the Council and of the Representatives of the Governments of the Members States**, meeting within the Council of 7 December 1998, on the free movement of goods, which has been adopted alongside the Regulation.

Richard Hyslop

To: Graham Power
Subject: RE: FSB to file complaint against French Government following fishermen's blockades

From: Graham Power [mailto:gpower@cargofreightlog.co.uk]
Sent: 26 June 2009 15:44
To: Richard Hyslop
Subject: RE: FSB to file complaint against French Government following fisherman's blockades
Importance: High

Hello Richard

Whilst these blockades rarely affect us in the most direct way - as we are Freight Forwarders and not Road Hauliers. We clearly do on occasions have a few problems and certainly the more often these things are allowed to take place - the greater the chance of direct problems for us.

The problems we encounter are thus:

Clearly during these blockades - operation stack means hundreds of lorries stuck on the motorway just waiting for the backlog to clear... But whilst that problem is going on many other trucks find alternative ways to/from the continent - via all the ferry ports that serve Belgium in particular i.e Ramsgate, Purfleet, Ipswich, Immingham etc... during the blockade periods these ferries also become very congested and we run the risk of our trailer operators having their trailers shortshipped or having to book for the following day etc. Inevitably this results on occasion with irate customers shouting that their delivery has not made it to their customers etc.

I hope your formal complaint is acted on - keep up the good work.

Kind regards
Graham Power
Cargofreight Logistics Ltd

Richard Hyslop

To: Gemma Halliwell
Subject: RE: FSB to file complaint against French Government following fishermen's blockades

From: Gemma Halliwell [mailto:wcinfo@btconnect.com]
Sent: 26 June 2009 16:02
To: Richard Hyslop
Subject: RE: FSB to file complaint against French Government following fisherman's blockades

As a result of the April blockades our champagne didn't get through for our weddings.

We had lots of weddings on that week and had ordered wine from a supplier in France that was unable to get through, nearly caused us mass panic from the brides. We found a supplier in the UK that could help us out in the end.

Thanks
Ben Slade

Gemma Halliwell
Events Manager
Woodlands Castle
Ruishton
Taunton
Somerset
TA3 5LU
www.woodlandscastle.co.uk
T: 01823 444955 F: 01823 444019

Next Event: Jazz with Woodlands Castle on 12th July 2009 for a cream tea and easy listening from our Gentle Jazz Trio. £10 if booked in advance. 2pm to 5pm.

Richard Hyslop

To: "Skye Horse Transport Ltd"
Subject: RE: Recent French Blockades and its Impact on the Haulage Industry

From: "Skye Horse Transport Ltd" [mailto:philip@skyehorsetransport.com]
Sent: 23 April 2009 15:55
To: Richard Hyslop
Subject: RE: Recent French Blockades and its Impact on the Haulage Industry

Dear Richard,

My company suffered last week due to the blockades in France. I was transporting horses from just south of Paris and was traveling back to the UK when all the strikes were on. Unfortunately the Euro tunnel is out of the question as they will not allow livestock to travel in the tunnel. I there for had to travel to Caen which is 220 miles drive from Calais, and the dover - Calais ferry costs me £130 where as this crossing cost me £528 plus the extra fuel to get there!

I don't think it is fair as these animals who had a long journey any way was made even longer and more stressful for them.

We look forward to hearing from you.

Kind regards

Philip Hirst

Tel: +44(0)1938500841
Mob: +44(0)7966671339 24hr

Passports MUST accompany the horse when travelling.
All horses carried under The Racehorse Transporters Association Terms & Conditions.

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I J HAULAGE LTD

UK & INTERNATIONAL TRANSPORT SERVICES

63 Amblecote Road, Brierley Hill, West Midlands, DY5 2YQ
Tel: +44 7960 151788. Tel/Fax: +44 1384 265602 Email: info@ijhaulage.co.uk www.ijhaulage.co.uk

Mr Richard Hyslop
Federation of Small Businesses
2 Catherine Place
Westminster
London
SW1E 6HF

19th June 2009

Dear Richard

As discussed via email and telephone conversation please see details below of our experience of the blockades of the French ports during April 2009.

One of our lorries was booked onto the Dover – Calais crossing on Tuesday 14th April 2009. Due to the blockade of the French ports this vehicle (Registration: BX56 UXR) was held at Dover for over 10 hours. With the driving regulations in place this resulted in us losing this vehicle for the entire day/shift. The lorry would normally earn between £500 and £600 per day, which is the amount I would say this blockade cost us in lost revenue.

We fortunately avoided any costs being incurred through late delivery of the load on the vehicle.

Please contact me should you require any further information regarding this.

Best Regards

Richard James
Transport Manager
I J Haulage Ltd

Reg: Address: Bordeaux House, 111-112 Pedmore Road, Lye, Stourbridge, West Midlands, DY9 8DG
Company No: 5183489. VAT No: 786 4083 93

J M R LOGISTICS

Mr B C Turner
125 Ridgeway Road
Herne, Herne Bay
Kent CT6 7LN
Tel Number: 01227 369681
Fax Number: 01227 370239
Mobile: 07766 523 393

5th June 2009

Federation of Small Business
2 Catherine Place
Westminster
LONDON
SW1E 6HF

Dear Richard


RE: FRENCH BLOCKADES

We are a small logistics business with a major contract distributing flowers to shops in the U.K via a large company in Holland. This company sends trucks over to the U.K at least 5 times a week. We meet the trucks and have deadlines to meet in delivering these flowers across the U.K.

The blockades cause major problems and have a knock on effect from the company in Holland, to my business, to my sub-contractors, to the shops expecting their deliveries and ultimately the consumer. Some florists have major orders relating to funerals, weddings and hotel chains, who all require fresh flowers - when there are delays, pressure and stress is caused on me and my drivers to make our deliveries on time - then there is the stress on the florists to provide their services, for their customers, which they are unable to do without their flowers - it just goes on and on and is extremely unpleasant for all concerned.

We fully support your complaint to the European Commission about the French Government and thank you for taking the time to do so.

Yours faithfully



Mr BC Turner
JMR Logistics



Richard Asghar-Sandys

T/a **Coach Logistics**

Project Management & Event Transport Coordination

Orchard Farmhouse, Mordiford, Herefordshire HR1 4EJ

01432 870253

mobile 07870 898905

VAT Reg: 920 4158 53

Richard Hyslop
Federation of Small Businesses
2 Catherine Place
Westminster
London
SW1E 6HF

Dear Richard

Thank-you for email regarding blockades.

I organise passenger transport for events & conferences - for the past 3 years I have refused to handle any transportation through Calais or Boulogne due to frequency and unpredictability of the strikes and blockades that affect these ports.

I either direct transport through the tunnel or, ideally, recommend clients fly and arrange local transportation.

I also turn down work that would entail Channel crossings, such as school tours etc leaving the headache to others.

In practice, I am also hesitant to consider bookings that will take in the M20, since it is frequently closed for Operation Stack; or at least I allow an extra two hours on any bookings that do head down into Kent.

In short, the inconvenience caused by the perpetual blockades & strikes around French Ports has effectively made these no-go areas.

Your's sincerely,

A handwritten signature in black ink, appearing to be 'Richard Asghar-Sandys', written over the text 'Your's sincerely,'.

Richard Asghar-Sandys

18th June 2009

Federation of Small Businesses
2 Catherine Place
Westminster
London
SW1E 6HF



Re : French blockades

Dear Richard,

I am writing to tell you about my recent experience with regards the French blockades earlier on this year.

I run a European freight forwarding company. These blockades over last 5-6 years cause us nothing but aggravation. We utilise UK and European hauliers to collect our customers loads predominantly from the UK to Europe. Although we do not run our own equipment, availability of equipment in the UK to collect our work is very low / non-existent when the blockades are on. We have to turn work away as we cannot guarantee having a lorry in the UK to collect it. I know that some of our customers who are manufacturer's have had to use airfreight to deliver shipments to Europe that they would have normally ran through us as road freight. Considerable extra costs involved there too.

I would say that on the days of the blockades we were about 20% down on business. We operate on an approximate figure of gross profit per working day across the 3 offices. Over the 2 days therefore, 20% of my profit will have equated to £2000 loss of revenue.

What I really cannot understand is why French fisherman are allowed to massively inconvenience the whole of the European Road freight industry and innocent holiday makers and get away with it year on year. Causing an obstruction in the UK is an offense, why not in France?

I am glad to see someone like yourself trying to do something about this ridiculous annual blockade.

Many thanks

A handwritten signature in blue ink, appearing to read "Tony Shally".

Tony Shally
Director
Espace Europe Ltd

Registered Office:

Espace Europe Ltd., Espace House,
71A Upper St. John Street, Lichfield,
Staffordshire. WS14 9DT

01543 418700

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ADDRESS

TEL

FAX

e-mail

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BRITISH INTERNATIONAL
FREIGHT ASSOCIATION



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Annex Seven

Department for Transport - Road Traffic and Congestion in Great Britain: Quarter 1 2009

This statistical bulletin includes statistics on Road Traffic and Congestion in Great Britain Q1 2009 according to arrangements approved by the UK Statistics Authority. This bulletin includes first release of the following National Statistics:

- *Provisional estimates for road traffic in Great Britain for the first quarter of 2009.*
- *Provisional estimates for inter-urban congestion in England for the year ending March 2009.*

The bulletin also includes revised official statistics on congestion in ten major urban areas in England for the academic year 2007/08 and provisional quarterly figures for the quarters ending November 2008 and February 2009.

A full copy of the report can be found at:

<http://www.dft.gov.uk/pgr/statistics/datatablespublications/roadstraffic/traffic/qbtrafficgb/2009/q109>

Annex Eight

The Commission monitors the effective application of the principle of free movement of goods in Member States. It is able to do so mainly thanks to complaints from citizens and economic operators about national measures (law, regulation or administrative action) or practices considered to be in breach of the Treaty. In many cases, the barrier to trade is removed on an amicable basis. If this is not possible, the Commission can bring an action before the European Court of Justice against the Member State in question.

The Commission itself states that anyone may lodge a complaint with them against a Member State for any measure (law, regulation or administrative action) or practice attributable to a Member State which they consider incompatible with a provision or a principle of Community law. To be admissible, a complaint has to relate to an infringement of Community law by a Member State. It cannot therefore concern a private dispute. When the Commission decides to pursue a complaint the Commission allows the Member State to present its views regarding the facts stated in the complaint and the Commission's initial legal assessment of them, through the letter of formal notice.

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