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Subject: **State aid SA.39962 (2014/N) – Czech Republic, *Aid scheme for the modernisation and construction of combined transport terminals***

Sir,

1. PROCEDURE

- (1) By letter of 14 November 2014, registered at the Commission on the same day, the Czech Republic notified the Commission of the plan to introduce an aid scheme for the modernisation and construction of combined transport terminals.
- (2) By letter of 13 February 2015, the Commission asked the Czech authorities for complementary information on the intended aid scheme. The Czech authorities provided the information by letter dated 12 March 2015, registered on the same day.
- (3) As the Commission still regarded the notification as incomplete, it requested additional information by letter of 20 May 2015. The Czech authorities submitted the information by letter of 18 June 2015, registered on the same day.

Lubomír ZAORÁLEK
ministr zahraničních věcí
Ministerstvo zahraničních věcí České republiky
Loretánské náměstí 5
118 00 Praha 1
Česká Republika

Commission européenne, B-1049 Bruxelles – Belgique
Europese Commissie, B-1049 Brussel – België
Telefon: 00 32 (0) 2 299.11.11

2. DESCRIPTION OF THE AID SCHEME

2.1. Objective of the aid scheme

- (4) The objective of the aid scheme is to expand the capacity of combined transport terminals, in particular for the purposes of continental combined transport, thereby shifting freight from road to rail.
- (5) With the notified aid scheme, the Czech authorities intend to provide incentives for private investment in the construction of sufficient transshipping capacity so that more transportation can be shifted from road to rail or, where appropriate, inland waterways. The Czech authorities explained that this concerns in particular the development of transportation links with intermodal road trailers and swap bodies, which during transshipping would require more costly loading technology as well as up to five times more temporary storage surface compared to container storage.
- (6) The Czech authorities explained that the objective of the aid scheme is in line with objectives enshrined both in Union and national legal texts and policies, in particular:
- At Union level:
 - Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States¹;
 - White Paper – Roadmap to a Single European Transport Area – Towards a competitive and efficient transport system²;
 - Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU³.
 - At national level:
 - The Czech Republic’s international commitments under the European Agreement on Important International Combined Transport Lines and Related Installations (AGTC)⁴;
 - The requirements and objectives of the Transport Policy of the Czech Republic for 2014–2020 with an Outlook to 2050⁵. In particular, the

¹ OJ L 368 of 17.12.1992, p.38.

² 8.3.2011, COM(2011) 144 final.

³ OJ L 348 of 20.12.2013, p. 1.

⁴ Communication of the Ministry of Foreign Affairs No 35/1995 on the negotiation of the European Agreement on Important International Combined Transport Lines and Related Installations (AGTC).

⁵ Resolution of the Government of the Czech Republic No 449 of 12 June 2013.

creation of conditions for shifting freight from roads to railways, which requires an accessible, modern and high-capacity infrastructure of combined transport terminals.

- (7) The Czech authorities also took into account the recommendation issued in the context of the COSMOS project⁶ for requirements for neutral combined transport terminals.
- (8) The Czech authorities further explained that the content of the scheme largely corresponds to sub-programme 1, 'Aid for the construction, extension and modernisation of existing combined transport terminals', of a previous combined-transport aid scheme for the years 2006 until 2010 inclusive.⁷ The Czech authorities informed the Commission that during that scheme's duration, aid disbursed for combined transport was minimal in the Czech Republic due to a lack of budget resources.

2.2. Considerations of the Czech authorities

- (9) The Czech authorities informed the Commission of their considerations and conclusions as regards the necessity to activate investment in additional terminal capacity.
- (10) The Czech Ministry of Transport received repeated complaints by combined-transport operators and logistics companies about insufficient capacity of combined transport terminals, the poor technical condition of combined transport terminals in certain areas with high potential traffic and the failure to provide non-discriminatory access to services in certain existing, privately owned combined transport terminals. Discussions with sector associations and at conferences confirmed that these concerns existed.
- (11) In order to verify if those concerns were justified, the Ministry of Transport carried out a public consultation with interested parties, in particular with the Combined Transport Section of the Transport Union, as the professional association of transport operators, and ČESMAD Bohemia (Association of Road Transport Operators). The Czech authorities evaluated the responses to the public consultation and came to the following conclusions:
 - In order to meet the objective of shifting freight from road to rail, it is necessary to ensure the spread and development of publicly accessible (non-discriminatory) combined transport terminals with the equipment and capacity needed to meet the requirements for increasing shipments by combined transport.

⁶ COSMOS (Cooperative Solutions for Managing Optimized Services) was a common learning project implemented under the EU's Marco Polo II programme. That project explored the market needs for improved cooperative intermodal freight services in South-East Europe. Among others, the project set the objective of promoting intermodal transport as such, and in particular supporting schemes for modal shift to (intermodal) rail services (administrative, fiscal, technical, financial measures) towards targeted stakeholders (market parties, operational partners and political/public stakeholders). http://www.intermodal-cosmos.eu/content/cosmos-project/objectives/index_eng.html

⁷ Approved by Commission decision of 12.9.2007 on the aid scheme C 12/06 (ex N 132/05) which the Czech Republic is planning to implement to support combined transport, OJ L 68 of 13.3.2009, p.8.

- Operators of combined transport terminals do not have enough financial resources to increase the capacity of the terminals which they operate.
- (12) The Czech authorities established that existing terminals in locations with high demand are currently already fully utilised and that their operators do not have sufficient incentive to finance expansion investments entirely from their own resources, due to the risk of possible underutilisation in the immediate future. According to the Czech authorities' analysis, strong competition from direct road transport prevents terminal operators from generating sufficient earnings to be able to renew and expand terminal facilities on the scale required. A terminal operator wishing to invest in additional capacity would therefore have to make any further investment conditional on guarantees in the form of long-term contracts with a haulier, for the reimbursement of all amounts for several years of services, irrespective of whether or not planned transhipments are carried out. However, hauliers would not be prepared to take such risk. According to the Czech authorities, the customary contract duration in the market is only one year. Consequently, terminal operators would rather prefer utilising existing capacity without risk.
- (13) The Czech authorities analysed the viability of investments in additional combined-transport terminal infrastructure and found that continental combined transport does not cover its costs. For continental combined transport to be able to compete with road transport, terminal operators would have to offer services at a price that does not cover all the transhipment costs.
- (14) The Czech authorities further took into account the traffic forecast by the Czech Railway Infrastructure Administration, postulating an overall increase in combined transport of 40% by 2020. Accordingly, the Ministry of Transport set a target of increasing the volume of continental combined transport (i.e. the definite transfer of shipments from road to rail) by more than 100%. Thus, the 616 528 tonnes of goods transported in 2013 would rise by 800 000 tonnes of goods to approximately 1 400 000 tonnes of goods in 2022.
- (15) As regards the environmental impact of the measure, the Czech authorities stressed that transferring more road transport to rail or inland waterways will make it possible, by 2022, to reduce the annual amount of emissions produced by road transport, by 36 696 – 40 032 tonnes for CO₂ and 114 – 307 tonnes for NO_x (depending on the emission classes of motor vehicles).

2.3. Combined transport terminals in the Czech Republic

- (16) Presently, the Czech Republic has 16 privately owned combined transport terminals, of which three can be regarded as combined transport terminals satisfying the parameters of the AGTC Agreement⁸.

⁸ European Agreement on Important International Combined Transport Lines and Related Installations (AGTC), United Nations, Treaty Series, vol. 1746, p. 3; C.N.345.1997, as amended. That agreement provides for a legal framework which lays down a co-ordinated plan for the development of combined transport services and the infrastructure necessary for their operation based on internationally agreed performance parameters and standards.

- (17) The operators of these three terminals are currently not bound by the obligation of public non-discriminatory access. Furthermore, they are utilising their entire capacity for their own commercial transport operations and are currently unable to provide sufficient space for the transloading of other customers' goods.
- (18) The parameters of other terminals fall short of the technical and capacity requirements of the current combined transport trend, especially as regards the coherent new trains with intermodal road trailers or swap bodies. Another problem lies in the inappropriate location of some terminals, particularly as regards their poor access to the rail and road network, as well as changes in traffic flows. Currently, only operators of two of these terminals are bound to provide public (non-discriminatory) access.
- (19) The main shortcomings of existing terminals are insufficient length of the transloading tracks and the inadequate handling and storage area for transport units.⁹

2.4. Eligible beneficiaries

- (20) Beneficiaries of aid under the scheme may be the owners of existing terminals or the prospective owners of newly constructed terminals or, for the purposes of acquiring transshipping equipment, operators of terminals, subject to the terminal owner's approval.
- (21) The Czech authorities declared that all owners and operators of combined transport terminals may apply for aid under the scheme and that no participants in the relevant market will be excluded from the possibility of receiving aid. All EEA companies having registered offices, agencies, branches or subsidiaries in the Czech Republic are eligible for aid under the scheme, provided that the aid is used for investment in a terminal situated in the Czech Republic.
- (22) Large firms as well as small and medium-sized enterprises (SMEs)¹⁰ are eligible for aid. The Czech authorities expect up to 50 enterprises to receive aid under the scheme.
- (23) The Czech authorities committed to suspend the payment of any aid under the notified aid scheme to any undertaking that has benefited from earlier unlawful aid declared incompatible by a Commission Decision, until that undertaking has reimbursed or paid into a blocked account the total amount of unlawful and incompatible aid and the corresponding recovery interest.

2.5. Form of aid

- (24) Aid under the scheme is awarded in the form of non-reimbursable direct grants.

⁹ The required terminal track length is currently min. 600 m with a target length of 750 m, according to Annex IV to the AGTC Agreement; it is 740 m according to Article 39 (2) (a) (ii) of Regulation (EU) No 1315/2013 of 11.12.2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU, OJ L 348 of 20.12.2013, p.1.

¹⁰ SMEs in the sense of Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises, OJ L 124 of 20.5.2003, p. 36.

2.6. Eligible investments, eligible costs and aid intensity

- (25) The following investments are eligible for aid under the scheme:
- Construction of infrastructure related to combined transport: modernisation and construction of combined transport terminals with public (non-discriminatory) access for users.
 - Acquisition of combined transport equipment: only handling equipment as a technological part of a designated combined transport terminal infrastructure. This is because handling equipment, due to its size and weight, and due to approval procedures, is difficult to move. Prior to possible transfer to another location, such equipment would have to be dismantled by an authorised company and reassembled by an authorised company after transportation, and then would again have to be approved for use by the Czech Rail Authority.
- (26) Eligible items have to be used exclusively for combined transport operations.
- (27) According to the Czech authorities, the following specific cost categories are eligible for aid: project preparation and arrangements; site preparation; foundation work; earthworks; substructure; superstructure; railway crossing; buildings and fixed installations necessary for protection from adverse effects; communication equipment to transmit information; security equipment; electrical equipment; ground structures; roads and paved areas; handling equipment; accompanying measures (landscaping, obligatory publicity, etc.); other technological equipment used exclusively to operate the terminal; purchase of property (land and buildings).
- (28) Aid under the scheme may defray up to 49% of eligible costs of an investment.

2.7. Access to the aid scheme; selection process and selection criteria

- (29) All project applications for grants will be subject to a detailed assessment on the basis of publicly available programme documentation which provides for detailed rules governing the scheme and the conditions of use thereof.
- (30) The assessment will consist of several stages: at the initial stage, an evaluation of whether applications meet all the conditions arising from the programme documentation and the respective call will be carried out. Applications that meet all of the requirements (i.e. eligible project applications) will proceed to the next stage of assessment where they will be evaluated by an evaluation committee, on the basis of predetermined criteria.
- (31) The Czech authorities will apply the following groups of evaluation criteria; details will be specified in the programme documentation: compliance with basic strategic plans and documents; technical solution; investment plan quality; additional criteria (e.g. the applicant's qualifications, the sustainability of the project); conditions and guarantees of public (non-discriminatory) access.
- (32) On this basis, a ranking of eligible project applications will be compiled, which will be used if the aggregate amount of grants sought under eligible project applications exceeds the total amount of State aid allocated for that purpose in the respective call. If the sum of grants sought under eligible project applications does not exceed this budget, all eligible project applications will be upheld.

2.8. Award criteria

- (33) The granting authority will assess each project application for the requisite capacity of the combined transport terminal in question, focusing in particular on its location and the existence or condition of existing terminals in the region concerned.
- (34) Investment projects must not have started prior to the aid application by the beneficiary to the granting authority.
- (35) With each project application the applicant for support will have to present an investment plan including a justification of the need for the investment and showing that the investment would not be made without the aid. The Czech authorities provided a detailed list of points that investment plans must contain:
- Project for a new terminal: basic features of the project/construction (including the design phase); a description of the current state and justification for carrying out the project; specific objectives of the project and the final/projected state; a description of proposed variants (including the counterfactual scenario); time-line of preparations and implementation of construction work; assessment of the effectiveness of the construction.
 - Project to expand/modernise an existing terminal: decisive technical-economic information on existing utilisation and operation; basic features of the project/construction (including the design phase); a description of the current state and justification for carrying out the project; specific objectives of the project and the final/projected state; a description of proposed variants (including the counterfactual scenario); time-line of preparations and implementation of construction work; assessment of the effectiveness of the construction.
 - Project for additional transshipment equipment: description of the current state and justification for carrying out the project; description of the new transshipment equipment; description of proposed variants (including the counterfactual scenario); information on the utilisation of the new transshipment equipment; time-line of preparations and implementation of the purchase.
- (36) A description/comparison of different investment scenarios/different variant solutions will have to form part of the investment plan. In order to assess the necessity of the aid, the granting authority will compare these scenarios, in accordance with the investment plan and the potential for shipments using combined transport. The appraisal of such counterfactual scenarios will consist in a comparison of the scale and quality of the project (including the provision of non-discriminatory access and a technical evaluation of the asset) with and without aid.
- (37) Beneficiaries will be obliged to provide combined transport services to each carrier, consignor of goods or other user of combined transport on a non-discriminatory basis, under predetermined conditions and for pre-determined and published prices. Applicants for aid must provide the conditions of public (non-

discriminatory) access, including the price of services, with the application. These conditions must be published on the applicant's website already during the launch of the project. Operation of the terminal on a public, non-discriminatory basis will be stipulated by the terms of the grant decision.

- (38) As an incentive to meet the target of increasing the volume of continental combined transport, the granting authority will lay down in the grant decision, as a condition for public support, an indicator of the minimum increase in shipments to be achieved by the beneficiary.
- (39) The granting authority will carry out regular checks in accordance with the conditions laid down in the grant decision¹¹. If these checks show that the grant conditions have not been met, the operator will be asked to repay the grant¹².

2.9. Aid granting authority

- (40) Grants under the scheme will be awarded by the Ministry of Transport of the Czech Republic.

2.10. Legal basis; text of the aid scheme

- (41) The national legal basis of the notified aid scheme is:
- Act No 218/2000 on budgetary rules, as amended;
 - Implementing Decree No 560/2006 on the participation of the central government budget in the financing of asset replacement programmes, as amended;
 - Draft Operational Programme Transport 2014–2020, approved under Resolution of the Government of the Czech Republic No 558 of 9 July 2014;
 - Strategy for the Support of Public Resource Logistics, approved under Resolution of the Government of the Czech Republic No 1571 of 21 December 2009;
 - Transport Policy of the Czech Republic for 2014–2020 with an Outlook to 2050, approved under Resolution of the Government of the Czech Republic No 449 of 12 June 2013.
- (42) Detailed rules governing the scheme and the conditions of use thereof will be set out in programme documentation, in accordance with the Budgetary Rules Act and its Implementing Decree No 560/2006. The Czech authorities undertook to publish the full text of the scheme on the internet.¹³

¹¹ Under Act No 218/2000 on budgetary rules, as amended.

¹² Section 14(f)(3) of Act No 218/2000 on budgetary rules, as amended.

¹³ www.opd.cz

2.11. Duration and budget

- (43) The duration of the scheme is from 2015 until 2020 inclusive. The Czech authorities committed to implement the scheme only after the Commission has approved it.
- (44) The upper limit of the budget for the entire duration of the scheme is CZK 2.5 billion (approx. EUR 93 million).

2.12. Cumulation of aid

- (45) Aid under the scheme cannot be cumulated with aid received from other local, regional, national or Union schemes to cover the same eligible costs.

3. ASSESSMENT

3.1. Existence of State aid within the meaning of Article 107(1) TFEU

- (46) Article 107 (1) of the Treaty on the Functioning of the European Union (TFEU) states: "*Save as otherwise provided in this Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market.*"
- (47) Therefore, in order to determine whether the notified measure contains State aid elements within the meaning of Article 107 (1) TFEU, it must be established 1) whether the measure confers a selective economic advantage to the undertakings concerned, 2) whether this advantage has been financed through State resources, 3) whether this advantage distorts or threatens to distort competition and, finally, 4) whether the measure affects trade between Member State.
- (48) The Commission considers that the notified aid conveys an advantage to the beneficiaries, by allowing them to be relieved, by means of State resources, of a part of the costs which they would normally have to bear themselves. The measure is selective since aid will be granted only to undertakings carrying out investments in the transport sector and since the State has a discretionary power in awarding the aid. The aid from the State strengthens their position in relation to competing infrastructure in the Union and therefore has potentially distorting effects on competition, as the market for the operation of intermodal terminals is open to competition, and the different types of intermodal terminals are in competition with intermodal terminals in other Member States. Therefore the aid affects trade between Member States.
- (49) The Commission therefore concludes that the notified scheme constitutes State aid within the meaning of Article 107 (1) TFEU.

3.2. Basis for compatibility assessment

- (50) As described in recital (4) above, the objective of the aid scheme is to expand the capacity of combined transport terminals, in particular for the purposes of continental combined transport, thereby shifting freight transport from road to rail. The Commission has to determine whether that aid scheme can be considered

to be compatible with the internal market on the basis of the derogations provided for in the TFEU.

- (51) Article 93 of the TFEU provides that “*aids shall be compatible with the Treaties if they meet the needs of coordination of transport [...]*”. The concept of ‘coordination of transport’ used in that provision has a significance which goes beyond the simple fact of facilitating the development of an economic activity. It implies an intervention by public authorities which is aimed at guiding the development of the transport sector in the common interest.
- (52) Since the entry into force of Regulation (EC) No 1370/2007¹⁴, Article 93 of the TFEU has become directly applicable as the legal basis for establishing the compatibility of aid not covered by that regulation and, in particular, of aid for the coordination of freight transport.
- (53) Hence, the Commission will assess the compatibility of the notified aid scheme with the internal market on the basis Article 93 of the TFEU.¹⁵
- (54) According to a constant decisional practice, aid for the coordination of transport will be deemed compatible with the internal market under Article 93 TFEU if the following conditions are met:
- The aid must contribute to a well-defined objective of common interest;
 - The aid must be necessary and provide an incentive effect;
 - The aid must be proportionate;
 - Access to the infrastructure in question must be open to all users on a non-discriminatory basis;
 - The aid must not lead to distortions of competition contrary to the common interest.
- (55) It is therefore appropriate to assess whether the aid scheme meets these five criteria, so that the Commission can authorise it on the basis of Article 93 TFEU.

¹⁴ Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70, OJ L 315, 3.12.2007, p. 1.

¹⁵ As railway undertakings are not excluded from the scheme, chapter 2 of the Community guidelines on State aid for railway undertakings applies (OJ C 184, 22.7.2008) for beneficiaries that are railway undertakings. However, as this chapter refers to the assessment of public financing of railway undertakings by means of railway infrastructure funding to Article 93 of the TFEU, the assessment conducted in section 3.3 of this Decision equally applies to railway undertakings covered by the Guidelines.

3.3. Compatibility of the aid scheme with the Internal Market

3.3.1. Contribution to a well-defined objective of common interest

- (56) The EU has for some time pursued a policy of achieving a balanced multimodal transport system and the fostering of the competitiveness of multimodal transport vis-à-vis road usage is part of this policy. The aim of the EU multimodal transport policy is to achieve a modal shift from road freight to other modes of transport.
- (57) EU instruments such as Council Directive 92/106/EEC of 7 December 1992¹⁶ aim at fostering the development of combined transport. In addition, multimodal policy is in line with the conclusions of the European Council of Gothenburg of June 2001 which has declared that measures helping modal shift from road transport to more environmentally friendly modes are at the heart of the policy for sustainable transport.
- (58) The White Paper on Transport Policy 2011 encourages the use of rail and other environmentally friendly modes of transport in order to become competitive alternatives to road haulage¹⁷.
- (59) The Commission recognises that it is in the first place the task of market operators to improve multimodal transport within markets, to which access is free and where the rules of free competition and supply and demand prevail. However, in order to fully unleash the potential of multimodal transport, the willingness to take risks inherent in switching from road to the alternative modes, may need to be stimulated.
- (60) The development of multimodal transport and of activities that contribute to reduce air pollution and road congestion are therefore in the common interest.
- (61) The Commission recalls that it had found a similar scheme adopted by the Czech Republic - Sub-programme 1, 'Aid for the construction, extension and modernisation of existing combined transport terminals' of the combined-transport aid scheme 2006-2010, to be contributing to an objective of common interest.¹⁸
- (62) In light of information provided by the Czech authorities, as described in sections 2.1 and 2.2 above, the Commission concludes that the aid scheme contributes to these objectives.

3.3.2. Necessity and incentive effect of the aid

- (63) Aid must be necessary to achieve the objective of common interest, and must have an incentive effect, i.e. aid must change the behaviour of the beneficiary

¹⁶ Council directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States as amended, OJ L 368, of 17.12.1992, p. 38.

¹⁷ Roadmap to a Single European Transport Area—Towards a competitive and resource efficient transport system, COM(2011)144 of 28.03.11.

¹⁸ Commission decision of 12.9.2007 on the aid scheme C 12/06 (ex N 132/05) which the Czech Republic is planning to implement to support combined transport, OJ L 68 of 13.3.2009, recitals (38)-(41).

undertaking in such a way that it engages in additional activity, which it would not carry out without the aid or would carry out in a restricted or different manner, so that the objective of common interest would not be achieved.

- (64) As was explained in recital (12) above, terminal operators are not ready to invest in new terminals or to upgrade the capacity of existing terminals, due to the risks and costs associated with such investment and the unlikelihood of recouping those costs; hauliers are not prepared to share these risks and costs. Hence, a modal shift cannot be achieved by market forces alone.
- (65) Moreover, as explained in recital (13), investments in the expansion of intermodal terminal capacity in the Czech Republic are not financially sustainable without aid.
- (66) The aid scheme only offers aid in relation to investments directly related to the modal shift (recital (21)). Only owners of existing terminals or the prospective owners of newly constructed terminals or, for the purposes of acquiring transshipping equipment, operators of terminals, subject to the terminal owner's approval, may receive aid under the scheme (recital (20)). The measure thus has the effect of encouraging a modal shift from road to rail.
- (67) Further, the Czech authorities will verify the necessity of the investment aid in each individual case, on the basis of an investment plan and counterfactual scenarios (recital (29)-(32)).
- (68) Finally, investment projects must not have started prior to the aid application by the beneficiary to the national authorities (recital (34)), so that the aid can be considered to have an incentive effect.
- (69) The Commission therefore concludes that aid under the scheme will be necessary to foster a modal shift away from road transport to rail or inland waterway transport, and will provide an incentive to beneficiaries to make additional investment which they would not have made in the absence of aid.

3.3.3. *Proportionality of the aid*

- (70) The aid intensity under the scheme will not exceed 49 % of eligible costs (recital (28)) of combined transport terminal infrastructure. The Commission regards handling equipment, as described above (recital (25), second indent) to be part of an eligible terminal infrastructure: first, the mobility of such equipment is normally limited to the terminal area and this equipment cannot be easily moved to another transport terminal; second, such equipment is exclusively dedicated to combined transport operations, namely the transloading of e.g. ISO containers, swap bodies and road trailers from one transport mode to another.
- (71) The Commission considers the maximum aid intensity of the notified measure to be in line with its previous case practice where aid intensities of 50 % of eligible investment costs were assessed as proportionate.¹⁹

¹⁹ See e.g. Commission decision of 17.10.2012 in case SA.34501, Germany – Extension of the inland port Königs Wusterhausen / Wildau; Commission decision of 19.9.2012 in case SA.34985, Austria – Programme for supporting the development of connecting railways and transfer terminals 2013 – 2017, recital (54), OJ C 43 of 15.2.2013, p.19; Commission decision of 20.12.2010 in case N

- (72) The Commission also observes the following in relation to the proportionality of the aid: first, aid under the scheme cannot be cumulated with any other aid in respect of the same eligible costs (recital (45)). Second, individual aid is only granted after its necessity has been demonstrated in a detailed counterfactual analysis.
- (73) Consequently, the proposed aid intensity of 49% of eligible investment costs under the scheme can be considered proportionate to the intended objective of encouraging a modal shift.

3.3.4. *Open and non-discriminatory access to eligible intermodal terminal infrastructure*

- (74) As was described above (recital (37)), beneficiaries of the aid scheme will be obliged to provide combined transport services to each carrier, consignor of goods or other user of combined transport on an open and non-discriminatory basis.

3.3.5. *Distortions of competition*

- (75) The Commission notes, firstly, that in the Czech Republic the volume of combined transport is projected to increase by 40 % by 2020 (see recital (14) above). As regards freight transport in the EU in general (including international maritime transport), the Commission estimates that that activity could increase, with respect to 2005, by around 40% in 2030 and by a little over 80% by 2050²⁰.
- (76) Secondly, as described in recitals (16)–(19) above, most privately owned combined-transport terminals in the Czech Republic do not offer sufficient track length in line with international standards. Only three terminals offer such longer tracks but are operating at their capacity limits and are not openly accessible to transport operators on non-discriminatory terms.
- (77) Thirdly, the limitation of the planned aid's intensity to 49% will ensure that trading conditions are not affected contrary to the common interest. Terminal owners and operators will still have to make a substantial contribution from their own resources or find external financing at market conditions.
- (78) Finally, the scheme is horizontal, *i.e.* open to all investors willing to invest into combined transport terminals. Aid may be granted both to owners of existing terminals and the prospective owners of newly constructed terminals and, for the purposes of acquiring transshipping equipment, operators of terminals, subject to the terminal owner's approval.

490/2010, Belgium – *Verlenging van steunregeling N 550/2001 inzake publiek-private samenwerking voor de bouw van laad- en losinstallaties langs de waterwegen in het Vlaams Gewest*; Commission decision of 31.01.2001 in case N 597/2000, Netherlands – *Subsidieregeling voor bijzondere bedrijfsaansluitingen op vaarwegen*; and Commission decision of 14.09.2001 in case N 208/2000, Netherlands – *SOIT*, Commission decision of 15.11.2000 in case N 755/1999, Italy – *Bolzano*.

²⁰ In a scenario without policy change, European Commission Staff Working Document Accompanying the White Paper - Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system, 28.3.2011, SEC(2011) 391 final, point 17.

- (79) Consequently, additional capacity created with aid from the scheme is unlikely to distort competition to an extent contrary to the common interest in a market where cargo volumes are expected to grow, and where extensive market analysis has shown that transport operators need additional capacity which the market is however unable to provide, in essence due to the risk aversion of terminal owners and operators.

4. CONCLUSION

The Commission has accordingly decided:

- not to raise objections to the aid scheme for the modernisation and construction of combined transport terminals, on the grounds that it is compatible with the internal market pursuant to Article 93 of the Treaty on the Functioning of the European Union.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Your request should be sent by registered letter or fax to:

European Commission
Directorate-General for Competition
State Aid Greffe
B-1049 Brussels
Fax No: 32 2 296 12 42

Yours faithfully,
For the Commission

Margrethe Vestager
Member of the Commission