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Subject: SA.41033 (2016/N) – Italy – Integrated transport scheme in the Province of Trento

Dear Sir,

1. PROCEDURE

- (1) Pursuant to Article 108(3) of the Treaty on the Functioning of the European Union (TFEU), by electronic notification dated 17 February 2016 Italy notified an aid scheme in support of combined rail freight transport in the Province of Trento.

2. DESCRIPTION OF THE MEASURE

2.1. Objective

- (2) The measure pursues the objective to reduce the environmental, health and social impact of road traffic by promoting the development of combined transport on the territory of Province of Trento.

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2.2. Legal basis

- (3) The notified scheme implements the provisions of the Convention on the Protection of the Alps, ratified by Law No 403 of 14 October 1999, and its applying protocols.
- (4) Thus, by virtue of Article 16*bis*, paragraph 2 of Provincial Law No 16 of 9 July 1993 on Rules governing public transport services in the Province of Trento, added by Article 66, paragraph 2 of Provincial Law No 1 of 19 February 2002, as supplemented by Article 35 of Provincial Law No 3 of 14 May 2014, the Province of Trento may grant, without discrimination, reduction in the rates charged by operators of integrated rail/road transport services, provided on the territory of the Province of Trento. The Provincial Law was published in July 2014 in the Region's Official Gazette.
- (5) By Provincial Executive Decision No 2036 of 24 November 2014 have been adopted the criteria and rules for the granting of aid to support integrated rail/road transport.
- (6) The aid will be granted only after the Commission has authorised the scheme.

2.3. Beneficiaries

- (7) Under the scheme the eligible beneficiaries are integrated transport services operators, lawfully constituted and having their registered office in one of the Member States of the European Union. An integrated transport services operator is a public or private transport undertaking that organises the railway part of an integrated transport chain for third parties or for itself.
- (8) The eligible beneficiaries must have complied with national and local collective labour agreements, and with the legislation on health and safety of workers at the workplace.

2.4. Scope

- (9) The scheme covers transport services involving all or part of the railway section between Trento and Borghetto all'Adige, with departure from/arrival at intermodal centres located in the Province of Trento.
- (10) The beneficiaries will receive a subsidy to offset the higher cost of access to the railway infrastructure compared with the cost of using road transport. This difference is mainly imputable to the transshipment costs and the cost of the rail transport itself.

2.5. Duration

- (11) The scheme covers movements of goods carried out between 1 July 2014, the date of the publication of the Provincial Law, and 31 December 2018.
- (12) Article 35, paragraph 5 of Provincial Law No 3 of 14 May 2014 explicitly provides for the financing of the measure from 2014. It stipulates: "For the purposes of this article expenditure of EUR 200,000 for 2014 and EUR 400,000 for each of the years 2015 and 2016 is authorised [...]". Furthermore, a similar scheme for rail combined transport applied in the Province of Trento for the period 2003-2007. It was approved by the Commission by decision of 1 October 2003.¹ Subsequent to the expiry of the above-mentioned scheme the original law, i.e. Article 16*a* of Provincial Law No 16 of 9 July 1993 on Rules governing

¹ OJ C 284 of 27.11.2003, p. 2.

public transport services in the Province of Trento, as introduced by Article 66 of Provincial Law No 1 of 19 February 2002 on Measures related to public financing in 2002 remained in force.

2.6. Budget

- (13) The overall allocated budget corresponds to EUR 1.6 million. EUR 400,000 will be disbursed per annum.

2.7. Eligible costs

- (14) The subsidy will be granted for reducing the negative externalities related to freight transportation. Therefore, the eligible costs under the aid scheme correspond to the part of the external costs which rail transport makes it possible to avoid in comparison with transport by road.
- (15) For the purposes of the present scheme Italy has demonstrated differences in externalities created between road and rail based on data of the Joint Research Centre of the Commission (JRC). JRC has established a calculation of external costs for different transport modes in Italy based on the methodology presented in the Handbook on estimation of external cost in the transport sector published by the Commission² and updated in 2014 and on the data from the TREMOVE model.³

Table 1 – Marginal average external costs of transport by mode for Italy, in EUR per 1000 tonnes-kilometres, 2013

Cost component	Road transport	Rail transport
Accidents	2.2 ⁴	0.38
Noise	1.8	3.05
Pollutants	6.9	0.42
Climate costs	3.7	2.14
Congestion	3.7	0.31
Total	18.3	6.3
Cost difference compared with road transport		EUR 12 per 1,000 tonne-km

² <http://ec.europa.eu/transport/themes/sustainable/studies/doc/2014-handbook-external-costs-transport.pdf>

³ TREMOVE is an EU-wide transport model used as a policy assessment model, designed to study the effects of different transport and environment policies on the transport sector. The model estimates for technical and non-technical measures and policies such as road pricing, public transport pricing, emission standards, subsidies for cleaner cars etc., the transport demand, modal shifts, vehicle stock renewal and scrappage decisions as well as the emissions of greenhouse gases, air pollutants and the welfare level. For more details, see <http://www.tremove.org/>.

⁴ In EUR per 1,000 tkm.

- (16) The Italian authorities have informed the Commission that the average cost of transporting freight by rail alone in Italy amounts to approximately EUR 10 per train-kilometre (train-km) on the basis of an average payload of 400 tonnes per train. This gives a tonne/train-km cost of EUR 0.025

2.8. Aid amount

- (17) As the purpose of the scheme is to offset the various external costs the aid is therefore proportionate to the volume of goods and the relevant kilometres travelled on the territory of the Province of Trento. Based on these considerations, the rate of the subsidy has been set at EUR 0.0058 per tonne-kilometre (tkm).
- (18) The Province of Trento reserves the right to recalculate and reduce the amount of aid in the years following the year of first application of the scheme should more favourable market conditions permit.
- (19) In addition, the Italian authorities report that the consumption of electricity for rail traction has been exempt from taxation in Italy since 1924. Article 52(3)(c) of the current Consolidated Law on the taxation of energy consumption, as amended by Legislative Decree No 26 of 2 February 2007, maintains the exemption from excise duty on electricity "used for the installation and operation of railway lines for the transport of freight and passengers" in line with Article 15(1)(e) of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity⁵ that allows Member State to apply total or partial exemption in the level of taxation to electricity, used notably for the carriage of goods by rail. The corresponding value of the tax exemption is EUR 3.1 per MWh which represents a saving of approximately EUR 0.2 per 1000 tkm and that is EUR 0.0002 per single tkm.

2.9. Other eligibility criteria

- (20) The applicant for aid must provide a document, delivered by an intermodal platform in the Province of Trento, certifying that the integrated transport services operator has transported a minimum of 10,000 tonnes of goods over a period of six months.
- (21) The entire amount of aid has to be used to reduce the tariffs actually charged to the end-users of the integrated transport.
- (22) The aid will be granted within the limits of available financing. If the total number of applications for aid exceeds the allocated annual budget, the latter will be divided proportionally, weighted according to the following parameters for the employment figures of the undertaking using the integrated transport service:
- 1.00 for the equivalent of over 250 employees;
 - 0.50 for the equivalent of 50 to 250 employees;
 - 0.10 for the equivalent of up to 50 employees.

⁵ OJ L 283 of 31.10.2003, p. 51.

2.10. Procedure for granting the aid

- (23) The integrated transport services operators submit the application for aid for services provided during the previous six months.
- (24) The applications are submitted to the provincial body responsible for integrated transport; they are accompanied by the following documents:
- a detailed description of the service;
 - a copy of the contract signed with the railway undertaking, ensuring the traction;
 - a declaration on the availability of access to the loading and unloading platform and any contracts signed with the operators of such logistics platforms;
 - the tariff plan actually applied to undertakings, with a breakdown of its composition and subtraction of the aid that is applied for under the Provincial law;
 - a copy of the order of dispatch and order of collection of each transport operation.
- (25) The aid will be granted by decision of the head of the competent body to be adopted within sixty days of the closing date for the submission of applications.
- (26) The granting authority can grant the aid only after the Commission has authorised the scheme.
- (27) The granting authority shall order the forfeiture of aid if an integrated transport services operator fails to comply with the criteria and rules, laid down by the present scheme.

2.11. Rules of cumulation

- (28) Subject to recital (17) of the present decision the aid from this scheme cannot be cumulated with other aid of the same nature which directly or indirectly offsets the costs of access to railway infrastructure in the Province of Trento, if such cumulation exceeds 30 % of the total integrated transport cost and the limit of 50 % of the difference between the external costs for rail transport and road transport.

2.12. Expected impact of the measure on modal shift

- (29) According to the Italian authorities the value of the new measures can be inferred both from previous experience and analysis of the current situation. In this context they reported the following facts:
- (30) The modal split in the EU has stagnated in recent years (75 % road and 25 % rail/waterways between 2007 and 2012), and the share of rail has decreased along the Brenner Corridor (from 36 % in 2010 to 29 % in 2013).
- (31) The difficult national and international economic conditions have also been reflected in logistics and intermodality, with a significant slowdown in commercial traffic, including regional traffic, and declining volumes and services operated in the intermodal terminal.
- (32) According to Italy account should also be taken of the ban in Austria on lorries and articulated vehicles with a total weight over 7.5 t – as well on lorries with trailers for the transport of waste, stones and earth, if the sum of the maximum authorised total weights for both vehicles exceeds 7.5 t – from using the Inn valley motorway. The ban was extended in

2009, for the benefit of rail freight, to the transport of timber, cars, steel and tiles and in 2010 to iron and non-iron ores, marble and travertine. The repeal of these restrictions on driving and freight transport, the effects of which have been felt from January 2012, has consigned the transport of many kinds of goods once again to the more flexible road-only model, to the detriment of accompanied and unaccompanied intermodal rail.

- (33) In addition, according to Italy the Austrian Government's contribution to intermodal transport (accompanied or otherwise) in favour of its rail carrier for each lorry transported by rail has fallen by 30 %.
- (34) This has led the Austrian operator RCA to reorganise its accompanied intermodal activity (ROLA) and also resulted in the decision to reduce the following services at the Trento terminal, as they are no longer attractive to the market: fourteen return trains between Trento and Wörgl were subsequently reduced to only two and the scrapping of the three return trains per day between Trento and Regensburg.
- (35) Taking the Autonomous Provinces of Trento and Bolzano and Austria as a whole, and together with the start of new measures limiting goods transport by road in Austria and related incentives for rail transport, the aid proposed by the Autonomous Province of Trentino could restore rail and intermodal activities to levels close to, or even higher than, those seen in previous years.

3. ASSESSMENT

3.1. Existence of aid

- (36) Pursuant to Article 107 (1) TFEU "*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 is, in so far as it affects trade between Member States, incompatible with the internal market*".
- (37) As the examined measure:
 - confers an economic advantage as it relieves the direct beneficiaries of a part of the operational costs which they would normally have to bear and enables them to transport their goods at a reduced price;
 - involves State resources given that subsidies are granted from the budget of the central government;
 - is selective in nature because it is confined to certain segments of the transportation services market, i.e. rail and combined freight transport, and
 - can potentially distort competition and affect trade between Member States since it concerns rail freight markets which have been liberalised.

it is to be qualified as State aid.

3.2. Lawfulness of the aid

- (38) The Commission notes that, in compliance with the requirements of Article 108(3) TFEU, as stated in recital 26 of the present decision no aid has been granted so far by the local

authorities. Therefore Italy has complied with the obligation laid down in Article 108(3) TFEU.

3.3. Compatibility of the aid

3.3.1. Legal basis

- (39) The Commission is of the opinion that the present aid falls within the scope of Article 93 of TFEU and has therefore to be assessed on that basis.
- (40) Article 93 of TFEU states that State aid shall be compatible with the Treaty if it meets the needs of coordination of transport. The concept of aid meeting the needs of coordination of transport refers to the need for public intervention arising notably in the presence of market failure. In this regard, the Commission notes that measures of coordination of transport may be needed when certain modes of transport do not bear the costs of the negative externalities which they impose to the society.
- (41) As expressed in the Commission's White Paper on Transport Policy⁶, the fundamental charging principle for using infrastructure must cover not only infrastructure costs, but also external ones, that is, costs connected with accidents, air pollution, noise and congestion. This approach has been applied in a number of the Commission's State aid decisions over the last years.⁷ It also reflects the fact that, in view of Articles 3, 6, 191 TFEU⁸, the environmental objectives of the Treaty have to be pursued *inter alia* through the Common Transport Policy.
- (42) Article 9(2)(b) of Regulation (EC) 1370/2007 of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) 1191/69 and 1107/70⁹ states that "Member States may continue to grant aid for the transport sector pursuant to [Article 93 TFEU] which meets transport coordination needs or which represents reimbursement for the discharge of certain obligations inherent in the concept of a public service, other than those covered by this Regulation".
- (43) As regards railway transport sector, and, in particular the railway undertakings, rules for the interpretation of Article 93 TFEU have been set out in Section 6 of the Community guidelines on State aid for railway undertakings¹⁰ (hereinafter – the Guidelines).

⁶ Roadmap to a Single European Transport Area—Towards a competitive and resource efficient transport system, COM(2011)144 of 28.03.11.

⁷ For the most recent and relevant decision-making practise - see e.g. Commission's decision of 26 May 2015, SA.40404 (2014/N), France & SA.39606 (2015/N), Italy - *Régime d'aide au service transitoire d'autoroute ferroviaire alpine*, OJ 66 of 19.2.2016, p. 2-3; Commission's decision of 13 June 2014, SA.38152 (2014/N), Italy - *Aid in favour of rail freight transport in Emilia Romagna region*, OJ C 282 of 22.8.2014, p. 23; Commission's decision of 6 January 2014, SA.36758 (2013/N), Denmark - *Prolongation of environmental aid scheme for the transport of goods by rail for the period 2014-2017*, OJ C 280 of 22.8.2014, p. 10; Commission's decision of 16 December 2011, SA.32603 (2011/N), Italy - *Subsidy scheme "Ferrobonus" for combined transport*, OJ C 88 of 24.3.2012, p. 1; Commission's decision of 5 July 2005, N 249/04, Belgium - *Régime d'aide pour le transport combiné*, OJ C 280 of 12.11.2005, p. 9.

⁸ Until 30 November 2009 - Articles 2, 6 and 174 EC Treaty.

⁹ OJ L 315, 3.12.2007, p. 1.

¹⁰ OJ C 184 of 22.7.2008, p.13.

- (44) Although the direct beneficiaries of the present scheme are not the railway undertakings, as defined in Directive 91/440/EEC¹¹, in accordance with its previous decision-making practice¹², the Commission is of opinion that the principles set out in the Guidelines applicable to aid for reducing external costs are appropriate for assessing the compatibility of the present aid scheme.
- (45) Pursuant to Article 9(2)(b) of Regulation (EC) 1370/07 the compatibility assessment of the present measure will therefore be carried out in the light of the provisions of the Guidelines' provisions on aid for reducing external costs (points 101 to 112), applied by analogy.

3.3.2. *Existence of external costs savings*

- (46) According to point 103 of the Guidelines, as regards aid for reducing external costs, the eligible costs are the part of the external costs which rail transport makes it possible to avoid compared with competing transport modes.
- (47) Electrified rail freight transportation produces lower negative externalities in terms of accident and pollution costs, when compared to road transport. This transport mode also has considerable spare capacity and can therefore play a role in diverting traffic away from the congested parts of the road networks.
- (48) In line with its practice and as announced in point 104, footnote 1 of the Guidelines, the Commission considers that the study and the subsequent calculations of the external costs (Table 1) that the Italian authorities referred to for the establishment of the values of aid under the present scheme can be considered as "transparent, reasoned and quantified comparative cost analysis between rail transport and the alternative options based on other modes of transport" as required in point 105 of the Guidelines.
- (49) It can therefore be considered as a valid basis for the assessment of the present State aid scheme.
- (50) The data above clearly show that use of electric rail generates significantly less external costs than the use of road transport for freight transportation.
- (51) As required in point 104 of the Railway Guidelines, the Commission will follow the development of the rules governing the allocation of infrastructure costs and external costs and will propose appropriate measures, if necessary.
- (52) In line with points 103 to 105 of the Railway Guidelines, the Commission concludes that the eligible costs of the scheme correspond to the part of the external costs which rail transport makes possible to avoid compared with road transport.

¹¹ Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways, OJ L 237 of 24.8.1991, p. 25.

¹² Commission's decision of 26 May 2015, SA.40404 (2014/N), France & SA.39606 (2015/N), Italy - *Régime d'aide au service transitoire d'autoroute ferroviaire alpine*, OJ 66 of 19.2.2016, p. 2-3; Commission's decision of 13 June 2014, SA.38152 (2014/N), Italy - *Aid in favour of rail freight transport in Emilia Romagna region*, OJ C 282 of 22.8.2014, p. 23; Commission's decision of 16 December 2011, SA.32603 (2011/N), Italy - *Subsidy scheme "Ferrobonus" for combined transport*, OJ C 88 of 24.3.2012, p. 1.

3.3.3. *Necessity and proportionality of the aid measure*

(53) According to points 107 (b) and 109 of the Guidelines, there is a presumption of necessity, proportionality and absence of overcompensation of the aid for reducing external costs when the intensity of the aid stays below the following values: 50 % of the eligible costs and up to 30 % of the total cost of the cleaner transport mode.

3.3.3.1. Aid not exceeding 50 % of the eligible costs: comparison of aid per 1000 tonne-kilometres with external cost savings per 1000 tonne-kilometres

(54) Comparing the aid amount with the results of JRC calculations on external costs savings is linear as both values are expressed in the same unit of measurement, i.e. tonnes-kilometres.

(55) The notified scheme foresees a grant of EUR 0.0058 for each tkm travelled by train instead of road. In parallel, each tkm generates also a tax exemption for electricity consumption for electrified traction that corresponds to EUR 0.0002. The total aid for external costs savings amounts therefore to EUR 0.0060 per tkm.

(56) The avoided external costs amount, according to data of JRC featured in Table 1, amount to EUR 12 per 1000 tkm which corresponds to EUR 0.0120 per single tkm. The comparison leads to the conclusion that the total aid amount represents 50 % of the external costs savings and therefore a 50 % of aid intensity, in compliance with the presumption threshold laid down in point 107(b) of the Guidelines.

3.3.3.2. Aid not exceeding 30 % of the total cost of the cleaner transport mode

(57) According to the information submitted by the Italian authorities, the average cost of transporting freight by rail alone in Italy is estimated at EUR 10 per train-km on the basis of an average payload of 400 tonnes per train. This gives a tonne/train-km cost of EUR 0.025.

(58) In the light of past experience and information obtained in other State aid cases, in particular concerning Italy, the Commission is of opinion that the assessment of the aid intensity vis-à-vis the total cost of rail transport has been based on realistic estimates. Furthermore, the Commission records that the aid amount is below the 30 % threshold ($0.0060 < 0.025 \times 0.30$). This condition is therefore complied with.

3.3.3.3. Other conditions

(59) According to point 110 of the Railway Guidelines, in principle, the aid has to be reflected in the price demanded from the shipper. These provisions are legally not applicable in the present case, given that the aid beneficiaries are not the railway undertakings. In this context the Commission values even more favourably the obligation made to beneficiaries under the scheme to use the entire amount of aid to reduce the tariffs actually charged to the end-users of the integrated transport.

(60) According to point 111 of the Guidelines, in case of aid for reducing external costs, there must be realistic prospects of keeping the traffic transferred to rail so that aid leads to a sustainable transfer of traffic.

(61) The Commission is of opinion that this condition has to be interpreted to take into account the specific circumstances described in Section 2.12 that affect the intermodal freight transport in the Province of Trento. Nonetheless, the Commission observes that the awarding criteria of the scheme have been designed in order to trigger modal shift from road

to rail. Furthermore, it has to be stressed that the railway transport in Italy has kept its share in the inland freight transportation system over the last years in spite of the negative developments in costs.¹³ Therefore, there is solid basis to believe that, with a well-designed subsidy scheme, the positive trend will be confirmed.

- (62) In the light of the criteria examined above the Commission considers that the conditions related to the necessity and proportionality of the aid are met.

3.3.4. The aid scheme is granted on non-discriminatory terms, the aid scheme is transparent and time-limited

- (63) The scope of the potential beneficiaries of the grant has been formulated in a way to cover entities wherever they fall in the logistic chain, provided they organise the railway part of an integrated transport chain. The scheme does not set out any restrictive conditions based on the nationality of the undertaking; therefore the aid is granted on non-discriminatory terms.
- (64) The scheme is transparent: the conditions for benefiting from the scheme as well as from the excise duty exemption, i.e. the tax exemption for electricity consumption for rail traction, as referred in recital 19 of the present decision, are clearly stipulated in the relevant legal basis.
- (65) Finally, the aid scheme is time limited – it will apply for a period of 4 years and a half. This duration is in line with the time limitation imposed by point 97 of the Guidelines.

3.3.5. No effect on competition and trade contrary to the common interest

- (66) As regards competition between different transport modes, the measure is limited to reducing imbalances between railway transport and road transport on the sole territory of the Province of Trento.
- (67) The Commission concludes that the aid scheme in question does not give rise to a distortion of competition to an extent contrary to the common interest according to point 96 of the Railway Guidelines.

4. CONCLUSION

- (68) The Commission has accordingly decided not to raise objections to the aid 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
- (69) 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 languages on the Internet site:

http://ec.europa.eu/eu_law/state_aids/state_aids_texts_it.htm

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

¹³ This fact is inter alia confirmed by Eurostat data on modal split of inland freight transport (see e.g.: [http://epp.eurostat.ec.europa.eu/statistics_explained/index.php?title=File:Modal_split_of_inland_freight_transport_\(1\)_\(%25_of_total_inland_tkm\).png&filetimestamp=20110113121514](http://epp.eurostat.ec.europa.eu/statistics_explained/index.php?title=File:Modal_split_of_inland_freight_transport_(1)_(%25_of_total_inland_tkm).png&filetimestamp=20110113121514))

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Yours faithfully,

For the Commission

Margrethe Vestager

Member of the Commission