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Subject: SA.31825 – Belgium - Containertransferium Beverdonk

Dear Sir,

1. PROCEDURE

- (1) By electronic notification dated 14 July 2011 Belgium notified measure in favour of Containertransferium Beverdonk. By letter dated 20 September 2011 the Commission requested additional information, provided by Belgian authorities on 23 September and 6 October 2011.

2. DESCRIPTION OF THE MEASURE

2.1. Objectives of the measure

- (2) Three main objectives pursued by are:
- (a) removing road-based container traffic from and to seaports and transporting these containers by inland waterway transport,
 - (b) increasing efficiency of the inland waterway transport,
 - (c) improving reliability of supply and discharge of goods through inland waterway transport.

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2.2. Containertransferium concept

- (3) Growing maritime container traffic requires smooth connections between port and hinterland. Several studies were conducted to determinate the best solution to (de)consolidate barge and truck volumes outside port area and to remedy road congestion on main highways (E34 and E313)¹. Taking into account several facts such as effectiveness, financial attractiveness, implement ability, the idea of a containertransferium was chosen.
- (4) The Containertransferium ("CT") will facilitate connections between port and hinterland. It will ensure more frequent barge services from and towards ports like Antwerp or Zeebrugge.
- (5) Road hauliers and barges from hinterland terminals will (un)load their containers at Containertransferium instead of at the port terminal itself. From Beverdonk these containers will be transported to/from the port by shuttle barges of high frequency.
- (6) Beverdonk will function also as an empty depot for containers.
- (7) The development and operation of a CT will benefit several target groups such as: shipping companies, hinterland terminals, port terminals, port administrators, road hauliers, inland waterway operators, logistics service providers and shippers.
- (8) Containertransferium is located on the major corridor east of the Port of Antwerp and Port of Zeebrugge at the junction of the E313 and the E34 motorways and along the Antwerp – Liege canal.

2.3. Beneficiary and its project

- (9) The promoter of this project is the private, yet to be established enterprise Beverdonk Container Transferium NV. This private enterprise will be established as a joint venture between the private enterprise DP World Belgium NV² and the Antwerp Port Authority. The initial capital of Beverdonk Container Transferium NV amounts to 64.000 EUR; the distribution of shares is the following: 80% for DP World and 20% for the Antwerp Port Authority.
- (10) The terminal will be built on land belonging to the Flemish Region and managed by De Scheepvaart NV.
- (11) De Scheepvaart NV was established in 2004 as an autonomous agency and limited liability company under public law for the maintenance, operation, management and commercialisation of the Albert Canal, the Kempen Canals, the Schelde-Rhine River connection and the common Maas (the eastern waterways).

¹ PWC (2007) – *Problem analysis of small volumes of inland waterway transport*, Flemish Institute for Logistics (2008) – *Solution guidelines for reducing truck delays at container terminals*, APA – *Truck count 2006*, PriceWaterhouseCoopers (October 2008), *'Results of cost-benefit analysis for 3 solutions in which small container inland shipping volumes are bundled'*.

² DP World is one of the largest marine terminal operators in the world, with 49 terminals and 10 new developments and major expansions across 31 countries.

- (12) The decree setting up NV De Scheepvaart stipulates that the land managed by NV De Scheepvaart is put at disposal of potential users in a commercial manner. The rates used by 'NV De Scheepvaart' are based on the actual value of the land concerned in combination with an expected profitability of real estate and are part of the administration agreement with the Flemish government.
- (13) A concession agreement will be signed between Container Transferium NV and De Scheepvaart NV for exploitation of these lands for a period of 25 years. For the determination of concession fee structure, an ex ante evaluation was executed by an independent expert. On the basis of this evaluation, the concession fee is EUR 5 / m² / year.
- (14) Beverdonk Container Transferium NV plans the following activities for the construction and operation of the terminal:
- (a) hardening of perimeter, 25.000 m² suitable for container handling,
 - (b) building of an effective gate which conforms to safety standards,
 - (c) creation of adequate communication links between deep sea ports and the CT (such as shuttle services),
 - (d) installing and purchasing equipment for container handling: mobile crane, 3 reach stackers,
 - (e) training and deployment of qualified personnel.

2.4. Type of aid and intensity

- (15) The total cost for the project is EUR 4.75m. The Flemish Region and the European Fund for Regional Development ("ERDF") provide funding for 41.56% of the total project cost. The recipient of the aid, i.e. Beverdonk Container Terminal NV, will finance its own contribution by bank loans.
- (16) The fact that this project will generate revenue from operating the terminal was taken into account when determining the amount of aid. The 'funding gap' method was used to make an objective estimate of revenues³.
- (17) The net revenue is calculated over a reference period of 20 years, as the investments are depreciated over this period. The terminal will grow to its maximum capacity of around 75k TEU/year⁴. The prices for the use of the terminal were set so as to maximise revenues. This means that the prices are set so as to attract the maximum amount of traffic from the road. Revenues were determined taking into account the cost per truck/barge movement of a container and the cost for short storage of containers (indexing of 2% annually). According to the business plan presented by

³ See methodology in: Guidance on the Methodology for Carrying Out Cost-Benefit Analysis; Working Document No. 4, European Commission Directorate-General Regional Policy, Brussels 2006, http://ec.europa.eu/regional_policy/sources/docoffic/2007/working/wd4_cost_en.pdf.

⁴ The twenty-foot equivalent unit (TEU) is a unit of cargo capacity often used to describe the capacity of container terminals.

Beverdonk Container Terminal NV, the total discounted gross revenue over the reference period of 20 years was thus estimated at EUR 21 609 309. Taking into account a total discounted operating cost of EUR 20 153 696 and a residual value of EUR 61 356, the discounted net revenue (DNR) is estimated at EUR 1 516 969.

Container Transferium Beverdonk		
	Discounted	
Total project cost	4.437.949	DIC
Calculation net income		
Revenues	21.609.309	
Residual value after reference period	61.356	
Exploitation costs	20.153.696	
Net income	1.516.969	DNR
Funding Gap		
DIC - DNR	2.920.980	EE
Funding Gap ratio		
EE / DIC	65,82%	R
Total eligible project costs (not discounted)	4.748.605	EC
Funding gap ratio (R)	65,82%	R
EC X R	3.125.448,38	DA
% EFRD	19,34%	
EFRD Funding (€)	918.464	
% Cofinancing Flemish Government	22,21%	
Cofinancing Flemish Government (€)	1.054.839	
Total funding requested (€)	1.973.303	
	= 41,56%	
Own resources	2.775.302	
	=58,44%	

2.5. Other conditions of granting the aid

- (18) The terminal will provide open access in a non-discriminatory manner to all potential users and all neighbouring ports.
- (19) Services for transhipments of containers on and off trucks and barges and storage of containers are offered at prices comparable with rates on other intermodal terminals, located in the area of Rhine-Meuse-Scheldt delta⁵. According to the project business

⁵ Average unit prices to be used for container transfer/storage at Beverdonk CT: EUR 17-21/truck move; EUR 18-22/barge move; EUR 2.5 – 7.5/day for container storage for a period of more than 5 days.

plan, the tariffs to be charged for the use of Beverdonk Container Transferium are split into two components: price per single barge move and price per single truck move.

3. ASSESSMENT OF THE AID

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

- (20) 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 internal market."
- (21) Therefore, in order to determine whether the measures at stake do contain state aid elements within the meaning of Article 107 (1) TFEU, it must be established:
- (a) whether the measures confer an economic advantage to the undertakings concerned,
 - (b) whether this advantage has been financed through State resources,
 - (c) whether this advantage distorts or threatens to distort competition and,
 - (d) whether the measures affect trade between Member State.
- (22) The Commission considers that the notified aid allows the beneficiary, i.e. Beverdonk Container Transferium NV, to be relieved, by means of State resources, of a part of the costs which it would normally have to bear itself. Consequently, the financial contribution from the State strengthens its position in relation to competing infrastructure in the Union and therefore has potentially distorting effects on competition, as the market for the operation of terminals is open to competition. Furthermore, different seaports and terminals are in competition with seaports and terminals in other Member States and, there are no restrictions for undertakings established in other Member States to invest into these services in Belgium. As a result, the measure at stake affects trade between Member States.
- (23) Therefore the Commission concludes that the notified scheme constitutes State aid within the meaning of Article 107 (1) TFEU.

3.2. Compatibility assessment

- (24) The Commission has to determine whether the aid in question can be considered to be compatible with the internal market on the basis of the derogations provided for in the TFEU.
- (25) The Commission considers that the measure at hand can be assessed on the basis of Article 93 TFEU applicable to measures which meet the needs for coordination of transport, to be declared compatible with the internal market.

- (26) The Commission has in the past assessed such State aid directly on the basis of Article 93 TFEU⁶ and, following the Court ruling in Altmark case, which precluded the direct use of Article 93 TFEU, on the basis of Article 107(3)(c) TFEU (for intermodal terminals)⁷ and on the basis of Article 3(1)(b) of Regulation (EEC) 1107/70 (for railway sidings)⁸. Since the entry into force of Regulation (EC) 1370/07, the direct use of Article 93 TFEU) is not longer precluded by Regulation (EEC) 1107/70, as the latter has been abolished.
- (27) Article 93 of the Treaty provides for compatibility of aid which meets the needs of coordination of transport. The Court of Justice has ruled that this Article "acknowledges that aid to transport is compatible with the Treaty only in well-defined cases which do not jeopardise the general interests of the Community"⁹.
- (28) The concept of "coordination of transport" used in Article 93 TFEU 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.
- (29) The progress made with liberalising the land transport sector has in some respects considerably reduced the need for coordination. In an efficient liberalised sector, coordination can in principle result from the action of market forces. Even after the liberalisation of the sector, there may, however, still be various market failures. These justify the intervention of the public authorities in this field.
- (30) The transport sector may experience "coordination" difficulties in the economic sense of the term for example in the connections between different transport networks. The Commission has on this ground already authorized State aid on the basis of Article 93 TFEU¹⁰.
- (31) For a given aid measure to be considered to "meet the needs" of transport coordination, it has to be necessary and proportionate to the intended objective. Furthermore, the distortion of competition which is inherent in aid must not jeopardise the general interests of the Union.

⁶ See decision of the Commission of 31 January 2001 in case N 597/2000, OJ C 102 of 31.03.2001; decision of the Commission of 14 September 2001, in case N 208/2000, OJ C 315 of 04.01.2000; decision of the Commission of 15 November 2000, in case N 755/1999, OJ C 71 of 03.03.2001; decision of the Commission of 11 November 2001, in case N 550/2001, OJ C 024 of 26.01.2002.

⁷ See decision of the Commission of 11 February 2009, in case N 651/2008 - Combinant -Multimodale container terminal (EFRO), OJ C 60 of 14.03.2009.

⁸ See decision of the Commission of 31 January 2001 in case N 597/2000, OJ C 102 of 31.03.2001; decision of the Commission of 14 September 2001, in case N 208/2000, OJ C 315 of 04.01.2000; decision of the Commission of 15 November 2000, in case N 755/1999, OJ C 71 of 03.03.2001; decision of the Commission of 11 November 2001, in case N 550/2001, OJ C 024 of 26.01.2002.

⁹ Judgement of the Court of Justice of 12 October 1978, Case 156/77 Commission v Belgium [1978], ECR 1881, paragraph 10.

¹⁰ See decision of the Commission of 20 January 2010 in case N 490/2010, not yet published in the OJ; see in this sense also decision of the Commission of 20 July 2010 in case C 17/2010, OJ C 278/2010.

- (32) Therefore, it has in constant decision practice been considered that aid is compatible with the internal market on the basis of Article 93 TFEU, if the following conditions are met:
- The aid contributes to an objective of common interest;
 - The aid is necessary, and has an incentive effect;
 - The aid is proportionate;
 - The access to the infrastructure in question is open to all users on a non-discriminatory basis;
 - The aid does not lead to distortions of competition contrary to the common interest.
- (33) It is therefore appropriate to assess whether these five criteria are met in the present case, so that the aid can be authorized on the basis of Article 93 TFEU.

Objective of common interest

- (34) The Community has for some time pursued a policy of achieving a balanced multimodal transport system and fostering of the competitiveness of multimodal transport vis-à-vis road usage is part of this policy. The aim of the European Union multimodal transport policy is to achieve a modal shift from road freight to other modes of transport.
- (35) Community instruments such as Council Directive 92/106/EEC of 7 December 1992¹¹ aim at fostering the development of combined transport. The White Paper on Transport Policy¹² encourages the use of rail and other environmentally friendly modes of transport in order to become competitive alternatives to road haulage.
- (36) 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.
- (37) The Commission recognises that it is in the first place the task of market operators to improve multimodal transport within markets, whose 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.
- (38) Furthermore, the focus on multimodal options is also justified increasingly by the following consideration. Europe's industry maintains or increases the competitiveness of its Europe-based production largely by advanced logistics, optimising production and distribution and creating value in the process. These sophisticated supply chains are increasingly vulnerable to the decreasing reliability and increasing costs of road

¹¹ 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.

¹² Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system, COM(2011)144 of 28.03.11.

freight. Multimodal logistics will thus have to become a prime occupation for Europe's production industry.

- (39) The Commission concludes that the development of multimodal transport and of activities that contribute to reduce air pollution and road congestion are therefore in the common interest.

Necessity and proportionality of the aid

- (40) The Belgian authorities indicate that without a co-financing of these investments, the project is not financially sustainable. The project will only become profitable after a much longer than normal period and the promoter has to rely on public support in order to realise this project. To put the innovative concept of a CT in the market, prices will need to be competitive with the road haulage alternative. However, the transport of containers by inland navigation generates additional costs imputable in particular to the transshipment operations and longer time for transportation¹³. This is the reason why companies often still opt for traditional logistic solutions (road transport) and need to be convinced of the optimal combination of different transport modes in terms of price and quality.
- (41) The Belgian authorities have provided the calculation based on the Commission's method, used for calculation of the budgetary deficit of revenue generating investment projects co-financed by the ERDF. The calculation outcome shows that a financial gap is 41.56% which is aid intensity (Belgian and EU funds combined). Thus, the Commission considers that the aid in question incentivise to continue with a project that would be not impossible to implement without a public support.
- (42) The Belgian authorities have also demonstrated that if the terminal was to charge higher prices for its operations, market operators would opt for road haulage, rather than for inland waterway transport. Therefore, it is not possible to reduce the amount of the aid without jeopardizing the incentive effect necessary to provoke the desired modal shift.
- (43) The Commission considers that the Belgian authorities have demonstrated that the aid is indeed limited to what is necessary, provides an incentive effect and is proportionate.

The access to the infrastructure in question is open to all users on a non-discriminatory basis

- (44) The public access to the Container Transferium will be guaranteed with a provision in the lease agreement that forces the future operator to run the terminal on a non-discriminatory basis and with competitive rates.

The aid does not lead to distortions of competition contrary to the common interest

- (45) According to the Belgian authorities, the characteristics of the Container Transferium are different compared to a regular inland terminal. Most important are the different activities of the Container Transferium that has another target group than a regular inland terminal.

¹³ E.g. It takes 3 hours to cover the distance of 30 km between Antwerp and Beverdonk by inland waterways and 11 hours to cover the 130 km separating Zeebrugge from Beverdonk.

- (46) Belgian authorities indicate that the entrance of the Container Transferium on the market for intermodal transport will only have a small negative impact on the volumes of transport of a number of adjacent inland terminals. Furthermore that impact will be limited and temporary, due to above mentioned different characteristics and the expected growth in the inland container market in the coming years.
- (47) As regard the competition with the Alblasserdam (an another container transferium terminal in the Nederland) Beverdonk is located on the different transport corridor (east of the Port of Antwerp and Port of Zeebrugge at the junction of the E313 and E34 motorways, along the Albert Canal) than Alblasserdam (east to the Port of Rotterdam, at the junction of the A15 motorway right on river Noord, on Rhine navigation and north-south routes)
- (48) CT Alblasserdam mainly aims to reduce road congestion on the A15 as well as road/barge congestion in the Rotterdam port area, whereas CT Beverdonk clearly aims to reduce road congestion on E34 and E313 as well as road/barge congestion in the Port of Antwerp. This, of course, does not mean that Beverdonk CT will not serve Rotterdam Port, but the percentage of containers from/to Rotterdam is estimated to be limited to only 12% of the total volume throughput at Beverdonk.
- (49) In the light of the foregoing, the Commission considers that the aid contributes to an objective of common interest, it is necessary and proportionate to this objective and trade between Member States will not be affected in a way contrary to the common interest.

4. DECISION

The Commission has accordingly decided to consider the aid to be compatible with the Treaty on the Functioning of the European Union.

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Yours faithfully,
For the Commission

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