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Subject: SA.44627 – Italy – 'Ferrobonus' - incentive for rail transport

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 on 22 June 2016 the Italian authorities notified an aid scheme in support of rail and combined freight transport. By letters dated 27 July, 15 September and 24 October 2016, the Italian authorities submitted additional information to complement their notification.

2. DESCRIPTION OF THE MEASURE

2.1. Objective

(2) In terms of technical characteristics and operational flexibility, the railway sector suffers from inherent disadvantages compared to road. In particular, railway transport rarely allows for a direct door-to-door delivery. This constraint exposes it to additional expenses, among which transhipment costs play an important role.

(3) The notified measure aims to address the structural imbalances between road and rail freight transportation in Italy. The scheme has the following purposes: strengthen the intermodal transport chain in Italy and develop the modal shift of freight traffic from road to rail, the ultimate objective being to reduce the environmental, health and social impact of road traffic

S.E On. Paolo Gentiloni
Ministro degli Affari esteri
P.le della Farnesina 1
I - 00194 Roma

by promoting the development of combined transport and optimising its use on the Italian territory.

(4) The mechanism of support takes the form of a subsidy set at a level that reflects the savings of external costs that rail transport allows achieving compared to road. The intervention aims to optimise the use of intermodal freight transport on rail with the objective of an overall reduction of the external costs on the logistics chain.

2.2. Background

(5) In 2010-2011, for a period of one year, Italy applied the first Ferrobonus scheme.[1] Like the notified measure, that scheme focused on environmental protection, decongestion of the road network, reduction of road accidents and promotion of intermodal hubs.

(6) The eligible beneficiaries were companies using rail transport services which commissioned multimodal transport and/or transhipment services by means of block trains on the national territory. The incentive was granted upon condition that the beneficiaries maintain at least 80% of the volume of freight handled by multimodal transport or transhipment during the year following the entry into force of the first Ferrobonus scheme.

(7) The amount of the subsidy was set at EUR 2 per train-kilometre (train-km) travelled along the national network with multimodal and/or transhipment.

(8) The results of the first Ferrobonus scheme are reflected in the tables below.

Table 1 – Eligible funding in EUR

Reported	Effective[2]
23.311.937,95	23.311,447,09

Table 2 - Total traffic covered by the scheme in train-km

1 July 2009 - 30 June 2010	15 October 2010 - 14 October 2011	Δ
18.294.421,21	22.116.059,68	+ 17,3%

(9) The Italian authorities indicate that Table 2 shows an increase in intermodal traffic, as defined under the Ferrobonus scheme, of 17.3%. As to aid that was effectively paid it amounts to EUR 1.05 per train-km.

(10) In parallel, the Italian authorities have reported that the total rail freight transport generated in 2014 was 40,722,000 train-km. This value remains however marginally inferior to 2012, when 41,878,000 train-km were travelled, and, significantly lower, compared to the levels reached in 2008 (the pre-crisis period), i.e. 58,294,000 train-km.

[1] SA.32603 (2011/N), Italy - *Subsidy scheme 'Ferrobonus' for combined transport*, approved by Commission's decision of 16 December 2011, OJ C 88 of 24.03.2012, p.1.

[2] After verification.

(11) Considering the positive, though limited effects of the first Ferrobonus scheme, the Italian Government decided to reiterate the experiment and provided budgetary resources for sustainable incentives to intermodal rail transport.

2.3. Legal basis

(12) The measure is a part of the 2011-2020 National Logistics Plan. It will be enforced in accordance with Article 1, paragraph 648 of Law n. 208/2015 (the Italian Financial Act of 2016), as implemented by a decree of the Ministry of Infrastructures and Transport (hereinafter 'the implementing decree'), which defines the modalities and procedures for the implementation of actions referred to in the 2016 Financial Act. The terms and modalities of the scheme are defined by the Ministry of Infrastructure and Transport with the involvement of the Director-General for Road and Intermodal Transport.

2.4. Budget and duration

(13) The scheme could be allocated a maximum annual budget of EUR 30 million. However, at this stage the financial availability stated in the Italian Financial Act is EUR 20 million per year for a period of three years.

(14) The scheme may have however a total duration of maximum five years (2016, 2017, 2018, 2019 and 2020) and its application begins upon publication of the implementing decree following the approval of the scheme by the Commission.

2.5. Beneficiaries

(15) Two categories of beneficiaries are eligible to incentives under the notified scheme:

- User of railway services: companies that order block trains[3] from railway undertaking through railway service agreements for intermodal[4] and/or transhipped[5] rail transport services.

- Multimodal transport operator (MTO): legal persons which concludes a multimodal transport agreement on its own behalf, does not act as a designated clerk or agent of the sender or of the carriers participating in multimodal transport operations and is responsible for the implementation of the agreement.

(16) Eligible undertakings shall be based in the European Economic Area and shall be established in the form of corporations, including cooperatives.

(17) Undertakings that are subject to a dominant influence of a railway undertaking are subject to accounts separation obligation that applies to the activities covered by the subsidy. Railway undertakings themselves are not eligible to aid under the Ferrobonus scheme.

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[3] In the sense of the present scheme 'block train' means a train which entire capacity has been purchased by a single client.

[4] 'Intermodal transport' in the sense of the present scheme should be understood as transport of freight in the same load unit or on the same road vehicle, which combines two or more modes of transport and does not involve freight handling during modal shift phases;

[5] 'Transhipped rail transport' in the sense of the present scheme should be understood as transport in which freight is moved at the initial and/or terminal part of the journey via road and the other part via rail, with breaking bulk.

(18) According to estimates provided by Italy, around 100 undertakings could benefit from the incentive.

2.6. Other eligibility criteria

(19) The subsidy will be awarded to the users of intermodal and/or transhipped rail transport services and multimodal transport operators who commission to railway undertakings block trains running with electric traction system.

(20) Furthermore, the eligible beneficiaries commit to:

- maintaining, for 12 months starting from the date of entry into force of the implementing decree, intermodal and/or transhipped rail traffic volume, in terms of trains-km travelled along the Italian national network, no lower than the average volume of the intermodal freight rail and/or transhipment traffic reached during the three-year period 2012-2014;

- increasing, for a successive 12-month period, the volume of rail traffic compared to the average traffic volume of intermodal and/or transhipped transport freight rail during the three-year period 2012-2014;

- maintaining for a further 24 months the rail traffic volume reached in the last 12-month period of payment of the subsidies;

(21) In case the beneficiary is a multimodal transport operator, an additional requirement;

- allocate a discount of at least 50% of the amount of the subsidy to its customers, users of rail transport services.

2.7. Eligible costs and aid intensity

(22) 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[6] which rail transport makes it possible to avoid when compared to road.

(23) The quantification of the eligible costs under the present scheme is based on the results of the calculation of the external cost differential between rail transport and alternative modes, provided in the Study of Price Waterhouse Coopers Advisory Spa (PWC) dated 5 November 2015 and updated on 7 March 2016 (hereinafter 'the PWC study'). The study has been commissioned by the Italian authorities in the context of preparation of measures in support of rail freight transport in Italy.

(24) The PWC study refers among other sources to the Update of the Handbook on External Costs of Transport, Report for the European Commission of 8 January 2014.[7]

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[6] 'External cost' is an economic term, referring to the cost that certain activities, e.g. transport, impose upon society. It is expressed in monetary terms. The external costs of transport are generally not borne by transport users and hence not taken into account when they make a transport decision. The internalisation of these costs means including such effects in the decision making process of the transport users. For instance, this can be done directly, through providing the right incentives to transport users.

[7] http://ec.europa.eu/transport/themes/sustainable/studies/doc/2014-handbook-external-costs-transport.pdf

(25) Under the PWC study the average trainload in Italy is assumed to be around 382 tonnes. For reference, under the previous Ferrobonus scheme this parameter was estimated at 400 tonnes. As a result, the PWC study has identified a minimum differential for external costs between road and rail quantified at the level of EUR 9.42 per train-km.[8]

(26) The PWC study has in parallel concluded that the aid amount will fall well below the 30% of the total cost of rail transport.

(27) The PWC study has been published on the website of the Ministry of Infrastructure and Transport[9], as well as on the website of *Rete Autostrade Mediterranee S.p.A.*, managing entity for the Motorways of the Sea.[10]

(28) For each beneficiary the aid is limited to 30% of the average cost of rail transport nationwide including ancillary expenses such as inspection, train assembly and disassembly and operation. The granting authority will verify compliance with this limit throughout the implementation period (Article 11, paragraph 2 of the implementing decree).

2.8. Aid amount

(29) A subsidy of EUR 2.5 per train-km will be granted. As for the initial Ferrobonus scheme the Italian administration opted for a subsidy system based on train-km.

2.9. Procedure for granting the aid

(30) Pursuant to article 1, paragraph 648 of Law n. 208/2015 of 28 December 2015, the Ministry of Infrastructure and Transport is the granting authority of the Ferrobonus scheme.

(31) Pursuant to Article 4 of the implementing decree, the administrative and technical aspects of the scheme will be managed by *Rete Autostrade Mediterranee S.p.a.* (hereinafter ‘the managing entity’).

(32) The aid will be granted on the basis of an evaluation procedure.

(33) The aid will be disbursed based on an annual reporting of train-km achieved by the applicant during the reference period. The application shall also include a signed declaration from the railway undertaking that will have performed the services as well as a copy of the contracts with one or more railway undertakings for the intermodal transport and/or the transhipment services with block trains.

(34) The eligible beneficiaries which qualify as multimodal transport operators, and thus are subject to the allocation provision, will have to complete their application with a presentation of the criteria and the methodology used to identify the discounts to the fees charged to their customers.

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8 According to the PWC's study this value has been obtained considering a road vehicle with an average load of 17.1 tonnes. The differential could reach EUR 15.04 per train-km if a a road vehicle with an average load of 12.3 tonnes is taken into account.

9 www.mit.gov.it

10 www.ramspa.it

2.10. Monitoring, repayment mechanism and reporting

(35) The granting authority and the managing entity through direct access to the information system of the national railway infrastructure manager will verify the reliability and the accuracy of the data reported by the beneficiaries in terms of train-km travelled. Moreover, at all stages of the procedure the granting authority and the managing entity may perform checks and inspections to verify compliance with the terms and conditions of the Ferrobonus scheme. When a breach is ascertained, the concerned beneficiary will have no further access to the subsidy and will be subject to a repayment obligation.

(36) Failure to comply with the obligation to maintain the rail traffic volumes for 24 months following the three-year funding period will lead to a recovery of the aid, in proportion to the corresponding traffic reduction.

(37) The Ministry of Infrastructures and Transport establishes an annual report concerning the implementation of the Ferrobonus scheme.

2.11. Rules of cumulation

(38) Cumulation with other EU, State or regional grants, including similar contributions, granted on the basis of external cost savings (as excise duty exemption on electricity consumption[11], regional grants such as the grants provided for under State aid scheme SA.41033[12]) is possible provided the cumulated amounts do not exceed 50% of the eligible costs and 30% of the total transport cost.

2.12. Potential impact on competing transport modes

(39) As regards potential distortion effects of the Ferrobonus scheme on other competing transport modes, the Italian authorities have provided the following information.

(40) The main vectors of the Italian freight market are road transport, sea transport (including inland navigation routes) and rail transport. They account respectively for 56.49%, 27.16%, and 10.51% of the total traffic. The table 3 below provides a complete picture of the freight transport in Italy, in terms of traffic volumes and market shares.

Table 3. Distribution of freight traffic among different transport modes [13]

Mode	2005	2008	2009	2010	2011	2012	2013
Road[14]							

[11] The consumption of electricity for motor power for rail operation is exempted in Italy since 1924.The corresponding value of the tax is EUR 3.1 per MWh (this represents a benefit of approximately EUR 0.08 per train-km or EUR 0.2 per 1000 tonne-km). The tax exemption granted under the form of excise duty exemption by virtue of Article 15(1)(e) of Council Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity (OJ L 283 of 31.10.2003, p. 51) does not form part of this notification.

[12] SA.41033 (2016/N), Italy - *Integrated transport scheme in the Province of Trento*, approved by Commission's decision of 29 April 2016, OJ C 220, 17.06.2016, p.2.

[13] Source: *Conto Nazionale Trasporti 2013-2014*, http://www.mit.gov.it/mit/mop_all.php?p_id=23697.

[14] Road transport includes only vehicles exceeding 3.5 tons and journeys higher than 50 km.

	155,872	136,952	130,847	134,261	114,736	101,380	102,320
	65.64%	62.44%	62.77%	61.93%	57.69%	55.52%	56.49%
Rail	22,761[15]	23,831	17,791	18,616	19,787	20,244	19,037
	9.59%[16]	10.87%	8.53%	8.59%	9.95%	11.09%	10.51%
Cabotage maritime[17]	46,839	47,017	49,173	53,156	53,708	50,287	49,112
	19.76%	21.47%	23.62%	24.58%	27.08%	27.58%	27.16%
Inland navigation[18]	89	64	76	135	144	81	89
Air[19]	982	999	864	1.013	1.026	976	991
Oil via pipelines[20]	10.907	10.455	9.714	9.606	9.476	9.636	9.593
	4.59%	4.77%	4.66%	4.43%	4.76%	5.28%	5.30%
Total	**237,450**	**219,318**	**208,465**	**216,787**	**198,877**	**182,604**	**181,142**

2.12.1. Inland navigation

(41) Inland waterways do not constitute in Italy an alternative to the road and rail routes due to two main factors :

- the specific morphology of the Italian territory, and
- the lack of adequate, connected and well-equipped infrastructure.

[15] In tonnes-km.

[16] This value represents the market share.

[17] Cabotage navigation also includes traffic to the islands.

[18] Limited market shares, not reported.

[19] Limited market shares, not reported.

[20] Covers only journeys higher than 50 km.

(42) The main waterways infrastructures in Italy are located among the Emilia Romagna, Veneto and Lombardy Regions. The traffic that transits through these infrastructures has been valued at less than 1% of the total of freight.[21]

2.12.2. Maritime transport

(43) The maritime sector in Italy consists of about 260 ports and 1900 docks, mostly concentrated in southern and insular Italy.

(44) One of the objectives of the 2011-2020 National Logistics Plan is to promote balance among the different freight transport modes by encouraging intermodality. Ferrobonus is an instrument set up to implement the objectives of this plan as regards modal shift of freight traffic from road to rail.

(45) In this context the Italian authorities indicate that they also intend to take action aimed at strengthening intermodal freight transport that involves short-sea shipping. A scheme, called 'Marebonus', has been designed in parallel to Ferrobonus, with the objective to tackle the structural disadvantages of maritime transport relative to road transport. That scheme, which has been notified to the Commission, is based on incentives per vehicular unit.

3. ASSESSMENT

3.1. Existence of aid

(46) Pursuant to Article 107 (1) TFEU '*Save as otherwise provided in the Treaties, 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.*'.

(47) The notified 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 the 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

- is liable to distort competition and affect trade between Member States since it concerns rail freight markets which have been liberalised by Union law

(48) Therefore, it qualifies as State aid.

[21] In tonnes.km

3.2. Lawfulness of the aid

(49) The Commission notes that, in compliance with the requirements of Article 108(3) TFEU, as stated in paragraph 14 of this decision the aid scheme has not been implemented so far. 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

(50) The notified aid falls within the scope of Article 93 TFEU and has therefore to be assessed on that basis.

(51) Article 93 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.

(52) As expressed in the Commission's White Paper on Transport Policy[22], 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 years.[23] It also reflects the fact that, in view of Articles 3, 6, 191 TFEU, the environmental objectives of the Treaty have to be pursued *inter alia* through the Common Transport Policy.

(53) 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 1107/70[24] 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'.

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

[23] For the most recent and relevant decision-making practise - see e.g. Commission's decision of 29 April 2016 SA.41033 (2016/N), Italy - *Integrated transport scheme in the Province of Trento,* OJ C 220, 17.06.2016, p.2, 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.

[24] OJ L 315, 3.12.2007, p. 1.

(54) As regards the railway transport sector, and, in particular the railway undertakings, guidance on the application of Article 93 TFEU has been provided in Section 6 of the Community guidelines on State aid for railway undertakings[25] (hereinafter – the Guidelines).

(55) Although the direct beneficiaries of the present scheme are not the railway undertakings, as defined in Article 3(1) of Directive 2012/34/EU[26], in accordance with its previous decision-making practice[27], the principles set out in the Guidelines applicable to aid for reducing external costs are appropriate for assessing the compatibility of the notified aid scheme.

(56) 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

(57) 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.

(58) It is well acknowledged that electrified rail freight transportation produces lower negative externalities than road transport in terms of accident and pollution costs. This transport mode also has considerable spare capacity and can therefore play a role in shifting traffic away from the congested parts of the road networks.

(59) Point 104 of the Guidelines states that 'Member States may put in place a time-limited compensation scheme for the use of railway infrastructure for the demonstrably unpaid environmental, accident and infrastructure costs of competing transport modes in so far as these costs exceed the equivalent costs of rail'.

(60) Pursuant to point 105 of the Guidelines 'for […] aid for reducing external costs, the Member State has to provide a transparent, reasoned and quantified comparative cost analysis between rail transport and the alternative options based on other modes of transport. The methodology used and calculations performed must be made publicly available'.

(61) The Italian authorities commissioned the PWC study, which identifies the eligible costs under the Ferrobonus scheme on the basis of a comparative ex-ante analysis of the externalities, specific to the rail sector in Italy. Moreover, the PWC study follows a reasoned and transparent methodology to establish quantitative data for the differential of external costs related to road and rail freight transport. In this context the Commission also takes into account the circumstance that the previous Ferrobonus scheme, authorised by the Commission, involved an aid amount in the same order of magnitude as under the present

[25] OJ C 184 of 22.7.2008, p.13.

[26] Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area, OJ L 343 of 14.12.2012, p. 32.

[27] Commission's decision of 29 April 2016 SA.41033 (2016/N), Italy - *Integrated transport scheme in the Province of Trento*, OJ C 220, 17.06.2016, p.2, 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.

scheme[28], while taking a less strict value for the average trainload in Italy.[29] The PWC study has been made publicly available.

(62) In view of the above and in line with its practice and as announced in point 104, footnote 1, of the Guidelines, the PWC study and the subsequent calculations of the external costs that the Italian authorities referred to for the establishment of the aid amounts under the present scheme can be regarded as a '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. It can therefore be considered a valid basis for the notified scheme.

(63) 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 it possible to avoid compared with road transport.

3.3.3. Necessity and proportionality of the aid measure

(64) 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 rail transport.

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

(65) The results of the PWC study confirm that the use of electric rail generates significantly less external costs than the use of road for freight transportation. According to the estimates of the PWC study, the minimum differential of the negative externalities is EUR 9.42 per train-km.

(66) The notified scheme foresees a grant of EUR 2.5 per train-km travelled by train instead of road.

(67) On the basis that the avoided external costs amount to a minimum of EUR 9.42 per train-km, the total aid amount represents 27% of the external costs savings and therefore a 27% 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 rail transport

(68) The implementing decree stipulates that for each beneficiary the aid cannot exceed 30% of the average cost of rail transport nationwide including ancillary expenses such as inspection, train assembly and disassembly and operation (Article 11, paragraph 1 thereof). Article 11, paragraph 2 thereof lay down a commitment of the granting authority to ensure compliance with this limit.

(69) In addition the Commission refers to past experience and information obtained in other State aid cases, in particular concerning Italy.[30] The Commission is of opinion that an average

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[28] EUR 2 per train.km in 2010-2011 v. EUR 2.5 per train.km for 2016, 20178 and 2018.

[29] 400 tonnes v. 382 tonnes.

cost of 10 EUR per train-km[31] constitutes a realistic estimate for the total cost of rail transport. Indeed, the Commission recalls the fact that the assessment of the aid intensity in relation to the total rail transport cost under the previous Ferrobonus scheme was based on the same value. Finally, the Commission notes that, if calculated on the basis of that average cost, the aid amount is below the 30% threshold (2.50 < 9.55[32] x 0.30).

3.3.4. *Other conditions*

(70) 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 not applicable in the present case, given that the aid beneficiaries are not the railway undertakings. However, the Commission notes that the objective that the aid must produce a real effect of encouraging the modal shift to rail that is behind point 110 of the Railway Guidelines will be furthered through the combined effect of the obligation made to the beneficiaries in terms of freight volumes shifted to rail[33] and the obligation imposed on the beneficiaries that qualify as multimodal transport operators to allocate at least 50% of the aid to reduce the fares actually charged to the end-users of rail transport services.

(71) 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. The Commission is of opinion that this condition has to be assessed against the specific characteristics of the freight transport in general, mentioned in recital 2 of this decision, as well as in the light of the positive results and experience of the first Ferrobonus scheme, described in Section 2.2 of this decision. It also considers favourably the additional conditions, laid out in recital 20 of the present decision, imposed to the eligible beneficiaries in terms of traffic development. In this context the Commission also observes that the awarding criteria of the scheme have been designed in order to trigger modal shift from road to rail.

(72) Furthermore, it has to be stressed that the railway transport in Italy has kept a stable share in the inland freight transportation system over the last years in spite of the negative developments in costs.[34] Therefore, there is solid basis to believe that, with a well-designed subsidy scheme, the positive trend will be confirmed.

(73) 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.

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[30] See recitals 57 and 58 of the Commission's decision of 29 April 2016 on SA.41033 (2016/N), Italy - *Integrated transport scheme in the Province of Trento*, OJ C 220, 17.06.2016, p.2 and recital 39 of the Commission's decision of 16 December 2011 on SA.32603 (2011/N), Italy - *Subsidy scheme "Ferrobonus" for combined transport,* OJ C 88 of 24.3.2012, p. 1.

[31] Based on an average trainload of 400 tonnes.

[32] The average cost of EUR 10 per train-km was based on a trainload of 400 tonnes. The current scheme assumes a train load of 382 tonnes. 10/400 x 382 = 9.55

[33] See recital 20 of the present decision.

[34] See recital 10 of the present decision.

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

(74) The scope of the potential beneficiaries of the grant has been formulated so as to cover entities wherever they fall in the logistics chain,[35] provided they organise or use the railway part of an integrated transport chain.

(75) The scheme does not set out any restrictive conditions based on the nationality of the undertaking or other characteristics; therefore the aid is granted on non-discriminatory terms.

(76) The scheme is transparent: the conditions for benefiting from the scheme are clearly stipulated in the relevant legal acts.

(77) Finally, the aid scheme is time limited – it will apply for a period of maximum 5 years. This duration is in line with the time limitation laid down in point 97 of the Guidelines.

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

(78) Point 96 of the Guidelines stipulates that 'distortion of competition which is inherent in aid must not jeopardise the general interests of the [Union]. By way of illustration, aid likely to shift traffic flows from short sea shipping to rail would fail to meet these criteria'.

(79) The Ferrobonus scheme is clearly designed to reduce imbalances between railway and road transport modes.

(80) Concerning potential negative effects on alternative transport modes, the Commission is of opinion that they would be very limited as regards the inland navigation, for reasons principally related to the very low share of this transport mode in the Italian freight transportation system.

(81) To assess the potential negative impact that Ferrobonus scheme could have on short-sea shipping, the Commission takes account of the following considerations.

(82) Firstly, referring to data submitted by the Italian authorities, summarised in recitals 43-45 of the present decision, and other information at its disposal, the Commission notes a certain geographical remoteness between the main port infrastructure, located mostly in the Southern part of Italy, including the islands, and the major rail traffic flows, predominantly present in the Northern part of Italy.

(83) Secondly, the data on distribution of the traffic volumes in Italy among transport modes[36] show a net preponderance of the maritime over the rail. Furthermore, the share of maritime transport recorded a positive trend during 2005-2012.[37] The Commission observes that this trend was neither reversed nor impacted by the first Ferrobonus scheme that applied in the period 2010-2011.

(84) Thirdly, the Commission observes that Ferrobonus covers freight traffic with reference to a block train, which is a cargo shipping method specific to rail transportation. The

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[35] With the exception of the railway undertakings.

[36] Cf. Table 3 above.

[37] Cf. Table 3 above.

Commission notes that short sea shipping appears to operate on a different basis: the notified Marebonus scheme, for example, is designed to provide support on the basis of a vehicular unit. The Commission concludes that the incentives granted under the Ferrobonus scheme are unlikely to be attractive to operators currently transporting goods via short sea shipping.

(85) In view of the above the Commission takes the view that the Ferrobonus scheme is designed to reduce imbalances between railway transport and road transport and is unlikely to shift traffic flows from short sea shipping to rail.

(86) Consequently, the Commission concludes that the present aid scheme 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

(87) The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the Treaties as it meets the needs of coordination of transport pursuant to Article 93 of the Treaty on the Functioning of the European Union.

(88) 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/competition/elojade/isef/index.cfm

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

European Commission
Directorate-General Competition
State Aid Greffe
B-1049 Bruxelles
Fax: +32 2 296 12 42

Stateaidgreffe@ec.europa.eu

Yours faithfully,

For the Commission

Margrethe Vestager
Member of the Commission