Subject: SA.46806 (2016/N) - Italy
Aid to combined transport in the Province of Trento

Sir,

1. **PROCEDURE**

   (1) Pursuant to Article 108(3) of the Treaty on the Functioning of the European Union (TFEU), by electronic notification dated 14 November 2016, Italy notified an aid scheme in support of combined rail freight transport in the Province of Trento. By letters dated 9 February, 5 May and 27 June 2017, the Italian authorities submitted additional information to complement their notification.

2. **DESCRIPTION OF THE MEASURE**

2.1. **Objective**

   (2) The measure pursues the general objective to reduce the environmental, health and social impact of road traffic by promoting the development of combined transport on the territory of the Autonomous Province of Trento. It aims in particular at decongesting the heavy vehicles traffic across Brenner Pass, the busiest of all Italian/Austrian border crossings in the alpine area.

   (3) At the local level, the measure complements the Integrated transport scheme\(^1\) applying to services on the railway section between Trento and Borghetto all’Adige, located in the southern part of the Autonomous Province of Trento.

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\(^{1}\) Approved by the decision of the Commission 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.
2.2. Action tool

(4) The Autonomous Province of Trento intends to meet the goal set out in the general objective by reducing the costs of access to combined transport through a subsidy to be reflected in the rates of operators of integrated freight rail-road transport services on journeys that take place, at least in part, on its territory.

2.3. Legal basis

(5) Article 16bis, paragraph 2 of Provincial Law No 16 of 9 July 1993 on Rules governing public transport services in the Province of Trento (hereinafter “the law”), 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 empowers the Autonomous Province of Trento to grant, without discrimination, reduction in the rates charged by operators of integrated rail-road transport services provided on its territory. The Provincial Law was published in July 2014 in the Region’s Official Gazette.

(6) Article 16bis of the law states that the Provincial Executive shall set out in a regulation the criteria and rules for the granting of aid to support combined transport (hereinafter ‘the implementing rules’). The Italian authorities confirm that the draft regulation will be formally approved by the Provincial Executive and will enter into force only following the authorisation decision of the European Commission and in accordance with its content.

(7) The information on the forthcoming measure was released by the Autonomous Province of Trento on 21 November 2015. The initiative to set up the measure was also the subject of a motion of the Trentino-Alto Adige Region in October 2016.

2.4. Beneficiaries

(8) Under the scheme the eligible beneficiaries are only multimodal transport operators. Railway undertakings, which are not also multimodal transport operators, are not eligible for the aid.

(9) Undertakings in difficulty, as defined in the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty\(^2\) are not eligible for the aid.

(10) According to estimates provided by Italy the number of beneficiaries should not exceed ten.

2.5. Scope

(11) The scheme relates specifically to combined freight transport. It applies to accompanied and unaccompanied combined freight transport services.

(12) Are covered journeys on the Italian railway section between the Brennersee intermodal terminal\(^3\) and Trento, part of the Trento-Wörgl route.


\(^3\) Situated in Austria, right next to the border with Italy.
(13) Only rail transport services, using electric-powered traction, are eligible for the aid.

2.6. Duration

(14) Following approval of the Commission the aid may be granted until 31 December 2019.

(15) The aid will be granted only after the Commission has authorised the scheme.

2.7. Budget

(16) The overall allocated budget amounts to EUR 9 million. EUR 3 million will be disbursed per annum.

2.8. Eligible costs

(17) The scheme has been designed as aid for the reduction of the negative externalities related to freight transport on the territory of the Province of Trento.

(18) The notified aid will be granted with the aim to partially cover the higher cost related to the use of RoLa4 services on the Trento-Wörgl route.

2.8.1. External costs savings

(19) The eligible costs under the aid scheme correspond to the part of the external costs5 that rail transport makes it possible to avoid in comparison with road transport.

(20) The Italian authorities have indicated that the quantification of the eligible costs under the notified scheme is based on the results of the calculation of the external cost differential between rail transport and alternative transport modes, provided in the study of Price Waterhouse Coopers Advisory Spa (PWC) dated 5 November 2015 and updated in March and September 2016 (hereinafter ‘the PWC study’). 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 2014.6 The final version of the PWC study was published on the website of the Ministry of Infrastructure and Transport7, as well as on the website of Rete Autostrade Mediterranee S.p.A., the managing entity for the Motorways of the Sea.8

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4 RoLa (from the German "Rollende Landstrasse") stands for Rolling Road: in rail transportation, it is a form of combined transport involving the conveying of road trucks by rail, referred to as Ro-La trains.

5 ‘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 www.mit.gov.it

8 www.ramspa.it
According to the PWC study, the external cost differential between road and rail reaches the value of 15.04 per km, taking into account a road vehicle with an average load of 12.3 tonnes. Under the PWC study the average trainload in Italy is assumed to be around 382 tonnes. In the context of RoLa transport the average trainload has been estimated at the level of 605 tonnes per train.9

2.8.2. The cost of rail transport

The PWC study contains also an analysis of the cost of operation of rail freight transport in Italy. The result rate ranges between EUR 17.82 and EUR 26.61 per train-km.10

2.9. Aid amount

The aid is granted on the basis of the number of transport operations actually carried out.

The aid will take the form of a grant per unidirectional intermodal consignment transhipped per journey at a maximum level of EUR 33, which corresponds to a maximum aid amount of EUR 0.15 per km.

The Autonomous Province of Trento reserves the right to recalculate and reduce the amount of aid in the years following the first year of application of the scheme, should more favourable market conditions allow.

In addition, 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 electricity11 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.

2.10. Other eligibility criteria

The selection of the rail traction provider for the services eligible to aid is subject to a public procedure satisfying the criteria of non-discrimination, cost-effectiveness and transparency. The procedure must involve at least three operators. In the event that the combined transport company is also a rail company, the selection of the rail traction supplier must nonetheless be based on these criteria.

2.11. Rules of cumulation

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

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9 Taking into account the weight of the cargo and the weight of the trailer/semitrailer.
10 Based on data for 2015.
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. Procedure for granting the aid

(29) The integrated transport services operators submit to the granting authority the application for aid for services provided during the previous six months. The applications are accompanied by the following documents:

- a detailed description of the service (including itinerary, timetables, available train paths, organisation of loading and unloading operations, availability and quantity of rolling stock actually employed);

- 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; and

- a copy of the order of dispatch and order of collection of each transport operation, including a) the date and time of departure and/or arrival; b) the platform or terminal or station where the integrated transport is loaded and unloaded; and c) the tariff actually charged.

(30) The aid will be granted by decision of the granting authority, within sixty days following the closing date for the submission of applications. The granting authority can grant the aid only after the Commission has authorised the scheme.

(31) 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 proportionately, 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.

2.13. Repayment mechanism and monitoring

(32) 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.

(33) The Autonomous Province of Trento will establish an evaluation report at the end of the period of implementation of the notified scheme.
2.14. Expected impact of the measure on modal shift

(34) The impact of the measures can be inferred in the light of the following facts, submitted by Italy in the context of the complementary regional aid scheme (SA.41033)\(^{12}\).

(35) The average cost of access to railway infrastructure for rail transport operators is higher in Italy, while the use of the road transport network is lower than the EU average. The share of rail transport in the overall transport of goods remains constantly below the EU average\(^{13}\). The vast majority of goods are, therefore, transported by road with the resulting negative impacts on the environment as well as other negative externalities such as congestion and accidents. As regards more specifically the Province of Trento, the share of rail had also decreased along the Brenner Corridor from 36% 2010 to 29% in 2013.

(36) 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.

(37) Along with the Integrated transport scheme already applied in the Southern part of the territory of the Province of Trento, the notified measure would contribute to restore rail and intermodal activities to levels close to, or even higher than, those reached in previous years.

3. ASSESSMENT

3.1. Existence of aid

(38) 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".

(39) 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,

\(^{12}\) See reference under footnote 1 of the present decision.

it is to be qualified as State aid within the meaning of Article 107(1) TFEU.

3.2. Lawfulness of the aid

(40) The Commission notes that, in compliance with the requirements of Article 108(3) TFEU, as stated in recital (30) of the present decision, the aid might be granted only after the Commission has authorised the scheme. 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

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

(42) 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.

(43) As expressed in the Commission’s White Paper on Transport Policy\(^\text{14}\), 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\(^\text{15}\). It also reflects the fact that, in view of Articles 3, 6, 191 TFEU, the environmental objectives of the Treaty have to be pursued \textit{inter alia} through the Common Transport Policy.

(44) 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\(^\text{16}\) states that "Member States may continue to grant aid for the transport sector pursuant to [Article 93 TFEU] which

\(\text{14}\) Roadmap to a Single European Transport Area–Towards a competitive and resource efficient transport system, COM(2011)144 of 28.03.11.


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”.

(45) As regards the railway transport sector, and in particular the railway undertakings,
guidance on the application of Article 93 TFEU is provided in Section 6 of the
Community guidelines on State aid for railway undertakings¹⁷ (hereinafter “the
Railway Guidelines”).

(46) Although the direct beneficiaries of the present scheme are not the railway
undertakings, as defined in Article 3(1) of Directive 2012/34/EU¹⁸, in accordance
with its previous decision-making practice¹⁹, the principles set out in the Railway
Guidelines applicable to aid for reducing external costs are appropriate for
assessing the compatibility of the notified aid scheme.

(47) 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 Railway Guidelines' provisions on aid for reducing external
costs (points 101 to 112), applied by analogy.

3.3.2. Existence of external costs savings

(48) According to point 103 of the Railway Guidelines, the eligible costs as regards
aid for reducing external costs are the part of the external costs which rail
transport makes it possible to avoid compared with competing transport modes.

(49) Point 104 of the Railway 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”.

(50) The notified schemes concern only combined rail freight transport services based
on electric traction. Electrified rail freight transportation generates 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. The PWC
study confirms that the use of electric rail generates external costs that are
significantly lower than those generated by the use of road for freight
transportation.

(51) The Commission has reviewed the PWC study on external costs savings provided
by the Italian authorities based on the updated Handbook on estimation of

¹⁹ Commission decision of 29 April 2016 SA.41033 (2016/N), Italy - Integrated transport scheme in the
(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 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 decision of 16 December 2011, SA.32603 (2011/N), Italy - Subsidy
external cost in the transport sector published by the Commission\(^{20}\). The Commission considers the data provided by the Italian authorities to be a "transparent, reasoned and quantified comparative cost analysis between rail transport and the alternative options based on other modes of transport\(^{1}\) as required in point 105 of the Railway Guidelines. The methodology used and calculations performed are publicly available.


The part of the external costs which rail transport makes it possible to avoid compared with road transport can be considered in this case to correspond to the eligible costs of the scheme in line with points 103 to 105 of the Railway Guidelines.

### 3.3.3. Necessity and proportionality of the aid measure

(53) According to points 107 (b) and 109 of the Railway 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 is below the following values: 50% of the eligible costs and up to 30% of the total cost of rail transport.

(54) As regards the first of these values, under the notified scheme, the maximum aid amount for external costs savings corresponds to 0.15 per train-km. Under Ferrobonus\(^{21}\), the national combined transport scheme applicable for a maximum of five years as of 2016, the aid amount is EUR 2.50 per train-km. Under the Rail freight transport support scheme\(^{22}\), applicable until 2017 on the entire territory of Italy, the aid amount has been also set at the level of EUR 2.50 per train-km. In reference to recital (26) of the present decision and in reference to recital (19) of the decision of the Commission of 29 April 2016\(^{23}\) the value of the tax exemption for using electric rail traction in combined transport on the Trento-Wörgl route represents approximately EUR 0.121 per train-km\(^{24}\).

(55) The Commission takes the view that the proportionality and the necessity of the notified scheme should be assessed taking into account the impact of both the Ferrobonus scheme and the Rail freight transport support scheme, together with the financial impact of the exemption on the consumption of electricity for rail traction.

(56) The maximum cumulated aid for Ferrobonus, the Rail freight transport support scheme, the regional combined transport scheme of the Province of Trento and the effect of the fiscal exemption on electricity consumption for rail traction amounts to EUR 5.27 per train-km. The external costs differential according to the PWC study as referred by Italy ranges from a minimum of EUR 9.42 per

\(^{21}\) Approved by the Commission on 24 November 2016, SA.44627 (2016/N), Italy - ‘Ferrobonus’ - incentive for rail transport, OJ C 83, 17.03.2017, p. 4.

\(^{22}\) Approved by the Commission on 19 December 2016, SA.45482 (2016/N), Italy - Rail freight transport support scheme, OJ C 145, 9.05.2017, p. 2.


\(^{24}\) Under the Integrated transport scheme in the Province of Trento the value of the excise duty exemption on electricity consumption for rail traction has been estimated at the level of EUR 0.2 per 1000 tonnes-km. Assuming that a RoLa train has an average trainload of 605 tonnes the exemption would correspond thus to EUR 0.121.
train-km to a maximum of EUR 15.04 per train-km. In any event, pending the full implementation of the National Register of State aid under Article 52 of Law No 234 of 2012, before granting any aid, the Autonomous Province of Trento committed to coordinate with the Ministry of Infrastructures and Transport in order to check the respect of the thresholds of 50 % of external costs and 30 % of the total rail cost.

(57) On view of the previous observations the Commission notes that the cumulated aid amount of 5.27 per train-km cannot exceed 50 % of the eligible costs.

(58) As regards the second of these values, the Commission takes into account the estimated cost for operation of rail freight transport in Italy, contained within the range EUR 17.82 - 26.61 per train-km. Against the estimates, the cumulated amount of aid for the reduction of the external costs savings on the territory of the Province of Trento of EUR 5.27 per train-km represents 29.6 % of the lowest end of the range of the cost of rail freight transport and falls therefore below the 30% presumption threshold laid down in the Railway Guidelines.

(59) Point 110 of the Railway Guidelines requires that the aid is reflected in the price demanded from the shipper. This condition is only relevant where railway undertakings are recipients of the aid. The compliance with this criterion is logically presumed when aid goes to the combined transport operators, where the choice between rail and road is also operated on price considerations.

(60) According to point 111 of the Railway 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 interpreted to take into account the specific circumstances described in recitals (35) – (39) of the present decision that affect the intermodal freight transport in the Province of Trento.

(61) In this context, the Commission considers favourably the circumstance that the railway transport in Italy has kept its share in the land freight transportation system over the last years in spite of the negative developments in costs. It also takes into account the necessary complementarity between the notified scheme and the existing Integrated transport scheme, applying in the Southern part of the Province of Trento.

(62) Therefore, there is solid basis to believe that, with a well-designed subsidy scheme, the positive trend will be confirmed.

(63) 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. Non-discrimination, transparency and time-limit

(64) The scope of the potential beneficiaries of the aid has been formulated in a way to cover all entities from the logistical chain, involved in the organisation of combined transport services in the autonomous Province of Trento. The scheme does not set out any restrictive conditions, in particular based on the nationality of the undertaking; he aid is granted on non-discriminatory terms.

(65) 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, referred to in recital (27) of the present decision, are clearly stipulated in the relevant legal basis.

(66) Finally, the aid scheme is time-limited – it will apply for a period of 3 years. This duration is in line with the time limitation imposed by point 97 of the Railway Guidelines.

3.3.5. Effect on competition and trade not contrary to the common interest

(67) Point 96 of the Railway 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".

(68) The notified scheme is aimed to reduce imbalances between the railway and road transport modes. In this regard the Commission observes that the award criteria of the notified scheme have been designed in order to trigger a modal shift from road to rail.

(69) Concerning potential negative effects on alternative transport modes, the Commission is of opinion that they would be very limited as regards inland navigation, for reasons principally related to the very low share of this transport mode in the Italian freight transportation system.²⁵

(70) For geographical reasons, the short-sea shipping cannot be reasonably an alternative for the freight traffic flows on the railway section on the Trento-Wörgl route, in particular between the Brennersee intermodal terminal and Trento.

(71) The Commission therefore concludes that the notified 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

(72) 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.

(73) 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.

²⁵ According to the data on distribution of traffic volumes in Italy among transport modes.
Your request should be sent electronically to the following address:

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State Aid Greffe
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Yours faithfully
For the Commission

Margrethe VESTAGER
Member of the Commission