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**Subject: State aid SA.48390 – Austria
Prolongation of aid scheme for transport of goods by rail in certain
combined transport services for 2018-2022**

Sir,

1. PROCEDURE

- (1) On 9 June 2017, the Austrian authorities notified to the Commission, in accordance with Article 108(3) of the Treaty on the Functioning of the European Union (TFEU), their intention to prolong an existing aid scheme which aimed to provide support to railway undertakings to encourage shift of freight from road to rail by another five years with an additional budget of EUR 600 million.
- (2) The initial aid scheme was first approved by the Commission in 2012 for the period 2013-2017 ("the 2012 Decision")¹.
- (3) On 27 July 2017 the Commission requested further information from Austria, which was provided on 22 August 2017.

2. DESCRIPTION OF THE AID MEASURE

2.1. Main features and objective of the aid measure

- (4) A detailed description of the scheme is set out in recitals 2 to 8 of the initial decision. The features of the scheme and its objective remain unaltered.

¹ Commission Decision of 25.7.2012 in State aid case SA. 33993, OJ C 263 of 31.08.2012, p. 1.

Seiner Exzellenz Herrn Sebastian KURZ
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- (5) Rail freight transport has traditionally had an above average share in the Austrian modal split (more than twice as a high as the EU 27 average)². Apart from extending its duration and respective budget, the notified measure does not introduce any other substantive changes to the scheme last approved by the Commission on 25.7.2012. The notified prolongation and respective increase of the initial budget require notification pursuant Article 4(2) of Commission Regulation (EC) No 794/2004.³
- (6) The aim of the notified modifications is to preserve this high share of rail transport and to encourage a further modal shift from road to rail transport, combined transport and inland waterway navigation by offsetting the effects of additional costs faced by rail transport and thus reducing the negative external costs related to road transport operations. At the same time, the scheme aims at protecting the environment by promoting environmentally friendlier transport modes.

2.2. Beneficiaries

- (7) Austria confirmed that the aid is available to any rail carrier offering or planning to offer freight transport services in Austria on equal and non-discriminatory terms.
- (8) The estimated number of beneficiaries ranges from 11 to 50 undertakings.
- (9) The subsidy contracts are published on the website of the Federal Ministry for Transport, Innovation and Technology (*Bundesministerium für Verkehr, Innovation und Technologie (bmvit)*).

2.3. Form of the aid, eligible costs and aid intensity

- (10) The aid is granted in the form of a non-repayable direct grant.
- (11) A detailed description of the eligible costs is provided in recitals 16 to 28 of the 2012 Decision.
- (12) A detailed description of the aid intensities is provided in recital 14 of the 2012 Decision.

2.4. National Legal basis

- (13) The legal bases for the prolonged scheme are the Special Guidelines on aid to certain types of rail freight transport in Austria (*Sonderrichtlinien Beihilfeprogramm für die Erbringung von Schienengüterverkehrsleistungen in bestimmten Produktionsformen in Österreich 2018 bis 2022*) and the General Guidelines on Subsidies from State budget (*Allgemeine Rahmenrichtlinien für die Gewährung von Förderungen aus Bundesmitteln*) BGBl. II 208/2014.

2.5. Budget and Duration

- (14) In the initial scheme, the maximum total budget amounted to EUR 1118 million.

² Eurostat, *Modal split of domestic freight transport in Austria*, <http://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&plugin=1&language=en&pcode=tsdtr220>.

³ JO L 140, 30.4.2004, p.1

- (15) The indicative maximum budget for the scheme for rail freight for 2018-2022 is EUR 600 million as presented in Table 1:

Table 1: Budget of the prolonged scheme in million EUR

2018	2019	2020	2021	2022	Total 2018-2022
120	120	120	120	120	600

- (16) The scheme is put in place for a period of five years from 1 January 2018 until 31 December 2022.

2.6. Cumulation

- (17) The aid can be cumulated with aid received from other local, regional, national or Community schemes to cover the same eligible expenses as long as the applicable maximum aid intensities are respected. Additional funding will be deducted from the aid granted under the present aid scheme.

2.7. Evaluation

- (18) The scheme provides for support to rail services in the following three production forms of freight rail transport: i) single wagonload traffic ("SWT"), ii) unaccompanied combined transport ("UCT") and iii) accompanied combined transport ("RoLa") by compensating additional costs which are faced by rail transport but not by road transport.
- (19) In terms of technical characteristics and operational flexibility, the three production forms bare inherent disadvantages compared to road and at the same time offer considerable external cost savings.
- (20) According to the Austrian authorities the initial scheme has effectively helped transferring traffic from road to rail. Its implementation led to an increase of 2,8% of transport services in tonne-kilometres in the supported production forms during the period 2013-2015.⁴
- (21) Table 2 shows that according to the evaluation of the scheme commissioned by the Austrian authorities, one Euro of aid under the initial scheme helped to avoid an average of EUR 3,41 of external costs during 2013-2015. In 2016, with one Euro of aid under the scheme, EUR 3,39 of external costs could be avoided.⁵

⁴ The effectivity of the scheme in the years 2013-2015 was evaluated in a study provided by SchiGmbH on 15.12.2016, p.28.

⁵ Report on the deployment of aid during 01.01.2016 until 31.12.2016.

Table 2: Efficiency of the initial aid scheme

Efficiency of the aid	2013	2014	Change compared to 2013	2015	Change compared to 2014	Change compared to 2013	2016
Transported t-km SWT, UCT, RoLa	12.268.421.183	12.700.343.894	3,52 %	12.613.339.245	-0,69 %	2,81 %	13.095.920.154
Share in total SWT in t-km	63,64 %	61,97 %	-2,62 %	62,24 %	0,43 %	-2,20 %	62,79%
Avoided external costs in EUR	327.566.846	339.099.182	3,52 %	336.776.158	-0,69%	2,81 %	349.661.068
Efficiency of the aid = avoided external post per EUR 1	3,49	3,42	-2,10 %	3,32	-2,89 %	-4,93 %	3,39

(22) Austria has also underlined that according to the evaluation the following number of lorry journeys could be avoided, showing an increasing trend over time

Table 3: Avoidance of road freight traffic in number of lorry one-way journeys

2013	2014	2015	2016
3,033,456	3,137,128	3,198,712	3,258,834

3. ASSESSMENT OF THE MEASURE

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

(23) The Commission notes that the all elements in the scheme to be prolonged, except for the decreased budget, remain unchanged compared to the initial scheme.

(24) In the 2012 Decision the Commission concluded that the measure constitutes State aid within the meaning of Article 107(1) TFEU⁶. Nothing in the notification alters this assessment as regards the prolongation of the scheme.

3.2. Compatibility of the aid

(25) In the 2012 Decision, having assessed the appropriateness, necessity and proportionality of the scheme on the basis of the Community Guidelines on State aid to railway undertakings ("the Railway Guidelines")⁷, the Commission found the scheme compatible with the internal market under Article 93 TFEU.

(26) Article 93 TFEU states that State aid shall be compatible with the internal market if it "*meets the needs of coordination of transport*". The concept of aid meeting the needs of co-ordination of transport refers to the need for government intervention arising in the absence of a competitive market or in the presence of market failures.

⁶ See recitals 30 and 31.

⁷ Commission Communication (2008/C 184/07), OJ C184 of 22.7.2008, p.13.

In this regard, the Commission notes that measures of co-ordination 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. The concept of coordination of transport therefore implies an intervention by public authorities which is aimed at guiding the development of the transport sector in the common interest.

- (27) Point 97 of the Railway Guidelines stipulates that in view of the rapid development of the transport sector the Commission has to re-examine the aid and the intended renewal in the light of the results obtained by the existing aid scheme.
- (28) According to a constant decisional practice⁸ and section 6.2 of the Railway Guidelines aid for the coordination of transport will be deemed compatible with the internal market under Article 93 TFEU if the following conditions are met:
- The aid must contribute to a well-defined object of common interest;
 - The aid must be necessary, must have an incentive effect and be proportionate to the intended objective;
 - Access to the aid in question must be open to all users on a non-discriminatory basis;
 - The aid must not lead to distortions of competition contrary to the common interest.
- (29) The Commission takes note that the existing aid scheme has contributed to shift transport from road to rail (see recital 19). The Commission also notes that the aid measure contributed to reduce external costs (see recitals 20 and 21).
- (30) The Commission therefore notes that the existing scheme has effectively helped transferring traffic from road to rail and therefore concludes that its renewal for another five-year period is in line with Point (97) of the Railway Guidelines.
- (31) In its 2012 Decision, the Commission concluded, on the basis of Article 93 TFEU and sections 6.1. and 6.2 of the Railway Guidelines that the initial scheme was compatible with the internal market. The reasoning set out in that decision on necessity and proportionality (see recital 43 of the 2012 Decision) and the limitation of competition distortions (see recital 65 of the 2012 Decision) remains valid.
- (32) The Commission notes that the aid scheme is open on a non-discriminatory basis to all railway undertakings offering freight transport services.
- (33) The Commission further notes that the subsidy contracts and the aid amount will be publicly accessible (see recital 6). It is thus expected that potential business partners of the beneficiaries will demand in the business negotiations to participate

⁸ Commission decision of 21.12.2016, SA.46720 – Germany – Guidelines on the construction, extension and reactivation of private railway sidings, OJ C 20, 20.01.2017, p. 14; Commission decision of 13.01.2009, N 415/2008 – Austria – Special Guidelines for the Programme of Aid for Innovative Combined Transport, OJ C 53, 06.03.2009, p.2; Commission decision of 15.06.2011, SA.32224, - Netherlands, Development of the Alblaserdam Container Transferium, OJ C 215, 21.07.2011, p. 22.

in the advantage granted to the beneficiaries which in turn will encourage them to make the choice for rail rather than for more polluting modes of transport such as road.

- (34) The Commission therefore concludes that the aid has the effect of encouraging the modal shift to rail and therefore provides an incentive effect and fulfils point 110 of the Railway Guidelines.
- (35) For the reasons set out above and as demonstrated in recitals 33 to 65 of the 2012 Decision which remain relevant for the assessment of the notified prolongation, the Commission considers that the aid scheme to be prolonged is compatible with the internal market based on Article 93 TFEU, as implemented by the Railway Guidelines.

4. DECISION

The Commission has accordingly decided not to raise objections to the prolongation of the aid scheme and its budget 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.

Yours faithfully
For the Commission

Margrethe VESTAGER
Member of the Commission