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Subject: State aid SA.48634 (2017/N) – Denmark

**Prolongation of environmental aid scheme for the transport of goods
by rail for 2018-2020**

Sir,

1. PROCEDURE

- (1) On 12 July 2017, the Danish 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, registered under case number SA.36758, authorised by the Commission in 2014¹ and aiming to provide support to railway undertakings to encourage shift of freight from road to rail.
- (2) The initial aid scheme was first approved by the Commission in 1999² and subsequently prolonged in 2002³, 2006⁴ and 2011⁵. The last prolongation was approved in 2014, for the period 2014-2017 (The "Prolongation Decision").
- (3) On 8 August 2017 the Commission requested further information from Denmark, which was provided on 8 September 2017.

¹ Commission Decision of 06.01.2014 in State aid case SA. 36758, OJ C 280 of 22.08.2014, p. 10.

² Commission Decision of 21.04.1999 in State aid case N 588/98, OJ C 166 of 12.6.1999, p. 6.

³ Commission Decision of 11.12.2002 in State aid case N 287/2002, OJ C 34 of 13.2.2003, p. 7.

⁴ Commission Decision of 21.12.2006 in State aid case N 552/2006, C 133 of 15.6.2007, p. 5.

⁵ Commission Decision of 23.11.2011 in State aid case N 552/2010, OJ C 19 of 24.2.2012, p. 1.

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- (4) On 28 September 2017, the Danish authorities provided a language waiver and agreed that the decision would be adopted and notified in English as the authentic language.

2. DESCRIPTION OF THE MEASURE

2.1. The previous scheme

- (5) The Commission refers to the description in Section 2 of the Prolongation Decision in State aid case SA. 36758 of the decision of 06.01.2014 which authorised it.

2.2. Objective of the aid

- (6) The aim of the scheme remains unaltered. The measure provides for the prolongation of the environmental compensation mentioned in recital (1) granted by the Danish Government since 1999 to rail freight transport operators in order to offset the effects of the rail infrastructure charges and promote a shift from road to rail transport, thus reducing the negative external costs related to road transport operations. The scheme also aims at protecting the environment by promoting environmentally friendlier transport modes.
- (7) In terms of technical characteristics and operational flexibility, rail transport has inherent disadvantages compared to road and at the same time it offers considerable external cost savings.
- (8) In addition, according to the Danish authorities, the preceding scheme has effectively helped transferring traffic from road to rail and there was a positive development in the amount of goods transported by rail during the implementation of the scheme.
- (9) From the above, it is clear that the previous scheme effectively contributed to transferring traffic from road to rail.

2.3. National Legal basis

- (10) The legal basis for the scheme is Railway Act N° 686 of 27 May 2015, basis on which executive orders N°1379 of 1 December 2015 concerning payment for use of the state rail network and on environmental subsidies for rail freight transport and N°1501 of 5 December 2016 concerning Infrastructure Charges for the State rail network were issued.

2.4. Beneficiaries

- (11) The beneficiaries will remain all rail operators that transport freight. The exact number of beneficiaries varies depending on the number of rail freight operators that transport goods on the Danish railway network. In 2016 the following operators received compensation based on the present scheme: Captrain, CFL Cargo, Hector Rail and DB Cargo. The Danish authorities estimate the number of beneficiaries for 2018-2020 to be less than ten.
- (12) The aid is granted on equal and non-discriminatory terms to all operators of rail freight traffic.

2.5. Form of the aid

- (13) The Commission refers to a detailed description of the form of the aid in its Prolongation decision Section 2.4.
- (14) The environmental compensation is fixed as the proceeds from the infrastructure charges that railway undertakings have to pay divided by the total number of net tonne kilometres transported minus the cost of fixed connections over the Great Belt and Øresund (bridges) and adjusted for any surplus or deficit in previous years.
- (15) The amount of the environmental compensation for 1999-2015 in relation to the infrastructure charges paid by the freight transport operators for the use of the rail network is represented in the table below:

Table 2 *Infrastructure charges v. Environmental compensation*

Period	Infrastructure charges (mio. DKK)	Environmental compensation (mio. DKK)
1999	27,0	20,7
2000	37,8	35,0
2001	35,2	29,9
2002	32,0	36,5
2003	32,9	29,8
2004	19,9	31,5
2005	20,6	20,6
2006	19,2	17,8
2007	18,8	17,4
2008	19,9	18,9
2009	18,3	16,1
2010	21,8	25,9
2011	26,6	21,2
2012	21,8	17,3
2013	21,5	26,7
2014	19,9	23,0
2015	21,4	21,3
Total	414,6	409,6

(16) Variations in the environmental compensation over the years are due to the following reasons:

- The tariffs for the environmental aid are based on estimates which are fixed annually for the year to come;
- The environmental compensation is reimbursed by the infrastructure manager as a deduction in the payment of infrastructure charges. Infrastructure charges are charged monthly based on actual train kilometres driven. The payment of the environmental compensation is based on how many tonne kilometres a railway undertaking has actually performed;
- Furthermore, any surplus or deficit will be added or deducted when the tariffs of the environmental compensation for the coming year are determined. Thus the following year's calculations include potential surplus and deficit in the past year, which in some years have resulted in the environmental compensation having been higher than the infrastructure charges levied. Since any excess or deficit can be off-set in the following year, over time the size of the environmental aid paid does not exceed the infrastructure charges levied.

(17) The aid is granted in the form of a direct grant for rail freight to and from Danish railway stations and for rail freight transport carried out as combined transport through Denmark. As regards transit traffic through Denmark⁶, the compensation is paid only where the transport would not have been undertaken by ship or ferry.

(18) The aid is paid as a compensation per tonne-kilometre, since traffic flows provide a representative expression of the environmental benefits accruing from transport by rail and can, at the same time, be administered on an objective basis.

(19) To avoid abuse or undesirable effects from the grant of the compensation, the transport distance in kilometres for a given transport operation is calculated as the shortest distance by rail between the point of departure and the place of destination. For international traffic, the compensation is paid to and from the border station; for intermodal transit freight, it is paid for the distance between the two border stations, respectively at the Swedish and the German borders.

(20) No distinction is drawn between various types of goods or their volume in relation to weight.

3. MODIFICATIONS TO THE EXISTING SCHEME

(21) The modifications to the scheme concern only its budget and its duration. All other conditions remain unaltered.

⁶ As to domestic transport, no rail freight takes place that could realistically have taken place by sea between two Danish ports. Domestic shipping transports special products only, particularly fuel, cement and steel, areas in which shipping, in any circumstances, is in a strong competitive situation. There is, however, some competition between rail freight via Denmark and direct ferry transport between Sweden and Germany, which is significant for goods traffic in transit via Denmark.

3.1. Budget

- (22) In the previous scheme, the budget amounted to DKK 99.7 million (approx. EUR 13.4 million)
- (23) The indicative budget for the environmental compensation for rail freight for 2018-2020 is the following:

Table 3 *Budget of the prolonged scheme in million DKK*

2018	2019	2020	Total 2018-2020
DKK 18,7 (approx. EUR 2,5 million)	DKK 18,7 (<i>approx. EUR</i> <i>2,5 million</i>)	DKK 18,7 (<i>approx. EUR</i> <i>2,5 million</i>)	DKK 56,1 (<i>approx. EUR 7,5</i> <i>million</i>)

- (24) The restructuring of infrastructure charges was implemented during the last prolongation of the scheme (2015-2017) following requirements from the Commission that infrastructure charges must be dependent on costs following directly from the rail services.⁷
- (25) This restructuring of infrastructure charges was adopted given that the latter must be dependent on costs following directly from the rail services. The new charging scheme ensures compliance with Article 31.3 of Directive 2012/34/EU requiring that the charges for the minimum access package and for access to infrastructure connecting service facilities are set at the cost that is directly incurred as a result of operating the train service.

3.2. Duration

- (26) The implementation of the prolonged scheme will only start when approval of the European Commission has been obtained.
- (27) The Danish Government intends to extend the scheme for an additional period of three years (2018-2020).

3.3. Aid intensity and cumulation

- (28) A detailed description of the rules on aid intensity is contained in Section 3 of the Prolongation Decision. That process will remain unchanged following the notified prolongation.
- (29) There are no other EU, State or regional compensation schemes, with regards to external costs savings in Denmark.

⁷ See Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification, later replaced by Directive 2012/34/EU establishing a single European railway area.

4. ASSESSMENT OF THE MEASURE

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

- (30) The Commission notes that the only modifications to the previous scheme concern the prolongation in time and the new budget allocated to it. All other elements remain unchanged compared to the scheme assessed by the Commission in its initial decision and confirmed in the subsequent prolongation decisions, in particular the last Prolongation Decision.
- (31) In the mentioned Decisions the Commission concluded that the measure constitutes State aid within the meaning of Article 107(1) TFEU⁸. Nothing in the notification alters this assessment as regards the prolongation of the scheme.

4.2. Lawfulness of the aid

- (32) Since the new measure has not been put into effect before formal approval by the Commission, the Commission records that Denmark has fulfilled its stand-still obligation in accordance with Article 108(3) TFEU.

4.3. Compatibility of the aid

- (33) In the above mentioned decisions, having assessed the appropriateness, necessity and proportionality of the schemes on the basis of the Community Guidelines on State aid for railway undertakings ("the Railway Guidelines")⁹, the Commission found the schemes compatible with the internal market under Article 93 TFEU.
- (34) The Railway Guidelines are still in force, and have not been modified since the Commission adopted the Prolongation Decision.
- (35) In particular, according to point 107 of the Guidelines, the Commission considers the aid to be necessary and proportionate when 30 % of the total cost of rail transport, and 50 % of the eligible costs are not surpassed.
- (36) The total costs of rail freight transport are calculated using the annual accounts of Banedanmark, the Danish infrastructure manager.

⁸ See Section 4 "Assessment of the measure/aid" of the initial Commission decision, aforementioned *supra*. See also recitals 24-31 of the Commission decision, related to the first prolongation of the scheme, referenced under footnote 2, *supra*. See equally recital 19 of the Commission decision, related to the second prolongation of the scheme, referenced under footnote 3, *supra*. See as well recital 15 of the third Commission decision, referenced under footnote 4, *supra*. See as well recital 26 of the Prolongation Decision, referenced under footnote 5, *supra*.

⁹ Commission Communication C(2004) 43, OJ C 13 of 17.1.2004. p. 3.

Table 4 *Banedanmark's annual accounts, 2015*

HK 01. Banedanmark	595.6
HK 02. Group projects	228.6
HK 04. Operating costs	363,9
HK 05. Renewal and maintenance	2342
Gross total	3530.1
HK 06. Track charges, income (realised)	-672.6
Net total	2.857.5

- (37) According to the Danish Authorities, if these are projected to 2017 prices, the total costs of rail transport amounts to DKK 2934.4 million, of which the costs of freight transport will be DKK 953, 7 million. The indicative budget for the environmental compensation is set at DKK 18.7 million per annum for the 2017-2020 period based on 2017 prices.
- (38) Therefore the environmental contribution's share of total rail freight costs amounts to DKK 18.7 million of DKK 953.7 million = 1.96%, which is less than 30% of the total cost of rail transport. The environmental contribution does therefore not exceed the 30% of the total cost of the cleaner mode of transport.
- (39) The eligible costs are the external costs which can be avoided by using rail transport as compared to other competing modes of transport.

Table 5 *Marginal average external costs of transport in Denmark, 2012 (Euro/1000 tkm). Source: Joint Research Centre*

Cost element	Road	Rail	Electrified railways	Diesel-driven railways
Accident	4.5	0.17	0.16	0.25
Noise	3.2	2.12	2.00	3.04
Pollutants	5.9	1.53	0.53	8.90
Climate-related costs	4.1	1.52	1.45	2.07
Traffic congestion	1.9	0.32	0.32	0.32
In all	19.5	5.67	4.46	14.57
Difference in relation to road transport:		13.82	15.04	4.93

- (40) The figures are the result of the latest calculations from the Joint Research Centre. The Danish authorities argue that the figures are still applicable, as no significant changes have been made in the method used to calculate external costs.
- (41) According to the table above, the cost difference between road and rail amounts to € 13.82 / 1000 tonne-kilometres. In DKK, the cost difference is therefore ($\text{€ } 13.82 / 1000 \text{ tonne-kilometres} * 7.46 \text{ kr./€} / 1000 = 0.1030972 \text{ kr./t km}$).
- (42) Converted to 2012 prices, the environmental compensation amounts to a projected DKK 18.05 million. According to Table 1, by 2015, goods transport amounted to 2603 million tonne-kilometres. Environmental aid per tonne-kilometres in 2012 prices amounts to DKK 18.05 m. / 2603 million. tonne-kilometres = 0.0069 kr / tkm.
- (43) The environmental compensation thus amounts to DKK 0,0069 / tonne-kilometres / DKK 0.1030972 ./tonne-kilometres = 6.73%, which is less than 50% of the external costs.
- (44) The environmental contribution does not, therefore, exceed 50% of the eligible costs.
- (45) For the reasons set out above and as demonstrated in its Section 4.3 in Commission Decision of 06.01.2014 in State aid case SA. 36758, which remains relevant to the assessment of the notified prolongation, the Commission considers that the present aid scheme is compatible with the internal market based on Article 93 TFEU, as implemented by the Railway Guidelines.

5. DECISION

The Commission has accordingly decided:

- to consider the notified prolongation of the existing aid scheme to be compatible with the Treaty on the Functioning of the European Union.

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Your request should be sent electronically to the following address:

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Yours faithfully
For the Commission

Margrethe VESTAGER
Member of the Commission

