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**Subject: State aid SA.51036 (2018/N) – Poland**

**Modification of scheme SA.48093 (2017/N) – Aid for the implementation of intermodal transport projects under the Operational Programme Infrastructure and Environment for the years 2014-2020**

Sir,

**1. PROCEDURE**

- (1) By decision of 31 October 2017, the Commission approved aid for the implementation of intermodal transport projects under the Operational Programme "Infrastructure and Environment" for the years 2014-2020 ("the intermodal transport scheme") in case SA.48093<sup>1</sup> ("the Decision").
- (2) On 7 May 2018, the Polish authorities notified to the Commission a planned modification to the Intermodal transport scheme. The notified modification concerns an increase in the budget of the intermodal transport scheme.

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<sup>1</sup> OJ C 3, 5.1.2018.

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## 2. FACTS

### 2.1. The intermodal transport scheme

- (3) The intermodal transport scheme supports the construction, modernisation and upgrade of intermodal transport infrastructure in Poland. The scheme also supports the purchase of specialised equipment (e.g. lifting and transshipment equipment, telematics and satellite systems) required for intermodal transport, as well as the purchase and modernisation of specialised rolling stock<sup>2</sup>.

### 2.2. Modification introduced to the intermodal transport scheme

- (4) The notified modification concerns an increase in the budget of the scheme from PLN 1 billion (approximately EUR 232 million) to PLN 2 billion (approximately EUR 465 million).<sup>3</sup>
- (5) According to the Polish authorities, the announced call for proposals demonstrated considerable interest from potential beneficiaries of the intermodal transport scheme, including a number of companies with foreign capital.
- (6) However, the available budget of PLN 1 billion is not sufficient to conclude co-financing agreements for all eligible projects or to conclude contracts for the amount of aid requested in the applications.<sup>4</sup>
- (7) The verification of applications submitted by the potential beneficiaries shows that the amount of aid under the intermodal transport scheme is strongly linked to the incentive effect and therefore constitutes a decisive factor for the implementation of the intermodal transport projects. In the absence of aid, the intermodal transport projects will not be implemented or will only be implemented to a limited extent. At the same time, the verification of applications shows that the potential beneficiaries will not be interested in the intermodal transport projects without the aid intensity as indicated in the applications. The Polish authorities submitted that to a large extent this is dictated by the specificity of intermodal transport which is characterised by the low profitability of intermodal operations with a long payback period of 20-30 years and the high capital expenditure needed to start and expand such operations.
- (8) Intermodal transport in Poland remains less developed than in most Member States, therefore the Polish authorities deem it necessary to allocate increased resources for the implementation of the intermodal transport scheme to accomplish its objectives.
- (9) The Polish authorities submitted that there are no other modifications of the intermodal transport scheme. The notified modification has not been implemented yet.

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<sup>2</sup> For a detailed description of the scheme, please refer to the Decision, recitals (2)-(29).

<sup>3</sup> Exchange rate of 28 May 2018: EUR 1 = PLN 4.30.

<sup>4</sup> In the case of intermodal transport projects which receive the same score it would be necessary to lower the amount of aid.

### **3. ASSESSMENT**

#### **3.1. Existence of aid**

- (10) As the Commission concluded in the Decision in recital 32, the intermodal transport scheme constitutes State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union ("TFEU"). The reasons provided in the Decision apply equally to the notified modification in this decision.

#### **3.2. Legality of the aid**

- (11) The notified modification has not been implemented yet. Thus, Poland has complied with the stand still obligation set out in Article 108(3) TFEU.

#### **3.3. Compatibility of the aid**

- (12) In the Decision, the Commission had assessed the compatibility of the intermodal transport scheme on the basis of Article 93 TFEU.
- (13) As regards the compatibility of the scheme as modified, the Commission notes that the modification only concerns an increase in the budget of an aid scheme which has already been authorised by the Commission. The objective linked to that scheme has not changed since its previous authorisation (see recitals (41)-(47) of the Decision). The conditions for granting the aid, in particular as regards its beneficiaries, the aid intensity, the eligible costs and other conditions for eligibility, remain unaltered as well. The assessment of the necessity and of the incentive effect of the aid, as well as its proportionality and the non-discriminatory access to the aid remains the same (see recitals (48)-(58) of the Decision). Nor have any changes been made to EU transport policy in relation to these aid measures since the intermodal transport scheme was authorised. Thus, the assessment of the distortion of competition of the aid remains the same (see recitals (59)-(65) of the Decision). Consequently, the notified modification does not alter the grounds upon which the assessment of the intermodal transport scheme was found to be compatible with the internal market on the basis of Article 93 TFEU.
- (14) As explained in the Decision, intermodal transport is less developed in Poland than in most EU Member States. The low profitability of intermodal operations (with a long payback period of 20-30 years), coupled with the high capital expenditure needed to start and expand such operations, is a significant barrier to the development of intermodal transport in Poland. In particular, the insufficient number of terminals, the lack of modern equipment and rolling stock make intermodal transport in Poland less competitive than elsewhere (see recitals 8 and 9 of the Decision).
- (15) In the Decision, the Commission considered that there is a need for State intervention, since market forces are not willing to provide the necessary intermodal transport infrastructure on a purely commercial basis. The planned aid measure was therefore considered necessary to trigger the investment for the realisation of the envisaged intermodal projects and to foster a modal shift away from road transport to other modes of transport like rail (see recital 51 of the Decision).

- (16) As indicated in recital (7) of the present decision, without an increase in the budget for the intermodal transport scheme, the intermodal transport projects will only be implemented to a limited extent.
- (17) The Commission therefore considers that an increase in the budget for the scheme is well justified and necessary in order to achieve the objective of the scheme, namely a modal shift away from road transport to other modes of transport like rail.

#### **4. CONCLUSION**

The Commission has accordingly decided that the notified modification of the aid scheme for the implementation of intermodal transport projects under the Operational Programme "Infrastructure and Environment" for the years 2014-2020 is compatible with the internal market pursuant to Article 93 of the Treaty on the Functioning of the European Union.

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Yours faithfully  
For the Commission

Margrethe VESTAGER  
Member of the Commission