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**Subject: State Aid SA.50584 (2018/N) – Belgium
Structural aid measure reducing the cost disadvantage of bundling
volumes transported by rail/inland waterways to and from Flemish
seaports in order to promote a modal shift**

Sir,

1. PROCEDURE

- (1) Pursuant to Article 108(3) of the Treaty on the Functioning of the European Union (hereafter "TFEU" or the "Treaty"), on 8 August 2018, Belgium notified an aid scheme promoting the modal shift from road to rail and inland waterways for freight transport between the three biggest seaports in the Region of Flanders and the hinterland. The aid scheme is designed to help covering the additional costs of efficiently combining transport volumes to make rail and inland waterways more time-efficient, less costly and therefore more attractive and competitive transport modes compared to trucks. The aid scheme also aims at tackling the increased road congestion in Belgium, and at the same time reducing the negative environmental impact of truck transport.

His excellency Sir Didier Reynders
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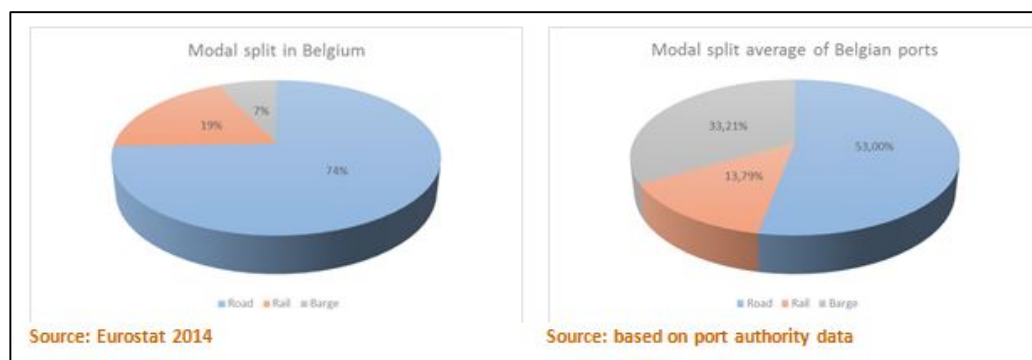
- (2) The Commission asked the Belgian authorities to provide additional information by email dated 17 August 2018. On 27 August 2018, the Belgian authorities submitted the requested information.

2. DETAILED DESCRIPTION OF THE AID SCHEME

2.1. Action tool and objective

- (3) The Region of Flanders intends to stimulate the use of rail and inland waterways for freight container transport between the three biggest seaports in Flanders (Port of Antwerp, Port of Zeebrugge and North Sea Port (Ghent)) and the hinterland in Belgium and its neighbouring countries (the North of France, the South of the Netherlands and the Western part of Germany).
- (4) Seaports are - directly and indirectly - important generators of economic activities and jobs¹, and are important actors in the transport network in Belgium, generating cargo for both national (51%) and international (49%) destinations. A loss in port activity would lead to a decrease in Belgian transport activity². Since ports are gateways to the national transport system, it is important that they also set the right example for environmental standards. Modal split is one of the key performance indicators in measuring the environmental impact of inland transport flows generated by ports³. Although the Belgian ports do better than the national average in terms of modal split, more than half of the transport to and from Belgian ports still occurs by road (see Figure 1).

Figure 1: Modal split in Belgium (national average) versus modal split in Belgian ports



- (5) Trucks remain the main transport mode for freight traffic between the ports and the hinterland and the share of road transport appears to be increasing for freight traffic to and from certain ports (reverse modal shift). In particular, for the three seaports envisaged under the notified aid scheme, it appears from Table 1 that trucks remain the most important transport mode for container traffic to and from the Ports of Zeebrugge and Antwerp, with a share in 2016 of 75.67% and 54.92%

¹ See, Report by ING Bank, ITMMA and University of Antwerp: "Strategic evaluation of the Belgian port sector and accompanying services" (April 2015). NBB Report No 342 of April 2018: "The economic importance of the Belgian ports: Flemish maritime ports, Liège port complex and the port of Brussels - Report 2016".

² See, "Strategic evaluation of the Belgian port sector and accompanying services", report by ING Bank, ITMMA and University of Antwerp, April 2015, Section 4.1.1, subsection "Cargo generation".

³ See, "Strategic evaluation of the Belgian port sector and accompanying services", report by ING Bank, ITMMA and University of Antwerp, April 2015, Section 4.1.1, subsection "Modal split".

respectively. For both ports the share of rail transport also decreased by 12.25 and 1.25 percentage points respectively between 2008 and 2016. The North Sea Port in Ghent is doing better in terms of modal split, but more efforts need to be done to reach the target of 15% of transport by rail in 2020 set by the Port Authority of Ghent (Havenbedrijf Gent).

Table 1: Modal split (road/barge/rail) for container transport to and from Flemish seaports

	2008	2009	2010	2011	2012	2013	2014	2015	2016
Port of Zeebrugge									
Road	63.25%	64.12%	61.03%	60.20%	62.66%	68.02%	67.95%	71.35%	75.67%
Barge	0.17%	0.57%	0.74%	0.76%	0.86%	0.58%	0.83%	0.56%	0.01%
Rail	36.57%	35.31%	38.22%	39.04%	36.48%	31.39%	31.22%	28.09%	24.32%
Port of Antwerp									
Road	59.84%	57.65%	58.16%	57.33%	56.79%	55.91%	55.14%	58.69%	54.92%
Barge	31.97%	34.51%	33.67%	33.88%	34.53%	36.94%	38.10%	34.47%	38.14%
Rail	8.19%	7.84%	8.16%	8.79%	8.67%	7.15%	6.75%	6.84%	6.93%
North Sea Port (Ghent)									
Road	na	na	39.52%	36.96%	36.88%	36.32%	35.86%	38.26%	33.84%
Barge	na	na	49.93%	52.27%	54.26%	53.46%	53.26%	49.44%	54.86%
Rail	na	na	10.55%	10.77%	8.87%	10.22%	10.88%	12.30%	11.30%

Sources: Data Haven Brugge-Zeebrugge, Port of Antwerp, Havenbedrijf Gent

- (6) This freight development trend is in contrast with the objective to shift freight transport from road to rail as set out in the Commission's White Paper on Transport Policy⁴.
- (7) The notified aid scheme aims at changing this trend and is designed to promote and intensify the modal shift from road to rail and inland waterways by compensating for the additional cost of efficiently combining freight volumes in consolidation hubs. This bundling of freight volumes in consolidation hubs in the ports and the hinterland will make freight transport by rail and inland waterways more cost-efficient and faster than it is today. As a consequence, rail and inland waterways will become more attractive alternatives for end users and shippers, making them more willing to switch from trucks to trains and barges.
- (8) The aid scheme also helps to tackle the problems related to the increased congestion on Flemish roads caused by the high number of trucks used in transport. It pursues the general objective of reducing the environmental, health and social impact of road traffic in Flanders by decongesting the traffic by trucks on Flemish roads.
- (9) The aid scheme focuses on container transport⁵ and consists of two parts, supporting (a) transport by rail and (b) transport by inland waterways. Since two

⁴ Roadmap to a Single European Transport Area—Towards a competitive and resource efficient transport system, COM(2011)144 of 28.03.11.

⁵ According to the NBB Report "The economic importance of the Belgian ports: Flemish maritime ports, Liège port complex and the port of Brussels - Report 2016", on average 47% of all traffic in the

different transport modes are involved, both parts of the scheme work differently and the beneficiaries of the scheme are different:

- (a) In the case of rail, the aid will take the form of a subsidy per train to the rail operators⁶ that make part of their capacity available to join the system. The subsidy will cover part of the additional costs related to the operation of the consolidation hub as well as other costs such as the additional cost of the stop by the train in the hub, the costs of shunting operations, and the costs associated with the additional transfer of containers. For the end users of the system (the shippers) making use of rail instead of trucks for the shipping of their goods, will become more efficient without having the price of rail transport being increased.
 - (b) In the case of inland waterways, the aid will take the form of a subsidy to the operators of the consolidation hubs. The subsidy will cover part of the additional costs related to the operation of the consolidation hub as well as other costs such as the cost of the additional transfer of volumes between barges and the cost of the extra stop. The barge operators will also have to bear part of the cost of the volume bundling (cf. recital (19)). Thanks to the efficiencies created by the system, the end users of the system (shippers) will benefit from more reliable and efficient transport by barges, without having to bear the (full) cost of the volume bundling.
- (10) As a consequence, thanks to the subsidy the transport by rail and inland waterways will become more efficient without becoming more costly, which will make end users opt more often for these transport modes compared to trucks.
- (11) The measure complements another scheme in Belgium supporting rail and combined freight transport authorised by the Commission by the decision of 6 June 2017 (case SA.47109 - *Prolongation du régime de promotion du transport combiné ferroviaire et du trafic diffus pour 2017-2020*)⁷. Past Belgian schemes to promote intermodal transport authorised by Commission decisions were the

Flemish ports over the period 2015-2017 consisted of container transport, with liquid and dry bulk transport coming in at second place and third place with 28% and 12% respectively.

⁶ A rail operator includes "railway undertakings" within the meaning of Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (i.e. any private or public undertaking whose main business is to provide rail transport services for goods and / or passengers with a requirement that the undertaking should ensure traction), but also other railway companies providing no traction.

⁷ Commission decision of 6 June 2017, SA.47109 (2017/N), Belgium – Prolongation du régime de promotion du transport combiné ferroviaire et du trafic diffus pour 2017-2020, OJ C 400 of 24 November 2017. This measure is a prolongation of a measure approved by the Commission on 9 July 2015 (case SA.41472 (2015/N), Belgium - Prolongation of a scheme to operate scheduled services of combined transport of goods for the period 2015-2016, OJ C 369 of 6 November 2015), which is in turn the prolongation of earlier adopted decisions by the Commission of 7 October 2014 (case SA.38611 (2014/NN), Belgium - Promotion du transport combiné ferroviaire (unités de transport intermodal) et au trafic diffuse, OJ C 460 of 19 December 2014), 10 March 2009 (case SA.26942 (N 571/2008), Belgium - Promotion du transport combiné ferroviaire d'unités de transport intermodal 2009-2012, OJ C 164 of 16 July 2009), 14 December 2007 (case SA.17724 (N 656/2007), Belgium - Projet d'aide au transport combine, OJ C 43 of 16 February 2008) and 5 July 2005 (case SA.17724 (N 249/2004), Belgium - Projet d'aide au transport combine, OJ C 280 of 12 November 2005).

following: case N651/2008 - *Multimodal container terminal* (11 February 2009)⁸, case N682/2006 - *Flemish measure to support inter modal transport via inland waterways* (10 May 2007)⁹, and case N53/2006 - *Pilot project of the Region of Flanders for the granting of aid to estuarine navigation and inland waterway navigation for the transport of containers from and to the Flemish coastal ports* (12 October 2006)¹⁰.

2.2. Legal basis

- (12) The notified measure is based on Article 35 bis of the Port Decree of 2 March 1999 regarding the policy and management of seaports, lastly amended by the decree of 22 December 2017¹¹. Article 35 bis, paragraph 1 provides that: *"The Flemish Government can, without prejudice to approval by the European Commission, and within the limits of the available amounts foreseen in the budget, grant subsidies to undertakings that structurally improve the connectivity between Flemish sea ports and the hinterland by stimulating the consolidation of the freight traffic by inland waterways and by rail and by bundling the volumes"*. Paragraph 2 provides that the Flemish government determines the rules regarding the granting of the subsidies.
- (13) The criteria and rules for the granting of the aid will be set out in two "Government of Flanders Orders": the Implementing Decision regarding a five-year aid scheme to promote transport by rail through the bundling of volumes (hereafter *"Implementing Decision for Rail"*) and the Implementing Decision regarding a five-year aid scheme to promote transport by inland waterways through the bundling of volumes (hereafter *"Implementing Decision for Inland Waterways"*)¹².
- (14) The three Port Authorities' involvement in the notified aid scheme has been set out in the Decisions of their Boards of Directors: *"Besluit Raad van Bestuur van de Maatschappij van de Brugse Zeehaven NV"*¹³, *"Besluit Raad van Bestuur Havenbedrijf Gent - Besluit Raad van Bestuur van februari 2016 – goedkeuring*

⁸ Commission decision of 11 February 2009, case N651/2008, Belgium - Combinant - Multimodale containerterminal (EFRO) (ex PN 117/08), OJ C 60 of 14 March 2009.

⁹ Commission decision of 10 May 2007, case N682/2006, Belgium - Flemish measure to support inter modal transport via inland waterways, OJ C 227 of 27 September 2007.

¹⁰ Commission decision of 12 October 2006, case N53/2006, Belgium - Pilot project of the Region of Flanders for the granting of aid to estuarine navigation and inland waterway navigation for the transport of containers from and to the Flemish coastal ports, OJ C 297 of 7 December 2006.

¹¹ Publication of the provision in the Belgian Official Journal will occur in the autumn of 2018.

¹² Publication of both Implementing Decisions in the Belgian Official Journal will occur in January 2019. The Implementing Decisions referred to in this Commission Decision are advanced drafts. The Belgian authorities confirmed that no significant changes would be made to the current versions which would have an impact on the Commission's assessment of the notified aid scheme.

¹³ Decision of the Board of 15 June 2018. The final text, in line with the modalities of the scheme as set out in the two Implementing Decisions of the Government of Flanders, is planned to be approved on 16 November 2018.

herziene versie van het strategisch plan 2010-2020"¹⁴, "Besluit Raad van Bestuur '133477' van 16 december 2013 – Ondernemingsplan 2014-2018 Havenbedrijf Antwerpen" and "Havenbedrijf Antwerpen RVB180558 Ondernemingsplan 2018-2020"¹⁵.

2.3. Scope

- (15) Regarding the bundling of rail freight volumes, the aid is independent of the number of containers handled and will be granted per train. There is a fixed amount of aid per train to cover the extra cost of the extra stop of the train and the technical handlings in the consolidation hub. All rail operators that fulfil certain conditions per train are eligible for support and can apply for the aid.
- (16) In the rail hub system, there are two possible types of consolidation, horizontal and vertical consolidation:
 - (a) In the case of horizontal consolidation, the rail wagons are shunted (in the conventional way) into trains with uniform composition which will be sent to specific port terminals. The cargo itself is not transferred but remains on the wagon during the whole journey from origin to destination.
 - (b) In the case of vertical consolidation, the containers are transferred between trains using gantry cranes so as to make up uniform trains which will be sent to specific port terminals. Consignments for a particular hinterland destination are made up on a single train in the same way.
- (17) Regarding the bundling of freight volumes for barges, the objective of the scheme is to select (through a tender procedure) at least one and maximum two consolidation hubs per waterway corridor in the hinterland of the three Flemish seaports, as well as to select two more consolidation hubs in the Port of Antwerp (one on the right bank and one on the left bank). The subsidy will be paid out based on the number of containers processed in the consolidation hubs.

2.4. Beneficiaries

- (18) The beneficiaries of the aid scheme in the case of transport by train are rail operators which can be undertakings providing only traction, undertakings providing only transport services but no traction, or undertakings providing both. The support will be paid directly to the rail operators that make use of the consolidation hub system. No additional financial resources will go directly to the consolidation hubs or terminals.
- (19) The beneficiaries of the aid scheme in the case of transport by barges are the operators of the consolidation hubs. They will receive a subsidy to help them cover the additional costs related to the consolidation of volumes which will in turn avoid that all these additional costs are passed on to the barge operators,

¹⁴ Decision of the Board of 17 June 2018. The final text, in line with the modalities of the scheme as set out in the two Implementing Decisions of the Government of Flanders, has been approved on 21 September 2018.

¹⁵ Approval by the decision of the Board of 28 March 2018. Executive summary available at: https://www.portofantwerp.com/sites/portofantwerp/files/imce/Ondernemingsplan%2018-20_executive_summary.pdf.

although the barge operators will also have to bear part of the additional costs (a fixed amount per container to be established in the Implementing Decision for Inland Waterways). According to the Belgian authorities the barge operators will benefit from the increased efficiencies and more frequent operations so they will be willing to pay this contribution. Given that the benefits of volume bundling will become more important over time (because of the increased use of the system but also because of the general problem of increasing road congestion which will increase the importance of alternative transport modes other than trucks), their contribution will be low in absolute terms at the start of the project but will gradually increase (cf. recital (34)).

- (20) According to estimates of the Belgian authorities the number of beneficiaries should not exceed 50.
- (21) Undertakings in difficulty, as defined in the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty¹⁶, are not eligible for the aid.

2.5. Duration

- (22) The aid will be granted only after the Commission has authorised the scheme¹⁷. Following approval of the Commission the aid may be granted for a period of 5 years, starting on 1 November 2018 until 31 October 2023.

2.6. Budget

- (23) The overall allocated budget of the aid scheme is EUR 70 million over the period of 5 years (EUR 14 million per year). EUR 6 million will be allocated to the support of rail, and EUR 8 million will be allocated to the support of inland waterways.
- (24) Half of the total aid amount will be provided by the Flemish Region, the other half of the financing of the measure will be provided by the three Port Authorities.

2.7. Eligible costs

- (25) The aid scheme has been designed as aid to offset the additional cost of volume bundling in the consolidation hubs, providing incentives to final users to make more use of rail and inland waterways for the transport of goods between Flemish seaports and the hinterland.
- (26) The expected modal shift, induced by the aid, will eventually lead to a reduction in external costs (cost to society, not directly borne by the transport user) thanks to less road congestion, fewer emissions, fewer accidents, etc. The eligible costs under the scheme therefore correspond to the part of the external costs which rail transport and transport by inland waterways can avoid compared to road transport.

¹⁶ OJ C 249, 31.07.2014, p. 1.

¹⁷ Article 35 bis of the Port Decree of 2 March 1999.

- (27) The quantification of the eligible costs under the notified scheme is based on the calculation of the marginal external cost differential between rail and inland waterway transport on the one hand and road transport on the other hand. The environmental costs of road, rail and inland waterways are based on the figures provided in the "Update of the Handbook on External Costs of Transport (2014)"¹⁸ (see Table 2 below), taking into account the following observations:
- (a) Since the international routes between seaports and the hinterland cover different types of areas (rural, urban, motorway, etc.), the most conservative parameters were opted for where possible.
 - (b) For rail, the marginal external costs are presented for trains with electric traction since this is the most common way of long haul rail freight transport¹⁹.
 - (c) Given the lack of figures regarding the marginal external costs of accidents, congestion and noise on inland waterways, they are assumed to be close to zero. This assumption can be accepted, in particular when comparing these costs with the marginal external cost of accidents, noise and congestion for rail and road.

Table 2: Marginal external cost comparison for different modes of transport (2010 figures)

	Road		Rail		Inland waterways	
	Marginal external cost	Assumptions	Marginal external cost	Assumptions	Marginal external cost	Assumptions
Air pollution	8.8 EURcent/ Vehicle-km	<i>Rigid HGV, > 32t, EURO III, Motorway, Belgium</i>	52.2 EURcent/ train-km	<i>Freight Electric, Rural, Load factor 500, Belgium</i>	5.6 EUR/1,000 tkm	<i>DPF²⁰, bulk, tanker, > 1000 tonnes, EU average</i>
Greenhouse gases	9.1 EURcent/ Vehicle-km	<i>Rigid HGV, > 32t, EURO III, Average, EU average</i>	0 EURcent/ train-km	<i>Freight Electric, Rural, Load factor 500, Belgium</i>	3.1 EUR/1,000 tkm	<i>DPF, bulk, tanker, 650-1000 tonnes, EU average</i>
Accidents	3 EURcent/ Vehicle-km	<i>HGV, Motorway, Belgium</i>	0.2 EUR/1,000 train-km	<i>EU average for freight rail</i>	0 EUR/1,000 tkm	<i>No figures available</i>
Congestion	30.3 EURcent/ Vehicle-km	<i>Rigid truck, Motorway, Rural, near capacity,</i>	0.5 EUR/1,000 train-km	<i>Marco Polo calculator, Belgium and the</i>	0 EUR/1,000 tkm	<i>No figures available</i>

¹⁸ Ricardo-AEA, Report for the European Commission: DG MOVE, "Update of the Handbook on External Costs of Transport", 8 January 2014. Available at: https://ec.europa.eu/transport/themes/sustainable/studies/sustainable_en.

¹⁹ In the Port of Antwerp there are also trains with Diesel traction. However, in proportion to the total route from the terminal to the hinterland (weighted average of 740 km), the share of port-internal transport is negligible (maximum 2%).

²⁰ Diesel Particulate Filter

		<i>Belgium</i>		<i>Netherlands</i>		
Noise	15.1 EUR/1,000 Vehicle-km	<i>HGV, Day, Thin, Suburban, Belgium</i>	116.5 EUR/1,000 train-km	<i>Freight train, Night, Rural, Belgium</i>	0 EUR/1,000 tkm	<i>No figures available</i>

Source: Update of the Handbook on External Costs of Transport (2014) + Excel tables

(28) To make the data in Table 2 comparable for rail, inland waterways and road transport in 2018 the figures have been adjusted for inflation and have been converted in the same unit, EUR per 1,000 tonne-km (tkm):

- (a) For road, the average tonnage per truck has been calculated based on the most recent Eurostat figures available for Belgium, which provides an average of 12.7 t/truck²¹.
- (b) For rail, the average tonnage per train has been calculated based on Eurostat figures, available for Belgium for the period 1970-1998. These data have been extrapolated to 2018, which gives an average of 497 t/train²².
- (c) For inland waterways, the average tonnage per barge of 699 t/barge is based on 2017 publicly available statistics for Belgium²³.

(29) The results of these conversions are presented in Table 3 below.

Table 3: Marginal external cost comparison for different modes of transport in EUR/1,000 tkm and adjusted for inflation (2018 figures)

	Road		Rail		Inland waterways	
	Marginal external cost	<i>Assumptions</i>	Marginal external cost	<i>Assumptions</i>	Marginal external cost	<i>Assumptions</i>
Air pollution	8.13	<i>Rigid HGV, > 32t, EURO III, Motorway, Belgium</i>	1.23	<i>Freight Electric, Rural, Load factor 500, Belgium</i>	6.58	<i>DPF, bulk, tanker, > 1000 tonnes, EU average</i>
Greenhouse gases	8.41	<i>Rigid HGV, > 32t, EURO III, Average, EU average</i>	0	<i>Freight Electric, Rural, Load factor 500, Belgium</i>	3.64	<i>DPF, bulk, tanker, 650-1000 tonnes, EU average</i>
Accidents	2.77	<i>HGV, Motorway,</i>	0.005	<i>EU average for freight</i>	0	<i>No figures</i>

²¹ Eurostat, 2016, Summary of annual road freight transport by type of operation (in million tonne-kilometer (tkm)) and type of transport (in million vehicle-kilometer (Veh-km)): Belgium: 30,865 million tkm and 2,429 million Veh-km.

²² Eurostat (New Cronos), European Commission, DG TREN Pocketbook, ECMT, "Load factors for rail freight transport, 1970-1998".

²³ De Waterweg, 2017 statistics.

		<i>Belgium</i>		<i>rail</i>		<i>available</i>
Congestion	28.00	<i>Rigid truck, Motorway, Rural, near capacity, Belgium</i>	0.59	<i>Marco Polo calculator, Belgium and the Netherlands</i>	0	<i>No figures available</i>
Noise	1.40	<i>HGV, Day, Thin, Suburban, Belgium</i>	0.28	<i>Freight train, Day, Thin, Rural, Belgium</i>	0	<i>No figures available</i>
Total cost	48.7		2.1		10.2	

- (30) From Table 3 it results that the external costs of road transport are significantly higher than the external costs of rail and inland waterways. The marginal external cost differential for 2018 calculated by the Belgian authorities on the basis of the figures of the Handbook on External Costs for Transport amounts to 0.047 EUR/tkm between road and rail, and 0.038 EUR/tkm between road and barges.
- (31) The marginal external cost figures in Table 2 and Table 3 have been compared with the figures provided by MIRA, the Flemish Environmental Reporting Institute²⁴. From this comparison it results that the marginal external costs of rail and inland waterways provided in the Handbook on External Costs of Transport are slightly lower than those provided by MIRA. The total marginal external cost of rail and barges transport according to MIRA is estimated at 2.9 EUR/1,000 tkm for rail (compared to 2.1 EUR/1,000 tkm) and 11.8 EUR/1,000 tkm for inland waterways (compared to 10.2 EUR/1,000 tkm) respectively. These differences can be explained by the different assumptions taken into account in the external cost calculations, such as for instance the type of transport area (urban, rural), diesel or electric traction for trains, etc.

2.8. Aid amount

2.8.1. Rail

- (32) Regarding the support for the consolidation of rail freight volumes, there will be a fixed amount of EUR 500 per train, independent of the number of containers that have to be consolidated²⁵. This amount should cover the additional costs related to the extra stop of the train and the technical vertical or horizontal (shunting) handlings in the consolidation hub.

²⁴ MIRA, "Internalisering van externe kosten van transport in Vlaanderen: actualisering 2016", Table 84: Marginale externe kosten euro per 100 tonkm – constante prijzen 2015.

²⁵ According to the Implementing Decision for Rail the subsidy will be equal for "rail connections" and for "rail shuttles" (or "feeder shuttles"). A connection is a rail route between a consolidation point in a Flemish port area and a terminal outside Belgium; a shuttle precedes or follows the rail connection, and operates on the first/last mile route in the port (or between Flemish ports), between the consolidation point and the maritime terminal.

2.8.2. *Inland waterways*

- (33) Regarding the support for the consolidation of freight volumes for barges, the aid scheme provides for different aid amounts per container, depending on the year (all aid amounts are degressive) and where the consolidation will take place (bundling of barge volumes in the port, bundling of barge volumes along the corridor in the hinterland, or bundling of volumes through truck-barge transfer in the hinterland):
- (a) If the volume bundling between barges takes place in the hinterland, the subsidy will amount to EUR [...] /container in year 1 of the scheme and will gradually decrease to EUR [...] /container in year 5.
 - (b) If the volume bundling between barges takes place in the port, the subsidy will amount to EUR [...] /container in year 1 of the scheme and will gradually decrease to EUR [...] /container in year 5.
 - (c) If the volume bundling occurs between barges and trucks in the hinterland ("transferia")²⁶, the subsidy will amount to EUR [...] /container in year 3 of the scheme and will gradually decrease to EUR [...] /container in year 5.
- (34) The barge operators that make use of the consolidation hubs in the ports and in the hinterland, will have to contribute to cover the additional costs of the volume bundling²⁷. As the subsidies per container are degressive, the contributions of the users of the consolidation hubs will increase over time. According to the Belgian authorities this does not undermine the effectiveness of the system, since the barge operators will have more and more incentives to use the system of volume bundling. This is because a minimum call size on the maritime terminals will be imposed, which will make it possible to achieve structural changes in the handling process in the maritime terminals: only barges with sufficiently large volumes will be allowed to call directly to the terminal. Initially the minimum call size imposed will be [...] containers, which will be increased to minimum [...] containers in year 3 and minimum [...] containers in year 5.
- (35) The amount of the subsidies have been calculated on the basis of the forecasted volumes that will be handled through the different consolidation concepts²⁸ so that the budgeted amount of the aid will not be exceeded. However, the Flemish Region keeps the flexibility to change the allocation of the support among the different consolidation concepts according to the volumes actually achieved.

²⁶ As of year 3 of the scheme the consolidation hubs in the hinterland will also be used for the transfer of truck cargoes to stimulate combined transport.

²⁷ The contributions to be paid by the users of the consolidation hubs in the ports will be higher than for the users of the consolidation hubs in the hinterland in order to stimulate more the volume bundling along the corridors in the hinterland. The contribution per container for consolidation in the port will increase from EUR [...] in year 1 to EUR [...] in year 5, while the contribution per container for consolidation in the hinterland will increase from EUR [...] in year 1 to EUR [...] in year 5. For the "transferia" hubs the contribution per container will increase from EUR [...] in year 3 to EUR [...] in year 5.

²⁸ "Different consolidation concepts" refers to the three systems of volume bundling explained in recital (33), namely the consolidation in the ports, the consolidation in the hinterland or "transferia".

2.9. Procedure for granting aid

2.9.1. Rail

- (36) Regarding the consolidation of rail freight volumes, the Flemish Region opted for an open system in which any rail operator is free to join the hub system. This rail operator will be compensated for the extra stop its trains will have to make in the consolidation hub in order to optimise the load factor of trains transporting goods to and from Flemish seaports.
- (37) Therefore, a necessary condition for granting the aid to the rail operator is that the rail operator makes part of its capacity available to other rail operators (a minimum capacity has to be made available to the consolidation hub). The sharing of the available capacity will be done according to a number of pre-set rules, to be established in the Implementing Decision for Rail.

2.9.2. Inland waterways

- (38) The selection of the terminals that will operate as consolidation hubs for barge volumes is done through a call for tender using an open and transparent procedure in which all interested parties are invited to submit their proposals. All relevant information about the consolidation system is published on the websites of the port authorities and other port related websites²⁹.
- (39) The specific selection criteria regarding location, opening hours, capacity, pricing, etc. are set out in the *"Guide for applicants for the selection of terminals to develop consolidation hubs for container barge transport in the port area and in the hinterland of the Port of Antwerp"*. This guide is sent to all the intermodal inland waterway terminals present in the ports and the corridors linked to the ports.
- (40) The aim of the tender procedure is to select at least one and maximum two consolidation hubs per waterway corridor in the hinterland, as well as to select two more consolidation hubs in the Port of Antwerp (one on the right bank and one on the left bank). The actual amount of the subsidy will be granted based on the number of containers processed in the consolidation hubs.

2.10. Rules on cumulation

- (41) Cumulation with any other European, national, regional or local public support is not permitted in relation to the same eligible costs if such cumulation results in exceeding the highest aid intensity applicable to this aid.
- (42) Regarding the aid to rail operators, Section 6 of the Railway Guidelines³⁰ establishes that if the intensity of the aid to the rail operator remains below 30% of the total cost of rail transport and below 50% of the eligible costs (i.e. the difference between the external costs for rail and road transport), there is a

²⁹ See for instance the website of the Port of Antwerp: <https://www.portofantwerp.com/en/optimising-container-barge#bundling>.

³⁰ Communication from the Commission - *Community guidelines on State aid for railway undertakings*, OJ C 184, 22.7.2008.

presumption that the aid amount is proportionate. Articles 7, 8 and 9 of the Implementing Decision for Rail will allow cumulation with other State aid granted through local, regional, national or EU resources, provided that these ceilings are respected.

- (43) Regarding the aid to the operators of the consolidation hubs for barges, the Belgian authorities proposed to apply the same aid ceilings as for the rail part of the notified aid scheme. Articles 9, 10 and 11 of the Implementing Decision for Inland Waterways will allow cumulation with other State aid granted through local, regional, national or EU resources, provided that the ceilings of maximum 30% of the total cost of rail transport and 50% of the eligible costs (i.e. the difference between the external costs for inland waterway and road transport) are respected.
- (44) For both the rail and inland waterway part of the notified aid scheme, the Flemish administration will request from the beneficiaries of the aid a declaration of honour that the rules on cumulation will be respected. In addition, inspections by the Flemish administration will also be organised, and beneficiaries will be requested to communicate to the Flemish government which other subsidies they receive.

2.11. Claw back mechanism and monitoring

- (45) Articles 7 and 8 of the Implementing Decision for Rail and Articles 9 and 10 of the Implementing Decision for Inland Waterways will provide that the activities eligible for support under the aid scheme will be monitored by the Flemish government.
 - (a) Regarding the consolidation of rail volumes, each quarter an evaluation of the actual volumes handled in the hub system compared to the budgeted volumes will be carried out.
 - (b) Regarding the consolidation of barges volumes, the amount of subsidies will be monitored using the existing information technology systems of the Port Authorities involved. For example, Antwerp Port Authority will use its Barge Traffic System, in which all container barge calls must obligatorily be registered. In addition there will be various spot checks.
- (46) Articles 9 and 11 of the Implementing Decisions for Rail and Inland Waterways respectively will also stipulate that any aid which has been overpaid or received wrongly has to be paid back to the Flemish government.

3. ASSESSMENT OF THE AID SCHEME

3.1. Existence of aid

- (47) 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 shall, in so far as it affects trade between Member States, be incompatible with the internal market".
- (48) The criteria laid down in Article 107(1) TFEU are cumulative. Therefore, in order to determine whether the notified measure constitutes State aid within the

meaning of Article 107(1) TFEU all of the following conditions need to be fulfilled. The financial support must:

- (a) be granted by the State or through State resources;
- (b) favour certain undertakings or the production of certain goods;
- (c) distort or threaten to distort competition; and
- (d) affect trade between Member States.

(49) The notified measure fulfils the four cumulative conditions for the following reasons:

- (a) State resources and imputability: The notified measure involves financing granted by the Flemish government and the Port Authorities to the beneficiaries as defined in recitals (18) and (19) above. All Port Authorities involved in the scheme are limited liability companies of public law, constituted by the local government and having public shareholders. They have to a large extent legal and financial independence but the Port Decree establishes also some control by the Flemish government. This control consists of the appointment of a regional Port Commissioner by the Flemish Government. The Port Commissioner checks whether the decisions of the board of directors of the Port Authorities are in accordance with the Port Decree and with decisions by the Flemish Government³¹. The aid granted by the Port Authorities is based on public funds. Therefore, both the financing by the Flemish government and the Port Authorities involve the use of State resources. The Commission concludes therefore that the measure is imputable to the State.
- (b) Economic advantage: The measure reduces the costs of the volume bundling that the beneficiaries of the aid (rail operators and operators of the barge consolidation hubs) would normally have to bear. The Commission concludes therefore that the measure confers an economic advantage.
- (c) Selectivity: The public financing is directed at certain eligible undertakings providing freight transport services (rail operators and operators of the barge consolidation hubs). The Commission concludes therefore that the measure is selective in nature.
- (d) Distortion of competition and effect on trade: When aid granted by a Member State strengthens the position of an undertaking compared with other undertakings competing on intra-EU trade, the latter must be regarded as affected by that aid. It is sufficient that the recipient of the aid competes with other undertakings on markets open to competition. In the

³¹ Cf. Article 23 of the Port Decree of 2 March 1999 stipulates that "*the regional Port Commissioner can suspend the implementation of any decisions of the administrative bodies which he considers to be in contravention of this Flemish Parliament Act, of the legal provisions regarding the financing of port investments, of the decisions taken in implementation of this Flemish Parliament Act or of the agreements referred to in Article 40*".

present case, the notified measure strengthens the position of the beneficiaries of the aid in relation to other undertakings active in the freight transport markets for rail and inland waterways which are open to competition. The Commission concludes therefore that the measure is liable to distort competition and to affect trade between Member States.

- (50) On the basis of the above considerations, the Commission concludes that the notified aid scheme constitutes State aid within the meaning of Article 107(1) TFEU.

3.2. Lawfulness of the aid

- (51) As described in paragraphs (12) and (22), the legal bases contain a stand-still clause whereby the aid can be granted only after the Commission has authorised it. Belgium has not yet put the planned scheme into effect. Thus, Belgium is in compliance with the obligation laid down in Article 108(3) TFEU.

3.3. Compatibility of the aid

3.3.1. Compatibility of the aid for inland waterways

- (52) Article 93 TFEU provides that "*aids shall be compatible with the Treaties if they meet the needs of coordination of transport [...]*". The concept of "coordination of transport" used in that provision has a significance which goes beyond the simple fact of facilitating the development of an economic activity. It implies an intervention by public authorities which is aimed at guiding the development of the transport sector in the common interest.
- (53) As expressed in the Commission's White Paper on Transport Policy, "the fundamental principle of infrastructure charging is that the charge for using infrastructure must cover not only infrastructure costs, but also external costs, that is, costs connected with accidents, air pollution, noise and congestion". This approach has been applied in a number of Commission's State aid decisions over the last years³². It also reflects the fact that, in view of Articles 3 TEU and Articles 6 and 191 TFEU³³, the environmental objectives of the Treaty have to be pursued *inter alia* through the Common Transport Policy.
- (54) The policy to promote inland waterway transport in Europe is part of the NAIADES II Action Programme³⁴. A European Strategy for Low-Emission

³² See, e.g., Commission decision of 24 November 2016, SA.44627 (2016/N), Italy - '*Ferrobonus*' - *incentive for rail transport*, not yet published; Commission 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 decision of 26 May 2015, SA.40404 (2014/N), France and SA.39606 (2015/N), Italy - *Régime d'aide au service transitoire d'autoroute ferroviaire alpine*, OJ 66 of 19.2.2016, p. 2; 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 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 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 decision of 5 July 2005, SA. 17724 (N 249/04), Belgium - *Régime d'aide pour le transport combiné*, OJ C 280 of 12.11.2005, p. 9.

³³ Until 30 November 2009 – Articles 2, 6 and 174 EC Treaty.

³⁴ See https://ec.europa.eu/transport/modes/inland/promotion_en.

Mobility³⁵ adopted by the Commission on 20 July 2016 reiterates the necessity of incentivizing a shift towards lower emission transport modes such as inland waterways, short-sea shipping and rail.

- (55) The notified measure falls within the scope of Article 93 TFEU and has therefore to be assessed on that basis.
- (56) According to a constant decisional practice of the Commission, aid for the coordination of transport will be deemed compatible with the internal market under Article 93 TFEU if the following conditions are met:
- (a) the aid must contribute to a well-defined objective of common interest;
 - (b) the aid must be necessary and provide an incentive effect;
 - (c) the aid must be proportionate;
 - (d) access to the infrastructure in question must be open to all users on a non-discriminatory basis; and
 - (e) the aid must not lead to distortions of competition contrary to the common interest.
- (57) The Commission will therefore assess whether these five criteria are met in the present case, for the aid scheme regarding inland waterways to be considered compatible with the internal market on the basis of Article 93 TFEU.

Contribution to a well-defined objective of common interest

- (58) The European Union has for some time pursued a policy of achieving a balanced intermodal transport system and fostering the competitiveness of intermodal transport vis-à-vis road usage is part of this policy. The aim of the Union's intermodal transport policy is to achieve a modal shift from road freight to other more environmentally-friendly modes of transport.
- (59) Directive 92/106/EEC aim explicitly at fostering the development of combined transport as confirmed at the fourth recital of that directive. Recent evaluation of Directive 92/106/EEC carried out by the Commission underlined that combined transport helps reduce negative externalities through a modal shift³⁶.
- (60) The White Paper on Transport Policy 2011 encourages the use of rail and other environmentally-friendly modes of transport in order to become competitive alternatives to road haulage.
- (61) The Commission recognises that it is in the first place the task of market operators to improve intermodal transport within markets, to which access is free and where the rules of free competition and supply and demand prevail. However, in order to fully unleash the potential of intermodal transport, the willingness to take risks

³⁵ COM (2016) 501 final.

³⁶ Commission Staff Working document of 20.4.2016 REFIT Ex-post evaluation of Combined Transport Directive 92/106/EEC Final Report (SWD(2016) 140 final), available at <https://ec.europa.eu/transparency/regdoc/rep/10102/2016/EN/10102-2016-140-EN-F1-1.PDF>.

inherent in switching from road to the alternative modes may need to be stimulated.

- (62) The reduction of cost difference existing between road and intermodal transport is directed at attaining an objective of common interest in that it contributes to enhancing the competitiveness of combined transport and encouraging a modal shift from road to inland-waterway transport.
- (63) Transport by inland waterways generates lower negative externalities than road transport in terms of accident and pollution costs, noise, climate costs or congestion costs. In general this transport mode also has spare capacity and can therefore play a role in shifting traffic away from the congested parts of the road networks.
- (64) The Commission thus concludes that the measure regarding inland waterways contributes to reducing air pollution and road congestion and is therefore considered to contribute to an objective of common interest.

Necessity and incentive effect of the aid

- (65) Aid must be necessary to achieve the objective of common interest, and it must have an incentive effect, i.e. the aid must change the behaviour of the beneficiary in such a way that it engages in additional activity, which it would not carry out without the aid or that it would carry out in a restricted or different manner, so that the objective of common interest would not be achieved.
- (66) As stated in recital (5), trucks remain the main transport mode for freight traffic between the Flemish seaports and the hinterland. Regarding the consolidation of barges volumes, structural effects of the aid measure will be guaranteed since almost all barge operators currently face the problem of small call sizes. As the Flemish government will impose minimum call sizes on the maritime terminals, only barges with sufficiently large volumes will be allowed to call directly to the terminal. As explained in recital (34), the installation of minimum call sizes will make the volume bundling attractive for the barge operators.
- (67) In the case of volume bundling in the consolidation hubs for barges, the subsidy is paid to the operators of the consolidation hubs, not to the barge operators, and the barge operators will also bear part of the additional cost of volume bundling. Nevertheless, as explained in recital (19), the amount (per container) that barge operators have to contribute to the system is capped to the amount that will be indicated in Articles 3 and 5 of the Implementing Decision for Inland Waterways (see footnote 27 of the present decision for the amounts to be contributed by the barge operators). This implies that the operators of the consolidation hubs cannot ask more than this fixed amount per container from the barge operators and they cannot charge them more for the additional activity of volume bundling. This mechanism guarantees the pass-on of the subsidy from the operators of the consolidation hubs to the barge operators. It also guarantees that the end users (shippers) will not bear the (total) additional costs of the volume bundling.
- (68) The Commission considers that in this specific case there is a need for State intervention, since market forces would not ensure the desired modal shift by themselves.

- (69) The Commission therefore concludes that aid under the scheme will be necessary to foster a modal shift away from road transport to inland waterway transport and will provide an incentive to the beneficiaries of the aid, but also to the end users of transport by barges, to make use of the consolidation system, which they would not have made in the absence of the aid.

Proportionality of the aid

- (70) The Flemish Region adopted a subsidy scheme based on the number of containers in the system. However, as explained in recital (23), the total amount of the aid is capped upfront by a yearly maximum of EUR 8 million. This implies that whenever this maximum amount of aid has been reached the pay-out of aid to the consolidation hub operators will stop. Therefore the number of containers transported by barge, for which the aid will be granted under the scheme, is capped and constrained by the resources available in the budget.
- (71) The Belgian authorities committed to respect the thresholds set out in the Railway Guidelines for the barges part of the scheme (see recitals (42) and (43)). Therefore, the maximum aid amount that will be granted under the notified scheme will not exceed 50% of the eligible costs and 30% of the total costs of transport (cf. Articles 10 and 11 of the Implementing Decision for Inland Waterways) and has been quantified for inland waterways on the basis of the calculations set out in the recitals below.
- (72) The Commission observes that there is a presumption of necessity and proportionality of the aid when the intensity of the aid stays below those thresholds. Thus the Commission considers that in the present case it is possibly to apply those thresholds for the evaluation of the proportionality of the aid scheme for inland waterways in the context of the compatibility assessment.
- (73) To compare the amount of aid with the **eligible costs**, the total external cost difference over one year between road and inland waterways is calculated³⁷. In a first step the total volumes to be handled in the consolidation hubs are estimated. In the first year the number of additional containers to be handled thanks to the volume bundling initiative are expected to correspond to [...] moves³⁸ ([...] moves in the port consolidation hubs and [...] moves in the hinterland). The number of containers is converted into a standardised measure for cargo freight, namely into TEU³⁹. An additional [...] moves correspond to an additional [...] TEU⁴⁰ or [...] tonnes⁴¹ handled in the consolidation hubs. Given that the barges have an average tonnage of [...] tonnes or [...] TEU, the estimated number of barges (taking into account a load factor of [...]%) in the hub system is [...] (rounded figure).

³⁷ Figures in the text are rounded for presentational purposes.

³⁸ A "move" is the activity of loading or unloading a container via the quay in the port to an inland barge or to another transport mode.

³⁹ TEU is a unit of cargo capacity and stands for "Twenty-foot Equivalent Unit".

⁴⁰ TEU-ratio = 1.53 TEU/move. Port of Antwerp statistics.

⁴¹ Average tonnage per TEU = 11.77 t/TEU. Port of Antwerp statistics.

- (74) The representative route for which the aid scheme applies is the distance between the Port of Antwerp and Nijmegen, which is 179 km⁴². Therefore the total number of barge-kilometer in the system is [...] barge-km. Converting the marginal external cost differential between road and inland waterways into EUR/barge-km provides a difference of 26.9 EUR/barge-km. Therefore the total external cost savings between road and rail thanks to the hub system amount to EUR [...].
- (75) The yearly subsidy to all consolidation hubs for barges of EUR 8 million is therefore below the threshold of 50% of the total eligible costs per year (EUR [...]). Given the number of TEU in the system is expected to increase over the period of 5 years, while the maximum yearly aid amount remains the same, the threshold will be met in each of the 5 years of the aid scheme.
- (76) Regarding the external cost savings, a **sensitivity analysis** based on the figures reported by MIRA (see recital (31)) has been performed. On the basis of these slightly more conservative figures regarding the external cost savings of inland waterways (the external cost difference between road and barges transport based on the MIRA data is only 25.8 EUR/barge-km instead of 26.9 EUR/barge-km) the threshold of 50% of the eligible costs (EUR [...]⁴³) remains respected (EUR 8,000,000 < EUR [...]).
- (77) To calculate the **total transport cost** on the representative route Antwerp-Nijmegen, the total cost related to the consolidation hubs for barges is added to the hinterland transport cost. The total cost of the consolidation hubs consists of the handling costs in the port consolidation hubs (EUR [...]) plus the handling costs of the consolidation hubs in the hinterland (EUR [...]). These additional bundling costs are then added to the hinterland transport cost based on the Antwerp-Nijmegen connection. The long haul cost per container for transport by barge is EUR 250. With [...] containers in the system in the first year, the hinterland transport cost is estimated at EUR [...].
- (78) Adding the common transport costs and the additional costs of bundling the total transport cost of the containers in the consolidation hub system is EUR [...] during the first year of the scheme. The subsidy of EUR 8 million per year is therefore below the maximum threshold of 30% of the total transport cost, namely EUR [...]. Similarly as for the eligible cost calculation, given the number of containers in the system is expected to increase over the period of 5 years, while the maximum yearly amount of the aid remains the same, the threshold of the aid being below 30% of total transport costs will be met in each of the 5 years of the aid scheme (cf. Table 4).
- (79) The relevant figures and thresholds are summarised in Table 4 below.

Table 4: Overview eligible cost and total transport cost thresholds for inland waterways

	Year 1	Year 2	Year 3	Year 4	Year 5

⁴² This is lower than the average distance in the system of [...] km. So a conservative approach has been taken.

⁴³ The total number of barge-km in the system for year 1 ([...] barge-km) times the external cost saving of 25.8 EUR/barge-km. Differences in the results of the calculations are due to rounding.

Moves/containers	[...]	[...]	[...]	[...]	[...]
TEU	[...]	[...]	[...]	[...]	[...]
Tonnage (t)	[...]	[...]	[...]	[...]	[...]
Barges in the system	[...]	[...]	[...]	[...]	[...]
Barge-kms in the system	[...]	[...]	[...]	[...]	[...]
External cost differential barge/road (EUR/train-km)	26.9	26.9	26.9	26.9	26.9
Total external cost savings (Eligible costs) (EUR) (*)	[...]	[...]	[...]	[...]	[...]
Total transport cost (EUR) (**)	[...]	[...]	[...]	[...]	[...]
Maximum yearly aid amount for barges concept (EUR)	8,000,000	8,000,000	8,000,000	8,000,000	8,000,000
Eligible cost threshold: 50% of (*)	[...]	[...]	[...]	[...]	[...]
Transport cost threshold: 30% of (**)	[...]	[...]	[...]	[...]	[...]

- (80) Consequently, the proposed aid intensity of eligible costs as well as the proposed aid intensity of total transport costs under the barges part of the notified aid scheme can be considered proportionate to the intended objective of encouraging a modal shift.

Non-discriminatory access

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

No distortions of competition

- (82) The notified scheme is designed to reduce imbalances between transport by inland waterways and road transport from Flemish seaports to their hinterland in Belgium and the neighbouring countries.
- (83) The Flemish Region, in particular the region around Antwerp, is highly congested, and characterised by a net preponderance of road transport over rail, as shown in recital (4) above. Without structural measures giving incentives to end-users to shift to the use of alternative less polluting transport modes, these end-users will keep on using trucks since it is a more cost-competitive (assuming the external costs of road transport are not internalised), and more flexible mode of transport.

- (84) Consequently, the Commission concludes that the present aid scheme is unlikely to distort competition to an extent contrary to the common interest under Article 93 TFEU.

Overall conclusion regarding the compatibility of the aid for inland waterways

- (85) Since the aid scheme is necessary to provide incentives to promote a modal shift from road to inland waterways, is proportionate, is granted on non-discriminatory terms, is transparent and limited in time, is expected to contribute to a well-defined objective of common interest and does not give rise to distortions of competition, the Commission concludes that the notified aid scheme is compatible with the internal market pursuant to Article 93 TFEU.

3.3.2. Compatibility of the aid for rail

- (86) Regarding rail, the rules for the application of Article 93 TFEU (aid for the coordination of transport) have been set out in Section 6 of the Railway Guidelines.
- (87) According to Article 93 TFEU, aid that meets the needs of transport coordination is considered compatible with the Treaty. Point 96 of the Railway Guidelines provides that for a given aid measure to be considered to “meet the needs” of transport coordination it has to be necessary and proportionate to the intended objective. Furthermore, the distortion of competition which is inherent in aid must not jeopardise the general interests of the European Union.
- (88) According to point 98 of the Railway Guidelines, aid for the needs of transport coordination can take several forms including aid for reducing external costs that is designed to encourage a modal shift to rail because it generates lower external costs than other modes such as road transport.
- (89) In accordance with the Commission's previous decision-making practice⁴⁴, the principles set out in the Railway Guidelines concerning aid for reducing external costs apply also when the direct beneficiaries of the scheme are not railway undertakings. The compatibility assessment of the present scheme regarding rail will therefore be carried out on the basis of Section 6 of the Railway Guidelines and of its subsection 6.3 concerning aid for reducing external costs (points 100 to 112).

Eligible costs

- (90) 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 to competing transport modes, in this case road transport.

⁴⁴ Commission decision of 29 April 2016 SA.41033 (2016/N), Italy - *Integrated transport scheme in the Province of Trento*, OJ C/220/2016; Commission 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 66/2016; Commission decision of 13 June 2014, SA.38152 (2014/N), Italy - *Aid in favour of rail freight transport in Emilia Romagna region*, OJ C/282/2014; Commission decision of 16 December 2011, SA.32603 (2011/N), Italy - *Subsidy scheme "Ferrobonus" for combined transport*, OJ C/88/2012.

- (91) Point 105 of the Railway Guidelines requires a transparent, reasoned and quantified comparative cost analysis between rail transport and the alternative options based on other transport modes. As explained in recitals (27) to (31) the external cost comparison for different modes of transport (road, rail, inland waterways) has been based on publicly available data published in the "Update of the Handbook on External Costs of Transport (2014)". Also the sensitivity analysis has been based on data provided by MIRA, the Flemish Environmental Reporting Institute, an official and reliable environmental reporting authority in Flanders. The Commission considers that the data used in the comparative cost analysis are transparent and reliable, and therefore fulfil the requirement of point 105 of the Railway Guidelines. The calculation methodology of the external cost differential between road and rail on the representative routes involved in the aid scheme has been explained by the Belgian authorities in their submissions to the Commission, and is set out in recitals (96) to (103) below. The Commission considers that the calculation methodology used by the Belgian authorities is reasoned and quantified, and therefore fulfils the requirement of point 105 of the Railway Guidelines.
- (92) After having analysed the data provided by the Belgian authorities, which are presented in Section 2.7, the Commission concludes that the eligible costs of the scheme correspond to the part of the external costs which rail transport makes possible to avoid compared with road transport.

Necessity and proportionality

- (93) 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. This is so when the intensity of the aid to rail operators stays below 50% of the eligible costs and below 30% of the total cost of rail transport.
- (94) The Belgian authorities committed to respect the thresholds set out in the Railway Guidelines for the rail part of the scheme. Therefore, the maximum aid amount that will be granted under the notified scheme will not exceed 50% of the eligible costs and 30% of the total costs of transport (cf. Articles 8 and 9 of the Implementing Decision for Rail) and has been quantified for rail on the basis of the calculations set out in the recitals below. The calculations of the external cost differential between road and rail have been based on the expected external cost savings of transport by rail on a representative route between the Flemish ports and the hinterland, Antwerp-Duisburg (229 km)⁴⁵.
- (95) The Flemish Region adopted a subsidy system based on the number of trains rather than a system based on tonne-kilometre. As explained in recital (23) the maximum total amount of aid is determined in advance on a yearly basis, namely EUR 6 million. This implies that whenever this maximum amount has been reached the pay-out of aid to the rail operators in the system will stop. Therefore the number of trains, for which aid will be granted under the scheme, is capped and constrained by the resources available in the budget.

⁴⁵ The distance for rail transport between the Port of Antwerp and Duisburg Hafen/Railway station has been determined based on the Ecological Transport Information Tool (EcoTransIt). <http://www.ecotransit.org/basis.en.html>.

- (96) To compare the amount of aid with the **eligible costs**, the total external cost difference over one year between road and rail is calculated⁴⁶. In a first step the volumes to be handled in the rail consolidation hubs are predicted. These are the number of containers (expressed in TEU) transported via rail (instead of road) thanks to the modal shift due to the hub system. For the first year this amounts to [...] TEU (rounded figure), which is equivalent to [...] tonnes⁴⁷. Given that a train has an average tonnage of 497 tonnes, the estimated number of trains in the system is [...] (rounded figure).
- (97) The representative route for which the aid scheme applies is the distance between the Port of Antwerp and Duisburg, which is 229 km⁴⁸. Therefore the total number of train-kilometer in the system is [...] train-km. Converting the marginal external cost differential between road and rail into EUR/train-km provides a difference of [...] EUR/train-km. Therefore the total cost savings between road and rail amount to EUR [...].
- (98) The yearly subsidy to all rail operators and trains of EUR 6 million is therefore below the threshold of 50% of the total eligible costs per year (EUR [...]). Given the number of TEU in the system is expected to increase year by year over the period of 5 years, while the maximum yearly amount remains the same, the threshold will be met in each of the 5 years of the aid scheme (cf. Table 5).
- (99) Regarding the external cost savings, a **sensitivity analysis** based on the figures reported by MIRA (see recital (31)) has been performed. On the basis of these slightly more conservative figures regarding the external cost savings of rail (the external cost difference between road and barges transport based on the MIRA data is only [...] EUR/barge-km instead of [...] EUR/barge-km) the threshold of 50% of the eligible costs (EUR [...]⁴⁹) remains respected (EUR 6,000,000 < EUR [...]).
- (100) To calculate the **total transport cost** on the representative route Antwerp-Duisburg, the total cost related to the consolidation hubs has been added to the hinterland transport cost. The total cost of the consolidation hub per year consists of the transport cost of the shuttles between the port and the hub (EUR [...]), the connection point cost (EUR [...]) and the handling cost of the consolidation hub (EUR [...]). These costs are then added to the hinterland transport cost based on the Antwerp-Duisburg connection. The long haul cost per TEU is EUR 125. With [...] TEU in the hubsystem in the first year, the hinterland transport cost is estimated at EUR [...].
- (101) Adding all these costs results in a total transport cost of EUR [...] during the first year of the scheme. The subsidy of EUR 6 million per year is therefore below the maximum threshold of EUR [...]. Similarly as for the eligible cost calculation,

⁴⁶ Figures in the text are rounded for presentational purposes.

⁴⁷ Average tonnage per TEU = 11.77 t/TEU. See Port of Antwerp statistics.

⁴⁸ A conservative approach has been followed since the weighted (by TEU) average distance calculated by the Flemish Region of all routes potentially involved in the system for which the scheme applies is 740 km.

⁴⁹ The total number of train-km in the system for year 1 ([...] train-km) times the external cost saving of [...] EUR/barge-km. Differences in the results of the calculations are due to rounding.

given the number of trains in the system is expected to increase year by year over the period of 5 years, while the maximum yearly amount of the aid remains the same, the threshold of the aid being below 30% of total transport costs will be met in each of the 5 years of the aid scheme (cf. Table 5).

(102) The relevant figures and thresholds are summarised in Table 5 below.

Table 5: Overview eligible cost and total transport cost thresholds for rail

	Year 1	Year 2	Year 3	Year 4	Year 5
TEU	[...]	[...]	[...]	[...]	[...]
Tonnage (t)	[...]	[...]	[...]	[...]	[...]
Trains in the system	[...]	[...]	[...]	[...]	[...]
Train-kms in the system	[...]	[...]	[...]	[...]	[...]
External cost differential rail/road (EUR/train-km)	[...]	[...]	[...]	[...]	[...]
Total external cost savings (Eligible costs) (EUR) (*)	[...]	[...]	[...]	[...]	[...]
Total transport cost (EUR) (**)	[...]	[...]	[...]	[...]	[...]
Maximum yearly aid amount for rail concept (EUR)	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000
Eligible cost threshold: 50% of (*)	[...]	[...]	[...]	[...]	[...]
Transport cost threshold: 30% of (**)	[...]	[...]	[...]	[...]	[...]

(103) Consequently, the proposed aid intensity of eligible costs as well as the proposed aid intensity of total transport costs under the rail part of the notified aid scheme can be considered proportionate to the intended objective of encouraging a modal shift.

Other conditions related to necessity and proportionality

(104) According to point 110 of the Railway Guidelines, the aid has to have the effect of encouraging the modal shift to rail and therefore in principle needs to be reflected in the price demanded from the shippers, that make the choice between rail and more polluting transport modes such as road.

(105) In the case of providing incentives for the increased bundling of rail transport volumes, the aid will be directly paid to the users of the hub system, the rail operators (not to the consolidation hubs). Therefore, the rail operators will be directly compensated for the additional cost of having an extra stop in the consolidation hub, necessary to bundle volumes of freight, and the end users will not bear the extra costs of the volume bundling.

- (106) The Commission therefore concludes that point 110 of the Railway Guidelines is met for the rail part of the aid scheme.
- (107) 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.
- (108) According to the Belgian authorities, the aid scheme will induce sufficient incentives to make rail operators willing to join the system, hereby optimising and increasing in a structural way the volumes transported by rail.
- (109) The Port of Antwerp already uses the shuttle system in the port⁵⁰. [...] In addition, since the shuttle trains are currently not fully loaded, the aid will also allow to optimise the use of the existing shuttle services. The optimisation of existing shuttle services will guarantee the financial sustainability of the rail volume bundling concept and will increase the start-up of new shuttle services.
- (110) The Commission therefore concludes that point 111 of the Railway Guidelines is met for the rail part of the aid scheme.
- (111) 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.

The aid scheme is granted on non-discriminatory terms, transparent and limited in time

- (112) The notified scheme does not set out any restrictive conditions based on the nationality of the undertaking or other characteristics. The aid is therefore granted on non-discriminatory terms.
- (113) The notified scheme is transparent, as the conditions for benefiting from it are clearly stipulated in the relevant legal acts.
- (114) Finally, the aid scheme is limited in time, it will apply for a period of five years. This duration is in line with the time limits laid down in point 97 of the Railway Guidelines. In addition the aid amounts per transported container are degressive over time.

No distortions of competition

- (115) 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".
- (116) The notified scheme is designed to reduce imbalances between transport by rail and road transport from Flemish seaports to their hinterland in Belgium and the neighbouring countries.

⁵⁰ The container volumes transported on these shuttles are limited to [...] % of the total envisaged container volumes which will circulate in the hub system.

- (117) The Flemish Region, in particular the region around Antwerp, is highly congested, and characterised by a net preponderance of road transport over rail, as shown in recital (5) above. Without structural measures giving incentives to end-users to shift to the use of alternative less polluting transport modes, these end-users will keep on using trucks since it is a more cost-competitive (assuming the external costs of road transport are not internalised), and more flexible mode of transport.
- (118) For the rail part of the scheme, the system is open to any rail operator that wants to join the system. In addition, the system targets the transport flows between the Flemish ports and the hinterland. Therefore, the market for short sea shipping will not be affected by the aid scheme.
- (119) Any potential effect on trade will also be limited by the fact that the aid scheme merely targets the current and future flows of goods to and from Flemish ports. The choice to have containers handled in a particular European port remains with the market parties, i.e. the shippers.
- (120) 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.

Overall conclusion regarding the compatibility of the aid for rail

- (121) Since the aid scheme is necessary to provide incentives to promote a modal shift from road to rail, is proportionate, is granted on non-discriminatory terms, is transparent and limited in time, is expected to contribute to a well-defined objective of common interest and does not give rise to distortions of competition, the Commission concludes that the notified aid scheme meets all the criteria laid out in the Section 6 of the Railway Guidelines and is therefore compatible with the internal market pursuant to Article 93 TFEU.

3.3.3. Transparency

- (122) The Belgian authorities confirmed that they will ensure the publication of the relevant information on the notified scheme through the EU State aid database fed by the Member States⁵¹.
- (123) It is important that Member States provide the Commission with the relevant information on the impact of the aid schemes supporting combined transport on the use of the different transport modes and the environment, thus allowing a proper description of the market developments in the combined transport sector. The Flemish Region together with the Port Authorities foresee a yearly evaluation of the scheme to detect if each sub-concept (rail versus inland waterways) reaches the estimated results. A clear monitoring of the modal shift volumes will be available based on the information requested from the rail operators on a quarterly basis, the real-time port statistics for barge operators (barge traffic system of the Port of Antwerp) and the general modal shift figures that are made public each year.

⁵¹ Cf. <https://webgate.ec.europa.eu/competition/transparency/public/search/home/>

4. CONCLUSION

- (124) The Commission has accordingly decided not to raise objections to the notified aid scheme 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.
- (125) 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>.

Your request should be sent electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully
For the Commission

Margrethe VESTAGER
Member of the Commission