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Subject: State Aid SA.55507 (2019/N) – Austria – Amendment of the State aid scheme for the provision of rail freight services in certain forms of production in Austria 2018-2022, in relation to the rolling highway in mountainous regions

Sir,

1. PROCEDURE

- (1) By electronic notification of 8 November 2019, Austria notified the European Commission (“Commission”), in accordance with Article 108(3) of the Treaty on the Functioning of the European Union (“TFEU”), of their intention to modify an existing aid scheme (“the initial scheme”).
- (2) The initial scheme was first approved by the Commission in 2012 for the period 2013 to 2017 (“2012 Decision”)¹. The scheme was then prolonged by the Commission in 2017 for the period of 2018-2022 (“2017 Decision”)².

¹ Commission Decision of 25.07.2012 in State aid SA.33993, Aid for the provision of certain combined transport services by rail in Austria, OJ C 263 of 31.08.2012, p. 1.

² Commission Decision of 25.10.2017 in State aid SA.48390 – Austria – Prolongation of aid scheme for transport of goods by rail in certain combined transport services for 2018-2022, OJ C 158 of 4.05.2018, p. 5.

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2. DESCRIPTION OF THE MEASURE

2.1. Objective of the aid measure

- (3) A detailed description of the initial scheme is set out in recitals (2) to (8) in the 2012 Decision. The objectives of the initial scheme are to support rail services in the three forms of freight rail transport, namely single wagonload traffic, unaccompanied combined transport and accompanied combined transport (the so-called “rolling highway” or "RoLa") by compensating for the additional costs faced by rail transport but not by road transport.
- (4) RoLa means the transportation of lorries by rail on low-loader wagons, whereby the lorries drive onto the wagon at the start and drive off it at the end of their rail journey.
- (5) The amendment of the scheme applies to RoLa in mountainous regions. In future, the Austrian authorities will base the calculation of the aid amounts for RoLa in mountainous regions on increased external costs caused by road transport in mountainous regions. The higher elevated costs are caused for instance by a higher emission level due to gradients and altitude or a higher concentration of air pollutants due to topographical and meteorological conditions.
- (6) As the total amount of freight transport crossing Austria and the Alps is increasing rapidly, additional efforts to maintain and increase the share of rail freight transport must be made. The objective of the amendment is to mirror the elevated costs of road transport in mountainous regions compared to non-mountainous regions and thus to allow for higher aid amounts in mountainous regions to address the stagnating and even decreasing use of RoLa.

2.2. Legal basis

- (7) The national legal basis for the scheme are the Special Guidelines on aid to certain types of rail freight transport in Austria from 2018 to 2022 (*Sonderrichtlinien Beihilfeprogramm für die Erbringung von Schienengüterverkehrsleistungen in bestimmten Produktionsformen in Österreich 2018 bis 2022*)³ and the General Guidelines on subsidies from State budget (*Allgemeine Rahmenrichtlinien für die Gewährung von Förderungen aus Bundesmitteln*)⁴.

2.3. Beneficiaries

- (8) Austria confirms that as in the initial scheme the aid remains available to any railway undertaking registered in an EEA Member State offering or planning to offer rail freight transport services in Austria on equal and non-discriminatory terms.
- (9) The beneficiaries, which remain unaltered under the present scheme, are described in more detail in recitals (11) to (13) of the 2012 Decision.

³ Available at: <https://www.bmvit.gv.at/themen/eisenbahn/foerderungen/sgv/call.html>

⁴ BGBl. II 208/2014.

- (10) Railway undertakings, which are considered to be in difficulty within the meaning of the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty⁵, are not eligible for support under the scheme.
- (11) Likewise, railway undertakings, which are subject to a recovery order resulting from a decision of the Commission declaring State aid incompatible with the internal market of the European Union, are not eligible for support under the scheme.
- (12) The scheme will be published on the website of the Federal Ministry for Transport, Innovation and Technology (*Bundesministerium für Verkehr, Innovation und Technologie*) under the following address: <https://www.bmvit.gv.at/verkehr/eisenbahn/foerderung/sgv/index.html>.

2.4. Modifications to the initial scheme

- (13) The main features of the initial scheme and its objective remain unaltered. The modifications to the scheme remain limited to a differentiated calculation of the external costs for road transport in relation to the RoLa in three mountainous regions (Brenner axis, Tauern axis and Pyhrn-Schober axis) and on this basis the increase of the budget.

a. Duration and budget

- (14) The modifications and hence the revised scheme will enter into force on 1 January 2020 and stay in force until 31 December 2022, the date of expiry of the initial scheme. The duration of the scheme, as established in the 2017 decision, thus, remains unaltered.
- (15) In 2016 Austria conducted a study (“2016 Study”) to calculate the eligible costs and thus the maximum aid amount per train kilometre for support for the RoLa. According to the 2016 Study, which constituted the basis for the 2017 Decision, the maximum aid for RoLa was EUR 21.6 per 1,000 tonne-kilometres. The additional study conducted by Austria in 2019 (“2019 Study”) applies a differentiated method for calculating the external costs in mountainous regions which increases the maximum possible aid for the Rola to EUR 36.9 per 1,000 tonne-kilometres.
- (16) Therefore, the budget of the scheme is amended accordingly. During the whole duration of the scheme (2018-2022), the modified budget will be in total EUR 805.2 million instead of the initial amount of EUR 600 mio. From 2020, the annual budget will be EUR 188.4 million instead of the initial annual budget of EUR 120 mio, as presented in Table 1:

⁵ Communication from the Commission: Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty, OJ C 249 of 31 July 2014, p. 1.

Table 1: Budget of the revised scheme in million EUR

2018	2019	2020	2021	2022	Total 2018-2022
120	120	188.4	188.4	188.4	805.2

b. Eligible costs

- (17) The eligible costs, aid intensities and maximum aid amounts under the initial scheme are described in detail in recitals (14) to (28) of the 2012 Decision. They remain unaltered except for the eligible costs and maximum aid amounts relating to the Rola in mountainous regions.
- (18) In its latest version of the Commission Handbook on the external costs of transport which was published in 2019 (“2019 Handbook”)⁶, it is set out that, when calculating the external costs in sensitive areas, such as mountainous areas, such areas incur additional external costs which regular areas do not face. Therefore, in case of sensitive areas, such additional factors can be included into the methodology of calculating the external costs. Based on a study carried out in 2019 the Austrian authorities have accordingly revised the method to calculate external costs for Rola in mountainous regions.
- (19) The Austrian authorities have submitted a cost calculation which takes into consideration mountain factors for certain categories of external costs. Those mountain factors are based on the 2019 Handbook as presented in Table 2:

Table 2: Mountain factors for external costs of freight transport taken into account in the calculations

	Road transport	Rail transport (incl. RoLa)
Air pollution	4.2	2.6
Noise	4.1	3
Nature and landscape	1.3	1.4
Accidents*	1	1
Climate**	1	1

*Costs related to accidents are included into the calculations of external costs with a coefficient of 1.0 for both road and rail transport (incl. RoLa).

**Costs related to climate change are included into the calculations of external costs with a coefficient of 1.0 for both road and rail transport (incl. RoLa).

⁶ European Commission. Handbook on the external costs of transport version 2019. Luxembourg: Publications Office of the European Union, January 2019, Online: <https://ec.europa.eu/transport/sites/transport/files/studies/internalisation-handbook-isbn-978-92-79-96917-1.pdf>, pp 123-125.

- (20) Austria has included the aforementioned additional external costs factors for both road and RoLa while using the input of the previous study from 2016 on which the original scheme is based. Therefore, the initial study conducted in 2016 has been revised and a new difference of the sum of external costs in road and in rail (incl. RoLa) has been established in the 2019 Study in the following manner brought out in Table 3: The aid intensities are not amended.

Table 3: Revised calculations of external costs of road and rail (incl. RoLa) in EUR/1,000 tonne-kilometres in mountainous areas

	Climate	Air	Noise	Accidents	Land-scape loss	Land and ground-water pollution	Up- and down-stream	Sum of external costs
Road (HGV > 3,5t GVW) for non-mountainous regions	7.02	8.76	3.68	2.37	5.07	1.78	3.53	32.21
Rail (incl. RoLa)* for non-mountainous regions	0.00	0.00	0.84	0.15	3.46	0.03	1.38	5.86
Mountain factor road	1.00	4.20	4.10	1.00	1.30	1.00	1.00	
Mountain factor rail	1.00	2.60	3.00	1.00	1.40	1.00	1.00	
Road (HGV > 3,5t GVW)	7.02	36.79	15.10	2.37	6.59	1.78	3.53	73.18
Rail (incl. RoLa)*	0.00	0.00	2.52	0.15	4.85	0.03	1.38	8.93
Difference road – rail (incl. RoLa)	7.02	36.79	12.58	2.22	1.74	1.75	2.16	64.25

*RoLa will be run on electricity, therefore there will be no direct pollutants in relation to RoLa.

2.5. Cumulation

- (21) The cumulation rules, which are described in detail in recital (29) of the 2012 Decision, remain unaltered.

3. ASSESSMENT OF THE MEASURE

3.1. Existence of aid

- (22) The Commission notes that all of the elements in the scheme remain unchanged to the 2012 Decision and the 2017 Decision, except for i) the new method to calculate the external costs by taking into account mountain factors for mountainous regions, and hence ii) an increased budget.
- (23) In the 2012 Decision the Commission concluded that the measure constitutes State aid within the meaning of Article 107(1) TFEU as the measure is financed from the Austrian budget, confers a selective economic advantage to companies active in rail freight transport and have the potential to distort competition in a

market which has been liberalised⁷. The amendments to the initial scheme do not alter the Commission's previous assessment.

3.2. Compatibility of the aid

3.2.1. Relevant EU legal basis

- (24) In both the 2012 and 2017 Decisions⁸, having assessed the appropriateness, necessity and proportionality of the scheme on the basis of the Community Guidelines on State aid to railway undertakings ("the Railway Guidelines")⁹, the Commission found the scheme compatible with the internal market under Article 93 TFEU which allows for aid which meets the needs for the coordination of transport.
- (25) A detailed explanation on the legal basis and the applicable principles for the compatibility assessment is set out in recitals 33 to 44 of the 2012 Decision.
- (26) The Commission notes that the main features of the scheme have not changed. The amendment is limited to a differentiated external cost calculation which constitutes the basis to calculate the aid amount for rail transport in the mountainous regions. The Commission will therefore focus in its assessment on the eligible costs and whether the amended scheme is necessary and proportionate.
- (27) 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 the aid must not jeopardise the general interests of the EU.
- (28) According to point 98 of the Railway Guidelines, as regards the railway industry more specifically, aid for the needs of transport coordination can take several forms. One of those forms is aid to reduce external costs which is designed to encourage a modal shift of freight transport to rail, because rail transport generates lower external costs than other modes of transport, such as road transport.

3.2.2. Eligible costs - Existence of additional external costs in the mountainous areas

- (29) According to the 2019 Handbook, external costs may vary throughout regions due to different factors. In particular, the study acknowledges that certain types of external costs are higher in sensitive areas such as mountainous regions.¹⁰ The 2019 Handbook sets out that the following elements can influence the external costs¹¹:

- emissions: higher emission level e.g. due to gradients and altitude;

⁷ See recitals 30 and 31.

⁸ See recitals 25 to 28.

⁹ Communication from the Commission - Community guidelines on State aid for railway undertakings, OJ C 184 of 22 July 2008, p. 13.

¹⁰ 2019 Handbook, section 10.3

¹¹ 2019 Handbook, p 124.

- concentration: higher concentration of air pollutants e.g. due to topographical and meteorological conditions;
 - impacts: different impacts based on the dose (concentration)-response evidence, e.g. due to other population density or other risk factors;
 - damage cost: different cost factors for damage costs, i.e. due to country-specific monetization factors, specific prices, etc.
- (30) Based on the above, the 2019 Handbook suggests to apply a “mountain factor” for certain categories of external costs such as air pollution, noise, nature and landscape. As emphasised in the 2019 Handbook, climate change is a global issue, and therefore no additional external costs in the mountainous areas in relation to climate change should be taken into consideration¹².
- (31) As explained in recitals (19) and (20), Austria has presented in its 2019 Study a methodology to calculate external costs for mountainous areas following the 2019 Handbook and, therefore, in line with the current widely accepted methodology. As the amendment concerns regions in the Alps, i.e. in sensitive mountainous areas, using the mountain factor when calculating external costs is reasonable.
- (32) As demonstrated in Table 3 above, the calculations with the revised coefficients for external costs create a difference of 65.25 between road and rail (incl. RoLa). As such higher difference derives from the additional external cost factors in mountainous areas, which in turn are based on the 2019 Handbook, and as Austria has made such methodology available to the public, the Commission holds the calculations provided by the Austrian authorities in the 2019 Study valid and compatible with points 103, 104 and 105 of the Railway Guidelines.

3.2.3. *Necessity and proportionality of the aid measure*

- (33) The Railway Guidelines state in sub-section 6.3.2., points 107 to 111, that for aid to reduce external costs, the aid has to be strictly limited to compensating the opportunity costs connected with the use of rail transport rather than with the use of a more polluting mode of transport. According to points 107(b) and 109 of the Railway Guidelines, there is a presumption of necessity, proportionality and absence of overcompensation of the aid for reducing external costs when the intensity of the aid stays below 50% of the eligible costs and below 30% of the total cost of rail transport.
- (34) As set out in recital (17), the amendment does not alter the aid intensities. The amended calculations of external costs will increase the maximum possible aid amount to EUR 36.9 per 1,000 tonne-kilometre, which respects the aid intensities i.e. 30% of the total cost of rail transport and up to 50% of the eligible costs as set out in the 2012 Decision¹³ and as further confirmed in recital (12) of the 2017 Decision.
- (35) The Commission therefore notes that the aid intensity stays below 50 % of the eligible costs and that the aid intensity also does not exceed the maximum of

¹² *Ibid*, p 125.

¹³ See recitals 14, 19 and 46.

30 % of the total costs of rail freight transport. Thus, the Commission concludes that the amended scheme is proportionate and necessary.

- (36) The Railway Guidelines stipulate in Point 110 that: "At any rate, where the aid recipient is a railway undertaking it must be proved that the aid really does have the effect of encouraging the modal shift to rail. In principle this will mean that the aid has to be reflected in the price demanded from the passenger or from the shipper, since it is they who make the choice between rail and the more polluting transport modes such as road".
- (37) The Commission notes that the amended scheme will be made publicly available. The Commission considers that market forces will ensure that those companies incurring the cost of transport and who will thus decide upon the means of transport will benefit from the aid. Based on the publicity of the scheme it can be expected that business partners of the direct beneficiaries will request in their price negotiations to participate in the advantage granted to the rail freight undertakings. Due to the highly competitive industry and the transparent depiction of the aid, the Commission takes the view that this is sufficient to achieve the required price effect in order to encourage the modal shift to rail.
- (38) Finally, according to Point 111 of the Railway Guidelines, there must be realistic prospects of keeping the traffic transferred to rail to that the aid leads to a sustainable transfer of traffic.
- (39) The Commission notes that rail freight undertakings are in a highly competitive situation. Therefore, the Commission is confident that financial benefits will be passed on to customers. The higher support will lead to lower costs to operate rail freight services via the RoLa. The reduction of these costs will thereby lead to lower prices for business partners which will in turn contribute to maintaining a sustainable transfer of traffic from road to rail freight transport.

3.2.4. Conclusion on the compatibility of the aid

- (40) The Commission concludes that the amended scheme fulfils the criteria of section 6 of the Railway Guidelines in relation to increase of external costs and can therefore be considered to meet the needs of coordination of transport.

4. CONCLUSION

- (41) The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 93 TFEU.
- (42) 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
Executive Vice-President