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Ministry of Trade, Industry and Fisheries
PO BOX 8090 Dep
0032 Oslo
Norway

Subject: Rail freight support scheme

1 Summary

- (1) The EFTA Surveillance Authority (“the Authority”) wishes to inform Norway that, having assessed the notified Rail Freight Support Scheme (“the scheme” or “the notified scheme”), it considers that it constitutes state aid within the meaning of Article 61(1) of the EEA Agreement. The Authority has decided not to raise objections¹ to the scheme, as it is compatible with the functioning of the EEA Agreement, pursuant to Article 49 of the EEA Agreement.
- (2) The Authority has based its decision on the following considerations.

2 Procedure

- (3) The Norwegian authorities notified the scheme by letter of 25 June 2019.²
- (4) By letter dated 26 June 2019,³ the Authority requested information from the Norwegian authorities. By letter dated 28 June 2019,⁴ the Norwegian authorities replied to the information request.

3 Description of the notified scheme

3.1 Background

- (5) In order to reduce the negative external effects of transport, such as local and global air pollution, climate gases, noise, congestion and accidents, the Norwegian authorities aim to encourage a modal shift away from road transport to rail transport.
- (6) Currently, railway undertakings engaged in freight transport in Norway are operating with a deficit. Deficits are due to shortcomings in the rail infrastructure and strong competition from road haulers. The railway undertakings’ financial situation makes it difficult for them to invest and expand.
- (7) The Norwegian National Transport Plan 2018–2029 introduces a number of measures dedicated to rail freight, adding up to approximately NOK 17.5 billion

¹ Reference is made to Article 4(3) of the Part II of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice.

² Document No 1077647.

³ Document No 1077877.

⁴ Document No 1078146.

(the “Rail Freight Package”).⁵ However, investments under the Rail Freight Package are spread over time. The Norwegian authorities estimate that it will take several years for the effects of the investments to materialise.

- (8) According to the Norwegian authorities, railway undertakings will have to be strengthened in the short term. This is necessary to maintain the rail freight volume until the implementation of the Rail Freight Package. With the notified scheme, the Norwegian authorities plan to compensate railway undertakings with up to half of the external costs that are avoided by transporting goods by rail instead of road.
- (9) The notified scheme is designed to avoid the possibility of a reduced rail freight offer and facilitate the development of the railway undertakings’ services. According to the Norwegian authorities, the scheme ensures that freight stays on rail in the short term, and that the Rail Freight Package will have a better effect in the long-term.

3.2 Objective

- (10) The objective of the notified scheme is to strengthen the competitive position of rail by compensating railway undertakings for avoided external costs, thereby encouraging the transfer of freight transport from road to rail.

3.3 National legal basis and the granting authority

- (11) The legal basis of the notified scheme are guidelines adopted by the Norwegian Railway Directorate (“the Railway Directorate”).
- (12) The granting authority is the Railway Directorate.

3.4 Aid beneficiaries

- (13) Beneficiaries are railway undertakings⁶ that provide rail freight transport services.
- (14) The scheme is restricted to combined and/or single wagonload traffic only, because these categories of rail transport are in direct competition with road transport. According to the Norwegian authorities, single wagonload transport refers to the transport of goods by rail in at least one single wagon, but excluding transport of goods normally transported in full trains, such as ore, minerals, dangerous goods, timber and wood chips. “Combined transport on rail” refers to the transport of goods where the lorry, trailer, semi-trailer, with or without tractor unit, swap body or container of 20 feet or more, uses other means than trains for transportation on the initial and/or final leg of the journey. This definition is in line with the definition in Article 1 of Directive 92/106/EEC.⁷

⁵ Meld. St. 33 (2016–2017). An English summary is available [here](#).

⁶ Article 3(1) of the Council Directive 91/440/EEC of 29 July 1991 on the development of the Community’s railways ([Official Journal L 237, 24.08.1991 P. 25](#) and [EEA Supplement No 17, 28.6.1994, p. 1](#)), replaced by Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area ([OJ L 343, 14.12.2012, p. 32](#)).

⁷ Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States ([OJ L 368, 17.12.1992, p. 38–42](#), and [EEA Supplement No 17, 28.6.1994, p. 1](#)).

- (15) Undertakings in difficulty, as defined in the Authority's Guidelines on state aid for rescuing and restructuring non-financial undertakings in difficulty,⁸ and undertakings from which the Authority has ordered the recovery of aid, and from which such aid has not been fully recovered, are not eligible under the scheme.

3.5 Duration, budget and aid instrument

- (16) The implementation of the scheme will start after the Authority has approved the scheme. The scheme covers the period of time from 1 July 2018 to 30 June 2021. Aid will be awarded for three periods: 1 July 2018 to 30 June 2019 ("the 2019 period"), 1 July 2019 to 30 June 2020 ("the 2020 period") and 1 July 2020 to 30 June 2021 ("the 2021 period").
- (17) The budget, as notified by the Norwegian authorities, is NOK 60 million for the 2019 period. For the 2020 and 2021 periods, the Norwegian authorities plan to award the maximum allowed aid, which they estimate to be NOK 87.87 million for each period. Thus, the total notified budget of the scheme is NOK 235.74 million.
- (18) The aid instrument is in form of cash grants.

3.6 Eligible costs

- (19) In accordance with point 103 of the Railway Guidelines⁹, the eligible costs correspond to the share of external costs which rail transport makes it possible to avoid compared with competing transport modes. 'External costs' is an economic concept, referring to the costs that certain activities, e.g. transport, place upon society. It is expressed in monetary terms. The external costs of transport are generally not borne by transport users and hence not taken into account when they make a transport decision. The internalisation of these costs means including such effects in the decision-making process of the transport users.
- (20) The eligible costs are calculated by the Railway Directorate on the basis of a study on the average external costs for railway and for road transport ("the External Cost Study").¹⁰ The Norwegian authorities have confirmed that the External Cost Study is based on the methodology of the Updated Handbook on External Costs of Transport, developed by Ricardo-AEA on behalf of the Commission,¹¹ as adapted for the Norwegian railway market.
- (21) The External Cost Study relies on recent data on the marginal external costs of road and rail transport. It is based on several Norwegian and Swedish research reports. The Norwegian authorities also base their calculations on information from the Railway Directorate's utility tool SAGA, which has the most up-to-date sources.¹² The Norwegian authorities have confirmed that the External Cost Study will be made publicly available online.
- (22) The External Cost Study assesses the following cost elements: local emissions, noise, congestion, accidents, wear, operations and climate gasses.

⁸ The Authorities [Guidelines on state aid for rescuing and restructuring non-financial undertakings in difficulty](#), (OJ L 271, 16.10.2015 p. 35 and EEA Supplement No 62, 15.10.2015 p. 1).

⁹ The Authority's [Guidelines on state aid for railway undertakings](#) (OJ L 105, 21.4.2011, p. 32 and EEA Supplement No 23, 21.04.2011, p. 1).

¹⁰ Document No 1072873.

¹¹ [Updated Handbook on External Costs of Transport](#) Ricardo-AEA/R/ ED57769 Issue Number 1, 8 January 2014.

¹² See <https://www.jernbanedirektoratet.no/saga>.

- (23) According to the External Cost Study, the total external costs of road transport is NOK 154.54 per 1 000 tonne-km. The total external costs of rail differ between electric and diesel train traffic (NOK 59.68 and NOK 108.92 per 1 000 tonne-km, respectively):

Table 1: Average external costs of transporting goods by road and rail in NOK per 1 000 tonne-km

Cost	Lorry	Train	
		Electric	Diesel
Local emissions	17.04	0.00	32.57
Noise	0.27	15.62	2.79
Congestion	1.51	0.00	0.00
Accidents	42.65	13.75	13.75
Wear	52.26	30.31	30.31
Operations	3.57	0.00	0.00
Climate gases	37.24	0.00	29.50
Total	154.54	59.68	108.92

- (24) According to the External Cost Study, approximately 85.8% of rail transport in Norway is carried out by electric trains, while diesel trains represent the remaining 14.2%. On that basis, the average external costs of train transport is NOK 66.67 per 1 000 tonne-km. The eligible costs, i.e. the difference between the external cost of the two modes of transport, is thus 154.54 minus 66.67 = NOK 87.87 per 1 000 tonne-km.

3.7 Aid intensity

- (25) Based on point 107(b) of the Railway Guidelines, the following maximum aid intensity thresholds apply to the scheme: 50% of the eligible costs and 30% of the total cost of rail transport.
- (26) The total combined and single wagonload transport by rail in Norway was 2 000 million tonne-km in 2017.¹³ By multiplying the total combined and/or single wagonload transport (2 000 million tonne-km) by NOK 43.935 per 1 000 tonne-km (50 % of the eligible costs), the notified scheme could provide a total of NOK 87.87 million per year in aid.¹⁴
- (27) The budget for the 2019 period is NOK 60 million, which amounts to NOK 30 per 1 000 tonne-km. The estimated budget for the 2020 and 2021 periods is NOK 87.87 million per period, which amounts to NOK 43.935 per 1 000 tonne-km. With the eligible costs being NOK 87.87 per 1 000 tonne-km (paragraph (24)), the aid is equivalent to 34.14% of eligible costs for the 2019 period, and 50% of eligible costs for the 2020 and 2021 periods.
- (28) The Norwegian authorities have not calculated the total costs of combined and/or single wagonload rail traffic. However, the Norwegian authorities provided the total costs of CargoNet, the largest railway operator in Norway. CargoNet's total costs allocated to combined and/or single wagonload rail traffic was approximately

¹³ The External Cost Study, page 20.

¹⁴ Using the 2017 total tonne-km of combined and single wagonload transport as an estimate for the total tonne-km of the 2019, 2020 and 2021 periods.

NOK 966 million in 2018. The notified scheme's highest annual budget (NOK 87.87 million for the 2020 and 2021 period each) is equivalent to 9% of those costs.

3.8 Eligibility criteria and calculation of aid amount

- (29) The aid will be based on net tonne-km transported on the Norwegian rail network. This method was chosen because it is neutral when comparing road to rail and when granting aid for single load and combined transports on rail.
- (30) According to the Norwegian authorities, there are two options for sharing the aid between the beneficiaries:

A: Share of tonne-km transported. The total aid budget is shared by the beneficiaries according to their share of the total tonne-km transported on the Norwegian rail network during the 2019, 2020 and 2021 periods. The total budget is fixed and not dependent of the development of the total rail freight volume. However, the awards will be reduced if they exceed 50% of the eligible costs.

B: Actual volume. The total budget will be based upon last year's total rail freight volume and the maximum allowed per tonne-km, but with a percentage on top of it allowing for more aid if the total volume exceeds last year's. This will give the railway undertakings a bigger incentive to attract new customers, rather than competing with each other.

- (31) The Norwegian authorities have decided to use alternative A, share of tonne-km transported, but reserve the option to change to alternative B, actual volume, later. The reason is that for the moment the most important goal is to keep up the transport volume of rail transport. The Norwegian authorities have explained that should this be accomplished they might switch to alternative B to strengthen the incentive for growth.

3.9 Procedure for granting aid

- (32) The notified scheme is administered by the Railway Directorate. Applications for compensation for each period (paragraph (16)) are to be submitted to and examined by the Railway Directorate. The deadline for applications for compensation for the 2019 period is 30 September 2019. The deadline for application the 2020 and 2021 periods is 1 September 2020 and 2021, respectively. The compensation is awarded once a year.
- (33) The compensation will be awarded on the basis of net tonne-km transported on the Norwegian network by all beneficiaries, distributed among them according to their share. The beneficiaries will report their own production statistics, which form the basis of the calculation of the aid each receives. These statistics will be verified by the Central Bureau of Statistics and the Norwegian rail infrastructure manager.

3.10 Cumulation and transparency

- (34) The Norwegian authorities have confirmed that the aid cannot be cumulated with other aid or *de minimis* aid received from other local, regional or national sources to cover the same eligible costs.

- (35) The full text of the scheme will be published on the website of the Railway Directorate.¹⁵ All aid awards will be made publicly available. Awards exceeding EUR 500 000 will be published in the Norwegian state aid register with a link to the scheme.¹⁶

3.11 Repayment mechanism, monitoring

- (36) The scheme requires the repayment with interest of aid awarded on the basis of incorrect information, or in cases where aid was awarded incorrectly for some other reason that the beneficiary should have been aware of.
- (37) The Norwegian authorities have committed to maintaining detailed records of aid awarded under the scheme and to submit annual reports to the Authority.¹⁷

3.12 Potential impact on competing transport modes

- (38) The Norwegian authorities have stated that the aim of the scheme is to strengthen the competitive position of rail, thereby encouraging the transfer of freight transport from road to rail.
- (39) The Norwegian authorities have explained that a significant share of freight is transported by water in Norway, but state that the notified scheme will have very little impact on maritime freight transport. The Norwegian authorities estimate that short sea freight transport will decrease by less than 1% during the duration of the notified scheme.

3.13 Other aid granting conditions

- (40) The scheme includes a provision requiring the aid to be reflected in the prices of the beneficiaries. The beneficiary is asked to describe in its application how the aid will be reflected in the price paid by its customers. The beneficiaries are also obliged to inform their customers about the granting of the aid and adapt their prices accordingly. Hence, the scheme allows customers to benefit from a reduction of transport costs for freight transport. In light of this, the Norwegian authorities state that the aid scheme creates incentives for beneficiaries to adjust their prices.
- (41) The Norwegian authorities also state that the market for freight transport in Norway is liberalised, open to new entrants, and that there is price-sensitive competition between different modes of transport, which creates further conditions for price adjustments.
- (42) According to the Norwegian authorities, the scheme has received ample public coverage before its notification, from as early as May 2018.¹⁸ The plans for the scheme have also attracted considerable attention in the transport sector, which has made the railway undertakings' customers aware of possible price decreases. The Norwegian authorities therefore consider that railway undertakings have already adjusted their price policy and investment pattern in anticipation of the forthcoming adoption of the aid scheme, due to the competitiveness in this sector.

¹⁵ <https://www.jernbanedirektoratet.no/no/>.

¹⁶ <https://data.brreg.no/rofs/nob>.

¹⁷ Article 21 of Part II of Protocol 3 to the Surveillance and Court Agreement.

¹⁸ The plans to introduce the scheme were announced by the Ministry of Transport in a press release of 7 May 2018: <https://www.regjeringen.no/no/aktuelt/arbeidsgruppe-skal-vurdere-ordninger-for-godsoverforing-fra-vei-til-jernbane/id2600443/>.

4 Presence of state aid

(43) Article 61(1) of the EEA Agreement reads as follows:

“Save as otherwise provided in this Agreement, any aid granted by EC Member States, EFTA States 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 Contracting Parties, be incompatible with the functioning of this Agreement.”

(44) The qualification of a measure as aid within the meaning of this provision therefore requires the following cumulative conditions to be met: (i) the measure must be granted by the state or through state resources; (ii) it must confer an advantage on an undertaking; (iii) favour certain undertakings (selectivity); and (iv) be liable to distort competition and affect trade.

4.1 Presence of state resources

(45) The funds used for the notified scheme constitute state resources within the meaning of Article 61(1) of the EEA Agreement and are imputable to the state, because the funds derive from the Norwegian state budget and will be distributed by the Norwegian authorities. The state, therefore, exercises control over the funds.

4.2 Advantage on an undertaking

(46) The beneficiaries of the scheme are railway undertakings that provide rail freight transport services.

(47) The scheme confers an economic advantage, as it relieves the beneficiaries of a part of the operating costs, which they would normally have to bear.

4.3 Selectivity

(48) The notified scheme is selective, because it concerns a specific economic sector, namely the rail transport sector. Furthermore, it is not addressed to all railway undertakings involved in the sector, but only those with container and/or single wagon load rail freight traffic in Norway.

4.4 Effect on trade and distortion of competition

(49) The fact that a measure strengthens the position of an undertaking compared to other undertakings competing in intra-EEA trade is sufficient to conclude that the measure is liable to effect intra-EEA trade.¹⁹

(50) The beneficiaries of the notified scheme may compete with other undertakings involved in the transport of goods. The measure strengthens the beneficiaries' position compared to other undertakings that compete on the rail freight market in the EEA, which is liberalised.

(51) Therefore, the Authority considers that the measure is liable to distort competition and to have an effect on intra-EEA trade.

¹⁹ Case E-6/98 *Norway v ESA* [1999] EFTA Ct. Rep. 74, paragraph 59.

4.5 Conclusion

- (52) In light of the above assessment, the Authority concludes that the notified scheme constitutes state aid within the meaning of Article 61(1) of the EEA Agreement.

5 Procedural requirements

- (53) Pursuant to Article 1(3) of Part I of Protocol 3 to the Agreement between the EFTA States on the Establishment of a Surveillance Authority and a Court of Justice ("Protocol 3"): "The EFTA Surveillance Authority shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. The State concerned shall not put its proposed measures into effect until the procedure has resulted in a final decision."
- (54) The Norwegian authorities have submitted a notification before implementing the scheme and have not implemented the scheme prior to the Authority's approval. The Norwegian authorities have therefore complied with the obligations under Article 1(3) of Part I of Protocol 3.

6 Compatibility of the aid measure

6.1 Introduction

- (55) Article 49 of the EEA Agreement states that aid shall be compatible with the EEA Agreement if it "meets the needs" of coordination of transport. Coordination of transport refers to the need for public intervention arising notably in the presence of market failure. In this regard, the Authority notes that transport coordination measures may be needed when certain modes of transport do not bear all the costs of the negative externalities which they inflict on society.
- (56) As a measure directed at meeting the needs of coordination of transport, the notified scheme falls within the scope of Article 49 of the EEA Agreement and therefore must be assessed on that basis.
- (57) The Commission found in its White Paper on Transport Policy²⁰ that the price charged for infrastructure use should not only take into account costs directly related to its infrastructure costs, but also external costs, that is, costs connected with accidents, air pollution, noise and congestion. The Commission has also used that approach in several of its decisions.²¹
- (58) As regards rail transport, and in particular railway undertakings, guidance on the application of Article 49 of the EEA Agreement is provided in Section 6 of the Railway Guidelines. Since the notified measure concerns a modal shift from road to rail, the compatibility assessment will be carried out in light of the criteria laid down in chapters 6.2 and 6.3.
- (59) Point 96 of the Railway Guidelines provides that for a given aid measure to be considered to "meet the needs" of transport coordination, it must be necessary and proportionate to the intended objective. Furthermore, the distortion of competition inherent in aid must not jeopardise the general interests of the EEA.

²⁰ See, for instance, [Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system](#), COM (2011) 144 of 28.3.2011.

²¹ See, for instance, Commission decisions in SA.48634 (Denmark), *Prolongation of environmental aid scheme for the transport of goods by rail for the period 2018–2020*, [OJ C 20, 19.1.2018, p. 6](#); SA.49749 (Sweden) *Environmental compensation for rail freight transport*, [OJ C 198, 8.6.2018, p. 6](#) and SA.51956 (Germany), *Partial financing of rail infrastructure charges*, [OJ C 14, 11.2019, p. 1](#).

- (60) The aid scheme must be transparent and non-discriminatory. Moreover, according to point 97 of the Railway Guidelines, any aid on the basis of Article 49 EEA must be limited to a maximum of 5 years.
- (61) 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.
- (62) The Authority's assessment is, in light of the above, based on the following common assessment principles:
- Existence of external cost savings.
 - Necessity and proportionality of the aid measure.
 - Non-discrimination, transparency and time-limit.
 - Avoidance of undue negative effects on competition and trade.

6.2 Existence of external cost savings

- (63) 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 with competing transport modes.
- (64) Point 104 of the Railway Guidelines states that EEA States may put in place a time-limited compensation scheme for the use of railway infrastructure "for the demonstrably unpaid environmental, accident and infrastructure costs of competing transport modes in so far as these costs exceed the equivalent costs of rail".
- (65) The notified scheme concerns the reduction of external costs. Point 105 of the Railway Guidelines requires a transparent, reasoned and quantified cost analysis between rail transport and the alternative options based on other modes of transport. Furthermore, the methodology used and the calculations performed must be made publicly available.
- (66) The External Cost Study, used by the Norwegian authorities for the purposes of calculating the external costs of road and rail transport, is based upon the methodology of the Updated Handbook on External Costs of Transport, which is publicly available (paragraph (20)). Moreover, the External Cost Study uses recent data and will be made publicly available (paragraph (21)). The Authority therefore considers that the requirements of point 105 of the Railway Guidelines are met.

6.3 Necessity and proportionality of the aid measure

- (67) According to points 107(b) and 109 of the Railway Guidelines, there is a presumption of necessity, proportionality and absence of overcompensation of aid reducing external costs, provided that the aid remains below 50% of the eligible costs and 30% of the total costs of rail transport.

- (68) Based on the table contained in paragraph (23), the eligible costs of the notified scheme amount to NOK 87.87 per 1000 tonne-km. The Authority notes that the estimated budget of the scheme allows for a maximum aid amount of NOK 43.935 per 1 000 tonne-km (paragraph (27)). That amount corresponds to an aid intensity of 50% of eligible costs.
- (69) The Authority notes that the total maximum amount of allowed aid for each period will depend on the total tonne-km of actual combined and/or single wagonload transport in each aid granting period. The Norwegian authorities plan to award the maximum aid allowed for the 2020 and 2021 periods, based on the total combined and/or single wagonload transport in each period (paragraph (17)). They have committed to keeping the budget for those periods under 50% of eligible costs, i.e. at or below NOK 43.935 per 1 000 tonne-km (paragraph (30)).
- (70) As regards the 30% threshold of total rail transport costs, the Norwegian authorities have not provided absolute numbers, but did provide the total costs of single and/or combined wagonload rail traffic for one operator, CargoNet, which is the largest railway undertaking in Norway (paragraph (28)). The highest notified budget per period²² is NOK 87.87 million, which represents 9% of CargoNet's total costs. Thus, the budget of the scheme would not exceed the 30% threshold of total rail transport costs, especially as CargoNet is not even the only market participant. Therefore, the Authority does not consider it necessary to calculate the total rail transport cost in this case.
- (71) Accordingly, the maximum aid intensities of the notified scheme do not exceed the maximum aid intensities pursuant to point 107 of the Railway Guidelines. The Authority therefore concludes that the aid measure satisfies the requirement of necessity, proportionality and absence of overcompensation under point 107 of the Railway Guidelines.
- (72) With reference to point 109 of the Railway Guidelines, the Authority observes that for the notified aid scheme, the aid for reducing external costs is strictly limited to compensation for the opportunity costs connected with the use of rail transport rather than a more polluting mode of transport.
- (73) In that regard, the Norwegian authorities have stated that the applicable maximum aid intensity will be respected for each beneficiary (paragraph (30)). In addition, the aid cannot be cumulated with other aid or *de minimis* aid for the same eligible costs (paragraph (34)).
- (74) Point 110 of the Railway Guidelines requires that the aid must have the effect of encouraging a modal shift to rail and, therefore, that the aid is reflected in the price demanded from the shipper, since it is the shipper that makes the choice between different transport modes.
- (75) The Authority observes that the above principle will be transposed into the notified scheme with a specific provision (paragraph (40)). The beneficiaries will be asked to describe in their application how the aid will be reflected in the price paid by its customers. Beneficiaries will also be obliged to inform their customers about the granting of the aid, and to adapt their prices accordingly.

²² See paragraph (16).

- (76) In light of the fact that the Norwegian rail market is open to new entrants, which could benefit from the notified scheme if they fulfil the necessary requirements, the current railway undertakings would also reduce their prices, in order to remain competitive (paragraph (41)).
- (77) The Authority further notes that the Guidelines, all associated regulations and the aid amounts are, or will be made, publicly available. In addition, the public has already been informed of the planned scheme, as early as May 2018, and the scheme has drawn considerable attention in the sector (paragraph (42)). Given the publicity of the scheme, and in particular as the scheme is in the public domain and has been known to the sector from early 2018, the Authority is satisfied that the attention of customers of the beneficiaries has already been drawn to the aid measure. The Authority is of the opinion that it can be expected that customers of the beneficiaries have, or will, request in their price negotiations to participate in the advantage granted to beneficiaries. The Authority considers that this is sufficient to achieve the required price effect in order to encourage the modal shift to rail. The Authority therefore concludes that point 110 of the Railway Guidelines is met.
- (78) According to point 111 of the Railway Guidelines, in the case of aid for reducing external costs, there must be a realistic prospect of keeping the traffic transferred on rail, so that the aid leads to a sustainable transfer of traffic.
- (79) The Authority observes that the amount of aid each beneficiary receives under the notified scheme is based on the beneficiary's share of tonne-km transported (paragraph (30)). Thus, the more a beneficiary carries, the higher amount of aid they receive. The same applies to the Norwegian authorities' alternative method for distributing the aid amount, i.e. actual volume, should the Norwegian authorities decide to use that method (paragraph (31)).
- (80) Furthermore, as the Commission has noted, similar measures for rail freight transport in other EEA States have helped to keep or increase the share of railway transport in inland transportation services.²³
- (81) For the above reasons, the Authority concludes that the notified scheme has realistic prospects of keeping the traffic transferred to rail. Hence, the notified scheme complies with point 111 of the Railway Guidelines.
- (82) In light of the criteria examined above, the Authority considers that the conditions related to the necessity and proportionality of the aid are met, that the aid measure encourages a modal shift to rail, and that there are realistic prospects that a sustainable transfer of traffic is achieved.

6.4 Non-discrimination, transparency and time-limit

- (83) The Authority notes that the scheme will be transparent, as the Norwegian authorities have committed to stipulating the conditions for benefitting from the aid clearly in the underlying legal basis, i.e. the guidelines adopted by the Railway Directorate, and make the information about the scheme available online on the homepage of the Railway Directorate. All aid awards will be made publicly

²³ See, for instance, the Commission's Decision in SA.49749 (Sweden) *Environmental compensation for rail freight transport*, paragraph 68.

available, and any individual aid exceeding EUR 500 000 will be published in the Norwegian state aid register (paragraph (35)).

- (84) The Authority further notes that the aid will be granted in a non-discriminatory manner. The scheme will be open to all undertakings that fulfil the objective criteria for the aid.
- (85) The aid scheme is limited in time and will apply for a period of 3 years (paragraph (16)). This is in line with the time limitation imposed by point 97 of the Railway Guidelines.

6.5 Avoidance of undue negative effects on competition and trade

- (86) Point 96 of the Railway Guidelines stipulates that “distortion of competition which is inherent in aid must not jeopardise the general interests of the EEA. By way of illustration, aid likely to shift traffic flows from short sea shipping to rail would fail to meet these criteria”.
- (87) In this respect, the Norwegian authorities have indicated that a significant share of freight is transported by water in Norway. However, the Norwegian authorities estimate that sea freight will be reduced by less than 1% during the duration of the scheme (paragraph (39)).
- (88) Given the limited impact of the measure on maritime transport, the Authority concludes that the notified scheme does not give rise to a distortion of competition to an extent contrary to the general interests of the EEA, within the meaning of point 96 of the Railway Guidelines.

7 Conclusion

- (89) On the basis of the foregoing assessment, the Authority considers that the notified aid scheme constitutes state aid with the meaning of Article 61(1) of the EEA Agreement. Since no doubts are raised, this aid is compatible with the functioning of the EEA Agreement, pursuant to Article 49 EEA. Consequently, the Authority has no objections to the implementation of the notified aid scheme.

For the EFTA Surveillance Authority, acting under [Delegation Decision No 068/17/COL](#),

Yours faithfully,

Bente Angell-Hansen
President
Responsible College Member

Carsten Zatschler
Countersigning as Director,
Legal and Executive Affairs

This document has been electronically authenticated by Bente Angell-Hansen, Carsten Zatschler.