

**Government of Flanders Order concerning a five-year subsidy scheme to promote the hinterland connectivity of the Flemish seaports through bundling of rail volumes**

THE GOVERNMENT OF FLANDERS,

Having regard to the 2 March 1999 decree on the policy and management of seaports, Article 35bis, inserted by the 26 April decree containing various provisions on mobility policy, public works and transport, traffic safety policy and VVM - De Lijn;

Having regard to the advisory opinion of the Finance Inspectorate, given on 2 April 2019;

Having regard to the approval of the Flemish minister responsible for the budget, given on 30 April 2019;

Having regard to the advice of the Strategic Advisory Council, given on 7 June 2019;

Having regard to advisory opinion 66.340/3 of the Council of State, given on 10 July 2019, in application of Article 84, §1, first sub-paragraph, 2° of the Acts on the Council of State, coordinated on 12 January 1973;

On the proposal of the Flemish Minister for Mobility, Public Works, the Vlaamse Rand, Foreign Policy, Immovable Heritage and Animal welfare, vice-minister-president of the Government of Flanders;

After due deliberation,

DECIDES:

Chapter 1. Definitions

**Article 1.** For the purposes of the present order, the following definitions shall apply:

1. connection: a regular train service between two intermodal terminals where one of the two intermodal terminals is located outside Belgium;
2. department: the Department of Mobility and Public Works, referred to in Article 28, §1, of the 3 June 2005 Government of Flanders order on the organisation of the Flemish administration;
3. port area: the port area of Antwerp, the port area of Bruges-Zeebrugge and the port area of Ghent, referred to in Article 2, 5°, 6° and 7° of the 2 March 1999 decree on the policy and management of seaports;
4. intermodal terminal: storage and transshipment site for intermodal transport units (ITU);
5. shuttle: a regular service or movement of trains between two intermodal terminals within one port area or between two intermodal terminals in two port areas;
6. train: rail transport that belongs to a registered train path.

Chapter 2. Supporting the bundling of ITU transport by rail for connections

**Art. 2.** Any operator who transports grouped ITUs by rail between an intermodal terminal in a port area and an intermodal terminal outside Belgium can benefit from a subsidy, within the limits of the budget.

**Art. 3.** The subsidy referred to in Article 2 shall be awarded for each train according to the following formula: 250 euros per train and per connection.

The subsidy will be paid for a maximum of one year.

**Art. 4.** For the purposes of this Article the following definitions shall apply:

1. existing rail service: a rail service included in the inventory of rail services, where the origin and destination are rail terminals;
2. region of an existing rail service: for regions located within the European Union, this is the NUTS 2 region and for regions located outside the European Union, this is the Statistical Region 2, as defined by Eurostat;
3. rail service with new origin or destination in the hinterland:
	1. a rail service that is not an existing rail service and whose destination or origin in the hinterland does not belong to the region of an existing rail service that was discontinued less than three months ago;
	2. an existing rail service that was discontinued at least three months ago;
4. increased frequency of a rail service: an extra weekly train of a connection.

A train is subsidised if the following conditions are met:

1. averaged over one quarter, at least 20% of the total train volume in terms of number of wagons concerns ITUs;
2. averaged over one quarter, the origin or destination of at least 20% of ITUs, expressed in TEU, is a second intermodal terminal in a port area;
3. the train belongs to a direct rail service for the main route to or from a port area;
4. the frequency of a rail service is increased or a rail service with a new origin or destination in the hinterland is operated.

**Art. 5.** If a train which has received the maximum subsidy on the basis of this order is discontinued, and that train is resumed by the same or another operator, that train is no longer eligible for subsidy on the basis of this order.

Chapter 3. Supporting the bundling of ITU transport by rail for shuttles

**Art. 6.** Any operator who transports ITUs by rail between two intermodal terminals located in one or two port areas can benefit from a subsidy, within the limits of the budget.

**Art. 7.** The subsidy referred to in Article 6 shall be awarded for each train according to the following formula: 250 euros per train and per shuttle.

 The subsidy will be paid for a maximum of two years.

**Art. 8.** A train is subsidised provided that, averaged over one quarter, at least 20% of ITUs expressed in TEU are transshipped to another train or come from another train, where the other train can be either a whole train or a disconnected part of a train.

 If the transport takes place between two intermodal terminals in the port area of Antwerp or Bruges-Zeebrugge or between two intermodal terminals, one in the port area of Antwerp and the other in the port area of Bruges-Zeebrugge, the train is subsidised if the transported containers on the shuttle have a maritime terminal as departure or arrival.

**Art. 9.** If a train which has received the maximum subsidy on the basis of this order is discontinued, and that train is resumed by the same or another operator, that train is no longer eligible for subsidy on the basis of this order.

Chapter 4. Award procedure for subsidies

**Art. 10.** The rail operator shall report to the department on a quarterly basis the list of trains entitling to a subsidy as referred to in chapters 2 and 3, the average transported TEUs per train entitling to that subsidy and the average transport costs per TEU per train entitling to that subsidy.

 In the first paragraph, transport costs are defined as:

1. the cost of rail transport;
2. the administrative costs;
3. the cost of transshipping containers between transport equipment within the same mode;
4. the cost of road transport between the point of departure and the intermodal terminal or between the intermodal terminal and the destination.

 Each rail operator shall inform the department of any other aid as referred to in Article 107 of the Treaty on the Functioning of the European Union and of which community financing it receives. These aid amounts shall be reported per train.

**Art. 11.** The grants referred to in chapters 2 and 3 are limited to 30% of the transport costs. The department checks compliance with the limit of 30% of transport costs.

 In the first paragraph, transport costs are defined as:

1. the cost of rail transport;
2. the cost of transshipping ITUs between transport equipment of different modes;
3. if any, the cost of road transport between the point of departure and the intermodal terminal and between the intermodal terminal and the destination.

 The subsidies referred to in chapters 2 and 3 of this order may not be combined with other state aid as referred to in Article 107 of the [Treaty on the Functioning of the European Union,](http://maxius.nl/verdrag-betreffende-de-werking-van-de-europese-unie-rome-25-03-1957) or with other community financing if the cumulated aid thereby exceeds the ceilings laid down in point 6 of the Community guidelines on State aid for railway undertakings (OJ 22 July 2008, C 184).

The subsidies referred to in articles 3 and 7 may not be combined with the subsidies granted in the context of the open project calls 'Hinterland connectivity: new and innovative impulses for the Flemish hinterland' (6/11/2017) and 'Logistics and ports: New impulses for the logistics region of Flanders' (4/06/2019).

**Art. 12.** The department shall be authorised to request detailed information on each train that is eligible for the subsidies referred to in chapters 2 and 3 of this order.

Chapter 5. Final provisions

**Art. 13.** The present order shall enter into force on 1 October 2019 and shall cease to apply on 31 October 2023.

**Art. 14.** The Flemish Minister responsible for mobility policy, public works and transport shall be charged with implementing this order.

Brussels, 19 July 2019

The Minister-President of the Government of Flanders,

Flemish Minister for Home Affairs, Civic Integration, Housing, Equal Opportunities and Poverty Reduction,

Liesbeth HOMANS

Flemish Minister for Mobility, Public Works, the Vlaamse Rand, Foreign Policy, Immovable Heritage and Animal Welfare,

Vice-Minister-President of the Government of Flanders

Ben WEYTS