



**LIETUVOS RESPUBLIKOS SUSISIEKIMO MINISTERIJA**  
**MINISTRY OF TRANSPORT AND COMMUNICATIONS**  
**OF THE REPUBLIC OF LITHUANIA**

Gedimino Av. 17 Vilnius LT-01505 Tel. + 370 5 239 3911 Fax +370 5 212 4335 E-mail [sumin@sumin.lt](mailto:sumin@sumin.lt)

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**SUBJECT: ACT PRESENTED FOR CONSULTATIONS OF EUROPEAN COMMISSION**

The Ministry of Transport and Communications of the Republic of Lithuania (herein after – the MoTC) received and analysed General Block Exemption Regulation project (herein after – GBER project) and would like to provide the MoTC remarks and proposals:

1) In case of clause No 144. The MoTC would like to note, that in 2014 European Commission accepted aviation guidelines (herein after – Aviation guidelines), where clause No 35 states, that activities implemented in airports, such as control of air traffic, activities of police and customs, extinguishing of fires, and any other activity related to protection of civil aviation and investments to infrastructure and equipment to pursue these activities are not considered as actions of economic nature. Moreover, clause No 36 of Aviation guidelines states, that funding of previously mentioned activities are not a State aid. We propose to update clause No 144 with respect to clauses No 35 and 36 of Aviation guidelines and indicate that investments into airports infrastructure which are not considered as economic nature, are not a State aid.

2) In case of clause No 157. Access of infrastructure (access roads, access rail tracks, breakwaters, access channels, locks) is public infrastructure (streets and roads to reach port territory). This infrastructure can be used by every person without any taxes or additional restrictions, even though this infrastructure is in the area of port. We suggest to specify definition of access of infrastructure and clearly distinct descriptions of public infrastructure (financing of such kind of infrastructure should not be considered as state aid) and other access of infrastructure (that could be considered as state aid and compatible with internal market).

3) In case of clauses 158 and 159. Proposition is to specify definitions of dredging and procedural dredging and use these definitions “dredging and/or canal broadening” and “procedural dredging and and/or canal broadening”. It also should be noted, that dredging and/or canal broadening is implementation of new technical features while procedural dredging and and/or canal broadening is maintenance of existing technical features. In our opinion above mentioned suggestions of definitions should be included to clauses 158 and 159, because projects that are planned to implement are not only to dredge but also to broaden the canals.

4) In case of section No 14 article No 56 a clause 2. We suggest specifying definition of reliable passenger and cargo traffic forecast and evaluation process of investment in airport capacity utilization in perspective of medium term.

5) In case of section No 14 article No 56 a clause 10. According to clause 25 part 15 of the Aviation guidelines eligible investment costs are costs related to investment in infrastructure of airports, including costs of planning, except costs related to airport connections, ground handling

equipment investment costs, and costs associated with the public policy area belonging to the tasks. Definition used in Aviation guidelines is broader than definition used in GBER project, suggestion is to unify definitions.

6) Considering section No 15 article No 56 b clause No 2 and article No 56 c clause No 2 part a, the MoTC suggest to define what can be considered as mobile equipment. Also, with reference to clauses No 35 and No 36 of Aviation guidelines, the MoTC suggestion is to indicate that activities implemented in ports, such as control of water traffic, activities of police and customs, extinguishing of fires, and any other activity related to protection of the port and investments to infrastructure and equipment to pursue these activities are not considered as actions of economic nature and is not considered as State aid.

7) Considering section No 15 article No 56 b clause No 2 (part b) and article No 56 c clause No 2 (part b), the MoTC suggest to name which infrastructure of ports can be used for commercial purposes, and which for non-commercial purposes.

8) In case of section No 15 article No 56 b clause No 6 and article No 56 c clause No 5. The MoTC suggests to define what is the beginning of the activities associated with other investments in the same port. For example: Lithuania has one State seaport, according to above mentioned clause provision, all projects developed within 3 years would be considered as 1 project. Since there is no precise definition of beginning of the activities associated with other investments in the same port, we would like to be informed how and when funding intensity of projects should be calculated. Moreover, there are no precise criteria, to identify interface of investment projects in the same port, especially in case where functioning of one project do not depend on functioning of another project.

9) In case of section No 15 article No 56 b clause No 7 and article No 56 c clause No 6. Third party need to invest large amounts if they are building, upgrading, and operating or renting port infrastructure. For third party investors to be interested in investing in port infrastructure, the MoTC suggest to determine the duration of concession, fiduciary right or lease to be not longer than 50 years instead of 30 as it is established now.

10) In case of section No 15 article No 56 b clause No 8 and article No 56 c clause No 7. The MoTC suggests to specifying term “market price”. For example: in ports, price for use of infrastructure depends on a scope of offered services (range of offered services is wide), management model and many other factors, for this reason the MoTC suggest that prices of port services should be prerogative of Member State or port operator.

11) While analysing GBER project, it looks like that almost all investments in ports infrastructure will be considered as State aid, which is compatible with internal market according to article 107 part 3 of Treaty on the Functioning European Union. In case of these provisions taking place, intensity of funding for projects development from State Budget might be reduced, and port would need more their own funds to implement the projects. It is noted, that main aim of European Union Cohesion Policy is to reduce differences between EU regions, and in case of reduced funding intensity, development of ports would slow down and differences between small and big ports would become even more obvious.

12) In GBER project it is not clear why intensity of projects funding depends on project value. For example, according to Aviation guidelines, intensity of funding for airport projects is based on amount of passengers served in last 2 year. It is questionable, whether the funding intensity for projects should not be associated with port handling capacities or based on other objective criteria.