

INITIAL COMMENTS OF THE LITHUANIAN AUTHORITIES TO THE TBER AND LMTG PROJECTS

The Lithuanian authorities have taken note of the draft Transport Block Exemption Regulation (TBER)¹ and the draft Guidelines on State aid for land and multimodal transport (LMTG) (together referred to as “the Projects”).

The Ministry of Transport and Communications of the Republic of Lithuania supports the European Commission’s initiative to facilitate further simplification by allocating state funding for transport coordination.

It should be noted that the TBER project, among other things, proposes a mechanism for investment aid for the construction, improvement and renewal of railway transport facilities, inland waterway infrastructure, railway and inland waterway multimodal infrastructure facilities, and for the construction, upgrading and upgrading of private sidings for Lithuania to decide on the planned railway stations and sidings within the scope of the Rail Baltica project, alternatives to the financing of distribution yards, railway infrastructure maintenance depots and similar railway transport facilities falling under the category of service facilities (hereinafter referred to as “PSUs”), as well as finding financial solutions for ensuring the operation of existing PTOs with a significant reduction in the use of PTOs and losses for PTO operators in carrying out these activities.

Below, the Ministry of Transport and Communications submits preliminary comments to the draft TBER (more detailed comments are planned to be submitted at the meeting of the European Commission at which the Projects will be discussed):

(1) For the sake of legal clarity, it is proposed to clarify the wording “**railway infrastructure facilities**” used in the TBER and to use the term “railway service facilities” instead. It should be noted that Directive 2012/34/EU distinguishes between two categories of railway transport facilities: Railway infrastructure in Annex I to Directive 2012/34/EU and PTO in Annex II to Directive 2012/34/EU. It should be noted that the definition of ‘railway infrastructure’ in the TBER refers to Annex II to Directive 2012/34/EU, i.e. the list of PTOs. **If this amendment is accepted, the other provisions of the TBER referring to the definition in question (Article 2(k), (aa) et seq. of the TBER) should be clarified accordingly. The proposed amendment would make it clearer that the aid was also granted to PFIs, which also fall within the scope of the TBER;**

(2) The definition of the maximum amounts of aid per project in Article 4 TBER **does not contain the content of the concept of ‘single project’**. Accordingly, for reasons of legal certainty, a definition describing the concept of a single project should be introduced. It should also be noted that the **maximum amounts of aid provided for in that article above which the TBER would not apply are relatively low, and we therefore propose that an increase in these amounts be considered**. We would point out that, in the case of projects for the construction of access railways (on average 1 km), where the construction value of one project is estimated at EUR 5.8 million, it must **be concluded that the amount of aid of EUR 2 million per project provided for in Article 4(d) of the TBER is insufficient. The planned aid amounts for the construction, improvement and renewal of railway facilities and multimodal terminals should also be increased accordingly**, as for example: The estimated cost of the construction of the Palemon dual-use terminal in the technical project amounts to EUR 45 million. We note that the level of investment in such projects depends on the evolution of railway tracks, terminal

¹ Approval of the content of a draft Commission Regulation declaring certain categories of aid in the rail, inland waterway and multimodal transport sectors compatible with the internal market in application of Articles 93, 107 and 108 of the Treaty.

installation solutions, geological situation and topography, and therefore the amounts of State aid should be higher;

(3) In Chapter II of the TBER, entitled ‘Specific provisions for the various categories of aid’, it is proposed that **a separate sub-chapter should be provided for in Section 1 ‘Operational aid’ for aid for balancing the operating income and costs of PTOs and for reducing the costs of railway tracks connected to PTOs;**

(4) It is proposed to **supplement Section 2 ‘Investment aid’ of Chapter II** of the TBER, entitled ‘Specific provisions for different categories of aid’, **by providing for investment aid for the construction, upgrading or upgrading of facilities of PTOs other than those referred to in the TBER**, such as railway stations, railway infrastructure maintenance depots, wheelset replacement depots, battery train charging stations, etc., and to supplement the TBER 4 and, where necessary, other articles accordingly.

Since this document contains only preliminary comments from the Lithuanian authorities, this information is intended solely for information by the services of the European Commission and for discussion² during the meeting of 10 September and is not intended to be disclosed to other entities.

² The 1st Advisory Committee meeting on the Transport Block Exemption Regulation (TBER) (HT.5524) and the Multilateral Meeting on the Land and Multimodal Transport Guidelines (LMTG) (HT.5524).