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Subject: State aid SA.36561 (2013/N) - Finland
Financing of airport infrastructure at Vaasa airport

Sir,

1 PROCEDURE

- (1) By electronic notification dated 27 May 2013, Finland notified to the European Commission a measure concerning the airport infrastructure at Vaasa airport. The measure was registered under the state aid case number SA.36561.

2 DESCRIPTION OF THE MEASURE

2.1 Vaasa airport

- (2) The airport is located in Vaasa, Finland, about 9 kilometres south-east of Vaasa city centre. The airport is owned and operated by Finavia Oyj¹ (hereinafter "Finavia").

¹ Until the end of 2009 Finavia Oyj (formerly known as the Finnish Civil Aviation Administration) was a state enterprise. From 1 January 2010 Finavia was transformed into a public limited company by Act 877/2009 on the transformation of the Civil Aviation Administration into a public limited company. It manages 25 airports in Finland; only three Finnish airports are not managed by Finavia. Besides the operation of the Finnish airports, Finavia provides air navigation services at Finavia's airports and it is also responsible for the supervision of the Finnish airspace. Finavia's real estate operations are managed by Finavia's subsidiary

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- (3) It is the 6th largest airport in Finland in terms of passenger traffic. In 2010, about 287,000 passengers travelled via the airport. Vaasa airport is currently served by airBaltic, Blue1, Finnair and Flybe Nordic. However, it is also open to other potential users. The airport is also served by several charters with holiday destinations, such as Bulgaria, the Canary Islands, Greece, Spain, Turkey and Thailand.

Lentoasemakiinteistöt Oyj. The company offers facility services to companies operating at the airport and operates as a developer of construction projects and owner of premises located at the airports.

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- (4) The passenger traffic at the airport increased by almost 100 000 passengers between 2005 and 2012. The following table summarises the development of passengers at the airport:

Table 1: Passenger development at Vaasa airport 2005 – 2012

Year	Number of passengers at the airport
2005	297 000
2006	306 000
2007	322 000
2008	343 000
2009	294 000
2010	287 000
2011	338 000
2012	374 000

- (5) The following table summarises the expected development of passenger traffic up to 2030:

Table 2: Expected passenger development at Vaasa airport 2013 – 2030

Year	Number of passengers at the airport
2013	382 000
2014	389 000
2015	397 000
2016	405 000
2017	413 000
2018	415 000
2019	417 000
2020	419 000
2021	421 000
2022	424 000
2023	426 000
2024	428 000

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2025	430 000
2026	432 000
2027	434 000
2028	436 000
2029	439 000
2030	441 000

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2.2 The investment project and its financing

- (6) The notified infrastructure project mainly aims at the modernisation of obsolete infrastructure by addressing deficiencies and improving the functionality of the terminal to meet the requirements of airlines and passengers,² as well as improving the working conditions of the public authorities (e. g. customs and police) and respective technical systems.
- (7) The total investment costs amount to EUR 0.921million. The total estimated investment costs can be broken down as follows:

Table 2: The investment project at Vaasa airport:

Measure	Cost in EUR million
Construction and planning costs	0.845
Security control equipment	0.061
Access control system	0.015
Total amount	0.921

- (8) According to the Finish authorities, the investment project will be financed partially through public funding (EUR 0.325 million, including EUR 0.076 million falling within public policy remit) and partially through the aviation and non-aviation revenue of the airport operator (EUR 0.596).
- (9) The aid amount is limited to the funding gap of the investment project (EUR 0.370 million), which is determined on the basis of an ex ante business plan of the airport as the difference between the total estimated investment costs (EUR 0.921 million) and the net present value (hereinafter: "NPV") of the net cash flows expected to be generated by the project under consideration (EUR 0.551 million). The discount rate used for the calculation of the NPV reflects the opportunity cost of capital and amounts to 6%.³ Without the aid the NPV of the investment project would be negative. The aid intensity amounts to around 30%.

2.3 Legal basis

- (10) The legal basis for the aid grant are the decision of Vaasa city board of 11 June 2012 and the decision of Vaasa city council of 18 June 2012 (Réf: 301 504/2012 and 88 504/2012 accordingly).

² The operation and use of the terminal have changed considerably since the airport's construction in 1993. The introduction of new regulations, such as the division between Schengen and non-Schengen passengers and strict separation of restricted and non-restricted areas, cause bottlenecks in the infrastructure that affect both arrivals and departures. The lack of space means that passengers and baggage have to wait outdoors during the busiest times.

³ As the project will be financed through own resources only the cost of capital amounts to cost of equity.

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3 ASSESSMENT OF THE MEASURE

3.1 Existence of aid

- (11) By virtue of Article 107(1) of the TFEU "any aid granted by a Member State 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 Member States, be incompatible with the internal market."
- (12) The criteria laid down in Article 107(1) of the TFEU are cumulative. Therefore, in order to determine whether the notified measures constitute State aid within the meaning of Article 107(1) of the TFEU all of the following conditions need to be fulfilled. Namely, the financial support:
- is granted by the State or through State resources,
 - favours certain undertakings or the production of certain goods,
 - distorts or threatens to distort competition, and
 - affects trade between Member States.

Economic activity and notion of undertaking

- (13) According to settled case law, the Commission must first establish whether Finavia is an undertaking within the meaning of Article 107 (1) of the TFEU. The concept of an undertaking covers any entity engaged in an economic activity, regardless of its legal status and the way in which it is financed⁴ and any activity consisting in offering goods and services on a given market is an economic activity.⁵
- (14) In its "*Leipzig-Halle airport*" judgement the Court of Justice confirmed that the operation of an airport for commercial purpose and the construction of the airport infrastructure constitute an economic activity⁶. Once an airport operator engages in economic activities, regardless of its legal status or the way in which it is financed, it constitutes an undertaking within the meaning of Article 107(1) of the TFEU, and the Treaty rules on State aid therefore apply⁷.

4 Case C-35/96 *Commission v Italy* [1998] ECR I-3851; Case C-41/90 *Höfner and Elser* [1991] ECR I-1979; Case C-244/94 *Fédération Française des Sociétés d'Assurances v Ministère de l'Agriculture et de la Pêche* [1995] ECR I-4013; Case C-55/96 *Job Centre* [1997] ECR I-7119.

5 Case 118/85 *Commission v Italy* [1987] ECR 2599; Case 35/96 *Commission v Italy* [1998] ECR I-3851.

6 Joint Cases T-455/08 *Flughafen Leipzig-Halle GmbH and Mitteldeutsche Flughafen AG c/ Commission* and T-443/08 *Freistaat Sachsen and Land Sachsen-Anhalt c/ Commission*, (hereafter: "*Leipzig-Halle airport case*"), [2011] ECR II-01311, confirmed by the ECJ, Case C-288/11 *P Mitteldeutsche Flughafen and Flughafen Leipzig-Halle v Commission*, [2012], not yet published in the ECR; see also Case T-128/98 *Aéroports de Paris v Commission* [2000] ECR II-3929, confirmed by the ECJ, Case C-82/01P, ECR 2002 Page I-9297, and Case T-196/04 *Ryanair v Commission* [2008], ECR II-3643.

7 Cases C-159/91 and C-160/91, *Poucet v AGV and Pistre v Cancave* [1993] ECR I-637.

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- (15) In this regard the Commission notes that the infrastructure, which is the subject of the present decision, will be operated on a commercial basis by the airport manager Finavia. Since the airport operator will charge users for the use of this infrastructure, the latter is commercially exploitable. It follows that the entity exploiting this infrastructure constitutes an undertaking for the purposes of Article 107 (1) of the TFEU.
- (16) However, not all the activities of an airport operator are necessarily of an economic nature⁸. It is necessary to establish to what extent airport activities are of an economic nature.
- (17) The Court of Justice⁹ has held that activities that normally fall under State responsibility in the exercise of its official powers as a public authority are not of an economic nature and do not fall within the scope of the rules on State aid. Such activities include security, air traffic control, police, customs, etc. The financing has to be strictly limited to compensation of the costs to which they give rise and may not be used instead to fund other economic activities.¹⁰
- (18) Therefore, the practice of the Commission¹¹ is that in relation to activities falling within the public policy remit, the financing of these activities or of infrastructure directly related to these activities does not constitute State aid. This means that the financing of infrastructure necessary for security reasons or essential for the control and supervision of the air navigation and airspace falls within the public policy remit.¹²
- (19) In view of the above, the Commission notes that the investments into buildings and equipment for customs, airport security guards, police and border guards amounting in total to EUR 0.076 million fall within the public policy remit, and hence the financing of this measure does not constitute State aid in the meaning of Article 107(1) of the TFEU.

State resources and imputability to the State

- (20) The grant of EUR 0.249 million in favour of Finavia, the operator of Vaasa airport, is financed out of the budget of the Finnish government, hence it involves State resources. The notified measure is directly taken by the Finnish authorities, thus it is imputable to the State.

8 Case C-364/92 SAT *Fluggesellschaft v Eurocontrol* [1994] ECR I-43.

9 Commission Decision N309/2002 of 19 March 2003 on Aviation security - compensation for costs incurred following the attacks of 11 September 2001.

10 Case C-343/95 *Cali & Figli v Servizi ecologici porto di Genova* [1997] ECR I-1547; Commission Decision N309/2002 of 19 March 2003; Commission Decision N438/2002 of 16 October 2002, Aid in support of the public authority functions in the Belgian port sector.

11 Commission Decision N309/2002 of 19 March 2003 on Aviation security - compensation for costs incurred following the attacks of 11 September 2001.

12 See Commission Decision N620/2006 of 7 March 2007 on *Einrichtung des Regionalflughafens Memmingen*.

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Economic advantage

- (21) The above-mentioned public financing from the Finnish State budget provided without any remuneration reduces the investment costs that the airport operator would normally have to bear, if it wanted to expand or improve its efficiency, and therefore it confers an economic advantage to the airport.

Selectivity

- (22) Article 107 (1) TFEU requires that a measure, in order to be defined as State aid, favours "*certain undertakings or the production of certain goods*". The Commission notes that the advantages in question were granted to Finavia only. Thus it is a selective measure within the meaning of Article 107 (1) of the TFEU.

Distortion of competition and effect on trade

- (23) When aid granted by a Member State strengthens the position of an undertaking compared with other undertakings competing in the internal market, the latter must be regarded as affected by that aid. In accordance with settled case law¹³, for a measure to distort competition it is sufficient that the recipient of the aid competes with other undertakings on markets open to competition.
- (24) As previously explained, the operation of an airport is an economic activity¹⁴. Competition takes place between airports and between airport operators, which may compete between themselves to be entrusted with the management of a given airport.
- (25) Also relatively small airports (i.e. Vaasa with around 380,000 passengers per year) compete to attract airlines. As mentioned in paragraph 40 of the 2005 Aviation Guidelines, it is not possible to exclude even smaller airports from the scope of application of Article 107 (1) of the TFEU. The forecast in terms of passenger traffic¹⁵ at Vaasa airport shows an increase in traffic over the coming years. In addition, the measures will allow the airport to attract new airlines.
- (26) In view of the above, the measures at stake are capable of affecting competition between airports by strengthening the attractiveness of Vaasa airport for airlines.
- (27) Moreover, the economic advantage which Finavia receives as grant to finance the infrastructure enhancement projects at Vaasa airport will strengthen its position vis-à-vis its competitors on the European market of providers of airport services. Since the market for the provisions of airport services is not closed to competition at EU level, the public funding under examination distorts or threatens to distort competition and affects trade between the Member States.

¹³ Case T-214/95 *Het Vlaamse Gewest v Commission* [1998] ECR II-717.

¹⁴ See above, paragraph 14.

¹⁵ See above, tables 1 and 2.

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Conclusion

(28) For the reasons set out above the Commission concludes that the public financing of the infrastructure measures at Vaasa airport involves State aid within the meaning of Article 107 (1) of the TFEU. As the grant at stake is subject to Commission's approval, Finland has respected the prohibition of Article 108 (3) of the TFEU.

3.2 Compatibility of the aid

(29) The Commission has to assess, if the aid can be found compatible with the internal market.

Compliance with the 2005 Aviation Guidelines

(30) The measure in question should be assessed upon the basis of Article 107 (3) (c) TFEU, which stipulates that: "*aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest*", may be considered to be compatible with the internal market. In this regard, the 2005 Aviation Guidelines provide a framework for assessing whether aid to airports may be declared compatible pursuant to Article 107(3)(c) of the TFEU. They set out a number of criteria which the Commission takes into account in this regard in its decision making practice since the "*Aéroports de Paris*" case-law.¹⁶

(31) According to point 61 of the 2005 Aviation Guidelines the Commission has to examine whether:

- the construction and operation of the infrastructure meets a clearly defined objective of general interest (regional development, accessibility, etc.);
- the infrastructure is necessary and proportional to the objective which has been set;
- the infrastructure has satisfactory medium-term prospects for use, in particular as regards the use of existing infrastructure;
- all potential users of the infrastructure have access to it in an equal and non-discriminatory manner;
- the development of trade is not affected to an extent contrary to the EU interest.

¹⁶ See for example Commission decision of 13 March 2001 - State aid Case N 58/2000 - Italy - Promotion of the Piedmont airport system, OJ C 67, 17 March 2004; Commission decision of 19 January 2005 - State aid N 644i/2002 - Germany - Development of municipal economic infrastructure pursuant to Part II, Section 7 of the Framework plan under the joint Federal Government / Länder scheme for improving regional economic infrastructure: (i) Construction or development of regional airports, OJ C 126, 25 May 2005; Commission decision of 20 April 2005 - State aid case N 355/2004 -Belgium - Public-Private-Partnership for tunnelling the Krijgsbaan at Deurne and the development of industrial estates and the operation of Antwerp Airport (PPP – Project Antwerp Airport), OJ C 175, 16 July 2005; Commission decision of 23 July 2008 - State aid case C 48/2006 (ex N 227/2006) - Germany - DHL/Leipzig Halle, OJ L 346, 23 December 2008

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(32) In addition to the requirement to satisfy specific compatibility criteria specified in the 2005 Aviation Guidelines, State aid to airports, as any other State aid measure, should have an incentive effect and should be necessary and proportional in relation to the aimed legitimate objective in order to be cleared as compatible aid¹⁷.

(i) Construction and operation of the infrastructure meets a clearly defined objective of common interest (regional development, accessibility, etc.)

(33) According to Finland, the main aim of the financing of the infrastructure project at stake is to improve the accessibility of the region, and thus to stimulate the regional development and creation of new jobs. The Vaasa region itself is home to the biggest Nordic energy technology centre, and good passenger and freight transport connections are essential for the competitiveness of local business and industry

(34) The airport has also attracted a significant number of incoming tourists visiting the area and the region as a whole. This is of a particular importance for the area's economy. In addition, the airport itself plays an important role as an employer.

(35) According to Finland, the other means of transport (road network or train connections) cannot meet the region's demands for mobility. The Vaasa airport provides in particular higher mobility to local companies.

(36) The new investment will not constitute a duplication of existing non-profitable infrastructure. The closest airports located in the area, Pori (193 km away from Vaasa) and Pietarsaari-Kokkola airports (120 km away from Vaasa) are located at around 2 hours travelling time, and therefore, according to Finland, these airports do not share the catchment area with Vaasa airport. Moreover, both airports have only very limited annual traffic (less than 100 000 passenger per annum).

(37) Furthermore, according to the traffic forecast submitted by Finland, there is sufficient demand for the modernised infrastructure. Without the project at stake there would be risk that the region would be underserved.

(38) The Commission can therefore conclude that the modernisation and operation of the infrastructure meets a clearly defined objective of common interest.

(ii) The infrastructure is necessary and proportional to the objective which has been set

(39) According to Finland the planned modernisation of Vaasa airport is necessary, because the present facilities do not meet the requirements for unhindered flow of passengers and suffer from congestion at peak times. The lack of space at the present terminal means that passengers and baggage have to wait outdoors during the busiest times. The objective to efficiently meet service requirements for increasing passenger numbers can therefore not be reached without the planned infrastructure development.

¹⁷ It is constant case law that the Commission can declare an aid compatible only if it is necessary for achieving a legitimate objective (see for example case 730/79, *Philipp Morris*; case C-39

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- (40) The cost/benefit analysis submitted by Finland provides that the infrastructure project will be undertaken only to the extent it is necessary to attain the goals set and that the project is not disproportionately large or elaborate.
- (41) The Commission can therefore conclude that the infrastructure renovations in question are necessary and proportional to the objectives, which have been set.
- (iii) The infrastructure has satisfactory medium-term prospects for use, in particular as regards the use of existing infrastructure
- (42) According to the information provided by Finland the infrastructure project meets the medium term demand of airlines and passengers. This is so in particular due to the absence of other airports in the proximity of Vaasa airport.
- (43) On the basis of the above mentioned forecasts for passenger numbers, in the medium-term, the development project for Vaasa airport offers good perspectives for use, especially in relation to existing infrastructure at the airport, which the planned works will optimise.
- (iv) All potential users of the infrastructure have access to it in an equal and non-discriminatory manner
- (44) According to Finland the infrastructure will be operated by Finavia Oyj and will be open to all potential users without any commercially unjustified discrimination.
- (v) The development of trade is not affected to an extent contrary to the interest of the EU
- (45) Vaasa airport currently serves less than 1 million passengers per annum, which qualifies it according to the 2005 Aviation Guidelines as a small regional airport (category D). As previously indicated, after the development of the airport infrastructure, Vaasa airport is expected to serve around 440 000 passengers in 2030.
- (46) The closest airports located in the area, Pori (193 km from Vaasa) and Pietarsaari-Kokkola (120 km from Vaasa) are located at around 2 hours travelling time away, and therefore, according to Finland, these airports do not share the catchment area with Vaasa airport. Both airports have only very limited annual traffic (less than 100 000 passenger per annum). Pori airport served 35.313 passengers and Pietarsaari-Kokkola airport served 87.076 passengers in 2012.
- (47) In addition, the aid intensity of the project (see section on the necessity and proportionality of the aid further below) is limited to its funding gap.
- (48) On the basis of the above, the Commission can therefore conclude, that the development of trade is not affected to an extent contrary to the common interest.

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(vi) Aid is necessary and proportional

- (49) The Commission must establish, whether the State aid granted to Finavia Oyj has changed the behaviour of the beneficiary undertaking in such a way that it engages in activity that contributes to the achievement of a public-interest objective that (i) it would not carry out without the aid, or (ii) it would carry out in a restricted or different manner. In addition, the aid is considered to be proportionate, only if the same result could not be reached with less aid and less distortion. This means that the amount and intensity of the aid must be limited to the minimum needed for the aided activity to take place.
- (50) According to the counterfactual scenario provided by Finland, without the aid the investment could not be realised. The interest costs and additional cost related to private bank loans have been considered too expensive in relation to the project at hand. Vaasa's airport terminal building is in a poor condition and the renovation works will not be executed in case the public funding is not available. As a result, the airport would not meet the expected service levels for airlines and passengers in the catchment area. Moreover, the investment costs exceed the NPV of the expected operating profits of the investment.
- (51) The Commission observes that the aid measure at stake will not subsidise the costs of an activity that an undertaking would anyhow incur and it will also not compensate for the normal business risk of an economic activity.
- (52) Therefore, it can be concluded that the aid measure at stake has an incentive effect, as it will enable the beneficiary to realise the notified investment.
- (53) With regard to the assessment of the proportionality of the aid, Finland provided a calculation of the funding gap of the investment project showing that the aid (i. e. EUR 0.249 million) is limited to the funding gap (EUR 0.370 million). As described the funding gap was determined on the basis of an ex ante business plan as the difference between the investment costs (EUR 0.921 million including EUR 0.076 million falling within public policy remit) and the NPV of the expected operating profits of the investment (EUR 0.551 million) over the next years (i. e. 2014 – 2023). The discount rate used for the calculation of the NPV reflects the opportunity cost of capital of Finavia Oyj and amounts to around 6%. The funding gap of the investment project amounts to EUR 0.370 million. Without the aid the NPV of the investment project would be negative.
- (54) The public funding (i. e. 0.325 million including EUR 0.076 million falling within public policy remit) granted corresponds to the funding gap. The aid intensity amounts to around 30%.¹⁸

¹⁸ Aid intensity = Aid amount (or Funding gap)/Investment costs excl. investment costs of tasks falling within public policy remit

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(55) As the 2005 Aviation Guidelines leave open the issue of aid intensities, the maximum permissible aid amount has to be limited to the funding gap calculated on the basis of an ex ante business plan of the airport. Moreover, the Commission notes that the investments concerned are similar to the investments at airports with comparable characteristics.¹⁹ Therefore, the aid intensity of ~30% is justified in the case at stake.

Conclusion

(56) In view of the above assessment the Commission concludes that the measure is compatible with the internal market on the basis of Article 107(3)(c) of the TFEU.

4 DECISION

The Commission has accordingly decided to consider that:

- The financing of the investments into security control equipment and access control system at Vaasa airport notified by Finland amounting to EUR 76 000 does not involve State aid within the meaning of Article 107 (1) TFEU.
- The financing of the construction and planning costs in relation to the modernisation of the infrastructure at Vaasa airport notified by Finland amounting to EUR 249 000 constitutes aid compatible with the internal market on the basis of Article 107 (3) (c) of the TFEU and not to raise objection against it.

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$$\begin{aligned} &= (\text{EUR } 0.325 \text{ million} - 0.076 \text{ million}) / (\text{EUR } 0.921 \text{ million} - 0.076 \text{ million}) \\ &= \text{EUR } 0.249 \text{ million} / 0.845 = \sim 30\% \end{aligned}$$

¹⁹ See Commission decision of 11 February 2009 in State aid case N 472/2008 – Poland – Investment aid for airports under the infrastructure and environment operational programme, OJ C 79, 2 April 2009 and Commission decision of 13 July 2009 in State aid case N 196/2008 – Poland – Investment aid for the airports under Regional Operational Programmes, OJ C 204, 29 August 2009, and Commission decision of 19 December 2012 in State aid case No SA.35220 (2012/N) – Greece – Makedonia Airport Modernisation, OJ C 36, 8 February 2013.

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Yours faithfully,
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