



EUROPEAN COMMISSION

Brussels, 27.10.2014

C(2014)7798 final

PUBLIC VERSION

This document is made available for information purposes only.

Subject: State aid SA.39224 (2014/N) – Greece –
Reset of Greek Motorway concession projects – Moreas Motorway

Sir,

1. PROCEDURE

- (1) Following a prenotification under SA.38158 (2013/PN), the Greek authorities notified to the European Commission ('Commission') by SANI notification of 29 July 2014 a series of measures amending the concession agreement for the "Design, Construction, Financing, Operation, Maintenance and Exploitation of the Korinthos – Tripoli – Kalamata Motorway and Lefktro – Sparti Branch Project" ('Moreas Motorway').
- (2) The Commission requested additional information by letter of 13 August 2014. The Greek authorities provided an additional submission by letter of 29 September 2014.
- (3) By their letter of 29 September 2014, the Greek authorities informed the Commission that in the interest of adopting the present decision as soon as possible, they accept that the decision is adopted in English.

2. DESCRIPTION

2.1. The project

- (4) The Moreas Motorway project is a 30-years concession by the State and concerns:
 - a. the design, construction, operation, maintenance and exploitation of a new motorway of 76 km linking the Greek towns of Tripoli and Kalamata and another new motorway of 47 km linking that motorway with the Greek town of Sparta;

Mr. Evangelos Venizelos
Minister of Foreign Affairs
Vasilissis Sofias 5
Greece – 10671 Athens

- b. the upgrading, operation, maintenance and exploitation of a 82 km section of the existing motorway between the Greek towns of Corinth and Tripoli;
- (5) Although in January 2004, the project was already very advanced, two important sections – namely the Kalamata bypass and the link between the Moreas Motorway and the city of Sparta – are still under construction (see map in annex I).
- (6) The Moreas Motorway is included in the Trans-European Transport Network (TEN-T)¹. Together with other four motorways that are also under construction², the Moreas motorway is part of a network that covers a major proportion of the territory of Greece and that is expected to improve traffic speed, capacity, safety, as well as interconnection with other modes of transport both for passengers and cargo, in the regions concerned.
- (7) Also, according to the Greek authorities, the construction and operation of the of the new motorway network, including Moreas Motorway will have significant positive effects on the Greek economy, as it is expected to improve competitiveness, create direct (through the construction) and indirect (through improved mobility) employment and boost growth.

2.2. The beneficiary

- (8) The project is carried out by a Special Purpose Vehicle company ('SPV'), "Moreas S.A." ('Concessionaire') with the following shareholders:³
- | | |
|---------------------------|--------|
| a. Aktor Concessions S.A. | 71.67% |
| b. J&P Avax S.A. | 15% |
| c. Intracom Holdings S.A. | 13.3% |

2.3. Context of the measures

2.3.1. The original concession agreement

- (9) On 31 January 2007, following an open tender, the Greek State and the Concessionaire signed the concession agreement for Moreas Motorway, which was ratified by law 3559/2007.⁴ The Concession commenced on 3 March 2008 (referred to as 'CCD') and was initially foreseen to have duration of 30 years, thus ending on 3 March 2038.

¹ Decision NO1692/96/EC of the European Parliament and of the Council of 23 July 1996 on Community Guidelines for the development of the trans-European transport network; OJ L 228, 9.9.1996, p.1 Decision 661/2010/EU of the European Parliament and of the Council of 7 July 2010 on Union guidelines for the development of the trans-European transport network, OJ L 204, 5.8.2010, p.1.

² These are the Aegean Motorway, Ionia Odos, the Central Motorway (E65) and Olympia Odos. State support measures for these motorways were the subject of separate Commission decisions in Cases SA.36877, SA.36894, SA.36878, SA.36893. All four decision adopted on 13.12.2013.

³ The original shareholders (Elliniki Technodomiki – TEB S.A., Pantechniki S.A., and Intracom Holdings S.A.) undertook a number of corporate transformations in 2007. Under the original concession agreement the shareholders of Moreas were: (a) Aktor Concessions S.A., holding 86.70% of the share capital; and (b) Intracom Holdings S.A., holding 13.30% of the share capital. In March 2011, Aktor Concessions S.A. transferred part of its shares in the concessionaire (15%) to J&P Avax S.A..

⁴ Government Gazette FEK 102/A/14.5.2007.

- (10) The Concession Agreement with the Concessionaire has the characteristics of a Public-Private Partnership ('PPP') in the form of Build-Operate-Transfer back ('BOT').
- (11) The concession agreement is divided into two distinct periods: design and construction period ('T1') and the operation period (T2). The construction of Moreas Motorway during T1 was envisaged to be financed partly by private sources, i.e. equity by the concessionaire, shareholders' loans and commercial loans by a group of Greek and international financial institutions, including the European Investment Bank (EIB), and partly by public sources . This was based on the premise that, in view of the negative Financial Net Present Value (FNPV) of the project,⁵ Moreas Motorway could not be constructed unless financed, in part, with public funds.⁶
- (12) In addition, the original concession agreement already anticipated that the motorway would not generate enough revenue during T2 in order to repay the T1 loans and to provide a profit for the concessionaire. Thus, the original concession agreement provided for an operating subsidy of EUR 199 million by the State.
- (13) If the revenue from Moreas Motorway exceeded certain thresholds during the operation period, as a result of traffic above-expectation, the subsidy by the State would be reduced.

2.3.2. 2008 State aid decision

- (14) The State support in favour of Moreas Motorway was the subject of a Commission decision not to raise objections, since it was deemed not to involve State aid for either the Concessionaire or the end users of the motorway.⁷

2.3.3. Construction suspension and renegotiation

- (15) Since the second quarter of 2011, Moreas Motorway has been facing a significant decline in revenue through the reduction in traffic,⁸ mainly due to the worsening economic conditions in Greece, demonstrated by a significant reduction of GDP since 2008 and high unemployment.
- (16) The Concessionaire tried to address the revenue shortfall in 2012/2013 by means of: a series of measures including an injection of additional equity of EUR 7 million and streamlining of operation expenditure. Despite those efforts, in November 2013 it became apparent that because of the crisis and the shortfall in motorway revenues, the motorway would no longer generate enough revenues for the concessionaire to repay the loans during T2.
- (17) The above conditions led the lending institutions to cease providing funding to the project ('draw stop') in November 2013, when approximately 92% of the T1 construction works had been completed, as they no longer believed in its viability.

⁵ A negative Financial Net Present Value indicates that the expected revenues do not cover the total investment costs of the project. In principle a project with negative FNPV needs public support in order to be concluded, since no private investor would contribute the full cost of the project, as this would yield no return.

⁶ The State, thus, would contribute to the construction with EUR 342 million grant and the allocation to the concessionaire of the revenues from the section of the motorway already built by the State (i.e. the section Corinth –Tripoli). The concessionaire would contribute with EUR 105 million, and the banks with EUR 524 million, including EUR 150 million by the European Investment Bank (EIB).

⁷ Decision E(2008)312 final, adopted on 30.01.2008, case N 566/2007, published in OJ C 70, 15.03.2008, p. 4.

⁸ In 2011, transactions (passenger car units) regressed by 11.7% as compared to 2010, in 2012 by 9.2% as compared to 2011, and in 2013 by 2.4% compared to 2012.

- (18) The Greek authorities have explained that a termination of the concession and re-tendering would not be an economically sound option. The Greek authorities also explained that in case of inability of the Concessionaire to repay the loans the lenders would be entitled to accelerate the repayment period, leading most likely to the default of the Concessionaire. In this case, the Concession Agreement would be terminated, and the State would have to face high costs in order to complete the construction of the motorway.
- (19) Thus, the Greek authorities have decided to re-negotiate with the Concessionaire and provide additional public support measures, in view of restoring the viability of Moreas Motorway. The result of these negotiations is hereinafter referred to as "Reset".
- (20) Moreas Motorway has also faced significant judicial and administrative delays imputable to the State, such as delays in a number of expropriations and in the provision of environmental permits. In the context of the Reset, and, as a result of these delays, combined with the "drawstop", the deadline for completing construction has been moved from September 2013 to April 2015.⁹ This, however, does not have an impact on the overall duration of the concession, which remains 30 years from the CCD.

3. THE NOTIFICATION

3.1. Conditions of financing by lending institutions

- (21) The lending institutions will maintain the same terms as agreed in the original Concession Agreement, namely repayment period and margins between 1.15%-1.40% for the loans by the commercial institutions, and margins between 0.70%-0.95% for the EIB loan, despite the increased risks deriving from the crisis. However, the lending institutions reduced by EUR 40 million the loans committed to the construction of Moreas Motorway.

3.2. State support measures

- (22) The following measures have been notified to the Commission under Article 108 (3) of the Treaty on the Functioning of the European Union ("TFEU").

3.3. Measures in T1

3.3.1. Measure 1: Settlement of contractual obligations - Payment of claims

- (23) During the construction period, the State has the contractual obligation to provide a vacant site for Moreas Motorway. However, delays in obtaining vacant possession of the construction site of Moreas Motorway have occurred due to judicial and administrative reasons. They have resulted in (i) disruption of Moreas Motorway's construction schedule and (ii) adverse financial impact on the operation of Moreas Motorway for the Concessionaire, resulting in a reduction of the Concessionaire's anticipated revenues, and increase in construction costs.

⁹ The works on the Lefktro – Sparta motorway section are estimated to be substantially completed by the end of February 2015. The substantial completion of all the works of the project is estimated to occur by the end of April 2015.

- (24) As regards the claims related to the construction schedule, the Concessionaire submitted to the Greek State a list of financial claims. The Greek State has challenged most of the claims¹⁰ and the Concessionaire sought recourse to the Arbitration and Technical Panel procedures provided by the original Concession Agreement. The Greek authorities have explained that the settlement of all these claims will be concluded according to the provisions of the original Concession Agreement, which require all claims to be reviewed by appointed independent engineers, auditors and the competent services of the Greek administration.
- (25) As regards the claims related to the reduction of anticipated revenues, the Greek State had the contractual obligation to compensate the Concessionaire up to the originally envisaged traffic revenues. However, given the realised reduction in traffic and the overall Reset of the financial balance of Moreas Motorway, the Concessionaire agreed to be compensated only by EUR 75,981,626 (EUR 67.7 million less than the amount originally foreseen under the original Concession Agreement).

3.4. Measures in T2

3.4.1. Measure 2: Additional State funding

3.4.1.1. Additional Operating Subsidy

- (26) During the operation period, Moreas Motorway relies on traffic revenue and the Operating Subsidy, in order to cover its operating costs, repay the loans and provide a return to the Concessionaire. As explained before, the Concessionaire and the lending institutions have concluded that, because of the lower traffic revenue, the project would not be able to cover these obligations and thus that the project is not viable any more.
- (27) In the context of the Reset, all parties have undertaken the obligation to conclude the construction of the motorway.
- (28) The Concessionaire will accept a significantly lower Internal Rate of Return ('IRR') for its investment to the project, which is estimated at 0.56% and will in any event be capped at 5%, as opposed to the originally envisaged 10.47%.
- (29) The lending institutions, having already disbursed the majority of the amounts committed to the project, are willing to disburse the remaining amounts (reduced by EUR 40 million) and keep the same favourable terms of the loans, provided that the project's viability is restored during the operation period.
- (30) In order to render the project viable again during the operation period, and thus allow the conclusion of the construction, the Greek State will provide an Additional Operating Subsidy of up to EUR 330 million, to be disbursed gradually during the loan repayment period (at six-month intervals) and only when this becomes necessary in order to repay the EIB and commercial bank loans, after taking into account the other revenues of the project.
- (31) The tranches of the Additional Operating Subsidy will come from the State budget of the respective year when it is envisaged to be paid.

¹⁰ As described in recital (20) the State has accepted to compensate the Concessionaire for delays in time by extending the duration of the period T1.

- (32) The Additional Operating Subsidy is designed in a way that if the revenue of Moreas Motorway develops better than anticipated at the time of the Reset, this will reduce proportionately the amounts to be paid by the State under this measure.

3.4.1.2. State guarantee for additional Concessionaire payments

- (33) The Concessionaire's shareholders have also undertaken to pay additional EUR 10 million during the operation period, in order to support the repayment of the loans, if this becomes necessary for the viability of the project, after the payment of the Additional Operating Subsidy provided by the State, or if there is an excess in the project's operating expenses.
- (34) The Greek State will guarantee the payment of the EUR 10 million. The Greek State will provide this guarantee without a fee, but if any payment is made, then the State will be entitled to any profits generated by Moreas Motorway in the future.

3.5. Cumulation

- (35) The Greek authorities have undertaken the commitment that the aid received for this project will not be cumulated with aid received from other local, national or EU sources for the same eligible costs.

4. ASSESSMENT

4.1. Existence of State aid

- (36) By virtue of Article 107(1) of the Treaty, 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.
- (37) The Greek authorities have notified only new State support measures for the Central Motorway considering the measures under the Reset as being distinct from the measures assessed under the 2008 decision and based on the original concession agreement.
- (38) In order to establish whether the notified measures under the Reset can be severed from the ones previously approved by the Commission (cf. 2008 decision), the Commission refers to relevant jurisprudence.¹¹ In the quoted jurisprudence the Court sets out a non-exhaustive list of elements that should be taken into account when determining whether a given measure can be reasonably severed from the previous ones. These elements are: (i) the chronology of the measures; (ii) their purpose and (iii) the assessment of the financial and risk situation of the undertaking concerned.
- (39) In the present case, the measures covered by the 2008 decision were granted in 2007, while the current measures are implemented 6 years after the approval of the first measures. Therefore, a substantial period of time has already elapsed between the envisaged measures and the ones assessed in the 2008 decision, therefore the measures cannot be considered as closely related in time.

¹¹ Joined Cases C-399/10 P and C-401/10 P *Bouygues SA, Bouygues Télécom SA v Commission*, and *BP Chemicals vs. Commission* judgment in case T-11/95 [1998], para. 171.

- (40) In addition, the Commission notes that the measures under notification are being implemented, because the beneficiary's situation deteriorated significantly, due to the significant recession of the Greek economy. This situation was not known nor anticipated at the time of the signing of the original concession agreement and at the time the Commission took its 2008 decision.
- (41) Finally, the measures serve the same purpose as the original measures assessed by the 2008 decision, i.e. the construction and operation of the motorway.
- (42) In light of the above, the Commission shares the Greek authorities' conclusion that, although the notified measures serve the same general purpose as the measures assessed in 2008 decision, the notified measures can reasonably be severed from the measures assessed under its 2008 decision.
- (43) In order to conclude on whether State aid is present, it must therefore be assessed whether the cumulative criteria listed in Article 107(1) of the Treaty (i.e. transfer of State resources, selective advantage, potential distortion of competition and effect on trade between Member States) are met for each of the notified measures.

4.1.1. Existence of State aid at the level of the Concessionaire

4.1.1.1. Notion of undertaking

- (44) The Concessionaire is a private law company, which is responsible for constructing, operating and exploiting the infrastructure. According to established Court jurisprudence,¹² whenever an entity is engaged in an economic activity, regardless of its legal status and the way in which it is financed, it can be considered as an undertaking for the purposes of EU competition law. According to the Court,¹³ the construction of an infrastructure which shall be commercially exploited constitutes an economic activity. Since this is the case for Moreas Motorway, the funding of the construction and subsequent operation of such infrastructure falls within the scope of EU State aid rules.
- (45) Since Moreas Motorway will be commercially exploited by the Concessionaire, the latter is therefore considered to be an undertaking for the purposes of the State aid assessment.

4.1.1.2. Measures in T1

4.1.1.2.1. Measure 1 (Settlement of contractual obligations - Payment of claims)

- (46) The Commission notes that the payments in question are based on contractual obligations of the State in the context of the original concession agreement. Indeed, the Greek authorities have provided evidence that under the original Concession Agreement the State is responsible to compensate the Concessionaire for delays and any other financial impact on its operations, including lost revenue, imputable to the State.

¹² See e.g. Case C-41/90 *Hofner and Elser* [1991] ECR I-1979, para. 21; C-160/91 *Poucet and Pistre v. AGF and Cancava* [1993] ECR I-637, para. 17; Case C-35/96 *Commission v. Italy* [1998] ECR I-3851.

¹³ Joined cases T-455/08 *Flughafen Leipzig-Halle GmbH and Mitteldeutsche Flughafen AG v. Commission*, confirmed by ECJ, Case C-288/11 P *Mitteldeutsche Flughafen and Flughafen Leipzig-Halle v Commission*, and T-443/08 *Feistaat Sachsen and Land Sachsen Anhalt v. Commission* [2011] ECR II-0000; see also Case T-128/89 *Aéroports de Paris v. Commission* [2000] ECR II-3929, confirmed by the ECJ, Case C-82/01P [2002] ECR I-9297, and Case T-196/04 *Ryanair v. Commission* [2008] ECR II-3643, paragraph 88.

- (47) In addition, the Greek authorities have explained that those claims are reviewed by independent engineers, auditors and the Greek administration where applicable and therefore cannot exceed what is strictly required under the State's contractual obligations.
- (48) In view of the above, the Commission considers that measure 1, although partly involving State resources and being imputable to the State, does not involve State aid to the Concessionaire, because it does not confer an advantage to the latter.

4.1.1.3. Measure in T2

4.1.1.3.1. Measure 2 (Additional State funding)

Additional Operating Subsidy

- (49) The Additional Operating Subsidy involves State resources and is imputable to the State. Indeed up to EUR 330 million will be put at the disposal of the Concessionaire to be provided in tranches directly from the State budget, in case of need. The Greek authorities control the disbursement of the money. The notified funding for this project was directly chosen by, and is therefore imputable to the Greek State.
- (50) In order to establish whether the Additional Operating Subsidy to be granted to the Concessionaire provide it with an economic advantage, the Commission must assess whether such measure would have been undertaken at the same terms by a private investor (market economy investor test).
- (51) In the case at hand, it must be concluded that no market investor would have accepted to provide such an operating subsidy, due to the absence of return. Therefore, this part of measure 2 provides the Concessionaire with an advantage that it would not have received under normal market conditions. The measure is selective, because it is only granted to the Concessionaire.
- (52) In the light of the above and of the fact that the Greek authorities do not claim that the market investor test is met, it must be concluded that this part of measure 2 confers a selective advantage to the Concessionaire.

State guarantee for additional Concessionaire payments

- (53) The guarantee of the Concessionaire payments puts at risk State resources, as the State will be liable to pay any part of the EUR 10 million through the State budget, if the conditions are met and the Concessionaire's shareholders do not fulfil their obligations. The decision for the guarantee is imputable to the State. Thus, the criterion of State resources is fulfilled.
- (54) The Greek authorities have explained that without the guarantee, the lending institutions would not consider Moreas Motorway viable and would not disburse the remaining loans. At the same time, it appears that no other party would accept to provide this guarantee, without at least an appropriate remuneration through a premium or a fee. This shows that this part of measure 2 also entails a selective advantage to the Concessionaire.
- (55) In light of the above, measure 2 entails State aid to the Concessionaire.

4.1.1.4. Distortion of competition and effect on trade between Member States for measure 2

- (56) For measures imputable to the State, involving State resources and conferring a selective advantage to the Concessionaire, the Commission has to consider whether

they are likely to distort competition and affect trade between Member States, by providing the Concessionaire with an advantage over its competitors not receiving the same public support. In this case, this assessment concerns only measure 2.

- (57) According to an established case law, when the financial support granted by a Member State strengthens the position of an undertaking compared to other undertakings competing in trade between Member States, then there is at least a potential effect on trade between Member States and on competition.¹⁴
- (58) The Concessionaire is an undertaking, which is active in the sector of construction and management of motorway infrastructures. The Commission considers that the support by the State to the Concessionaire may reinforce the position of this operator compared to other operators active in the same sector and involved in trade between Member States.
- (59) As regards the distortion of competition, the measure in question enables the Concessionaire to continue operating so that it does not have to face the consequences normally deriving from shortage of financing or increased costs. Therefore the Concessionaire's competitive position is strengthened vis-à-vis that of other operators. As a result measure 2 is capable of distorting competition, notably in the market for the construction and operation of highways.
- (60) Thus, measure 2 has the potential to distort competition and affect trade between Member States.

4.1.1.5. Conclusion on existence of State aid for measure 2 at the level of the Concessionaire

- (61) Consequently, measure 2 fulfils all the conditions and therefore entails State aid to the Concessionaire within the meaning of Article 107(1).

4.2. Compatibility of the State aid

- (62) Insofar as measure 2 above constitutes State aid within the meaning of Article 107(1) of the Treaty, its compatibility must be assessed in the light of the exceptions laid down in paragraphs 2 and 3 of that Article.
- (63) The Greek authorities have invoked Article 107(3)(c) of the Treaty as a possible compatibility basis. Article 107(3)(c) of the Treaty, 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 found compatible with the internal market".
- (64) It should therefore be examined if measure 2 meets a clearly-defined objective of common interest, is necessary and proportionate to this objective, and does not affect competition and trade between Member States to an extent contrary to the common interest.
- (65) The Commission observes that both parts of measure 2 form a package of actions necessary for the Reset and will thus assess compatibility for all parts of the measure together.

¹⁴ See e.g. Case 730/79 *Philip Morris v. Commission* [1980] ECR 2671, para. 11, and Case C-372/97 *Italy v. Commission* [2004] ECR I-3679, para. 44.

4.2.1. *Objective of common interest*

- (66) The Greek authorities have argued that the measure under assessment aims to allow the Reset of the construction and operation of Moreas Motorway, part of the TEN-T network, which is declared to be of European interest.¹⁵ In particular, Moreas Motorway will contribute to the following objectives:
- a. Providing sustainable mobility of persons and goods between important areas without internal frontiers under the best possible social and safety conditions. In particular, Moreas Motorway will link important Greek towns such as Tripoli, Kalamata and Sparta with a motorway of increased capacity and safety in comparison to the existing infrastructure. These towns are important centres for agricultural and other economic activity in Greece. Moreas Motorway will allow them better further access to ports and airports, such as Athens/Piraeus and Patras. They thus allow mobility of persons and goods not only within Greece but also toward other Member States or third countries.
 - b. Allowing the optimal use of existing capacities, since important parts of Moreas Motorway are already constructed .
- (67) The European Union, through the Decision 661/2010,¹⁶ has encouraged Member States to carry out these projects, in order to ensure the cohesion, interconnection and interoperability of the trans-European transport network.
- (68) As regards other EU objectives, the economic, social and territorial cohesion are EU objectives recognised by Articles 174-178 of the Treaty and the motorway concerns regions which are assisted regions under Article 107(3)(a) Treaty.
- (69) Finally, according to the arguments by the Greek authorities, the finalization and operation of Moreas Motorway, will contribute to the direct and indirect creation of employment. In particular, this project should be seen in association with the other four Greek Motorways under construction¹⁷, which all together will constitute a basic motorway network for the most important Greek towns and points of interest, thus having the potential to improve the competitiveness of the Greek economy.
- (70) The above elements demonstrate that the project contributes to objectives of common EU interest and in particular the EU transport policy and the economic convergence and cohesion.

4.2.2. *Necessity and proportionality of the measures*

- (71) The Greek authorities have provided arguments which demonstrate that measure 2 is necessary and proportionate to the objective of common interest described above. In particular:

4.2.2.1. Necessity and proportionality of measure 2 (Additional State funding)

- (72) In light of the renewed traffic forecasts in the context of the crisis, Moreas Motorway would have less revenue to pay the operating expenses and repay the loans undertaken for the construction. The additional State funding in the form of

¹⁵ See *Decision 661/2010/EU of the European Parliament and of the Council of 7 July 2010 on Union guidelines for the development of the trans-European transport network*, OJ L 204, 5.8.2010, p.1, Article 24.

¹⁶ *Ibid.*

¹⁷ See footnote 2

Additional Operating Subsidy and the State guarantee are necessary to ensure the revised sustainability of the project throughout the concession period.

- (73) The Greek authorities have submitted evidence that the State only provides up to the amounts strictly necessary to ensure the revised sustainability of the project, while at the same time minimizing these needs and maximizing the exposure of the other parties, by requesting that the Concessionaire significantly reduces and caps its IRR and the lending institutions maintain the favourable lending terms. Furthermore, it is noted that the additional subsidy will only be disbursed if it becomes necessary for the sustainability of the project and in proportion to the arising needs of the project.
- (74) In light of the above, the Commission concludes that measure 2 is necessary and proportionate.

4.2.3. Distortion of competition and effect on trade between Member States of measure 2

- (75) With the above measure, the Concessionaire is expected to conclude the construction of Moreas Motorway and to be able to exploit it commercially. In addition, as explained above, the project, combined with the Reset of the other four motorways, is expected to have important benefits for the Greek economy in terms of growth and employment. Finally, as submitted by the Greek authorities, the new infrastructure resulting from the project will be located at the periphery of the EU and will represent only a small proportion of the overall EU capacity.
- (76) Given that the positive effects of the construction of the motorway outweigh its potential distortion of competition and trade, the Commission concludes that the State aid for this project does not affect competition and trade between Member States to an extent that would be contrary to the common interest.

4.3. Timing and entry into force of the Reset

- (77) Following the notification, the Greek State intends to sign an agreement with the Concessionaire regarding the Reset of Moreas Motorway, which will enter into force after ratification by the Greek Parliament. The Greek authorities have undertaken the commitment to only implement that agreement after the Commission has adopted its decision regarding the State aid. Furthermore, should the final agreement involve any significant changes to the notified project, the Greek authorities have committed to notify them to the Commission.

4.4. Conclusion

- (78) On the basis of the foregoing findings, the Commission concludes that the notified measure 1 does not constitute State aid, while measure 2 constitutes State aid.
- (79) The Commission also concludes that the State aid involved in measure 2 is necessary to address a well-defined objective of common interest, the advantage conferred by the aid to the Concessionaire is proportionate and the aid does not affect competition and trade between Member States to an extent that would be contrary to the common interest. On these grounds, the Commission concludes that the State aid in measure 2 is compatible with the Treaty under Article 107(3)(c).
- (80) The Commission underlines that Greece has respected the stand still obligation provided by Article 108 of the Treaty by not granting that aid before the adoption of the present decision.

5. CONCLUSION

The Commission has accordingly decided:

- that measure 1 in the context of the Reset of Moreas Motorway does not constitute State aid within the meaning of Article 107(1) of the Treaty.
- not to raise objections to measure 2 in the context of the Reset of Moreas Motorway on the grounds that it is compatible with the internal market pursuant to Article 107(3)(c) of the Treaty on the Functioning of the European Union.

This Decision is without prejudice to any possible scrutiny under environmental or Structural Funds rules. Similarly, the Decision does not prejudice any possible further analysis by the Commission as far as compliance with public procurement rules is concerned.

If this letter contains confidential information which should not be disclosed to third parties, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to the disclosure to third parties and to the publication of the full text of the letter in the authentic language on the Internet site <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Your request should be sent by registered letter or fax to:

European Commission
Directorate-General for Competition
State aid Greffe
B-1049 Brussels
Fax No: +32 (0)2 2961242

Yours faithfully,
For the Commission

Joaquín ALMUNIA
Vice-president

Annex II: Overview of all the main motorways under concession in Greece.

Concession Motorways in Greece

