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Subject: State Aid SA.57691 (2020/N) – Cyprus – COVID-19 - Incentive scheme towards airlines

Excellency,

1. PROCEDURE

- (1) By electronic notification of 16 June 2020, Cyprus notified the aid scheme “Incentive Scheme towards Airlines for addressing the effects of COVID-19 on the connectivity of Cyprus and the development of the aviation sector” (the “measure”) under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (“the Temporary Framework¹”). By electronic mails of 20 June 2020 and 25 June 2020, Cyprus submitted supplementary information on the measure following the Commission requests for information.
- (2) Cyprus exceptionally agrees to waive its rights deriving from Article 342 of the Treaty on the Functioning of the European Union (“TFEU”), in conjunction with

¹ Communication from the Commission - Temporary framework for State aid measures to support the economy in the current COVID-19 outbreak, 19 March 2020, OJ C 91I, 20.3.2020, p. 1, as amended by Communication from the Commission C(2020) 2215 final of 3 April 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 112I, 4.4.2020, p. 1, by Communication from the Commission C(2020) 3156 final of 8 May 2020 on the Amendment of the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, OJ C 164, 13.5.2020, p. 35 and by Communication from the Commission C(2020) 4509 final of 29 June 2020 on the 3rd Amendment to the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, not published yet.

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Article 3 of Regulation 1/1958,² and to have this Decision adopted and notified in English.

2. DESCRIPTION OF THE MEASURE

- (3) As a result of the COVID-19 outbreak, Cyprus implemented certain restrictive measures in order to limit the spread of the virus. The measures were put in place gradually as of March 2020. Cyprus considers that the COVID-19 outbreak has started to affect the real economy. The baseline scenario of the Ministry of Finance forecasts a GDP contraction of 7% in 2020 compared to 2019.
- (4) On 10 March 2020, the Ministry of Foreign Affairs issued a travel advice to Cypriot citizens to avoid travelling to areas or countries with a high number of COVID-19 cases and generally to avoid travel unless absolutely necessary. On 13 March 2020, the Cypriot government imposed entry restrictions into the country and on 21 March 2020, it decided to suspend flights and to close the Pafos Airport. Due to the suspension of flights, there has been a serious effect on the connectivity of the island with European countries as well as the rest of the world. Specifically, the lockdown of the country for the period from mid-March 2020 to mid-June 2020 has substantially affected the production sector, commerce, tourism and the services offered. In particular, a number of businesses face significant liquidity shortages and working capital problems, since they still have to cover on-going expenditures (rent, insurance payments, etc.). Some may have difficulty surviving the disruption. In addition, services related to travel and tourism are already facing losses that are likely to be non-recoverable.
- (5) The airports in Cyprus resumed operations on 9 June 2020 but the lifting of the restrictive measures on flights is gradual and passenger traffic is still limited. The primary requirement for the resumption of flights has been all along the epidemiological situation with complementary measures, such as the requirements for health safety. Flights from the countries categorized by Cyprus as the C countries³ are still not permitted (with the exception of special repatriation flights). Based on the information from IATA, from 9 to 19 June 2020, the flights were restarted with 19 countries but the negative COVID-19 test was required for all of them, as well as use of face masks. As of 20 June 2020, negative COVID-19 test is required for 6 of these countries.
- (6) Cyprus notes that due to its geographical position, the island of Cyprus experiences an unprecedented decline in revenues and cash flow in aviation and its dependent tourism branch. The tourism sector is one of the most important sectors of the economy of Cyprus, representing approximately (directly and indirectly) 20 % of the GDP of Cyprus. Airlines are facing insufficient liquidity due to the travel restrictions issued by Member States in response to the COVID-19 outbreak. These restrictions resulted in Cyprus in a decrease in income from passenger transport and tourism, both being vital for the Cypriot economy.

² Regulation No 1 determining the languages to be used by the European Economic Community, OJ 17, 6.10.1958, p. 385.

³ Countries are categorized according to their epidemiological situation into categories A, B and C, with category A having the most favorable epidemiological status. For passengers flying from A category countries to Cyprus, submission of a COVID-19 certificate is not required. <https://cyprusflightpass.gov.cy/en/country-categories>

Cyprus provided explanatory tables with airport traffic at the two Cypriot international airports (Larnaka and Pafos), showing a 59% decline in March 2020, and 99% in April and May 2020 compared to the respective months in 2019.

- (7) The objective of the measure is to incentivize airlines in order to re-establish air routes from/to Cyprus and thus enable the recovery of air connectivity and tourism and broadly support the general economy and development of the island by providing support to airlines in a comprehensive and non-discriminatory manner. The measure forms part of an overall package of measures and aims at remedying the liquidity shortage faced by undertakings and ensuring that the disruptions caused by the COVID-19 outbreak do not undermine their viability.
- (8) The proposed measure will be addressed in a transparent manner to all interested airlines departing from/landing in Cyprus and will use the load factor⁴ as a basis for the provision of incentives that will contribute to cover part of the costs of the airlines.
- (9) The measure is expressly based on Article 107(3)(b) TFEU, in light of sections 2 and 3.1 of the Temporary Framework.

2.1. The nature and form of aid

- (10) The measure provides aid in the form of direct grants intended to support the connectivity of Cyprus along with the development of air transport and tourism, sectors particularly affected by the COVID-19 outbreak. The level of remuneration depends on the aircraft's load factor and will be paid per each transported passenger. The aid will be paid to airlines when they attain a load factor from 41% to 70%. The lower limit is, according to Cypriot authorities, the starting point for the restart of a route by an airline. A load factor over 70% is considered to be in line with normal market conditions so that support is no longer necessary.
- (11) The grants will be available for distribution to all interested airlines in a transparent manner. There will be an open call for applications regarding the proposed incentives scheme, in which the terms and conditions that need to be met by the interested airlines will be stated in a clear and non-discriminatory manner. The procedures to be followed, relevant documents to be submitted by applicants together with the commitments or any other terms and conditions that the applicant needs to undertake will also be publicly and clearly indicated by the Managing Authority. This measure is expected to start in June 2020 and end by 31 December 2020. The latter is considered as the latest date the aid will be granted.

2.2. National legal basis

- (12) The legal basis for the measure is the decision of the Council of the Ministers of the Republic of Cyprus dated 10 June 2020.

⁴ The load factor is determined by dividing the number of passengers on board by the capacity of the aircraft in passenger numbers.

2.3. Administration of the measure

- (13) The Cypriot Ministry of Transport, Communication and Works is responsible for granting the aid. *Hermes Airports Ltd.*⁵ (“*Hermes Airports Ltd.*” or the “Managing Authority”) will be the authority responsible for administering the measure.
- (14) The call for applications for aid under the measure will set out in detail the conditions to receive the aid, the procedure to follow and documents to submit to apply for the aid, the commitments to be taken by the aid beneficiaries and the controls and reports to be done by *Hermes Airports Ltd.*

2.4. Budget and duration of the measure

- (15) The Cypriot authorities confirm that no more than EUR 6 300 000 in aid will be granted under the measure. The aid will be financed from the State budget. The aid per undertaking cannot exceed EUR 800 000.
- (16) Aid may be granted under the measure as from its approval until 31 December 2020.

2.5. Beneficiaries

- (17) The beneficiaries of the measure are airlines (large, medium and small enterprises) that land at/take off in Cyprus⁶. Cyprus estimates that around 60 airlines will benefit from the measure.
- (18) In order to be eligible for aid, an airline must meet the following conditions:
 - i. The load factor of the airline on a particular flight must be from 41% to 70%;
 - ii. The airline must record information on flights as regards the total number of passengers transported and the corresponding load factor.
- (19) Financial institutions are explicitly excluded from the measure as beneficiaries. Payments under the measure will be made to the beneficiary airlines and not to financial institutions.
- (20) Furthermore, aid may be granted under the measure only to undertakings that were not already in difficulty within the meaning of the General Block Exemption Regulation (the “GBER”)⁷ on 31 December 2019.

⁵ *Hermes Airports Ltd* is a consortium comprised of 9 companies: Bouygues Construction Airport Concessions Europe, Egis Investment Partners S.C.A, Cyprus Trading Corporation plc, Hellenic Mining Public Company Ltd, Vantage Airport Group (Cyprus) Ltd, Aer Rianta International (Middle East) WLL, Iacovou Brothers (Constructions) Ltd, Charilaos Apostolides Public Ltd, Nice Air Ports Engineering. Pursuant to a concession agreement with the Republic of Cyprus, it is responsible for the financing, design, construction, maintenance, operation, management and development of the International Airports of Cyprus (Larnaka and Pafos Airports). The concession agreement is a public private partnership and provides the right to manage the airports to *Hermes Airports Ltd.* in return for a concession fee. The concession agreement entered into force on 12 May 2006 for a period of 25 years.

⁶ It applies to all areas of the Republic of Cyprus under government control. Currently there are two international airports in the Republic of Cyprus: Larnaka and Pafos Airports.

2.6. Sectoral and regional scope of the measure

- (21) The measure is open to airlines that land at/take off in Cyprus⁸.

2.7. Basic elements of the measure

- (22) The measure provides aid in the form of grants up to EUR 800 000 per undertaking. It is intended to incentivize the airlines by remunerating them for each transported passenger when the load factor of the flight ranges from 41% to 70% by certain amounts in order to reestablish the necessary air-traffic connections, to restore the connectivity of the island of Republic of Cyprus, to develop the aviation sector and to provide support in the field of tourism and the country's economy. It will be offered to all airlines joining the scheme between June and December 2020.
- (23) Only airlines meeting the eligibility criteria described in recital (18) can apply for the aid.
- (24) The registration form will be made available to airlines through the official websites of the Ministry of Transport, Communications and Works and of the Managing Authority.
- (25) Given that the incentive depends on the load factor of the airlines and is applicable based on their flight programme, there is no other prerequisite than recording performance on flights. The verification of data will be done by the Managing Authority and the Republic of Cyprus through the official channel of monitoring flight activity.
- (26) The subsidy will be scaled based on the load factor – the higher the load factor, the lower the subsidy. It will be different during the period until September 2020 and during the period from October to December 2020. The amounts that the airline will received per passenger are as follows:
- (a) Load factor 41% - 50%: EUR 17 until September 2020/ EUR 15 during October-December 2020;
 - (b) Load factor 51% - 60%: EUR 12 until September 2020/ EUR 10 during October-December 2020;
 - (c) Load factor 61% - 70%: EUR 7 until September 2020/ EUR 5 during October-December 2020.
- (27) Applications for aid will be submitted electronically and processed by *Hermes International Ltd.*, which will perform compliance checks to ensure the correct implementation of the measure. Records with the necessary supporting documents will be kept for a period of ten years from the date of award of the aid.

⁷ As defined in Article 2(18) of Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1.

⁸ See the footnote 6.

2.8. Cumulation

- (28) The Cypriot authorities confirmed that a beneficiary of the measure may also benefit from other measures under the Temporary Framework and/or from *de minimis* aid⁹ and/or from aid under the the GBER. The Cypriot authorities have however confirmed that insofar as a beneficiary may benefit from multiple measures under the Temporary Framework and/or from *de minimis aid* and/or from the GBER, the maximum thresholds on aid amounts per beneficiary, as specified in the Temporary Framework, in the *de minimis* Regulation and in the GBER, will be respected.

2.9. Monitoring and reporting

- (29) The Cypriot authorities confirm that they will respect the monitoring and reporting obligations laid down in Section 4 of the Temporary Framework.

3. ASSESSMENT

3.1. Existence of State aid

- (30) For a measure to be categorised as aid within the meaning of Article 107(1) TFEU, all the conditions set out in that provision must be fulfilled. First, the measure must be imputable to the State and financed through State resources. Second, it must confer an advantage on its recipients. Third, that advantage must be selective in nature. Fourth, the measure must distort or threaten to distort competition and affect trade between Member States.
- (31) The measure is financed from the State budget, therefore it constitutes State resources. The measure is imputable to the State, since it is granted by the Ministry of Transport, Communications and Works of Cyprus and it is based on a decision of the Council of Ministers of the Republic of Cyprus (recitals (12)-(14)).
- (32) The measure confers an advantage on its beneficiaries in the form of direct grants. The measure thus relieves those beneficiaries of costs, which they would have to bear under normal market conditions.
- (33) The advantage granted by the measure is selective, since it is awarded only to certain undertakings active in Cyprus, in particular all airlines that land at/take off in Cyprus, fulfilling the conditions set out in recital (18).
- (34) The measure is liable to distort competition, since it strengthens the competitive position of its beneficiaries. It also affects trade between Member States, since those beneficiaries are active in sectors in which intra-Union trade exists.
- (35) In view of the above, the Commission concludes that the measure constitutes aid within the meaning of Article 107(1) TFEU. The Cypriot authorities do not contest this conclusion.

⁹ Granted in line with Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (the “*de minimis* Regulation”) (OJ L 352, 24.12.2013, p.1).

3.2. Lawfulness of the measure

- (36) By notifying the measure before putting it into effect, the Cypriot authorities have respected their obligations under Article 108(3) TFEU.

3.3. Compatibility

- (37) Since the measure involves aid within the meaning of Article 107(1) TFEU, it is necessary to consider whether that measure is compatible with the internal market.
- (38) Pursuant to Article 107(3)(b) TFEU the Commission may declare compatible with the internal market aid *“to remedy a serious disturbance in the economy of a Member State”*.
- (39) By adopting the Temporary Framework on 19 March 2020, the Commission acknowledged (section 2) that *“the COVID-19 outbreak affects all Member States and that the containment measures taken by Member States impact undertakings”*. The Commission concluded, *“State aid is justified and can be declared compatible with the internal market on the basis of Article 107(3)(b) TFEU, for a limited period, to remedy the liquidity shortage faced by undertakings and ensure that the disruptions caused by the COVID-19 outbreak do not undermine their viability, especially of SMEs”*.
- (40) The objective of the measure is to incentivize airlines in order to re-establish air routes to and from Cyprus enabling the recovery of air connectivity and thus to remedy a serious disturbance in the economy of Cyprus. The measure will contribute to ensuring that the disruptions caused by the COVID-19 outbreak, in particular the liquidity shortage faced by airlines (a sector severely disturbed by the COVID-19 outbreak) when they do not meet certain load factors on their flights to and from Cyprus, do not undermine the financial stability of such undertakings.
- (41) The measure forms part of measures conceived at national level by the Cypriot authorities to remedy a serious disturbance in their economy. The measure is of a scale which can be reasonably anticipated to produce effects across the entire Cypriot economy. Furthermore, the measure has been designed to meet the requirements of a specific category of aid (*“Limited amounts of aid”*) described in section 3.1. of the Temporary Framework.
- (42) The measure notified by Cyprus meets all the conditions provided for in point 22 of the Temporary Framework. In particular:
- i. The aid will be granted in the form of a grant of maximum EUR 800 000 per undertaking. The maximum aid amount per undertaking under the measure will not exceed the ceiling set out in point 22(a) of the Temporary Framework (recitals (15) and (22));
 - ii. The measure is granted on the basis of a scheme with an estimated budget of EUR 6.3 million; hence the condition set out in point 22(b) of the Temporary Framework is met (recital (15));

- iii. The aid will not be granted to undertakings that were already in difficulty on 31 December 2019 (within the meaning of the GBER), hence the condition set out in point 22(c) of the Temporary Framework is met (recital (19));
 - iv. The aid will be granted no later than 31 December 2020; therefore the condition set out in point 22(d) of the Temporary Framework is met (recital (16));
 - v. The aid does not concern undertakings active in the processing and marketing of agricultural products¹⁰, hence the condition set out in point 22(e) of the Temporary Framework is not applicable.
- (43) The Commission accordingly considers that the measure is necessary, appropriate and proportionate to remedy a serious disturbance in the economy of Cyprus and meets all the relevant conditions of the Temporary Framework.
- (44) The scheme has a short term duration and it aims at providing support to the airlines, in order to re-establish air routes and thus enable the recovery of air connectivity. The incentives granted are deemed proportionate to the minimum required by airlines to re-establish connections to and from the island. The aid amounts to be granted to airlines are on the basis of a contribution per passenger, and as such provide an incentive to airlines to re-establish connection of the island with destinations throughout mainly Europe and the Middle East. The recovery of air connectivity will enable the recovery of tourism and broadly support the general economy and development of the island that were seriously affected by the restrictions implemented due to the COVID-19 outbreak.
- (45) The Cypriot authorities have committed to comply with all the monitoring and reporting provisions laid down in section 4 of the Temporary Framework. The Commission may request additional information regarding the aid granted, to verify whether the conditions laid down in the Commission decision approving the measure have been met.
- (46) The Cypriot authorities have confirmed that they will respect cumulation rules regarding combination with *de minimis* aid and/or other aid. The Cypriot authorities have stated that the aid will not be cumulated with aid or *de minimis* aid¹¹ received from other local, regional or national aid¹² to cover the same eligible costs.

¹⁰ As defined in Article 2(6) and Article 2(7) of Commission Regulation (EC) No 702/2014 of 25 June 2014 declaring certain categories of aid in the agricultural and forestry sectors and in rural areas compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 193, 1.7.2014, p. 1.

¹¹ Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (OJ L 352, 24.12.2013, p. 1) and Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45).

¹² Union funding centrally managed by the Commission that is not directly or indirectly under the control of the Member State does not constitute State aid. Where such Union funding is combined with other public funding, only the latter will be considered for determining whether notification thresholds and

4. CONCLUSION

The Commission has accordingly decided not to raise objections to the aid on the grounds that it is compatible with the internal market pursuant to Article 107(3)(b) TFEU.

This decision is based on non-confidential information and is therefore published in full on the Internet site: <http://ec.europa.eu/competition/elojade/isef/index.cfm>.

Yours faithfully,

For the Commission

Margrethe VESTAGER
Executive Vice-President

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION

maximum aid intensities are respected, provided that the total amount of public funding granted in relation to the same eligible costs does not exceed the maximum funding rates laid down in the applicable Union legislation.