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Subject: **State aid SA.48220 (2017/NN) – Greece - Upgrading the port of Igoumenitsa, phase C(1)**

Excellency,

1. PROCEDURE

(1) On 17 May 2017, Greece notified plans for granting public funding to support the last step (phase C(1)) of upgrading the port of Igoumenitsa.

(2) As the available information showed that part of the public funding had already been disbursed between 2011 and 2016, the Commission informed Greece that the measure had been registered as unlawful aid (2017/NN) and that the procedural rules applicable would, therefore, be those laid down in Chapter III of Council Regulation No 2015/1589 (Procedure regarding unlawful aid)[1].

(3) On 3 August 2017, Greece agreed that the present decision would be adopted and notified in English.

(4) On 10 November 2017, the Commission sent a request for information. Greece replied on 28 February and 2 March 2018. On 20 November 2017, a videoconference between the Commission and the Greek authorities took place. On 25 and 30 January and on 24 May 2018, telephone conferences were held, following which the Greek authorities submitted additional information on 19 June and on 4 and 5 July 2018. On 27 July and 1 October 2018, the Commission sent additional requests for information. On 14

[1] Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, OJ L 248, 24.9.2015, p. 9.

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September 2018, a meeting took place between the Commission and the Greek Authorities, following which Greece submitted further information on 11 October and 15 November 2018. On 4 April and on 4 July 2019, the Commission sent further requests for information to which Greece replied on 3 May and 1 August 2019.

2. DESCRIPTION

2.1. Description of the Port of Igoumenitsa and objective of the project

(5) The Port of Igoumenitsa is located on the north-west coast of Greece and is adjacent to the town of Igoumenitsa.

(6) The Port of Igoumenitsa mainly serves as staging point for passenger and ro-ro[2] vessels in routes between mainland Greece and the Italian ports on the Adriatic Sea (Ancona, Brindisi, Bari, Venice and Ravenna). The Port of Patras is the starting and terminal point for most of these routes, whereas Igoumenitsa is an intermediary port of call, although it has recently become the terminal port on some routes. Secondary routes connect mainland Greece with neighbouring islands, mainly with Corfu.

(7) The historical Port of Igoumenitsa ("Old Port") is close to the city centre of Igoumenitsa. Since the mid-1980s, the port traffic has increased considerably. According to Greece, the port throughput was multiplied by five for ro-ro activity and by six for passenger transport. This created congestion in the port and in the streets of the city and triggered safety risks for passengers and vessels.

(8) In the early 1990s, the Greek State therefore decided to move part of the port operations out of the urban area, in order to ensure a safe processing of vessels and passengers and to reduce congestion, pollution and noise in the city.

(9) Concretely, the international activities of the Old Port would be shifted to a new quay to be built outside the city limits ("New Port"), while the Old Port would continue domestic operations. This would enable the port to process 750 ship movements per month as compared to currently 525 and would therefore increase the port's capacity.

(10) According to Greece, the capacity increase would have only minor effects on demand, which is largely driven by external factors, such as the hostilities in former Yugoslavia, improved access routes thanks to the construction of the Ionian and Olympia motorways and the economic and financial crisis in Europe.

(11) The present decision only concerns phase C(1) of the project, the last step for making the New Port operational.

2.2. The beneficiary

(12) The infrastructure of the Port of Igoumenitsa is owned by the State. The port is managed and operated by the Port Authority of Igoumenitsa ("OLIG S.A."), under a management contract with the State. OLIG S.A. is a public limited company supervised by the Ministry of Shipping and Island Policy and by the Ministry of Finance. OLIG S.A. pays an annual fee to the State, established at 2% of the annual turnover of the company. OLIG S.A. is responsible for the provision of all port-related services and collects all port charges from vessels or passengers. The only shareholder

[2] Roll-on, roll-off: vessels that allow the access of wheeled cargo or passenger vehicles.

of OLIG S.A. is the Greek State, through the State-owned Hellenic Republic Asset Development Fund.

(13) According to the management contract, the newly built infrastructure will be accessible to all users on an equal and non-discriminatory basis. The port fees for Igoumenitsa are set out in a fees schedule published in the Greek Official Journal. They are comparable to those of other ports in the region and in particular to those of the port of Patras, Igoumenitsa's main competitor.

2.3. Planned investment

(14) According to the Greek authorities, the measure consists of the following six sub-projects, amounting to a total investment cost of EUR 49 101 229.08, broken down into economic and non-economic activities as follows:

Table 1

Project	Object	Budget in EUR
Sub-projects 1 and 6:	Port works, access infrastructure, drainage, electromechanical installations, studies	45 241 996
Sub-project 2:	Expropriations	1 650 000
Sub-project 4:	Management consultant	1 006 131
Subtotal 1:	*Cost of economic activities eligible for State aid*	*47 898 127*
Sub-project 3:	Archaeological surveys and evaluation	1 002 000
Sub-project 5:	Connection to the public utilities network	201 102
Subtotal 2:	*Cost of public remit tasks outside scope of State aid rules*	*1 203 102*
Total project costs	**Total economic and non-economic costs**	**49 101 229**

(15) Greece submits that sub-projects 3 and 5 were carried out by the Greek State in its role as public authority, ensuring the conservation of archaeological findings and providing a basis for connection to the public utilities network. In Greece's view, these are non-economic activities and their financing is therefore outside the scope of State aid control.

2.4. Financing of the investment project, duration and cumulation of aid

(16) As set out in recital (14), the total investment cost amounts to EUR 49.1 million, out of which according to Greece, EUR 47.9 million are economic activities subject to

State aid review. The economic activities will be financed with public funding in the form of grants of EUR 47.3 million, out of which 37.7 million will be granted through the European Structural Investment Fund (ESIF) and the remaining EUR 9.6 million will be financed from the Greek budget. OLIG S.A.will contribute own funds of EUR 0.6 million from past revenues stemming from the operation of the port (mooring, berthing and anchorage fees, passenger and vehicle transit charges).

(17) Greece submitted a calculation of the estimated funding gap[3] of the project, calculated as the difference between the discounted value of the expected net operating profits (EUR 0.3 million) and the discounted eligible investment costs of the project (EUR 27.3 million), during a reference period of 57 years (2014 – 2070).[4]

(18) The calculation shows that the project would be loss-making without public support, since over 57 years the financial net present value (NPV) is significantly negative (– EUR 27 million). Without public support the project is therefore not financially sustainable.

(19) Between 2011 and 2016, an amount of EUR 6.7 million has been paid by the Greek State via the Greek Public Investments Program (GPIP) for preparatory works.

(20) Greece made the commitment to ensure that a cumulation of the aid under assessment with other aid for the same eligible costs is excluded.

2.5. Competition context presented by Greek authorities

(21) As mentioned in recital (6), the port of Igoumenitsa is mainly active as transit port for passenger and ro-ro vessels in routes between the West coast of Greece and the Italian ports on the Adriatic Sea, and to a lesser extent between mainland Greece and neighbouring islands, mainly Corfu.

(22) The project under assessment only concerns the foreign traffic to the Italian ports on the Adriatic Sea and the project's main impact is expected to arise for the other Greek mainland ports serving these routes.

(23) According to the Greek authorities, the only other Greek port that is serving these routes is the port of Patras, in the golf of Corinth, in the South of Greece, around 132 nautical miles from Igoumenitsa. Patras is Igoumenitsa's main competitor and the terminal port for most of the routes, where Igoumenitsa is one of the intermediary ports of call. In 2016, Igoumenitsa served 60.7% of passenger traffic and 45.8% of ro-ro freight traffic on these routes and Patras respectively 39.3% and 54.2%.

(24) According to the Greek authorities, demand in both ports is driven by external factors, such as the war in ex-Yugoslavia, the construction of motorways modifying the

[3] The funding gap is the amount of funding which is necessary for the conclusion of the investment, but which cannot be recovered by the revenues of the investment itself during the reference period of exploitation. It is defined as the difference between the discounted operating profits of the investment (i.e. the profits deriving from the investment plus a possible residual value of the infrastructure at the end of its estimated economic life) and the total discounted investment costs during a given reference period.

[4] The project is expected to be finalised in 2021 after a construction period of 8 years (2014-2021) and to have a lifetime of 49 years, from 2022 until 2070. The financial analysis submitted by Greece is based on a reference period that takes account of the full construction and lifetime of the infrastructure, starting in 2014 and ending in 2070, with the full depreciation of the asset.

Hinterland connection and the economic crisis in Europe. Greece submitted tables on passenger and ro-ro lorry traffics in both ports since 1987, which show a more or less parallel evolution of demand in the two ports.

(25) Other ports near Igoumenitsa are Corfu (18 nautical miles to the west) and Preveza (90 nautical miles to the south). Both are small, local ports active in domestic passenger and freight transport but not in international transport. According to the Greek authorities, they are therefore not affected by the planned investment.

(26) The port of Astakos is a privately operated freight port located around 90 nautical miles south of Igoumenitsa. According to Greece, it mainly serves the adjacent maritime industrial area, which is the first Free Industrial and Commercial Zone of Greece and has no common markets with Igoumenitsa.

2.6. Legal basis

(27) The project was approved in 2009 by the Ministry of Infrastructure and the funding proposal was approved by the Managing Authority in November 2010 by decision n° 5124/24-11-2010. The construction works and management consultant contract have been awarded through open tenders. From 2011 to 2016, EUR 6.7 million have been paid under the GPIP for preparatory works. The remainder of the project will be included into Operational Programme EP-YMEPERAA (NSRF 2014-2020), subject to the conclusions of the Commission's State aid assessment.

2.7. Transparency

(28) Greece committed to publish, within six months of the granting act, on the websites www.espa.gr, www.ymeperaa.gr, www.diavgeig.gr, the following information, which will be kept for at least ten years and will be available to the general public without restrictions:

(a) the full text of the individual aid granting decision and its implementing provisions, or a link to it,

(b) the identity of the granting authority/(ies),

(c) the identity of the beneficiary, the form and amount of aid granted, the date of granting, the type of undertaking (SME/large company), the region in which the beneficiary is located (at NUTS level II) and the principal economic sector in which the beneficiary has its activities (at NACE group level).

3. ASSESSMENT

3.1. Existence of state aid

(29) Article 107(1) TFEU provides that 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.

(30) It follows that, for a measure to be qualified as State aid within the meaning of Article 107(1) TFEU, the following cumulative criteria must be met: (i) it must be granted by the State and through State resources ; (ii) it must confer an advantage upon an undertaking; (iii) it must be selective, i.e. favour certain undertakings or the

production of certain goods; and (iv) it must distort or threaten to distort competition and it must affect trade between Member States.

(31) In the present case, the existence of State aid must be examined at the level of 1) OLIG S.A., the infrastructure manager and operator and 2) the port users.

3.1.1. Existence of Aid at the level of OLIG S.A.

3.1.1.1. Notion of undertaking

(32) According to the European Court of Justice's established case law[5], whenever an entity is engaged in an economic activity, regardless of its legal status and the way in which it is financed, it is considered as an undertaking for the purposes of EU competition law.

(33) As regards infrastructure financing, the Court established, in its judgment in *Leipzig-Halle*[6], that it is the future use of the infrastructure, *i.e.* its economic exploitation or not, that determines whether the funding of its construction falls within the scope of EU State aid rules or not. In line with that case law the Commission established in a series of decisions that the construction and exploitation of some types of port infrastructures constitutes an economic activity[7].

(34) The project under assessment concerns the construction of infrastructure in the Port of Igoumenitsa, which is commercially exploited by OLIG S.A., the port manager and operator, by offering mooring, berthing and anchorage services as well as passenger and vehicle transit services against remuneration.

(35) Thus, OLIG S.A. engages in an economic activity and must, therefore, be considered as an undertaking in the meaning of Article 107(1) TFEU for the purposes of the present decision.

Economic vs. non-economic infrastructure

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5 See e.g. judgment in *Hoefner and Elser*, C-41/90, EU:C:1991:161, paragraph 21; judgment in *Poucet and Pistre v. AGF and Cancava*, joined cases C-159/91 and C-160/91, EU:C:1993:63, paragraph 17; judgment in *Commission v. Italy*, C-35/96, EU:C:1998:303, judgment of 6 November 2018 in *Scuola Elementare Maria Montessori v Commission*, joined case C-622/16 P, C-623/16 P and C-624/16 P, paragraph 103 and case law quoted therein.

6 Judgment of 24 March 2011, Flughhafen Leipzig-Halle GmbH and Mitteldeutsche Flughafen AG v. Commission, T-455/08, and Freistaat Sachsen and Land Sachsen Anhalt v. Commission, T-443/08, EU:T:2011:117, confirmed by the Court of Justice, judgment in Mitteldeutsche Flughafen AG and Flughafen Leipzig-Halle GmbH v European Commission, C-288/11 P, EU:C:2012:821; see also judgment of 12 December 2000, Aéroports de Paris v. Commission, T-128/89, EU:T:2000:290, confirmed by the Court of Justice, C-82/01P, EU:C:2002:617; judgment of 17 December 2008, Ryanair v. Commission, T-196/04, EU:T:2008:585, paragraph 88.

7 See e.g. Commission Decision of 15 December 2009 in State Aid case N385/2009 – *Public financing of port infrastructure in Ventspils Port*, OJ C 72 of 20.03.2010; Commission Decision of 18 September 2013 in State Aid case SA.36953 (2013/N) – Spain – *Port Authority of Bahía de Cádiz*, OJ C 335 of 16.11.2013, p. 1; Commission Decision of 27 March 2014 in State aid case SA.38302 – Italy – *Port of Salerno*, OJ C 156 of 23.05.2014, p.1; Commission Decision of 2 July 2015 in State Aid case SA.39688 (2015/N) – France – *Société des Ports du Détroit (Aide à l'investissement relative au port de Calais)*, OJ C 307 of 20.11.2015.

(36) The Greek authorities consider expenditure of (i) EUR 1 002 000 for archaeological works and (ii) EUR 201 102 for connecting the port area to the public utilities network, to constitute costs related to public remit activities.

(37) The Greek authorities set out that under Greek law, when archaeological finds occur during excavation works, the contractor must inform the Archaeological Agency, which is solely responsible for the preservation of the Greek archaeological heritage. The Archaeological Agency carries out an evaluation of the finds and ensures the necessary follow-up in case it is decided to preserve (part of) them. The Greek authorities confirmed that this work is not linked to any commercial project and that the finds, if preserved, would be made accessible to the public for free. The Greek State has the legal obligation to compensate the Archaeological Agency for the cost it incurred.

(38) With regard to the connection to public utility networks, the Greek authorities set out that under Greek law, the State has an obligation to ensure the functioning of the Public Utilities Organisations (PUO) networks and ensure that new constructions are connected to the public utilities network. This work is carried out within the framework of the Greek legislation on public infrastructure, exclusively by the public infrastructure manager in charge of the network concerned, at the cost of the State. No other public or private companies can compete for these services.

(39) In light of these arguments, the Commission considers the following:

(40) According to well-established case-law[8], activities that normally fall under the State's responsibility in the exercise of its powers as a public authority are not of an economic nature and do not fall within the scope of the State aid rules. This may concern activities linked to performing tasks of ensuring security, safety, police services[9], or anti-pollution surveillance in ports[10] – insofar as they are not an intrinsic part of a project with a commercial end. The financing of such activities has to be limited to the costs to which they give rise and may not be used instead to fund other activities.

(41) As set out in recital (37), the work of the Greek Archaeological Agency in the context of the notified project could not be carried out by any private company and is not linked to any commercial project. The Commission considers that public funding of a cultural activity accessible to the general public free of charge fulfils a purely social and cultural purpose which is non-economic in nature. The Commission therefore comes to the conclusion that the archaeologic works carried out by the Archaeological Agency in the context of the notified project do not constitute an economic activity within the meaning of Art. 107(1) TFEU. It follows that the expenditure of EUR 1 002 000 exposed by the Greek State for compensating the Archaeological Agency for costs incurred in carrying out these activities, as recorded under sub-project 3 in table 1 (recital (14)), does not constitute State aid within the meaning of Art. 107(1) TFEU.

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[8] See judgment in *Mitteldeutsche Flughafen AG and Flughafen Leipzig-Halle GmbH v European Commissio*n, C-288/11 P, EU:C:2012:821, paragraph 42.

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

[10] Judgment in *Diego Cali & Figli*, C-343/95, EU:C:1997:160, paragraphs 22 and 23.

(42) The connection to the public utilities network is by its very nature a unique service, which is not in competition with any other service. As described in recital (38), there is no competition on or for the market of this service in Greece, which by virtue of law is carried out exclusively by the competent Greek infrastructure manager. The latter has no economic activities, so that there is no risk of cross-subsidisation. The Commission therefore considers that there is no possible distortion of competition on this market within the meaning of Art. 107(1) TFEU. It follows that the expenditure of EUR 201 102 exposed by the State for compensating the public infrastructure manager for costs incurred in carrying out these activities, as recorded under sub-project 5 in table 1 (recital (14)), does not constitute State aid within the meaning of Art. 107(1) TFEU.

3.1.1.2. State resources and imputability

(43) As stated in recital (16), the project will be partly funded through a grant provided by the Greek State and, as such, is partly financed through State resources.

(44) The funding from ESIF was placed at the disposal of the Greek authorities before being allocated to the project in the port of Igoumenitsa and, therefore, must be regarded as constituting State resources.

(45) Moreover, the Greek authorities enjoy a high degree of discretion in the selection at national level of the projects to be financed with funding from the ESIF. The present project was directly chosen by the Greek authorities. Therefore, the decision to allocate ESIF funding to it is imputable to the State.

(46) The decision to fund this specific project from the Greek budget was directly taken by the Greek authorities and is therefore also imputable to the State.

3.1.1.3. Selective economic advantage

(47) The public funding is provided in the form of a grant. A grant is a non-refundable financial instrument which bears no financing cost. At market terms, such a financing instrument would not have been available to the beneficiary.

(48) The public financing individually benefits OLIG S.A. in the context of a specific project. The public financing is not available to other port operators in Greece, such as Patras, which is Igoumenitsa's main competitor, Corfou, Preveza or Astakos, nor to companies operating in other sectors, and is, therefore, selective.

(49) The public financing, therefore, conferred a selective economic advantage not available at market conditions to OLIG S.A.

3.1.1.4. Distortion of competition and affectation of trade

(50) According to established case law[11], when financial support granted by a Member State strengthens the position of an undertaking compared to other undertakings competing in intra-Union trade, there is at least a potential effect on trade between Member States and distortion of competition.

[11] See e.g. judgment in *Philip Morris v. Commission*, Case 730/79, EU:C:1980:209, paragraph 11, and judgment in *Italy v. Commission*, C-372/97, EU:C:2004:234, paragraph 44.

(51) OLIG S.A. provides services to transport undertakings and passengers of any origin. The project under assessment concerns in particular the improvement of Igoumenitsa's international passenger and freight facilities. The measure thus has the potential to attract customers towards the port of Igoumenitsa for the provision of shipping and transport services, which are markets open to competition and trade at EU level. It can, thus, not be excluded that the public funding granted to the port of Igoumenitsa could affect other ports in Europe.

(52) Therefore, the public funding of the project is liable to distort competition and affect trade between Member States.

Conclusion on the existence of aid at the level of OLIG S.A.

(53) In light of the above, the measure constitutes State aid to OLIG S.A. within the meaning of Article 107(1) TFEU.

3.1.2. Existence of State aid on the level of the port users

(54) As set out in recital (13), the infrastructure will be made available to all port users on equal and non-discriminatory terms. The Greek authorities confirmed that the fees charged to port users correspond to the level of fees charged in the Port of Patras, which is the only comparable port to Igoumenitsa. In particular, fees for international passengers, passenger vehicles and motorcycles are higher than the ones charged at Patras. The charges for international transport of buses and trucks are slightly higher at Patras than at Igoumenitsa. Globally, it can be said that the pricing policy of the two ports is similar. As OLIG S.A. has the obligation to ensure equal and non-discriminatory access to all users and the fees charged by OLIG S.A. are similar to those charged by the only comparable Port, Patras, the Commission considers, in line with constant case practice[12], that the prices constitute market prices.

(55) Thus, the Commission concludes that no advantage will be granted to port users and that there is, therefore, no aid granted to those users.

3.2. Legality of the aid

(56) As set out in recital (2), part of the funding was already granted to OLIG S.A in breach of the notification and stand-still obligations laid down in Article 108(3) TFEU. Thus, the Commission comes to the conclusion the measure under assessment constitutes unlawful State aid.

3.3. Compatibility of the aid

(57) Article 56(b) of the Commission's 2014 General Block Exemption Regulation (GBER)[13] as amended in June 2017[14] exempts State aid for infrastructure investments

[12] Decisions quoted in footnote 8

[13] 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.

[14] Commission Regulation (EU) 2017/1084 of 14 June 2017 amending Regulation (EU) No 651/2014 as regards aid for port and airport infrastructure, notification thresholds for aid for culture and heritage conservation and for aid for sport and multifunctional recreational infrastructures, and regional operating aid schemes for outermost regions and amending Regulation (EU) No 702/2014 as regards the calculation of eligible costs, OJ L 156, 20.6.2017, p. 1.

in seaports with eligible costs of between EUR 20 and 50 million from the notification obligation, provided the aid intensity does not exceed 80%. The measure under assessment has eligible costs of between EUR 20 and 50 million; however, the aid intensity amounts to 98.7%, that is more than 18% above the exemption ceiling of 80%. As a consequence, the measure could not be exempted under the GBER.

(58) The Commission therefore assessed its compatibility under Article 107(3)(c) of the Treaty, 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 found compatible with the internal market.

(59) In line with well-established case practice[15], the Commission examines whether the State aid to OLIG S.A. meets a clearly-defined objective of common interest, is necessary and proportionate to that objective, has an incentive effect, does not affect competition and intra-EU trade to an extent contrary to the common interest and complies with transparency principles.

3.3.1. *Contribution to an objective of common interest*

(60) The Commission's 2013 communication on ports[16] emphasizes that efficient and reliable port services and a level playing field are vital for the Union to remain competitive in the global markets, improve its growth potential and create a more sustainable and inclusive EU transport system. The Union's port system is confronted with structural performance gaps. Investments are needed to adapt port infrastructure and facilities to suit new transport and logistics requirements and absorb the expected growth of cargo for the next decade.

(61) This builds on the Commission's 2009 maritime transport strategy[17], which already underlined the importance of providing new infrastructures and improving the use of existing capacities by increasing port productivity.

(62) In the Communication on *A Sustainable Future for Transport*[18] the Commission also stressed that the development of ports and intermodal terminals is key to achieving an integrated and intelligent logistic system in the EU.

(63) The trans-European transport networks (TEN-T) Regulation[19] defines the Port of Igoumenitsa as part of its core network. According to this Regulation, the TEN-T is

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15 See Commission Decisions cited in footnote 8 above.

16 Communication from the Commission COM(2013) 295 final of 23.5.2013 "Ports: an engine for growth", available at https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013DC0295&from=EN

17 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions COM(2009) 8 final of 21.1.2009 "Strategic goals and recommendations for the EU's maritime transport policy until 2018", available at https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52009DC0008&from=EN

18 COM(2009) 279/4, paragraph 46.

19 See Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU, text available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32013R1315:EN:NOT.

best developed through a dual-layer approach, consisting of a comprehensive and a core network. The core network should be identified and developed by 2030 as a priority. The core network should constitute the backbone of a sustainable multimodal transport network and should stimulate the development of the comprehensive network.

(64) The above elements indicate that the notified aid contributes to an objective of common EU interest.

3.3.2. Necessity, proportionality and incentive effect of the aid

(65) The negative funding gap of - EUR 47.3 million in current prices (corresponding to a discounted NPV of - EUR 27 million), over a reference period of 57 years, shows that the expected net revenues of OLIG S.A. do not cover the eligible investment costs of EUR 47.9 million in current prices (corresponding to a discounted NPV of EUR 27.7 million). OLIG S.A. contributes to the funding of the project with EUR 0.6 million stemming from revenues from the operation of the port (see recital (16)). It is unlikely that OLIG S.A. would be able to obtain the amount necessary to cover the investment costs exceeding its own contribution at market terms. Therefore, the aid is necessary for this project.

(66) Greece confirmed that the national application for the aid was introduced before the commencement of the project. In addition, as shown in recital 65 above, the project could not be carried out in absence of the aid. It follows that the aid must be regarded as having an incentive effect.

(67) According to the established case practice referred to in recital (59), aid to port infrastructure projects is considered to be proportionate if the aid intensity does not exceed the funding gap of the project. The amount of aid to OLIG S.A. is EUR 47.3 million out of total eligible investment costs of EUR 47.9 million, resulting in an aid intensity of 98.7%. It follows from the calculations shown in recitals (17) - (18) that this amount does not exceed the funding gap of 98.7%. Therefore, the aid is proportionate.

(68) In the light of the above, the Commission concludes that the aid is necessary, proportionate and has an incentive effect.

3.3.3. Avoidance of undue negative effects on competition and trade between Member States

(69) Greece submitted information regarding the competition context within which the Port operates. In line with the established case practice mentioned in recital (59), the information submitted by the Greek authorities allows the Commission to assess the extent of possible undue negative effects on competition and trade between Member States.

(70) The information submitted by the Greek authorities allows the Commission to consider that the projections contained therein are reasonable and can, as such, be accepted.

(71) This information, in particular, shows that the demand in the ports of Igoumenitsa and Patras has developed more or less in parallel since 30 years. After constant and parallel increases between 1987 and 2006, the traffic volume started to decrease,

sometimes substantially, in both ports, albeit at varying degrees. While in 1987 80% of the international traffic went through the Port of Patras and only 20% through the Port of Igoumenitsa, in 2012 37% of that traffic went through the Port of Patras and 63% through the Port of Igoumenitsa.

(72) However, according to Greece, the reason for this shift is related to external factors outside the control of the port authorities. In particular, thanks to its geographic position, the Port of Igoumenitsa is in a better position than Patras to serve traffic from Northern Greece, the Balkans and Turkey. Greece indicates that this traffic has increased during the last twenty years because of the war in ex-Yugoslavia, which forced traffic onto the sea connection to Western Europe instead of the road connection through the Balkans, and the completion of the Olympic and Ionian motorways, which have significantly improved the port's connection with Athens and Turkey and shortened the travelling time from and to the Turkish border by several hours. Moreover, the projections submitted by Greece on the future evolution of the market shows that the respective market shares of Patras and Igoumenitsa for passenger transport are expected to remain more or less the same, with an annual progression in both ports of 1.8% between 2030 and 2040 and 1% as from 2041.

(73) Moreover, in 2014, the Commission approved an investment project for upgrading the port of Patras, similar to the one under assessment[20], and the port's ro-ro vessel traffic increased by 17% in 2015. However, in Igoumenitsa, the increase for this trade in 2015 amounted to 25% without upgrading the port infrastructure.

(74) The above tends to support the claim of the Greek authorities that the evolution of demand in both ports depends on external factors rather than on the port infrastructure and service offer (see recital (24)).

(75) As a result of the aided project, the international freight and passenger capacity of the port of Igoumenitsa will slightly increase. However, this increase is expected to be absorbed by the extra demand that has been triggered by the construction of the Olympic and Ionian motorways (see recital (72)). Greece has provided projections regarding the future evolution of international passenger traffic in the ports of Igoumenitsa and Patras. According to these figures, traffic volumes will increase by 4.6% per year in Patras between 2021 and 2025 and by 3% in Igoumenitsa. Between 2026 and 2030, the rates are expected to be 3.5% in Patras as compared to 3.7% in Igoumenitsa. As from 2031, the annual growth rate is foreseen to stabilise at 1.8% per year in both ports until 2040 and then reach around 1% per year until 2050. Moreover, as set out in recital (6), on most routes, Patras is the terminal port, whereas Igoumentisa is an intermediary port of call.

(76) It is therefore unlikely that the project will have a negative impact on the port of Patras, the only other nearby port active on the same routes as the port of Igoumenitsa.

(77) In light of these elements, the aid for this project does not affect competition and intra-EU trade to an extent that would be contrary to the common interest.

[20] Commission decision C(2014) 4078 final of 25.06.2014 in State aid case SA.38048 (2014/NN) – Greece – Upgrading of the Port of Patras (5th pier)

3.3.4. Transparency

(78) As set out in recital (28), Greece committed to respect the transparency conditions.

4. CONCLUSION

The Commission regrets that Greece put the aid in question into effect, in breach of Article 108(3) of the Treaty on the Functioning of the European Union.

However, it has decided, on the basis of the foregoing assessment:

- That the public financing of EUR 1 002 000 of the work to be carried out by the Greek Archaeological Agency and of EUR 201 102 for the connection to the public utilities network does not constitute State aid pursuant to Article 107(1) of the Treaty on the Functioning of the European Union.

- Not to raise objections to the aid granted to OLIG S.A. 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.

The Commission notes that Greece has agreed that the present decision is adopted, notified and published in the English language.

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 electronically to the following address:

European Commission,
Directorate-General Competition
State Aid Greffe
B-1049 Brussels
Stateaidgreffe@ec.europa.eu

Yours faithfully,

For the Commission

Margrethe VESTAGER
Member of the Commission

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION