IV

(Acts adopted before 1 December 2009 under the EC Treaty, the EU Treaty and the Euratom Treaty)

COMMISSION DECISION

of 26 April 2006

on state aid C 39/03 (ex NN 119/02) implemented by Greece for air carriers in respect of losses sustained from 11 to 14 September 2001

(notified under document C(2006) 1580)

(Only the Greek text is authentic)

(Text with EEA relevance)

(2010/768/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the first subparagraph of Article 88(2) thereof,

Having regard to the Agreement on the European Economic Area, and in particular Article 62(1)(a) thereof,

Having called on interested parties to submit their comments pursuant to the provisions cited above [1],

Whereas:

1. PROCEDURE

(1) In accordance with Article 88(3) of the EC Treaty, in a letter to the European Commission dated 24 September 2002, registered as received on 26 September 2002 under No TREN(2002) A/66844, the Greek Ministry of Transport set out the details of a scheme to compensate for losses in the airline industry following the attacks of 11 September 2001.

(2) Having been implemented before its formal approval by the Commission, this measure was registered as non-notified aid under No NN 119/2002. This was communicated by letter with acknowledgment of receipt sent by the Commission on 28 October 2002 (TREN(2002) D/17401).

(3) By letter of 27 May 2003, the Commission notified Greece of its decision to initiate the procedure laid down in Article 88(2) of the Treaty in respect of this aid.

(4) The Commission's decision to initiate the procedure was published in the *Official Journal of the European Union* [2]. The Commission called on interested parties to submit their comments concerning the aid in question.

(5) The Commission received no comments from interested parties.

(6) The Commission received the initial comments from Greece regarding the initiation of the procedure by letter of 3 December 2003, registered as received on 10 December 2003 under No SG(2003) A/12211.

(7) Greece stated that it would be sending further information. As this failed to materialise, by letter TREN(2004) D/4128 of 15 March 2004 the Commission offered the Greek authorities one last opportunity to provide the additional information within 15 days and notified them that, if they failed to so, the Commission would take its decision on the basis of the information it already had. The Greek authorities did not reply to that letter.

2. DESCRIPTION OF THE NOTIFIED AID

Background

(8) As a result of the terrorist attacks in the United States on 11 September 2001, some areas of airspace were closed for several days. This was notably the case with the airspace of the United States, which was completely closed from 11 to 14 September 2001 and was reopened only gradually starting on 15 September 2001. Other countries had to take similar measures for all or part of their territory.

(9) For this reason, during that initial period airlines had to cancel flights using the airspace concerned. They also suffered losses owing to the disruption of other traffic and the fact that some passengers were unable to complete their journeys.

[1] OJ C 199, 23.8.2003, p. 3.

[2] See footnote 1.

(10) Given the magnitude and suddenness of the events and the costs they caused for airlines, the Member States had to consider exceptional compensation measures.

The scheme implemented by Greece

(11) The scheme that is the subject of this Decision provided for the payment of compensation for losses sustained by airlines from 11 to 15 September 2001; in fact, the notified scheme also provided for the payment of compensation for costs incurred after that period.

(12) In support of their scheme, the Greek authorities argued that the closure of airspace in the United States had direct consequences for the airlines even after 14 September 2001, since on 16 September 2001 an Olympic Airways flight to New York was cancelled preventively due to a lack of information regarding the possibility to land there. There was also compensation for costs incurred on 15 September 2001.

(13) The eligible air carriers were the air carriers holding operating licences issued by the Greek authorities pursuant to Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers ([3]).

(14) The Greek authorities indicated that they consulted all eligible air carriers; only three companies submitted compensation claims after all Greek air carriers were invited to do so by letters of 24 October and 5 December 2001 sent out by the local authorities. One of them, Axon Airlines, ceased operating on 3 December 2001, before the compensation was paid out in July 2002; Greece decided not to pay compensation to this air carrier because the objective was to enable air carriers to continue their activities and prevent the costs suffered following the attacks from affecting them excessively. The other air carriers that actually received payments were Olympic Airways, hereinafter referred to as 'OA', and Aegean Cronus, hereinafter referred to as 'AC'.

(15) In their notification, the Greek authorities indicated that payments to these companies amounted to EUR 4 827 586 for OA and EUR 140 572 for AC, making up the total of EUR 4 968 158 notified on 24 September 2002. These amounts were financed, in accordance with the applicable Greek legislation, from the TASS and TAEA funds for airport development and modernisation.

(16) The Greek authorities indicated that the companies received copies of the Commission's letter of 14 November 2001, which constituted the basis for compensation claims.

(17) Greece defined the losses eligible for compensation as losses sustained by air carriers and directly related to the events; they included losses of passenger revenue, losses of revenue from carriage of freight, losses due to the destruction of consignments of products which did not reach their destinations, costs occasioned by route diversion and time spent by aircraft at other airports owing to the closure of airspace, and costs of accommodation for passengers or crews.

(18) In the notification, the losses eligible for compensation were not limited to routes directly affected by the decision taken by some countries following the events to partially close the airspace; they in fact related to the entire networks of the air carriers and the compensation was payable for the total losses incurred across the entire network.

(19) Greece provided the Commission with information of varying degrees of detail concerning each beneficiary.

Olympic Airways

(20) In the notification, Greece informed the Commission that the total compensation was less than 4/365 of the undertaking's annual turnover. The compensation related not only to flights to the United States, Canada and Israel, but to the company's entire network.

(21) The compensated costs of GRD 1 645 000 000 (EUR 4 827 586) were broken down as follows:

1. *Revenue related to loss of passengers*

These made up the rounded amount of GRD 1 390 000 000 (EUR 4 079 237), of which approximately GRD 1 234 500 000 (EUR 3 622 894) related to the period from 11 to 15 September 2001; approximately GRD 821 000 000 (EUR 2 409 393) was for losses sustained in the North Atlantic airspace; the balance of approximately GRD 413 000 000 (EUR 1 212 203) was for the rest of the company's network, mainly the domestic and European networks, but also the Middle East, Africa, Australia and Asia.

Moreover, about GRD 150 000 000 (EUR 440 206) was for losses sustained on 16 September 2001 across the North Atlantic network.

([3]) OJ L 240, 24.8.1992, p. 1.

It was indicated that the amount of the compensation was calculated by comparing traffic recorded during the specified period with that recorded by the company on the corresponding days in the previous week, with a correction for the variation noted during the corresponding period in 2000. The loss was calculated on the basis of the average fare for that period for each category of destination.

2. *Other revenue lost and costs incurred*

The main items were:

(a) losses of revenue from carriage of freight: GRD 95 000 000 (EUR 278 797);

(b) costs related to the destruction of products: GRD 6 000 000 (EUR 17 608);

(c) various costs related to additional safety checks: GRD 19 000 000 (EUR 55 759);

(d) costs related to the cancellation of flights while in flight, flight diversion and grounding of aircraft in foreign countries: GRD 17 384 737 (EUR 51 019);

(e) extraordinary costs arising from 'ferry flights' ([4]): GRD 163 000 000 (EUR 478 357);

(f) costs of accommodation or overtime: GRD 50 000 000 (EUR 146 735).

3. *Deductions*

The deductions referred to fuel savings and amounted to GRD 95 000 000 (EUR 278 797).

Aegean Cronus

(22) Greece indicated to the Commission that the total compensation was calculated on the basis of similar but, of course, much smaller losses, since this company did not operate transatlantic flights. The compensation amounted to GRD 47 900 000 (EUR 140 572).

(23) The Commission decided to open the formal assessment procedure due to its doubts concerning the conformity of such an aid scheme with the Treaty, not only because the scheme exceeded the period specified in paragraph (35) of the Communication from the Commission to the European Parliament and the Council of 10 October 2001 entitled 'Repercussions of the terrorist attacks in the United States on the air transport industry' ([5]) (hereinafter referred to as 'the Communication of 10 October 2001'), but also and especially because of the absence of an exceptional occurrence and because of the change in the nature of losses eligible for compensation caused by extending the period beyond 14 September 2001.

3. **OBSERVATIONS SUBMITTED BY INTERESTED PARTIES**

(24) No interested third party submitted comments within the deadline of 1 month.

4. **COMMENTS SUBMITTED BY GREECE**

(25) The Greek authorities did not submit any additional comments to the Commission within the deadline of 1 month specified in the letter concerning the initiation of the procedure. Their letter of 23 July 2003, registered by the Commission on 28 July under No TREN (2003) A/26329, mentioned a reply to the decision of 27 May 2003 but it referred only to the removal of confidential information which should not be published. Nevertheless, after the Commission completed the first draft of the decision, Greece finally submitted a comment on 3 December 2003. The letter stated that Greece would be submitting further information; however, although on 15 March 2004 the Commission sent Greece a new invitation to provide its additional comments, Greece has sent the additional information promised.

(26) In their letter of 3 December 2003, the Greek authorities detailed some of the amounts notified for OA, but in a different way than in the notification; for example, they specified which amounts referred to the period from 11 to 14 September 2001 inclusive and which amounts referred to the period after 14 September 2001. They did not mention anything relating to the amount notified for AC.

1. **Losses sustained by OA from 11 to 14 September 2001 inclusive**

(27) Greece reported that OA incurred losses from 11 to 14 September 2001 due to the closure of United States, Canadian and Israeli airspace. For this reason, six transatlantic flights and one flight to Israel, all round-trip flights, were cancelled; based on the list of confirmed passengers for these flights and the average revenue per passenger, Greece stated that OA suffered a loss of GRD 654 650 000 (about EUR 1 921 203), deemed to be eligible for compensation.

([4]) The English expression used in the notification.

([5]) COM(2001) 574.

(28) The Greek authorities also reported two other costs incurred by OA during this period. The first cost was related to the extended grounding of an aircraft in Canada for the entire period in question; the cost amounted to GRD 12 967 457 (about EUR 38 056). The second cost was related to the return of a flight that had left Athens for the United States on 11 September 2001, giving rise to an additional cost of GRD 1 165 600 (EUR 3 421).

(29) The total costs presented by Greece for OA and relating to the period from 11 to 14 September 2001 thus amounted to GRD 668 783 057 (about EUR 1 962 680).

2. **Losses sustained by OA after 14 September 2001**

(30) Greece reported costs incurred by OA after 14 September 2001 in connection with three round-trip transatlantic flights on 15 and 16 September 2001 (one to the United States and two to Canada). Based on the list of confirmed passengers for these flights and the average revenue per passenger, Greece stated that OA suffered a loss of GRD 333 000 000, deemed to be eligible for compensation. Greece declared that this amount was equivalent to EUR 1 270 726; this is obviously a calculation error because applying the euro area entry rate for the drachma (1 euro = 340,75 drachma) actually gives an amount of about EUR 977 257.

(31) The flight to New York of 15 September 2001 was said to have been cancelled due to the lack of a landing slot; even though JFK Airport in New York reopened on 14 September 2001 at 23:00, Athens time, the strong demand for landing slots prevented OA from obtaining one. The Greek authorities indicated that they asked OA to provide confirmation of this situation, which was to be forwarded to the Commission. However, this failed to materialise, as the Commission did not receive any further correspondence on the matter.

(32) The flights to Canada on 15 and 16 September 2001 were said to have been cancelled due to the late return of the aircraft blocked in that country. Greece stated that OA did not have any other long-haul aircraft available on 15 September 2001, due to its other scheduled flights. For the flight of 16 September 2001, the late return of the abovementioned aircraft did not allow enough time for carrying out the technical checks and acquiring the landing slots for the new flight to Canada, which led OA to cancel the flight.

(33) The second type of costs incurred by OA and claimed were costs relating to the ferry flights provided by OA; there were three flights (one to the United States on 18 September 2001 and two others to Canada on 20 and 26 September 2001) which were carried out, according to the Greek authorities, as a result of the pressure exerted by the United States and Canada on OA to repatriate passengers from Athens to North America. The passengers in question had paid the normal fare, but the aeroplanes returned empty to Athens. The cost of the return flights, calculated on the basis of 'block hours' (the aircraft's flying times), were said to be GRD 166 051 680 (about EUR 487 312).

(34) The total costs presented by Greece for OA and relating to the period after 14 September 2001 thus amounted to GRD 499 051 680 (around EUR 1 464 569). All the explanations provided by Greece in the letter of 3 December 2003 thus seek to justify a compensation, for all the periods in question, of GRD 1 167 834 737 (about EUR 3 427 249).

5. ASSESSMENT OF THE AID

Existence of aid

(35) Pursuant to Article 87(1) of the Treaty, except where derogations provide otherwise, any aid granted by a Member State or through state resources which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods, in so far as it affects trade between Member States, is incompatible with the common market.

(36) Grants for air carriers represent allocations of state resources in favour of those companies and therefore constitute a clear economic advantage for them.

(37) This measure for the air transport industry had a selective character. Moreover, the air carriers receiving aid under this scheme were explicitly identified.

(38) In the air services market, which has been liberalised since 1 January 1993 when Regulation (EEC) No 2407/92, Council Regulation (EEC) No 2408/92 of 23 July 1992 on access for Community air carriers to intra-Community air routes [6] and Council Regulation (EEC) No 2409/92 of 23 July 1992 on fares and rates for air services [7] entered into force, air carriers in one of the Member States are in competition with other relevant companies in other Member States. In this case, the air carriers eligible under the notification are actively operating in the Community market. The subsidies granted to them and the advantage they gained in this way affect trade between Member States and are likely to affect competition.

[6] OJ L 240, 24.8.1992, p. 8.
[7] OJ L 240, 24.8.1992, p. 15.

(39) The measures constitute state aid and are compatible with the Treaty only if they are covered by one of the applicable derogations.

Legal basis for the assessment of the aid

(40) The derogations provided for in Article 87(2)(a) and (c) do not apply because this case does not involve social aid for individual consumers or aid for certain regions of the Federal Republic of Germany.

(41) Since this case is neither aid facilitating the development of certain regions nor aid facilitating the economic development of regions where the standard of living is abnormally low or where there is serious underemployment, nor aid facilitating the development of certain economic activities or regions, the derogations provided for in subparagraphs (a) and (c) of Article 87(3) do not apply.

(42) Finally, the derogations provided for in Article 87(3)(b) and (d), which aim respectively to promote an important project of common European interest or allow the remedying of a serious disturbance in the economy of a Member States and to promote culture and cultural heritage values, are not relevant in this case.

(43) Pursuant to Article 87(2)(b) of the Treaty, aid compatible with the common market is: 'aid to make good the damage caused by natural disasters or exceptional occurrences'. In its Communication of 10 October 2001, the Commission considered that the events of 11 September 2001 could be regarded as exceptional occurrences within the meaning of Article 87(2)(b) of the Treaty.

(44) In paragraph (35) of its Communication of 10 October 2001, the Commission explained the conditions that it deemed to be necessary for compensation related to those events to comply with the conditions of Article 87(2)(b):

'The Commission considers that the costs arising directly from the closure of American airspace between 11 and 14 September 2001 are a direct consequence of the events of 11 September 2001. They may therefore give rise to compensation by Member States in accordance with Article 87(2)(b) of the Treaty on the following conditions:

— compensation is paid in a non-discriminatory manner to all airlines in a given Member State;

— it concerns only the costs incurred during the days 11 to 14 September 2001 following the grounding of air traffic decided by the American authorities;

— the amount of compensation is calculated accurately and objectively by comparing the traffic recorded by each airline during the 4 days in question with that recorded by the same airline in the preceding week, adjusted to take account of the development in the corresponding period of 2000. The maximum amount of compensation, which must take account in particular both of the actual costs incurred and those avoided, is equal to the loss of revenue duly recorded during these 4 days. It must of course be less than four 365ths of the airline's turnover.'

Compatibility under Article 87(2)(b) of the Treaty

(45) The Commission notes that, even though only three air carriers formally applied for compensation for the costs incurred, all air carriers holding a public transport licence issued by the Member State in question are eligible under this scheme. The exclusion of one of them, Axon Airlines, because it had ceased operating when the letters notifying this scheme were sent out to the air carriers and, *a fortiori*, when the aid was paid, does not make the scheme discriminatory. The measure is therefore clearly non-discriminatory. However, the Commission notes that in their reply the Greek authorities limited themselves to providing information on costs incurred and compensation received by OA, without offering any information on AC.

Olympic Airways

(46) The compensation described above relates mainly to the period from 11 to 14 September 2001, specified in the Commission's Communication of 10 October 2001 and taken into account in its previous decisions in this area ([8]); however, the compensation also refers to the day of 15 September 2001 and even beyond.

The period from 11 to 14 September 2001:

(47) In its Communication of 10 October 2001, the Commission approved the principle of compensation for direct repercussions of the closure of airspace decided by the American authorities. The practical details for applying the Commission's Communication were laid down in the Commission's letter to the Member States of 14 November 2001; the letter referred in particular to the direct relationship that has to be established between 'the grounding of all traffic on American territory and the disruptions caused in the

([8]) See footnotes 9 and 10.

European sky'; in this respect, the measure, as described by the Greek authorities in their response to the initiation of the procedure, provides for limited compensation for routes or networks affected by the closure of airspace such as the airspace of North America (United States and Canada) and that of Israel. This principle was applied in previous decisions ([9]) adopted by the Commission in this respect.

(48) Therefore, with regard to the period from 11 to 14 September 2001 and the losses sustained in that period, which were directly related to the closure of airspace, the measure complies with the limitations specified by the Commission and especially with the requirement that the cost eligible for compensation be directly related to the closure of airspace.

(49) The method of calculating the operating losses eligible for compensation is based on the method that was laid down in the Commission's Communication and whose technical calculation rules were specified in the Commission's letter to the Member States of 14 November 2001; the loss of revenue sustained during the 4 days taken into account was determined on the basis of the passenger bookings on the cancelled flights. As regards the unit value of the loss suffered per passenger, in their reply the Greek authorities indicated that it represented the effective loss sustained by OA, amounting to GRD 654 650 000 (about EUR 1 921 203).

The additional costs eligible for compensation and relating to the extended grounding of an aircraft in Canada during the period in question, amounting to GRD 12 967 457 (about EUR 38 056) and the cost of returning to Athens a flight initially bound for the United States (on 11 September 2001), generating an additional cost of GRD 1 165 600 (EUR 3 421), were calculated using the same approach.

The ceiling of 4/365 of turnover applied by the Member State is in line with that specified by the Commission.

The Commission considers therefore that this calculation is within the maximum limit equal to the net loss of revenues recorded during those 4 days, as specified in its Communication.

(50) Consequently, the Commission comes to the conclusion that the measures introduced by Greece in favour of OA due to the closure of airspace from 11 to 14 September 2001, amounting to GRD 668 783 057 (about EUR 1 962 680), comply with the rules laid down in its Communication of 10 October 2001; they are therefore assessed as compatible with the EC Treaty within the meaning of Article 87(2)(b).

The period after 14 September 2001:

(51) Although the Commission, in paragraph (35) of its Communication of 10 October 2001, acknowledged the closure of airspace in the United States as an 'exceptional occurrence' and compensation for losses arising from that closure as compatible, it did not agree to give similar consideration to other losses indirectly related to the closure. This is especially the case with losses sustained by air carriers after the reopening of airspace on 15 September 2001.

(52) The Commission explained in its Communication of 10 October 2001 that losses eligible for compensation must be 'incurred … following the grounding of air traffic decided …'.

(53) The Commission notes at the same time that after 14 September 2001 the situation was not one in which air traffic was grounded but one in which the air carriers concerned faced constraints in operating their air routes.

(54) This is the case with the measures introduced by Greece in favour of OA and concerning mainly three transatlantic round-trip flights (one to the United States and two to Canada) that did not take place on 15 and 16 September 2001, representing a loss to OA of GRD 333 000 000 (about EUR 977 257).

(55) As regards the lack of landing slots in New York, Greece confirmed that JFK Airport was completely reopened on 14 September 2001 at 23:00, Athens time, and that only the strong demand for landing slots prevented OA from obtaining one. The Commission has not received any other information concerning the reasons for failing to obtain a landing slot while other companies were able to do so. In any event, the general impossibility of flying to the United States did not apply any longer.

(56) At the same time, the cancellation of the flights to Canada on 15 and 16 September 2001 was the result of choices made by OA, either because the company did not have any other long-haul aircraft available and preferred to operate other scheduled flights or because OA could not complete the technical checks and the acquisition of landing slots in due time and therefore had to cancel the flights.

([9]) See the similar decisions concerning France (N 806/2001 of 30 January 2002), United Kingdom (N 854/2001 of 12 March 2002) and Germany (N 269/2002 of 2 July 2002), which can be consulted at: http://europa.eu.int/comm/secretariat_general/sgb/state_aids/transports.htm

(57) As regards the ferry flights carried out by OA to the United States on 18 September 2001 and to Canada on 20 and 26 September 2001, costing GRD 166 051 680 (about EUR 487 312), the Greek authorities themselves indicated that the flights were carried out due to the pressure exercised by the United States and Canada on OA to return passengers from Athens to North America. This was therefore OA's decision, relating to flights carried out much later than the airspace closure period. This action automatically excludes any financing from a Member State. If the flights were really commissioned by third countries, it is for OA to obtain a refund from them, if the company considers that it can achieve this.

(58) As it has consistently stated in other decisions ([10]), the Commission cannot regard the indirect repercussions of the attacks of 11 September 2001, such as the difficulties encountered in operating air routes from 15 September 2001 onwards, in the same way as the direct repercussions, namely the complete closure of certain areas of the airspace until 14 September 2001 and the impossibility of operating the air routes using those areas. The indirect consequences of the attacks have affected many sectors of the global economy for a long time, some for longer than others, but by comparison with other economic or political crises these difficulties, damaging as they are, do not constitute exceptional occurrences and therefore cannot allow the application of Article 87(2)(b) of the Treaty.

(59) The Commission therefore concludes that the scheme does not comply with the Treaty as regards the part relating to dates after 14 September 2001, especially the costs presented by Greece for OA for the period after 14 September 2001 and amounting to GRD 499 051 680 (about EUR 1 464 569), not only because the period specified in paragraph (35) of the Communication of 10 October 2001 was exceeded, but also and especially because of the absence of an exceptional occurrence and the change in the nature of the loss eligible for compensation caused by exceeding the period. This operating aid cannot be authorised under other Treaty provisions. The aid for the period after 14 September 2001 is therefore incompatible with the Treaty. The Commission notes in this respect that the total amount presented by the Greek authorities in their reply of 3 December 2003 is different from and less than that notified initially and probably paid. Therefore, any aid granted to OA in excess of the above-mentioned amount of GRD 668 783 057 (about EUR 1 962 680) is incompatible with the Treaty and must be recovered.

([10]) See the Commission's negative decision 2003/196/EC of 11 December 2002 on state aid C 42/02 (ex N 286/02) planned by France in favour of French air carriers and extending beyond 14 September 2001 the compensation initially approved by decision N 806/2001 (OJ L 77, 24.3.2003, p. 61).
See also the partially negative decision 2003/637/EC of 31 April 2003 on state aid C 65/02 (ex N 262/02) planned by Austria in favour of Austrian air carriers (OJ L 222, 5.9.2003, p. 33).

(60) In support of their notification, the Greek authorities cite the conclusions of the Transport Council of 16 October 2001, but the Commission notes that these are only political guidelines and are not legally binding when assessing the compatibility of aid with the Treaty. Furthermore, even though in paragraph (7) of these conclusions the Council called on the Commission, for the period after 14 September 2001, to examine 'on a case-by-case basis the compensation which could be granted on the basis of objective criteria to make up for restrictions imposed to European airlines by the country of destination', it also indicated that 'any aid or compensation may not lead to distortion of competition between operators'. In the context of assessing the equal treatment of operators, which it has to ensure, the Commission notes that no other proposal concerning the days following 14 September 2001 has been accepted for air carriers in other Member States.

Aegean Cronus

(61) As regards AC, the Commission notes that Greece has never tried to provide even the slightest information justifying the payment. The Commission therefore has not received, despite its requests, any information enabling it to confirm the compatibility of this aid with the Treaty. Moreover, the Commission notes that in their notification the Greek authorities indicated that the company did not operate transatlantic flights; the Commission therefore finds it unlikely that the above-mentioned necessary direct relationship between the cost eligible for compensation and the closure of airspace, provided for in the Communication of 10 October 2001, can be substantiated in the case of AC. The Commission therefore comes to the conclusion that this aid is incompatible with the Treaty and requests its repayment.

6. **CONCLUSIONS**

(62) In consequence of the above, the Commission finds that Greece has illegally implemented the aid scheme in question in breach of Article 88(3) and concludes that the measure is partially incompatible with the Treaty, particularly with Article 87(2)(b), as interpreted in the Communication of 10 October 2001,

HAS ADOPTED THIS DECISION:

Article 1

The state aid implemented by Greece in favour of Olympic Airways for losses sustained by this air carrier due to the partial closure of airspace after the attacks of 11 September 2001 is compatible with the common market as regards the compensation paid for the days from 11 to 14 September 2001, up to the maximum amount of GRD 668 783 057 (about EUR 1 962 680).

Article 2

The state aid implemented by Greece in favour of Olympic Airways for losses sustained by this air carrier due to the partial closure of airspace after the attacks of 11 September 2001 is incompatible with the common market as regards the compensation paid for the period following 14 September 2001. According to the notification submitted by Greece, this compensation amounts to GRD 976 216 943 (about EUR 2 864 907).

Article 3

The state aid implemented by Greece in favour of Aegean Cronus for losses sustained by this air carrier due to the partial closure of airspace after the attacks of 11 September 2001 is incompatible with the common market. According to the notification submitted by Greece, this compensation amounts to GRD 47 900 000 (about EUR 140 572).

Article 4

1. Greece shall take all necessary measures to recover from the beneficiaries the aid referred to in Articles 2 and 3, which was unlawfully made available to them.

2. Recovery shall be effected without delay and in accordance with the procedures of national law provided that they allow the immediate and effective execution of the decision. The aid to be recovered shall include interest from the date on which it was at the disposal of the beneficiaries until the date of its recovery. Interest shall be calculated on the basis of the reference rate used for calculating the grant equivalent of regional aid.

Article 5

Within 2 months of the date on which this Decision is notified, Greece shall inform the Commission of the measures taken to comply with it.

Article 6

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 26 April 2006.

For the Commission

Jacques BARROT

Vice-President