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Aviation White Paper Branch
Domestic Aviation & Reform Division
Department of Infrastructure, Transport, Regional Development, Communications and the Arts
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10 March 2023

Re: The Aviation White Paper Terms of Reference

Dear Sir / Madam

On behalf of Aircraft Leasing Ireland ("ALI"), we are writing to you in response to the release of the White Paper "Terms of Reference" on 7 February 2023 and the request for submissions in relation to same.

We understand that the White Paper (expected to be released in mid-2024) will explore the likely future trends in aviation over the period to 2050 and will articulate long-term policy directions to set the scene for the next generation of growth and innovation in the aviation sector. Further, we understand that the White Paper will examine the Government of Australia's policy and economic reforms necessary to promote efficiency, safety, sustainability and competitiveness of the aviation sector out to 2050 across a number of areas including:

- aviation's role in economic development, trade and the visitor economy – general, domestic, regional and international aviation; and
- how to maximise the aviation sector's contribution to achieving net zero carbon emissions including through sustainable aviation fuel and emerging technologies.

Background

Formed in July 2018, ALI is the group representing the aviation leasing industry in Ireland. It currently represents 41 lessors.

Ireland is the leading global centre for aviation leasing. Aviation leasing plays a central role in global aviation and travel in every region of the globe with over 10,000 leased aircraft globally[1]. Aviation lessors provide the world's airlines with flexibility to meet customer demand and play a key role in the roll-out of new technology aircraft. Ireland is the global epicentre of aviation leasing with over 60% of the world's leased aircraft (including engines) being managed from Ireland. The Irish aviation leasing industry is built on over 40 years of industry expertise, stemming from the founding of the world's first commercial aircraft leasing company, Guinness Peat Aviation, in 1975.

ALI is also actively involved at an EU level to ensure that aviation leasing plays an important role in the de-carbonisation of aviation (which in the short term can involve e.g. the leasing of new technology aircraft with increased fuel efficiency).

[1] Source: Cirium Fleets Analyser as of 30 September 2022

Australia's aircraft industry

With a very large land mass, aviation is vital to Australia's economic and social fabric. Total air traffic is forecast to continue to grow at an annual rate of c.4% over the next 20 years in the Oceania region. There will be a continual need for new aircraft and spare engines as traffic increases and airlines evolve. Over the next 20 years, Oceania is expected to need just under 1,000 new aircraft with an estimated value of approximately US$150bn. Australian airlines will account for a significant portion of these. Australian airlines currently have 185 commercial aircraft valued in excess of US$10.651bn on order.

More immediately, restoring international traffic following the COVID-19 pandemic remains a key priority for Australian airlines. In late 2022, international capacity was at 68% of levels seen in 2019. Crucial to the ramping-up of international traffic will be reactivating aircraft in storage and furthermore ensuring that deliveries and leases of new aircraft continue to increase in-line with demand and as older aircraft come to retirement at the end of their lifecycle. These deliveries and leases of new technology, fuel efficient, aircraft would also contribute significantly to the aviation sector's journey towards achieving net zero carbon emissions – a stated focus of the White Paper.

Ireland's role in the leasing space

Irish leasing companies provide a significant source of finance to Australian airlines and have the potential to play an even larger role in supporting Australian aviation in the future. However, as the Australia/Ireland Double Tax Treaty ("DTT") is not consistent with both Ireland and Australia's other DTTs with respect to aircraft and engine leasing activity , this adds a layer of additional cost to the leases which may ultimately be borne by Australian airlines. This can drive up the cost of air travel for these airlines which can dampen demand. There is a strong correlation between GDP and air traffic growth with studies (including some specifically focused on the Australian economy) showing a clear increase in GDP driven by increased aircraft traffic. Maintaining a healthy demand for air travel should support a healthy Australian economy. Further, air travel is essential to supporting a functioning tourism industry, particularly within Australia given its expansive land mass.

Tax Treaty

The vast majority of the 74 Irish DTTs in force provide for a zero rate of withholding tax on lease rentals – this is consistent with the current OECD Model Treaty which does not generally seek to impose withholding tax on outbound aircraft (including engines) lease rentals. In contrast the 10% rate imposed by Article 13 of the Australia/Ireland DTT places Australian airlines at a distinct competitive disadvantage to non-Australian airlines that generally don't suffer this cost In addition, the definition of Permanent Establishment ("PE") in the existing DTT is such that the mere creation of a lease for an aircraft (or engine) located in Australia results in a PE for the lessor in Australia (which further adds unnecessary cost to the lease transaction).. This is not the case in most of Ireland's other DTTs or in the current OECD Model Treaty. Competition from foreign airlines that force Australian airlines to reduce fares or indeed replace them on certain routes can create inherent structural risks to the Australian economy as the foreign carriers could move out of Australian routes and leave connectivity issues which will impact both business and tourism within Australia.

Several of Australia's DTTs, including the UK, France, New Zealand, Japan, and the more recently negotiated DTTs with Germany, Switzerland and Finland allocate all taxing rights over Australian-sourced equipment lease rentals to lessors based in these countries. However, these countries are not significant aviation leasing hubs., As noted above, it is proving difficult for Irish lessors (who are the principal providers of capital in the aviation operating leasing space) to provide finance to Australian airlines.

More broadly, the Australia/Irish DTT is not in line with the DTTs negotiated by Australia over the last 20 years. Simply amending the Australia/Ireland DTT to align it with more recently negotiated DTTs would be sufficient to facilitate efficient leasing from Ireland to Australia. In addition, a new DTT would allow for the opportunity to modernize the position in line with the OECD Model Treaty. Many of Australia's competitors, in terms of air travel, either have good DTTs with Ireland or simply do not impose withholding tax on outbound lease rentals (recognising that if they were to do so it would create costly inefficiencies impacting airline profitability, demand etc.).

Request

In developing the White Paper, and with a view to promoting the competitiveness of the Australian aviation sector, economic development and fostering progress with respect to net zero emissions, ALI would kindly request that consideration be given to the importance of an efficient lease structure between Australia and Ireland. This could be achieved through e.g. a protocol to the existing DTT, a revision of the existing DTT or indeed a new DTT. Requests have been made by the airline community in Australia as well as by ALI in the past in this regard.

We are happy to discuss any aspect of this submission with you.

Yours faithfully,

Marie-Louise Kelly
Chairperson
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