

Respondent 1 – Public Consultation

(a) Hierarchy of Legislation		
	Query	Reply
1.	Article 3(2) mentions that both the Minister and the Authority can issue regulations. However, the article does not mention whether the Ministerial regulation prevails over those issued by the Authority.	<p>This sub-article (2)¹ is being redrafted to read as follows:</p> <p>“3. Where this Act refers to a matter which may be prescribed, unless this Act expressly designates the person authorized and the manner thereof, such matter may be prescribed by the Minister through regulations, by the Authority through directives, or by the Director General through guidelines or any one or all of them as may be determined, provided that in the case of conflict, a regulation by the Minister shall prevail over a directive, and a directive shall prevail over a guideline.”</p> <p>As you will note, a Ministerial regulation prevails over a directive issued by the Authority for Transport in Malta.</p>
2.	Hierarchy of legislation – If the Implementing Law is contained in the First Schedule and thus is part of the Act, why does Article 3(3) mention that it prevails over any other part of the Act, when other parts seem to regulate the National Register and the Implementing Law the international register?	<p>The sphere of application of the International Register under the Cape Town Convention is different to that of the National Aircraft Register and consequently prevalence is given to the Implementing Law to ensure that there is no national rule that hinders the efficacy of, or is inconsistent with, the provisions of the Cape Town Convention that would prevent the proper application of the terms of, or the exercise of the rights under the Convention in its own domain.</p> <p>To this end, the Aircraft Registration Act seeks to regulate, among other matters, the effects of registration of mortgages and security interests depending in which register such security is registered. The “hierarchy of legislation” as you describe it, is effectively intended to reflect the “hierarchy of secured creditors” as they rank according to their security, that is to say, whether they enjoy super priority by way of a special privilege existing under article 43(1), or a special privilege that is registrable in the National Aircraft Register or in the International Registry as the case may be, or, whether their security interest is one registered in the National Aircraft Register under Part IV of the Act, or in the International Registry in</p>

¹ This sub-article (2) is being renumbered as sub-article (3)

	<p>Article 3(4) refers to any part of the Implementing Law which may not have been regulated by the Act. If the First Schedule is part of the draft Act, was any part of the Implementing law left out of the First Schedule? If this is the case would the part left out still prevail over any other Maltese law?</p>	<p>terms of the Cape Town Convention.</p> <p>The rules of priority under the Cape Town Convention are such that an international interest registered in the International Registry has priority over a security interest registered in the National Aircraft Register which is neither also registered in the International Registry nor covered by a category listed in Article 43(1) thereby enjoying super priority as a special privilege.</p> <p>Article 3(3) is meant to confirm that where a security interest is registered in the International Registry and hence regulated as such by the terms of the Cape Town Convention, the First Schedule shall prevail to the extent of any inconsistent law.</p> <p>The Implementing Law is substantively represented in the First Schedule in its entirety, save for a few slight amendments which were deemed necessary to render the text applicable to Malta and to reflect the proposed Declarations (i.e. choices on specific issues in the Convention and Protocol) to be lodged by Malta.</p> <p>For the sake of clarity, Article 3(4)² is being redrafted as follows:</p> <p>“To the extent that any matter provided for by the Implementing Law is not regulated by any of Parts I to VIII³ of this Act, then the Implementing Law shall govern such matter and any other laws shall be construed so as to give effect to such provisions of the Implementing Law as may be applicable.”</p> <p>This provision is intended to provide a way to address any lacuna where a concept under the Convention was not so extensively reflected in our system.</p>
3.	<p>Is the draft Act Aircraft Registration intended to replace the aircraft registration related articles contained in the Civil Aviation Act, Air Navigation Order, the Merchant Shipping Act and other Maltese laws?</p>	<p>Yes, one of the objectives of the draft Aircraft Registration Act is the unification of various laws on registration of aircraft and aircraft mortgages/security interests. The Fifth Schedule to the Aircraft Registration Act will contain a list of consequential amendments to other laws and these shall include a repeal of other articles in the Air Navigation Order and the Civil Aviation Act on aircraft registration.</p>

² This sub-article (4) is being renumbered as sub-article (5)

³ The Act is also being re-arranged to have the sections on “the International Registrant” as Part III, and consequently have the remaining Parts renumbered accordingly.

	<p>Article 3(5) seems to convey the impression that the draft Act will be over and above the existing laws. If this is the case, this will be to the detriment of clarity as the Implementing Law would prevail followed by the sources identified in the Third Schedule, the Act and other aviation laws and then the Merchant Shipping Act. These laws cater for certain matters which might have been treated differently in the Implementing Law/ Act. One law regulating aircraft registration as a whole would be preferable.</p>	<p>Further to your comment, we have sought to clarify the rule by amending sub-article (5) of article 3 (now renumbered as sub-article (6)) to read as follows:</p> <p>“(6) Where this Act is silent on any matter, the matter shall be determined in accordance with the principles reflected in other provisions of this Act and other laws of Malta relating to aviation and, failing such principles, reference shall be made to the Merchant Shipping Act in so far as it may be relevant.”</p> <p>This sub-article is therefore intended to lay out the sources of interpretation where the Aircraft Registration Act is silent on a particular matter. In such cases, recourse shall be had to the sources stated below, and in the order they are mentioned, namely -</p> <ol style="list-style-type: none"> 1. Other provisions of the Aircraft Registration Act; 2. Other laws relating to aviation; 3. The Merchant Shipping Act (where relevant).
(b) The Register and the Operator		
4.	<p>The draft Act purports to create an operator-based register as evidenced by Article 4(6) and Article 5. This is especially important because international and EU aviation-related legislation is always directed at the operator. However, as from Article 13 onwards, the operator under a lease agreement (also the registrant) barely features and the mortgagee and holders of security interests are given more importance throughout the Act. In fact, while the mortgagee is informed of any changes made to the Register by the Director General himself, the operator is not. Is there a particular reason for this?</p> <p>On the other hand in the Implementing Law, the operator/lessee is always kept informed of any changes or any other matter which may be of interest to him as an interested person. Similarly Article 5 does not provide for communication with the operator under a lease agreement.</p>	<p>The operator is invariably the registrant and hence he is already privy to any change as only the registrant provokes it.</p> <p>In the light of your comments, we are proposing to introduce a new sub-article (4) to article 43 of the Aircraft Registration Act to introduce some obligations on the registrant of a privilege to notify the registrant of the aircraft, its owner or operator as follows:</p> <p>“(4) Upon the registration of such privileges in the register, the person registering the aircraft, its owner, or operator shall be notified of the registration by the registrant of the privilege.”</p>
5.	<p>Part III refers to Security Interests on Aircraft. It is silent on the rights of the operator under the lease agreement if the owner goes bankrupt and the aircraft is sold. Such an operator would have already</p>	<p>Here the rules of priority apply. If the owner/lessor charged his aircraft in favour of a financier who in turn registered his interest in the International Registry before an operator qua sub-lessor registered his</p>

	<p>undertaken commitments relevant to the operation, e.g. ticket sales etc.</p>	<p>interest, then the operator's rights would be subordinated to those of the financier and then they would be regulated in accordance with their ranking at law.</p> <p>Consequently, operators, being aware of the registration(s) in the register, must therefore negotiate appropriate protection to secure prior ranking, for example by having the bank agree to the lease and to refrain from enforcing the security as long as, due and punctual payments are made.</p>
6.	<p>Since the Maltese Register will be a parallel one to the international register, is this intended to be a transitory measure? How do the interests in the various registers rank?</p>	<p>At this point in time, it is intended for both the national aircraft register and the International Registry systems to co-exist.</p> <p>The order of ranking is as indicated below (see article 45):</p> <ul style="list-style-type: none"> (i) Super – priority Special Privileges listed in article 43(1); (ii) Registrable Special Privileges listed in article 43(2), which when registered rank after the super-priority special privileges in article 43(1), and after all debts secured by mortgages or security interests registered PRIOR to the date of the registration of the relevant privilege. It is important to note that where a special privilege from among the categories listed in article 43(2) is registered in the International Registry, it shall be regulated as an international interest in terms of the Cape Town Convention. (iii) registered international interests; (iv) mortgages or security interests registered in the National Aircraft Register (which are not also registered in the International Registry); (v) unregistered interests. <p>The security interests rank according to date and time they are recorded.</p> <p>Nevertheless, all privileges and mortgages created and existing before the entry into force of the Cape Town Convention in Malta, shall not be affected by the Convention and they shall retain their pre-Convention priority.</p> <p>Please also note that the prohibitory notice will allow a debtor to block the parallelism as provided in article 31(4)⁴ of the Aircraft</p>

⁴ Article 31(4): Where a creditor has registered an international interest in the international register in accordance with the First Schedule of this Act, it shall be lawful for the debtor (being the registrant and/or the

		Registration Act. However, it is also possible that if at a future date it makes more sense to remove the domestic security regime, we can do so.
7.	<p>Article 6(2) refers to the discretion of the Director General on whether an “operator’s agreement qualifies to register an aircraft” thereafter. Are there any particular features which the Director General would be looking into?</p> <p>Similarly Article 58 states that the Minister has the power to make regulations to regulate inter alia “the conditions of any temporary title to an aircraft in the context of registration thereof.” If title is granted in the agreement between the owner and the operator, which conditions would be prescribed in such regulations? These could have an impact on existing agreements.</p>	<p>The Director General would want to ensure that the registrant is vested with material/actual possession and control of the aircraft and he would consequently vet the relevant agreement to ascertain this fact. This is without prejudice to the Director General’s satisfaction that all registration requirements including competence and technical requirements are adequately met. Although important, it is not intended that the conditions be restrictive in such a manner as to affect existing agreements.</p>
8.	Reference is made to Article 14(1)(b) ⁵ and (c) ⁶ : what happens if a court case is instituted?	<p>As you rightly noted, we are adding a new sub-article (7) to article 14 to state that:</p> <p>“(7) Pending the determination of an appeal under the preceding sub-article, the Director General shall not proceed to close the register.”</p>
9.	Article 14(h) refer to the environmental laws regarding which the DCA is not the competent authority and which do not impinge on aircraft registration conditions.	We are reviewing this issue with the DCA and we will revert.
10.	Article 17 refers to nationality and registration marks. Aren’t these already provided for under existing Maltese law?	Yes, these provisions are being transposed from the current article 5 of the Air Navigation Order (which will in turn be repealed), to the new Aircraft Registration Act (please see Fourth Schedule Part B), with a view to consolidate the various provisions related to registration of aircraft.

owner of the aircraft) to execute and file a prohibitory notice, in the form prescribed, which shall be entered in the National Aircraft Register by the Director General.

⁵ An aircraft shall not be registered or continue to be registered in Malta, and the certificate of registration shall forthwith be returned by the registrant to the Director General **if an unqualified person holds and interest by way of ownership in the aircraft or share therein [....].**

⁶ An aircraft shall not be registered or continue to be registered in Malta, and the certificate of registration shall forthwith be returned by the registrant to the Director General **if the qualified person being the registrant of the aircraft, is no longer the operator of the aircraft [....].**

Draft Aircraft Registration Act –

Res. 2. (Transport Authority)

Article No.	Current Text	Suggested amendment	G&A Remarks
Part I	Preliminary Matters	“Preliminary and General”	Amended as suggested.
3. definition of “ <i>aircraft</i> ”	means any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth’s surface as may be illustrated or amplified by any additional declarations including in any Act of Parliament or by the Minister by Legal Notice , but shall exclude aircraft used in the military, customs or police services of State.	by regulations which State?	Amended as suggested Although this wording was adopted from the definition of “ <i>State aircraft</i> ” in the Air Navigation Order, we have for the sake of clarity amended the text to read “..any state.”
3. “approved jurisdiction”	means any member state of the OECD [....]	A definition has to be inserted to define OECD	“OECD” is being stated in full: “approved jurisdiction” means any member state of the <i>Organisation for Economic Co-operation and Development</i> [.....]
3. “the Authority”		Means the Authority for Transport in Malta established under the Authority for Transport in Malta Act.	This was amended as suggested and is in fact published with the correct references.
3. “the Companies Act”		This definition is not needed.	This definition has been struck off.
3. “Certificate of Registration	No definition	Introduction of definition of “Certificate of Registration”	Definition introduced as suggested.

3. "EEA State"	Means a state which	"State" should be capitalised	Amended as suggested
3. "mortgage"	shall mean	means [...]	Amended as suggested for consistency
3. "National Aircraft Register"	"Means the register to be maintained by the Director General in terms of Article 4 of this Act"	To add "or register" [.....] maintained by the Director General in terms of Article 4 of this Act	or "register" has been added as suggested. However, we consider Art. 5 to be the appropriate reference for the creation and maintenance of a National Aircraft Register.
3. "registrant"	means that person in whose name an aircraft is registered in the National Aircraft Register.	A definition of "person" is required	Since the Interpretation Act, Cap. 249 (s.4) already provides for a definition of "person", we do not feel a definition is necessary in this law.
3. "undertaking"	means an undertaking as defined in the Companies Act.	has the same meaning as assigned to it in article 2 of the Companies Act.	Amended as suggested.
3. "UNIDROIT"	defined	Full name already appears under definition of "Depository".	This definition has been eliminated.
3(2)by the Authority through regulations	Are we going to give the Authority the power to make regulations?	This sub-article has been renumbered as sub-article (3) and it has been redrafted as follows: "Where this Act refers to a matter which may be prescribed, unless this Act expressly designated the person authorized and the manner thereof, such matter may be prescribed by the Minister through regulations, by the Authority through directives, or by the Director General through guidelines , or any one or all of them as may be determined, provided that in the case of any conflict, a regulation

			by the Minister shall prevail over a directive, and a directive shall prevail over a guideline.”
New 3(2)			A new sub-article (2) has been added: “(2) The definition of the words referred to in the preceding sub-articles is supplemented by definitions in article 1 of the First Schedule hereto for the purposes of the said Schedule. Where words used in this Act are defined in the First Schedule, they shall apply also to the interpretation of the provisions of this Act.”
4. Aircraft to be registered	(1) An aircraft may be registered and be subject to..... (2) This Act shall be construed consistently with Regulation EC No 1008/2008 of the European Parliament and of the Council of the 24 th September 2008 on common rules for the operation of air services in the community.	(1) An aircraft may be registered in Malta and be subject to... (2) This may go under article 3	Amended as suggested. Amended as suggested. This is now sub-article (7) of article 3.
5. National Aircraft Register	(1) There shall be a National Aircraft Register which shall be maintained by the Director General in	“National Aircraft Register” – to be amended. This should go under sub-clause 4 as sub-clause 3, and sub-clause thereof is renumbered as sub-clause 2.	We have used the term “ <i>National Aircraft Register</i> ” to be consistent with the term used under the First Schedule (implementing the Cape Town Convention) to refer to the aircraft register of Malta. Noted, however we feel it is more suitably located here.

	physical or electronic form as may be determined by the Minister (3) It shall not be a condition for registration that a registrant of an aircraft have the ownership rights [.....]	(3) It shall not be a condition for registration that a registrant of an aircraft shall have the ownership rights [...]	Amended as suggested.
6.	(1)Regulations... (a) an owner of such aircraft who operates the same; or (2) For the purposes of paragraph (c) and (d) of this article....	(1) ...regulations (small caps) ... (a) an owner of the aircraft who operates the said aircraft; or (2) For the purposes of paragraph (c) and (d) of sub-article (1)...	Amended as suggested. Amended as suggested. Amended as suggested.
7. Qualified persons	(1) The following persons.....whether used to provide to air services or otherwise, in a capacity referred to in Article 6	(1) The following persons shall be qualified to register any aircraft in the National Aircraft Register, whether that aircraft is used to	(1) Amended as suggested.
7(d)	Foreign undertaking	Should it be defined?	This has been reworded as follows: (d) an undertaking established in an approved jurisdiction..... “Approved jurisdiction” is being defined in article 3.
8. Conditions of eligibility to joint or fractional ownership.		- Renumbering of sub-article 3; - provided to be converted to caps/not italic	Amended as suggested.
9. Applications for Registration		Application for the registration of an aircraft shall be made in writing on the appropriate prescribed form to the Director General.....	Amended as suggested, without the word “appropriate”.
11(2)	Where an aircraft is registered by a registrant under Article 6(c) or (d), every person who holds any interest by way of ownership or title in the aircraft or a share therein may make a request in	This is a repetition of sub-clause (2) in clause 10	Kindly note that article 10 refers to entries made in the actual National Aircraft Register , whereas Article 11 refers to entries noted in the certificate of

	writing to the Director General to have his name, address and ownership interests noted in the certificate of registration.		registration. Consequently, we feel it is not a repetition of terms and we have therefore retained the existing wording.
11(3)	“authorizations”		Reference to “authorisations” has been removed and his sub-article 3 has been reworded as follows: “ (3) A certificate of registration shall be issued when an aircraft is registered while it is under construction, but it shall expressly state that the aircraft is not permitted to operate until such time as it complies with the provisions of applicable law.”
14(1) 14(1)(d) and (e)		(i)Should we insert a clause defining “unqualified person”? Provisos - “provided” to be capitalized. Should it be the Minister to decide or the Director General?	(i)Although an unqualified person would be any person who does not fall within the provisions of Article 7 of the Act, we have, for further clarity substituted the words “an unqualified person” by “a person who is not qualified to register an aircraft in terms of this Act.” Amended as suggested. Sub-article (1)(d) has been amended to refer to the Director General, whereas (1)(e) has remained the same pending a policy decision. Other changes have been incorporated as suggested.

14(1)(h)	European Communities Act, 1972	European Union Act 2003, Cap. 460 LoM.	This sub-article (h) has been amended following public consultation in the manner stated below: “ (h) it is not compliant with any applicable statutory aircraft registration conditions in respect of aircraft noise or exhaust gas emissions.”
Proviso	Nothing in this article shall require the Director	Does this mean that the Director General may go against Ministerial opinion as per (e)?	Good point. Consequently, we have amended the wording as follows: The proviso has been renumbered as sub-article (2) and reads as follows: “ (2) In cases where the request is made by a mortgagee pursuant to an irrevocable de-registration authorisation which has been registered in the National Aircraft Register or in the International Register, shall be acted upon in all cases.” The remaining sub-articles have been renumbered accordingly.
14(5), now renumbered as sub-article (6)	The registrant and the mortgagee may appeal to the Transportation Appeals Board established under the Malta Transport (Regulatory) Authority Act	The registrant and any mortgagee may appeal to the Administrative Review Tribunal established under the Administrative Justice Act [.....].	Amended as suggested.
15. Register closed save unsatisfied mortgages.	In case of cancellation of an aircraft in terms of the provisions of article 14 [...]	To insert “ the registration of ” an aircraft in terms of...	Amended as suggested.
Proviso	Provided further [....]	To delete the word “further” [....]	“ <i>further</i> ” has been deleted.
16. Inspection		(2) To substitute the word	Suggested changes

of the National Aircraft Register		“another” by “any other”; (3) To insert the words “ <i>upon the</i> ” payment of the prescribed fee;	have been incorporated.
17. Nationality and registration marks	(1) The marks to be borne by aircraft registered in Malta shall comply with this Act and particularly with Part B of the Fourth Schedule of this Act and other regulations issued thereunder. (2)(b) that the aircraft is a State aircraft of a particular country [....]	(1)The marks to be borne by aircraft registered in Malta shall comply with this Act and particularly with Part B of the Fourth Schedule to this Act and other regulations prescribed hereunder. “ <i>State aircraft</i> ” needs to be defined.	Amended as suggested. Since “State aircraft” is already defined in the Air Navigation Order (SL 232.05), we have borrowed the same wording from such definition to clarify the meaning of state aircraft is in this article. Sub-article (2) now reads “(b) that the aircraft is an aircraft used in the military, customs or police services of a particular country if it is not in fact such an aircraft, unless the appropriate authority of that country has sanctioned the bearing of such marks.”
20. International Registrant	A foreign undertaking shall be deemed to satisfy the requirements of [.....]	Must it be defined?	For the sake for clarity we have added some wording as follows: “A foreign undertaking, (in this Part referred to as an “international registrant”), shall be deemed to satisfy the qualifying requirements of article 7(d) unless the Director General [...]
21. Appointment of Resident	International registrant	At which point must he be appointed?	We have reworded the article as follows: “The international

Agent			registrant is required to appoint in writing prior to registration, a resident agent who – [.....]”
22. Jurisdiction of the Maltese Courts		To replace “certificate of <i>registry</i> ” by “certificate of <i>registration</i> ”	Amended as suggested
27. Types of charges on aircraft	To the extent that a special privilege is subject to registration in the National Aircraft Register or in the International Registry, such registration shall be an additional requirement for the continuing existence of such special privilege.	Does this require a definition of “ <i>International Registry</i> ” in clause 2?	<p>The term “<i>International Registry</i>” is already defined in the article 1 of the First Schedule to the Act. However, we have inserted a new sub-article (2) to article (3) whereby words used in the Act and which are already defined in the First Schedule will be deemed to have the meaning as stated therein:</p> <p>“(2) The definition of the words referred to in the preceding sub-articles is supplemented by definitions in article 1 of the First Schedule hereto for the purposes of the said Schedule. Where words used in this Act are defined in the First Schedule, they shall apply also to the interpretation of the provisions of this Act.”</p>
31(4)	Registrar General	This should read “Director General”	Amended as suggested.
43. Special privileges on aircraft			<p>This article had been redrafted as follows:</p> <p>(1) The debts hereunder specified are secured by a special privilege upon the aircraft, as well as any proceeds from</p>

		<p>any indemnity arising from any mishaps as well as any insurance proceeds:</p> <p>(a) judicial costs incurred in respect of the sale of the aircraft and the distribution of the proceeds thereof;</p> <p>(b) fees and other charges due to the Director General arising under this Act;</p> <p>(c) wages due to crew in respect of their employment on the aircraft;</p> <p>(d) any debt due to the holder of a possessory lien for the repair, preservation of the aircraft to the extent of the service performed on and value added to the aircraft;</p> <p>(e) the expenses incurred for the repair, preservation of the aircraft to the extent of the service performed on and value added to the aircraft;</p> <p>(2) The debts hereunder specified are secured by a special privilege upon the aircraft, as well as any proceeds from any indemnity arising from any mishaps as well as any insurance proceeds if registered in the National Aircraft Register or the International Registry as the case may be :</p>
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			<p>(a) taxes, duties and, or levies due to the Government of Malta;</p> <p>(b) wages and expenses for assistance, recovery or salvage;</p> <p>(c) any debt due in relation to the aircraft which is the subject of a final judgement delivered by a competent court or arbitration.</p>
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Res. 3 (Consultancy Firm) – Public Consultation

	Comment / Recommendation	Reply / Action
1	Registration Marks of aircraft Fourth Schedule Part B). Suggests categorizing by Maximum Take-Off Weight (MTOW). Different fees can apply according to category.	[DCA]
2	Aircraft currently Registered on the Malta Register out of the suggested sequence could be given a 5 year period to re-register their aircraft.	[Transitory measures]
3	Remove the 9H - Malta registration and replace with MT. 9H is a post-colonial inheritance and could be associated with aviation blacklisted registration marks of African Nations	[DCA]
4	Different types of aircraft including helicopters, hot air balloons and experimental aircraft should be allowed to be registered.	[DCA]
5	Implement JAR FCL part 2 (now EU FCL) to have helicopter pilot licensing as well. This in order to have European helicopter operators relocate to Malta.	If this is to be pursued, it would best be done by separate legal instrument, otherwise, this would trigger the notification requirements under EC Directive 98/34 on the procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services, thereby requiring the Aircraft Registration Act to be notified to the European Commission.
6	Reduce fees to register small General Aviation Aircraft under 10 t. The present fees are very high when compared to other EU countries. This would attract European owners of aircraft to register them through Maltese Offshore Companies.	[DCA]
7	Register needs to be handled by forward looking people within an organised structure.	Certainly, this is part of a capacity building exercise on the part of the Ministry responsible for transport to help create an appropriate structure.
8	Organise a good team of part time inspectors to make frequent ad hoc inspections of aircraft and safety audits for Maltese AOC holders and Private Register aircraft.	
9	Create a mechanism which will allow for the provision of renting out subsidized office space for companies interested in moving headquarters to Malta.	
10	A new hangar should be built for general aviation purposes which will be able to	

	cater for the needs of business jets.	
11	Attract JAR FCL 1 (aircraft) now EU-FCL holders to transfer their pilots licence to Malta. This can be done if licence fees are drastically reduced and the licence format changed into a more professional one possibly using barometric passport type documentation.	
12	Art. 3(5) The reference to the Merchant Shipping Act for interpretation purposes is unwarranted, even since the current cross-reference to the Merchant Shipping Act with regard to mortgages and privileges is being abolished.	<p>This sub-article has been renumbered and re-drafted as follows:</p> <p>“(6) Where this Act is silent on any matter, the matter shall be determined in accordance with the principles reflected in other provisions of this Act and other laws of Malta relating to aviation and, failing such principles, reference shall be made to the Merchant Shipping Act in so far as it may be relevant.”</p> <p>This sub-article is intended to lay out the sources of interpretation where the Aircraft Registration Act is silent on a particular matter. In such cases, recourse shall be had to the sources stated below and in the order they are mentioned, namely –</p> <ol style="list-style-type: none"> 1. Other provisions of the Aircraft Registration Act; 2. Other laws relating to aviation; 3. The Merchant Shipping Act (where relevant.)
13	Art. 4(1) The reference to the Civil Aviation (Air Operators’ Certificate) Act in a clause of such importance is totally inappropriate, particularly the way in which the clause is drafted.	Noted, however we feel that The Civil Aviation (Air Operators’ Certificate) Act is central to the licensing of aircraft registered in Malta and hence feel we should retain the reference.
14	Art. 4(2) The Act should not exclude for its realm general aviation aircraft intended for private or corporate use, the draft Act cannot be construed in the light of Regulation EC. No. 1008/2008. This EC Regulation is concerned with air services licenses for air carriers, however general aviation aircraft utilised for private and corporate use do not require an air services license. And even though general aviation aircraft – ranging from a two seater aircraft to a the more sophisticated business jet – may, if licensed, operate on a purely commercial basis, this does not imply that the operation of such aircraft requires an air service license. This in fact is recognised in Article 8(3).	Your comment is well noted. Indeed, EC Regulation 1008/2008 applies to aircraft engaged in air services . Consequently therefore, the qualifying requirements provided therein do not apply to aircraft engaged for private use. To complement this situation, we have introduced rules on “International Registrant” to enable owners of private aircraft who do not qualify to register aircraft in Malta under article 7, to appoint a resident agent in Malta and be thereby deemed to satisfy the qualifying requirements to register their aircraft under the Aircraft Registration Act.
15	Art. 4(5) The term manager first occurs in this Art. 4(5). The term ‘manager’	Your comment is well noted, however we do not feel any change is necessary.

	does not recur and no definition of the term manager is found in Art. 3. It would therefore be apt to cross-refer to the relevant provisions of the act to which the term is intended to apply or to define the term manager and to use coherent terms wherever this term is intended to apply	
16	Art. 4(6) recte : “registration” to be replaced with “registrant”	Thanks, this has been amended accordingly.
17	Art. 5(2)(c) The reference to “the operator” is somewhat ambiguous, particularly when this Article is read in the light of Article 11 which in turn refers to Articles 10 and 6.	Your comment is well noted, however we do not feel that any change is necessary.
18	Art. 7(1) It is once again suggested that the reference to air service is abolished. The wording “whether used to provide air service of otherwise”, can be easily substituted by other generic wording such as : “whatever the use to which such aircraft will be subjected”, or “irrespective of the category in respect of which the aircraft is licensed”	Noted, however we feel that the existing wording is adequate.
19	Art. 8(3) The proviso to this article leaves much to be desired. Not only does it give room to doubts and hence a lack of certainty, but moreover gives rise to doubts regarding the legislator’s intentions with respect to general aviation aircraft owned by more than one person. It is imperative that the legislator’s intentions are either cleared by way of regulations published concomitantly with the bill or preferably included in the bill. It must not be forgotten that the process of aircraft purchase is normally a lengthy process and the decision about the most appropriate jurisdiction is one which is taken at a particular moment during the purchase process. These doubts may be easily resolved in an manner which would be enticing to many aircraft purchasers. It is to be noted that it is very common practice in aviation circles, particularly with regard to club aircraft, to be registered in the name of more than one person, and hence the effect of this proviso are not be underestimated.	<p>The proviso to article 8(3) is intended to broaden the scope for registrants of private aircraft where the ownership of the aircraft is held jointly, or partly with others.</p> <p>As we gain more experience and increase contact with fractional owners of aircraft in due course, we would be in a better position to identify their specific interests and demands and reflect same in regulations.</p>
20.	Art. 9(1)(a) This concept is one which is clearly derived from the maritime world and a concept which finds no comfort in the world of aviation. It inclusion is only bound to raise eyebrows and cause confusion in the mind of the most	We do not think that this concern is justified but we will discuss this matter further with the DCA.

	<p>learned and knowledgeable in the world of aviation. The reasons justifying the abolition of such terminology are various, including the international breath of aircraft and aviation.</p> <p>Moreover, Maltese domestic law is not the only relevant law, regard being had to a variety of other operational regulations, including JAR and EASA Regulations to which Maltese registered aircraft will necessarily be subject.</p>	
21	<p>Art. 9(2) The legislator’s intention behind this clause is not clear. Maltese registered aircraft are bound by JAR & EASA regulations, including OPS, FCL and M parts. Hence the exact breath of the powers, if any, being purportedly granted to the Director are unclear.</p>	<p>Article 9(2) is intended to provide for a situation where there is a “mixed use” of a registered aircraft, that is to say, both private and commercial use for hire and/reward. This would grant a registrant of an aircraft the desired flexibility to be subjected to the relevant compliance regime as and when it applies, without prejudice to international safety and technical standards that may apply.</p>
22	<p>Art. 10(2) The notion of “flying clubs”, which is not defined in the draft legislation nor in any other legislation in force in Malta, is a new concept to our domestic law. The reproduction of this Article must thus be done away with, alternatively the clause must be transposed in an appropriate manner if there is any scope for the retention of this article.</p>	<p>This sub-article was transposed from sub-article 12 of article 4 of the Air Navigation Order, and following consultation with the DCA, it was deemed necessary to retain.</p>
23	<p>Art. 14(1)(g) The term “Directions” is not defined in the Act, nor is this a term generally utilised in our domestic legal system and which therefore renders it intelligible.</p>	<p>Your comment is well noted. The word “directions” is re-drafted as “directives”.</p>
24	<p>Art. 17(1) These requirements are, together with others, currently found in the Air Navigation Order. The abolition of such requirements from the Air Navigation Order and their inclusion in the Aircraft Registration Act is unwarranted for as number of reasons.</p>	<p>Thank you for your views on this point. The reason for which we have moved the part on nationality and registration marks of aircraft from the Air Navigation Order to this new Act is to try and consolidate as much as possible all rules concerning the registration of aircraft in Malta and to have a unified law that deals exclusively with aircraft registration and security interests over aircraft.</p>
25	<p>Art. 18 The current scheme of charges is very attractive, even when compared with like jurisdictions such as the Isle of Man, the Cayman Islands, Bermuda and Aruba. Naturally, whilst it is not essential for the scheme of charges to be published at this stage, the publication of such charges at an early stage would be a wise step. Their publication concomitantly with the coming into force of the Act at latest is imperative.</p>	<p>[DCA to advise]</p>
26	<p>Art. 19 Whereas the term “air service” is defined in Article 3 of the draft</p>	<p>Title II, now renamed as Part III of the Act, applies to aircraft that is NOT engaged in the</p>

	legislation, it may not be sufficiently clear as to whom is it intended to exclude from the application of the Second Title.	carriage of passengers, cargo and/or for remuneration and/or hire. Consequently <i>a contrario sensu</i> , the provisions on “International Registrant” do not apply to registrants of aircraft used for commercial purposes but cater for private aircraft only.
27	Art. 27(3) This article is ambiguous in that it refers to the provisions of the Civil Code when the Act lays down an ad hoc system. Article 27(2)(a) on the other hand refers to special privileges “arising at law”, giving rise to doubts as to which law the reference relates : the Act or the Civil Code ? Then again, how do the special privileges arising in accordance with the provisions of the Civil Code rank as against special privileges arising in accordance with the provisions of the Act ?	The intention is to have this provision refer to the special privileges under the Civil Code. The privileges under the Civil Code rank much lower than a registered mortgage or an international interest registered in the International Registry.
28	Art. 29(5) This article is erroneously numbered as subarticle (3). The article lacks certainty and imposes obligations on the execution creditor which might diminish the interest of creditors and particularly those financing the purchase of aircraft.	Sub-article 5 of article 29 is re-numbered as necessary. Your comment has been noted, however no further amendment is warranted.
29	Art. 29(5)(b) In judicial sale by auctions with which the provisions of the Code of Organisation and Civil Procedure are concerned, provision is already made for this [see inter alia Section 339]. Hence, this inclusion is unwarranted. If deemed essential, the Act must specify that specific provisions of the COCP shall not apply. The latter must however be carefully considered. Who, for example, determines the ranking, and what if other creditors do not agree on the ranking of competing claims ?	Unless there is an inter-creditor agreement, the ranking of creditors is determined by law.
30	Art. 29(6) It is understood that the provision applies to the sale of aircraft under judicial authority. Clarification, however, would not be inappropriate. This assumption is made on the basis of Article 29(3) as well as the general principle enshrined in Article 26.	This provision applies in whichever manner the transfer is effected.
31	Art. 33(1) Whereas the words “notwithstanding any express, implied or constructive notice” are very common in other laws, they are very much superfluous in the context of our legal system. Priority and ranking, even according to the proposed Act, is based on date and time of registration.	Noted, however we feel we should retain the current wording.
32	Art. 34(1) It is suggested that the form	Good point! Indeed, we have added the words

	of notice be specified. Also, recorded delivery should be a minimum requirement.	“in writing” to indicate the form of notice.
33	Art. 34(1)(b) This is a very ambiguous provision which may lead to severe abuse. Confirmation that no leave of the court is required, leading to assumption that the sale can be carried out without the supervision and under authority of the court, is to be found in Art. 34(2). Such provisions would only have the effect of detracting owners from registering or allowing their aircraft to be registered by operators on the Maltese register since no aircraft owner would be willing to expose his assets in such a manner. Even if read in conjunction with Art. 34(4) to the extent that this applies, it would still be apt to adopt the procedure envisaged in Art. 256(2) of the COCP.	This provision reflects established ship and aviation finance practice and abuse is avoided by the notice requirements.
34	Art. 34(2) Wording such as “the Court shall render full support” is most inappropriate, almost lending a sense of bias in favour of the mortgagee or interest holder. Coupled with the comments re Art. 34(1)(b) above, abusive mortgagees will also receive the “full support of the courts”. Even the term “hindrance” is of no legal significance. Is action instituted by a debtor considered to be a “hindrance” ?	Good point. This provision is intended to lend support for an efficient process and towards the proper functioning of the remedies and not to afford any bias on the merits of the claim.
35	Art. 34(4) Whereas this provisions seeks to ensure effective enforcement of the mortgagee’s claim, notice as provided in in Art. 256(2) of the COCP should be made a requirement to render the executive title enforceable. Whilst this may sound evident, it is best to clarify this issue since conflict may arise between the provisions of Article 34(1) and (2) and this article.	Since the notification requirement applies throughout the entire article 34, there is no further need to satisfy the notice requirements under the COCP.
36	Art. 34(5) It is unclear as to which provisions are applicable. If Article 34(4) is likewise applicable in virtue of this article, can a creditor who has not registered a mortgage nor instituted judicial proceedings be deemed to have an executive title ? A procedure should hence be set forth also in this case if the legislator intends to provide the creditor with a timely solution to his claim, such as a procedure similar to the procedure envisaged in Art. 166A of the COCP and summary proceedings on pain of	No, a creditor who has not registered a mortgage nor instituted judicial proceedings is not deemed to have an executive title. This is not an efficient process and defeats the well established principles in ship and aviation finance.

	damages if the debtor's claim is unfounded.	
37	Art. 44(6) The two running day time limit, is too short a time limit and hence it is proposed that this time limit be increased to a longer period. Due consideration should be had to the fact that the person having such an interest could be established outside of Malta.	Duly noted, however this reflects the existing position in the Merchant Shipping Act.
38	Art. 45(1) The ranking of the person enjoying a possessory lien is somewhat ambiguous since whilst he shall not be constrained to release the aircraft, he only ranks in the order specified in Art. 43 by application of Art. 45(1). Inversely, how can the person enjoying a possessory lien expect the sums due to him to be unconditionally discharged if the credits referred to in Art. 43(1)(a), (b) and (c) are not discharged ?	A possessory lien would rank after article 43 (a) to (c) in so far as proceeds of sale are concerned. However, when in possession, the creditor shall not be bound to release the aircraft unless the debt is satisfied.
39	Art. 58(f) The term "compensatory damages" is alien to our legal system and use of this terminology must be avoided.	Good point. The word "compensatory" has been deleted from the text.
40	First Schedule - Due regard should be had to Articles 13, 15, 20 and 35 of the Implementing Law and their inclusion in the Act should be considered.	<p>The domestic system already provides for self-help remedies as found under article 34 of the draft Aircraft Registration Act, giving the right to a mortgagee to take possession of the aircraft, sell the aircraft, apply for extensions, pay fees, to have the power to lease the aircraft, receive payment of the price, lease payments and any other income which may be generated from the management of the aircraft. Article 14 of the ARA provides for the temporary vesting of aircraft in the name of a holder of a security interest and also permits a mortgagee to apply for the cancellation of the aircraft pursuant to an irrevocable de-registration authorization granted in his favour. These remedies effectively reflect those under articles 15 and 20 of the First Schedule. The rules on priority of competing interests (article 35 of the First Schedule) are found in article 33 of the Aircraft Registration Act.</p> <p>In view of the above, we do not think it is necessary to replicate further the provisions of the Cape Town Convention.</p>
41	First Schedule - Article 51 of the First Schedule to the Act is erroneous in stating that Article 54 of the Convention is not applicable to Malta. On the other hand, the legislator should consider the declaration regarding remedies, in particular with regard to Article 12 of the proposed Act since leave of the court may prevent abuse which coupled with	<p>Article 54 of the Implementing Law refers to the relationship between the Cape Town Convention and the Convention for the Unification of Certain Rules relating to the Precautionary Attachment of Aircraft signed at Rome on 29 May 1933.</p> <p>Research has revealed that Malta is not a party to this Convention as at the date of this review.</p>

	speedy remedies by the courts will render Malta a more credible jurisdiction.	Please provide references to the contrary.
42	First Schedule - Too much or unilateral powers being granted to creditors may make owners fear the fate of their aircraft, whilst the lack of balance will keep financiers away. Leave of an impartial and independent court – in the absence of default provisions agreed to by the parties - within a fixed time limit will only help to ensure a balanced system of law which favours neither the creditor nor the debtor.	The success of the shipping register is owed to the fact that Malta is a creditor-friendly jurisdiction, and therefore we feel it would be appropriate to replicate the same principles to the aviation sector.

Res. 4 – Lawfirm

	Comments	Reply
1.	In article 3(1), the definition of "aircraft" appears to be drafted in such a way so as to exclude hovercrafts. Technically we are not clear whether the exclusion of "reactions of the air against the earth's surface" would possible exclude VTOL aircraft from the definition of aircraft. Perhaps this doubt could be addressed by replacing the words "other than" used in the second line of the definition with the words "independently of";	To seek clarification from DCA on technical meaning.
2.	In article 3(2), for completeness sake the acronym "OECD" should be defined;	Indeed, as you rightly suggested we are amending the relevant sub-article to have "OECD" mentioned in full and text will now read as follows: "approved jurisdiction" means any member state of the Organisation for Economic Co-operation and Development [.....]"
3.	In article 3(2), in the definition of crew the phrase "in an aircraft" should be replaced with "on an aircraft" and we do not understand the relevance of the phrase "on the business of the aircraft". Is this meant to exclude other "crews" such as test and/or ferry flight pilots? This phrase appears to be redundant;	The words "in an aircraft" have been replaced with "on an aircraft" as you suggested. This definition is important for cases where crew's wages are claimed as a special privilege.
4.	Article 3(2) should include a definition of "aircraft object" to include an aircraft and engines;	Since the words "aircraft object" are used within the domain of the Cape Town Convention as this is defined in the First Schedule to mean "airframes, aircraft engines and helicopters", we do not feel that this term needs to be defined for the purposes of Parts 1 to VIII of the Act. For the sake of clarity, we have added a new sub-article 2 to article 3 as follows: “(2) The definition of the words referred to in the preceding sub-articles is supplemented by definitions in article 1 of the First Schedule hereto for the purposes of the said Schedule. Where words used in this Act are defined in the First Schedule, they shall apply also to the interpretation

		of the provisions of this Act.”
5.	In article 4(5), end of second paragraph, the phrase "notwithstanding the fact that he may be the sole owner or operator of the aircraft" seems unnecessary;	We feel this wording should be retained for reasons of clarity.
6.	In article 4(6), third line, "registration" should be replaced with "registrant";	Yes you are correct. This has been amended accordingly.
7.	In article 5(2)(i)(b), second line, "mortgagor" should be replaced with "registrant";	Well noted. This has been amended as you suggested.
8.	In article 5(2)(i)(d), fourth line, the words "other than a notation in terms of article 40(2)" should be inserted after the words "governed by the First Schedule to this Act" and before the close bracket;	Yes well spotted! An amendment has been inserted as suggested.
9.	Also in article 5(2)(i)(d), fourth line, the word "the" should be inserted before the words "aircraft and engines";	This has been amended as suggested.
10.	Article 7(2) should state that any information regarding beneficiaries which is provided to the Director General to determine the eligibility of a trustee to register an aircraft would not be publicly available on the National Aircraft Register or otherwise so as to protect the identity of the beneficiaries;	Here the fiduciary obligations of trustees and duty of confidentiality apply.
11.	In article 10(1)(e), the words "the manufacturer, the serial numbers," should be inserted at the beginning;	These have been inserted as suggested.
12.	In article 10(3), the numbering has to be corrected - (2) is repeated;	This has been amended to reflect the proper sequence.
13.	In article 10(3), the words "or equivalent in the applicable jurisdiction" should be added at the end to provide for situation where different dissolution, winding-up and/or liquidation procedures and nomenclature apply in jurisdictions other than Malta where the registrant is not a Maltese person / entity;	Well noted. The suggested wording has been added.
14.	In article 14(1), fourth line, the words "for cancellation by the Director General" should be inserted after the words "by the registrant to the Director General";	As suggested, we are inserting this wording for clarification.
15.	Possibly if allowable under the Chicago Convention, in article 14(1)(a), third line, the words "or otherwise immediately" should be inserted after the words "or otherwise" so as to give the registrant the opportunity to de-register the aircraft from another jurisdiction to cover for the circumstance where deregistration may not be simply by operation of the law, thereby the registrant to chose the Maltese register definitively;	Please clarify as the reference to the article does not appear to match.
16.	In article 15, first paragraph, first line, the words "of the	This provision has been

	registration" should be inserted after the word "cancellation";	amended as suggested.
17.	In article 24(1), the words "International Registrants' Eligibility to Register Aircraft" appears to be the marginal note and should be moved to the margin;	The words "International Registrants' Eligibility to Register Aircraft" in sub-article 1 have been deleted and the margin note is now stated to be "Power of resident agent".
18.	In Part III generally all references to "bankruptcy" should be reconsidered as "bankruptcy" does not apply to Maltese companies. A reference to "and/ or insolvency" could be added;	Well noted. Amendments throughout the Act have been made to this effect.
19.	In article 29(2), the words "forfeited under applicable law" seem unclear. Is this a reference to a State taking possession of an aircraft such as in cases of national emergencies? What other forfeit scenarios are contemplated?	In the absence of specific provisions on the forfeiture of aircraft similar to those existing in the Merchant Shipping Act on the forfeiture on ships, this sub-article is intended to cater for the forfeit of aircraft under any law as may apply. This sub-article is drafted in such a way as to have a broad scope.
20.	In article 29(5), the numbering has to be corrected - (4) is followed by (3);	Noted, the sub-articles have been renumbered as necessary.
21.	In article 35(7), notification formalities do not appear to be in line with Council Regulation 1348/2000 on the service in Member States of judicial and extra-judicial documents in civil and commercial matters;	<p>Article 34(8) as renumbered (previously article 35(7)) deals with the mode of service of proceedings in Malta and this has been redrafted as follows:</p> <p>“34(8). Service upon the debtor in Malta of the proceedings referred to in this article shall be carried out in accordance with the procedure described in sub-articles (4), (5) and (6) of article 187 of the Code of Organisation and Civil Procedure.</p> <p>Provided that in the case of an international registrant registered under Part III of this Act, service on the debtor shall be carried out by leaving a copy of the proceedings on the resident agent in accordance with article 22 (1)(c) of this Act.”</p> <p>EC Regulation 1393/2007 on the service in the Member States of judicial and extrajudicial documents in civil</p>

		or commercial matters, and repealing Council Regulation (EC) No. 1348/2000 would invariably apply for service in another Member State outside of Malta.
22.	In article 43(1), the special privilege reserved to the seller over an asset for the payment of the price should be included in the list of ranking (a) to (e). Otherwise there would be doubt as to how such special privilege would rank, assuming it would arise under a transaction governed by Maltese law;	Sellers would invariably take security for payment of the price, and this will not be given the status of a special privilege at law.
23.	The margin note to the Third Schedule to be deleted.	This has been deleted.
24.	In article 17(1) or Part B of the Fourth Schedule, one could consider the possibility of providing the registrant with the option of choosing personalised final three-letter registration marks subject to the DG's discretion. This is available in other jurisdictions and VIP owners actually ask for it!	We agree this is a very interesting option to explore and include in our rules on registration marks. DCA to advise further.

Dear Joe

I trust you are well.

The aviation practice team at F&F went through the draft Aircraft Registration Act in some detail.

Firstly we would like to congratulate the Ministry and the drafters of the bill for what is certainly a very well researched and written piece of legislation. The draft Act now specifically addresses areas which are until now either ambiguously regulated by reference to the Merchant Shipping Act or not regulated at all leaving innumerable lacunae as far as security interests and their enforcement are concerned.

While recognizing that the new legislation has to comply with applicable EU Regulations, particularly the limitations on who can hold an interest in an aircraft used for air services, which therefore imposes restrictions on the possibility for the Maltese law to be more attractive than other European laws in some respects, we note with pleasure that questions which from our experience are of most concern to financiers and lessors when considering the jurisdiction of registry have been specifically addressed by clauses in the draft Act making for a clear, predictable regulation of the rights of mortgagees and holders of other security interests, the ranking of same and their enforcement.

Amongst others, we welcome the introduction of the possibility to register an irrevocable de-registration authorisation and other self-help measures, bringing local legislation at par with the practice in other leading registries as well as the introduction of the concept of a Registered Agent in respect of private aircraft following the practice used in the maritime field.

Going down to the nitty-gritty we have noted the following:

1. In article 3(1), the definition of "aircraft" appears to be drafted in such a way so as to exclude hovercrafts. Technically we are not clear whether the exclusion of "reactions of the air against the earth's surface" would possible exclude VTOL aircraft from the definition of aircraft. Perhaps this doubt could be addressed by replacing the words "other than" used in the second line of the definition with the words "independently of";
2. In article 3(2), for completeness sake the acronym "OECD" should be defined;
3. In article 3(2), in the definition of crew the phrase "in an aircraft" should be replaced with "on an aircraft" and we do not understand the relevance of the phrase "on the business of the aircraft". Is this meant to exclude other "crews" such as test and/or ferry flight pilots? This phrase appears to be redundant;
4. Article 3(2) should include a definition of "aircraft object" to include an aircraft and engines;

5. In article article 4(5), end of second paragraph, the phrase "notwithstanding the fact that he may be the sole owner or operator of the aircraft" seems unnecessary;
6. In article 4(6), third line, "registration" should be replaced with "registrant";
7. In article 5(2)(i)(b), second line, "mortgagor" should be replaced with "registrant";
8. In article 5(2)(i)(d), fourth line, the words "other than a notation in terms of article 40(2)" should be inserted after the words "governed by the First Schedule to this Act" and before the close bracket;
9. Also in article 5(2)(i)(d), fourth line, the word "the" should be inserted before the words "aircraft and engines";
10. Article 7(2) should state that any information regarding beneficiaries which is provided to the Director General to determine the eligibility of a trustee to register an aircraft would not be publicly available on the National Aircraft Register or otherwise so as to protect the identity of the beneficiaries;
11. In article 10(1)(e), the words "the manufacturer, the serial numbers," should be inserted at the beginning;
12. In article 10(3), the numbering has to be corrected - (2) is repeated;
13. In article 10(3), the words "or equivalent in the applicable jurisdiction" should be added at the end to provide for situation where different dissolution, winding-up and/or liquidation procedures and nomenclature apply in jurisdictions other than Malta where the registrant is not a Maltese person / entity;
14. In article 14(1), fourth line, the words "for cancellation by the Director General" should be inserted after the words "by the registrant to the Director General";
15. Possibly if allowable under the Chicago Convention, in article 14(1)(a), third line, the words "or otherwise immediately" should be inserted after the words "or otherwise" so as to give the registrant the opportunity to de-register the aircraft from another jurisdiction to cover for the circumstance where deregistration may not be simply by operation of the law, thereby the registrant to chose the Maltese register definitively;
16. In article 15, first paragraph, first line, the words "of the registration" should be inserted after the word "cancellation";
17. In article 24(1), the words "International Registrants' Eligibility to Register Aircraft" appears to be the marginal note and should be moved to the margin;
18. In Part III generally all references to "bankruptcy" should be reconsidered as "bankruptcy" does not apply to Maltese companies. A reference to "and/ or insolvency" could be added;
19. In article 29(2), the words "forfeited under applicable law" seem unclear. Is this a reference to a State taking possession of an aircraft such as in cases of national emergencies? What other forfeit scenarios are contemplated?;
20. In article 29(5), the numbering has to be corrected - (4) is followed by (3);
21. In article 35(7), notification formalities do not appear to be in line with Council Regulation 1348/2000 on the service in Member States of judicial and extra-judicial documents in civil and commercial matters;
22. In article 43(1), the special privilege reserved to the seller over an asset for the payment of the price should be included in the list of ranking (a) to (e). Otherwise there would be doubt as to how

such special privilege would rank, assuming it would arise under a transaction governed by Maltese law;

23. The margin note to the Third Schedule ("To make sure these are all the relevant materials"), needs to be replaced;

24. In article 17(1) or Part B of the Fourth Schedule, one could consider the possibility of providing registrant the with the option of choosing personalized final three-letter registration marks subject however to the discretion of the Director General. This is available in other jurisdictions and VIP owners actually ask for it!

Regrettably, the period for consultation was very short and given time we may have been able to consider the draft Act more thoroughly and may have raised more comments particularly from a comparative analysis point of view.

I'm sure you will agree that having a state of the art piece of legislation is not enough by itself. The success of the Maltese registry under the new regime will, as is the case with the current regime, depend on how it will be implemented in practice and in particular the resources and expertise at the new Director General's disposal to be able to truly compete with the registries of other countries. It is crucial therefore that Government makes the financial commitments necessary to equip the Director General with the tools to make the revamped Maltese registry competitive at a practical level and not merely a legislative, albeit very very important nonetheless.

Malta needs to build the necessary capacity before marketing drives can be successful. I hope that Government will keep up the momentum of the new law and take the opportunity of the setting up of the new Malta Transportation Authority to truly invest resources to this sector.