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COUNTRY SUMMARY NOTE

MALTA

Date of accession to the CTC & Aircraft Protocol: 1 October, 2010

1. Introduction

The purpose of this summary note is to set out the procedural steps undertaken by Malta in connection with its ratification of the Cape Town Convention and the Aircraft Protocol.

By way of introduction, the Maltese legal system is a mixed legal system which draws on both Roman law as well as English law. Civil law rules essentially govern the law of property, law of persons, law of obligations, among others whilst commercial law in Malta is heavily influenced by English law.

In an effort to further develop Malta's law on aviation in line with global trends and industry standards, the Ministry for Infrastructure, Transport and Communications (the "Ministry") identified the following steps that would lead to Malta's accession and implementation of the Cape Town Convention and its Aircraft Protocol –

- A rationalisation of existing Maltese law relating to the registration of aircraft and security interests over aircraft in Malta;
- The enactment of a new legislative instrument pursuant to which Malta would accede to and implement the provisions of the Cape Town Convention and Aircraft Protocol into its domestic law;
- Formal accession to the Cape Town Convention and its Aircraft Protocol and deposit of the instruments of accession and corresponding Declarations, where relevant, with the Depositary in Rome;

whilst maintaining continuous liaison with the Aviation Working Group whose support and assistance made it possible to fully complete the ratification process.

2. Process towards accession

2.1 Rationalisation of existing law

In 2009, the Ministry embarked on an exhaustive review of existing laws on aircraft registration and security over aircraft. In this connection, extensive research was carried out by way of comparative analysis of various aviation jurisdictions accompanied by a careful study of the specific provisions of the Cape Town Convention and its Aircraft Protocol. Public consultations were also undertaken with stake holders in the aviation industry for a better understanding of industry needs and practices.

This led to a government decision to do the following –

- (i) Unify the existing laws on aircraft registration and aircraft security into a single Act of Parliament, whilst introducing new notions prompted by the Cape Town Convention and Aircraft Protocol as well as amending other laws where necessary for a consistent operation of the Convention¹;
- (ii) Adopt the Model Law as the instrument by which Malta would implement the provisions of the Cape Town Convention and Aircraft Protocol; This has been substantively reproduced in the First Schedule to the new Act of Parliament on aircraft registration;
- (iii) Complete the necessary formalities for accession and deposit of the Instruments of Ratification with UNIDROIT, as Depositary of the Convention.

2.2 Legislative process

On 9 March 2010, the Government published a draft legislation under Bill No. 47 entitled the “Aircraft Registration Act” (the “Act”) to regulate the registration of aircraft and security interests thereon as well as some other issues connected with aviation.

The Act authorised the Government of Malta, by virtue of Article 46 thereof², to ratify the Cape Town Convention and its Aircraft Protocol and to lodge the necessary Declarations, and this in compliance with the requirements of the Ratification of Treaties Act³.

The provisions of the Cape Town Convention and Aircraft Protocol were implemented into domestic law by virtue of the First Schedule to the Act. The First Schedule is the National Implementing Law prepared by the Aviation Working Group to UNIDROIT.

¹ These include the rules on arrest of aircraft, court powers to enforce security interests, extension of laws applicable to shipping to aircraft, amendments to the Civil Code on mandate, security interests, extension of laws applicable to shipping to aircraft, amendments to the Civil Code on mandate, security by title transfer and accession to cater for security structures and aircraft engines and related issues.

² Art. 46, The Aircraft Registration Act, 2010, Cap. 503 LoM – **46. (1)** The Government of Malta is hereby authorized to ratify the Cape Town Convention and its Aircraft Protocol and without prejudice to the Declarations lodged by the European Community on behalf of its Member States, the Government of Malta, through the Minister of Foreign Affairs, is authorized to lodge such Declarations in respect thereof as the Minister may decide, and in future to lodge any revocation thereof, or amendment thereto, as may be necessary from time to time.

³ Cap. 304 LoM.

The Act also provided that the Cape Town Convention and the Aircraft Protocol, as substantively reproduced in the First Schedule to the Act, shall have the force of law in Malta in relation to the matters to which they apply and shall prevail over any other law in case of conflict⁴.

The Bill underwent a first, second and third reading in Parliament, with some changes being made in the process, until it was finally passed by Parliament and assented to by the President of the Republic of Malta in accordance with the Maltese Constitution on 22 June, 2010 under Act VIII of 2010 [**See Annex 1**].

The Aircraft Registration Act, 2010 entered into force in Malta on 1st October, 2010 pursuant to a Commencement Notice under Legal Notice 446 of 2010 published in the Government Gazette on 28th September, 2010.

2.3 Formal accession to the CTC and Aircraft Protocol

Upon the entry into force of the enabling law (namely, Act VIII of 2010) on the 1st October, 2010, Malta proceeded to formally deposit its instrument of accession to the Cape Town Convention and Aircraft Protocol and Declarations [**See Annex 2**] with the Depositary in Rome.

In support of UNIDROIT's initiative to enable Contracting States to provide information in relation to the laws and policies on matters covered by the Convention and Aircraft Protocol, the Government of Malta has, following accession, communicated an Information Note [**See Annex 3**] to UNIDROIT to be posted on its website for public notice.

The Cape Town Convention and Aircraft Protocol entered into force in Malta upon the lapse of three months from formal accession, that is, on the 1st February, 2011 in accordance with Article 56 of the Implementing Law.

Enclosures:

- Annex 1 : Act VIII of 2010, entitled the Aircraft Registration Act;
- Annex 2 : Instruments of Accession to the CTC & Aircraft Protocol and Declarations;
- Annex 3 : Malta's Information Note to UNIDROIT.

⁴ Art. 46(2), The Aircraft Registration Act, 2010, Cap. 503 LoM.