EXPLANATORY MEMORANDUM TO THE EUROPEAN UNION (DEFINITION OF TREATIES) (CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT AND PROTOCOL THERETO ON MATTERS SPECIFIC TO AIRCRAFT EQUIPMENT) ORDER 2014

2014 No. [XXXX]

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The purpose of this Order is to specify the Convention on International Interests in Mobile Equipment and Protocol thereto on matters specific to Aircraft Equipment as an EU Treaty as defined in section 1(2) of the European Communities Act 1972. This will enable implementation of the treaty in the UK

3. Matters of special interest to the [Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments]

3.1 None

4. Legislative Context

4.1 The Convention on International Interests in Mobile Equipment and Protocol thereto on matters specific to Aircraft Equipment ("the Treaty") will need to be specified as an EU Treaty by Order in Council in accordance with section 1(3) of the European Communities Act 1972.

4.2 Section 1(3) of the European Communities Act 1972 enables mixed competency agreements such as the Treaty to be specified as EU treaties. This enables a Minister of the Crown to make regulations to implement the provisions of the Treaty in the UK exercising the powers conferred in section 2 of the European Communities Act 1972.

4.3 The Convention has three Protocols. This Order only specifies the Protocol on matters specific to Aircraft Equipment as an EU Treaty and does not specify either the Luxembourg Protocol on matters specific to Railway Rolling Stock or the Protocol on Space Assets as EU Treaties.

4.4 The text of the Convention on International Interests in Mobile Equipment was published as a Command Paper (Cm 8786) and the Protocol thereto on matters specific to Aircraft Equipment was published as a Command Paper (Cm 8787), and with their accompanying explanatory memoranda were laid before Parliament on 22nd January by the Secretary of State for the Foreign and Commonwealth Office.

5. Territorial Extent and Application

5.1 This Order applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The Minister for Business and Energy has made the following statement regarding Human Rights:

"In my view the provisions of the European Union (Definition of Treaties) Convention on International Interests in Mobile Equipment and Protocol thereto on matters specific to Aircraft Equipment are compatible with the Convention rights."

7. Policy background

7.1 The purpose of this Order is to enable Ministers to ratify the Treaty in the UK. The EU has already ratified the Treaty. The draft Council Decision on the conclusion by the European Community of the Convention on International Interests in Mobile Equipment and its Protocol on matters specific to aircraft equipment, was cleared by the Commons European Scrutiny Committee and by Sub-Committee E (Law and Institutions) in 2009.

7.2 The Treaty is a private international law treaty which aims to create an international harmonised framework to deal with the creation and registration of interests, such as leases and mortgages on helicopters, aircraft frames and aircraft engines above a certain size and engine capacity. It does not cover military aircraft equipment. The Treaty also creates a framework to deal with disputes arising under it. The Treaty aims to facilitate aircraft finance transactions by providing creditors with a greater level of certainty that they can recover their assets in cases of default. This may in turn lead to lower financing costs for airlines, particularly for those that wish to raise money through the capital markets.

7.3 The Treaty contains a number of options for implementation. The UK must complete its internal constitutional and legal procedures required to implement the Treaty in order to enable it to enter into force. Implementation will depend on the provisions to be ratified and will take effect through amendments to current legislation.

- ***Consolidation***

7.4 Not applicable

8. Consultation outcome

8.1 The Department for Business, Innovation and Skills held a call for evidence in 2010 on whether the UK should ratify the Treaty. The majority of respondents were in favour of ratification. A consultation on the various options for implementation will be held in 2014.

9. Guidance

9.1 Not relevant in the context of this Order.

10. Impact

10.1 An Impact Assessment has not been prepared for this Order as no impact of the Order itself on the private, voluntary or public sectors is foreseen.

11. Regulating small business

11.1 The Order itself does not impact on small business.

12. Monitoring & review

12.1 Monitoring and review mechanisms are not applicable.

13. Contact

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