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Presented by: Fergus Woods, Director of Civil Aviation (DCA)

For: Chief Minister

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## **Subject – Economic Affairs Scrutiny Panel – Aircraft Registry Review**

### **1. Executive Summary**

There has been much interest in both Jersey and Guernsey in the possibility of establishing an aircraft registry either jointly for the Channel Islands or, perhaps, individually for one or other or both islands. The success over the past four years of the Isle of Man aircraft registry as a niche registry catering primarily for private and corporate aircraft has shown the potential contribution that such a registry could make to the local economy.

Feasibility work has been undertaken, first in Guernsey in 2010 and then jointly with Guernsey in 2011 to assess the potential in more detail. The conclusion has consistently indicated the strong level of local interest in the project and the potential for the registry to enable increased economic activity associated with aircraft registry services.

Despite there having been significant joint efforts made during 2010/11 on feasibility work, no firm decisions were taken as to how to move forward together with Guernsey on the project. However, Guernsey has made progress on its own. Following a States Report adopted in September 2011, they commissioned a tender process to engage the services of a commercial partner with whom they intend develop and operate an aircraft registry.

When considering the potential economic benefits to the island of establishing an aircraft registry one must also take account of the responsibilities and obligations of a “State of Registry” under the Chicago Convention; these are primarily to conduct the safety oversight of all aircraft registered with the State no matter where in the world they are located or operated. This is a significant responsibility in terms of regulating the airworthiness and operational safety of the aircraft. In fact, the UK is ‘our’ Contracting State to the Chicago Convention, meaning that any aircraft registry established here would actually be a sub-registry of the UK. As such it would need to meet certain policy principles established by the UK Department for Transport (DfT) and demonstrate compliance with the Annexes to the Chicago Convention to the satisfaction of the DfT.

Establishing an aircraft registry in Jersey would require that the appropriate primary legislation be developed and passed probably through the amendment of the Civil Aviation (Jersey) Law 2008 and the development of a full set of aviation safety regulations in an amended Air Navigation (Jersey) Order 2008.

From an aviation safety regulatory perspective it would be highly desirable that the aviation regulations are developed as a single, coherent and consistent code applicable throughout the Channel Islands.

## 2. Introduction

The Economic Affairs Scrutiny Panel has agreed to undertake a Review of the potential establishment of a Jersey or Channel Island Aircraft Registry. Their Terms of Reference for the Review are stated in their letter to the Chief Minister, reference 514.23 (5) dated 25 April 2012. The DCA has agreed to provide the Chief Minister with this briefing paper on the subject in accordance with his function under Article 10(3) of the Civil Aviation (Jersey) Law 2008. It would be deemed appropriate for the DCA to focus on the “safety standards/regulation” aspect of the Terms of Reference. However, to provide as full a picture as possible of the structural elements of an Aircraft Registry, this paper will also touch on some of the other Terms of Reference elements of the Review, where the DCA has relevant knowledge or competence.

## 3. Background

The concept of establishing an aircraft registry in the Channel Islands is not new. Interested stakeholders in Jersey and in Guernsey had been conducting feasibility work on the subject for a number of years prior to the post of DCA being established in each of the Bailiwicks. Very soon after taking up the post in 2009 the DCA had separate discussions at their request with some of those stakeholders having the desire to bring the subject on to the agendas of the Economic Development Department (EDD) in Jersey or the Commerce and Employment Department (C&E) in Guernsey. The main driver for establishing an aircraft registry is as an economic enabler. However, the running of an aircraft registry is a State responsibility which brings with it significant obligations in terms of performing the safety oversight (airworthiness and operations) of aircraft registered in Jersey wherever in the world they may be located and operating.

C&E commenced feasibility activities late in 2009 by commissioning a survey of Channel Island aviation and financial sector stakeholders with a view to establishing the broader level of interest locally in having an aircraft registry for the Channel Islands or, potentially, individually in Jersey and Guernsey. The survey was completed in January 2010 with responses indicting strongly in favour of establishing an aircraft registry, preferably jointly between the Islands. C&E shared the results with EDD at that time as part of their project to identify areas of common interest which could deliver improvements in service or cost saving through the efficiency gains of joint working. “The Aircraft Registry” was quickly added as a potential winner to the EDD/C&E joint working agenda.

The next formal step took place during Q4 2010 when the two Departments conducted a joint tender for consultancy services with the purpose of carrying out a feasibility study into the establishment of an aircraft registry for the Channel Islands. The aviation consultants, Helios, were engaged during December 2010 and delivered their report in March 2011. The study was part paid for by EDD. In their report Helios concluded that the establishment of an aircraft registry in the Channel Islands was a sound financial proposition offering potential as an economic enabler for the economy while also providing diversity and the opportunity to enhance the reputation of Jersey and Guernsey.

Around this time EDD also conducted a separate study into the idea of a Jersey only registry using a consortium of local business people. Their report arrived at largely the same conclusions.

It was in May 2011 that the joint approach faltered somewhat. During the hiatus, the C&E Board decided to forge ahead with the concept on their own, commissioning a States Report into the subject, which was approved in September 2011. The States resolved as follows concerning Billet d’État No XV dated 19<sup>th</sup> August 2011:

*AIRCRAFT REGISTRY*

*XVI.- After consideration of the Report dated 12<sup>th</sup> July, 2011, of the Commerce and Employment Department:-*

- 1. To approve in principle the establishment of:-
  - a) a Channel Islands aircraft registry, subject to agreement with the relevant authorities in Jersey; or*
  - b) in default of such agreement within such time frame as the Department considers reasonable, a Guernsey aircraft registry on the basis set out in this States Report.**
- 2. To direct the Department to work with the Law Officers to identify the necessary legislative requirements for the establishment of a Registry and to report back to the States outlining the necessary legislation.*
- 3. To direct the Department to appoint a commercial partner for the proposed Registry.*
- 4. To delegate authority to the Treasury and Resources Department to approve the Full Business Case for the establishment of a Guernsey Aircraft Registry.*

Since then Guernsey has conducted an Expressions of Interest process to find a suitably experienced and qualified partner organisation with whom to develop and run the aircraft registry under the public/private partnership model outlined in the Helios Report. This was followed by a formal tender process during January and the selection of that partner in February. Contract negotiations with the partner were successfully completed on 30 April 2012.

**4. Safety Regulatory and Legislative Aspects**

- a. Jersey cannot presently register any aircraft, as it has no legal power to do so. Locally operated aircraft must therefore be registered in another jurisdiction, typically the United Kingdom, the United States of America or, increasingly, the Isle of Man (which has enacted legislation to enable it to create a registry, which is a sub-register of the UK's).
- b. The Convention on International Civil Aviation ('the Chicago Convention') governs the registration of aircraft, as a matter of international law. Under the Convention, registration of aircraft is a State function and carries with it a number of obligations. Alongside administrative registration of aircraft, associated mortgages, and flight crew, State of Registry obligations also include certification of airworthiness and safety oversight, physical inspection of aircraft, and accident and incident investigation.
- c. The UK is a signatory to the Chicago Convention and it is accepted that the UK signature extends the Convention to Jersey. A Jersey Aircraft Registry would therefore be a sub-registry of the UK's Registry. Accordingly, Jersey would require the consent of the relevant UK authorities, currently the Department for Transport, in order to establish an Aircraft Registry.

- d. A number of Overseas Territories and one Crown Dependency (Isle of Man) already operate their own Aircraft Registries, as sub-registries of the UK. The most recently established of these is the Isle of Man's Registry, which was launched in 2007 and which has been a commercial success with over 300 aircraft registered to date.
- e. In addition, in order to become a sub-registry of the UK, the UK must permit Jersey to use one of the registration letters or numbers that it has been allocated to register aircraft, in accordance with the Chicago Convention. (The UK registry uses the letter 'G', and the UK has permitted the Isle of Man and various overseas territories to use other letters and letter combinations which it has been allocated.)
- f. The DCA has already had a number of discussions with the DfT during 2011 on the subject and has received their agreement in principle to allowing Jersey to establish and operate an aircraft registry subject to Jersey complying with a set of policy principles which the DfT has developed as UK Government policy regarding sub-registries of the UK. These principles are summarised below. The UK government will permit and support the establishment and running of aircraft registers in the OTs and CDs provided that:
  - i. the full costs associated with the register, including providing safety regulation, is met by the territory concerned;
  - ii. the territory concerned makes provision to cover in full all liabilities which arise, or could arise, from the running of the register, both directly and indirectly; and
  - iii. the territory concerned establishes a safety regulatory body empowered to regulate against legislation and requirements designed to implement the requirements of the relevant Annexes to the Chicago Convention; and which:
    - 1. has an appropriate and sustainable level of funding; and
    - 2. meets (in the view of the UK Department for Transport (DfT) and its technical advisors) the requirements and guidance laid down by the International Civil Aviation Organisation.
- g. Jersey would need to introduce primary legislation to establish an aircraft registry. This would probably be in the form of a major amendment to the existing Civil Aviation (Jersey) Law 2008 and the associated Air Navigation (Jersey) Order 2008. The purpose would be to extend the function of the DCA to cover the regulatory functions associated with an aircraft registry and to provide detailed aviation regulations covering the oversight of aircraft airworthiness, operations and crew licensing.
- h. When considering the concept of a joint Channel Island registry the DCA's main focus would be to ensure that a consistent and coherent set of aviation regulations would apply across the entire Channel Islands. Ideally, the aviation requirements in one jurisdiction should exactly match those in the other jurisdiction. It is accepted that, in practice, this may be quite difficult to achieve given the slightly differing legislative styles in Jersey and Guernsey. The conclusion to be drawn is that the simplest solution may be for a Channel Island Aircraft Registry to be established under the jurisdiction and law of either Jersey or Guernsey (but not both), which has provisions enabling residents/ aircraft owners from either Island to participate equally in the registry.

## 5. Recommendation

When considering the feasibility of establishing an aircraft registry in the Channel Islands, or separately in Jersey, the authorities should take account of:

- the need for technical consistency with Guernsey in terms of air navigation regulations and aviation safety requirements.
  - the economic impact of establishing competing registries in the Channel Islands compared with the option of contributing to a joint arrangement.
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