



Luxembourg Rail Protocol

Ratification Process in Singapore

Date 13 January 2016

Presentation by Shemane Chan
Partner, Construction & Projects / Energy & Resources

RAJAH & TANN

Ratification Process in Singapore

- **2-stage process of Ratification and Domestic Legislation**
- **Ratification**
- **Domestic Legislation**
- **Dualist state:** International law is not domestic law until specifically implemented by legislation, eg *Cape Town Convention on Aircraft Equipment* is given effect to by the *International Interests in Aircraft Equipment Act* (Cap 144B)

Ratification

- There is no express provision on ratification process in Singapore under its Constitution. Neither is there any legislation or order setting out these procedures.
- Before a decision is made to ratify an international convention, relevant ministries will be consulted and a careful examination of Singapore's policies and laws will be carried out.
- Singapore will only accede to an international convention when it is in its interest to do so and when it is satisfied that it can give effect to the provisions of international convention.

Economic and Policy Considerations

Economic and Policy considerations underlying Singapore's accession to the Aviation Protocol:

- Facilitate the financing of aircraft objects in Singapore by providing greater legal predictability and assurance of lower risk
- Translate into lower lending costs and better lending terms
- Benefit from opening the local aircraft financing and leasing industry to a growing global market in other Contracting States

Similar policy considerations may apply in relation to the Luxembourg Rail Protocol

Legal Considerations

- To ensure that it can comply with the obligations of the international convention, common practice is that the draft implementation legislation will go through its third reading by Parliament before Singapore deposits its instrument of ratification.
- The new legislation will usually come into force when the international convention becomes effective for Singapore
- Ratification, acceptance, approval or accession is effected by the deposit of a formal instrument with UNIDROIT: Arts XXI and XXXIV

Ratification and Implementation Process

17/11/2008: First Reading of International Interests in Aircraft Equipment Bill

19/1/2009: Second and Third Reading of International Interests in Aircraft Equipment Bill

28/1/2009: Singapore ratification of the Aviation Protocol of the Cape Town Convention

11/2/2009: President assented to the Bill

1/5/2009: Date of commencement of the Bill

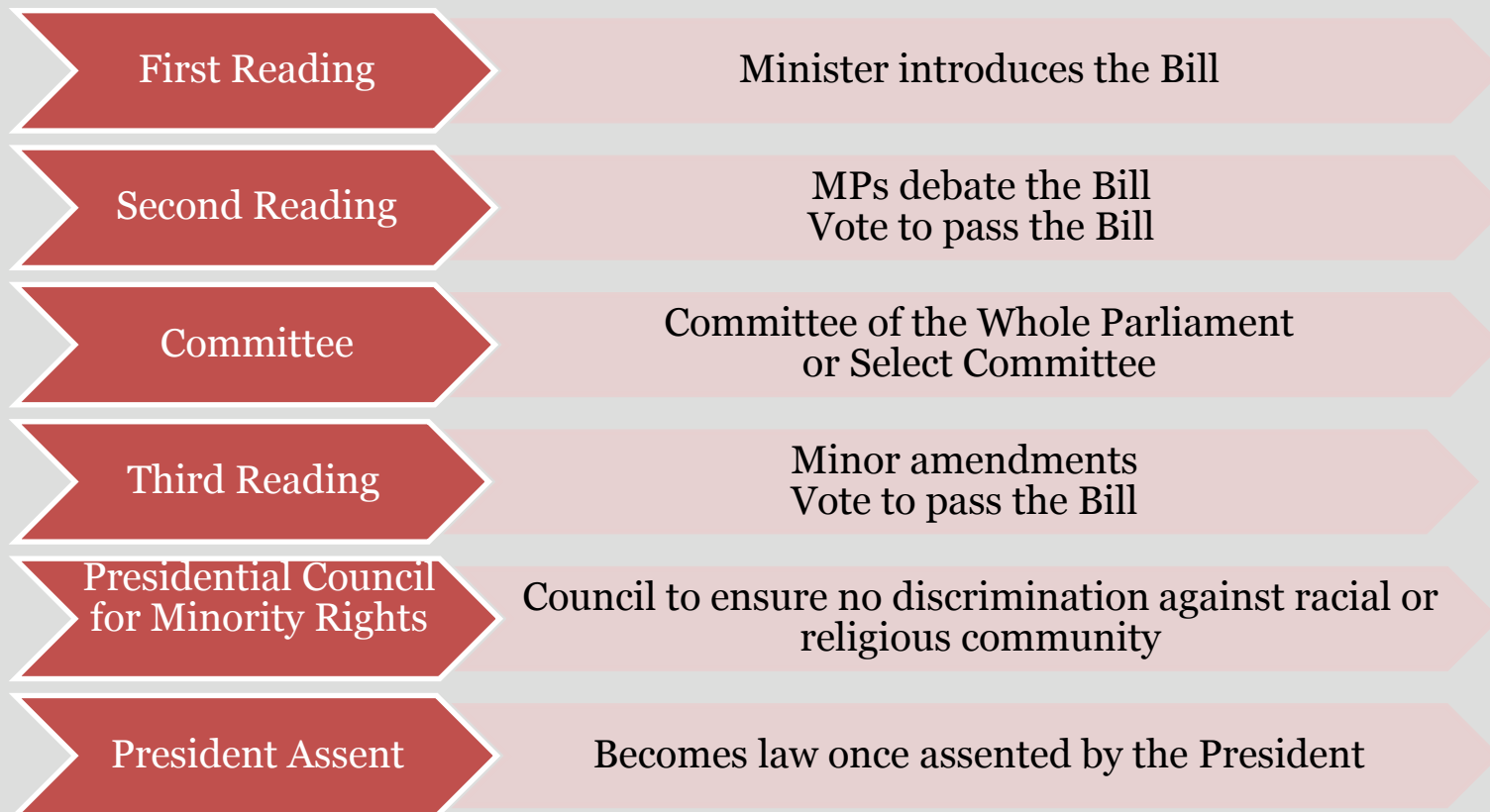
Initial Government Contacts

- **Lead Agency** would be the Ministry of Transport, as in Cape Town Convention
- **Inter-Ministerial Committee** may be formed especially for an international convention which falls within the purview of various ministries
- Other relevant members would be the Ministry of Foreign Affairs and the Attorney-General's Chambers (AGC)
- Lead Agency may consult with experts and stakeholders
- Procedure varies depending on level of public interest or concern or sectors of the economy that may be affected by the proposed legislation
- Once the consultation process has ended, the Inter-Ministerial Committee will make a recommendation to the Cabinet and if this is approved, the drafting of the implementing law will be undertaken.

Bill Drafting Process

- Lead Agency would require in-principle approval from the Cabinet before commencing drafting of the implementing legislation
- The Permanent Secretary of the Lead Agency will either prepare the implementing legislation for review by the AGC or will prepare a detailed statement of its proposed contents for detailed drafting by the AGC
- AGC will vet and draft all Bills in Singapore, ensuring consistency with Constitution and other legislations
- Permanent Secretary for Ministry of Law will have to approve draft Bill before submission to Cabinet

Domestic Legislation



Declarations

The Convention and the Luxembourg Rail Protocol provide for the making of certain declarations. Declarations may be optional or mandatory.

Generally, Singapore will make declarations taking into account:

- Industry feedback and benefits to the relevant industry
- Interagency consultation outcome
- Impact on existing law

Except for declarations which are mandatory, declarations may be made at the time of ratification or subsequent to ratification.

Declarations made under the Cape Town Convention shall be deemed to have also been made under the Luxembourg Rail Protocol unless stated otherwise: Art XXIX

Declarations

Singapore's declarations under Cape Town Convention
*Applicable if Singapore accedes to the Luxembourg Rail Protocol
unless provided otherwise*

Provision	Content	Policy consideration
Arts 39(1)(a), (1)(b) & 4	Non-consensual interests	So that a right or interest recognised and enforceable under local law takes priority over a registered international interest
Art 53	Relevant court [High Court]	
Art 54(2)	Creditor's remedies [No leave of court required, self-help with procedural safeguards]	To facilitate the exercise of self-help remedies by a creditor and give creditor maximum degree of assurance in the ability to recover possession of aircraft in the event of debtor default.

Thank You

