

# Environment

In 20 jurisdictions worldwide

*Contributing editor*  
**Carlos de Miguel**



2015

GETTING THE  
DEAL THROUGH

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DEAL THROUGH 

# Environment 2015

*Contributing editor*  
**Carlos de Miguel**  
**Uría Menéndez**

Publisher  
Gideon Robertson  
gideon.roberton@lbresearch.com

Subscriptions  
Sophie Pallier  
subscriptions@gettingthedealthrough.com

Business development managers  
George Ingledeu  
george.ingledew@lbresearch.com

Alan Lee  
alan.lee@lbresearch.com

Dan White  
dan.white@lbresearch.com



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87 Lancaster Road  
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# Preface

## Environment 2015

Ninth edition

**Getting the Deal Through** is delighted to publish the ninth edition of *Environment*, which is available in print, as an e-book, via the GTDT iPad app, and online at [www.gettingthedealthrough.com](http://www.gettingthedealthrough.com).

**Getting the Deal Through** provides international expert analysis in key areas of law, practice and regulation for corporate counsel, cross-border legal practitioners, and company directors and officers.

Throughout this edition, and following the unique **Getting the Deal Through** format, the same key questions are answered by leading practitioners in each of the 20 jurisdictions featured. Our coverage this year includes the European Union, Korea, the Netherlands and Turkey.

**Getting the Deal Through** titles are published annually in print. Please ensure you are referring to the latest edition or to the online version at [www.gettingthedealthrough.com](http://www.gettingthedealthrough.com).

Every effort has been made to cover all matters of concern to readers. However, specific legal advice should always be sought from experienced local advisers.

**Getting the Deal Through** gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. We also extend special thanks to Carlos de Miguel of Uría Menéndez, the contributing editor, for his continued assistance with this volume.

GETTING THE   
DEAL THROUGH 

London  
November 2014

# Malta

Jotham Scerri-Diacono, Annalise Caruana and Lara Pace

Ganado Advocates

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## Legislation

### 1 Main environmental regulations

#### What are the main statutes and regulations relating to the environment?

The main statute relating to the environment in Malta is the Environment and Development Planning Act 2010 (EDPA), Chapter 504 of the Laws of Malta. This new act replaces what used to be the Environment Protection Act (EPA) and the Development Planning Act (DPA) in an effort to reconcile the occasionally conflicting concepts of 'environmental protection' and 'development planning'. The two old laws are merged within the new EDPA, which reproduces most of the environmental and development principles originally contained in the old laws. The EDPA, like the old EPA, still lays down a set of cardinal environmental law principles for the Maltese islands, albeit in relatively generic terms. The EDPA sets the way very early in its provisions (EDPA, section 3) when it states that it is the duty of everyone together with the government to protect the environment and to assist in the taking of preventive and remedial measures to protect the environment and manage natural resources in a sustainable manner. The EDPA also enshrines the principle that it is the government's duty to protect the environment for the benefit of present and future generations (EDPA, section 4). The more elaborate legislation that has been passed in Malta over the years takes the form of subsidiary legislation promulgated on the strength of the EDPA, the parent act. At least 175 sets of regulations are at present in force, tackling various aspects of environmental law ranging from the protection of wild rabbits to more technical subjects such as integrated pollution prevention and control.

Another important source of Maltese environmental policy is the Structure Plan drawn up in 1990 under the DPA and updated over the years. The Structure Plan serves as the basis for future land use and development policy for the islands of Malta. Indeed, Malta is one of the most densely populated countries in the world and the sustainable use of land is one of its most pressing priorities both from an economic and an environmental perspective. The stated basic objective of the Structure Plan is that of optimising the physical use and development of land that respects the environment and, at the same time, ensuring that the basic social needs of the community are, as far as is practical, satisfied. The EDPA places the onus on the government of Malta to prepare a Strategic Plan for the Environment and Development (SPED), which aims to replace the Structure Plan for the Maltese Islands of 1990. The SPED is intended to provide a strategic spatial policy framework for both the environment and development up to 2020, complimenting the government's social, economic and environmental objectives. According to the official website of the Malta Environment and Planning Authority (MEPA), the new plan shall be based on an integrated planning system which ensures the sustainable management of land and sea resources together with the protection for the environment. It shall also guide the development and use of land and sea space. In April 2013, a review of the strategic thrusts of the plan was undertaken to ensure that the SPED is in line with government policy. This resulted in an extensive consultation exercise with government ministries culminating in the preparation of the SPED. The plan was issued for consultation for a period of eight weeks, which terminated on 20 June 2014. The SPED is also one of the plans identified as requiring a strategic environmental assessment (SEA). The Authority has also published for public consultation the Environment Report for the SEA of the SPED. Public consultation terminated on 20 June 2014.

Other primary legislation that is very relevant to environmental law includes the Crimes Against the Environment Act, which implements EU Directive 2008/99/EC, Chapter 522 of the Laws of Malta; the Sustainable Development Act, Chapter 521 of the Laws of Malta; the Malta Competition and Consumer Affairs Authority Act (which repealed the Malta Standards Authority Act (Chapter 419 of the Laws of Malta)) on the basis of which (among other things) the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH, as per Directive 1907/2006/EC) is administered in Malta through the Technical Regulations Division of the Malta Competition and Consumer Affairs Authority. The Malta Resources Authority Act, Chapter 423 of the Laws of Malta, is also relevant because it addresses the protection of local resources. European Union legislation is also a further important source of Maltese environmental law and policy.

The Maltese Constitution does not explicitly establish environmental protection as a human right. However, environmental rights pertaining to Maltese citizens may be safeguarded if one argues that the right to a healthy environment is an extended interpretation of other human rights, such as the right to life or the right to a private and family life, as has been upheld by the European Court of Human Rights. Moreover, the European Charter of Fundamental Rights, which came into force together with the Lisbon Treaty, ensures that high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the EU and ensured in accordance with the principle of sustainable development.

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### 2 Integrated pollution prevention and control

#### Is there a system of integrated control of pollution?

Industrial activities and installations of a particular scale that present a degree of environmental risk will have their operation regulated by specific regulations, namely the Industrial Emissions (Integrated Pollution Prevention and Control Regulations) (SL504.54 of the Laws of Malta) adopting Directive 96/61/EC). These regulations require such plants to obtain an 'integrated pollution prevention and control' (IPPC) permit from MEPA. The IPPC permit is, in fact, the focal point of the aforementioned regulations intended to create a system for the integrated control of pollution in Malta.

The regulations are intended to encourage industrial installations to identify ways of minimising pollution risk. In striving to achieve this, the regulations require that local plants captured by the legislation adhere to the following:

- apply and obtain the said IPPC permit, submitting in the application for the permit a full disclosure of their activities;
- monitor for noise and vibrations, energy efficiency and site protection against pollution;
- apply general principles of energy conservation in their operations; and
- return the site to a satisfactory state after operations cease.

The permission, enforcement and control procedures are coordinated and negotiated between the competent authorities and the operator. The operator is duty-bound to carry out 'self-monitoring'.

The IPPC permits are referred to as integrated because they are intended to address the environmental performance of the target plant in the wider context. This means that a wide spectrum of actual or potential sources of pollution are taken into consideration (that is, emissions to

air, water and land, generation of waste, use of raw materials, energy efficiency, noise, prevention of accidents, risk management, etc). IPPC permits are intended to set pollution standards for the installations to which they apply. The unit of measurement that is applied is that of the best available techniques (BAT). BAT will demand balancing environmental protection against the cost of achieving it. The permit application, the decision and the permit itself are in the public domain. The public is also entitled to view the monitoring reports.

As integrated pollution prevention is a multidisciplinary task, a committee to deal with the regulatory aspect of the regulations has been set up. The IPPC Committee oversees the definitive establishment of IPPC installations, the inspection of installations and ensures that the necessary guidance in the legislation is carried out.

### 3 Soil pollution

#### What are the main characteristics of the rules applicable to soil pollution?

Soil is an important and protected natural resource in Malta protected through specific legislation, namely the Fertile Soil (Preservation) Act (Chapter 236 of the Laws of Malta) and the Preservation of Fertile Soil Regulations (SL236.02). In 2014, the Fertile Soil (Preservation) Act was amended, giving the minister responsible for agriculture the power to enact regulations for the purpose of implementing the said act. The law protects fertile soil by prohibiting, among other things, the 'mixture' of soil with other materials in ways which would sterilise it, the deposition of material on soil, or covering of soil with material, building upon soil, deposition of fertile soil on land already covered with 1 metre of soil, deposition of soil in heaps or in any manner which would render it unsuitable for immediate cropping. The National Environment Policy for Malta, approved in February 2012 (the 2012 NEP), establishes, among other things, the nationwide strategy targets for soil quality management. According to the 2012 NEP, the government plans to, inter alia, undertake a legislative review to address lacunae related to threats to soil quality and also plans to put in place a soil quality monitoring system by 2014. According to the official web portal of MEPA, the European Commission has approved the funding for the development of an Environmental Monitoring Strategy and Environmental monitoring Baseline Survey for soil resources.

Under existing legislation, pollution to soil will be dealt with depending on the particular circumstances of the case. For example, oil-spill pollution originating from plants that are operated under an IPPC permit will be regulated principally under that regime. If pollution of soil affects the geological and geomorphological features of the land, its regulation and control will also fall within the competence of the Environment Protection Directorate and the Superintendence of Cultural Heritage (these being responsible for the conservation of geological and geomorphological sites in Malta). The Sludge (Use in Agriculture) Regulations 2001 (SL504.19) regulate the use of sewage sludge in agriculture in such a way as to prevent harmful effects on soil.

Industries setting up shop in Malta will be required, as part of their industrial processes, to address issues such as radioactivity and other environmental risks as part of the related permit requirements. Industrialists that nevertheless cause pollution to soil will be subject to the possibility of having their operating permits revoked or made subject to additional conditions. Likewise with landowners who are developing land: in a case of soil pollution, the owner developing a stretch of land may find its development permit withdrawn by MEPA or made subject to its restoration, regardless of who caused the contamination and when it was caused.

In certain circumstances, actual or imminent contamination of the soil will also spark off the provisions of the Environmental Liability Directive (2004/35/EC). The directive as transposed into Maltese law through the Prevention and Remedying of Environmental Damage Regulations is discussed further below (SL504.85).

Risks of pollution from agricultural and farming activities (that fall outside IPPC), such as pollution from sludge (SL504.19) or from manure, is dealt with under specific legislation (SL504.43) where the focus is predominantly on the threat to water resources (dealt with below). Otherwise, environmental risks from such activities are treated as issues of 'waste management' (SL504.78).

### 4 Regulation of waste

#### What types of waste are regulated and how?

The Code of Police Laws, Chapter 10 of the Laws of Malta, in article 121(2)(i), clearly and unequivocally forbids dumping or throwing in any place refuse or rubbish. Any person who is found guilty of breaking this provision shall be liable on conviction to a fine. A definition of waste may be found in the EDPA, which defines 'waste' as any thing, substance or object that the holder discards or intends to discard, or is required to keep to discard and includes such other things, substances or objects as the minister for the environment may prescribe (section 2).

The scope of the Waste Regulations (SL504.37) is to protect the environment and human health by preventing or reducing the adverse impacts of the generation and management of waste and by reducing the overall impacts of resource use and improving the efficiency of such use. For the purpose of this Regulation, waste is defined as any substance or object which the holder discards or intends or is required to discard. This definition is in line with the overarching definition of waste given in the EDPA. The EDPA does not define the term by-products. However, the term by-product is defined in the Waste Regulations (SL504.37) and this definition shall be applicable within the remit of these Regulations. According to the Waste Regulations, a by-product is a substance or object resulting from a production process, the primary aim of which is not the production of that item. It may be regarded as not being waste as defined by the regulations, and as being a by-product only if the following conditions are met:

- further use of the substance or object is certain;
- the substance or object can be used directly without any further processing other than normal industrial practice;
- the substance or object is produced as an integral part of a production process; and
- further use is lawful, in other words, the substance or object fulfils all relevant product, environment and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts.

The management of waste (and this includes, inter alia, the storage and sorting of waste) and, in certain cases, even the production of waste requires a permit and is specifically regulated by the Waste Management (Activity Registration) Regulations (SL504.78) and the Waste Regulations that were most recently amended in 2014 (SL504.37 implementing Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste (the Waste Regulations)). A producer of waste, therefore, has to obtain a permit if it intends to store or dispose of, on site, the waste that it produces. Waste must be handled, stored and managed in accordance with the regulations and the permit. Producers of waste are duty bound, among other things, to ensure that such waste is safely contained.

The legislature has enacted a number of waste management regulations, which aim to address the waste management of various waste streams, for example, a specific permit is required to deposit hazardous waste (SL504.37: Hazardous Waste Directive 91/689). Likewise, specific approval from the competent authorities would be required in the case of radioactive waste whether it is intended to be disposed of in Malta or shipped out of Malta (SL504.38). Similarly, vehicles for scrap, that is, vehicles that have ended their life, are regulated by a specific legal regime (SL504.62 adopting Directives 2000/53/EC and 2011/37/EU). Specific rules also apply to electrical and electronic equipment (SL504.75 transposing Directive 2002/96/EC as amended (WEEE)).

The same can be said for packaging and packaging waste, legislatively dealt with in Malta in accordance with Council Directive 94/62/EC on Packaging and Packaging Waste Regulations (SL504.72). Producers of packaging waste are specifically obliged to collect, recover and recycle such waste (regulation 8 et seq). This legislation is aimed at, as a first priority, preventing the production of excess packaging waste, but also promotes the reuse of packaging and the recycling and other forms of recovery of packaging waste to reduce the impact of the final disposal of such waste. The regulations are intended to address all sorts of packaging waste, whether it is used or released at industrial, commercial, office, shop, service, household or any other level, regardless of the material used.

Waste from extractive industries and backfilling is another category of waste that is specifically regulated (SL504.87 transposing Directive 2006/21/EC), as is waste from batteries and accumulators (SL504.91) and from landfill operations (SL504.53), among others.

SL504.40 on Urban Waste Water Treatment regulates the collection, treatment and discharge of urban wastewater and the treatment and discharge of wastewater from certain industrial sectors. The objective of these regulations is to protect the environment from the adverse effects of the waste water discharges. In order to meet its obligation under EU legislation, Malta published its strategic waste management plan in 2001 seeking to set up a framework for decision-making for the management of waste in the future. In January 2014, the minister responsible for waste management in Malta launched the waste management plan for the Maltese Islands. In order to avoid multiple documents, the waste management plan for the Maltese Islands also incorporates the waste prevention plan.

## 5 Regulation of air emissions

### What are the main features of the rules governing air emissions?

With regards to ambient air pollution, a vast amount of legislation has been enacted in order to transpose the EU acquis and in order to address specific emissions. The Air Quality Framework Directive was transposed into Maltese law via Subsidiary Legislation 504.100, the Ambient Air Quality Regulations. The main aim of this law is identical to the objectives of the directive it transposes, namely that of ensuring ambitious but realistic reduction in the concentration of particle pollution in the air. This would guarantee a better living environment and a better quality of life for citizens. The directive seeks to consolidate existing EU Law on air quality, with the exception of the four daughter directives. The daughter directives have also been transposed into Maltese law via Subsidiary Legislation 504.100. According to the Ambient Air Quality Regulations, operators are obliged to control their emissions and to provide the competent authority with reliable and continuous data on their emissions. To date the MEPA is the competent authority responsible for the implementation of this legislation and is also endowed with the responsibility to monitor the implementation of the directive into Maltese law and to secure the monitoring on this implementation. Limitation of emissions from volatile organic compounds (VOCs), for example, is still regulated separately (SL504.27 and SL504.88). These regulations are intended to prevent or reduce the direct or indirect effects of emissions of VOCs on the environment and human health by setting emission limits for such compounds and laying down operating conditions for industrial installations using organic solvents. Other subsidiary legislation addressing emissions into the air from construction sites are regulated under the Construction Site Management Regulations (SL504.83).

The Quality of Fuels Regulations (SL423.29), which regulate the quality of fuels available in Malta, transposes the EU's acquis on this matter and relate to the specifications of various fuels. The regulations also specify the maximum sulphur content that needs to be present in heavy fuel oil. Like most Maltese subsidiary legislation relating to environmental issues this law also prescribes penalties on anyone who infringes the provisions of these regulations.

Specific legislation also addresses emissions from large combustion plants (SL504.93A and SL504.93). SL504.93A seeks to implement the EU Emissions (Framework) Regulations and to implement, in part, Directive 2010/75 EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (Recast). SL504.93 lays down rules for the limitation of atmospheric emissions from large combustion plants, and applies to combustion plants if their total rated thermal input is equal to or greater than 50MWth, irrespective of the type of fuel used. The Large Combustion Plant Regulations (SL504.93) shall be revoked with effect from 1 January 2016, with the exception of a few provisions which shall remain applicable until 1 January 2020.

Specific legislation (SL504.31) addresses and controls gaseous and particular pollutants that are emitted from plants that operate internal combustion engines (non-road mobile machinery), setting limit levels for emissions and regulating ambient air quality. Furthermore, the Regulations on Industrial Emissions (Waste Incineration) (SL504.36) mandates waste incineration plants and waste co-incineration plants to have a permit and to control their emissions in accordance with the modalities expressed in the same regulations. In addition, the Industrial Emissions (Framework) Regulations (SL504.116) provide a robust framework for the integrated prevention and control of pollution arising from industrial activities. They also lay down the rules designed to prevent or, where that is not practical, to reduce emissions into air, water and land. The legislature grants the

minister responsible for environmental issues the power to enact additional regulations in order to implement the above-mentioned regulation. Operators also have reporting obligations that aim at aiding the competent authority to monitor emissions. SL504.81 on European Pollutant Release and Transfer Register Reporting Obligations Regulations obliges operators to report to MEPA the activities conducted by them as well as the necessary estimates of release into the atmosphere. SL504.18 on Combating of Air Pollution from Industrial Plant Regulations transposes Council Directive 84/360/EEC on the Combating of Air Pollution from Industrial Plants as well as the Long Range Transboundary Pollution Convention to which Malta is a party. Malta has implemented numerous legal notices that seek to transpose the EU acquis regarding the Climate and Energy Package and, in particular, with regards to emissions trading and effort-sharing decisions, discussed in question 6. SL504.66 on the European Community Greenhouse Gas Emissions Trading Scheme Regulations provides for the implementation in Malta of a Scheme for Greenhouse Gas Emissions Allowances Trading within the European Union in order to promote reductions of greenhouse gas emissions in a cost-effective and economically efficient manner. Since the beginning of 2012, emissions from international aviation have been included in the EU ETS System. Like industrial installations, covered by the EU ETS, airlines receive tradable allowances covering certain levels of CO<sub>2</sub> emissions from their flights per year. This legislation was the centre of an important judgment of the European Court of Justice, when a number of American and Canadian airlines and airline associations contested the transposition of this directive in the United Kingdom. Malta has transposed this obligation in SL504.99 and SL504.115.

The application of this legislation has been suspended at both EU and national level on the basis of Decision No. 377/2013/EU of the European Parliament and of the Council of 24 April 2013 derogating temporarily from Directive 2003/87/EC Establishing a Scheme of EU ETS Aviation Regulation. The suspension applies with respect of activity to and from aerodromes in countries outside the Union. The Directive continues to apply to all intra-EU flights, whether operated by EU carriers or non-EU carriers. The Regulations on National Emissions Ceilings for Certain Atmospheric Pollutants, SL504.58, set upper limits for total emissions in 2010 of the four pollutants responsible for acidification, eutrophication and ground-level ozone pollution.

With regard to the ozone layer, the production, importation, exportation and placing on the market or use of CFCs or other similar substances that deplete the ozone layer is controlled. Maltese law effectively transposes EU law that in turn absorbs international standards as reflected in the basic international instruments on the subject (the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer, SL504.28, SL504.11, SL504.21 and SL504.96). Likewise, certain fluorinated greenhouse gases (HFCs) are also specifically controlled due to their 'global warming potential', in line with the relative EU legislation (SL504.92).

Subsidiary Legislation 504.55 on the Availability of Consumer Information on Fuel Economy and Carbon dioxide Emissions in Respect to the Marketing of New Passenger Car Regulations seeks to ensure that the information relating to the fuel economy and CO<sub>2</sub> emissions of new passenger cars offered for sale or lease is made available to consumers to make informed choices when purchasing a car.

With regards to energy efficiency, reference is made to SL513.01. The scope of these regulations is to transpose Directive 2010/31/EU of the European Parliament and of the Council on the energy performance of buildings and to give effect to its provisions. These regulations promote the improvement of the energy performance of buildings within the EU, taking into account outdoor climatic and local conditions, as well as indoor climate requirements and cost-effectiveness. These regulations establish requirements regarding the common general framework for a methodology for calculating the integrated energy performance of buildings and building units, the application of minimum requirements for the energy performance of new buildings and new building units, the issuance energy certification of buildings or building units, the regular inspection of heating and air-condition in systems in buildings and independent control systems for energy performance certificates and inspection reports. They also establish the application of minimum requirements for the energy performance of:

- existing buildings, building units and building elements which are subject to major renovation;
- building elements which form part of the building envelope and that have a significant impact on the energy performance of the building envelope when they are retrofitted or replaced; and

- technical building systems whenever they are installed, replaced or upgraded, and the adoption of national plans for increasing the number of nearly zero-energy buildings.

The law establishes that the Building Regulation Board shall take the necessary measures to establish minimum energy performance requirements for buildings. The Building Regulation Board is responsible for implementing this Regulation. SL423.27 on Energy Efficiency and Cogeneration Regulations came into force on 1 January 2014. These regulations establish a framework as part of the common framework of measures for the promotion of energy efficiency within the EU in order to ensure the achievement of the 2020 20 per cent headline target on energy efficiency, and to pave the way for further energy efficiency improvements beyond that date. These regulations also lay down rules designed to remove barriers in the energy market and overcome market failures that impede efficiency in the supply and use of energy, and provide for the establishment of an indicative national energy efficiency target for 2020. The Building Regulation Board shall establish a long term strategy for mobilising investment in the renovation of the national stock of residential and commercial buildings both in the private and public sector.

On 11 February 2014, a public consultation was held on the communication issued by the European Commission entitled A Clean Air Programme for Europe. This communication outlines a strategy for air quality which is accompanied by legislative proposal for a revised national emission ceiling directive, a proposal which will for the first time control emissions from medium sized combustion plants and a proposal for council decision on the acceptance of the amendment to the 1999 Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground Level Ozone.

Older legislation continues to regulate 'dark' smoke emissions and 'clean air' via the Clean Air Act, Chapter 200.

## 6 Climate change

### Are there any specific provisions relating to climate change?

Malta was instrumental in launching and piloting the concept of climate change through various international forums. In particular, on 22 August 1988, Malta requested the inclusion of an item entitled 'Declaration Proclaiming Climate as part of the Common Heritage of Mankind' in the provisional agenda of the 43rd session of the UN General Assembly urging the protection of global climate for present and future generations. On 21 September 1988, the General Committee of the General Assembly included an item entitled 'Conservation of Climate as part of the Common Heritage of Mankind' and allocated the item for consideration in the Second Committee.

On 24 October 1988, Malta formally introduced the item at a meeting of the plenary session of the UN General Assembly. During the session, Malta's policy was explained in the sense that there should be global recognition of the fundamental right of every human being to enjoy climate in a state that best sustains life. Malta then presented a concrete proposal in the form of a draft resolution that was submitted for consideration in the Second Committee. Resolution 43/53 was unanimously adopted in the plenary meeting of the General Assembly on 6 December 1988. This resolution paved the way for a series of events that led to the formulation of the United Nations Framework Convention on Climate Change (UNFCCC), adopted by the world's governments on 9 May 1992 at the Earth Summit in Rio de Janeiro.

Malta's original status was a non-Annex I state. Consequently, Malta did not take on emissions reduction targets for the first commitment period (2008 to 2012). As a result of Malta's membership of the EU and the obligations in the Climate Change and Energy Package, Malta currently has legally binding obligations to curb its greenhouse gas emissions, since EU law on climate change is based on requirements on Annex I countries. In fact, out of all the EU member states, only Malta and Cyprus did not have emissions reduction targets under the Kyoto Protocol for the first commitment period. In view of its status as an EU member state and the obligations to cap its emissions under EU law, in 2009 Malta submitted a formal application for an amendment to include Malta in the list of Annex I parties to the convention. This amendment was adopted by the Conference of the Parties (COP) 15 in Copenhagen and formally came into force in October 2010.

Domestically, Malta continued to take steps regarding policy on climate change with its submissions in April 2004 and May 2010 of its first

and second communications to the UNFCCC reflecting Malta's National Action Plan, which puts forward various measures that ought to be adopted in support of the mitigation of greenhouse gas emissions and, furthermore, embraces measures that must be taken to allow the Maltese islands to adapt to climate change. In March 2014 Malta submitted its First Biennial Report to the UNFCCC. This Biennial Report includes data on emissions and removals for the period 1990-2011.

In June 2008, the Climate Change Committee was set up by the government to address climate change, tap into sources of alternative energy and ensure that Malta's national obligations to reduce carbon dioxide emissions are adhered to in order to attain its emission targets as agreed between Malta and the EU. In September 2009, the Ministry of Resources and Rural Affairs presented a report entitled 'National Strategy for Policy and Abatement Measures Relating to the Reduction of Greenhouse Gas Emissions', consolidating the work carried out by the Climate Change Committee. The strategy seeks to articulate the action to be adopted by Malta in the years to come. Malta's obligations have, in fact, since its accession in 2004, been closely associated with those of the European Union, especially through the implementation of the common and coordinated policies and measures being advanced within the EU (Directive 2003/87/EC). Each EU member state is required to prepare a national allocation plan (NAP) for a given 'trading period'. Malta's NAP determines the total quantity of allowances to be allocated to relevant installations operating in Malta and allocates the allowances among the different sectors and installations. The determination of allocations is based upon a number of criteria listed in the aforementioned directive. Moreover, the European Community Greenhouse Gas Emissions Trading Scheme Regulations were adopted in 2005 and have been revised as necessary to implement Directive 2003/87/EC on emissions allowances trading. The overall scope of these regulations is to promote reductions of greenhouse gas emissions in a cost-effective and economically efficient manner. These regulations require installations carrying out certain activities resulting in emissions to obtain a greenhouse gas emissions permit. The permit authorises the emission of greenhouse gases and also imposes certain obligations, including reporting obligations, on the installation holding the permit. The allowances are made to the permit holders in accordance with these regulations with reference to the relevant NAP. The regulations thus provide for the amount of allowances and also for the validity, transfer and cancellation of such allowances. These particular regulations cover installations within the minerals industry or carrying out energy activities or the production of ferrous metals.

From an EU perspective the EU ETS has led to a surplus of allowances on the market, meaning that the price for each allowance has dropped from €30 to less than €5 (in January 2013), with some arguing that the scheme is now ineffectual to produce any credible incentives to cut down emissions. In order to counteract this situation, the European Commission proposed changing the current system so that the amount of current surplus carbon allowances in the market could be cut to rebalance supply and demand and to increase price stability without any impact on competition. This is only a temporary measure. The Commission has proposed to establish a market stability reserve at the beginning of the next trading period in 2021. The legislative proposal which was put forward by the EU Commission in January 2014, concerning the establishment and operation of a market stability reserve for the EU greenhouse gas emission trading scheme and amending Directive 2003/87/EC, requires the approval of both the EU Parliament and the Council prior to becoming law.

The two installations that fall within the scope of this legislation in Malta at present are the two national power stations. In both the first trading period (2005 to 2007) and the second trading period (2008 to 2012) the total allowances allocated to these two installations (at no cost) fell within the 'cap' that was set at national level under the NAP and were sufficient to meet the emission requirements of these installations. Thus, to date, these installations have had no need to buy further allowances from the EU market or the international market operating under the Kyoto Protocol. Malta is expected to apply for a transitional derogation from full auctioning for the power sector (although this is not possible for all installations over the whole period). Allowances will continue to be granted (for a limited period) to the installations at no cost to them, whereas the remaining will be auctioned within the EU ETS market. Since the beginning of 2012, emissions from international aviation have been included in the EU ETS System. Like industrial installations, covered by the EU ETS, airlines receive tradable allowances covering certain levels of CO<sub>2</sub> emissions from their flights per year. This legislation was the centre of an important judgment of the



European Court of Justice, when a number of American and Canadian airlines and airline associations contested the transposition of this directive in the United Kingdom. Malta has transposed this obligation in SL504.99 and SL504.115. The application of this legislation has been suspended at both EU and national level on the basis of Decision No. 377/2013/EU of the European Parliament and of the Council of 24 April 2013 derogating temporarily from Directive 2003/87/EC Establishing a Scheme of EU ETS Aviation Regulation. The suspension applies with respect to activity to and from aerodromes in countries outside the EU. The Directive continues to apply to all intra-EU flights, whether operated by EU carriers or non-EU carriers.

A recent related development is the transposition into local law of Directive 2009/28/EC on the Promotion of the Use of Energy from Renewable Sources (through SL423.19 and SL423.37, among others), which has brought with it Malta's obligation to meet its national overall target of a 10 per cent share of energy from renewable sources in gross final consumption of energy in 2020. Malta's National Renewable Energy Action Plan (NREAP) indicates measures that are already in place and evaluates other possible measures that may aid in achieving this target.

Malta is obliged to submit every two years a report on national projections, policies and measures in accordance with article 3(2) of Decision No. 280/2004/EC of the European Parliament and of the Council of 11 February 2004 concerning a Mechanism for the Monitoring Community of Greenhouse Gases Emissions and for the Implementation of the Kyoto Protocol (PAMS Reports). The scope of these reports is to assess projected progress made by member states on greenhouse gas emissions limitations and reduction until the year 2020. The latest PAMS report was published in 2013.

With reference to the Kyoto Protocol, Malta will deposit the instrument of ratification to the amendments to the Kyoto Protocol that establish its second commitment period together with the EU and the other member states. In the interim Malta has concluded its internal ratification process. The amendments to the Kyoto Protocol that establish its second commitment period were adopted by the Conference of the Parties in Doha in 2012 and may be summarised as follows:

- new commitments for Annex I parties to the UNFCCC who agreed to take on commitment in the second commitment period under the Kyoto Protocol, which runs from 1 January 2013 until 31 December 2020;
- a revised list of greenhouse gases to be reported on by the parties to the second commitment period; and
- amendments to several articles of the Kyoto Protocol that specifically referenced issues pertaining to the first commitment period and which need to be updated for the second commitment period.

The adoption of these amendments to the Kyoto Protocol include an amendment to Annex B of the Kyoto Protocol with a prescribed target for Malta as part of the EU's common emissions reduction target for the second commitment period. It was agreed by the Environment Council in March 2012 that, under the second commitment period, the obligation for the EU and its member states would reflect those already established and adopted under EU legislation in force (EU Climate and Energy Package). Therefore, as a result of this ratification, Malta should not have further emission reductions commitments other than those already prescribed under the EU's Climate and Energy Package.

In order to address climate change issues the Maltese government launched a National Climate Change Adaptation Strategy in May 2012. The strategy addresses climate change adaptation in Malta and proposes a number of action points on a sector-by-sector basis.

## 7 Protection of fresh water and seawater

### How are fresh water and seawater, and their associated land, protected?

With regard to fresh water, the geostructural division of Malta has enabled the formation of two different types of groundwater bodies: the perched aquifers, which are limited to the north-western extent of the island, and the mean sea-level aquifer, which is located in the southern and central parts of Malta and western part of Gozo. A few freshwater springs can also be found in cases where the perched aquifer water table outcrops. In Malta, as in most Mediterranean countries, water is a scarce, over-exploited resource and desalination of seawater needs to be employed to meet household and industry demands. Today, the mean sea-level aquifers

are being abstracted at high rates both for public and private use. Problems associated with high abstraction rates include localised upconing of seawater and thus an increase in salinity. Other human-induced pressures include various activities that can be categorised as point and diffuse pollutants of groundwater.

Apart from the pollution risks from seagoing vessels, coastal seawater in Malta is under threat from other pressures, namely tourism, fish farming, over-fishing and other industry demands. The sea and seawater are not subject to private ownership although the government does, from time to time, grant concessions to specific industries (such as fish farming) and, in such cases, sea quality is monitored.

Fresh water is protected through regulations that control the discharge of dangerous substances into the aquatic environment (SL423.16 and SL504.20). SL449.57 on the Water Intended for Human Consumption Regulations concerns the quality of water intended for human consumption, with the objective of protecting human life from the adverse effects of any contamination of water intended for human consumption by ensuring that it is clean.

With regard to groundwater and inland water, Malta adopts a water policy framework that emulates EU Directive 2000/60/EC (SL423.20). SL423.20 seeks to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and ground waters. The Malta Resources Authority (MRA) has been designated as the authority responsible for the protection of Malta's groundwater and inland waters and MEPA as far as coastal water is concerned. SL504.39 on the Quality Required for Surface Water intended for the Abstraction of Drinking Water Regulations establishes the quality requirements which must be met by surface water after the application of the proper treatment. Surface water is defined by the regulation as fresh water used or intended to be used for the abstraction of drinking water.

Contamination of groundwater gives rise to criminal liability on the part of the offender and is specifically protected under the Protection of Groundwater against Pollution and Deterioration Regulations 2009 (SL423.36). Pollution caused to groundwater by nitrates from agricultural sources is specifically regulated (SL504.43). On the basis of this Regulation, the Maltese Code of Conduct of Good Agriculture Practice has been published by the competent authority. Recently, amendments have been made to the Nitrates Regulations that prescribe stricter conditions to further regulate pollution from nitrates. Moreover, in order to avoid lengthy court proceedings, the government recently adopted the possibility of applying administrative penalties that seek to rectify any wrongdoing with immediate effect, thereby avoiding court proceedings.

Extraction of groundwater (whether for private or industrial use) is controlled and permits are required (Borehole Drilling and Excavation Works within the Saturated Zone Regulations 2008, SL423.32).

Likewise, the filling of pools with water is regulated, requiring that this be done with fresh water to avoid harmful leakage of seawater into groundwater on which Malta is dependent. The sale and distribution of fresh water in bulk (typically extracted from boreholes and transferred to the buying public through truck-driven water bowlers) is also regulated in order to 'safeguard public interest and safety' (SL423.23).

Fresh waters that support fish life are also protected (SL504.42, Directive 78/659/EEC of 18 July 1978), although this has limited relevance in a Maltese context. The marine environment is also protected on the basis of the EU Marine Strategy Framework Directive 2008/56/EC that establishes a framework for community action in the field of marine environmental policy and complements the Water Policy Directive and in the context of the regional Barcelona Convention for the Protection of the Mediterranean Sea Against Pollution and the Washington Declaration on Protection of the Marine Environment from Land-Based Activities (1995). The EU Marine Strategy Framework Directive was transposed into Maltese legislation through the Marine Policy Framework Regulations 2011 (SL504.107). This Subsidiary Legislation established the office of the Prime Minister as the competent authority for the implementation of this regulation. To date, Malta has complied with the initial deliverables of the EU Marine Strategy Framework Directive. The upcoming deliverables include the establishment and implementation of a monitoring programme for ongoing assessment and regular update of targets, as mandated by the Directive, and to develop a programme of measures designed to achieve or maintain good environmental status. This programme should be developed by 2015 at the latest, and implemented by 2016.

Popular swimming bays as well as other sensitive areas (the sea area surrounding fish farming, the coastal waters exposed to the Maghtab waste

disposal site, the coastal waters close to a newly constructed ferry terminal) are continuously monitored for pollution and water quality. As a contracting party to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, Malta is bound by this regional framework convention and its protocols. The Mediterranean Action Plan has facilitated action on integrated coastal zone management (ICZM) through its Priority Actions Programme Regional Activity Centre, which assisted a number of Mediterranean states to undertake coastal area management projects. From 2000 to 2002 Malta benefited from funding under the Mediterranean Action Plan for a coastal area management programme (CAMP), which was aimed at introducing and applying the principles, methodologies and practices of sustainable coastal management in Malta, particularly in the north-west area. A major achievement for ICZM has been the adoption by the contracting parties of the Protocol on Integrated Coastal Zone Management in the Mediterranean in January 2008. Malta is signatory to this protocol. Coastal waters fall within the competence of MEPA.

## 8 Protection of natural spaces and landscapes

### What are the main features of the rules protecting natural spaces and landscapes?

At present terrestrial protected areas in Malta taken as a whole represent 20 per cent of the total land area of the Maltese islands (source: MEPA). Originally, the protection of natural spaces in Malta was dealt with on an ad hoc basis, with particular areas of natural beauty and value being declared a 'nature reserve' either under an act of parliament or under subsidiary legislation. One such case is the little island of Filfla off the west coast of Malta, which is protected as a nature reserve in terms of Act XV/88; access to the island is restricted (except by permission for educational and scientific purposes) and all flora and fauna are protected. Other small islands are also similarly protected, namely Selmunett Island, also known as St Paul's Island (SL504.05) and Fungus Rock (SL504.01). The government has also designated a large tract of country in the north-west of the mainland as a park (the Majjistral, Nature and History Park (SL504.82)).

Since then, the Habitats Directive (EU Directive 92/43/EEC) has come to the fore, having been transposed into Maltese law in 2003 (SL504.73). This legislation also serves to implement a number of conservation and biological diversity conventions. On the basis of this legislation, MEPA has declared various locations in Malta to be protected as candidate Natura 2000 sites, whether as special protection areas (13 sites) or special areas of conservation (SACs) (28 sites) or other types of protected areas. These 28 candidate SAC sites, selected by Malta in terms of the directive, have been proposed to the EU Commission and endorsed by the latter. The designation of such sites as Natura 2000 is intended to protect and conserve the ecology of these islands. They include Old Holm Oak forest remnants (Il-Ballut, limits of St Paul's Bay), pine and oak woodlands as at Buskett, garrigue and phrygana as at Dingli Cliffs and Comino, sand dunes as at Ramla l-Hamra and coastal cliffs such as those on the west coast of mainland Malta. More recently, regulations concerning infrastructure for 'spatial information' have been published (SL504.89). These regulations came into force in December 2009 and concern, principally, the sharing and accessibility of information and data that also focus on the environment.

In 2000 Malta signed the European Landscape Convention, although it has not ratified it yet. Meanwhile, MEPA has carried out a national Landscape Assessment Study. The study mapped out 'landscape sensitivity areas', of which 'very high' and 'high' landscape sensitivity areas cover 51 per cent of the Maltese islands. One of the principal tools for landscape protection is legal designation under the provisions of the EDPA (originally under the DPA) as areas of ecological importance (AEIs), sites of scientific importance (SSIs) and areas of high landscape value (AHLVs).

The Landscape Assessment Study highlights the features that influence the dynamic Maltese landscape. The study was undertaken in the light of the revision to the Structure Plan for the Maltese islands and within the framework of the European Landscape Convention. The term 'landscape' refers to the visual aesthetic component of the surrounding environment. This definition is compatible with that of the European Landscape Convention as it addresses the perception factor of a landscape through the human mind.

MEPA is empowered to issue conservation orders to protect natural spaces (EDPA article 81).

The EDPA provides for the preparation of a Strategic Plan for Environment and Development that is to regulate the sustainable

management of land and sea resources in the context of sustainable development and the safeguarding of future generations. The legislation introduces the concept of spatial planning that encompasses a more comprehensive approach to development planning than traditional land-use planning to ensure a better quality of life.

## 9 Protection of flora and fauna species

### What are the main features of the rules protecting flora and fauna species?

The Maltese islands harbour a diverse array of flora and fauna, especially when considering the relatively small land area, the limited number of habitat types and the intense human pressure. Malta's biodiversity shares affinities with other areas of the Mediterranean, not only in view of its central position, but also in view of historical land bridges. Some of the earliest legislation at the start of the previous century (GN269/33) already dealt with issues concerning the protection of Holm oak, ash trees and olive trees that were more than 200 years old, under the guise of the protection of the islands' 'antiquities'. Notwithstanding the dearth of legislation protecting the environment in Malta, some legislation trickled into this area, such as the regulations concerning the protection of wild thyme (GN85/32) and those concerning the protection of conifer trees (GN328/49). Currently, it is the Habitats Directive (EU Directive 92/43/EEC) transposed into Maltese law (SL504.73, as quoted above) that dominates in this area. The aim of the subsidiary legislation which transposes the directive is the conservation of natural habitats, flora and fauna. This legal notice sits side-by-side with the Tree and Woodland Protection Regulations (SL504.16) that protect various categories of trees and also cater for protected areas and alien species. The Plant Quarantine Act, Chapter 433 of the Laws of Malta, controls the trade in plant material, plant pests and diseases and indirectly contributes to the welfare of biodiversity. Trade in certain species of fauna and flora is also protected (SL504.64) in terms of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) that Malta has adopted in its entirety.

With regard to fauna, reptiles are specifically protected (SL504.02); other fauna fall within the subsidiary legislation mentioned above.

Wild birds are protected through SL504.71, which deals with the conservation of wild birds. The legal notice seeks to protect wild birds by prohibiting a number of activities including hunting. The law also lists illegal methods for capturing wild birds. SL504.95 on the Conservation of Wild Birds (Declaration of the Periods for Hunting in Autumn-Winter 2013-2014) introduced a hunting period of birds on land between 1 September 2013 and 31 January 2014, and the hunting of birds at sea between 1 October 2013 and 31 January 2014. Moreover, SL504.117 on the Conservation of Wild Birds Declaration on a Derogation for a 2014 Spring Hunting Season for Turtle Dove and Quail establishes the dates and applicable quotas for spring hunting.

Malta is a contracting party to and has adopted the Convention on Biological Diversity (Rio de Janeiro 1992), transposed directly into Maltese law in 2002 (SL504.50). Among other things, the convention has led to the continuing development of a National Biodiversity Strategy and Action Plan that aims to implement the convention on a national scale (for more information see [www.mepa.org.mt](http://www.mepa.org.mt)).

The 2012 NEP reveals various plans to continue to strengthen and implement legislation in this area. According to the policy document, the government plans, inter alia, to update the red list of threatened Maltese species by 2016, boost efforts to safeguard species and habitats in the context of the Natura 2000 network to ensure improved sufficiency of coverage by 2015 and also draw up the necessary management plans for terrestrial Natura 2000 sites by 2013. The 2012 NEP also envisages the drawing up of an action plan to restore at least 15 per cent of damaged ecosystems by 2020. Meanwhile, on 28 February 2012, the Ministry for Tourism, Culture and the Environment and MEPA published the draft National Biodiversity Strategy and Action Plan (NBSAP) for Malta. NBSAP provides a comprehensive framework for safeguarding Malta's biodiversity over the period 2012 to 2020, as required by the National Environmental Policy. The NBSAP has been given the theme 'working hand-in-hand with nature' and a long-term vision that 'all Maltese citizens will value the importance of Malta's biodiversity and work hand-in-hand with nature in their daily lives'.

## 10 Noise, odours and vibrations

### What are the main features of the rules governing noise, odours and vibrations?

The applicable regulations on environmental noise (or noise pollution, as it is sometimes referred to) are intended to avoid, prevent or reduce the harmful effects and annoyance created by exposure to environmental noise (SL504.63, adopting EU Directive 2002/49/EC). The main features laid down in the regulations, on the basis of which the above are to be achieved, are the following:

- determining exposure to environmental noise through noise mapping;
- ensuring that information on environmental noise and its effects is made available to the public; and
- adoption of action plans, based upon noise-mapping results, with a view to preventing and reducing environmental noise where necessary and particularly where exposure levels can induce harmful effects on human health, and preserving environmental noise quality where it is good.

The Noise Emission in the Environment by Equipment for Use Outdoors Regulations 2002 (SL427.19) regulate noise emissions from non-powered equipment intended for environmental applications and used outdoors, albeit the regulations' applicability is restricted to the exhaustive list of items of equipment set out in its schedules. The control of 'vibrations' is regulated under the IPPC and the construction site management regulations, both mentioned above. Vibration generated from quarrying is regulated on the basis of the minerals subject plan approved by the Planning Authority Board, March 2002, in terms of the then DPA section 24 together with the adjoining code of practice for quarry workings and restoration. Odours are controlled by the authorities through general permitting requirements, such as trading licences or environmental permits, according to circumstances.

The 2012 NEP envisages the preparation of an action plan on environmental noise and the review of noise legislation related to neighbourhood noise. Meanwhile a white paper entitled 'Neighbourhood Noise Prevention, Abatement and Control' has been published by the authorities.

## 11 Liability for damage to the environment

### Is there a general regime on liability for environmental damage?

The regulation of liability for environmental damage arises in very general terms under the Civil Code, which provides a legal regime for 'liability for damage' generally that is not specific to the environment. The code contemplates civil liability in situations where the person causing harm is responsible for damage caused towards the person who actually suffered the relative loss. Under Malta's legal system, only material (or real) damages, including loss of future profits, may be claimed by the person who suffers the harm. Moral, psychological or penal damages are not permitted in such cases.

The general rules under the Civil Code are supplemented with specific environmental legislation that deals with particular environmental issues. Specific environmental legislation addresses in most, if not in all, cases criminal liability, in which case a person found guilty by a court of law can be sentenced in some of the more serious cases to imprisonment, and in less serious cases to a penalty. The Criminal Code and the Code of Police Laws and 'older' legislation in certain instances continue to provide for criminal liability in very general terms.

Malta adopted the Prevention and Remedying of Environmental Damage Regulations in 2008 (SL504.85) implementing the provisions of EU Directive 2004/35/EC. These regulations apply to 'environmental damage' caused by certain defined occupational activities (Schedule III) and to any imminent threat of such damage occurring by reason of any of those activities. With regard to protected species and natural habitats, the regulations apply to damage caused by any occupational activity and to imminent threat of such damage therefrom in cases where the operator is at fault or negligent. Standard defences can be brought by the wrongdoer in opposition of claims levied against him or her, whether in civil or in criminal law. In civil actions, for example, the defence that the damage is not a direct consequence of the breach (lack of *causa nexus*) would be available to the wrongdoer.

## 12 Environmental taxes

### Is there any type of environmental tax?

The main objective of the Eco-Contribution Act (Chapter 473, Laws of Malta) supplemented by various other regulations (SL473.01 to 473.06) is to provide for the levying of an eco-contribution on products that generate end-of-life products or waste, with the ultimate aim of ensuring better disposal, reuse and recycling management. Consumers pay a tax, or an eco-contribution, to the state when placing on the market certain products identified in the act as contributing to different waste streams. Eco-contribution arises once the products are placed on the market, so it is only the final product that is subject to this tax. Eco-contribution is intended to discourage the use of certain environmentally harmful products by imposing upon consumers of those products the obligation to make a contribution. Other taxes are payable to the authorities independently of eco-tax, and double taxation may occur. Refunds and exemptions from eco-tax only arise in certain specific limited circumstances, on specific scheduled items placed on the market and provided that the producer of packaging waste participate in an approved recovery scheme.

## Hazardous activities and substances

### 13 Regulation of hazardous activities

#### Are there specific rules governing hazardous activities?

Although there is no specific legislation that addresses hazardous activities, invariably such activities will fall within the remit of existing environmental legislation and the requirements thereunder including those relating to licensing. For example, an activity consisting of transboundary movement of toxic substances is controlled in terms of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal of 22 March 1989 (implemented locally through SL504.15).

In August 2003 MEPA issued a supplementary planning policy guidance entitled 'Major accidents, hazards and hazardous substances'. This document sets out a land-use planning policy framework for the control of development involving hazardous substances and of development close to installations using or keeping hazardous substances. The overall objective is to reduce the number of people at risk and to reduce the likelihood and the extent of harm if an accident occurs. This planning policy and the procedures for implementing it form part of a wider local response to applying the Seveso II Directive.

### 14 Regulation of hazardous products and substances

#### What are the main features of the rules governing hazardous products and substances?

The main feature of the rules governing hazardous products and substances is that of achieving a high level of protection from chemicals by requiring the producers of chemicals to identify the intrinsic hazards of the chemicals they manufacture or import (ie, to 'classify' chemicals according to their dangers such as flammability, toxicity, carcinogenicity); to label these chemicals according to strict rules (ie, warnings about the dangers and safety advice); and to package them safely. The law in Malta regulating such products and substances is principally made up of EU regulations, namely Regulation (EC) No. 1272/2008 concerning the classification, labelling and packaging of substances and mixtures and Regulation (EC) No. 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and establishing a European Chemicals Agency. REACH is designed to manage and control the potential hazards and risks to human health and the environment from the manufacture, import and use of chemicals within the EU and at the same time enhance the competitiveness of European industry by fostering innovation. The Dangerous Substances Regulations, SL427.14 as amended, transpose the Dangerous Substances Directive (DSD) 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances. SL427.28 on Dangerous Substances and Preparations Regulations transposes the Dangerous Preparations Directive (DPD) 1999/45/EC of the European Parliament and of the Council of 31 May 1999 concerning the classification, packaging and labelling of dangerous preparations.

Otherwise, certain particular substances are regulated by subject-specific legislation, such as pesticides, explosives, fertilisers, asbestos and so on. The regulations and their enforcement fall within the responsibility

of the Malta Competition and Consumer Affairs Authority, specifically its Technical Regulations Division.

Hazardous waste is specifically regulated under waste legislation as mentioned above (SL504.78 incorporating EU Directive 91/689).

## 15 Industrial accidents

### What are the regulatory requirements regarding the prevention of industrial accidents?

The Seveso II Directive (Directive 96/82/EC on the control of major-accident hazards involving dangerous substance) has been transposed into Maltese law through the Control of Major Accident Hazards (COMAH) Regulations (SL424.19). Seveso is the principal legislation in Europe relating to the prevention and control of chemical accidents. Eleven COMAH establishments have been identified in Malta, six of which are upper-tier sites. The establishments are all designated as COMAH sites due to the type and quantity of fuels stored at the facilities.

Issues relating to measures intending to prevent industrial accidents are normally also addressed in the exchanges between the authorities and the industrialists that precede the granting of operating licences or development and other permits (including IPPC permits) or both. Invariably, the measures that the authorities will determine as necessary for the safe operation of the industry or its development (or both) will be imposed in such permits as may be required, including any IPPC permit that may apply.

Environmental measures imposed upon the industrialist are also, normally, in close affinity with occupational health and safety requirements and often there is a high degree of overlap. MEPA or the Occupational Health and Safety Authority (or both) will require the applicant to file with MEPA and with other authorities prevention plans, both within the company and in relation to the community, measures to prevent the 'domino' effect, implications in urban planning and such other safety requirements in anticipation of the issuance of the required permits.

## Environmental aspects in transactions and public procurement

### 16 Environmental aspects in M&A transactions

#### What are the main environmental aspects to consider in M&A transactions?

In cases where companies merge, the newly created, merged company will assume the liabilities of the companies that it succeeds and will be expected to answer for any environmental wrongdoing committed by the merging companies.

In those cases where a company acquires shares in another company that would have committed prior to the acquisition a wrongdoing, the acquiring company qua shareholder cannot be held liable for the wrongdoings of the target company unless the acquiring company directly participated in that wrongdoing. In other words, the liability of the company cannot be passed on to the company's shareholders unless the action in question falls within a very limited category of cases where the piercing of the corporate veil is specifically allowed by law or in exceptional cases specifically provided for by law. Such cases are very limited and, generally speaking, occur when fraud is proven. Hence the purchaser of shares does not itself take on the environmental liability of the company; any liability would continue burdening the company as distinct from its shareholders.

The same considerations will apply in the case of an investor acquiring shares in a company that carries out activities that have an environmental aspect. Shareholders will not want to acquire shares in a company that operates under an environmental permit that may be revoked on account of previous wrongdoing.

In the context of mergers, it has become the practice in Malta for the parties to include in the relative agreement specific environmental warranties. In acquisitions, such warranties would be granted by the acquired company in favour of the acquiring company and would cater for potential environmental liabilities arising from the assets held by the target company. Unless such environmental warranties are specifically agreed upon between the merging parties contractually, they do not arise *ex lege*. This is because, under Maltese law, there is no affirmative duty on the part of the target company to disclose environmental problems to the acquiring company if such problems are apparent or can be readily ascertained by the acquirer. If an environmental problem is not apparent or if it is 'latent', the acquirer can annul the deal claiming the existence of a latent defect in the object of the transaction.

Nevertheless, there is a duty on the part of the target company to act in good faith. The duty to act in good faith is a general principle of Maltese law and arises automatically – the parties need not mention it in the contract. The acquiring party will be in a position, therefore, to bring an action against the target company if the failure on the part of the latter to disclose an environmental problem is deemed to be tantamount to a failure on the part of the target company to act in good faith or tantamount to fraud or deceit. This would be the case if the environmental problem that was not disclosed to the acquiring company is of considerable gravity and was intentionally camouflaged by the seller. Furthermore, a purchaser would also have a remedy against the seller if the buyer demonstrated successfully that the environmental problem that was not disclosed renders the object purchased unfit for its intended use or diminishes its value. Invariably, therefore, it will be in the seller's interest to disclose environmental problems to a potential purchaser, particularly if such problems affect the sale in the sense just described.

### 17 Environmental aspects in other transactions

#### What are the main environmental aspects to consider in other transactions?

In financing transactions, unless the lender's collusion with the wrongdoer is actually proven or unless fault or negligence is directly attributable to the lender, liability of the latter for environmental wrongdoing does not arise. The concept, evident in some jurisdictions, of deeming the lender to be an accomplice with the borrower in committing an environmental offence, attributing in that way liability to the lender for the wrongdoing of the borrower, is as yet completely alien to Maltese law.

In cases relating to real estate transactions (referred to as acquisition of immoveables), although the new owner will not be held responsible for any environmental wrongdoing caused by the previous owner prior to the acquisition of the asset, the environmental permit attached to the holding or operation of that asset may be revoked when that wrongdoing is discovered by the authorities, and it will be no legitimate excuse for the new owner to argue that the wrongdoing was caused at a stage when it was not the owner. The acquirer may also lose control over that asset once environmental officers impound it and operations are brought to a halt. Therefore, even though the new owner may not be held responsible for the actions of the previous owner, the former has an interest in ensuring, prior to purchase, that all is in order even from an environmental point of view.

### 18 Environmental aspects in public procurement

#### Is environmental protection taken into consideration by public procurement regulations?

Public procurement procedures are governed by SL174.04, the Public Procurement Regulations. These regulations stipulate that, in the contract documents, contracting authorities may lay down special conditions relating to the performance of a contract, provided that these are compatible with EU law and are indicated in the contract notice or in the specifications. The conditions governing the performance of a contract may, in particular, concern social and environmental considerations. Contracting authorities shall set out technical specifications for public contracts and these shall be included in the contract document, without prejudice to the legally binding technical rules in Malta. Insofar as these are compatible with European law, the technical specifications shall be formulated in terms of performance or functional requirements. The latter may include environmental characteristics. However, such parameters must be sufficiently precise to allow tenderers to determine the subject matter of the contract and to allow contracting authorities to award the contract. Where contracting authorities lay down environmental characteristics in terms of performance or functional requirements, they may use the detailed specifications or, if necessary, parts thereof, as defined by European, national or multi-national eco-labels, or by any other eco-label, provided that:

- those specifications are appropriate to define the characteristics of the supplies or services that are the object of the contract;
- the requirements for the label are drawn up on the basis of scientific information;
- the eco-labels are adopted using a procedure in which all stakeholders, such as government bodies, consumers, manufacturers, distributors and environmental organisations can participate; and
- they are accessible to all interested parties.

Further to this, the contracting authority may state in the contract documents, or be obliged by the Director of Contracts to do so, the body or bodies from which a tenderer or candidate may obtain the appropriate information on the obligations relating to taxes, to environmental protection, to the employment protection provisions and to the working conditions which are in force in Malta, or the region or locality in which the works are to be carried out and which shall be applicable to the works carried out on site during the performance of the contract.

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## Environmental assessment

### 19 Activities subject to environmental assessment

#### Which types of activities are subject to environmental assessment?

Certain developments, because of their nature, extent and location or on account of other environmental considerations, will require an environmental impact assessment (EIA) before a decision on development permission is taken by MEPA. The categories of projects that require an EIA are described in the Environmental Impact Assessment Regulations (SL504.791), dividing the types of development projects into two categories depending on their relative impact on the environment.

In general, large-scale projects and, particularly, polluting industries would be subject to the said legislation and require an EIA. Additionally, MEPA itself can demand that an EIA is carried out if it assesses the proposed development to have a significant impact on the environment. MEPA's assessment is made on criteria set out in the regulations. The EIA itself is not the licence but part of the process leading to it.

With effect from 30 December 2005, a further level of assessment was introduced. Governmental plans and programmes that are 'likely to have a significant effect on the environment' are subject to an SEA. The relative regulations on SEA (SL504.102, transposing the SEA Directive 2001/42/EC) provide a high level protection of primarily but not exclusively the environment. They contribute to the integration of environmental and health considerations by means of plans and programmes with a view to promoting sustainable development by ensuring that a strategic environmental assessment is carried out on plans and programmes that are likely to have a significant effect on the environment. The SEA Audit Team, which was specifically set up to oversee the implementation of the SEA Regulations, is now known as the SEA Focal Point.

The Plans and Programmes (Public Participation) Regulations, 2006 (SL504.69) implement the provisions of article 2 of Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003, providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment.

An EIA ultimately serves as a tool to achieve environmentally sound and sustainable development proposals, activities and programmes.

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### 20 Environmental assessment process

#### What are the main steps of the environmental assessment process?

The first step in the EIA process is the submission of a proposal. The proposal is screened by MEPA for a decision to be taken as to whether an EIA is required. If an EIA is required, the applicant is informed whether an environmental impact statement (EIS) or an environmental planning statement (EPS) will be required. These are prepared by the developer and submitted to MEPA. An EIS is a full EIA study presented as a report that describes the development. An EPS, on the other hand, is a limited EIA covering fewer topics, requested for certain smaller scale developments. At this stage the terms of reference (TOR) for the study are formulated by MEPA. Once the TOR are ready, consultants collect data and prepare reports within their respective discipline, where impacts and mitigation measures are proposed. Once the study is finalised, the EIS or EPS which incorporates the findings and the procedures adopted is produced and is reviewed and assessed by MEPA. The public are usually involved in this review stage and their opinion taken into account in decision-making. The process then moves for a decision to be taken in the light of the reports and the views received from the public. The EIA process does not end when the decision is taken; should a development be approved and subjected to conditions such as monitoring then the EIA continues. This stage is known as 'post-decision follow-up'.

Where an SEA is required in terms of the Strategic Environmental Assessment Regulations, the strategic environmental assessment must be

carried out during the preparation of a plan or programme and before its adoption or submission to the legislative procedure. The starting point is the drafting of a report in which the likely significant effects on the environment of implementing the plan or programme, and reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme, are identified, described and evaluated. The report together with the relevant plan or programme is then submitted to the relevant authorities and the public who will have a timeframe within which to express their opinions on the draft plan or programme and the report. These regulations also provide for consultation with other relevant states where the plan or programme could have significant environmental effects in other states. Feedback from the consultations with the relevant authorities, the public and any other state are then taken into consideration when the relevant plan or programme is being adopted and this is then subjected to monitoring by the responsible authority.

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## Regulatory authorities

### 21 Regulatory authorities

#### Which authorities are responsible for the environment and what is the scope of each regulator's authority?

MEPA is responsible for implementing environmental law and policy. MEPA is a statutory authority, independent of the government, originally set up under the DPA and presently regulated by the EDPA. It plays the role of the competent authority that takes charge of planning and environmental matters in Malta (SL504.34). It is very active in this respect and as such has the leading role. Invariably, enforcement of environmental law is principally carried out by MEPA through the hand of its enforcement officers.

Various aspects of environmental law enforcement, however, fall (occasionally, jointly with MEPA) within the portfolio of other state entities such as Transport Malta, the Malta Resources Authority (MRA), the Malta Competition and Consumer Affairs Authority (MCCAA) particularly its Technical Regulations Division and its Standards and Metrology Institute, the executive police and the local wardens.

The Sustainable Development Act, Chapter 521 of the Laws of Malta, defined the responsibilities of the National Commission for Sustainable Development (NCSDD), set up in February 2002 in the aftermath of the United Nations Conference on Environment and Development. The NCSDD has in the meantime been abolished and its portfolio passed to the Office of the Prime Minister, which has been designated as the competent authority for the purposes of this act. The purpose of the act is to create a framework through which sustainable development is to be mainstreamed across government and, within the context of the private sector and civil society, seeks to enable the raising of awareness of the principles of sustainable development such that these may be adopted on a voluntary basis. The act sets up two new entities. The first is a commission known as the Guardian of Future Generations, which aims to safeguard inter-generational and intra-generational sustainable development in Malta. It convenes at least every quarter and its mandate is that of, inter alia, promoting sustainable development advocacy, developing a scientific research network that could positively contribute towards the sustainability of society, developing audits and proposing goals. The second entity is the Sustainable Development Network, which is set up with the aim of promoting sustainable development in Malta and which also convenes at least every quarter. There are other bodies with specific tasks, such as the Department for Parks, Afforestation and Countryside Restoration, responsible for the national and regional recreational parks, and for afforestation under the responsibility of the Ministry for Sustainable Development, the Environment and Climate Change. As mentioned above, the Strategic Environmental Assessment Focal Point has replaced what used to be the Strategic Environment Assessment Regulations (SL504.102) and took on its function of overseeing of the implementation of the new SEA regulations of 2010, which implement the EU SEA Directive (Directive 2001/42/EC). WasteServe Malta Ltd is responsible for providing waste management infrastructure, which it administers at a national level.

Following the elections of March 2013, the Maltese government has introduced a new ministerial portfolio on sustainable development, the environment and climate change. Owing to the interdependence between climate change, sustainable development and the environment, the new portfolio seeks to address these issues and challenges in a holistic manner while taking into account the relevant EU legislation on this matter.

The EDPA has also introduced a number of other bodies to the Maltese environmental scene. For instance, the Heritage Advisory Committee,

which consists of two panels, one dealing with cultural heritage and another with natural heritage, and the Standing Committee on Environment and Development Planning, which is intended to discuss plans or policies and report thereon to Parliament. A Users' Committee is also provided for with the functions of supervising the general functioning of MEPA so as to ensure, in the interest of the general public, an expeditious and fair process and transparency and uniformity in the authority's decisions and actions.

## 22 Investigation

### What are the typical steps in an investigation?

Typical steps involved in an investigation include assessment of the complaint or the facts by the authorities, on-site inspections, inquiries, documentation and collection of evidence and the taking of submissions of interested parties. Interim measures are also possible. Apart from MEPA, other authorities such as the Merchant Shipping Directorate of Transport Malta (TM and previously the MMA), are involved in carrying out investigations – in these cases such investigations will typically relate to oil spills committed either in Malta's territorial seas or outside Malta by Maltese-registered ships. In principle, regulatory authorities may investigate and monitor any complaints and will check whether they are justified. In numerous cases, if *intra vires*, regulator authorities will also have the power to take the necessary action to ensure enforcement according to Maltese Law. Regulator authorities may also have the power to monitor and investigate matters falling within their remit, for example an enforcement officer at MEPA would generally monitor development in his or her area in order to detect development occurring without permission and take the appropriate enforcement action.

## 23 Administrative decisions

### What is the procedure for making administrative decisions?

In principle, decisions are discretionary as long as they are *intra vires* and conform to the law. In numerous cases, prior consultation is legislatively imposed and will form part of the procedure that must be followed for a decision to conform with legal requirements. Consultation may be both oral or written, and parties have an opportunity to make the relevant submissions. Evidence which may be used by parties depends on the procedure which is being adopted. Additionally, from time to time, authorities issue guidelines and policy papers; in such cases, the procedure for such decisions will be required to respect any procedure contemplated therein.

## 24 Sanctions and remedies

### What are the sanctions and remedies that may be imposed by the regulator for violations?

In practice, sanctions can be light, such as warnings to the operators, but in other cases sanctions can be substantial, such as the imposition of hefty fines and, in those cases where the environmental wrongdoing amounts to an offence, criminal liability arises, in which case imprisonment or revocation of licences or permits (or both) are envisaged in the law. Administrative penalties as mentioned above, are considered an important tool in this regard.

## 25 Appeal of regulators' decisions

### To what extent may decisions of the regulators be appealed, and to whom?

The general rule of thumb is that a right of appeal always arises from a decision of an authority. For example, in the case of development permits concerning land or property, if an applicant considers that the conditions imposed upon a development permission, or the refusal of such a permission, are unreasonable, it may either request MEPA to reconsider its decision or alternatively lodge an appeal with the Environment and Planning Review Tribunal (EDPA sections 41, 73 and 74), which performs the functions and obligations that used to pertain to the Planning Appeals Board originally constituted under the old DPA. The Planning Appeals Board now remains in existence solely for the purpose of hearing appeals pending before it that, before 31 December 2010, had been deferred for decision (EDPA section 97(5)). A further and final appeal may be lodged with the Court of Appeal (EDPA section 41(6)). In the latter case, appeals are restricted to points of law. Appeals from refusals of (or from the imposition of conditions on) other permits emulate, more often than not, the

same structure as for land permit appeals. It is also possible to have an administrative action reviewed judicially when claimed to be *ultra vires*, as explained above. Additionally, aggrieved parties have the option of presenting a complaint to the ombudsman, albeit in such cases a favourable recommendation from the ombudsman will not necessarily mean that the organ of the state concerned will necessarily abide therewith (albeit in most cases it does).

## Judicial proceedings

## 26 Judicial proceedings

### Are environmental law proceedings in court civil, criminal or both?

Environmental proceedings in court are characterised as either civil or criminal, depending on their nature. An act or omission could give rise to both civil and criminal proceedings, albeit the respective trials are independent of each other. Environmental proceedings can also consist of judicial review of administrative action or a constitutional dispute.

## 27 Powers of courts

### What are the powers of courts in relation to infringements of environmental law?

In civil matters, the courts can award damages or the rectification of the wrongdoing, whereas in criminal cases the courts can impose fines, penalties or order imprisonment in more serious cases. The court has the power on a request by the aggrieved party or the authority to take interim measures pending a final decision. For example the court may stop illegal works from being carried out until their legality is determined.

The Environmental and Planning Tribunal established by Chapter 504 may, at the request of the appellant made concurrently with the application for appeal, suspend through a partial decision, in whole or in part, the execution of any development or the operation of any installation pending a decision being delivered by the said tribunal, under those terms, conditions and other measures as it may deem fit. This is provided that the application, with the exception of applications relating to developments or installations which relate to environmental impact assessment or IPPC matters, is not for a development which, in the opinion of the Minister, is of strategic significance or of national interest, related to any obligation ensuing from an EU act, affects national security or affects interests of other governments.

## 28 Civil claims

### Are civil (contractual and non-contractual) claims allowed regarding infringements of environmental law?

Non-contractual breaches or infringements for violation of the law or for tortious actions (see question 11) make up the large majority of claims. However, a contractual claim for an environmental wrong-doing would also be allowed if that claim amounts to a contractual violation under general principles of breach of contract.

## 29 Defences and indemnities

### What defences or indemnities are available?

All defences under general principles of law apply. For example, the local 'statute of limitations' (under the Civil Code) can serve to neutralise an action for damages suffered as a consequence of an environmental wrongdoing: such claims would, generally speaking, be time-barred after the lapse of two years from the time the wrongdoing is committed. Strict or vicarious liability only applies exceptionally, if at all. In fact, under general principles the party responsible at law must answer for the damage caused by his or her action up to that degree and no more: joint and several liability applies in those cases where it is specifically provided for (section 1089, Civil Code). One instance where joint and several (in *solidum*) liability occurs is where two or more persons cause damage maliciously. In such cases their liability to make good the damage will indeed be joint and several. If some of the offenders acted with malice and others without, the liability of the former will be joint and several while the latter will only be liable for the part of the damage that they may have caused (section 1049, Civil Code). Otherwise, in cases where the part of the damage that has been caused cannot be ascertained, the injured party is entitled to claim that the whole damage be made good by any one of the tortfeasors even

### Update and trends

Amendments have been made to the Environment and Planning Act, Chapter 504 of the Laws of Malta. These amendments were brought into force by Legal Notice 223 of 2014. The amendments relate to the procedure adopted by the Environment and Planning Tribunal. Most notably we highlight that members of the public who have sufficient interest shall have access to a review procedure before the Tribunal to challenge the substantive or procedural legality of any decision, act or omission relating to a development or an installation which is subject to an EIA or an IPPC permit. In this context, the interest of any non-governmental organisation promoting environmental protection and which is registered under the Voluntary Organisations Act shall be deemed sufficient. Another amendment worth highlighting relates to applications decided by the cabinet of Ministers in accordance with Chapter 504. A decision by the Cabinet of Ministers which relates to a development or an installation which is subject to an environmental impact assessment or an IPPC permit may, upon an application by the appellant or by an interested party which may include a non-governmental organisation (having as one of its purposes the promotion of environmental protection and being registered under the Voluntary Organisations Act), be subject to appeal on matters of substantive and procedural legality to the Court of Appeal in its superior jurisdiction. The amendments also establish that the authority shall ensure that

detailed information is made available to the public concerning access to appeal procedures before the Environment and Planning Tribunal and before the Court of Appeal. This includes information on the rights of any person to institute appeal proceedings, and shall give information on legal time limits and on mandatory fees payable in respect of such proceedings, including through publication on the electronic website of the authority. The amendments seek to provide a better access to the Environment and Planning Tribunal.

In a positive step, in January 2014 the Minister responsible for waste management launched the Waste Management Plan for the Maltese Islands. The Waste Management Plan for the Maltese Islands also incorporates the Waste Prevention Plan. Further, the government, in collaboration with MEPA, has finalised two consultation documents with the salient features that will characterise the setting up of the new Development Planning Authority and the Environment and Resources Authority.

We look forward to progress being made at a European and International level with respect to important global environmental dossiers which render local environmental laws more robust, if these are duly implemented. In particular, we look forward to the outcome of the EU 2030 policy framework for climate and energy and its implementation into Maltese Law.

though none or only some of the tortfeasors would have acted with malice. If the injured party, in such cases, decides to institute proceedings against only one of the tortfeasors, the respondent in those proceedings will be entitled to demand that all the persons causing the damage be joined in those proceedings. The court may apportion among them the sum fixed by way of damages, in equal or unequal shares, according to the circumstances. This exercise will not, however, prejudice the right of the injured party to insist not only that it be awarded the whole sum, but also that the sum awarded be recoverable from any one of the persons concerned. In other words, in such circumstances, the tortfeasors remain jointly and severally liable towards the injured party (section 1050, Civil Code).

### 30 Directors' or officers' defences

#### Are there specific defences in the case of directors' or officers' liability?

Under general principles, civil liability for damage committed by a company or other corporate body cannot be attributed to a director or other officer of the company. The exceptions to this rule of thumb are normally linked to cases where directors commit fraud or wrongful trading, in which case specific defences provided for in the Companies Act, Chapter 386 of the Laws of Malta, can be raised (inter alia, section 316, Companies Act). Where the liability is of a criminal nature, different rules apply; the punishment levied for the offence committed will be attributed to the person who, at the time of the commission of the offence, was a director, manager, secretary or other similar officer, or was purporting to act in any such capacity, unless that person manages to prove in court that the offence was committed without his or her knowledge and that he or she exercised all due diligence to prevent the commission of the offence (Interpretation

Act, Chapter 249, section 13). If the offence arising from the environmental wrong is deemed not to be a corporate wrongdoing but to have been committed by the director or officers personally, then the latter would be liable for their wrongdoing in accordance with general principles of law.

### 31 Appeal process

#### What is the appeal process from trials?

Criminal offences or civil actions may be appealed from the Court of First Instance. An appeal from a judgement of a court of first instance is lodged by application filed in the relative court of appeal. There is no right to a further appeal from a judgment of a court of appeal. The Court of Appeal's decision is final. There are very specific and limited instances where a retrial is allowed. In cases where a violation of a constitutional right is claimed, the court may refer the constitutional issue to the court that enjoys constitutional jurisdiction for the matter to be decided by the latter court. From that decision, an appeal may be lodged to the Constitutional Court, the highest and most superior court of Malta.

### International treaties and institutions

### 32 International treaties

#### Is your country a contracting state to any international environmental treaties, or similar agreements?

Yes. Malta is a party to numerous international conventions protecting the environment, among others: the UNFCCC and its Kyoto Protocol - Malta was the first EU member state to internally ratify the amendments to the Kyoto Protocol that establish its second commitment period; the UN Convention on the Law of the Sea; the International Convention on

**GANADO**  
ADVOCATES

**Jotham Scerri-Diacono**  
**Annalise Caruana**  
**Lara Pace**

171 Old Bakery Street  
Valletta VLT 1455  
Malta

**jsdiacono@ganoadvocates.com**  
**acaruana@ganoadvocates.com**  
**lpace@ganoadvocates.com**

Tel: +356 2123 5406  
Fax: +356 2123 2372  
www.ganoadvocates.com

Civil Liability for Oil Pollution Damage; the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage; the Convention on the Prevention of Marine Pollution by Dumping of Wastes at Sea and other Matter; the Convention for the Protection of the Mediterranean Sea against Pollution; the Geneva Convention on Long-Range Transboundary Air Pollution; the EMEP Protocol to the Convention on Long-Range Transboundary Air Pollution; the Basel Convention for the Transboundary Movement of Hazardous Wastes and their Disposal; the Vienna Convention on the Protection of the Ozone Layer; the Montreal Protocol on Substances that Deplete the Ozone Layer; the Montreal Protocol; the Aarhus Convention on Access to Information and Access to Justice in Environmental Matters; the Treaty

Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water; and the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil thereof.

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### **33 International treaties and regulatory policy**

#### **To what extent is regulatory policy affected by these treaties?**

Multilateral environment agreements affect regulatory policy to a high degree - so much so that, when ratified, such agreements become law in Malta.



## Getting the Deal Through

Acquisition Finance	Dispute Resolution	Licensing	Public-Private Partnerships
Advertising & Marketing	Domains and Domain Names	Life Sciences	Public Procurement
Air Transport	Dominance	Mediation	Real Estate
Anti-Corruption Regulation	e-Commerce	Merger Control	Restructuring & Insolvency
Anti-Money Laundering	Electricity Regulation	Mergers & Acquisitions	Right of Publicity
Arbitration	Enforcement of Foreign Judgments	Mining	Securities Finance
Asset Recovery	Environment	Oil Regulation	Ship Finance
Aviation Finance & Leasing	Foreign Investment Review	Outsourcing	Shipbuilding
Banking Regulation	Franchise	Patents	Shipping
Cartel Regulation	Gas Regulation	Pensions & Retirement Plans	State Aid
Climate Regulation	Government Investigations	Pharmaceutical Antitrust	Tax Controversy
Construction	Insurance & Reinsurance	Private Antitrust Litigation	Tax on Inbound Investment
Copyright	Insurance Litigation	Private Client	Telecoms and Media
Corporate Governance	Intellectual Property & Antitrust	Private Equity	Trade & Customs
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