

Chapter XX

SPAIN

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I INTRODUCTION

i The transport finance industry

It is important to consider that the climate for transport asset financing in Spain does not significantly diverge from that of the general financing context. The legacy of the crisis has been excessive indebtedness, scarce credit, numerous restructurings, exceptionally strict conditions on the lending side and substantial concern and focus on insolvency legislation, among other repercussions. Today, the Spanish economy seems to be recovering, showing an increased appetite from investors, increased competition, debtors seeking to refinance, the return of corporate financing and a need to offer more tailor-made solutions to each borrower.

In this context, market standard clauses on loan transactions are being revisited: mandatory prepayments, undertakings, ratios, majorities and waivers, assignment clauses, a review of the role of agency, intercreditor agreements, etc. Also of note is the increasing regulatory pressure (Basel III, etc.) and the concentration of the domestic financial sector (including the restructuring of the savings banks sector).

Shipping

Spain's ship finance industry is largely driven by shipbuilding, a sector that has been considerably affected by the global credit crunch, resulting in fewer and more complex transactions. We have seen Spanish banks financing (traditionally foreign) shipowners building in Spanish yards, and increasingly resorting to export credit tools.

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Spanish banks' traditional approach to ship finance is based on a combination of project and corporate finance. Lenders typically seek out a stable long-term charter to back the financing, but invariably scrutinise the shipowner's balance sheet.

Another angle has been the granting of pre-delivery financing to Spanish yards to assist them in completing the construction of vessels, or in the issuance of refund guarantees, sometimes simply against the issuance by the shipowner's bank of a guarantee for the payment of shipbuilding milestones.

In view of this scenario, we cannot disregard the fact that the Spanish ship finance market is (and has been) shaped by the Spanish tax lease framework. The EU challenge negatively impacted domestic ship finance between 2011 and early 2015. The recuperation of the Spanish economy and approval at both domestic and EU levels of a new tax lease framework are currently revitalising the market.

Aviation

According to recent official statistics from the Spanish Ministry of Public Works and Transport, the aviation industry recovered in 2015, with over 9.85 million more passengers travelling compared with the preceding year. The economic crisis combined with the development of the high-speed train line for passengers between Madrid and Barcelona (one of the most profitable air links in the world) had caused the sector to suffer one of its worse periods in years. Nevertheless, long-haul routes are currently growing quicker in terms of passenger numbers and seats offered. Vueling, Ryanair, easyJet, Air Europa and Iberia lead the Spanish market. Within International Consolidated Airlines Group, Iberia (the former Spanish flag carrier) has undertaken an important readjustment in its lines and the airports it operates.

Turning to financing tools, as in the international market, the domestic market is driven by tax financial structures, particularly operating leases. Banco Santander, CaixaBank, Banco Sabadell and Banco Popular are the usual actors financing those transactions.

Rail

Spain is undertaking a comprehensive modernisation of the railway system, including the construction of a new high-speed network. Having been frozen during the worst years of the crisis, infrastructure works seem to be reactivated. The new regulatory framework and attempts to liberalise the passenger transport sector have bolstered the train finance market since 2013. Although the passenger market continues to be largely controlled by Renfe Operadora, several operators have attempted to enter the market, such as Acciona, Comsa, Alsa, Ferrovial and Continental. However, liberalisation attempts of passengers traffic have slowed down in the past year.

Significantly for the finance market, Renfe was divided into four companies, one being Renfe Alquiler de Material Ferroviario, in an attempt to emulate the United Kingdom's rolling stock operating companies (ROSCOs).

Given the limited domestic economic activity during the crisis, the trend by Spanish manufacturers (notably CAF and Talgo) has been to export rolling stock abroad with export finance support. The lack of funds from regional authorities has either halted or significantly slowed investments in light rail and subways, one of the drivers for many years. In that respect, there have been several more complex operating lease structures with Metro de Madrid for providing subway units in which finance leases are also used.

ii **Recent changes**

Shipping

Spain's ship finance industry will unquestionably benefit from the approval of the new tax lease framework based on the European Commission's decision of 20 November 2012. The entry into force of the Spanish Maritime Navigation Act 24/2014 reforms the Spanish Maritime Act, which was previously codified in the Commercial Code of 1885 and the Ship Mortgage Act of 1893.

Aviation

Two significant recent events are notable in the aviation sector. The first was the attempt to privatise Aena SA, the Spanish airports manager (the largest in the world), which was subsequently delayed. The second is Spain's ratification of the Cape Town Convention and its Aircraft Protocol, entering into force on 1 March 2016, which will attract investment to a sector suffering from lower prices and increased operating taxes.

Rail

The entry into force of the Spanish Rail Sector Act 38/2015 unified the Spanish Railway Act. In particular, it transposed Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area.

II LEGISLATIVE FRAMEWORK

i **Domestic and international law and regulation**

There are several notable provisions to take into account when financing the construction or acquisition of transport equipment. First, in the absence of an agreement or a specific act, the manufacture of transport equipment is regulated by the Spanish Civil Code, while the acquisition of transport equipment is regulated by the Commercial Code and, subsidiarily, by Spain's Civil Code.

Apart from this general rule, the following provisions specifically regulating each type of transport equipment should be considered when financing such equipment.

Shipping

The Maritime Navigation Act regulates the main aspects of shipbuilding contracts and sale and purchase agreements. Although the provisions are not mandatory, the shipbuilder cannot be exonerated from liability in the event of wilful misconduct or gross negligence.

Spain has a dual registration system for ships, vessels and naval artefacts. The Registry of Ships and Shipping Companies is the administrative registry for registering vessels that fly the Spanish flag. Vessels flying the Spanish flag are bound by Spanish tax, employment, documentation and safety regulations.

The Chattel Registry is a private registry that contains information in its ships section regarding the ownership and encumbrance of ships, vessels and naval artefacts to provide legal certainty in related matters. Third parties have standing to challenge information registered in the Chattel Registry.

All ships, vessels and naval artefacts, including those under construction, may be subject to a ship mortgage pursuant to the provisions of the Maritime Navigation Act and

the International Convention on Maritime Liens and Mortgages signed in Geneva on 6 May 1993. The ship mortgage must be registered with the Chattel Registry to be valid and enforceable.

Aviation

Spain has not passed any law specifically regulating the construction, acquisition or financing of aircraft.

After the amendments introduced by Royal Decree 384/2015 of 22 May, aircraft operated by Spanish operators must be registered with the Aircraft Matriculation Registry and the Chattel Registry. Registration of an aircraft with the Civil Aircraft Registry confers Spanish nationality as well as the applicable tax and safety provisions, while the Chattel Registry records ownership and encumbrances affecting the aircraft.

Apart from the above, Spain has ratified the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, signed in Cape Town on 16 November 2001.

The result is that Spain has a triple registration system, with aircraft also being potentially registered with the International Registry set up by the Cape Town Protocol to Aircraft Equipment. International interests created pursuant to the Cape Town Protocol are fully enforceable in Spain.

Among its declarations to the Cape Town Protocol to Aircraft Equipment, Spain designated the Chattel Registry as the entry point to the International Registry.

That Spanish entry point has been set up as an authorising entry point (i.e., the Chattel Registry only authorises the transfer of mandatory information to the International Registry for the registration of an international interest by issuing a code). After obtaining that code, the parties are entitled to register, and therefore claim, an international interest in the International Registry by providing the required information electronically.

Furthermore, the creditor secured by an international interest is not entitled to take self-remedy actions unless it holds an Irrevocable De-Registration and Export Request Authorisation (IDERA). According to the Spanish Declaration to the Cape Town Protocol to Aircraft Equipment, the holder of an IDERA is authorised to request deregistration and export of an aircraft without obtaining judicial authorisation.

Although the Chattel Mortgages and Non-dispossessionary Pledges Act of 16 December 1954 regulates chattel mortgages over an aircraft, in practice they will no longer be used in Spain in the near future as international interests take priority over any national interest created after 1 March 2016.

Act 18/2014 of 15 October establishes the main rules governing the management and legal status of unmanned aerial vehicles (UAVs). Under Act 18/2014, UAVs qualify as aircraft.

Rail

Spain has not enacted any law that specifically regulates the financing, construction or acquisition of rolling stock. As with shipping transport equipment, rolling stock must be registered with the Special Railway Registry, an administrative registry. Registration of rolling stock with the Chattel Registry is optional.

Regarding interests, chattel mortgages can be created over private wagons and over public and private locomotives, as established by the Chattel Mortgages and Non-dispossession Pledges Act.

Spain is not expected to ratify the Luxembourg Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock signed on 23 February 2007.

III FINANCIAL REGULATION

i Regulatory capital and liquidity

The provisions of Basel III were implemented into the legal framework of the European Union by means of (1) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (CRD IV); and (2) Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012.

CRD IV has been implemented into Spanish law by (1) Law 10/2014 of 26 June, on the organisation, supervision and solvency of credit institutions; (2) Royal Decree 84/2015 of 13 February, implementing Law 10/2014 of 26 June, on the organisation, supervision and solvency of credit institutions; and (3) Circular 2/2016 of 26 February, of the Bank of Spain, to credit institutions, on supervision and solvency, completing the adaptation of Spanish domestic law to Directive 2013/36/EU and Regulation (EU) No. 575/2013.

The above legal framework imposes on credit institutions requirements in the following areas: (1) own funds and capital buffers, (2) measurement and management of risks, (3) large exposures, (4) liquidity and (5) leverage, among others.

ii Supervisory regime

Since the establishment of the Single Supervisory Mechanism in 2014, the supervision of credit entities in Spain is shared between the European Central Bank (ECB) and the Bank of Spain in the terms set out under Council Regulation (EU) No. 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions (the SSM Regulation). According to the SSM Regulation, the ECB has exclusive competence to carry out certain tasks for prudential supervisory purposes. For instance, it is responsible for granting and withdrawing authorisations for the establishment of credit institutions in the eurozone, assessing notifications for the acquisition and disposal of qualifying holdings, performing stress tests, carrying out supervision on a consolidated basis and ensuring banks' compliance with EU prudential requirements, such as own-funds requirements, liquidity, leverage or corporate governance.

However, for the sake of efficiency, supervisory tasks and responsibilities are allocated to the ECB and the Bank of Spain depending on the bank's significance in accordance with the SSM Regulation and Regulation (EU) No. 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and

with national designated authorities. The conditions for a bank to qualify as significant are established in the SSM Regulation and a list of these is published by the ECB and the Bank of Spain.

IV SECURITY AND ENFORCEMENT

Access to financing in the maritime, aircraft and railway sectors is a key factor for success in the current commercial context. The indebtedness that companies operating in those sectors must assume for the construction, financing and acquisition of vessels, aircraft and rolling stock depends on the companies' capacity to provide sufficient and adequate security to the financing entities. The security package is therefore essential in asset finance. In Spain, a mortgage over the financed asset is normally granted as security to the lenders and has an important economic function and an essential role in new building projects. The entry into force of the Maritime Navigation Act, representing a significant modernisation of Spain's former maritime law, establishes the legal framework governing ship mortgages. Mortgages over aircraft and rolling stock are also subject to specific regulations. Moreover, as previously mentioned, Spain is a party to various international conventions applicable to these types of guarantees, including the International Convention on Maritime Liens and Mortgages (1993) and the Cape Town Convention on international interests in mobile equipment.

i Financing of contracts

Shipping

The ship mortgage is the basic security normally granted within the scope of shipbuilding projects, but not the exclusive form, as ancillary security such as refund guarantees and pledges are also commonly used. The legal framework governing ship mortgages is primarily contained in Articles 126–144 of the Maritime Navigation Act, substituting for Spain's previous framework on these types of security, and in the International Convention on Maritime Liens and Mortgages (1993).

There are two requirements under the Maritime Navigation Act for a ship mortgage to be validly created as a right *in rem* with effects against third parties: (1) it must be documented in writing in either a private or public document; and (2) it must be registered within the Chattel Registry. To create and register the mortgage over a vessel under construction, a third of the budgeted amount of the total hull value must have been invested and the ownership of the vessel registered with the Chattel Registry. The parties to the ship mortgage are the mortgagee (normally a bank financing the construction of the vessel) and the mortgagor (which can be the debtor under the financing contracts or another party, as the mortgage can be granted as security of third-party obligations).

In respect of the asset, the mortgage extends to both the vessel's component parts and fittings, but not accessories. The mortgage also covers licences linked to the vessel (such as fishing licences), compensation arising from insurance and from material damage to the vessel due to collision or other accidents. In respect of the secured obligations, unless otherwise agreed, a mortgage granted as security of a credit that accrues interest will not exceed (to the detriment of a third party) the interest of the previous two years elapsed and the matured part of the current annual dues, in addition to the principal.

If a definitive change of the vessel's flag is intended, it may not be carried out unless all mortgages, charges and encumbrances have been cancelled or the written consent of

the beneficiaries of the mortgages, charges or encumbrances has been granted. Temporary changes of flag will not affect the law applicable to the mortgage, which shall continue to be the law applicable under the flag flown by the vessel at the time the mortgage was granted.

Aviation

Aircraft finance can also be secured by granting a mortgage over the asset. The legal framework applicable to this kind of mortgage is primarily established in the Air Navigation Act and in the Chattel Mortgages and Non-dispossessionary Pledges Act. The mortgage must be registered with the Chattel Registry for its valid creation and the security must also be registered with the Aircraft Matriculation Registry. To be able to create and register the mortgage over an aircraft during its construction, a third of its budgeted amount must have been invested in the same. The aircraft must be identified in the mortgage deed by including, among other details, the following information: (1) registration number given to the aircraft by the Aircraft Matriculation Registry; (2) stage of construction (if the aircraft remains under construction); (3) domicile of the aircraft; and (4) insurance policies covering the aircraft. The mortgage extends to the airframe, engines, radio and navigation devices and accessories. The mortgage can also extend to spare parts, provided they are listed in the mortgage deed.

Spain adhered to the Cape Town Convention in 2013, although it was not until 15 December 2015 that Spain adhered to the Aircraft Protocol, which entered into force in Spain on 1 March 2016. The Cape Town Convention contains the general framework applicable not only to securities over airframes, engines and helicopters, but also to other mobile equipment such as railway rolling stock and space assets (specific protocols are established for each type of mobile equipment). The Aircraft Protocol completes the Convention with specific terms and provisions regarding international interests in mobile equipment on matters specific to aircraft equipment. Thus, security can also be granted in the form of international interest over airframes, engines and helicopters, in accordance with the requirements under Article 7 of the Convention. The Convention also created an International Registry (Article 16) for the registration of, among others, international interests, prospective international interests, assignments and prospective assignments of international interests and acquisitions of international interests.

Rail

If a wagon or locomotive is privately owned, a chattel mortgage can be granted as security in accordance with Article 12.2 of the Chattel Mortgages and Non-dispossessionary Pledges Act. Chattel mortgages cannot be granted over wagons owned by the state. However, a pledge without displacement or 'non-possessionary pledge' over wagons, or a chattel mortgage over locomotives, may be granted instead.

ii Enforcement

Article 140 of the Maritime Navigation Act lists specific events that will entitle the mortgagee to enforce its right against the vessel with a subsequent judicial sale of the same (see Section IV.iii, *infra*). Those events are: (1) expiry of the term agreed to return the principal or interest; (2) the debtor's declaration of insolvency; (3) deterioration of the mortgaged vessel rendering it definitively unseaworthy; (4) the existence of two or more vessels mortgaged to fulfil the same obligation and there arises a loss or deterioration that renders either of them definitively unseaworthy; and (5) the occurrence of any of the agreed termination events.

Upon the occurrence of any of the above events, the mortgagee has various alternatives available to enforce the mortgage, basically consisting in: (1) ordinary declarative proceedings; (2) general rules for enforcement proceedings; (3) special enforcement proceedings on mortgaged assets; and (4) non-judicial enforcement proceedings before a notary public. The action to enforce a ship mortgage has a limitation period of three years, which runs from the date when any of the above events occurs.

The enforcement of a mortgage over aircraft or rolling stock is not subject to specific regulations under Spanish law. Thus, the general rules for enforcement foreseen under the Civil Procedure Act apply.

If the mortgagee initiates the special enforcement proceeding on mortgaged assets (Articles 681–698 of the Civil Procedure Act), the claim for the due amounts secured with the mortgage can be exercised directly against the mortgaged asset itself. There are various formal requirements that must be fulfilled to initiate the proceedings, which essentially consist of the following: (1) the price of the mortgaged asset must be indicated in the mortgage deed so that it can be used as a reservation price in the auction of the asset; (2) and the debtor's domicile must be indicated in the mortgage deed (for notification and communication purposes).

iii Arrest and judicial sale

Shipping

Conservatory arrest of both domestic and foreign vessels is governed by the International Convention on the Arrest of Ships made in Geneva on 12 March 1999, Articles 470–479 of the Maritime Navigation Act and by the Spanish Civil Procedure Act. The provisional court measure causes the detention and immobilisation of the vessel. The court with subject matter jurisdiction to hear the main claim on the merits or the court with territorial jurisdiction corresponding to the port or place where the vessel is located (or expected to arrive) will order the vessel's arrest. The arrest cannot be applied to ensure the enforcement of a previous judgment or arbitration award: arrest is a provisional ancillary measure for the main claim.

The arrest is conditional on the fulfilment of the following requirements: (1) alleging the existence of a maritime claim and its cause; (2) the vessel to be arrested is eligible for arrest under Article 3 of the Convention; and (3) the claimant must provide a security to cover any loss that may be incurred by the defendant as a result of the arrest, and for which the claimant may be found liable. Pursuant to Article 472.2 of the Maritime Navigation Act, the amount of the security shall be at least 15 per cent of the amount of the maritime credit alleged.

Once the arrest has been ordered, the court will notify the harbour master of the port where the vessel is located (or expected to arrive) and will take the necessary measures to arrest and prohibit the vessel's departure. The arrest must also be notified to the vessel's master or shipping agent.

The judicial sale of a vessel is governed by the International Convention on Maritime Liens and Mortgages, made in Geneva on 6 May 1993 (the 1993 Geneva Convention), Articles 480–486 of the Maritime Navigation Act and, for matters not expressly addressed by those laws, by the Civil Procedure Act. Prior to the forced sale of the vessel, the court must give notification of the sale of the vessel at least 30 days prior to the date on which the forced sale is intended. The notification must be directed to: (1) the registrar of the Chattel Registry and, if relevant, to the authority in charge of the registration of the vessel under a temporary change of flag; (2) the owner of the vessel; (3) the mortgagees and holders of other encumbrances, including those established in Article 4 of the 1993 Geneva Convention (provided that the court has received notification of the corresponding credits).

The court's notification must state the date and place the forced sale is to be carried out or, if it cannot be stated with certainty, the approximate date and place. The proceeds from the forced sale must first be used to pay the procedural costs and expenses arising from the arrest, or the enforcement and subsequent sale of the vessel (e.g., expenses arising from the upkeep of the vessel and the crew as well as wages, other sums and costs referred to in Article 4, Paragraph 1(a) of the 1993 Geneva Convention, incurred from the time of arrest or seizure). The remaining amount will then be distributed according to the terms and provisions of the 1993 Geneva Convention.

Aviation

Aircraft are also subject to arrest, which is governed by the Civil Procedure Act. However, there are specific particularities under Spanish law and international conventions ratified by Spain that render the cautionary measure of arrest unattractive in practice. Article 132 of the Air Navigation Act establishes that the arrest of aircraft owned by air traffic companies may not interrupt the public service in which they are operating. The same rule is established under the Convention for the Unification of Certain Rules Relating to the Precautionary Arrest of Aircraft, adopted in Rome on 29 May 1933.

V CURRENT DEVELOPMENTS

i Recent cases

One of the most important recent cases affecting the transport sector is the General Court of the European Union having given recognition to the Spanish tax lease system (STLS) for the financing of assets, particularly affecting the financing of vessels. In the judgment handed down on 17 December 2015, the General Court annulled Commission Decision No. 2014/200/EU, which had held that the STLS constituted illegal state aid.

The STLS is based on the tax depreciation of leased assets. The STLS's general contractual structure was as follows: a builder (the Builder) and a leasing entity (the Lease Co) would enter into a shipbuilding contract for the construction of a vessel, as negotiated in commercial terms between a shipowner (the Shipowner) and the Builder. The Lease Co and an economic interest group (EIG) would enter into a finance lease agreement with a purchase option. In turn, the EIG and the Shipowner would enter into a bareboat charter agreement permitting the use of the vessel by the latter after delivery. At a later stage, the Shipowner would buy the vessel from the EIG and become its owner.

The Commission declared the existence of a selective economic advantage, and therefore state aid, to the benefit of the EIG and its investors. In its judgment, the General Court found that, given the fiscal transparency of EIGs, the tax advantage could only benefit the EIG's members (i.e., the investors). With respect to the investors, the alleged selectivity was based on the grounds that it only benefited entities that performed certain types of activity and that the tax depreciation required prior authorisation from the Spanish tax authorities. The General Court considered that when a tax advantage is established under identical conditions to the benefit of any entity that performs a specific type of activity and when no restriction is imposed on participating in those kinds of entities, the tax advantage is general (and, therefore, not selective) for all investors. Furthermore, the authorisation process only examined the characteristics of the financed assets, not the characteristics of the investors, such that any private person, without discrimination, could perform the type

of activity providing the tax advantage. Therefore, the General Court held that the STLS did not provide a selective economic advantage, and consequently state aid, to the EIG or its investors.

Moreover, the General Court considered that the Commission Decision contained serious defects in its rationale when stating that the measures under the STLS were prone to distort competition and affect trade among Member States.

Although the Commission has appealed the judgment before the EU Court of Justice, the General Court's judgment is an endorsement of the STLS, which may have a significant positive impact on the Spanish naval industry.

In the aviation sector, 49 per cent of the shares of Spanish airport operator Aena have been listed on the Madrid, Barcelona, Bilbao and Valencia stock exchanges. Aena is the world's leading airport operator in terms of passenger volume (serving 195.9 million passengers in Spain in 2014). The initial public offering of the shares took place on 11 February 2015; the Spanish government raised approximately €4.3 billion and continues to hold 51 per cent of the shares in Aena.

ii Developments in policy and legislation

The main legislative development in the aviation sector is the upcoming entry into force in Spain of the Aircraft Protocol to the Cape Town Convention on 1 March 2016. Furthermore, the Directorate General for Registry and Notary Offices of the Ministry of Justice issued a resolution on 29 February 2016 with the aim of approving specific forms to facilitate access to the International Registry by means of the Spanish entry point, the Chattel Registry. Spain has also submitted declarations to the Convention, which will enter into force on 1 June 2016. These declarations are made pursuant to Article 39 (rights having priority without registration), Article 40 (registrable non-consensual rights or interests) and Article 53 (determination of courts).

On the other hand, Act 38/2015 on the Railway Sector replaces the 2003 law and aims to unify Spanish railway legislation, further homogenising it with the European framework. The new legislation contains measures that seek to increase the sustainability of rail infrastructure and transparency in the finances of its administrators.

iii Trends and outlook for the future

Although Spain's geographic location favours the aviation sector, the sector's financing market is stagnant. Its geographically competitive location would be further boosted by offering airlines access to efficient asset-based financing, as well as more efficient security for leases. The entry into force of the Cape Town Convention could be an important instrument for resolving the situation. Currently, Spain faces the challenge of performing all the necessary internal amendments to ensure that the entry into force of the Cape Town Convention, and specifically the IDERA enforcement, is implemented in the most effective manner. In any event, Spanish intervening agents (e.g., public bodies, registrars) are taking significant steps for the correct implementation of the Cape Town Convention. These developments may have a significant positive impact on Spain's aviation financing sector.

Turning to the maritime sector, Spanish ports are receiving an increasing number of traffic containers, consolidating their leading position by traffic volume within Europe. With regard to the shipping financing industry, although the EU Commission approved a new tax lease framework, the industry suffered following Commission Decision No. 2014/200/EU declaring that the STLS constituted illegal state aid. The new Spanish

tax lease framework was subsequently upheld by the judgment of the EU General Court on 9 December 2014 dismissing the claim raised by the Netherlands Maritime Technology Association. These circumstances, together with the judgment of the General Court of 17 December 2015 should provide more confidence to all intervening parties and provide an optimistic view of the future.

In the railway sector, Act 38/2015 has continued the liberalisation process of the market for transport services by rail. Nevertheless, the complete opening of the sector to competition may not arrive until the European Union establishes it, which is not expected until 2019 at the earliest.

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