



WORKING PAPER

**SEVENTH WORLDWIDE AIR TRANSPORT CONFERENCE
(ATCONF/7)**

Montréal, HQ, 16 to 20 November 2026

Agenda Item 2: Fostering aviation growth and air connectivity through investments in infrastructure, human capital and partnerships

2.2: Investment for the development and modernization of civil aviation infrastructure

**REALISING THE BENEFITS OF THE CAPE TOWN CONVENTION AND AIRCRAFT
PROTOCOL IN AFRICA**

(Presented by Namibia on behalf of 54 Member States of the African Civil Aviation Commission²)

EXECUTIVE SUMMARY

The Cape Town Convention and Aircraft Protocol establish a uniform legal framework for the financing of aircraft and engines. By improving the recognition, priority and enforceability of creditors' rights, the instruments can reduce legal and recovery risk and broaden access to aircraft finance.

Becoming a Party to the Convention and Protocol alone does not guarantee cheaper aircraft or lower lease rentals. The intended benefits depend on appropriate declarations made, effective incorporation into national law with primacy, efficient and predictable judicial and administrative procedures, compliance with treaty obligations and the creditworthiness of the airline and transaction. The Organization for Economic Co-operation and Development (OECD) Cape Town discount is limited to qualifying officially supported export-credit transactions and is not a general reduction in aircraft prices or commercial financing costs.

This paper proposes coordinated implementation assistance, improved transparency and evidence-based monitoring so that African States and operators can realize the instruments' legal and economic benefits.

Action: The conference is invited to adopt actions in paragraph 4.

<i>Strategic Goal:</i>	<i>The Economic Development of Air Transport Assures the Delivery of Economic Prosperity and Societal Well-Being for All.</i>
<i>Financial implications:</i>	Activities will be undertaken subject to available resources, including voluntary and extra-budgetary contributions
<i>References:</i>	Cape Town Convention (2001); Aircraft Protocol (2001); ICAO Cape Town Convention and Protocol overview; OECD Aircraft Sector Understanding and Cape Town List; International Institute for the Unification of Private Law (UNIDROIT) status and declarations; Aviation Working Group Compliance Index and Model Short Form Cape Town Convention (CTC) Legislation

¹ English and French versions provided by AFCAC.

² Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cabo Verde, Central African Republic, Chad, Comoros, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Egypt, Equatorial Guinea, Eritrea, Eswatini, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, South Sudan, Sudan, Togo, Tunisia, Uganda, United Republic of Tanzania, Zambia, Zimbabwe.

1. INTRODUCTION

1.1 The Convention on International Interests in Mobile Equipment and the Protocol on Matters Specific to Aircraft Equipment were adopted in Cape Town on 16 November 2001 and entered into force on 1 March 2006. Together, they provide a uniform framework for creating, registering, prioritizing and enforcing international interests in qualifying airframes, aircraft engines and helicopters.

1.2 The framework responds to a fundamental challenge in cross-border aircraft finance: aircraft objects are high-value and mobile, while national laws differ in their treatment of security interests, title reservation, leasing, insolvency and creditor remedies. The Convention and Protocol reduce this legal uncertainty through best practice priority rules, default and insolvency remedies, and mechanisms for deregistration and export, including the Irrevocable Deregistration and Export Request Authorization (IDERA), and an International Registry.

1.3 Access to modern aircraft is essential to the safe, efficient and sustainable growth of African air transport. Nevertheless, many African airlines continue to face high financing and leasing costs. The Cape Town framework can address the legal and asset-recovery component of those costs, but it cannot by itself remove airline credit risk, sovereign and foreign-exchange risk, weak balance sheets, taxation, limited access to long-term capital or adverse market conditions.

1.4 The relevant policy question is therefore not only whether a State has acceded to the instruments, but whether it has selected risk-reducing declarations, given them and the treaty generally effective force in domestic law and established institutions and procedures capable of applying them predictably in practice.

2. REALISING THE LEGAL AND ECONOMIC BENEFITS

2.1 Declarations and effective domestic implementation

2.1.1 The Convention and Protocol permit or require States to make declarations on specified matters, including, remedies without leave of court, choice of law, speedy relief, insolvency remedies, insolvency assistance, deregistration and export (IDERA), and non-consensual rights. These choices must be assessed against each State's constitutional commercial, insolvency and procedural law.

2.1.2 The expression "qualifying declarations" has a specific economic meaning under the Organization for Economic Co-operation and Development (OECD) Aircraft Sector Understanding. It does not necessarily mean that States making different optional declarations obtain no treaty benefit. However, a State seeking eligibility for the OECD Cape Town discount must be a Contracting Party, make the declarations specified under the applicable OECD framework and translate those commitments effectively into national law and practice.

2.1.3 Domestic implementation should provide clear priority rules, reliable recognition of registered international interests, time-bound access to relief pending final determination and insolvency remedies, and IDERA procedures for deregistration and export. Courts, civil aviation authorities and other competent bodies must be able to perform their respective functions consistently and without delay, subject to applicable aviation safety requirements.

2.2 The relationship between implementation and financing costs

2.2.1 By improving legal certainty and the predictability of asset recovery, effective implementation can reduce a creditor's expected loss and widens the pool of financiers or support more favourable terms. It does not create a legal obligation for a lender or lessor to reduce interest, lease rentals, deposits or other charges. Pricing remains transaction-specific and reflects the operator's creditworthiness, aircraft value, currency and transfer risks, sovereign and regulatory risk, market conditions and the demonstrated effectiveness of local enforcement.

2.2.2 The OECD framework provides a more specific benefit for eligible officially supported export-credit transactions. Transactions involving a State included on the prevailing Cape Town List may receive a reduction of up to 10 per cent of the applicable Minimum Premium Rate, provided that the transaction requirements are met. This is a reduction in the export-credit risk premium; it is not a 10 per cent reduction in the aircraft purchase price, lease rental or any other form of commercial financing.

2.2.3 States and operators therefore need transparent information on the particular benefits available, the conditions attached to them and how effective implementation is reflected in financing decisions. Financiers and lessors should be encouraged, where commercially justified and subject to contractual confidentiality, to recognize demonstrable reductions in legal and recovery risk in their risk assessments and terms.

2.3 Closing Africa's implementation gap

2.3.1 A continental implementation review is needed to establish, for each African State, its status as a Party to both instruments, the declarations made, domestic implementing measures, eligibility under the prevailing OECD Cape Town List and the operational readiness of courts, insolvency authorities, civil aviation authorities and IDERA procedures. The starting and main reference point should be the regularly updated and detailed Aviation Working Group's Cape Town Convention (CTC) compliance index and the State-specific annotations therein. As of September 2026, 33 African States are Parties to the Cape Town Convention and 31 to the Protocol. While this reflects significant continental participation in the Cape Town system, differences remain in the extent of implementation, declarations made, incorporation into domestic law and institutional readiness for effective application of the instruments. An implementation review would assist in identifying remaining legal and operational gaps and in sharing good practices among States.

2.3.2 Capacity-building should extend beyond treaty ratification. Ministries, civil aviation authorities, judiciaries, insolvency practitioners, airlines, financiers and lessors require coordinated guidance on declarations, model legislation, International Registry practice, priority and insolvency rules, deregistration and export procedures, and the allocation of responsibilities among national institutions.

2.3.3 ICAO, working together with International Institute for the Unification of Private Law (UNIDROIT), African Civil Aviation Commission (AFCAC), other regional organizations, and the Aviation Working Group, is well placed to support practical guidance, regional training, implementation reviews and the sharing of experience among States.

3. AFRICAN POLICY POSITION

3.1 African States support more States becoming Parties to, and effectively implementing, the Cape Town Convention and Aircraft Protocol as important enablers of aircraft fleet renewal, connectivity and sustainable air transport development. The instruments should, however, be presented as mechanisms for reducing legal risk rather than as guarantees of lower commercial prices.

3.2 AFCAC considers that the priority is not merely becoming a Party to the Convention and Protocol but ensuring their effective and measurable implementation. This requires risk-reducing declarations, implementing domestic law with primacy, reliable enforcement, institutional readiness, industry awareness and evidence on whether reduced risk is translating into improved access to finance for African operators.

3.3 A structured African implementation-support programme would enable States to identify legal and operational gaps, prepare corrective measures, strengthen national capacity and engage financiers on a more transparent and evidence-based basis.

4. ACTION BY THE CONFERENCE

4.1 The Conference is invited to:

- a) encourage States that have not yet become Parties to both the Cape Town Convention and Aircraft Protocol to take the necessary steps to do so, in accordance with their national legal procedures;
- b) encourage Contracting States to review their declarations, domestic implementing measures and institutional procedures to ensure effective and time-bound application of the instruments;
- c) request ICAO, with UNIDROIT, AFCAC, other regional organizations, and the Aviation Working Group to form a working party to strengthen practical guidance, implementation assistance and capacity-building for States;
- d) encourage States to establish clear, transparent and time-bound judicial, insolvency, deregistration, export and IDERA procedures, consistent with applicable aviation safety requirements;
- e) invite lenders, export-credit agencies and lessors to improve transparency on how effective Cape Town implementation is taken into account in transaction risk assessment and commercial terms; and
- f) support the collection of evidence on the effect of implementation on access to finance, export-credit premiums, lease terms, fleet renewal and connectivity, particularly in developing States.

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