



ASSEMBLY — 39TH SESSION

LEGAL COMMISSION

Agenda Item 45: Work programme of the Organization in the legal field

CAPE TOWN CONVENTION

(Presented by Egypt)

EXECUTIVE SUMMARY

This working paper contains a proposal for the establishment by ICAO of a Committee of Experts to assist developing countries in the implementation of the Cape Town Convention and Aircraft Protocol, in accordance with Resolution No. 4 of the Final Act of the Cape Town Diplomatic Conference of 2001.

<i>Strategic Objectives:</i>	This working paper relates to Strategic Objective A – Safety and to Supporting Implementation Strategy – Programme Support – Legal Services and External Relations.
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<i>Financial implications:</i>	The reasonable costs of ICAO in its capacity as the Supervisory Authority of the International Registry are recoverable through International Registry user fees.
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<i>References:</i>	<p>C-DEC 175/16 C-DEC 176/12</p> <p><i>Final Act of the Diplomatic Conference to Adopt a Mobile Equipment Convention and an Aircraft Protocol held under the joint auspices of the International Civil Aviation Organization and the International Institute for the Unification of Private Law at Cape Town from 29 October to 16 November 2001</i></p> <p>Doc 9793, <i>Convention on International Interests in Mobile Equipment</i>, signed at Cape Town on 16 November 2001 (Cape Town Convention)</p> <p>Doc 9794, <i>Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment</i>, signed at Cape Town on 16 November 2001 (Aircraft Protocol)</p>
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¹ Arabic version provided by Egypt.

1. INTRODUCTION

1.1 Following its deliberations, the Diplomatic Conference adopted the text of the Cape Town Convention and the related Aircraft Protocol. The Conference also adopted five Resolutions, including Resolution No. 4, which referred to the desire of the Diplomatic Conference to facilitate the implementation of the Convention and Protocol, as well as the establishment of the International Registry. At the same time, the Conference decided to encourage all negotiating States, international organizations and private entities, such as the aviation industry and finance sector, to assist developing countries by all means possible, especially by providing them with the necessary tools and technical studies to enable them to make use of the International Registry, so that they may benefit from the Convention and Protocol at the earliest possible date.

2. CONSIDERATIONS

2.1 Pursuant to the Council's decision during its 175th Session to accept the role of the Supervisory Authority of the International Registry in accordance with Resolution No. 2 of the Cape Town Conference of 2001, the Council assumed that role as of 1 March 2006, which was the date of entry into force of the Cape Town Convention and Aircraft Protocol and the ensuing start of the International Registry's operations. Furthermore, the Council adopted another decision, at its 176th Session in 2005, to establish a Commission of Experts comprising not more than 15 members having the necessary qualifications and experience. That Commission was entrusted with assisting the Supervisory Authority upon the entry into force of the Convention and Protocol. A Preparatory Commission was thus formed to establish the International Registry. Accordingly, the International Registry and Supervisory Authority were established pursuant to Resolution No. 2. However, Resolution No. 4, which calls for assisting developing countries with the necessary tools and technical studies for the use of the International Registry to benefit from the Convention and Protocol, was not implemented.

2.2 Egypt and other States participated in the above-mentioned Diplomatic Conference, and ratified the Convention and Protocol. The Convention came into force for Egypt on 1 April 2015, but was not implemented for the following reasons:

- a) insufficient declarations presented by Egypt to implement the Convention;
- b) lack of technical expertise to determine how to use the technical tools and deal with the International Registry, as well as insufficient knowledge of the measures to be followed and the designation of entry points for the International Registry; and
- c) lack of training courses at the international level to train staff.

2.3 In respect of item a) above, the Egyptian Civil Aviation Authority has coordinated with the International Institute for the Unification of Private Law (UNIDROIT) on the declarations to be deposited by Egypt in order to implement the Convention and Protocol. The Civil Aviation Authority has also coordinated with the concerned parties in Egypt to take the necessary legal measures to withdraw the current declarations and substitute them with new ones as recommended by UNIDROIT. This is a very lengthy process, and we believe that most States are faced with similar lengthy legal measures before being able to ratify and deposit their declarations.

2.4 Egypt will submit the necessary declarations to the depositary of the Convention and Protocol and implement both instruments. However, depositing declarations is not enough to implement the Convention and its Protocol. There is still a need for technical tools, amendments to the civil aviation code and other legislation, qualified experts to handle the International Registry and other parties, as well as the designation of entry points.

2.5 In view of the importance of the Convention and its Protocol in facilitating the financing and leasing of aircraft and aircraft equipment at affordable prices, with the creation of international interests, and the impact on the reduction of ticket fares, achievement of higher load factors and the realization of considerable economic benefits by airlines, which would assist such airlines in developing countries to modernize their fleets, ICAO must coordinate with States, international organizations and other concerned parties, in accordance with Resolution No. 4, to assist the developing countries in any way possible to implement the Convention and its Protocol. Such implementation by most States would contribute to the growth of world trade and help provide the financing necessary for the International Registry to sustain its operations.

2.6 Therefore, in accordance with the action taken by the Council as indicated in paragraph 2.1 above, the Delegation of Egypt considers that it is necessary to benefit from the experience gained by developed countries that have already implemented the Convention and Protocol by establishing a Committee of Experts under the supervision of the Council to assist developing countries in implementing the Convention and in training staff on how to deal with the International Registry. This is in line with the vision of the Diplomatic Conference and Resolution No. 4 concerning “technical assistance with regard to the implementation and use of the International Registry” as well as to help the developing countries to implement the Convention and the Protocol.

3. CONCLUSIONS

3.1 In line with Resolution No. 4 of the Diplomatic Conference, the Assembly should urge ICAO to give priority to the establishment of a mechanism to assist developing countries in addressing technical and legal obstacles, so as to allow their airlines and concerned parties to benefit from the Cape Town Convention and its Aircraft Protocol. This would contribute to the safe development of international civil aviation and world trade.

3.2 The Assembly should establish a Committee of Experts or a Working Group affiliated to the Commission of Experts of the Supervisory Authority of the International Registry (CESAIR) to provide the necessary technical assistance to developing countries, pursuant to the above-mentioned Resolution No. 4, as a matter of priority for ICAO.

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