

As applied to -

Whether countries meet the substantive standard* set out in the OECD's Sector Understanding on Export Credits for Civil Aircraft (ASU) for eligibility for the Cape Town Convention discount under the 2011 ASU

AWG assessment as of December 2022

*/ This AWG assessment is independent of the OECD (and its participants) and their decision-making on eligibility for the Cape Town Convention discount under the ASU. It assesses the *substantive ASU standard* without reference to whether a country is on the 'Cape Town list', as defined in the ASU.

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Eligibility for the CTC discount requires satisfaction of the three conditions below: conditions 1 (making of the ASU 'qualifying declarations'), condition 2 (compliant implementation: primacy and completeness), and condition 3 (compliant precedent and experience: judicial and administrative).

As the making of the **qualifying declarations** is a threshold requirement for meeting the substantive standard for the CTC discount, where condition 1 has not been satisfied (qualifying declarations have not been made), scoring on conditions 2 and 3 (compliant implementation and precedent and experience, respectively) have not been provided. To see such scores, see [full compliance index](#).

Where there is **insufficient legal analysis** to reach a sound view on conditions 2 and 3 (compliant implementation and precedent and experience, respectively), scoring on such conditions have not been provided (and is not available on the full compliance index).

See generally the [annexed Explanation and Methodology](#). It (a) addresses the assessment of conditions 2 and 3 (compliant implementation and precedent and experience, respectively), and (b) describes the data and analytic process relating to scoring.

Country	Conclusion	Condition 1	Condition 2	Condition 3
	Meets/ does not meet substantive standard under Appendix II for CTC premium discount	Made qualifying declarations	Compliant implementation: primacy and completeness	Compliant precedent and experience: judicial and administrative
	Must satisfy conditions 1 – 3		Variable A score of <u>at least 4</u> (from 1-5)	Variable B score of <u>at least 3</u> (from 1-5)
Afghanistan	INSUFFICIENT LEGAL ANALYSIS	yes	-	-
Albania	NO	no	-	-
Angola	INSUFFICIENT LEGAL ANALYSIS	yes	-	-
Argentina	YES	yes	yes (4)	yes (3.5)
Australia	YES	yes	yes (5)	yes (4.5)
Bahrain	INSUFFICIENT LEGAL ANALYSIS	yes	-	-
Bangladesh	INSUFFICIENT LEGAL ANALYSIS	yes	-	-
Belarus	NO	no	-	-
Bhutan	NO	no	-	-
Brazil	NO	yes	yes (4.5)	no (2)
Burkina Faso	NO	no	-	-
Cameroon	NO	no	-	-
Canada	YES	yes	yes (5)	yes (4.5)
Cape Verde	INSUFFICIENT LEGAL ANALYSIS	yes	-	-
China*	NO	no	-	-
Colombia	NO	no	-	-
Costa Rica	NO	no	-	-
Cote d'Ivoire	NO	yes	no (3)	yes (3)
Cuba	NO	no	-	-
Democratic Republic of the Congo	NO	no	-	-
Denmark	YES	yes	yes (4.5)	yes (4)
Egypt	NO	yes	no (3)	no (1.5)
Eswatini	NO	no	-	-

Country	Conclusion Meets/ does not meet substantive standard under Appendix II for CTC premium discount Must satisfy conditions 1 – 3	Condition 1 Made qualifying declarations	Condition 2 Compliant implementation: primacy and completeness Variable A score of <u>at least 4</u> (from 1-5)	Condition 3 Compliant precedent and experience: judicial and administrative Variable B score of <u>at least 3</u> (from 1-5)
Ethiopia	NO	yes	no (3)	no (2.5)
Fiji	INSUFFICIENT LEGAL ANALYSIS	yes	-	-
Gabon	NO	no	-	-
Ghana	NO	no	-	-
Iceland	YES	yes	yes (4.5)	yes (3)
India	NO	yes	no (3.5)	yes (3.5)
Indonesia	NO	yes	yes (4.5)	no (2.5)
Ireland	YES	yes	yes (4)	yes (4.5)
Jordan	YES	yes	yes (4)	yes (4)
Kazakhstan	YES	yes	yes (4)	yes (3)
Kenya	YES	yes	yes (4)	yes (3)
Kuwait	NO	yes	no (2)	no (2.5)
Kyrgyzstan	NO	no	-	-
Latvia	YES	yes	yes (4.5)	yes (4)
Luxembourg	INSUFFICIENT LEGAL ANALYSIS	yes	-	-
Madagascar	INSUFFICIENT LEGAL ANALYSIS	yes	-	-
Malawai	INSUFFICIENT LEGAL ANALYSIS	yes	-	-
Malaysia	YES	yes	yes (4)	yes (3)
Malta	YES	yes	yes (5)	yes (4.5)
Mexico	NO	no	-	-
Moldova	NO	no	-	-
Mongolia	YES	yes	yes (4)	yes (3.5)
Mozambique	NO	yes	no (3)	no (2.5)
Myanmar	NO	yes	no (3.5)	yes (3.5)
Namibia	NO	no	-	-
New Zealand	YES	yes	yes (5)	yes (4)
Nigeria	NO	yes	yes (4)	no (1)
Norway	YES	yes	yes (5)	yes (4)
Oman	YES	yes	yes (4)	yes (3.5)
Pakistan	YES	yes	yes (4.5)	yes (3)
Panama	YES	yes	yes (4)	yes (3.5)
Paraguay	INSUFFICIENT LEGAL ANALYSIS	yes	-	-
Qatar	INSUFFICIENT LEGAL ANALYSIS	yes	-	-
Republic of the Congo	NO	no	-	-
Romania	NO	no	-	-

Country	Conclusion	Condition 1	Condition 2	Condition 3
	Meets/ does not meet substantive standard under Appendix II for CTC premium discount	Made qualifying declarations	Compliant implementation: primacy and completeness	Compliant precedent and experience: judicial and administrative
	Must satisfy conditions 1 – 3		Variable A score of <u>at least 4</u> (from 1-5)	Variable B score of <u>at least 3</u> (from 1-5)
Russia	SUSPENDED FROM AWG ASSESSMENT			
Rwanda	INSUFFICIENT LEGAL ANALYSIS	yes	-	-
San Marino	YES	yes	yes (5)	yes (4)
Saudi Arabia	NO	no	-	-
Senegal	YES	yes	yes (4)	yes (3.5)
Sierra Leone	INSUFFICIENT LEGAL ANALYSIS	yes	-	-
Singapore	YES	yes	yes (5)	yes (4)
South Africa	NO	yes	no (2)	no (2.5)
Spain	NO	no	-	-
Sweden	YES	yes	yes (4.5)	yes (4)
Tajikistan	NO	yes	no (3)	yes (3)
Tanzania	INSUFFICIENT LEGAL ANALYSIS	yes	-	-
Togo	INSUFFICIENT LEGAL ANALYSIS	yes	-	-
Turkey	YES	yes	yes (4)	yes (3.5)
Ukraine	SUSPENDED FROM AWG ASSESSMENT			
United Arab Emirates	NO	yes	no (3)	yes (4)
United Kingdom	YES**	yes**	yes (5)	yes (4)
United States of America*	NO	no	-	-
Uzbekistan	YES	yes	yes (4)	yes (3.5)
Vietnam	YES	yes	yes (4)	yes (3)
Zambia	NO	no	-	-

* / A watchlist means that a country has been placed on watch by AWG due to ongoing material developments that may affect its score, the impact of which has not yet been assessed. All outstanding watchlist notices can be found [here](#).

** / Subject to on-going analysis as to whether, in order retain the status as having made the qualifying declarations, the UK, following Brexit transition, needs to make declarations with respect to arts VIII and XI (alternative A) of the protocol

Annex to AWG assessment applying CTC compliance index to whether countries meet the substantive standard for a CTC discount under the Aircraft Sector Understanding

Explanation and Methodology

Summary and main principles

1. The Cape Town Convention Compliance Index (the **compliance index**) assesses matters related to compliance by contracting states to the Cape Town Convention (**Convention**) and its Aircraft Protocol (**Protocol**). These two instruments are referred to collectively as **CTC**.

2. The compliance index does so by using the following formula:

$$\text{Score} = 5(\text{A} + \text{B}) + 2.5(\text{C} + \text{D} + \text{E} + \text{F})$$

WITH A **PRECEDENT-BASED ADJUSTMENT (PBA)**, AT LEVELS I, II OR III, BASED ON THE PREDICTIVE VALUE OF COURT CASES OR REPORTED ADMINISTRATIVE ACTION

Scoring: 100 (highest) to 20 (lowest)
Variable range: 5 (highest) to 1 (lowest)

100 - 88: **very high** probability level that the terms of CTC (with applicable declarations) will be substantially complied with

87 - 75: **high** probability level that the terms of CTC (with applicable declarations) will be substantially complied with

74 - 60: **medium** probability level that the terms of CTC (with applicable declarations) will be substantially complied with

59 and lower: **low** probability level that the terms of CTC (with applicable declarations) will be substantially complied with

Definitions -

A is legal implementation, meaning (i) steps to ensure that CTC, with declarations, prevails over conflicting national law (**primacy**), and (ii) that no regulatory gaps or inaccuracy exists which may adversely impact application (**completeness**)

B is (i) reported precedent, meaning (a) judicial decisions, and (b) administrative actions, and (ii) experience, advised by experts, in each case, applying and enforcing CTC

C is whether a country is and should remain eligible for a 'CTC discount' under the OECD Aircraft Sector Understanding and whether it has been removed from such eligibility due to non-compliance with CTC

D is whether a country has designated a 'communications channel' with AWG to consult on compliance issues, as and when they arise, and the extent to which the results of such consultations are timely and effective

E is the result of a jurisdictional analysis of legal rules and practices, other than those covered by variables A, B, and F, which indicate anticipated compliance with CTC, including those relating to aircraft repossession, enforcement of contractually agreed remedies and dispute resolution provisions, and strict application of commercial laws newly introduced into that jurisdiction

F is a weighing of select rule of law and political risk indices measuring, or materially relevant to, regulatory enforcement of existing law and protection of property rights

Precedent-Based Adjustment

Level I increases the weight of B by 0.6 and decreases the weights of each of E and F by 0.3 (low predictive value)

Level II increases the weight of B by 1 and decreases the weights of each of E and F by 0.5 (medium predictive value)

Level III increases the weight of B by 1.4 and decreases the weights of each of E and F by 0.7 (high predictive value)

3. **Compliance**, actual or anticipated, means that CTC is fully and effectively implemented, prevails over conflicting law, and is being interpreted and applied in accordance with its terms and intent, with reference to the Official Commentary on CTC by Professor Sir Roy Goode (Official Commentary, fifth edition) and annotations thereto issued by the Cape Town Convention Academic Project (**CTCAP**) from time to time (**annotations**).

4. Variable A reports on implementational aspects relating to compliance. Variable B reports on precedential and administrative actions relating to compliance. Together with the making of the '**qualifying declarations**'¹, these variables directly track the two core conditions to eligibility for reduction of the minimum premium rates (**CTC discount**) under the Sector Understanding on Export Credits for Civil Aircraft (**ASU**) on an ongoing, evergreen basis. See the sections on data sources and analytical process below.

¹ The qualifying declarations are referred to in para 38(b) of appendix II to the ASU and are set out in annex I to that appendix. They are reproduced in the annex hereto. We do not address them in this document as, for purposes of the CTC discount, the position is binary: the qualifying declarations are either made or not, and, if not, no other factor is relevant to or would permit the CTC discount. The AWG assessment chart to which this document is annexed, therefore, lists the making of the qualifying declarations as 'condition 1', and the failure to satisfy that condition end the analysis.

5. This document provides the methodology for applying the variable A and B scores of a country on the compliance index to whether such country meets the ASU standard for the CTC discount (AWG assessment of eligibility for CTC discount, or, in short, **AWG assessment**). The AWG assessment is independent of the OECD (and its participants) and their decision-making on eligibility for the Cape Town Convention discount under the ASU. It assesses the *substantive ASU standard* without reference to whether a country is on the ‘Cape Town list’, as defined in the ASU.

6. The other variables in the compliance index formula, namely variables C to F, inclusive, are analytically supplementary, in that they are proxies for different elements that contribute to or signal compliance. As these are not part of the ASU eligibility criteria, they are not included in this AWG assessment.

7. ASU, appendix II, article 38 sets out the eligibility criteria for the CTC discount. In addition to the baseline requirements of being a contracting state to CTC and making the qualifying declarations set forth in the ASU, a country is required to ‘have implemented the Cape Town Convention, including the qualifying declarations, in its laws and regulations, as required, in such a way that the Cape Town Convention commitments are appropriately translated into national law’. Additionally, once initial eligibility is established, ASU, appendix II, article 43 provides a standard for removal where a country ‘has taken actions that are inconsistent with, or failed to take actions that are required by virtue of, that [country’s] Cape Town Convention commitments’. These are the qualitative eligibility requirements that the AWG assessment addresses. Reference is also made to the questionnaire in ASU, appendix II, annex 2 (the ‘ASU CTC questionnaire’) solely to the extent it illustrates points of analytical focus under the substantive ASU eligibility standard for the CTC discount.

8. For purposes of assessing the relationship between the compliance index and eligibility for the CTC discount, this document sets out the methodology used to assign a score to a country in the compliance index solely for variables A and B. It enables understanding of the data applicable to, and analytical process by which, the scores for such variables was determined. A maximum score of 5 is available for each variable. Taking into account whether the qualifying declarations have been made, it then links variable A and B scores to AWG’s substantive assessment of whether the ASU eligibility standard for the CTC discount has been met.

Variable A

9. Variables A assesses the legal implementation of CTC. It captures the state of *de jure*, black letter laws and regulations which provide the basis for application of CTC in transactions governed by CTC as applied, including, and with particular reference to its declarations.

10. Variable A is a measure of the legal implementation of CTC in a country, comprised of (i) primacy, and (ii) completeness. Greater weight is assigned to primacy than to completeness because primacy, even in the absence of completeness, theoretically positions CTC as the prevailing law in a country. In contrast, without primacy, there is greater uncertainty with respect to national law that may conflict with, and prevail over, CTC requirements. As the Official Commentary states in para. 2.293, ‘[c]onformity with the Convention and Protocol requires ... that the implementing provisions override existing inconsistent legislation and that any subsequent legislation is, or is to be construed as, conforming legislation.’ Completeness assesses whether practical legal rules are in place, such as civil aviation regulations, as well as whether regulations may have the effect of undermining CTC provisions. For example, where IDERA regulations expressly require the provision of documents within an operator’s exclusive control, such as an original certificate of registration, prior to deregistration, such a

requirement will negatively impact the score of variable A. Where regulations exist but are ambiguous and require additional interpretation by relevant actors (i.e. IDERA regulations that permit a CAA to require ‘any other documentation’, or are silent as to whether such requirements are permitted, prior to acting upon an IDERA), a decrease to variable A may be applied unless written confirmation is provided by the relevant authority, or confidence is otherwise high, that it will comply strictly with CTC requirements.

11. Where the availability of a remedy may be materially impacted by a lack of clear procedural laws providing for the exercise of such remedy, the variable A score with respect to completeness may be negatively impacted.

12. Variable A is not a fixed variable, in that further decreases or increases may be applied if subsequent judicial or administrative interpretation and practice reveals, or resolves, problems or gaps in existing regulations.

13. Primacy carries a maximum base score of 3 and completeness carries a maximum base score of 2. Primacy without completeness may be adjusted upwards by (i) up to 1 point (that is, to a score of up to 4) if there is a high level of confidence that CTC will be complied with despite the absence of relevant regulations; and (ii) up to 2 points (that is, to a score of up to 5) if there is a high confidence level and the relevant CAA has provided written confirmation to AWG that it will comply with CTC requirements. Completeness without full primacy may be adjusted upwards by up to 1.5 point (that is, to a score of 3.5) if there is a high level of confidence that CTC will be complied with in the absence of such primacy. Factors considered in whether a high confidence level increase is applied include: (i) substantial, positive signaling or established practice by relevant government entities, (ii) questionnaire responses, and, solely with respect to primacy, (iii) whether the OECD has previously vetted the applicable country on CTC primacy. If CTC is translated into the official language of a country, and such local language version is the controlling version, reported gaps and inaccuracies in such translations may also lead to an adjustment downward of up to 1 point. Variable A scores are adjusted in increments of 0.5.

14. This variable is based on legal elements rather than actual practice and whether the relevant institutions (courts and CAAs) in a country have enforced or will enforce the legal rule. The latter is a matter of practical experience with CTC, which is addressed by variable B. The most pertinent question considered by variable A is whether, in a rightly decided case or enforcement action in which correct CTC legal arguments are presented, a court or administrative body in the relevant country would be legally required to apply CTC in accordance with its terms and intent.

15. For purposes of primacy analysis, there may not be ‘conflicting national law’ where a matter of ‘regulatory public law’ is inconsistent with the terms and intent of CTC. As set out in para 2.10(1) of the Official Commentary, a private law convention, such as CTC, is generally not intended to affect rules of regulatory public law (unless expressly addressed by CTC), for example regulatory measures designed to impose legal or economic sanctions. This concept may, depending on facts and circumstances, apply by way of analogy to, or otherwise not require a scoring downgrade in the case of, an exceptional and temporary law of general application arising from a public emergency (emergency measures), which has the effect of limiting CTC rights, to address an extraordinary crisis (emergency), where the (i) emergency (a) was external to actions by the country or parties to the transaction, (b) could not have been reasonably foreseen by the country, in ratifying CTC, or the parties, in entering into the transaction, (c) has a fundamental and overriding adverse effect on the global aviation financing and leasing markets (where (i)(a)–(c) are satisfied, a ‘qualifying emergency’), and (ii) where such emergency measure is (a) temporary in nature and specifically time-bound, linked to the emergency, and is lifted at the end of the specified time-bound period or earlier if practical in light of the emergency, (b) be minimally disruptive and prejudicial to CTC rights

and obligations, and (c) of general application, not limited to specific companies within the aviation sector (where (ii)(a)–(b) are satisfied, ‘qualifying emergency measures’). The foregoing (x) sets an exceptionally high standard, far higher than matters of general public policy, which were not accepted in the negotiation of CTC, and, *a fortiori*, would not apply to any action seeking the asset protection of a specific airline, and (y) does not include action relating to post-emergency economic recovery, which action, if inconsistent with CTC, would result in a scoring downgrade.

16. Variable A (*de jure* compliance) is a foundational variable. It relates to the legal implementation of CTC with regards to (i) primacy (over national law) and (ii) completeness.

17. In the AWG assessment, and for the reasons stated below, a variable A of 4 or higher is necessary (but not sufficient unless the minimum variable B score is also met) in determining that a country meets the substantive eligibility standard set out in the 2011 ASU for the CTC discount.

18. A variable A score of 4 (or higher) indicates that CTC has been implemented in a country such that CTC obligations, and the rights and remedies granted to creditors under CTC, are legally effective and enforceable within that country, per the eligibility criteria in ASU, appendix II, article 38(c). Variable A includes, and expands on, the analysis sought by Part II, paras. 2 (ratification), 3 (effect of national and local law) and 4, subpara. 1.1 in the ASU questionnaire.

19. In order to obtain such a variable A score, the full base score of 3 must be assigned for primacy and at least 1 point must be assigned for completeness or high confidence. This would indicate that the primacy (or priority) of CTC over any conflicting national law is supplemented by either (i) additional factors leading to high confidence that additional regulations are not required to give full effect to CTC, or (ii) additional practical rules or regulations giving effect to rights and remedies granted under CTC.

20. As such, variable A analysis includes not only the primacy of CTC within a national law framework but also concerns regarding potential implementation gaps that may affect the effectiveness or enforceability of CTC.² A score of 4 or higher in this variable reflects AWG’s determination that such issues are substantially and sufficiently addressed in a country such that its CTC commitments have full force and effect under within its national law and, thus, meets the ASU CTC discount eligibility standard.

Variable B

21. Variable B examines *de facto* how such laws are applied and whether such application leads to outcomes that are substantially compliant with CTC terms and intent, and whether the applicable country has ‘taken actions that are inconsistent with, or failed to take actions required by virtue of, that [country’s] CTC commitments’.

22. Variable B is comprised of (i) reported precedent, meaning (a) judicial decisions, and (b) administrative actions, and (ii) experience, as advised by legal or industry experts, in applying and enforcing CTC. Precedent carries relatively and often substantially more weight than advised experience.

23. Variable B is assessed on the basis of a ‘substantial outcomes’ test, namely, whether existing judicial decisions and/or administrative actions, taken as a whole, result in outcomes substantially compliant with the terms and intent of CTC. After all, in addition to ensuring that

² See Part II, para. 3, subpara. 1.3 (and related footnote) and footnote 6 to Part II, para. 4, subpara. 1.1 (failure by a country to ‘put in place any procedures or resources to give effect to a provision of [CTC] or a Qualifying Declaration’ is an example of an administrative action which ‘could be expected to result in courts, authorities or administrative bodies failing to give full force and effect’ to CTC).

domestic legislation complies with its CTC obligations, a country must also ensure that ‘its courts and administrative bodies give effect to all the provisions of the Convention’ other than those provisions which the country has made a permitted opt-out declaration or declined to make an opt-in declaration. (Official Commentary, para. 2.292)

24. Where judicial decisions exist or administrative action has been taken, the score is assigned based on an assessment of how compliant the outcome of such is with CTC terms and intent, in increments of 0.5, from a minimum of 1 to a maximum of 5. Consideration is given to the totality of jurisprudence in a country, unless impacted as described below by legislative corrective action, as well as the relative authority of such precedent(s). Greater value is assigned to precedent addressing enforcement-related provisions and issues. Thus, a well-reasoned precedent that does not address enforcement would generally support a score of 4 and may, on a case-by-case basis, justify a higher score. In assessing negative precedents leading to outcomes that are substantially non-compliant with CTC, consideration is given to the legal arguments presented before the decision-maker, whether judicial or administrative.

25. In cases of first instance, a positive written decision affirming CTC rights and remedies may mitigate negative continuing effects of non-compliant timing in that case. Such mitigating effect of a positive final judgement fades if non-compliant timing persists in subsequent cases. Where no judicial decisions exist or administrative action has been taken, the baseline score is dependent on a country’s variable A score.

26. Where a country’s variable A score is 4 or higher, a baseline score of 3 is assigned. Where a country’s variable A score is lower than 4, a baseline score of 2.5 is assigned. This baseline score is then adjusted upwards or downwards by up to 1 point (that is, to a score of up to 4 or 3.5, as applicable, (increase) or down to 2 or 1.5, as applicable, (decrease)) in accordance with relevant lower level experience (such as a pattern of administrative practice) or government signaling. In such country, the score is adjusted based on advised experience. As examples, a country’s practice with respect to IDERA recordation, its CTC educational systems, and its issuance of official releases or positions may contribute to its variable B score more significantly in the absence of reported precedent.

27. In the event that a country’s variable B score is negatively impacted due to precedent, the impact of such precedent will be nullified in the event of legally authoritative corrective action that addresses the non-compliant precedent. Such legally authoritative corrective action must have a direct impact on the effect of the non-compliant precedent and correct such noncompliance going-forward. If such non-compliant precedent is the only such CTC precedent in the country, variable B’s score will be reset to the baseline. If there are multiple precedents, the effect of the non-compliant precedent on the variable B score and analysis will be excluded.

28. Subject to paragraph 15 under variable A above, this variable may also be negatively impacted by past governmental actions, the effects of which have since lapsed, that raise concerns with respect to the likelihood of governmental action in the future that adversely impacts CTC primacy in a given country. Such an assessment considers the chilling effect of governmental action that indicates a willingness to provide legislative relief noncompliant with CTC requirements. In the application of any qualifying emergency measure by a court or other governmental authority, the application should also follow the principle of being minimally disruptive and prejudicial to CTC rights and obligations.

29. In the AWG assessment, and for the reasons stated below, a variable B of 3 or higher is necessary (but not sufficient unless the minimum variable A score is also met) in determining that a country meets the substantive eligibility standard set out in the 2011 ASU for the CTC discount.

30. A variable B score of 3 (or higher) indicates a country has not ‘taken actions that are inconsistent with, or failed to take actions that are required by virtue of, that [country’s] Cape Town Convention commitments’ without sufficient subsequent corrective action. Variable B includes, and expands on, the analysis sought by Part II, para. 4 (court and administrative decisions) of the ASU CTC questionnaire.

31. Where a country’s variable A score is 4 or higher, a baseline score of 3 is assigned for variable B, in the absence of any practical experience or judicial/administrative action in the application and enforcement of CTC. Where such practical experience or judicial/administration actions exist, a variable B score of 3 or higher indicates that such experience and/or actions, examined as a whole, are materially consistent with a country’s CTC commitments.

32. Thus, a variable B score of 3 indicates that, where the necessary threshold for variable A is met, there is either (i) no negative practical experience, whether administrative or judicial, or (ii) the balance of practical experience is more positive than negative. A score of 3 or higher in this variable reflects AWG’s determination that courts and administrative bodies in a country have not taken actions that would be grounds for ineligibility for the CTC discount under the substantive ASU standard.

Data sources

33. For variables A and B, the AWG secretariat developed a questionnaire, the template of which is available for review on the compliance index website (<https://ctc-compliance-index.awg.aero/index>), and requested consensus responses from multiple law firms, on a pro bono basis, involved in aviation finance in each country. To the extent possible, the foremost legal experts in the field of aviation law in each country were selected, drawing from recommendations from experienced industry leaders in aviation finance and aircraft leasing. Those countries for which AWG was unable to secure sufficient local expertise will remain unscored until responses are secured from at least two firms meeting high expertise requirements in the subject area. AWG does not express any views on compliance with CTC in unscored countries, including the primacy and completeness of the treaty in such country. Substantial caution should be used in any reliance on CTC in connection with jurisdictional analysis and transaction risk assessment in such country. Other sources of data considered are (1) AWG’s direct experience, and those of its members, in working with CAAs and other government offices in connection with the exercise of CTC rights and remedies, (2) the views of the Executive Committee of its Legal Advisory Panel, (3) Pillsbury’s World Aircraft Repossession Index, (4) surveys of existing literature, and (5) other input from legal practitioners and other experts. AWG assesses all of the above data and information objectively, without consideration of commercial or political factors.

Analytical process

34. For variables A and B, questionnaire responses were rigorously reviewed at multiple levels, including in follow-up calls with respondents seeking clarification or elaboration on the written responses. AWG also conducted reviews of cited primary source materials to the extent possible, subject to practical linguistic limitations. Data on experience with CTC compliance in countries were also solicited from and shared by leading actors in the aviation finance and leasing industries. After critical examination of the questionnaire responses and other data sources, the AWG secretariat created a draft scorecard for each country for which data meeting AWG’s standards was available. Such drafts were shared for review by, and reasoned comment from, AWG membership and the Executive Committee of AWG’s Legal Advisory Panel.

Semi-annual updates

35. Updates to the compliance index are published semi-annually in March and October of each year, and reflected on the AWG assessment concurrently. A shortened form of the initial questionnaire are sent those completing this initial questionnaire or subsequently agreeing to participate, requesting the confirmation of the existing information and/or updates to reflect changes since the previous update or interim adjusted scoring. The analysis and assessment process are the same as the one followed for the initial questionnaire, save that a more focused group of experts are engaged in review of potential scoring changes. In order to maintain the evergreen nature and continuous accuracy of the compliance index, a scored country will be removed from the compliance index and marked 'unscored' if its questionnaire responses are not updated, due to a lack of response from at least two law firms, for more than one regular semi-annual update cycle.

Compliance index watchlist

36. In addition to the semi-annual updates, the AWG assessment also indicates whether a compliance index watchlist notice is currently in effect for a country. Placement on the compliance index watchlist indicates that AWG has become aware of material developments in a country that may affect its score but has not yet completed its assessment of the impact of such material developments. This could be due, among other things, to a change in law (variable A) or a new judicial or administrative action (variable B). Once the material development has been reported to AWG, the applicable country may be placed on the compliance index watchlist and identified as such on the AWG assessment, which signals that the AWG assessment for that country, while not yet revised, should be viewed with caution in light of ongoing developments that are not yet reflected therein.

37. Once a country is placed on the compliance index watchlist, AWG closely monitors ongoing developments and issue reports on a bi-weekly basis with fact-based, events-driven updates for such bi-weekly period on the compliance index platform. A country remains on the watchlist until AWG makes a final determination regarding the impact of the totality of the developments on scoring. A country's score may be adjusted while it remains on the watchlist during semi-annual updates.

38. Once AWG has sufficient information such that a scoring determination can be made, either by way of adjustment or confirmation, the analysis and assessment will follow the process set forth above and either a scoring adjustment notice or scoring confirmation notice (each, a '**scoring notice**') will be issued. Upon such scoring adjustment or scoring confirmation, the country will be removed from the compliance index watchlist and its adjusted or confirmed score will be reflected in the compliance index.

39. All updates and adjustments on the compliance index impacting variables A or B are reflected on the AWG assessment concurrently.

* The full CTC compliance index methodology can be found [here](#).

Qualifying declarations as set forth in the ASU

1. For the purpose of Section 2 of Appendix II, the term ‘qualifying declarations’, and all other references thereto in this Sector Understanding, means that a Contracting party to the Cape Town Convention (Contracting Party):
 - a) Has made the declarations in Article 2 of this Annex, and
 - b) Has not made the declarations in Article 3 of this Annex.
2. The declarations for the purpose of Article 1 a) of this Annex are:
 - a) Insolvency: State Party declares that it will apply the entirety of Alternative A under Article XI of the Aircraft Protocol to all types of insolvency proceeding and that the waiting period for the purposes of Article XI(3) of that Alternative shall be no more than 60 calendar days.
 - b) Deregistration: State Party declares that it will apply Article XIII of the Aircraft Protocol.
 - c) Choice of Law: State Party declares that it will apply Article VIII of the Aircraft Protocol.

And at least one of the following (though both are encouraged):

- d) Method for Exercising Remedies: State Party declares under Convention Article 54(2) that any remedies available to the creditor under any provision of the Convention which are not expressed under the relevant provisions thereof to require application to a court may be exercised without leave of the court (the insertion ‘without court action and| to be recommended (but not required) before the words ‘leave of the court’);
 - e) Timely Remedies: State Party declares that it will apply Article X of the Aircraft Protocol in its entirety (though clause 5 thereof, which is to be encouraged, is not required) and that the number of working days to be used for the purposes of the time-limit laid down in Article X (2) of the Aircraft Protocol shall be in respect of:
 - 1) The remedies specified in Articles 13(1)(a), (b) and (c) of the Convention (preservation of the aircraft objects and their value; possession, control or custody of the aircraft objects; and immobilisation of the aircraft objects), not more than that equal to ten calendar days, and
 - 2) The remedies specified in Articles 13(1)(d) and (e) of the Convention (lease of management of the aircraft objects and the income thereof and sale and application of proceeds from the airport equipment) not more than that equal to 30 calendar days.
3. The declarations referred to in Article 1 b) of this Annex are the following:
 - a) Relief Pending Final Determination: State Party shall not have made a declaration under Article 55 of the Convention option out of Article 13 or Article 43 of the Convention; provided, however, that, if State Party made the declarations set out under Article 2 d) of this Annex, the making of a declaration under Article 55 of the Convention shall not prevent application of the Cape Town Convention discount.
 - b) Rome Convention: State Party shall not have made a declaration under Article XXXII of the Aircraft Protocol opting out of Article XXIV of the Aircraft Protocol; and
 - c) Lease Remedy: State Party shall not have made a declaration under Article 54(1) of the Convention preventing lease as a remedy.
4. Regarding Article XI of the Aircraft Protocol, for Member States of the European Union, the qualifying declaration set out in Article 2 a) of this Annex shall be deemed made by a Member State, for purposes hereof, if the national law of such Member State was amended to reflect the terms of Alternative A under Article XI of the Aircraft Protocol (with a maximum 60 calendar days waiting period). As regards the qualifying declarations set out in Articles 2 c) and e) of this Annex, these shall be deemed satisfied, for the purpose of this Sector Understanding, if the laws of the European Union of the relevant Member States are substantially similar to that set out in such Articles of this Annex. In the case of Article 2 c) of this Annex, the laws of the European Union (EC regulation 593/2008 on the Law Applicable to Contractual Obligations) are agreed to be substantially similar to Article VIII of the Aircraft Protocol.