



First Principles and Foundational Doctrine

Cape Town Convention and its Aircraft Protocol

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The Convention on International Interests in Mobile Equipment and the Protocol to the Convention on Matters Specific to Aircraft Equipment (together, the **CTC**) constitute a single, integrated legal instrument.

PURPOSE

1. The CTC is an instrument of economic policy. Legal form is the means. Economic benefit is the end.
2. The CTC's purpose is to produce that economic benefit by increasing the availability, and reducing the cost, of aviation finance and leasing by reducing creditor risk. Other economic benefits (to passengers, more employment, more trade) are derivative.
3. The CTC is purpose-designed. It is not the product of comparative law, the soft harmonization of national rules, or political compromise. It was engineered to produce a defined outcome.
4. The CTC is grounded in risk-reducing predictable rules. That permits creditors to price transactions *ex ante* with confidence.

LEGAL CHARACTER

5. The CTC is a treaty, creating binding international law obligations. Violations of the CTC are breaches of international law. All organs of a contracting state (executive, legislative, judicial, and administrative) are bound as a matter of international law to its State's CTC obligations.
6. Conflicting national law is not a defense (under international law) to a breach of the CTC. Any such breach has adverse market and reputational consequences.
7. Pursuant to its terms and as a matter of international law, the CTC must prevail over conflicting national law.
8. The CTC creates an international property right (an 'international interest'), which must be recognized, and may be enforced, in all contracting states. That right is a legally distinct interest. It is not derived from, or dependent on, any national concept of security, ownership, or title. It exists because the CTC creates it.
9. The CTC creates a closed and comprehensive priority system, ranking property interest in aircraft and engines. Priority between international interests is determined solely by time of electronic registration in the International Registry, without reference to the nature of the interest, its governing law, or the location of the asset. The principal exception is declared 'non-consensual rights and interests', which may retain or limit, but not increase, those under national law.
10. Aircraft engines are treated as legally distinct property. Installation on an airframe does not transfer or affect proprietary interests in an engine. The CTC severs the engine from the airframe for all purposes of ownership and security.

RULES, NOT STANDARDS

11. The CTC operates through rules, not standards. It specifies outcomes, not criteria. The instrument's value lies in the reduction of judicial or administrative discretion at the moment of enforcement.
12. If so declared, the CTC remedies (rights to repossess, deregister, sell or redeploy aircraft and engines) are time-bound and/or self-executing (non-judicial remedies). Speed of enforcement is not incidental to the CTC's design; it is the design. An enforceable right delayed is a right with limited value.
13. The CTC's treatment of insolvency is exceedingly consequential. Insolvency is where creditor risk is highest. If so declared (Alternative A of Article XI), the CTC imposes hard obligations (specific 'cure or return' time limits (waiting period), asset value protection, and no involuntary modification) — that no insolvency administrator or debtor-in-possession may override.
14. The CTC protects asset value after a default, whether in insolvency or pending repossession. An aircraft or engine that deteriorates, is stranded, or is held hostage by slow process destroys the creditor's property or collateral. 'Relief pending final determination', a right created by the CTC, is designed to prevent this.

DECLARATIONS AND THE REDUCTION OF TRANSACTION RISK

15. The CTC's benefits are not uniform. They are a function of the declarations made by each contracting state when ratifying. A ratification without the requisite declarations is a legal act devoid of economic consequences.
16. The OECD Aircraft Sector Understanding identifies a set of 'qualifying declarations' as the precondition for a reduced minimum premium rate on export credits for aircraft. This is the OECD's 'CTC discount.' That is *quid pro quo*, not subsidy: such qualifying declarations reduce risk, thus warranting lower pricing.
17. The risk-reducing effect of qualifying declarations extends beyond export credit. All creditors dealing with airlines in a qualifying-declaration state benefit from them. Transaction risk is reduced, and credit is priced accordingly, across the market.

COMPLIANCE — STRICT CONDITION TO ECONOMIC BENEFIT

18. The making of the qualifying declarations is a necessary, but not sufficient, condition to producing economic benefits. The CTC delivers its benefits only to the extent that it is fully, accurately, and reliably applied — by courts and administrative authorities — in practice, specifically in contested cases.
19. The AWG CTC Compliance Index (supported by over 270 law firms globally) provides a systematic and quantified assessment of how contracting states perform against their obligations under the CTC. It also issues prompt 'watchlist notice' (positive, negative, or conditional) concurrently with all compliance-related legal developments in a country (which are not yet reflected in its scoring). See awg.aero
20. The CTC is not a framework to be adapted to local legal culture. Adaptation is non-compliance. Every departure from strict compliance imposes a cost on the airlines

of the non-compliant state (access to and cost of credit) and reputationally on the non-compliant state.

INTERPRETATION

21. The CTC is to be interpreted autonomously. Its terms derive their meaning from the text, structure, and purposes of the treaty.

22. Uniformity of interpretation is a structural requirement, not an aspiration. The terms of the CTC may not mean different things in different courts. The authoritative guide to uniform interpretation is the Official Commentary (revised 5th edition) prepared by Professor Sir Roy Goode.

23. Gaps in the CTC are to be resolved by reference to its general principles, as clearly articulated in the Official Commentary. Recourse to national law is available only where the CTC expressly provides for it or (the unlikely case) where the CTC general principles, as developed in the Official Commentary, do not address an item.

END

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