

One Hundred Eighth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Tuesday,
the twentieth day of January, two thousand and four*

An Act

To amend title 49, United States Code, to make certain conforming changes to provisions governing the registration of aircraft and the recordation of instruments in order to implement 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, known as the “Cape Town Treaty”.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as “Cape Town Treaty Implementation Act of 2004”.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The Cape Town Treaty (as defined in section 44113 of title 49, United States Code) extends modern commercial laws for the sale, finance, and lease of aircraft and aircraft engines to the international arena in a manner consistent with United States law and practice.

(2) The Cape Town Treaty provides for internationally established and recognized financing and leasing rights that will provide greater security and commercial predictability in connection with the financing and leasing of highly mobile assets, such as aircraft and aircraft engines.

(3) The legal and financing framework of the Cape Town Treaty will provide substantial economic benefits to the aviation and aerospace sectors, including the promotion of exports, and will facilitate the acquisition of newer, safer aircraft around the world.

(4) Only technical changes to United States law and regulations are required since the asset-based financing and leasing concepts embodied in the Cape Town Treaty are already reflected in the United States in the Uniform Commercial Code.

(5) The new electronic registry system established under the Cape Town Treaty will work in tandem with current aircraft document recordation systems of the Federal Aviation Administration, which have served United States industry well.

(6) The United States Government was a leader in the development of the Cape Town Treaty.

(b) PURPOSE.—Accordingly, the purpose of this Act is to provide for the implementation of the Cape Town Treaty in the United States by making certain technical amendments to the provisions of chapter 441 of title 49, United States Code, directing the Federal

Aviation Administration to complete the necessary rulemaking processes as expeditiously as possible, and clarifying the applicability of the Treaty during the rulemaking process.

SEC. 3. RECORDATION OF SECURITY INSTRUMENTS.

(a) ESTABLISHMENT OF SYSTEM.—Section 44107(a) of title 49, United States Code, is amended—

(1) in paragraph (2)(A) by striking “750” and inserting “550”; and

(2) in paragraph (3) by striking “clause (1) or (2) of this subsection” and inserting “paragraph (1) or (2)”.

(b) INTERNATIONAL REGISTRY.—Section 44107 of such title is amended by adding at the end the following:

“(e) INTERNATIONAL REGISTRY.—

“(1) DESIGNATION OF UNITED STATES ENTRY POINT.—As permitted under the Cape Town Treaty, the Federal Aviation Administration Civil Aviation Registry is designated as the United States Entry Point to the International Registry relating to—

“(A) civil aircraft of the United States;

“(B) an aircraft for which a United States identification number has been assigned but only with regard to a notice filed under paragraph (2); and

“(C) aircraft engines.

“(2) SYSTEM FOR FILING NOTICE OF PROSPECTIVE INTERESTS.—

“(A) ESTABLISHMENT.—The Administrator shall establish a system for filing notices of prospective assignments and prospective international interests in, and prospective sales of, aircraft or aircraft engines described in paragraph (1) under the Cape Town Treaty.

“(B) MAINTENANCE OF VALIDITY.—A filing of a notice of prospective assignment, interest, or sale under this paragraph and the registration with the International Registry relating to such assignment, interest, or sale shall not be valid after the 60th day following the date of the filing unless documents eligible for recording under subsection (a) relating to such notice are filed for recordation on or before such 60th day.

“(3) AUTHORIZATION FOR REGISTRATION OF AIRCRAFT.—A registration with the International Registry relating to an aircraft described in paragraph (1) (other than subparagraph (C)) is valid only if (A) the person seeking the registration first files documents eligible for recording under subsection (a) and relating to the registration with the United States Entry Point, and (B) the United States Entry Point authorizes the registration.”.

SEC. 4. REGULATIONS.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall issue regulations necessary to carry out this Act, including any amendments made by this Act.

(b) CONTENTS OF REGULATIONS.—Regulations to be issued under this Act shall specify, at a minimum, the requirements for—

(1) the registration of aircraft previously registered in a country in which the Cape Town Treaty is in effect; and

(2) the cancellation of registration of a civil aircraft of the United States based on a request made in accordance with the Cape Town Treaty.

(c) EXPEDITED RULEMAKING PROCESS.—

(1) FINAL RULE.—The Administrator shall issue regulations under this section by publishing a final rule by December 31, 2004.

(2) EFFECTIVE DATE.—The final rule shall not be effective before the date the Cape Town Treaty enters into force with respect to the United States.

(3) ECONOMIC ANALYSIS.—The Administrator shall not be required to prepare an economic analysis of the cost and benefits of the final rule.

(d) APPLICABILITY OF TREATY.—Notwithstanding parts 47.37(a)(3)(ii) and 47.47(a)(2) of title 14, of the Code of Federal Regulations, Articles IX(5) and XIII of the Cape Town Treaty shall apply to the matters described in subsection (b) until the earlier of the effective date of the final rule under this section or December 31, 2004.

SEC. 5. LIMITATION ON VALIDITY OF CONVEYANCES, LEASES, AND SECURITY INSTRUMENTS.

Section 44108(c)(2) of title 49, United States Code, is amended by striking the period at the end and inserting “or the Cape Town Treaty, as applicable.”.

SEC. 6. DEFINITIONS.

(a) IN GENERAL.—Chapter 441 of title 49, United States Code, is amended by adding at the end the following:

“§ 44113. Definitions

“In this chapter, the following definitions apply:

“(1) CAPE TOWN TREATY.—The term ‘Cape Town Treaty’ means the Convention on International Interests in Mobile Equipment, as modified by the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, signed at Rome on May 9, 2003.

“(2) UNITED STATES ENTRY POINT.—The term ‘United States Entry Point’ means the Federal Aviation Administration Civil Aviation Registry.

“(3) INTERNATIONAL REGISTRY.—The term ‘International Registry’ means the registry established under the Cape Town Treaty.”.

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:

“44113. Definitions.”.

SEC. 7. EFFECTIVE DATE AND PRESERVATION OF PRIOR RIGHTS.

This Act, including any amendments made by this Act, shall take effect on the date the Cape Town Treaty (as defined in section 44113 of title 49, United States Code) enters into force with respect to the United States and shall not apply to any registration or recordation that was made before such effective date under chapter

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441 of such title or any legal rights relating to such registration or recordation.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*