



THE SECRETARY OF TRANSPORTATION  
WASHINGTON, D.C. 20590

November 18, 2003

The Honorable Richard B. Cheney  
President of the Senate  
Washington, DC 20510

Dear Mr. President:

The Department of State recently sent to the Senate for ratification the *Convention on International Interests in Mobile Equipment and the Protocol on Matters Specific to Aircraft Equipment*, a treaty that was concluded at Cape Town, South Africa on November 16, 2001 (the "Cape Town Convention"). The Cape Town Convention will expand credit financing for the purchase and lease of aircraft and aircraft engines across the world through the establishment of an international legal framework to support cross-border financial transactions using modern methods of asset-based financing consistent with those already in place in this country. It will produce substantial economic benefits, to be widely shared among all major segments of the aviation and aerospace sectors. These benefits will include promoting the export of U.S.-manufactured products, reducing airline financing costs, facilitating the acquisition of newer, safer aircraft, and helping developing countries attract private capital.

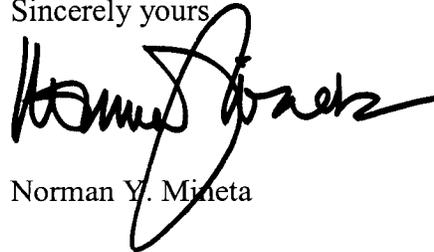
This new international legal framework is designed to give greater security to entities that finance the purchase of highly mobile aircraft, particularly in developing markets where the business risks would not otherwise support such transactions. Under the Convention, an international registry system will be established, where rights in aircraft and engines will be recorded. The international registry will be fully integrated with the Federal Aviation Administration's (FAA) aircraft registry system, which will serve as its exclusive entry point in the United States. Rights under the Cape Town Convention will be enforced through existing court procedures.

In order to fully implement the Cape Town Convention, certain legislative changes to chapter 441 of title 49, United States Code, concerning registration of aircraft and recordation of security instruments, administered by the FAA, will be necessary. Enclosed is a proposed bill to implement the Convention for consideration by the Congress and referral to the appropriate committees. These amendments are fairly technical in nature and are noncontroversial. Like the Cape Town Convention, they were developed in close consultation with other Departments and agencies as well as interested industry representatives.

The significant advance in aviation financing contemplated by the Cape Town Convention is vital to United States aviation and aerospace interests, now more than ever given the challenges faced by the industry. The Department urges the favorable

consideration of the enclosed proposal. The Office of Management and Budget advises that enactment of this proposed legislation would be in accord with the program of the President.

Sincerely yours

A handwritten signature in black ink, appearing to read "Norman Y. Mineta". The signature is fluid and cursive, with a large loop at the end.

Norman Y. Mineta

Enclosure

## **A Bill**

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. REGISTRATION REQUIREMENTS.**

Section 44102 of title 49, United States Code, is amended by adding a new subsection (c) at the end as follows:

“(c) AIRCRAFT SUBJECT TO THE CAPETOWN CONVENTION. — With respect to subsection (a)(1) of this section, an aircraft not registered under the laws of a foreign country which is an aircraft last registered in a country which is subject to the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment, may be registered under section 44103 of this title provided the owner certifies that all registered interests ranking in priority have been discharged or that the holders of such interests have consented to the de-registration and export of the aircraft.”.

### **SEC. 2. CANCELLATION OF REGISTRATION AND EXPORT OF AIRCRAFT.**

(a) Chapter 441 of title 49, United States Code, is amended by adding the following new section at the end:

#### **“§44113. Cancellation of registration and export of aircraft.**

“A request for cancellation of registration and export of an aircraft that is subject to the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment, is subject to applicable safety laws and regulations, and must be made by a person authorized to make such a request under the Protocol; and include a certification that all registered interests ranking in priority have been discharged or that the holders of such interests have consented to the cancellation of registration and export.”.

(b) CONFORMING AMENDMENT.—The analyses of chapter 441 is amended by adding at the end the following:

“44113. Cancellation of registration and export of aircraft.”.

### **SEC. 3. RECORDATION OF SECURITY INSTRUMENTS.**

Section 44107 of title 49, United States Code, is amended—

(1) in subparagraph (a)(2)(A), by striking “750” and inserting “550”; and

(2) by adding a new subsection (e) at the end as follows:

“(e) ENTRY POINT TO INTERNATIONAL REGISTRY.—(1) As authorized under the Convention on International Interests in Mobile Equipment (“Convention”) and the Protocol on Matters Specific to Aircraft Equipment (“Protocol”) (collectively, the “Cape Town Treaty”), and as related to the system established under subsection (a) of this section, the Federal Aviation Administration through its FAA Aircraft Registry (“FAA Entry Point”) is designated as the entry point at which:

“(i) the filing of instruments, conveyances, writings or notices pursuant to subsection (e)(3) and (e)(5) of this section shall be made prior to the transmittal of information based on those filings to the International Registry created pursuant to the Cape Town Treaty (“International Registry”);

“(ii) the filing of instruments, conveyances, writings or notices pursuant to subsection (e)(7) of this section shall be made; and

“(iii) the filing of instruments, conveyances, writings or notices provided for in subsections (e)(4) and (e)(6) of this section may be made prior to the transmittal of information based on those filings to the International Registry.

“(2) Any registration permitted by the Cape Town Treaty, in respect of a civil aircraft of the United States, or an aircraft which is to become a civil aircraft of the United States made with the International Registry other than through the FAA Entry Point as provided in this section, shall be invalid, except as provided in subsections (e)(4) and (e)(6) of this section. This paragraph does not apply to a registration made with the International Registry during the time an aircraft which subsequently becomes a civil aircraft of the United States has the nationality of another State.

“(3) Any instrument, conveyance, writing or notice which is the basis for a registration in the International Registry and which is eligible for recording pursuant to subsection (a)(1) of this section, and any release, cancellation, discharge, and satisfaction thereof which is eligible for

recording under subsection (a) (3) of this section, shall be filed for recordation with the Administrator under the system established under subsection (a) of this section at the FAA Entry Point prior to the transmittal to the International Registry of any information based thereon.

“(4) Any instrument, conveyance, writing or notice which is the basis for a registration in the International Registry and which is eligible for recording pursuant to subsection (a)(2)(A) of this section, and any release, cancellation, discharge, and satisfaction thereof which is eligible for recordation under subsection (a)(3) of this section, may be filed for recordation with the Administrator under the system established under subsection (a) of this section at the FAA Entry Point prior to the transmittal to the International Registry of any information based thereon.

“(5) Any instrument, conveyance, writing or notice affecting an interest, including a release, cancellation, discharge, and satisfaction of such interest, in an aircraft which is a civil aircraft of the United States, or an aircraft which is to become a civil aircraft of the United States, which is the basis for a registration in the International Registry, but which is not eligible for recording pursuant to subsection (a) of this section shall be the subject of the filing of an FAA Entry Point Filing Form at the FAA Entry Point prior to the transmittal to the International Registry of any information based thereon.

“(6) Any instrument, conveyance, writing or notice affecting an interest, including a release, cancellation, discharge, and satisfaction of such interest, in an aircraft engine which is the basis for a registration in the International Registry, but which is not eligible for recording pursuant to subsection (a) of this section may be the subject of the filing of an FAA Entry Point Filing Form at the FAA Entry Point prior to the transmittal to the International Registry of any information based thereon.

“(7) When any prospective international interest, prospective assignment, or prospective sale which is the basis for a registration with the International Registry becomes an international interest which is evidenced by an instrument or conveyance that is eligible for recordation pursuant to subsection (a)(1) of this section, such instrument or conveyance shall be filed for recordation with the Administrator at the FAA Entry Point under the system established by this section. The priority established by the registration of a prospective international interest, prospective assignment or prospective sale with the International Registry shall be maintained only if such prospective international interest, prospective assignment or prospective sale is the subject of a filing with the FAA Entry Point of a recordable instrument or conveyance as

required by this subsection, within 180 days from the date the prospective international interest, prospective assignment or prospective sale was registered with the International Registry.

“(8) Filings made with or at the FAA Entry Point under subsections (e) (3), (4), (5), (6) or (7) of this section shall be accompanied by the applicable fees, if any, and a completed FAA Entry Point Filing Form. The FAA Entry Point Filing Form shall include, without limitation, the identity of the parties; the make, model, serial number and United States Registration number (or U.S. identification number, if applicable) of any aircraft; the make, model and serial number of any engine; whether the registration to be made with the International Registry is related to a prospective international interest, prospective assignment, prospective sale or an international interest; and a unique authorization code issued by the FAA Entry Point that shall be used by the filing party to transmit registration information to the International Registry in connection with any such filing.

“(9) For purposes of this section, the term “aircraft to become a civil aircraft of the United States” means an aircraft to which the FAA Aircraft Registry has assigned a U.S. identification number under 14 CFR Part 45 but which aircraft is not currently registered under 14 CFR Part 47.”.

#### **SEC. 4. AMENDMENT TO APPLICABLE LAWS.**

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

### Section-by-Section Analysis

**Sec. 1. Registration requirements.** This section addresses the requirements of Articles IX(5) of the Protocol and modifies the requirements of 14 C.F.R. §47.37, particularly that all holders of recorded rights against the aircraft have been satisfied or have consented. This previous requirement was promulgated to comply with the Geneva Convention on the International Recognition of Rights in Aircraft. The Cape Town Convention and Aircraft Protocol will supersede the financial requirements that reflect practices in place in 1948.

**Sec. 2. Cancellation of registration and export of aircraft.** This section addresses the requirements of Articles IX, X and XIII of the Protocol and modifies the requirements of 14 C.F.R. §47.47, particularly that all holders of recorded rights against the aircraft have been satisfied or have consented. This previous requirement was promulgated to comply with the Geneva Convention on the International Recognition of Rights in Aircraft. The Cape Town Convention and Aircraft Protocol will supersede the financial requirements that reflect practices in place in 1948.

**Sec. 3. Recordation of security instruments.** This section adds requirements to comply with the Cape Town Convention and Protocol.

**Sec. 4. Applicable laws.** This section adds a reference to the Cape Town Convention and Protocol.