

## CAPE TOWN AND THE INTERNATIONAL REGISTRY

The Cape Town Treaty and International Registry of Mobile Assets went into effect March 1, 2006. The Cape Town Treaty modified existing law and created new law. It created an International Registry (“IR”) by establishing “international interests” with respect to specified financing instruments that affect designated classes of aircraft called “aircraft objects.”

The perfection of the international interests and determination of priority of the international interests is accomplished through registration with the International Registry via the internet, which has replaced FAA filing as priority perfection. Under U.S. law, the entity to register their international interest with the International Registry first will prevail over subsequently registered interests and unregistered international interests. Under U.S. law, documents must be filed with the FAA to maintain validity of Cape Town registration on U.S. registered aircraft.

Anyone who may become an Owner, Lender, Lessor, Lessee, Seller, Purchaser of an aircraft object, or who may become an assignee or subrogee of an international interest or almost anyone else who may be involved in a transaction involving an aircraft object and an international interest should be concerned with Cape Town. This is the case even though all of the parties of the transaction are U.S. citizens and the aircraft may never have left the U.S., nor will it ever leave the U.S. Cape Town applies because of the nature of the equipment and not whether the transaction is domestic vs. international.

Your escrow agent has determined that your aircraft and/or engine meets the recording criteria of the International Registry and is therefore deemed an “aircraft object.”

An Aircraft Object is defined as:

- An airframe type certified to transport at least eight (8) persons, including crew, or goods in excess of 2750 kg (6063 lbs); OR
- A helicopter type certified to transport at least five (5) persons, including crew, or goods in excess of 450 kg (990 lbs); OR
- A jet engine that has at least 1750 pounds of thrust; OR
- A turbine or piston engine that has at least 550 hp

Cape Town excludes propellers, avionics, and other parts or accessories from coverage.

Your transaction must also meet the following criteria to be considered an International Registry eligible transaction:

- The debtor is situated in a contracting state, OR
- The Aircraft is registered in a contracting state

As of 30th December 2015, the following countries and regional economic organisations have ratified or acceded to the Convention.

Afghanistan, Albania, Angola, Australia Bahrain, Bangladesh, Belarus, Bhutan, Brazil, Burkina Faso, Cameroon, Canada, Cape Verde, China, Colombia, Congo, Costa Rica, Cuba, Côte d’Ivoire, Denmark (effective 1st February 2016), Egypt, Ethiopia, European Community, Fiji, Gabon, India, Indonesia, Ireland, Jordan, Kazakhstan, Kenya, Kuwait, Latvia, Luxembourg, Madagascar, Malawi, Malaysia, Malta, Mexico, Mongolia, Mozambique, Myanmar, New Zealand, Nigeria, Norway, Oman, Pakistan, Panama, the Republic of Moldova the Republic of San Marino, Russian Federation, Rwanda, Saudi Arabia, Senegal, Seychelles, Singapore, South Africa, Spain, Sweden (effective 1st April 2016), Syrian Arab Republic, The Kingdom of the Netherlands, Tajikistan,

Togo, Turkey, Ukraine, United Republic of Tanzania, United States of America, United Arab Emirates, United Kingdom , the Socialist Republic of Viet Nam, Zimbabwe.

Additional countries are in the process of ratifying the Treaty; therefore, this list may change at any time. For a complete, current list of countries please visit: <https://www.internationalregistry.aero/ir-web/faq>

Each party to the transaction must be registered as a Transacting User Entity (“TUE”) with the IR. Debtor and Creditor/Lessee and Lessor must both be registered users in order to register an international interest (Security Agreement/Lease Agreement) with the IR. Buyer and Seller must both be registered users in order to register a Contract of Sale (Bill of Sale) with the IR.

After all parties have registered as TUE’s, The Title Company will request to act as your Professional User Entity (“PUE”) so that we may register your international interests with the International Registry at closing.

Title Companies will charge an added fee to register and be the TUE/PUE for an entity. The services include aircraft title searches, International Registry priority searches, FAA document filings, wire fees, International Registry registrations (filings), and post-closing International Registry priority searches. This fee also includes any fees that they will advance to the FAA and International Registry for searches and/or filings.

In addition to the fees mentioned above, each party to the transaction (buyer, seller, lessor, lessee, lender, lien holder, etc.) will need to be currently enrolled with the IR as a TUE. Any party that is not currently enrolled as TUE has two options for enrollment:

1. Act as your own IR Administrator. The International Registry will charge a \$200 fee for processing your application.
2. Have the Title Company register the entity and become administrator for an added fee.

To Search the IR for an entity here is the link, you can enter the site as "Guest"

<https://www.internationalregistry.aero/ir-web/home>

For further information about the International Registry, visit the International Registry’s website at [www.internationalregistry.aero](http://www.internationalregistry.aero).

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