

THE ADVANTAGES THAT STATES MAY EXPECT TO DERIVE FROM BECOMING CONTRACTING STATES TO THE CAPE TOWN CONVENTION AND AIRCRAFT PROTOCOL

(prepared by the Secretariat of UNIDROIT, as Depositary)

States may expect to derive both legal and economic advantages from becoming Parties to the *Convention on International Interests in Mobile Equipment* (the Convention) and the *Protocol to Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment* (the Aircraft Protocol).

The problem addressed by the Convention

The Convention is designed to overcome the problem of obtaining secure and readily-enforceable rights in items of high-value mobile equipment which by their nature do not have a fixed location and, in the case of space assets (such as satellites) are not on Earth at all. This problem derives essentially from the widely-differing approaches taken by legal systems to security, title reservation and leasing rights, engendering uncertainty amongst intending financiers as to the efficacy of their rights. The result is to inhibit the extension of finance in respect of such categories of high-value mobile equipment, particularly to developing countries, and to increase borrowing costs.

Legal advantages

Through the creation of a uniform international regimen governing the taking of security in high-value mobile equipment, based on the creation of an international interest in such categories of equipment that is to be recognised in all Contracting States and on the establishment of an electronic international registration system for the registration of such interests, the Convention and its Protocols will greatly improve predictability as to the enforceability of security, title reservation and leasing rights in the various categories of high-value mobile equipment covered by its terms, and in the first place aircraft objects.

Economic advantages

The establishment of the international regimen facilitating the creation, perfection and enforceability of security, title reservation and leasing rights in the categories of high-value mobile equipment covered by the Convention and its Protocols, and in the first place the Aircraft Protocol, will provide confidence to lenders and institutional investors, making it possible to convert illiquid loans into liquid securities and to attract domestic and foreign capital in respect of such equipment. It will improve opportunities for asset-based financing of high-value mobile equipment. By virtue of the improved legal predictability that it will permit, it should reduce risks for creditors and consequently borrowing costs for debtors and facilitate the extension of credit for the acquisition of high-value mobile equipment, particularly in developing countries the existing legal regimes of which may not currently be sufficiently responsive to the need of creditors to feel secure. In respect of aviation credit it is to be noted that, in so far as financing is typically a condition to the acquisition and use of aircraft and aircraft engines, the Convention and the Aircraft Protocol will contribute to improved safety by assisting airlines in many jurisdictions in their efforts to modernise and upgrade their fleets.