

108<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4226

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IN THE SENATE OF THE UNITED STATES

JUNE 23 (legislative day, JUNE 22), 2004

Received; read twice and referred to the Committee on Commerce, Science,  
and Transportation

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## 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”.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as “Cape Town Treaty Imple-  
3 mentation Act of 2004”.

4 **SEC. 2. FINDINGS AND PURPOSE.**

5 (a) FINDINGS.—Congress finds the following:

6 (1) The Cape Town Treaty (as defined in sec-  
7 tion 44113 of title 49, United States Code) extends  
8 modern commercial laws for the sale, finance, and  
9 lease of aircraft and aircraft engines to the inter-  
10 national arena in a manner consistent with United  
11 States law and practice.

12 (2) The Cape Town Treaty provides for inter-  
13 nationally established and recognized financing and  
14 leasing rights that will provide greater security and  
15 commercial predictability in connection with the fi-  
16 nancing and leasing of highly mobile assets, such as  
17 aircraft and aircraft engines.

18 (3) The legal and financing framework of the  
19 Cape Town Treaty will provide substantial economic  
20 benefits to the aviation and aerospace sectors, in-  
21 cluding the promotion of exports, and will facilitate  
22 the acquisition of newer, safer aircraft around the  
23 world.

24 (4) Only technical changes to United States law  
25 and regulations are required since the asset-based fi-  
26 nancing and leasing concepts embodied in the Cape

1       Town Treaty are already reflected in the United  
2       States in the Uniform Commercial Code.

3               (5) The new electronic registry system estab-  
4       lished under the Cape Town Treaty will work in tan-  
5       dem with current aircraft document recordation sys-  
6       tems of the Federal Aviation Administration, which  
7       have served United States industry well.

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

10       (b) PURPOSE.—Accordingly, the purpose of this Act  
11       is to provide for the implementation of the Cape Town  
12       Treaty in the United States by making certain technical  
13       amendments to the provisions of chapter 441 of title 49,  
14       United States Code, directing the Federal Aviation Ad-  
15       ministration to complete the necessary rulemaking proc-  
16       esses as expeditiously as possible, and clarifying the appli-  
17       cability of the Treaty during the rulemaking process.

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

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

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

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

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

3 “(e) INTERNATIONAL REGISTRY.—

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

9 “(A) civil aircraft of the United States;

10 “(B) an aircraft for which a United States  
11 identification number has been assigned but  
12 only with regard to a notice filed under para-  
13 graph (2); and

14 “(C) aircraft engines.

15 “(2) SYSTEM FOR FILING NOTICE OF PROSPEC-  
16 TIVE INTERESTS.—

17 “(A) ESTABLISHMENT.—The Adminis-  
18 trator shall establish a system for filing notices  
19 of prospective assignments and prospective  
20 international interests in, and prospective sales  
21 of, aircraft or aircraft engines described in  
22 paragraph (1) under the Cape Town Treaty.

23 “(B) MAINTENANCE OF VALIDITY.—A fil-  
24 ing of a notice of prospective assignment, inter-  
25 est, or sale under this paragraph and the reg-

1           istration with the International Registry relat-  
2           ing to such assignment, interest, or sale shall  
3           not be valid after the 60th day following the  
4           date of the filing unless documents eligible for  
5           recording under subsection (a) relating to such  
6           notice are filed for recordation on or before  
7           such 60th day.

8           “(3) AUTHORIZATION FOR REGISTRATION OF  
9           AIRCRAFT.—A registration with the International  
10          Registry relating to an aircraft described in para-  
11          graph (1) (other than subparagraph (C)) is valid  
12          only if (A) the person seeking the registration first  
13          files documents eligible for recording under sub-  
14          section (a) and relating to the registration with the  
15          United States Entry Point, and (B) the United  
16          States Entry Point authorizes the registration.”.

17 **SEC. 4. REGULATIONS.**

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

22          (b) CONTENTS OF REGULATIONS.—Regulations to be  
23          issued under this Act shall specify, at a minimum, the re-  
24          quirements for—

1           (1) the registration of aircraft previously reg-  
2           istered in a country in which the Cape Town Treaty  
3           is in effect; and

4           (2) the cancellation of registration of a civil air-  
5           craft of the United States based on a request made  
6           in accordance with the Cape Town Treaty.

7           (c) EXPEDITED RULEMAKING PROCESS.—

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

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

14          (3) ECONOMIC ANALYSIS.—The Administrator  
15          shall not be required to prepare an economic anal-  
16          ysis of the cost and benefits of the final rule.

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

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

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

6 **SEC. 6. DEFINITIONS.**

7 (a) IN GENERAL.—Chapter 441 of title 49, United  
8 States Code, is amended by adding at the end the fol-  
9 lowing:

10 **“§ 44113. Definitions**

11 “In this chapter, the following definitions apply:

12 “(1) CAPE TOWN TREATY.—The term ‘Cape  
13 Town Treaty’ means the Convention on Inter-  
14 national Interests in Mobile Equipment, as modified  
15 by the Protocol to the Convention on International  
16 Interests in Mobile Equipment on Matters Specific  
17 to Aircraft Equipment, signed at Rome on May 9,  
18 2003.

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

22 “(3) INTERNATIONAL REGISTRY.—The term  
23 ‘International Registry’ means the registry estab-  
24 lished under the Cape Town Treaty.”.

1 (b) CONFORMING AMENDMENT.—The analysis for  
2 such chapter is amended by adding at the end the fol-  
3 lowing:

“44113. Definitions.”.

4 **SEC. 7. EFFECTIVE DATE AND PRESERVATION OF PRIOR**  
5 **RIGHTS.**

6 This Act, including any amendments made by this  
7 Act, shall take effect on the date the Cape Town Treaty  
8 (as defined in section 44113 of title 49, United States  
9 Code) enters into force with respect to the United States  
10 and shall not apply to any registration or recordation that  
11 was made before such effective date under chapter 441  
12 of such title or any legal rights relating to such registra-  
13 tion or recordation.

Passed the House of Representatives June 22, 2004.

Attest:

JEFF TRANDAHL,

*Clerk.*