

CAPE TOWN TREATY IMPLEMENTATION ACT OF 2004

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JUNE 8, 2004.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
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Mr. YOUNG of Alaska, from the Committee on Transportation and
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 4226]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 4226) 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”, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

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

PURPOSE OF THE LEGISLATION

H.R. 4226 amends title 49, United States Code, to make certain conforming changes to provisions governing the registration of aircraft and the recordation of instruments 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.”

BACKGROUND AND NEED FOR LEGISLATION

The Cape Town Convention on International Interests in Mobile Equipment, and the related Protocol on Aircraft Equipment, known as the “Cape Town Treaty,” will extend modern commercial finance laws, already in place in the United States, to international transactions involving high value mobile equipment. The Cape Town Convention contains the basic terms and provisions that underlie the regime and the Aircraft Protocol makes the Treaty operational as to aircraft, aircraft engines and helicopters above a certain size. The Treaty represents a significant advance in international aviation financing and is vital to U.S. aviation and aerospace interests given the challenges faced by the industry today. Key federal agencies concerned with civil aviation and U.S. exports, including the FAA, Export-Import Bank of the United States (EXIM Bank), and the Departments of Transportation, Commerce and State were fully involved in development of the Convention and Aircraft Protocol.

The financing provisions on secured interests and leasing under the Treaty do not require any implementing legislation in the U.S. because they are fully consistent with U.S. law under the Uniform Commercial Code. However, certain technical amendments to the

Federal Aviation Administration's (FAA) Civil Aviation Registry functions are required to fully integrate the FAA's Registry system with the new, computerized International Registry that will be established under the Treaty. Those technical amendments are set forth in H.R. 4226, the "Cape Town Treaty Implementation Act of 2004."

Treaty status

The Cape Town Convention and Aircraft Protocol were negotiated under the auspices of the International Institute for the Unification of Private Law (UNIDROIT), an intergovernmental organization focused on harmonizing the commercial law of nations, and the International Civil Aviation Organization (ICAO), the United Nations body responsible for international aviation. It was concluded in November 2001 at a Diplomatic Conference at Cape Town, South Africa, and has been signed by 29 states, including the United States. The President transmitted the Cape Town Convention and Aircraft Protocol to the Senate on November 5, 2003. Later that month, Secretary of Transportation Norman Y. Mineta transmitted proposed technical amendments to the FAA's authority to fully implement the Treaty. The Senate Foreign Relations Committee held a hearing on the Treaty on April 1, 2004.

Benefits of the FAA Civil Aviation Registry, the designated U.S. Entry Point, and the International Registry

The Cape Town Treaty will establish a new international legal framework, modeled on the modern finance law as practiced in the U.S., to give greater security to those who finance the purchase of highly mobile aircraft, aircraft engines and helicopters of a certain size. To implement this world-wide system for countries ratifying the Treaty, an International Registry will be established where notices of rights in aircraft, helicopters and engines will be recorded. That will be done for the limited purpose of establishing the priority of competing financial interests, and has no oversight, safety or other regulatory implications. Under the amendments made by H.R. 4226, the FAA's Civil Aviation Registry ("FAA Registry") system will be preserved and fully integrated with the new International Registry.

Once in force, the Cape Town Treaty will provide significant economic benefits both in the U.S and abroad. For countries that manufacture aircraft, such as the U.S., there will likely be increased exports as the number of orders for aircraft and aircraft equipment increase. U.S. companies that make aircraft parts and provide related services also will benefit and positive employment implications all around are expected. In addition, the creditor protections provided for by the Treaty will benefit U.S. financing companies. There will be a significant reduction in the risk financing companies incur when financing aircraft in countries whose laws do not meaningfully protect creditors in the event of a default or insolvency. This risk reduction will, in turn, bring benefits to many countries, particularly developing countries, whose carriers have had to pay high interest rates or who have not been able to access the commercial credit markets at all because of their credit risk. For example, the EXIM Bank has already offered financing advantages to airlines located in countries that ratify the Treaty. Cur-

rently, four countries have ratified the Convention and Protocol: Ethiopia, Pakistan, Nigeria and Panama. Increased credit, assisting in the acquisition of modern aircraft, will also contribute to international aviation safety.

An important difference between the FAA's Registry and the new International Registry is that parties having recordable interests in U.S. aircraft and related equipment file their complete documents relating to the interest with the FAA Registry, while they will only file short, summary notices of such interests with the new International Registry. To ensure overall effectiveness of aircraft finance and to maintain the benefits of the FAA's "full documentary" Registry, H.R. 4226 designates the FAA Registry, to be the U.S. "Entry Point" to the International Registry. It also provides that parties must continue to file all recordable documents with the FAA to receive the authorization to file with the International Registry and for that registration to be valid.

Amendments to U.S. law to implement the Cape Town Treaty

H.R. 4226 makes minor conforming changes to chapter 441 of title 49, United States Code, which governs the recordation of security interests with the FAA Registry, currently operated out of the FAA's Mike Monroney Aeronautical Center in Oklahoma City. It designates the FAA Registry as the U.S. Entry Point to the International Registry and implements other key features of the Cape Town Treaty.

First, it provides for the filing of prospective interests in aircraft, helicopters or engines. This is a modern financing approach where the priority of the secured interest dates from the date of the filing of the notice of prospective interest. The FAA is directed to establish a system for filing such notices and authorizing the parties to file with the International Registry. The filing of the prospective notice and its registration with the International Registry is not valid unless the parties subsequently file with the FAA, within 60 days, their recordable documents relating to the interest. This is essential to maintaining the current FAA system and providing for legal certainty and clarity.

Second, the bill makes conforming amendments to current law to recognize the application of the Cape Town Treaty. One amendment allows the recordation of slightly less powerful engines with the FAA registry and the new International Registry. Another change directs the FAA to immediately prescribe regulations for the registration and deregistration of aircraft in accordance with the terms of the Treaty relating to the consent of affected parties. This only relates to financing interests, and has no effect on FAA safety and security rules and practices.

FAA rulemaking

The Committee also requires an expedited rulemaking procedure and directs the agency to complete the rulemaking by December 31, 2004. The rulemaking requires the updating of only two sections of FAA's current regulations (sections 47.37 and 47.47 of 14 C.F.R.). To expedite the rulemaking process, the Committee believes that the FAA should be able to proceed to a final rule without first seeking public comment on these straightforward changes to the FAA regulations. The bill also waives the requirement to

prepare an economic analysis of the cost and benefits of the rule. To provide legal certainty and clarity during the time period of the rulemaking process, the bill expressly provides that the provisions of the Cape Town Treaty apply to those matters covered by the rulemaking until the final rule is effective or December 31, 2004, whichever is earlier.

H.R. 4226 provides that the Act and the amendments made by this Act are effective upon the Cape Town Treaty's coming into force in the U.S. and do not apply to any prior registration or recordation. The Committee wants to make certain and clear that all existing rights are subject to prior rules and are unaffected by the Act. The Committee expects that the FAA will manage its rulemaking process so as to make its updated regulations effective when the Cape Town Treaty comes into force in the U.S. and the International Registry has been established. The FAA should facilitate the U.S. ratification of the Treaty at the earliest possible date. U.S. ratification is critical to ratification by a number of other countries, including those with large markets for U.S. exports.

Summary of the Legislation

SECTION 1.—SHORT TITLE

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

SECTION 2.—FINDINGS AND PURPOSE

This section sets forth congressional findings describing the significance and benefits of the Cape Town Treaty and noting that the Treaty's commercial financing and leasing concepts are fully consistent with existing U.S. law. It also notes that only technical changes to U.S. law and regulations are needed and recognizes the United States' leadership role in the development of the Treaty. This section also sets forth that the purpose of the Act is to provide for implementation of the Treaty by making certain technical amendments to title 49, United States Code. It directs the FAA to complete rulemaking as fast as possible.

SECTION 3.—RECORDATION OF SECURITY INSTRUMENTS

This section makes conforming changes to 49 U.S.C. 44107, the provision that governs the recordation of security interests with the FAA Registry. The first amendment would lower the power rating of aircraft engines eligible for recordation from 750 rated takeoff horsepower to 550. This allows for interests in slightly less powerful engines to be recorded with the FAA registry, a change called for by the Cape Town Treaty. That change was included in the Treaty so that security interests in engines that power all medium size business aircraft to large commercial aircraft would be eligible for the benefits of the Treaty including the new International Registry.

This section designates the FAA's Civil Aviation Registry as the U.S. “Entry Point” for authorizing filings related to U.S. registered civil aircraft, helicopters or aircraft engines with the new International Registry. This reflects an expressly authorized declaration under the Treaty by the U.S., which was done to ensure the seamless interaction of the new International Registry and the FAA

Registry, as well as to maintain full documentation of all transactions at the FAA Registry. Use of that FAA authorization procedure is also available for aircraft engines, so as to permit efficient transaction closings.

This section also directs the FAA to establish a system for filing notices of prospective interests in aircraft, helicopters or aircraft engines with the FAA and, in turn, authorizing such filings with the new International Registry. This concept of prospective interests reflects the modern financing practice in the U.S. under the Uniform Commercial Code. It gives notice of an intended secured interest, where both parties to the transaction agree. The date the notice is registered establishes the interest's priority. This advancement is one of the key improvements brought about under the Cape Town Treaty. To provide for this type of filing, while at the same time ensuring that the full documentary system of the FAA Registry is maintained, this section provides that the filing of a notice of prospective interest and its registration on the International Registry will only be valid if the secured parties subsequently file the recordable documents related to the notice within 60 days. However, this 60-day rule does not apply in the limited cases where a document-type or category is not eligible for recordation at the FAA Registry, as for example, with regard to a sale of an aircraft engine. In such a case, this section does not invalidate a registration at the International Registry based on such notice of prospective interest.

Finally, this section provides that, with regard to U.S. civil aircraft, or aircraft that have received a U.S. identification number (but have not yet become U.S. aircraft), that authorization from the FAA Entry Point must be obtained for a filing with the International Registry, and all related, eligible documents must first be recorded with the FAA Registry, for any registration with the International Registry to be valid relating to such aircraft. However, for aircraft engines the FAA authorization is optional (since engines do not have any country's nationality). This is consistent with the Treaty and is intended to provide clarity and certainty to the registration process.

SECTION 4.—REGULATIONS

This section directs the FAA to prescribe regulations necessary to implement the Cape Town Treaty with regard to two specific processes. First, FAA must proscribe regulations for the registration of aircraft in the U.S. that were previously registered in a foreign country where the Cape Town Treaty is in force. Secondly, the FAA must proscribe regulations for the de-registration of U.S. civil aircraft based on a request made in accordance with the terms of the Treaty. These terms deal only with financial interests and have no effect on safety, security or other legal requirements. This rule-making serves the limited function of implementing key remedies available under the Treaty to those holding financial interests in aircraft.

This section also requires an expedited rulemaking process. Given the noncontroversial nature of the matters to be dealt with in rulemaking, the expected, clear content of the regulations based on express provisions in the Treaty, and the fact that the development of the Cape Town Treaty had broad participation of private

parties as well as government agencies, this section directs the FAA to publish a final rule by no later than December 31, 2004. It also notes that the final rule shall not be effective before the Treaty comes into force in the U.S. In the further interest of avoiding unnecessary delay and given the widespread acknowledgement of and support for the Treaty's potential economic benefits, the preparation of any economic analysis for the rulemaking is not required.

Finally, this section states that the Cape Town Treaty shall apply to the registration and deregistration of aircraft until the FAA final rule is effective, or until the deadline for a final rule, December 31, 2004, whichever is earlier. Sections 47.37 and 47.47 of 14 C.F.R., cited in this section, are inconsistent with the mandates of the Cape Town Treaty in that they provide that before an aircraft can be registered as a U.S. civil aircraft (or deregistered as a U.S. civil aircraft), all holders of recorded security interests must be satisfied or give their consent before the registration (or deregistration) can be approved. The current regulations carry out the terms of the old Geneva Convention. The Cape Town Convention updates and changes these requirements. Specifically, once the Treaty is in effect, and where, under the Treaty, a specific authorization has been granted, only the senior interest will have to be satisfied or consent to the registration or deregistration of an aircraft. This change reflects more modern methods of financing and is acceptable because any other financial interests will still be protected through filings with the new International Registry.

SECTION 5.—LIMITATION ON THE VALIDITY OF CONVEYANCES, LEASES, AND SECURITY INSTRUMENTS

This section makes a conforming change to 49 U.S.C. 44108 to recognize that the application of the Cape Town Treaty. Specifically, it clarifies that the terms of section 44108(c)(1), which provides that the validity of a transaction is governed by the law of the place of delivery, does not take precedence over the Cape Town Treaty. The change is required since the Treaty lays down substantive requirements with regard to the validity of a transaction. A similar approach was previously followed for the Geneva Convention.

SECTION 6.—DEFINITIONS

This section provides definitions of terms used in the Act.

SECTION 7.—EFFECTIVE DATE AND PRESERVATION OF PRIOR RIGHTS

This section provides that the Act and the amendments made by this Act are effective upon the Cape Town Treaty coming into force in the U.S. and do not apply to any prior registration or recordation under chapter 441 or any legal rights relating thereto. All existing rights are subject to prior rules and thus unaffected by the Act.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

H.R. 4226 was introduced by Chairman Young, Ranking Member James Oberstar, Aviation Subcommittee Chairman John Mica and Aviation Subcommittee Ranking Member Peter DeFazio on April

28, 2004. It was referred to the Committee on Transportation and Infrastructure. The Aviation Subcommittee held a hearing on the Treaty and H.R. 4226 on April 29, 2004 and then, on the same date, in a mark up session, the Subcommittee ordered that H.R. 4226 be favorably reported, without amendment, to the full committee. A full committee mark-up was held on May 12, 2004, where, after adopting a manager's amendment offered by Aviation Subcommittee Chairman Mica, (which made clarifying changes to the bill), H.R. 4226 was ordered reported, as amended, to the House by voice vote.

ROLLCALL VOTES

Clause 3(b) of rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each roll call vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no roll call votes during consideration of the bill.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objective of this legislation are to improve transportation safety.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 4226 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 26, 2004.

Hon. DON YOUNG,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4226, the Cape Town Treaty Implementation Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

ELIZABETH ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

H.R. 4226—Cape Town Treaty Implementation Act of 2004

The Cape Town Treaty, which CBO expects to come into force during fiscal year 2005, will extend asset-based financing laws, already applied in the United States, to international transactions involving the sale, financing, or leasing of aircraft and aircraft engines. Under that treaty, an international organization will establish a registry to record security interests in aircraft and aircraft engines.

The Federal Aviation Administration (FAA) currently operates a similar registry for domestic aircraft and aircraft engines. To implement the Cape Town Treaty in the United States, H.R. 4226 would expand the FAA's authority to operate that registry and authorize the agency to provide access to the new international registry. The bill also would direct the FAA to issue regulations to implement these changes.

According to the FAA, H.R. 4226 would require no major changes to the agency's existing registry or recording processes, and any increases in administrative costs would be less than \$500,000 a year. Hence, CBO estimates that implementing H.R. 4226 would not significantly affect the federal budget. The bill would not affect direct spending or revenues.

Section 4 of the Unfunded Mandates Reform Act excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of international treaty obligations. CBO has determined that because H.R. 4226 would implement the Cape Town Treaty, it falls within that exclusion. CBO has thus not reviewed the bill for the presence of mandates.

The CBO staff contact for this estimate is Megan Carroll. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursu-

ant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act. (Public Law 104-4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local or tribal law. The Committee states that H.R. 4226 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act. (Public Law 104-1).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 49, UNITED STATES CODE

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SUBTITLE VII—AVIATION PROGRAMS

* * * * *

PART A—AIR COMMERCE AND SAFETY

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SUBPART III—SAFETY

CHAPTER 441—REGISTRATION AND RECORDATION OF AIRCRAFT

Sec.						
44101.	Operation of aircraft.					
		*	*	*	*	*
44113.	<i>Definitions.</i>					
		*	*	*	*	*

§ 44107. Recordation of conveyances, leases, and security instruments

(a) ESTABLISHMENT OF SYSTEM.—The Administrator of the Federal Aviation Administration shall establish a system for recording—

(1) * * *

(2) leases and instruments executed for security purposes, including conditional sales contracts, assignments, and amendments, that affect an interest in—

(A) a specifically identified aircraft engine having at least **[750]** 550 rated takeoff horsepower or its equivalent;

* * * * *

(3) releases, cancellations, discharges, and satisfactions related to a conveyance, lease, or instrument recorded under **[clause (1) or (2) of this subsection]** *paragraph (1) or (2)*.

* * * * *

(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.

§ 44108. Validity of conveyances, leases, and security instruments

(a) * * *

* * * * *

(c) APPLICABLE LAWS.—(1) * * *

(2) This subsection does not take precedence over the Convention on the International Recognition of Rights in Aircraft (4 U.S.T. 1830)[.] or the Cape Town Treaty, as applicable.

* * * * *

§ 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.

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