

Cape Town reloaded: Generation II

The International Registry is evolving.

Operating under the framework of the Cape Town Convention and the Aircraft Protocol, the Registry has published new regulations, aimed at streamlining its search and registration processes for aircraft objects.

These changes should save time and money. They are being introduced in two phases, through the Registry's upgraded "Generation II" website.

Phase 1: multiple object registrations

In September 2013, Registry users were notified of an upgrade to the Registry website. Following that upgrade, it is now possible to group aircraft objects¹ together, in order to register the same international (or other registrable) interest against each object at the same time.

For commercial parties and their professional advisors, this development means that the registration process is now considerably less repetitive.

Previously, to register an international interest constituted by, for instance, a lease² over an airframe and two engines would have required three separate entries; now only one is required. The same principle applies to priority search certificates; one certificate can now be requested for a number of objects at once.

The benefits of Phase 1 in terms of efficiency and, consequentially, cost-savings are therefore direct and immediate. (An obvious example of where those benefits would be considerable under the new regime would be in the case of a portfolio deal, where multiple registrations may now be grouped together).

Phase 2: the closing room

Insofar as outward appearances are concerned, the second phase of "Generation II" is even more radical. Expected to become operational by mid-2014, the Registry's virtual "closing room" concept is intended to reflect the transactional environment within which aircraft financing and leasing is conducted.

The closing room facility will provide an electronic space on the Registry website where the parties to a transaction can pre-position the registrations to be made, agree their order of priority, gather the related consents and then release them for filing onto the Registry database as one package.

The main elements of this new closing room facility are as follows:

Creation of a closing room

Any Registry user entity will be able to establish a closing room. (It is anticipated that this task will typically be undertaken by the law firm or related service provider charged with coordinating the Cape Town searches and filings for a transaction).

That coordinating entity will be responsible for entering the registration data in the closing room.

Once it has established the closing room, the coordinating entity will be able to invite other Registry users to visit the closing room, using a closing room ID allocated by the Registry. Those other users will have "read only" access.

Locking the closing room, consents and registration fees

When the parties to the transaction have agreed the pre-positioned registrations and their order of priority, the coordinating entity will lock the closing room. Each closing room participant will then receive an automatic electronic notification from the Registry, including a link to the closing room and a report detailing the pre-positioned registrations.

¹ Aircraft objects comprise qualifying airframes, engines and helicopters.

² The same principle applies to:
(i) other international interests (security agreements and conditional sale agreements); and
(ii) other registrable interests (contracts of sale and assignments of international interests).

There will be an initial period of 10 days (which may be extended up to 120 days) for the closing room participants to grant any required consents.

The registration fees due to the Registry (which must be settled prior to release of the pre-positioned registrations onto the Registry database) may be paid by the coordinating entity when the closing room is locked.

Registration of international and other registrable interests

When all of the required consents have been granted and the registration fees have been paid, the coordinating entity will be able to instruct the Registry to enter the pre-positioned registrations onto the Registry database.

Once entered onto the database, the pre-positioned registrations will be considered "registered" for the purposes of the Cape Town Convention, and the Registry will automatically notify the parties that the registrations have been made.

Conclusion

By cutting out repetitive data entry and adopting a more transactional approach to the registration process, it is anticipated that the "Generation II" developments will further improve the functionality and efficiency of the Registry's electronic filing system.

In particular, it is hoped that the collective ethos of the online closing room will:

- facilitate the identification and correction of data entry errors

prior to registrations being made (which would, under the "Generation I" regime, have only been discovered when post-registration priority searches were conducted); and

- reduce the scope for misunderstandings between the parties as to the interests being registered and the related order of priorities.

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