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Item No. 8(a) on the Agenda: Implementation and status of the Cape Town Convention, the Aircraft Protocol and the Luxembourg Protocol

(Memorandum prepared by the Secretariat)

<i>Summary</i>	<i>Update on the implementation and status of the Cape Town Convention, the Aircraft Protocol and the Luxembourg Rail Protocol</i>
<i>Action to be taken</i>	<i>See § 11</i>
<i>Related document</i>	<i>Implementation of the Strategic Plan (C.D.(87) 6, p. 7)</i>

DISCUSSION LEADING PARAMETERS AS PROPOSED BY THE SECRETARIAT

Priority	
	high Medium low
Staffing implications / Budget implications	Depositary functions: 1 officer (plus translation) Further promotion activities (including presentation abroad) would require additional funding
Recommendations/ Guidance sought/ Decisions to be taken/ Alternatives?	Approval of the publication and distribution of the Revised Edition of the Official Commentary to the Cape Town Convention and Aircraft Protocol and of the Official Commentary to the Cape Town Convention and Luxembourg Protocol

INTRODUCTION

1. The *Convention on International Interests in Mobile Equipment* (the Convention) and the Protocol thereto on Matters specific to Aircraft Equipment (the Aircraft Protocol) were opened to signature in Cape Town on 16 November 2001. The *Luxembourg Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Railway Rolling Stock* (the Luxembourg Protocol) was opened to signature in Luxembourg on 23 February 2007. UNIDROIT is designated the Depository to each of these instruments, and this memorandum provides an update on the implementation of the Institute's depository functions under them.

STATUS

CONVENTION / AIRCRAFT PROTOCOL

2. The Convention (as applied to aircraft objects) and Aircraft Protocol entered into force on 1 March 2006 following the deposit of the eighth instrument of ratification/accession.

3. Since the preparation of the memorandum for the 86th session of the Governing Council, instruments of ratification/accession in relation to the Convention and the Aircraft Protocol have been lodged by the following States: Albania, Cape Verde, India, Indonesia, Mexico and the Syrian Arab Republic (Convention only). In addition, the provisions of the Convention and Aircraft Protocol relating to withdrawal of declarations and the making of subsequent declarations were utilised by Kenya (replacing its declaration under Convention Article 39(1)(a)) and Nigeria (replacing its declaration under Convention Article 54(2) and making subsequent declarations). The appendix to this memorandum lists the status of the Convention, the Aircraft Protocol and the Luxembourg Protocol as at 31 March 2008.

CONVENTION / LUXEMBOURG PROTOCOL

4. There have been no ratifications/accessions in relation to the Luxembourg Protocol. It will enter into force following the 4th ratification/accession.

OTHER DEVELOPMENTS

5. The Secretariat understands that political issues that had delayed the European Commission's decision whether to accede to the Convention and its protocols have now been resolved.

ACTIVITIES

GENERAL

6. UNIDROIT's responsibilities as Depository under the Convention, the Aircraft Protocol and the Luxembourg Protocol are specified in each instrument, and include the operation of a system for the receipt and notification of all instruments of ratification, declarations and other documents lodged with the Depository. The UNIDROIT Secretariat is continuing to liaise closely with a number of States that are at various stages of the ratification/accession process. The Cape Town update email notification service which was launched in 2007 is approaching 300 subscriptions.

CONVENTION / AIRCRAFT PROTOCOL

7. The UNIDROIT Secretariat has maintained close working relationships with the International Registry (Aircraft) and the Supervisory Authority (the International Civil Aviation Organization), including ongoing discussions on issues arising out of the International Registry Regulations. Unfortunately, the Supervisory Authority has not yet provided its report under Article 61 of the

Convention, which is required to enable the completion of the first yearly report pursuant to Article 61(1) of the Convention and Article XXXIV of the Aircraft Protocol. The Supervisory Authority report is now expected to be made available by the end of May.

CONVENTION / LUXEMBOURG PROTOCOL

8. Resolution No. 1 of the Luxembourg Diplomatic Conference established a Preparatory Commission to act, pending the entry into force of the Protocol, as Provisional Supervisory Authority. The tasks of the Preparatory Commission include the establishment of the International Registry. The first session of the Preparatory Commission, hosted by OTIF, was held in Berne on 16 and 17 July 2007, and decided the process for the establishment of the International Registry, including the details of a competitive bidding process for the selection of the Registrar to operate the International Registry for Railway Rolling Stock. The second session of the Preparatory Commission will be hosted by UNIDROIT in Rome from 8 to 10 April 2008. The agenda for the session includes the selection of the Registrar to operate the International Registry. The UNIDROIT Secretariat's very productive working relationship with the OTIF Secretariat is expected to continue over the coming months as the International Registry for Railway Rolling Stock is set up.

PUBLICATIONS

9. The Official Commentary to the Cape Town Convention and Aircraft Protocol, by Professor Sir Roy Goode, was published by Unidroit in 2002 pursuant to Resolution No. 5 of the Cape Town Convention. Since its publication, 800 copies have been sold, and the Official Commentary has become the definitive reference source on the Convention and Aircraft Protocol. However, the Official Commentary does not take into account a number of significant developments that have occurred since its publication, including the entry into force of the Convention and Aircraft Protocol, the establishment of the International Registry and regulations underpinning its operations, and extensive practical experience in relation to declarations and commercial transactions under the Convention. Further, Resolution No. 4 of the Luxembourg Diplomatic Conference resolved to request that the Rapporteur (Sir Roy Goode) prepare an official commentary on the Luxembourg Protocol in cooperation with OTIF and UNIDROIT and the chairmen of the Conference's committees. In light of these developments, Sir Roy Goode has prepared a revised edition of the Official Commentary (Convention + Aircraft Protocol) and a new Official Commentary (Convention + Luxembourg Protocol). Comments on the official commentaries have been sought from the negotiating States and participating observers to each of the diplomatic conferences. The UNIDROIT Secretariat is currently assisting in the revision and editing of these official commentaries, which are expected to be published in May 2008 (complimentary copies will be distributed to Governing Council members and negotiating States). The Council is asked to approve the publication and distribution of the Revised Edition of the Official Commentary to the Cape Town Convention and Aircraft Protocol and of the Official Commentary to the Cape Town Convention and Luxembourg Protocol

PROMOTION AND PUBLICITY

10. The UNIDROIT Secretariat has continued to promote the Convention, the Aircraft Protocol and the Luxembourg Protocol wherever possible, as set out at page 12 of the Annual Report for 2007. The Aviation Working Group (led by UNIDROIT Correspondent Mr Jeffrey Wool), the Rail Working Group and the UK Foundation for International Uniform Law have also continued to promote implementation of the Convention and its protocols.

ACTION TO BE TAKEN

11. *The UNIDROIT Secretariat would invite the Governing Council to approve the distribution of the Revised Edition of the Official Commentary to the Cape Town Convention and Aircraft Protocol and of the Official Commentary to the Cape Town Convention and Luxembourg Protocol.*

**APPENDIX
ANNEXE**

**CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT
CONVENTION RELATIVE AUX GARANTIES INTERNATIONALES
PORTANT SUR DES MATERIELS D'EQUIPEMENT MOBILES**

Adoption: Place: Cape Town / *Lieu:* Le Cap
Date: 16.11.2001

Entry into force / *Entrée en vigueur:* Date: 01.04.2004 (*ex Art. 49(1)*)

Contracting States / Etats contractants: 21

Depositary / *Dépositaire:* UNIDROIT

STATE / <i>ETAT</i>	SIGNATURE	RATIFICATION (RT) ACCEPTANCE / <i>ACCEPTATION</i> (AC) APPROVAL / <i>APPROBATION</i> (AP) ACCESSION / <i>ADHESION</i> (AS)	DECLARATIONS	ENTRY INTO FORCE / <i>ENTREE EN VIGUEUR</i>
Afghanistan		25.07.2006 (AS)	Arts. 39(1)(a), 39(1)(b), 40, 52, 53, 54(2)	01.11.2006
Albania / <i>Albanie</i>		30.10.2007 (AS)	Arts. 39(1)(a), 39(1)(b), 54(2)	01.02.2008
Angola		30.04.2006 (AS)	Arts. 39(1)(a), 40, 54(2)	01.08.2006
Burundi	16.11.2001			
Canada	31.03.2004			
Cape Verde / <i>Cap-Vert</i>		26.09.2007 (AS)	Arts. 39(1)(a), 40, 53, 54(2)	01.01.2008
Chile / <i>Chili</i>	16.11.2001			
China / <i>Chine</i>	16.11.2001			
Colombia / <i>Colombie</i>		19.02.2007 (AS)	Arts. 39(1)(a), 54(2)	01.06.2007
Congo	16.11.2001			
Cuba	16.11.2001			
Ethiopia / <i>Ethiopie</i>	16.11.2001	21.11.2003 (RT)	Arts. 39(1)(a), 40, 54(2)	01.04.2004
France	16.11.2001			
Germany / <i>Allemagne</i> (with declaration at signature / <i>avec déclaration à la signature</i>)	17.09.2002			
Ghana	16.11.2001			
India / <i>Inde</i>		31.03.2008 (AS)	Arts. 39(1)(a), 39(1)(b), 40, 52, 53, 54(2)	01.07.2008
Indonesia / <i>Indonésie</i>		16.03.2007 (AS)	Arts. 39(1)(a), 39(1)(b), 40, 53, 54(2)	01.07.2007
Ireland / <i>Irlande</i>		29.07.2005 (AS)	Arts. 39(1)(a), 39(1)(b), 54(2)	01.11.2005
Italy / <i>Italie</i>	06.12.2001			

Jamaica / <i>Jamaïque</i>	16.11.2001			
Jordan / <i>Jordanie</i>	16.11.2001			
Kenya	16.11.2001	13.10.2006 (RT)	Arts. 39(1)(a), * 39(1)(b), 40, 53, 54(2)	01.02.2007
Lesotho	16.11.2001			
Malaysia / <i>Malaisie</i>		02.11.2005 (AS)	Arts. 39(1)(a), 39(1)(b), 40, 53, 54(2)	01.03.2006
Mexico / <i>Mexique</i>		31.07.2007 (AS)	Arts. 39(1)(a), 39(1)(b), 50, 53, 54(2), 60	01.11.2007
Mongolia / <i>Mongolie</i>		19.10.2006 (AS)	Arts. 39(1)(a), 39(1)(b), 53, 54(2)	01.02.2007
Nigeria	16.11.2001	16.12.2003 (RT)	Arts. 39(1)(a), * 40, * 53, * 54(2)*	01.04.2004
Oman		21.03.2005 (AS)	Arts. 39(1)(a), 39(1)(b), 40, 52, 53, 54(2)	01.07.2005
Pakistan		22.01.2004 (AS)	Arts. 39(1)(a), 39(1)(b), 39(4), 40, 52, 53, 54(2)	01.05.2004
Panama	11.09.2002	28.07.2003 (RT)	Arts. 39(1)(a), 39(1)(b), 39(4), 50, 53, 54(2)	01.04.2004
Saudi Arabia / <i>Arabie saoudite</i>	12.03.2003			
Senegal / <i>Sénégal</i>	02.04.2002	09.01.2006 (RT)	Arts. 39(1)(a), 39(1)(b), 40, 52, 53, 54(2)	01.05.2006
South Africa / <i>Afrique du sud</i>	16.11.2001	18.01.2007 (RT)	Arts. 39(1)(a), 39(1)(b), 40, 54(2)	01.05.2007
Sudan / <i>Soudan</i>	16.11.2001			
Switzerland / <i>Suisse</i>	16.11.2001 <i>ad referendum</i>			
Syrian Arab Republic / <i>République arabe syrienne</i>		07.08.2007 (AS)		01.12.2007
Tanzania / <i>Tanzanie</i>	16.11.2001			
Tonga	16.11.2001			
Turkey / <i>Turquie</i>	16.11.2001			
Ukraine	09.03.2004			
United Kingdom / <i>Royaume-Uni</i> (with declaration at signature / <i>avec déclaration à la signature</i>)	16.11.2001			
United States of America / <i>Etats- Unis d'Amérique</i>	09.05.2003	28.10.2004 (RT)	Arts. 39(1)(a), 39(1)(b), 54(2)	01.02.2005

* Affected by withdrawal and/or subsequent declaration. / *Fait l'objet d'un retrait et/ou d'une déclaration subséquente.*

**PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT
ON MATTERS SPECIFIC TO AIRCRAFT EQUIPMENT**
**PROTOCOLE PORTANT SUR LES QUESTIONS SPECIFIQUES AUX MATERIELS D'EQUIPEMENT
AERONAUTIQUES A LA CONVENTION RELATIVE AUX GARANTIES INTERNATIONALES
PORTANT SUR DES MATERIELS D'EQUIPEMENT MOBILES**

Adoption: Place: Cape Town / *Lieu:* Le Cap
Date: 16-11-2001

Entry into force: Date: 01.03.2006 (ex [Art. XXVIII\(1\)](#))
Entrée en vigueur:

Contracting States / Etats contractants: 20

Depositary / Dépositaire: UNIDROIT

STATE / ETAT	SIGNATURE	RATIFICATION (RT) ACCEPTANCE / ACCEPTION (AC) APPROVAL / APPROBATION (AP) ACCESSION / ADHESION (AS)	DECLARATIONS	ENTRY INTO FORCE / ENTREE EN VIGUEUR
Afghanistan		25.07.2006 (AS)	Arts. XXIX, XXX(1), (2), (3)	01.11.2006
Albania / <i>Albanie</i>		30.10.2007 (AS)	Arts. XIX, XXX(1)	01.02.2008
Angola		30.04.2006 (AS)	Art. XXX(1), (2), (3)	01.08.2006
Burundi	16.11.2001			
Canada	31.03.2004			
Cape Verde / <i>Cap-Vert</i>		26.09.2007 (AS)	Art. XXX(1), (2), (3)	01.01.2008
Chile / <i>Chili</i>	16.11.2001			
China / <i>Chine</i>	16.11.2001			
Colombia / <i>Colombie</i>		19.02.2007 (AS)	Art. XXX(1), (2), (3)	01.06.2007
Congo	16.11.2001			
Cuba	16.11.2001			
Ethiopia / <i>Ethiopie</i>	16.11.2001	21.11.2003 (RT)	Art. XXX(1), (2), (3)	01.03.2006
France	16.11.2001			
Germany / <i>Allemagne</i> (with declaration at signature / <i>avec déclaration à la signature</i>)	17.09.2002			
Ghana	16.11.2001			
India		31.03.2008 (AS)	Arts. XXX(1), (2), (3)	01.07.2008
Indonesia / <i>Indonésie</i>		16.03.2007 (AS)	Art. XXX(1), (2), (3)	01.07.2007
Ireland / <i>Irlande</i>		23.08.2005 (AS)	Art. XXX(1), (2)	01.03.2006
Italy / <i>Italie</i>	06.12.2001			
Jamaica / <i>Jamaïque</i>	16.11.2001			
Jordan / <i>Jordanie</i>	16.11.2001			
Kenya	16.11.2001	13.10.2006 (RT)	Art. XXX(1), (2), (3)	01.02.2007

Lesotho	16.11.2001			
Malaysia / <i>Malaisie</i>		02.11.2005 (AS)	Art. XXX(1), (2), (3)*	01.03.2006
Mexico / <i>Mexique</i>		31.07.2007 (AS)	Arts. XIX, XXX(1), (3)	01.11.2007
Mongolia / <i>Mongolie</i>		19.10.2006 (AS)	Art. XXX(1), (2), (3)	01.02.2007
Nigeria	16.11.2001	16.12.2003 (RT)	Art. XXX(1), * (2), * (3)*	01.03.2006
Oman		21.03.2005 (AS)	Arts. XXIX, XXX(1), (2), (3)	01.03.2006
Pakistan		22.01.2004 (AS)	Arts. XXIX, XXX(1), (2), (3)	01.03.2006
Panama	11.09.2002	28.07.2003 (RT)	Art. XXX(1), (2), (3)	01.03.2006
Saudi Arabia / <i>Arabie saoudite</i>	12.03.2003			
Senegal / <i>Sénégal</i>	02.04.2002	09.01.2006 (RT)	Arts. XXIX, XXX(1), (2), (3)	01.05.2006
South Africa / <i>Afrique du sud</i>	16.11.2001	18.01.2007 (RT)	Arts. XXX(1), (2), (3)	01.05.2007
Sudan / <i>Soudan</i>	16.11.2001			
Switzerland / <i>Suisse</i>	16.11.2001 <i>ad referendum</i>			
Tanzania / <i>Tanzanie</i>	16.11.2001			
Tonga	16.11.2001			
Turkey / <i>Turquie</i>	16.11.2001			
Ukraine	03.03.2004			
United Kingdom / <i>Royaume-Uni</i> (with declaration at signature / <i>avec déclaration à la signature</i>)	16.11.2001			
United States of America / <i>Etats-Unis d'Amérique</i>	09.05.2003	28.10.2004 (RT)	Arts. XIX, XXX(1)	01.03.2006

* Affected by withdrawal and/or subsequent declaration. / *Fait l'objet d'un retrait et/ou d'une déclaration subséquente.*

**LUXEMBOURG PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE
EQUIPMENT ON MATTERS SPECIFIC TO RAILWAY ROLLING STOCK**

**PROTOCOLE DE LUXEMBOURG PORTANT SUR LES QUESTIONS SPECIFIQUES AU MATERIEL ROULANT
FERROVIAIRE A LA CONVENTION RELATIVE AUX GARANTIES INTERNATIONALES
PORTANT SUR DES MATERIELS D'EQUIPEMENT MOBILES**

Adoption: Place / *Lieu*: Luxembourg
Date: 23.02.2007

Entry into force / *Entrée en vigueur*: Not in force / Pas encore en vigueur (ex [Art. XXIII](#))

Depositary / *Dépositaire*: UNIDROIT

STATE / <i>ETAT</i>	SIGNATURE	RATIFICATION (RT) ACCEPTANCE / <i>ACCEPTATION</i> (AC) APPROVAL / <i>APPROBATION</i> (AP) ACCESSION / <i>ADHESION</i> (AS)	DECLARATIONS	ENTRY INTO FORCE / <i>ENTREE EN VIGUEUR</i>
Gabon	23.02.2007			
Italy / <i>Italie</i>	23.02.2007			
Luxembourg	23.02.2007			
Switzerland / <i>Suisse</i>	23.02.2007			