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Item No. 5 on the agenda: Amendment to the Work Programme of the Organisation for the 2026-2028 triennium

(memorandum prepared by the Secretariat)

Summary	*Amendment to the Work Programme of the Organisation for the 2026-2028 triennium*
Action to be taken	*To include the proposed project to develop a Model Procedural Law Implementing the Cape Town Convention and the Aircraft Protocol in the 2026-2028 Work Programme, with high priority, to be undertaken jointly with the AWG*
Related documents	*UNIDROIT 2025 – A.G. (85) 3; UNIDROIT 2026 – C.D. (107) 9.2 rev.; UNIDROIT 2026 – C.D. (107) 29*

I. INTRODUCTION

1. This document invites the General Assembly to consider including, with high priority, a project to develop a Model Procedural Law Implementing the Cape Town Convention and the Aircraft Protocol in UNIDROIT's 2026-2028 Work Programme, to be undertaken jointly with the Aviation Working Group (AWG), in accordance with the recommendation made by the Governing Council at its 107th session (Rome, 27–29 May 2026).

2. The proposal originated with the AWG, which submitted it to the Secretariat on 6 May 2026. On 19 May 2026, the Secretariat received confirmation that the Governments of Mexico and the United Kingdom would join the AWG as co-proponents (together, the "Proponents"). The Secretariat subsequently presented the proposal to the Governing Council at its 107th session (see UNIDROIT 2026 – C.D. (107) 9.2 rev.). The Governing Council endorsed the proposal by consensus and recommended that the General Assembly include the project, with high priority, in the 2026–2028 Work Programme (see UNIDROIT 2026 – C.D. (107) 29, para. 222 et seq.). The proposal is reproduced in the Annexe to this document. The Governing Council further authorised the Secretariat to begin preparatory work and, subject to the General Assembly's approval of the project, to convene a joint Working Group with the AWG.

3. The proposal was submitted after the General Assembly approved the Work Programme for the 2026–2028 triennium at its 85th session (Rome, 11 December 2025). Its submission during an ongoing Work Programme does not, however, preclude its consideration and possible inclusion by the General Assembly. At its 101st session (Rome, 8-10 June 2022), the Governing Council, at the Secretariat's request, decided to adopt a flexible approach to the possible inclusion of new projects during an ongoing Work Programme in order to accommodate situations of emergency or take advantage of favourable opportunities. A precedent had already been established at the 99th session of the Governing Council (remote session, April–May 2020), which recommended that a joint project with the United Nations Commission on International Trade Law (UNCITRAL) to develop a Model Law and Guide to Enactment on Warehouse Receipts be included in the 2020–2022 Work Programme. The General Assembly endorsed that recommendation at its 79th session (Rome, 17 December 2020), and the two organisations adopted the resulting instruments in 2024.

4. Against this background, the Governing Council considered the present proposal on its merits and recommended that the project be included in the current Work Programme. The General Assembly is invited to consider the Governing Council's recommendation.

II. THE PROPOSED PROJECT

A. The Proponents and the reasons underlying the proposal

5. Both Mexico and the United Kingdom are among the oldest Member States of UNIDROIT with a long-standing track record of active participation and support for the work of the Institute. Moreover, both Member States are Contracting States of the Cape Town Convention and the Aircraft Protocol. Their sponsorship of this proposal confers significant weight and relevance to the project.

6. The AWG is a not-for-profit legal entity comprising leading aviation manufacturers, leasing companies and financial institutions active in the aviation sector. Its work includes the development of policies, laws and regulations designed to facilitate modern international aviation financing and leasing, including, as a central element, the promotion and effective implementation of the Cape

Town Convention on International Interests in Mobile Equipment (the "Cape Town Convention" or "CTC") and the Protocol on Matters Specific to Aircraft Equipment[1] (the "Aircraft Protocol" or "AP").

7. AWG has worked in close coordination and cooperation with UNIDROIT for many years in relation to both the CTC and the AP. In fact, as is the case with all Protocols to the CTC concerning private-sector participation, AWG was originally formed at UNIDROIT's request to contribute to the development of the Cape Town treaty system. The UNIDROIT Secretariat continues to cooperate closely with AWG on the promotion, implementation and compliance-related matters concerning the CTC and the AP. A good example of this cooperation is AWG's sponsorship of and engagement in, together with the University of Cambridge, the CTC Academic Project.

8. AWG has extensive practical experience in analysing and monitoring the actual implementation of the CTC in Contracting States. A principal tool in that regard is the Cape Town Convention Compliance Index, which monitors and assesses compliance by Contracting States with their CTC obligations, including whether the CTC has been effectively implemented, whether it prevails over conflicting domestic law, and whether it is being applied in accordance with its terms and purposes. Both the Index and related AWG work are supported by country-level legal analysis, data from local counsels and national contact groups, and AWG's own experience with courts, civil aviation authorities and other governmental bodies.

9. In addition, AWG has significant experience in working directly with governments to facilitate the implementation of the CTC and the AP. In particular, AWG has provided assistance to States in the accession or ratification process, with qualifying declarations and model implementing legislation, and monitoring of compliance through the Compliance Index.

10. It is within that practical context that the Proponents identify a number of recurring deficiencies in national implementation, which do not merely affect the jurisdiction in which they arise. Because the CTC operates in a cross-border financing and leasing market, implementation failures in one Contracting State may affect risk perceptions, pricing, transactional behaviour, and enforcement expectations more broadly. In that sense, local implementation defects can have a broader systemic effect, including by contagion across the CTC system.

11. The CTC was pathbreaking in creating a modern, efficient and creditor-protective framework for enforcement, interim relief, insolvency-related remedies, deregistration and export. Yet the difficulty remains in the fact that it does not set out, in comprehensive detail, the domestic procedural machinery through which those rights and remedies are to be exercised before courts, registries, civil aviation authorities and other administrative bodies. The proposal describes this as a "procedural implementation gap": many Contracting States require, but do not yet have, procedural rules capable of supporting CTC causes of action, enabling courts to act within the timeframes contemplated by the AP, thereby giving practical effect to non-judicial remedies where those remedies are available.

12. That gap is particularly significant because the CTC's enforcement architecture relies on speed, predictability and institutional coordination. Even where the Convention and the AP are formally in force, their full value may be compromised if domestic procedure is not adapted to permit urgent relief, effective repossession, deregistration and export, recognition, nor to give effect to relevant court orders, and practical cooperation by administrative authorities. Thus, 20 years since the CTC's entry into force, a number of jurisdictions still lack the procedural framework required to realise the treaty's full potential.

13. It is against this background that the proposal to develop a Model Procedural Law implementing the CTC and the AP should be understood. The proposal responds to a normative

[1] For detail, see www.awg.aero.

and procedural loophole: the lack, in many States Party, of the procedural channels needed for the effective operation of the rights and remedies created by the CTC. A model law would therefore serve as a practical implementation instrument, giving Contracting States a structured legislative template through which to align domestic procedural law with the treaty's enforcement objectives.

B. The content of the proposal

14. The proposed Model Procedural Law would address the principal areas in which domestic procedural rules are required for effective CTC implementation. It would include provisions on judicial default remedies under the Convention, procedures for non-judicial remedies where available, relief pending final determination under Article 13 of the Convention as modified by Article X of the AP, and rules for giving effect to relevant foreign court orders. It would also regulate the procedural aspects of deregistration, export and physical transfer of aircraft objects, including the respective roles of courts, registry authorities, civil aviation authorities, airport authorities and other relevant third parties.

15. The Model Procedural Law would further contain provisions on competent courts and administrative bodies, the relationship between the model law and ordinary civil procedure or insolvency law, the commercially reasonable exercise of remedies, primacy over inconsistent domestic rules, and transitional arrangements. It is proposed to be designed as an adaptable instrument, capable of use in civil law and common law systems, as well as in federal and unitary States. Where the CTC allows Contracting States to choose among alternative treaty declarations, the Model Procedural Law would provide corresponding legislative options, enabling each State to implement the instrument consistently with its own declarations and constitutional structure.

C. Additional aspects for consideration

16. The obstacles that some Contracting States (and potentially other States acceding to the CTC in the future) face in the implementation of the Convention can only be adequately dealt with through legislation, provided that the parts of the procedural systems concerned constitute, for the most part, public, mandatory law that the parties cannot dispose of by contract. A model law could hence be a very useful instrument to improve the effective application of one of our most important conventions.

17. The proposal, if accepted, would give rise to a type of project where the implementation of one of our hard-law instruments (a convention) is facilitated and strengthened by a soft-law instrument (a model law). There is a similar precedent of this type of interrelation, but it concerns a different type of soft-law instrument: the Geneva Convention on Substantive Rules for Intermediated Securities (2009)[2], which was later complemented with the Legislative Guide on Intermediated Securities (2017).[3] While in both cases the drafting of a soft-law text years after approving a convention seeks to use the former to ultimately strengthen the application of the latter, the precedent is only partially relevant. The Legislative Guide of 2017, as a discursive instrument, attempted to clarify and explain different parts of the Convention, whereas a model law, in general, and this model law, in particular, would seek to achieve adoption as domestic legislation to address very specific points which weaken the application of the CTC. In this sense, this project proposal is bound to be more useful – and therefore more successful – than its immediate precedent.

18. The CTC and AP were approved at a Diplomatic Conference with the participation of 68 countries and 14 international organisations; the CTC and AP currently count on 90 and 87 Contracting States respectively. The constituency that approved the instruments and their current

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[2] See https://www.unidroit.org/instruments/capital-markets/geneva-convention/.

[3] See https://www.unidroit.org/instruments/capital-markets/legislative-guide/.

States party do not fully coincide with the Member States of UNIDROIT. The composition of the source of origination of the CTC and AP, therefore, are different to that of the – if so decided – future model law. Yet there seems to be no interference between the existing instruments and the new project. Because of the soft-law nature of the model law, it is – naturally – non-binding on Member States, let alone on contracting parties of the CTC and AP. It is merely an instrument at their voluntary disposal. Moreover, the model law would not purport to amend the CTC and the AP – quite the opposite. The model law would seek to strengthen the implementation of those hard-law instruments by offering Contracting States a complementary, optional piece of legislation. Instead of interfering, the model law can only bolster the treaty system.

19. One last point for consideration concerns the objective scope of the proposal. The proposal is limited to the CTC and AP, and only "at a second stage" would it then move on to address the procedural issues that arise – or may potentially arise – in the implementation of the Protocols on Matters Specific to Railway Rolling Stock (Rail Protocol) and Mining, Agriculture and Construction Equipment (MAC Protocol). The division into two stages is based on the differences between the AP and the other Protocols, which lie in the special nature of the aircraft sector in terms of safety, type of assets, and involvement of public institutions. The differences between Protocols can lead to addressing disparate issues. Moreover, the issues to be covered by the model law stem from the identification of real-life obstacles diagnosed over years of practice. That is the foundation and real added value of the project. Alas, due to the status of the other two Protocols, the situation of the Rail Protocol lacks equivalent information, and, in the case of the MAC Protocol, work would need to be based on hypothesis or on analogy with the AP. In light of this, the Secretariat sees merit in beginning with the AP, and to start with the specific provisions for the other Protocols at a later stage.

20. Nevertheless, and in order to benefit from potential synergies, the Secretariat would hope the Working Groups of the other Protocols would participate as observers from the very beginning. Walking the first stage together should indeed streamline and hasten the potential second stage.

D. On the project's process

21. The project would be conducted jointly with the AWG. As in other recent joint projects – such as those concerning the UNIDROIT Principles of International Commercial Contracts (UPICC) and international investment contracts, undertaken in cooperation with the International Chamber of Commerce (ICC), and UPICC and engineering and construction contracts, undertaken in cooperation with the International Federation of Consulting Engineers (FIDIC) – each organisation would appoint and cover the costs of half of the experts participating in the project. The number, origin and expertise of the appointed experts would be determined in accordance with UNIDROIT's established methodology. These arrangements would therefore allow the project to proceed with limited resource implications for the Institute.

22. Following the Governing Council's recommendation to include the project as a high-priority item in the 2026–2028 Work Programme, and its authorisation to undertake preparatory work, initial preparatory activities were undertaken. Given the potential immediate relevance and the need to address existing issues in the implementation of the CTC, it is proposed that the General Assembly considers granting it high priority. The preparatory work undertaken to date has required minimal resources and has not affected the implementation schedule of the existing Work Programme.

23. Should the General Assembly approve the Governing Council's recommendation, a Working Group would be established promptly. Given the subject matter, the imminent formation of a Consultative Committee would seem appropriate, with a view to involve Member States as soon as the project has produced a sufficiently developed document for expert input.

III. ACTION TO BE TAKEN

24. *The General Assembly is invited to endorse the Governing Council's recommendation to include the development of a Model Procedural Law Implementing the Cape Town Convention and the Aircraft Protocol as a project with high priority in the 2026–2028 Work Programme, to be undertaken jointly with the AWG.*

ANNEXE

Proposal to the UNIDROIT Governing Council for the Development of a Model Procedural Law Implementing the Cape Town Convention and Aircraft Protocol

(proposed by Mexico, the United Kingdom, and the Aviation Working Group)

I. INTRODUCTION AND BASIC PROBLEM

1. The Cape Town Convention on International Interests in Mobile Equipment (the '**Convention**') and its Protocol on Matters Specific to Aircraft Equipment (the '**Aircraft Protocol'**) represent one of the most significant achievements in the development of international commercial law. Since the coming into force of these instruments (together, the 'CTC') in 2006, the CTC has attracted 87 Contracting States and has delivered substantial economic benefits by reducing financing costs and increasing the availability of credit for the acquisition and leasing of aircraft objects. Such benefits have been widely and broadly distributed.

2. However, there is an area of law relating to the implementation of the CTC that, if not enhanced, risks jeopardising such success and benefits. That area is procedural law. Potential problems, which have been seen around the world, fall into several categories. Many Contracting States need, but do not have, procedural law to:

(a) support causes of action related to the CTC, such as relief pending final determination under Article 13 of the Convention and Article X of the Aircraft Protocol;

(b) enable courts to act with the speed required by the CTC and their declarations made thereunder, in particular, Articles X and XI of the Aircraft Protocol; and

(c) facilitate the effective exercise of non-judicial remedies, where so declared under Article 54(2) of the Convention, particularly where Contracting States previously did not permit such remedies.

3. The CTC creates rights and interests – but it does not prescribe in comprehensive detail the procedures by which those rights and interests are to be exercised and enforced in national courts and before administrative authorities. This gap between treaty obligation and national procedural law is a primary source of non-compliance and legal uncertainty in CTC jurisdictions worldwide.

4. The Convention, which through Article 6(2) is overridden in certain areas by the Aircraft Protocol, seeks to fill that gap by reference to national procedural law in Article 14: 'Subject to Article 54(2), any remedy provided by this Chapter shall be exercised in conformity with the procedures prescribed by the law of the place where the remedy is to be excised.' The absence of such law, fully developed and precisely tailored to the CTC, is the basic problem. It results in **lacunae, inaccuracies, and inconsistencies** which reduce reliance on, and produce uncertain outcomes under, the CTC. It also substantially increases **transaction costs**, both in determining the (usually incomplete procedural law) and taking costly steps seeking enforcement (through that usually incomplete procedural law). The foregoing is materially adverse to the treaty's purposes and effects.

5. We refer to the foregoing herein as the '**procedural law implementation gap'**.

II. PROPOSED PROJECT TO HELP ADDRESS PROCEDURAL LAW IMPLEMENTATION GAP

6. To help address the procedural law implementation gap, it is proposed that UNIDROIT undertake a joint project with AWG to develop a draft Model Procedural Law implementing the CTC (the '**Model Procedural Law**' or '**MPL**') for submission to the Governing Council. Given the importance of this topic, but noting the substantial differences between procedures to enforce rights under the various protocols,[4] this proposal contemplates further work, at a second stage, on a similar model procedural law for each of the Rail Protocol and the MAC Protocol.

III. UNIDROIT's ROLE AND COMPETENCIES IN FILLING PROCEDURAL LAW IMPLEMENTATION GAP

7. UNIDROIT has historical institutional expertise on procedural law, in general, and has been focusing on many items which overlap with, or are implicated in, the above-mentioned CTC-related problems in its important work on Best Practices for Effective Enforcement ('**BPEE**'), in particular. This expertise can be deployed to help address the CTC procedural law implementation gap, making the CTC more effective and impactful. That would, in parallel, permit UNIDROIT to apply one of its framework instruments (the BPEE) to its more specific instruments (the CTC), with contextually needed modifications. This would be a positive development in the much-needed area of enhancing the implementation of, and compliance with, prepared and adopted international texts. It could be followed in due course with other similar applications, strengthening the implementation of other UNIDROIT instruments. That could serve as powerful example for other international organisations on implementation of adopted instruments.

8. UNIDROIT has extensive experience in the development of model laws in the field of international commercial law. This experience could be efficiently cross-applied in the development of the MPL.

9. The development of the MPL would not be undertaken by UNIDROIT as depositary, as Article 62 of the Convention does not contemplate such (at least to the extent preparing a model law is not considered one of the 'functions customary for depositaries'). Rather, it would done in performance of UNIDROIT's institutional high-priority mandate in promoting effective implementation of its own instruments, and, in particular, its overall role in advancing and perfecting the CTC treaty system.

IV. AVIATION WORKING GROUP EXPERTISE TO CONTRIBUTE TO THE PROPOSED MODEL PROCEDURAL LAW

10. AWG, originally formed at the request of UNIDROIT in 1994 to contribute to the CTC, including through its global legal network of over 300 law firms, has the subject matter expertise to enhance UNIDROIT's proposed work on the proposed MPL. It has been working around the world on above identified problems for 25 years and would make that experience and related information available as part of the joint effort.

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[4] Notably, most action in respect of aircraft objects, including repossession-related action, take place at secure airport facilities, which, as has been experienced for the last 20 years, raises specific procedures. Likewise, export remedies for aircraft objects raise safety and security issues. From a differing perspective, actions again railway rolling stock must address the public service implications.

V. PURPOSE, NATURE, AND SCOPE OF THE PROPOSED MODEL PROCEDURAL LAW

11. The proposed MPL would serve as a template for Contracting States seeking to enact or reform their national procedural legislation to give full and effective effect to the CTC. It would provide a clear, comprehensive, and internationally harmonised set of procedural rules covering the principal areas in which adequate domestic procedures are required for CTC implementation.

12. The proposed MPL would have three principal objectives. First, to close the procedural implementation gap by providing Contracting States with a ready-to-use legislative template that can be adapted to their national legal systems. Second, to promote harmonisation of procedural rules across CTC jurisdictions, thereby reducing uncertainty and transaction costs for parties to cross-border aviation finance transactions. Third, to enhance compliance with the specific procedural obligations and timeframes established by the CTC, thereby strengthening the effectiveness of the treaty.

13. Subject to assessment and development by the Working Group, the proposed MPL would address the following principal subject matter:

(a) **Judicial default remedies**. Provisions governing the procedures by which creditors may apply to competent courts for orders giving effect to the default remedies in Articles 8, 9, and 10 of the Convention covering remedies under security agreements, conditional sale agreements, and leasing agreements, and addressing applicable notice requirements.

(b) **Non-judicial default remedies**. Provisions governing the exercise of non-judicial remedies in jurisdictions that have not made a declaration under Article 54(2) of the Convention requiring court leave for the exercise of remedies. These would include administrative procedures engaging airport authorities, maintenance, repair and overhaul organisations (MROs), and other relevant third parties.

(c) **Relief pending final determination**. Provisions implementing Article 13 of the Convention as modified by Article X of the Aircraft Protocol setting out clear timeframes within which competent courts are required to grant relief orders, specifying that such orders constitute final court decisions and are not provisional measures, and addressing the protection of the interests of third parties.

(d) **Giving effect to foreign court orders**. Provisions implementing Article X(6) of the Aircraft Protocol, and the general system of CTC jurisdiction, by providing rules on giving effect to orders made by courts of other Contracting States (with CTC jurisdiction) in connection with adjudicated CTC rights and interests.

(e) **Deregistration and export**. Provisions on court rules relating to the de-registration and export and physical transfer of aircraft objects from the jurisdiction, implementing Article IX(1) of the Aircraft Protocol, and addressing the obligations of the registry authority and other relevant authorities. The CTC Official Commentary (Revised 5th Ed.) at paras. 3.38 and 4.40 describes this as the 'court route'. That is distinct from IDERA mechanism, which, as set forth the Official Commentary at para. 3.38, (and 3.41 – 3.45), does not involve a court order.

(f) **Jurisdiction and competent courts**. Provisions designating the courts and administrative bodies with jurisdiction to hear claims under the CTC, implementing

the jurisdiction provisions of Articles 42 and 43 of the Convention and Article XXI of the Aircraft Protocol, including the exercise of concurrent jurisdiction for the grant of relief pending final determination and the application of party choice of forum.

(g) **General provisions and relationship with other laws**. Provisions on the commercially reasonable exercise of remedies, the relationship of the MPL with general civil procedure and insolvency laws, the primacy of the CTC and the MPL over inconsistent national law, and transitional arrangements.

14. The MPL would be designed to be flexible and adaptable. It would accommodate different legal traditions, including common law and civil law systems, and different constitutional arrangements, including federal and unitary states. Where the CTC provides Contracting States with optional provisions through the declaration mechanism, the MPL would provide corresponding alternative formulations so that the instrument can be appropriately tailored by each adopting jurisdiction.

V. PROPOSED WORKING METHODOLOGY

15. It is proposed that the MPL be developed through a dedicated joint Working Group established by the UNIDROIT Governing Council, with five experts appointed by each of UNIDROIT and the AWG Secretariat. The Working Group would bring together such experts in procedural law and the CTC drawn from CTC Contracting States representing the full range of legal traditions, geographic regions, and levels of economic development. The Working Group would be supported by the UNIDROIT Secretariat. AWG would be responsible for any reimbursable costs required by its appointed experts.

16. The development process would include a structured consultation phase to allow Contracting States, industry participants, academic institutions, and other stakeholders to provide comments on draft texts. It is expected that the developmental process including such consultations would take 18 months.

VI. CONCLUSION AND ACTION REQUESTED

17. The development of a Model Procedural Law implementing the CTC would represent one of the most consequential steps available to the international community to strengthen the practical effectiveness of the CTC. The substantive framework created by the treaty is widely acknowledged to be sound and well-designed. The principal challenge lies in ensuring that its provisions are given full procedural effect in the national legal systems of Contracting States. A comprehensive, authoritative, and internationally endorsed model procedural law instrument, developed under the auspices of UNIDROIT and the AWG, and ultimately adopted as an UNIDROIT instrument, would directly address this challenge and would materially strengthen legal certainty for stakeholders operating in CTC jurisdictions around the world.

18. The Governing Council is accordingly invited to:

(a) take note of this proposal and the importance of addressing the procedural implementation gap in CTC Contracting States;

(b) authorise the inclusion of the development of a Model Procedural Law implementing the Cape Town Convention and Aircraft Protocol in UNIDROIT's Work Programme for 2026– 2028; and

(c) authorise the Secretariat to (i) convene a joint Working Group with the AWG and to facilitate the development of the instrument for submission to the Governing Council, and (ii) extend the work, at a second stage, to the development of a model procedural law for each of the Rail Protocol and MAC Protocol.