

BEGINNER'S GUIDE TO THE INTERNATIONAL REGISTRY

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March 1 2006 was the dawn of a new age in aircraft finance. That day the Cape Town Convention – so far ratified by nine countries – came into force.

Of the numerous benefits bestowed by the convention – formally known as The Convention on International Interests in Mobile Equipment and its Protocol on Matters Specific to Aircraft Equipment – one of the greatest is the creation of an international registry.

The international registry was open for user applications at 1430 GMT on February 21 and was open for the filing of registrations of international interests as required on March 1.

The international registry has been developed to be true to several of the convention's guiding principles: to be high-tech and accessible 24 hours a day, seven days a week; to be notice-based; to require the consent of both sides to a registration; to rely on drop-down lists to the extent feasible; and to be inexpensive.

The international registry's registrar is Aviareto, a non-profit joint venture primarily between Sita, the air transport service provider of IT business solutions and communications, and the Irish government. Based in Dublin, the international registry is operated by the registry's team of highly skilled technicians who have been working hard to develop a product that is easy to use.

The registrar is supervised by the International Civil Aviation Organization (ICAO), acting through a commission of experts, and is further advised as to practical aspects by an International Registry Advisory Board, consisting primarily of representatives of the international aircraft finance bar.

In operating the international registry, the registrar is governed by the requirements of the convention, as well as by a set of regulations and a separate set of procedures that were developed and approved by ICAO. The international registry is accessible online at www.internationalregistry.aero.

Access to the international registry is governed by the regulations. To use the international registry, an entity must first apply online and be approved as a user (the regulations use the term "registry user entity", which may be either a "transacting user entity" or a "professional user entity". For simplicity I will refer only to users unless the context requires specificity).

On first visiting the registry's website, the viewer will be directed to a default page. To apply to become a user the applicant must, from this default page, click on "user area" where it appears in the short menu of items on the left side of the page. From there, you must click on "Apply to become an approved administrator user" in the middle of the page.

Before applying, however, care should be taken to ensure consideration of the following points:

- the process of becoming an approved user entails the installation of a digital certificate on your computer's hard drive. This certificate is not transferable to another computer; users must ensure that they are filing their initial application from the very same computer that they intend using to make future registrations and delegations;
- there are technical requirements that your computer and its software must meet to be able to communicate with the website and, importantly, to accommodate the installation of the digital certificate. I benefited greatly from the participation of my employer's information technology experts who were needed to effect a rewrite of Java software access restrictions created by my employer's network safeguards;
- the person operating the computer from which the application will be electronically filed should be the person who will serve as that user's administrator. The regulations vest the administrator with specific duties and responsibilities, and the administrator will be involved, in some form, with every registration made on behalf of a user. Users must ensure the appointment of an administrator commensurate with the duties and responsibilities being undertaken;
- users will be asked to provide a password of their own choosing. Passwords must not be forgotten; the international registry does not have a forgotten password recovery feature. A permanently lost or forgotten password will require the filing of a new application; and

- have your credit card at the ready. Although the fees are modest, payment by credit card is the only feasible, and therefore available, manner of payment.

Having determined the identity of the administrator and the computer from which that administrator will be working, the applicant can proceed with the application.

In the box "organization type" there is a drop-down list offering three options: "company", "professional firm", or "direct entry point". Users should be aware that "company" should be selected if the applicant is applying to become a "transacting user entity", whereas an applicant seeking approval as a "professional user entity" should select "professional firm" (it is unfortunate that this drop-down list does not reflect the terms used in the regulations; perhaps a future refreshing of the website by the registrar will correct this).

The "direct entry point" option will never be selected by transacting users or professional users. The rest of the application is fairly straightforward.

Care should be taken to ensure the entry of data precisely in the format requested (eg, enter date by "dd mmm yyyy," such as "03 MAR 1956"). VAT is not applicable for US applicants and may be left blank by them. Particular care should be taken to ensure that the administrator's email address is correctly entered.

At the bottom of the application is a final box, "licence option". Licence option choices are one year or five years, with a discount available to those choosing the five-year option. After making this selection and clicking on "submit", and assuming there are no discrepancies or omissions in the application (which will be brought to your attention), you will be directed to the payment screen.

After supplying payment information, you will be asked both to confirm the application information and to accept the website's terms and conditions of use. Once having accepted the terms and conditions, your application is complete.

The only area where the registrar is required to exercise judgment in operating the international registry is in the approval of users. Section 4.1 of the regulations is very specific on the point that, in considering whether or not to approve an applicant as a user, the registrar may approve users only when the registrar "reasonably concludes":

- (1) that both the applicant user and the administrator "are who they assert they are"; and
- (2) that on the basis of the information provided, the administrator is entitled to act for the applying user. Once an application is submitted, registrar personnel will review the application and make these determinations.

My experience is that the registrar is following the practice of sending a test email to the address supplied by the applicant, requesting a reply and thereby verifying the establishment of the necessary email link between the international registry and the applicant user's administrator.

The registrar has also been contacting applicants by telephone and determining that applicants are who they assert they are by requesting verbal verification of the information supplied in the online application.

Section 10 (f) of the procedures obligate the registrar to approve a user (if it is to be approved) as soon as reasonably practicable and is further obligated to try to complete the approval process within 48 hours.

Anecdotal evidence would indicate that, given both the opening-bell crush of user applications and the relative newness of the process, the registrar has not been able to meet this soft 48-hour deadline in all cases. This will of course improve over time.

The regulations and procedures are of critical importance to any applicant, especially to an intended user's administrator. Care should be taken in the selection of your administrator (who "may but need not be an employee" of the applicant; see section 5 of the procedures) to ensure that this person will be able to perform and honour the duties and responsibilities described in the regulations and procedures.

In this regard, particular attention should be given to section 4.2 of the regulations, describing the administrator's sole right and ability to (a) designate other persons who can act on behalf of your user company at the registry, and (b) electronically approve the designation of a special purpose entity.

Attention should also be paid to Section 5 of the regulations, which contains a description of the various responsibilities of the administrator, including security violations, password protection, employment changes, delegations for vacation time, and keeping his/her own email address up-to-date. The position of administrator is an important one.

Once the registrar approves a user, an email is sent to the administrator. Naturally that email goes to the email address on the initial application. That email will indicate registrar approval of the application and will contain a link. By clicking on the link, the newly approved user has commenced the process of installing the digital certificate on that computer's hard drive.

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The user is now up and running and in a position both to make registrations and to perform searches.

Once installed, an automatic verification process, by which the administrator is recognized by name, will initiate all future visits to the international registry. This verification process has proven to be relatively short – in most cases less than 10 seconds.

The international registry is off to a great start.

In these early days it is important for potential users to be aware of the need to apply to become a user and to be aware of the importance of naming an administrator capable of competently assuming the duties and responsibilities that come with the designation.

Remember: once an application is submitted (and the corresponding fee is paid), changes cannot be made without reapplying (and paying the fee again). It is important that the applicant consider these points before making a bullheaded rush to apply.

Because there is no guarantee that an initial application will be accurate or complete, and because of the registrar's obligations to vet all applicants with no absolute guarantee as to how quickly the registrar will do that, those with transactions in the near-term should be acting sooner rather than later in applying.

This would appear to be especially true of the many airlines based in the US, where the provisions of the convention became law on March 1.

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