

## Clifford Chance Client Briefing

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Client Briefing

## BRIC by BRIC – Brazil accedes to Cape Town



On 30th November 2011, Brazil signed its instruments of accession to the Cape Town Convention and Aircraft Protocol. This is a significant step in the treaty's development; Brazil is the 50th state and the final "BRIC" economy to sign up. Latin America is one of the fastest growing regions for air travel and Brazil is home to Embraer, a leading aircraft manufacturer. According to the treaty timetable, Cape Town will come into force on **1 March 2012** (subject to any further acts of national implementation which may be required).

Brazil has made the "qualifying declarations" required under the OECD's Aircraft Sector Understanding (which Brazil joined in 2007, as the first non-OECD participant) for the Cape Town discount on export credit agency supported aircraft financings. These include accepting "Alternative A", the "hard" insolvency regime under the Aircraft Protocol, and interim relief measures.

However, it should be noted that, other than the de-registration and export powers provided under Article XIII of the Aircraft Protocol, Brazil requires that all other "self-help" remedies of the treaty are exercised only with the leave of the judiciary.

Cape Town filings relating to airframes must be made through the National Civil Aviation Authority, acting through the Brazilian Aeronautical Registry (and engine filings may be made through this route), as the "designated entry point" in respect of the International Registry. In addition, Brazil has stated that all national registry requirements, established by Brazilian laws and regulations, must be satisfied, before the Brazilian Aeronautical Registry will transmit information to the International Registry. We anticipate that, in practical terms, this means that the existing processes and practice relating to aircraft and mortgage registrations with the Brazilian Aeronautical Registry and any other relevant registers, must still be followed before a priority filing of any Cape Town international interests by creditors of Brazilian debtors or in respect of Brazilian registered aircraft will be possible.

### Past Briefings

[Cape Town Convention and Aircraft Protocol - Next Steps - 2005](#)

[Cape Town Convention and Aircraft Protocol - Outline - 2007](#)

[India - Cape Town Convention and Aircraft Protocol - 2008](#)

[China - Cape Town Convention and Aircraft Protocol - 2008](#)

[China - Cape Town Convention and Aircraft Protocol - China CAAC issues administrative rules - 2009](#)



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