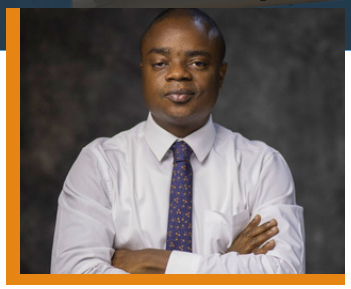
SYNTEGRAL
LEGAL PRACTICE

UNDERSTANDING AIRCRAFT FINANCING AND THE CAPE TOWN CONVENTION IN NIGERIA: PART III

March, 2026



Oladiran Falore
Managing Partner



Unwana Obioh
Associate Counsel

This six-part series began in Part I with an overview of the Cape Town Convention and the Aircraft Protocol. It examined their historical development, policy objectives, and the legal mechanisms designed to standardise aircraft financing across jurisdictions. Particular attention was given to the concept of the international interest, the operation of the International Registry for International Interests in Mobile Equipment, Priority Rules, the Irrevocable De-registration and Export Request Authorisation (IDERA), and the Convention's insolvency and self-help remedies.

Part II then turned to Nigeria's domestic framework, analysing the role of the Nigerian Civil Aviation Authority, Federal High Court, and the Corporate Affairs Commission, alongside other regulatory actors, and assessing how local administrative processes interact with the Convention.

Part III now turns to the practical relationship between lessor rights and airline obligations under the Cape Town Convention within the framework of Nigerian law and regulatory practice. It considers, in particular, the exercise of IDERA and Article XI remedies by lessors, while examining the corresponding obligations of airlines, including the preservation of airworthiness, proper maintenance of technical and operational records, and cooperation with customs and aviation regulators such as the Nigerian Civil Aviation Authority. The discussion also highlights the strategic considerations on both sides: how airlines may manage and mitigate legal exposure, and how lessors may enforce their contractual and treaty rights with procedural efficiency. In doing so, this part illustrates how statutory and treaty-based entitlements are ultimately translated into practical outcomes within day-to-day aircraft financing and leasing operation.

1. INTRODUCTION

Aircraft financing regimes ultimately reveal themselves not in the articulation of creditor rights, but in the moments where those rights must be exercised against operational reality. In aviation markets, this moment is rarely abstract. It arises at points of default, distress, or transition, where legal entitlements intersect with grounded aircraft, regulatory permissions, technical records, and institutional discretion. It is here that the distinction between formal compliance and functional reliability becomes visible. Nigeria's post-CTC aviation framework sits squarely within this tension. Over the last decade, the legal foundations governing aircraft interests have undergone deliberate recalibration, replacing broad uncertainty with increasingly specific, time-bound remedies. Yet the commercial meaning of these reforms cannot be measured solely by statutory text or treaty adoption. Their significance lies in how rights and obligations are activated, coordinated, and performed by market participants under pressure.

This Article, therefore, moves the analysis from architecture to interaction. Rather than revisiting the doctrinal content of the Cape Town Convention or its domestication, the focus here is on the reciprocal mechanics that structure enforcement outcomes: how lessors assert control without derailing value, how airlines respond without compounding exposure, and how the equilibrium between both is shaped by timing, documentation, and procedural discipline. By examining the rights of lessors alongside the obligations and defensive strategies of airlines, this Part explores how Nigeria's aircraft financing framework operates at the intersection where legal entitlement meets operational reality.

2. THE STATUTORY AND CONTRACTUAL RIGHTS OF LESSORS

The CTC framework grants Lessors and other secured creditors a suite of potent, internationally recognised rights designed to accelerate asset recovery and circumvent national procedural delays. This section details the two primary operational rights derived from Nigeria's Declarations under the Protocol on Matters Specific to Aircraft Equipment (Aircraft Protocol) (AP).

2.1 The Right to Extra-Judicial Self-Help: IDERA

The right to self-help upon a defined Event of Default is codified by Nigeria's adoption of the CTC's extra-judicial remedies. The IDERA serves as the central instrument for this right. Upon recording the IDERA with the Nigerian Civil Aviation Authority (NCAA), the Lessor (or its authorized party) obtains the unilateral right to request de-registration and export. The NCAA's role is strictly ministerial, it is mandated only to confirm the IDERA filing compliance and the persistence of the default, and not to adjudicate the underlying contractual merits, ensuring a swift and non-discretionary process.

2.2 The Right to Accelerated Possession in Insolvency: Article XI (Alternative A)

Nigeria's adoption of Article XI (Alternative A) provides the Lessor with a powerful priority right that legally subordinates the general insolvency regime of the Companies and Allied Matters Act (CAMA) 2020.

- **The 30-Day Mandatory Period:** This declaration imposes a strict 30-day timetable starting from the date of an "insolvency-related event." The debtor Airline or its administrator must execute a binary choice: either cure all defaults or unconditionally surrender possession of the aircraft to the Lessor.

- **Supremacy of Special Law (the Principle of Lex Specialis):** This specialized, time-bound regime is underpinned by the legal principle that special law overrides general law. The Civil Aviation Act (CAA) 2022, which implements the CTC, is considered the special law in this context. Consequently, the 30-day timeline prevails over any general moratorium or stay on creditor actions that might be triggered by standard CAMA insolvency proceedings, acting as a crucial safeguard for asset value in distress scenarios.

3. THE STATUTORY AND CONTRACTUAL OBLIGATIONS OF AIRLINES

The grant of accelerated creditor rights imposes essential reciprocal duties on the debtor Airline. These obligations, rooted in both the AP and the lease contract, are primarily designed to preserve the collateral's value and ensure an orderly administrative process.

3.1 Duty of Preservation and Airworthiness

The Airline is required to maintain the economic and technical integrity of the asset upon default through a heightened Duty of Preservation.

- **Maintenance and Logs**: This duty requires the Airline to maintain the aircraft's physical condition and keep its airworthiness certificate current throughout the recovery or cure period. This includes the preservation of the comprehensive records of all maintenance, repairs, and flight hours, i.e., the technical logs, which are essential for the asset's resale and re-certification. Allowing the asset to deteriorate or the logs to lapse materially impairs the Lessor's security interest and future remarketing value.

- **No Unauthorised Liens**: Liens are a form of security interest or charge over property (the aircraft) that is created by law, rather than by contract. The Airline must refrain from creating or acquiescing to the creation of non-consensual liens that could take priority. Article 39(1)(a) of Nigeria's Declarations strictly limits such liens to only possessory claims for unpaid workers' wages and repairers' liens.

3.2 Duty of Cooperation and Customs Compliance

The successful physical recovery of the aircraft depends on proactive cooperation from the Airline concerning regulatory documentation and administrative coordination.

- **Surrender of Documentation:** This obligation includes the timely surrender of all necessary Customs and importation documentation; most critically, valid Temporary Importation (TI) permits and evidence of duty compliance or exemption. Failure to maintain and surrender these documents is the single greatest cause of administrative friction in physical recovery, often resulting in detention by the Nigeria Customs Service despite valid NCAA de-registration.

- **Timely Access**: The Airline must also provide immediate access and information to the Lessor's designated personnel for inspection and technical audit, as required by the AP and the CAA 2022. Such cooperation should include prompt release of maintenance records and technical logs to prevent procedural delay and ensure that enforcement under the CTC proceeds without unnecessary administrative obstruction.

4. THE LESSOR'S PERSPECTIVE: ENFORCEMENT AND RECOVERY

The Lessor's commercial objective is singularly focused on preserving the time and value guaranteed by the CTC. Their perspective is dominated by the need to ensure the international interest is fully insulated from domestic legal and administrative risk through disciplined documentation and swift, decisive enforcement.

4.1 Prioritizing Perfection and Contingency Planning

The Lessor's initial focus is on legally insulating the asset from all forms of domestic challenge and converting the right to self-help into a reliable operational instrument.

- **Layered Priority:** The central concern is not merely registering on the International Registry (IR), but ensuring the interest holds priority against local corporate creditors. This necessitates the dual-step of registration with the NCAA and, critically, the perfection of the charge with the CAC, which establishes priority over local claims under Nigerian corporate law.

- **The IDERA as Contingency:** The IDERA is viewed as the non-negotiable insurance policy. The Lessor's focus is on ensuring the IDERA is flawlessly executed according to the NCAA Advisory Circular AC-AWS001A guidance at closing.

4.2 The Mandate for Speed: Enforcement and Recovery

Upon default, the Lessor's primary strategic focus shifts entirely to speed and procedural certainty, leveraging the accelerated timelines of the Nigerian framework.

- **Securing Possession:** In an insolvency scenario, the Lessor prioritizes immediate, coordinated action to enforce the 30-day possession deadline under Article XI (Alternative A). The goal is to obtain possession and exit the jurisdiction before the Airline or its administrator can successfully invoke the general moratorium under CAMA 2020.

- **Judicial Intervention for Velocity:** For the Lessor, the Federal High Court Rules and Practice Directions are a tool of velocity. The focus is on using expedited mandatory injunctions to pre-empt or overcome any administrative blockage (e.g., from the NCAA or Nigeria Customs Service), ensuring the recovery timeline is measured in weeks, not months.

5. THE AIRLINE'S PERSPECTIVE: DUTIES AND DEFENCES

The Airline's perspective is dominated by the need to maintain operational continuity, preserve its reputation, and minimize financial exposure in the face of the Lessor's accelerated enforcement rights. The strategy revolves around mitigation, technical compliance, and a narrow focus on procedural defence.

5.1 Value Preservation and Commercial Strategy

Facing the looming threat of possible repossession, the Airline's primary focus is on preserving the option to cure the default or, failing that, executing an orderly surrender that minimizes commercial and legal penalty.

- **Duty Compliance as Mitigation:** The Airline prioritizes adherence to the Duty of Preservation: maintaining airworthiness and complete technical logs. This is essential because non-compliance constitutes a separate, significant breach that increases the Lessor's damages claim, thereby complicating any future commercial restructuring negotiations.

- **The Strategic Role of Article XI:** The Airline recognises the non-extendable nature of the Article XI (Alternative A) 30-day period. Facing this firm deadline, the strategic priority is to use this window for swift commercial engagement, either through securing a structured refinancing, executing a consensual sale, or negotiating an orderly surrender, rather than attempting a legal battle that is costly and unlikely to succeed.

5.2 Focusing Legal Resources on Procedural Integrity

The Airline understands the futility of broad legal resistance against the specialized CTC framework. Legal efforts are therefore concentrated on technical and procedural integrity.

- **IDERA and Corporate Authority Scrutiny:** The Airline's defence focuses on challenging the validity of the Lessor's initial documentation specifically, looking for defects in the IDERA execution formalities or flaws in the underlying corporate authorisation (under CAMA) to grant the security interest.

- **Mitigating Non-Consensual Liens:** The Airline must actively manage its exposure to non-consensual liens (possessory repairer liens and specific wage liens).

The focus is on mitigating these specific liabilities promptly, as their existence gives the Lessor a clean claim against the asset, justifies immediate recovery, and damages the Airline's standing.

6. CONCLUSION

The operational relationship between lessors and airlines outlined above reflects a notable evolution in Nigeria's aviation financing environment under the Cape Town Convention and the Aircraft Protocol. The central issue is no longer whether creditor protections exist in law, but how effectively those protections are activated through coordinated conduct. Rights arising from IDERA and Article XI (Alternative A) are structurally robust, however, their practical value depends on parallel compliance by industry participants and their ability to navigate regulatory interfaces, particularly with bodies such as the Nigerian Civil Aviation Authority without unnecessary friction.

The framework rewards precision rather than mere formal presence. Enforcement outcomes increasingly depend on how well parties understand and anticipate the procedural logic of the system. In this sense, Nigeria's aviation finance landscape now distinguishes between participants who engage deliberately with its institutional architecture and those who approach it more casually.

Having outlined the reciprocal rights and obligations at the transactional level, **Part IV** will examine where this balance is most vulnerable, focusing on the operational and systemic frictions that arise at the intersection of enforcement, insolvency, and regulatory coordination.

REFERENCES

1. **Civil Aviation Act 2022.**
2. **International Interests in Mobile Equipment Act 2015.**
3. **Companies and Allied Matters Act (CAMA) 2020.**
4. **Convention on International Interests in Mobile Equipment (Cape Town, 2001).**
5. **Protocol on Matters Specific to Aircraft Equipment (Aircraft Protocol).**
6. **Nigeria's Subsequent Declarations under the Cape Town Convention.**
7. **NCAA Advisory Circular on Procedures for Recordation of IDERA and De-registration of Aircraft under an IDERA.**
8. **UNIDROIT,** 'UNIDROIT: Status of Nigeria as a Contracting State to the Cape Town Convention' UNIDROIT [Online] https://www.unidroit.org/instruments/security-interests/cape-town-convention/states-parties/d-nigeria-ct/ Accessed on 29th September 2025.