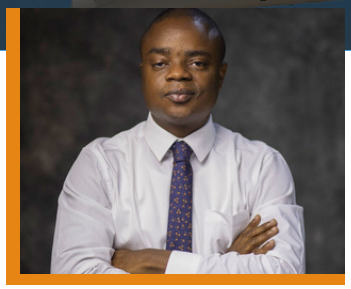
SYNTEGRAL
LEGAL PRACTICE

UNDERSTANDING AIRCRAFT FINANCING AND THE CAPE TOWN CONVENTION IN NIGERIA; PART IV: Operational Dynamics of Aviation Asset Recovery in Nigeria

March, 2026



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OVERVIEW

Part IV focuses on the real-world challenges that shape how aircraft finance rights are enforced in Nigeria. It looks at the practical routes through which these rights are either successfully exercised or delayed, highlighting common administrative and judicial obstacles such as Customs disputes, inter-agency tensions, and inconsistent application of Cape Town Convention Practice Directions by the courts. It also considers broader economic pressures, including foreign exchange restrictions and insurance documentation requirements, which can affect both timing and certainty in asset recovery. The article brings these factors together into a practical framework for lessors and airlines, showing that successful recovery is less about legal theory and more about coordinated execution

1. INTRODUCTION

Aircraft repossession is rarely defeated by the absence of legal authority. More often, it is delayed, distorted, or devalued by the accumulation of procedural friction that arises once enforcement moves beyond the courtroom and into the administrative state. In aviation finance, where asset value is acutely sensitive to time, documentation, and regulatory clearance, the difference between a right that exists and a right that can be executed is commercially decisive. Nigeria's post–CTC enforcement landscape reflects this distinction with unusual clarity. The statutory instruments governing aircraft recovery now articulate accelerated remedies, defined timelines, and judicial prioritisation. Yet the recovery process itself remains contingent on a chain of institutional actions extending beyond aviation regulators to customs authorities, courts, insurers, and financial regulators. Each node in this chain carries its own procedural logic, incentives, and constraints, none of which are neutral to timing or outcome.

This Part IV, therefore, shifts the analytical focus onto the execution of the framework. It examines the operational dynamics that shape enforcement outcomes in practice, identifying where friction is most likely to arise and how it propagates across agencies and processes. In doing so, it investigates why these factors have become central to understanding enforcement risk within Nigeria's aircraft financing environment.

2. OPERATIONAL CHALLENGES TO BALANCING THE RIGHTS AND OBLIGATIONS

The statutory mechanisms established in the Civil Aviation Act (CAA) 2022 provide the necessary *legal* tools to enforce rights and obligations. However, the operational execution of the framework is frequently impeded by a series of administrative, judicial, and macroeconomic challenges that diminish the efficiency and predictability of the recovery process. This section examines the most prominent hurdles that hinder the effective implementation of the CTC in Nigeria.

2.1 Judicial and Administrative Bottlenecks

Despite the specialized legal instruments, systemic delays persist at the intersection of various government entities.

• **Customs/Export Friction:** The Nigeria Customs Service (NCS) remains the primary administrative bottleneck. Disputes over import duties and the status of Temporary Importation (TI) documentation often lead to aircraft detention, regardless of the Nigerian Civil Aviation Authority (NCAA) de-registration certificate. This multi-agency conflict creates an administrative blockade that undermines the CTC's time-sensitive goals.

• **Inconsistent Judicial Application:** While the FHC Practice Directions mandate expedited processes, variable consistency in their application across different judicial divisions introduces a degree of uncertainty. This variability frustrates the core CTC promise of judicial predictability.

• **Enforcement Against Third Parties:** A consistent challenge is how to ensure the enforcement of FHC orders against non-aviation government agencies (like the NCS) and third parties (e.g., ground handlers or Maintenance, Repair, and Overhaul (MROs)). In theory, the court's power to compel should consistently overcome institutional resistance to maintain its practical weight; however, the lack of reliable execution in practice remains a persistent structural challenge.

2.2 Macroeconomic and Financial Challenges

Economic policies outside the aviation sector create significant risks for both the Lessor's collateral value and the Airline's ability to cure a default.

• **FX Volatility and Repatriation Risk:** The Central Bank of Nigeria (CBN) policies and Foreign Exchange (FX) volatility impact the Airline's ability to service USD-denominated leases. For the Lessor, strict and complex documentation requirements for FX repatriation can delay the final financial exit after a sale or insurance payout.

- Insurance and Technical Documentation Gaps: The complexity of National Insurance Commission (NAICOM) regulations regarding loss-payee allocation, coupled with the Airline's occasional failure to maintain complete airworthiness and maintenance documentation, complicates the transfer of the asset and delays the issuance of ferry-flight permits for export.

3. BALANCING RIGHTS AND OBLIGATIONS: A PLAYBOOK FOR LESSORS AND AIRLINES

3.1 Achieving Balance

The real challenge lies in turning the intended statutory balance into something that works smoothly in practice. On paper, creditors have clear rights and debtors have defined compliance obligations. In reality, that balance only holds when both sides execute properly. Lessors must act with precise and complete documentation, while Airlines must meet their obligations with accuracy and discipline. When both happen, the usual administrative and procedural delays are largely avoided.

When this balance is achieved, it benefits both sides. Lessors gain the certainty needed to price risk competitively, while Airlines get more predictable access to financing and a clearer pathway in the event of default, without unnecessary disruption or penalty.

In practical terms, this balance depends on coordination across the full ecosystem. Lessors, Airlines, the NCAA, the NCS, and the courts all play a role. Each must act within the timelines and expectations set by the Cape Town Convention framework. If any part of that chain breaks down, enforcement can stall, investor confidence weakens, and the uncertainty the Convention was meant to eliminate starts to reappear.

The priority, therefore, is not new legal theory but consistent execution. Every stage, from registration through to repossession and export, must be aligned and synchronised so that operational friction does not undermine the legal framework.

3.2 Recommendations for Lessors (and Lenders)

• **Comprehensive Priority Audit:** Implement the Corporate Affairs Commission registration synchronisation with IR and NCAA filings as a non-negotiable closing condition. This is essential to establish absolute priority against all domestic corporate creditors, a critical risk-mitigation step not explicitly covered by the CTC alone.

• **Customs Exit Pre-Clearance:** Do not rely on the Airline’s customs status at the point of default. Mandate and audit the continuous maintenance of the valid Temporary Importation (TI) status documentation throughout the lease term. This pre-emptive action neutralises the primary administrative threat (NCS detention) upon recovery.

• **Judicial Acceleration Strategy:** Treat the FHC Practice Directions 2024 as a mandatory step in the recovery process, prepared to file a mandatory injunction compelling administrative compliance (from NCAA or NCS) the moment statutory or reasonable timelines are breached.

3.3 Recommendations for Airlines (and Debtors)

• **Financial and Technical Integrity**: Uphold the Duty of Preservation (airworthiness, technical logs) and Duty of Cooperation (customs documents). Non-compliance in these areas provides the Lessor with a clean and costly claim for damages that jeopardises any future commercial negotiations.

• **Strategic Use of the Alternative A Period:** Utilise the 30-day Alternative A period strictly for securing financing or executing an orderly, consensual surrender. Investment in protracted litigation aimed at delay is highly likely to fail and will only increase financial loss and reputational damage.

• **Focus on Procedural Defence:** Concentrate legal defence efforts narrowly on verifiable procedural flaws in the Lessor's original documentation (e.g., defective IDERA execution or CAMA non-compliance), avoiding general public-interest or moratorium arguments that are superseded by the specialised law.

4. CONCLUSION

The analysis above shows that aircraft asset recovery in Nigeria is shaped largely by the weight of process rather than the absence of legal rights. Issues such as customs detentions, inter-agency disconnects, inconsistent judicial approaches, foreign exchange pressures, and gaps in insurance documentation do not undermine creditor protections. Instead, they influence how and when those rights can be effectively exercised, shifting the risk toward execution. In practice, enforcement outcomes are not arbitrary. They follow clear patterns that favour careful planning, proper sequencing, and a strong understanding of institutional processes.

This leads to a simple but important conclusion. Aircraft recovery in Nigeria is neither inherently blocked nor seamless. It is conditional. When operational steps are anticipated and well-coordinated, timelines shorten and outcomes become more predictable. When they are treated as secondary, delays become part of the process itself. Recognising this is key to assessing enforcement risk accurately.

The next part of this series builds on this foundation by exploring how these operational realities interact with priority disputes, insolvency dynamics, and broader systemic pressures, and what these reveals about the strength of Nigeria’s aviation financing framework under sustained stress.

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.