Research Report on the Cape Town Convention and the MAC Protocol <Executive Summary>

Cape Town Convention: Convention on International Security Rights to Movable Property

MAC Protocol: Protocol to the Convention on International Security Rights to Movable Property relating to matters specific to mining, agricultural and construction properties

CEMA

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1. Capetown Convention

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(1) Relationship between legal structure and each protocol

○ The Cape Town Convention is a treaty aimed at stimulating trade and economic activity by establishing a legal framework and registration system for international security interests concerning high-value movable property such as aircraft, thereby promoting financing and leasing transactions for the machinery in question.

- The Aircraft, Rail, Space Assets, and MAC (Mining, Agriculture, and Construction) protocols stipulate practical rules for specific target assets.

○ A two-tiered structure that comes into effect upon the conclusion of both the treaty and the protocol.

(2) Legal ans Economic effects

① Legal effect

○ By registering movable property in the International Register, sellers, exporters, and lessors can assert security interests in contracting states worldwide without having to establish security interests in each country.

② Economic effects

○ The decline in lending interest rates and other factors will reduce the purchase costs for buyers and importers, leading to the revitalization of the importing country's economy. For sellers, exporters, and lenders, this can lead to increased sales and export figures, and is particularly effective in emerging markets.

- It is possible to obtain legal and economic effects even if Japan has not ratified the agreement.
- Whether or not to use it for individual transactions is at the discretion of the trader.

(3) Status

○ 88 countries and regions, including EU, the United States and China, have already signed and ratified the Cape Town Convention, while Japan has not reached the stage of signing.

2. Aircraft Protocol

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(1) Overview and target assets

○ The Aircraft Protocol is an annex that specifies the details of the Cape Town Convention.

○ Target assets are aircraft, aircraft engines, and helicopters, defined by weight, number of crew members, thrust, etc.

(2) Usage status

○ The Cape Town Convention and the Aircraft Protocol, since their entry into force in 2006 , have led to an annual number of registrations in the International Register reaching 150,000 , and 1.5 million over the past 20 years , making them considered the most successful systems in private international law.

- The Aircraft Protocol, based on the OECD 's Aircraft Sector Understanding, enables discounts on insurance premiums (guarantee fees) for export credit guarantees of aircraft.

(Note 1) Signature: Declaration of intent by the executive branch
Ratification: Approval by the parliament or other body
Contract: Becoming a contracting party through ratification

(Note 2) The contents of this report are, in principle, based on information as of the end of 2025.

3. MAC protocol

(1) Overview and target assets

○ The MAC Protocol extends the framework of the Cape Town Convention to mining, agriculture, and construction machinery, aiming to achieve legal stability and promote global financing through the establishment, prioritization, and efficient enforcement of international security interests.

○ The Protocol applies only where the debtor is situated in a Contracting State and the equipment concerned is classified under one of the 56 HS codes (based on the six-digit HS classification) set out in the Annex to the Protocol.

(2) Examples of use and challenges

○ The Protocol gives rise to legal effects with respect to export transactions, domestic transactions within the exporting country, and re-export transactions from the exporting country to third countries.

○ Main examples of its use include "direct export of high-priced machinery by construction machinery manufacturers to users in contracting countries" and "sales to users within the same country, such as importers and sales branches, in the destination country (contracting country)." However, improving awareness and understanding of the protocol, mainly in emerging countries, is necessary for its effective use.

(3) Economic effects

○ By reducing lending risk, construction equipment users can expect a reduction in their financial burden through lower borrowing interest rates and longer loan terms, as well as an improvement in the lender's approval rate.

- UNIDROIT* estimates the economic effects using a 1.0% reduction in interest rates and a 2- year extension of the repayment period as the standard case.

○ As a result of the above, the construction machinery market is projected to expand by a total of US$ 66.3 billion globally over the 10 years following the implementation of the agreement (UNIDROIT estimate)

○ Of this, Japanese exports are expected to increase by a total of US$ 6.2 billion (approximately 100 billion yen per year) during the same period (our estimate)).

3. MAC protocol

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(4) Status of signatures and issuance

○ The MAC Protocol has already been signed by the EU and the US, and China is also showing strong interest, as are more than 50 countries worldwide.

○ In emerging economies, the governments of South Africa, India, and Indonesia are are interested in the Protocol, and the United States is working to promote ratification in the Asia-Pacific and Latin American regions, with various countries and regions considering ratification.

(5) Promotion system of UNIDROIT*

○ Under UNIDORIT , a preparatory committee composed of 16 member states, as well as working groups and task forces, are organized.

○ The MAC Protocol will enter into force once five countries have ratified it, and the start date for the operation of the register will be determined.

○ Furthermore, after the MAC Protocol comes into force, a subcommittee composed of the contracting parties responsible for the operation of the Protocol and the Register is expected to be established, and the addition or deletion of HS codes will be discussed by this subcommittee.

* UNIDROIT: International Institute for the Unification of Private Law. An intergovernmental international organization established to coordinate and modernize private law (commercial law) in various countries. The drafting body of the Cape Town Convention.

4. Impact on Japan and Directions for the Future

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(1) Medium- to long-term concerns in the event of non-ratification

○ Since the Cape Town Convention and its protocols generally require that the debtor reside in a contracting state, even if Japan does not ratify them, the short-term trade disadvantages are expected to be limited.

○ However, there are strong concerns that this could cause significant disadvantages for the government and exporters in the future in the following ways.

- Exclusion from institutional formation (rule-making)
- Lack of information regarding the implementation of the system, concerns about unfavorable treatment.

○ Major countries such as the US, Europe, and China have already become signatory states to the treaty, and the entry into force of the MAC Protocol is also in sight.

○ Therefore, the Japanese government needs to work as quickly as possible toward signing and ratifying the treaty and the MAC Protocol.

5. Policy Recommendations

(1) Japanese government

○ Establishment of a Governmental Framework for Advancing Consideration

- The establishment of an interagency framework for advancing consideration of the Cape Town Convention is important, given the involvement of multiple ministries and agencies, including the Ministry of Foreign Affairs, the Ministry of Justice, and the Ministry of Economy, Trade and Industry.
- Formulation of a concrete roadmap toward signature and ratification, and consideration based on that roadmap.

○ Active Engagement in International Conferences and Expert Meetings

- Through continued participation in relevant international conferences and expert meetings, Japan should monitor the latest developments relating to the implementation and operation of the Cape Town Convention and the MAC Protocol, while actively communicating its views to the international community.

(2) Construction equipment manufacturers and organizations

○ Strengthening collaboration in the industrial sector

- In collaboration with construction machinery manufacturers themselves, as well as a wide range of stakeholders including financial and insurance institutions and trading companies, we will implement concrete activities to lobby the government.