# FINAL ACT

**of the Diplomatic Conference to Adopt a Mobile Equipment Convention and an Aircraft Protocol held under the joint auspices of the International Institute for the Unification of Private Law and the International Civil Aviation Organization at Cape Town from 29 October to 16 November 2001**

The Plenipotentiaries at the Diplomatic Conference to Adopt a Mobile Equipment Convention and an Aircraft Protocol, held under the joint auspices of the International Institute for the Unification of Private Law and the International Civil Aviation Organization, met at Cape Town, at the invitation of the Government of the Republic of South Africa, from 29 October to 16 November 2001 for the purpose of considering the draft *Convention on International Interests in Mobile Equipment* and the draft *Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment*, prepared by three Joint Sessions of a Committee of Governmental Experts of the International Institute for the Unification of Private Law and a Legal Sub-Committee of the International Civil Aviation Organization, as well as by the Legal Committee of the International Civil Aviation Organization.

The Governments of the following fifty-nine States were represented at the Conference and presented credentials in due and proper form:

Angola, the Republic of
Argentine Republic, the
Australia
Bahrain, the State of
Belgium, the Kingdom of
Benin, the Republic of
Botswana, the Republic of
Brazil, the Federative Republic of
Burundi, the Republic of
Cameroon, the Republic of
Canada
Chile, the Republic of
China, the People's Republic of
Congo, the Republic of the
Costa Rica, the Republic of
Côte d'Ivoire, the Republic of
Cuba, the Republic of
Czech Republic, the
Egypt, the Arab Republic of
Ethiopia, Federal Democratic Republic of
Finland, the Republic of
French Republic, the
Germany, the Federal Republic of
Ghana, the Republic of
Hellenic Republic, the
India, the Republic of
Iran, the Islamic Republic of
Ireland
Italian Republic, the
Jamaica
Japan
Jordan, the Hashemite Kingdom of
Kenya, the Republic of
Lebanese Republic, the
Lesotho, the Kingdom of
Libyan Arab Jamahiriya, the Socialist People's
Malawi, the Republic of
Mexican States, the United
Namibia, the Republic of
Netherlands, the Kingdom of the
Nigeria, the Federal Republic of
Oman, the Sultanate of
Pakistan, the Islamic Republic of
Republic of Korea, the
Russian Federation, the
Singapore, the Republic of
South Africa, the Republic of
Spain, the Kingdom of

Sudan, the Republic of the
Sweden, the Kingdom of
Swiss Confederation, the
Thailand, the Kingdom of
Tonga, the Kingdom of
Turkey, the Republic of
Uganda, the Republic of
United Arab Emirates, the
United Kingdom of Great Britain and Northern Ireland, the
United Republic of Tanzania, the
United States of America, the

The following eleven international Organisations and groups were represented by Observers:

African Civil Aviation Commission (AFCAC)
Aviation Working Group (AWG)
European Organisation for the Safety of Air Navigation (EUROCONTROL)
European Community
Hague Conference on Private International Law
International Air Transport Association (IATA)
Intergovernmental Organisation for International Carriage by Rail (OTIF)
International Mobile Satellite Organization (IMSO)
Rail Working Group (RWG)
Space Working Group (SWG)
United Nations

The Conference unanimously elected as President Mr. Medard Rutoijo Rwelamira (South Africa) and further unanimously elected as Vice-Presidents:

First Vice-President – Mr. Harold S. Burman (United States)
Second Vice-President – Mr. Gao Hongfeng (China)
Third Vice-President – Mr. Souleiman Eid (Lebanon)
Fourth Vice-President – Mr. Jório Salgado Gama Filho (Brazil)
Fifth Vice-President – Mr. John Atwood (Australia)

The Joint Secretariat of the Conference was the following:

For the International Institute for the Unification of Private Law:

Secretary General – Mr. Herbert Kronke, Secretary-General
Executive Secretary – Mr. Martin Stanford, Principal Research Officer
Deputy Secretary and Conference Officer – Ms. Marina Schneider, Research Officer
Deputy Secretary – Ms. Frédérique Mestre, Research Officer
Assistant Secretary – Ms. Lena Peters, Research Officer

For the International Civil Aviation Organization:

Secretary General – Mr. Ludwig Weber, Director of the Legal Bureau
Executive Secretary – Mr. Silvério Espínola, Principal Legal Officer
Deputy Secretary – Mr. Jiefang Huang, Legal Officer
Assistant Secretary – Mr. Arie Jakob, Legal Officer
Conference Officer – Mr. Michael J. Blanch, Chief, Conference & Office Services Section

Other officials of both Organisations also provided services to the Conference.

The Conference established a Commission of the Whole, composed of all States represented at the Conference, which was chaired by Mr. Antti T. Leinonen (Finland), and the following Committees:

*Credentials Committee*

Chairman: Mrs. Joyce Thompson (Ghana)

Members: Costa Rica
Ghana
Oman
Singapore
Spain

*Drafting Committee*

Chairman: Sir Roy Goode (United Kingdom)

Members: Argentina
Canada
China
France
Germany
Jamaica
Japan
Lebanon
Mexico
Nigeria
Russian Federation
South Africa
United Arab Emirates
United Kingdom
United States

*Final Clauses Committee*

Chairman: Mr. Kenneth O. Rattray (Jamaica)

Members: Canada
China
Cuba
Egypt
France
Jamaica
Kenya
Pakistan

Saudi Arabia
Senegal
Singapore
Sweden
Switzerland
United States

Following its deliberations, the Conference adopted the texts of the *Convention on International Interests in Mobile Equipment* and the *Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment.*

The said Convention and Protocol have been opened for signature at Cape Town this day.

The texts of the said Convention and Protocol are subject to verification by the Joint Secretariat of the Conference under the authority of the President of the Conference within a period of ninety days from the date hereof as to the linguistic changes required to bring the texts in the different languages into conformity with one another.

The Conference furthermore adopted by consensus the following Resolutions:

## RESOLUTION NO. 1

## RELATING TO THE CONSOLIDATED TEXT OF THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT AND THE PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO AIRCRAFT EQUIPMENT

*MINDFUL* of the objectives of the *Convention on International Interests in Mobile Equipment* and the *Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment*;

*DESIROUS* of facilitating the application and implementation of the Convention and the Protocol;

*TAKING INTO ACCOUNT* Article 6, paragraph 1 of the Convention, which states that the Convention and the Protocol shall be read and interpreted together as a single instrument;

*HAVING AGREED* to entrust the Joint Secretariat of the Conference, namely the Secretariats of the International Institute for the Unification of Private Law (UNIDROIT) and of the International Civil Aviation Organization (ICAO), with the drawing up of a consolidated text to facilitate the implementation of the rules contained in the Convention and the Protocol in a user-friendly manner;

*THE CONFERENCE:*

*HEREBY TAKES NOTE OF* the Consolidated Text of the *Convention on International Interests in Mobile Equipment* and the *Protocol thereto on Matters specific to Aircraft Equipment* as set out in the **Attachment** to this Resolution.

Attachment to Resolution No. 1

# CONSOLIDATED TEXT

## OF THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT AND THE PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO AIRCRAFT EQUIPMENT

# CONSOLIDATED TEXT

## OF THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT AND THE PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO AIRCRAFT EQUIPMENT

THE STATES PARTIES,

AWARE of the need to acquire and use aircraft equipment of high value or particular economic significance and to facilitate the financing of the acquisition and use of such equipment in an efficient manner,

RECOGNISING the advantages of asset-based financing and leasing for this purpose and desiring to facilitate these types of transaction by establishing clear rules to govern them,

MINDFUL of the need to ensure that interests in such equipment are recognised and protected universally,

DESIRING to provide broad and mutual economic benefits for all interested parties,

BELIEVING that such rules must reflect the principles underlying asset-based financing and leasing and promote the autonomy of the parties necessary in these transactions,

CONSCIOUS of the need to establish a legal framework for international interests in such equipment and for that purpose to create an international registration system for their protection,

MINDFUL of the principles and objectives of the *Convention on International Civil Aviation*, signed at Chicago on 7 December 1944,

HAVE AGREED upon the following provisions:

## Chapter I

### Sphere of application and general provisions

#### Article 1 — Definitions

For the purposes of this Convention, "this Convention" means the *Consolidated Text of the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment*.

In this Convention, except where the context otherwise requires, the following terms are employed with the meanings set out below:

(a) "agreement" means a security agreement, a title reservation agreement or a leasing agreement;

(b) "aircraft" means aircraft as defined for the purposes of the Chicago Convention which are either airframes with aircraft engines installed thereon or helicopters;

(c) "aircraft engines" means aircraft engines (other than those used in military, customs or police services) powered by jet propulsion or turbine or piston technology and:

(i) in the case of jet propulsion aircraft engines, have at least 1750 lb of thrust or its equivalent; and

(ii) in the case of turbine-powered or piston-powered aircraft engines, have at least 550 rated take-off shaft horsepower or its equivalent,

together with all modules and other installed, incorporated or attached accessories, parts and equipment and all data, manuals and records relating thereto;

(d) "aircraft objects" means airframes, aircraft engines and helicopters;

(e) "aircraft register" means a register maintained by a State or a common mark registering authority for the purposes of the Chicago Convention;

(f) "airframes" means airframes (other than those used in military, customs and police services) that, when appropriate aircraft engines are installed thereon, are type certified by the competent aviation authority to transport:

(i) at least eight (8) persons including crew; or

(ii) goods in excess of 2750 kilograms,

together with all installed, incorporated or attached accessories, parts and equipment (other than aircraft engines), and all data, manuals and records relating thereto;

(g) "assignment" means a contract which, whether by way of security or otherwise, confers on the assignee associated rights with or without a transfer of the related international interest;

(h) "associated rights" means all rights to payment or other performance by a debtor under an agreement which are secured by or associated with the aircraft object;

(i) "authorised party" means the party referred to in Article 25(3);

(j) "Chicago Convention" means the *Convention on International Civil Aviation*, signed at Chicago on 7 December 1944, as amended, and its Annexes;

(k) "commencement of the insolvency proceedings" means the time at which the insolvency proceedings are deemed to commence under the applicable insolvency law;

(1) "common mark registering authority" means the authority maintaining a register in accordance with Article 77 of the Chicago Convention as implemented by the Resolution adopted on 14 December 1967 by the Council of the International Civil Aviation Organization on nationality and registration of aircraft operated by international operating agencies;

(m) "conditional buyer" means a buyer under a title reservation agreement;

(n) "conditional seller" means a seller under a title reservation agreement;

(o) "contract of sale" means a contract for the sale of an aircraft object by a seller to a buyer which is not an agreement as defined in (a) above;

(p) "court" means a court of law or an administrative or arbitral tribunal established by a Contracting State;

(q) "creditor" means a chargee under a security agreement, a conditional seller under a title reservation agreement or a lessor under a leasing agreement;

(r) "debtor" means a chargor under a security agreement, a conditional buyer under a title reservation agreement, a lessee under a leasing agreement or a person whose interest in an aircraft object is burdened by a registrable non-consensual right or interest;

(s) "de-registration of the aircraft" means deletion or removal of the registration of the aircraft from its aircraft register in accordance with the Chicago Convention;

(t) "guarantee contract" means a contract entered into by a person as guarantor;

(u) "guarantor" means a person who, for the purpose of assuring performance of any obligations in favour of a creditor secured by a security agreement or under an agreement, gives or issues a suretyship or demand guarantee or a standby letter of credit or any other form of credit insurance;

(v) "helicopters" means heavier-than-air machines (other than those used in military, customs or police services) supported in flight chiefly by the reactions of the air on one or more power-driven rotors on substantially vertical axes and which are type certified by the competent aviation authority to transport:

(i) at least five (5) persons including crew; or

(ii) goods in excess of 450 kilograms,

together with all installed, incorporated or attached accessories, parts and equipment (including rotors), and all data, manuals and records relating thereto;

(w) "insolvency administrator" means a person authorised to administer the reorganisation or liquidation, including one authorised on an interim basis, and includes a debtor in possession if permitted by the applicable insolvency law;

(x) "insolvency proceedings" means bankruptcy, liquidation or other collective judicial or administrative proceedings, including interim proceedings, in which the assets and affairs of the debtor are subject to control or supervision by a court for the purposes of reorganisation or liquidation;

(y) "insolvency-related event" means:

(i) the commencement of the insolvency proceedings; or

(ii) the declared intention to suspend or actual suspension of payments by the debtor where the creditor's right to institute insolvency proceedings against the debtor or to exercise remedies under this Convention is prevented or suspended by law or State action;

(z) "interested persons" means:

(i) the debtor;

(ii) any guarantor;

(iii) any other person having rights in or over the aircraft object;

(aa) "internal transaction" means a transaction of a type listed in Article 2(2)(a) to (c) where the centre of the main interests of all parties to such transaction is situated, and the relevant aircraft object under Article 3(4) is located, in the same Contracting State at the time of the conclusion of the contract and where the interest created by the transaction has been registered in a national registry in that Contracting State which has made a declaration under Article 66(1);

(bb) "international interest" means an interest held by a creditor to which Article 2 applies;

(cc) "International Registry" means the international registration facilities established for the purposes of this Convention;

(dd) "leasing agreement" means an agreement by which one person (the lessor) grants a right to possession or control of an aircraft object (with or without an option to purchase) to another person (the lessee) in return for a rental or other payment;

(ee) "national interest" means an interest held by a creditor in an aircraft object and created by an internal transaction covered by a declaration under Article 66(1);

(ff) "non-consensual right or interest" means a right or interest conferred under the law of a Contracting State which has made a declaration under Article 52 to secure the performance of an obligation, including an obligation to a State, State entity or an intergovernmental or private organisation;

(gg) "notice of a national interest" means notice registered or to be registered in the International Registry that a national interest has been created;

(hh) "pre-existing right or interest" means a right or interest of any kind in or over an aircraft object created or arising before the effective date of this Convention as defined by Article 76(2)(a);

(ii) "primary insolvency jurisdiction" means the Contracting State in which the centre of the debtor's main interests is situated, which for this purpose shall be deemed to be the place of the debtor's statutory seat or, if there is none, the place where the debtor is incorporated or formed, unless proved otherwise;

(jj) "proceeds" means money or non-money proceeds of an aircraft object arising from the total or partial loss or physical destruction of the aircraft object or its total or partial confiscation, condemnation or requisition;

(kk) "prospective assignment" means an assignment that is intended to be made in the future, upon the occurrence of a stated event, whether or not the occurrence of the event is certain;

(ll) "prospective international interest" means an interest that is intended to be created or provided for in an aircraft object as an international interest in the future, upon the occurrence of a stated event (which may include the debtor's acquisition of an interest in the aircraft object), whether or not the occurrence of the event is certain;

(mm) "prospective sale" means a sale which is intended to be made in the future, upon the occurrence of a stated event, whether or not the occurrence of the event is certain;

(nn) "registered" means registered in the International Registry pursuant to Chapter V;

(oo) "registered interest" means an international interest, a registrable non-consensual right or interest or a national interest specified in a notice of a national interest registered pursuant to Chapter V;

(pp) "registrable non-consensual right or interest" means a non-consensual right or interest registrable pursuant to a declaration deposited under Article 53;

(qq) "Registrar" means the person or body appointed under Articles 27(4)(b) and 28;

(rr) "registry authority" means the national authority or the common mark registering authority, maintaining an aircraft register in a Contracting State and responsible for the registration and de-registration of an aircraft in accordance with the Chicago Convention;

(ss) "regulations" means regulations made or approved by the Supervisory Authority pursuant to this Convention;

(tt) "sale" means a transfer of ownership of an aircraft object pursuant to a contract of sale;

(uu) "secured obligation" means an obligation secured by a security interest;

(vv) "security agreement" means an agreement by which a chargor grants or agrees to grant to a chargee an interest (including an ownership interest) in or over an aircraft object to secure the performance of any existing or future obligation of the chargor or a third person;

(ww) "security interest" means an interest created by a security agreement;

(xx) "State of registry" means, in respect of an aircraft, the State on the national register of which an aircraft is entered or the State of location of the common mark registering authority maintaining the aircraft register;

(yy) "Supervisory Authority" means the Supervisory Authority referred to in Article 27;

(zz) "title reservation agreement" means an agreement for the sale of an aircraft object on terms that ownership does not pass until fulfilment of the condition or conditions stated in the agreement;

(aaa) "unregistered interest" means a consensual interest or non-consensual right or interest (other than an interest to which Article 52 applies) which has not been registered, whether or not it is registrable under this Convention; and

(bbb) "writing" means a record of information (including information communicated by teletransmission) which is in tangible or other form and is capable of being reproduced in tangible form on a subsequent occasion and which indicates by reasonable means a person's approval of the record.

**Article 2 — The international interest**

1. This Convention provides for the constitution and effects of an international interest in aircraft objects and associated rights.

2. For the purposes of this Convention, an international interest in aircraft objects is an interest, constituted under Article 10, in airframes, aircraft engines or helicopters:

(a) granted by the chargor under a security agreement;

(b) vested in a person who is the conditional seller under a title reservation agreement; or

(c) vested in a person who is the lessor under a leasing agreement.

An interest falling within sub-paragraph (a) does not also fall within sub-paragraph (b) or (c).

3. The applicable law determines whether an interest to which the preceding paragraph applies falls within sub-paragraph (a), (b) or (c) of that paragraph.

4. An international interest in an aircraft object extends to proceeds of that aircraft object.

## Article 3 — Sphere of application

1. This Convention applies when, at the time of the conclusion of the agreement creating or providing for the international interest, the debtor is situated in a Contracting State.

2. The fact that the creditor is situated in a non-Contracting State does not affect the applicability of this Convention.

3. Without prejudice to paragraph 1 of this Article, this Convention shall also apply in relation to a helicopter, or to an airframe pertaining to an aircraft, registered in an aircraft register of a Contracting State which is the State of registry, and where such registration is made pursuant to an agreement for registration of the aircraft it is deemed to have been effected at the time of the agreement.

4. For the purposes of the definition of "internal transaction" in Article 1 of this Convention:

(a) an airframe is located in the State of registry of the aircraft of which it is a part;

(b) an aircraft engine is located in the State of registry of the aircraft on which it is installed or, if it is not installed on an aircraft, where it is physically located; and

(c) a helicopter is located in its State of registry,

at the time of the conclusion of the agreement creating or providing for the interest.

## Article 4 — Where debtor is situated

1. For the purposes of Article 3(1), the debtor is situated in any Contracting State:

(a) under the law of which it is incorporated or formed;

(b) where it has its registered office or statutory seat;

(c) where it has its centre of administration; or

(d) where it has its place of business.

2. A reference in sub-paragraph (d) of the preceding paragraph to the debtor's place of business shall, if it has more than one place of business, mean its principal place of business or, if it has no place of business, its habitual residence.

## Article 5 — Interpretation and applicable law

1. In the interpretation of this Convention, regard is to be had to its purposes as set forth in the preamble, to its international character and to the need to promote uniformity and predictability in its application.

2. Questions concerning matters governed by this Convention which are not expressly settled in it are to be settled in conformity with the general principles on which it is based or, in the absence of such principles, in conformity with the applicable law.

3. References to the applicable law are to the domestic rules of the law applicable by virtue of the rules of private international law of the forum State.

4. Where a State comprises several territorial units, each of which has its own rules of law in respect of the matter to be decided, and where there is no indication of the relevant territorial unit, the law of that State decides which is the territorial unit whose rules shall govern. In the absence of any such rule, the law of the territorial unit with which the case is most closely connected shall apply.

### Article 6 — Application to sale and prospective sale

The following provisions of this Convention apply as if references to an agreement creating or providing for an international interest were references to a contract of sale and as if references to an international interest, a prospective international interest, the debtor and the creditor were references to a sale, a prospective sale, the seller and the buyer, respectively:

Articles 3 and 4;
Article 26(1)(a);
Article 32(4);
Article 33(1) (as regards registration of a contract of sale or a prospective sale);
Article 38(2) (as regards a prospective sale); and
Article 43.

In addition, the general provisions of Article 1, Article 5, Chapters IV to VII, Article 42 (other than Article 42(3) and (4)), Chapter X, Chapter XI (other than Article 55), Chapter XII and Chapter XIII (other than Article 76) shall apply to contracts of sale and prospective sales.

### Article 7 — Representative capacities

A person may enter into an agreement or a sale, and register an international interest in, or a sale of, an aircraft object, in an agency, trust or other representative capacity. In such case, that person is entitled to assert rights and interests under this Convention.

### Article 8 — Description of aircraft objects

A description of an aircraft object that contains its manufacturer's serial number, the name of the manufacturer and its model designation is necessary and sufficient to identify the aircraft object for the purposes of Articles 10(c) and 11(1)(c) of this Convention.

### Article 9 — Choice of law

1. This Article applies only where a Contracting State has made a declaration pursuant to Article 71(1).

2. The parties to an agreement, or a contract of sale, or a related guarantee contract or subordination agreement may agree on the law which is to govern their contractual rights and obligations, wholly or in part.

3. Unless otherwise agreed, the reference in the preceding paragraph to the law chosen by the parties is to the domestic rules of law of the designated State or, where that State comprises several territorial units, to the domestic law of the designated territorial unit.

## Chapter II

## Constitution of an international interest; contracts of sale

### Article 10 — Formal requirements

An interest is constituted as an international interest under this Convention where the agreement creating or providing for the interest:

(a) is in writing;

(b) relates to an aircraft object of which the chargor, conditional seller or lessor has power to dispose;

(c) enables the aircraft object to be identified; and

(d) in the case of a security agreement, enables the secured obligations to be determined, but without the need to state a sum or maximum sum secured.

### Article 11 — Formalities and effects of contracts of sale

1. For the purposes of this Convention, a contract of sale is one which:

(a) is in writing;

(b) relates to an aircraft object of which the seller has power to dispose; and

(c) enables the aircraft object to be identified in conformity with this Convention.

2. A contract of sale transfers the interest of the seller in the aircraft object to the buyer according to its terms.

# Chapter III

## Default remedies

### Article 12 — Remedies of chargee

1. In the event of default as provided in Article 17, the chargee may, to the extent that the chargor has at any time so agreed and subject to any declaration that may be made by a Contracting State under Article 70, exercise any one or more of the following remedies:

(a) take possession or control of any aircraft object charged to it;

(b) sell or grant a lease of any such aircraft object;

(c) collect or receive any income or profits arising from the management or use of any such aircraft object.

2. The chargee may alternatively apply for a court order authorising or directing any of the acts referred to in the preceding paragraph.

3. A chargee proposing to sell or grant a lease of an aircraft object under paragraph 1 shall give reasonable prior notice in writing of the proposed sale or lease to:

(a) interested persons specified in Article 1(z)(i) and (ii); and

(b) interested persons specified in Article 1(z)(iii) who have given notice of their rights to the chargee within a reasonable time prior to the sale or lease.

4. A chargee giving ten or more working days' prior written notice of a proposed sale or lease to interested persons shall be deemed to satisfy the requirement of providing "reasonable prior notice" specified in the preceding paragraph. The foregoing shall not prevent a chargee and a chargor or a guarantor from agreeing to a longer period of prior notice.

5. Any sum collected or received by the chargee as a result of exercise of any of the remedies set out in paragraph 1 or 2 shall be applied towards discharge of the amount of the secured obligations.

6. Where the sums collected or received by the chargee as a result of the exercise of any remedy set out in paragraph 1 or 2 exceed the amount secured by the security interest and any reasonable costs incurred in the exercise of any such remedy, then unless otherwise ordered by the court the chargee shall distribute the surplus among holders of subsequently ranking interests which have been registered or of which the chargee has been given notice, in order of priority, and pay any remaining balance to the chargor.

## Article 13 — Vesting of aircraft object in satisfaction; redemption

1. At any time after default as provided in Article 17, the chargee and all the interested persons may agree that ownership of (or any other interest of the chargor in) any aircraft object covered by the security interest shall vest in the chargee in or towards satisfaction of the secured obligations.

2. The court may on the application of the chargee order that ownership of (or any other interest of the chargor in) any aircraft object covered by the security interest shall vest in the chargee in or towards satisfaction of the secured obligations.

3. The court shall grant an application under the preceding paragraph only if the amount of the secured obligations to be satisfied by such vesting is commensurate with the value of the aircraft object after taking account of any payment to be made by the chargee to any of the interested persons.

4. At any time after default as provided in Article 17 and before sale of the charged aircraft object or the making of an order under paragraph 2, the chargor or any interested person may discharge the security interest by paying in full the amount secured, subject to any lease granted by the chargee under Article 12(1)(b) or ordered under Article 12(2). Where, after such default, the payment of the amount secured is made in full by an interested person other than the debtor, that person is subrogated to the rights of the chargee.

5. Ownership or any other interest of the chargor passing on a sale under Article 12(1)(b) or passing under paragraph 1 or 2 of this Article is free from any other interest over which the chargee's security interest has priority under the provisions of Article 42.

## Article 14 — Remedies of conditional seller or lessor

In the event of default under a title reservation agreement or under a leasing agreement as provided in Article 17, the conditional seller or the lessor, as the case may be, may:

(a) subject to any declaration that may be made by a Contracting State under Article 70, terminate the agreement and take possession or control of any aircraft object to which the agreement relates; or

(b) apply for a court order authorising or directing either of these acts.

## Article 15 — Additional remedies of creditor

1. In addition to the remedies specified in Articles 12, 14, 16 and 20, the creditor may, to the extent that the debtor has at any time so agreed and in the circumstances specified in such provisions:

(a) procure the de-registration of the aircraft; and

(b) procure the export and physical transfer of the aircraft object from the territory in which it is situated.

2. The creditor shall not exercise the remedies specified in the preceding paragraph without the prior consent in writing of the holder of any registered interest ranking in priority to that of the creditor.

3. The registry authority in a Contracting State shall, subject to any applicable safety laws and regulations, honour a request for de-registration and export if:

(a) the request is properly submitted by the authorised party under a recorded irrevocable de-registration and export request authorisation; and

(b) the authorised party certifies to the registry authority, if required by that authority, that all registered interests ranking in priority to that of the creditor in whose favour the authorisation has been issued have been discharged or that the holders of such interests have consented to the de-registration and export.

4. A chargee proposing to procure the de-registration and export of an aircraft under paragraph 1 otherwise than pursuant to a court order shall give reasonable prior notice in writing of the proposed de-registration and export to:

(a) interested persons specified in Article 1(z)(i) and (ii) of this Convention; and

(b) interested persons specified in Article 1(z)(iii) of this Convention who have given notice of their rights to the chargee within a reasonable time prior to the de-registration and export.

**Article 16 — Additional remedies under applicable law**

Any additional remedies permitted by the applicable law, including any remedies agreed upon by the parties, may be exercised to the extent that they are not inconsistent with the mandatory provisions of this Chapter as set out in Article 22.

**Article 17 — Meaning of default**

1. The debtor and the creditor may at any time agree in writing as to the events that constitute a default or otherwise give rise to the rights and remedies specified in Articles 12 to 15 and 20.

2. Where the debtor and the creditor have not so agreed, "default" for the purposes of Articles 12 to 15 and 20 means a default which substantially deprives the creditor of what it is entitled to expect under the agreement.

**Article 18 — Debtor provisions**

1. In the absence of a default within the meaning of Article 17 of this Convention, the debtor shall be entitled to the quiet possession and use of the aircraft object in accordance with the agreement as against:

(a) its creditor and the holder of any interest from which the debtor takes free pursuant to Article 42(5) or, in the capacity of buyer, Article 42(3) of this Convention, unless and to the extent that the debtor has otherwise agreed; and

(b) the holder of any interest to which the debtor's right or interest is subject pursuant to Article 42(5) or, in the capacity of buyer, Article 42(4) of this Convention, but only to the extent, if any, that such holder has agreed.

2. Nothing in this Convention affects the liability of a creditor for any breach of the agreement under the applicable law in so far as that agreement relates to an aircraft object.

**Article 19 — Standard for exercising remedies**

Any remedy given by this Convention in relation to an aircraft object shall be exercised in a commercially reasonable manner. A remedy shall be deemed to be exercised in a commercially reasonable manner where it is exercised in conformity with a provision of the agreement except where such a provision is manifestly unreasonable.

**Article 20 — Relief pending final determination**

1. Subject to any declaration that it may make under Article 71(2), a Contracting State shall ensure that a creditor who adduces evidence of default by the debtor may, pending final determination of its claim and to the extent that the debtor has at any time so agreed, obtain from a court speedy relief in the form of such one or more of the following orders as the creditor requests:

(a) preservation of the aircraft object and its value;

(b) possession, control or custody of the aircraft object;

(c) immobilisation of the aircraft object;

(d) lease or, except where covered by sub-paragraphs (a) to (c), management of the aircraft object and the income therefrom; and

(e) if at any time the debtor and the creditor specifically agree, sale and application of proceeds therefrom.

2. For the purposes of the preceding paragraph, "speedy" in the context of obtaining relief means within such number of working days from the date of filing of the application for relief as is specified in a declaration made by the Contracting State in which the application is made.

3. Ownership or any other interest of the debtor passing on a sale under sub-paragraph (e) of paragraph 1 of this Article is free from any other interest over which the creditor's international interest has priority under the provisions of Article 42 of this Convention.

4. In making any order under paragraph 1 of this Article, the court may impose such terms as it considers necessary to protect the interested persons in the event that the creditor:

(a) in implementing any order granting such relief, fails to perform any of its obligations to the debtor under this Convention; or

(b) fails to establish its claim, wholly or in part, on the final determination of that claim.

5. The creditor and the debtor or any other interested person may agree in writing to exclude the application of the preceding paragraph.

6. Before making any order under paragraph 1, the court may require notice of the request to be given to any of the interested persons.

7. With regard to the remedies in Article 15(1):

(a) they shall be made available by the registry authority and other administrative authorities, as applicable, in a Contracting State no later than five working days after the creditor notifies such authorities that the relief specified in Article 15(1) is granted or, in the case of relief granted by a foreign court, recognised by a court of that Contracting State, and that the creditor is entitled to procure those remedies in accordance with this Convention; and

(b) the applicable authorities shall expeditiously co-operate with and assist the creditor in the exercise of such remedies in conformity with the applicable aviation safety laws and regulations.

8. Nothing in the preceding paragraphs affects the application of Article 19 or limits the availability of forms of interim relief other than those set out in paragraph 1.

9. Paragraphs 2 and 7 shall not affect any applicable aviation safety laws and regulations.

10. Paragraphs 2, 3, 5, 7 and 9 of this Article apply only where a Contracting State has made a declaration under Article 71(2) and to the extent stated in such declaration.

### Article 21 — Procedural requirements

Subject to Article 70(2), any remedy provided by this Chapter shall be exercised in conformity with the procedure prescribed by the law of the place where the remedy is to be exercised.

### Article 22 — Derogation

Any two or more of the parties referred to in this Chapter may at any time, by agreement in writing, exclude the application of Article 23 and, in their relations with each other, derogate from or vary the effect of any of the preceding provisions of this Chapter, except as stated in Articles 12(3) to (6), 13(3) and (4), 15(2), 19 and 21.

## Article 23 — Remedies on insolvency

1. This Article applies only where a Contracting State that is the primary insolvency jurisdiction has made a declaration pursuant to Article 71(3).

*Alternative A*

2. Upon the occurrence of an insolvency-related event, the insolvency administrator or the debtor, as applicable, shall, subject to paragraph 7, give possession of the aircraft object to the creditor no later than the earlier of

(a) the end of the waiting period; and

(b) the date on which the creditor would be entitled to possession of the aircraft object if this Article did not apply.

3. For the purposes of this Article, the "waiting period" shall be the period specified in a declaration of the Contracting State which is the primary insolvency jurisdiction.

4. References in this Article to the "insolvency administrator" shall be to that person in its official, not in its personal, capacity.

5. Unless and until the creditor is given the opportunity to take possession under paragraph 2:

(a) the insolvency administrator or the debtor, as applicable, shall preserve the aircraft object and maintain it and its value in accordance with the agreement; and

(b) the creditor shall be entitled to apply for any other forms of interim relief available under the applicable law.

6. Sub-paragraph (a) of the preceding paragraph shall not preclude the use of the aircraft object under arrangements designed to preserve the aircraft object and maintain it and its value.

7. The insolvency administrator or the debtor, as applicable, may retain possession of the aircraft object where, by the time specified in paragraph 2, it has cured all defaults other than a default constituted by the opening of insolvency proceedings and has agreed to perform all future obligations under the agreement. A second waiting period shall not apply in respect of a default in the performance of such future obligations.

8. With regard to the remedies in Article 15(1):

(a) they shall be made available by the registry authority and the administrative authorities in a Contracting State, as applicable, no later than five working days after the date on which the creditor notifies such authorities that it is entitled to procure those remedies in accordance with this Convention; and

(b) the applicable authorities shall expeditiously co-operate with and assist the creditor in the exercise of such remedies in conformity with the applicable aviation safety laws and regulations.

9. No exercise of remedies permitted by this Convention may be prevented or delayed after the date specified in paragraph 2.

10. No obligations of the debtor under the agreement may be modified without the consent of the creditor.

11. Nothing in the preceding paragraph shall be construed to affect the authority, if any, of the insolvency administrator under the applicable law to terminate the agreement.

12. No rights or interests, except for non-consensual rights or interests of a category covered by a declaration pursuant to Article 52(1), shall have priority in insolvency proceedings over registered interests.

13. The provisions of this Convention shall apply to the exercise of any remedies under this Article.

*Alternative B*

2. Upon the occurrence of an insolvency-related event, the insolvency administrator or the debtor, as applicable, upon the request of the creditor, shall give notice to the creditor within the time specified in a declaration of a Contracting State pursuant to Article 71(3) whether it will:

(a) cure all defaults other than a default constituted by the opening of insolvency proceedings and agree to perform all future obligations, under the agreement and related transaction documents; or

(b) give the creditor the opportunity to take possession of the aircraft object, in accordance with the applicable law.

3. The applicable law referred to in sub-paragraph (b) of the preceding paragraph may permit the court to require the taking of any additional step or the provision of any additional guarantee.

4. The creditor shall provide evidence of its claims and proof that its international interest has been registered.

5. If the insolvency administrator or the debtor, as applicable, does not give notice in conformity with paragraph 2, or when the insolvency administrator or the debtor has declared that it will give the creditor the opportunity to take possession of the aircraft object but fails to do so, the court may permit the creditor to take possession of the aircraft object upon such terms as the court may order and may require the taking of any additional step or the provision of any additional guarantee.

6. The aircraft object shall not be sold pending a decision by a court regarding the claim and the international interest.

**Article 24 — Insolvency assistance**

1. This Article applies only where a Contracting State has made a declaration pursuant to Article 71(1).

2. The courts of a Contracting State in which an aircraft object is situated shall, in accordance with the law of the Contracting State, co-operate to the maximum extent possible with foreign courts and foreign insolvency administrators in carrying out the provisions of Article 23.

### Article 25 — De-registration and export request authorisation

1. This Article applies only where a Contracting State has made a declaration pursuant to Article 71(1).

2. Where the debtor has issued an irrevocable de-registration and export request authorisation substantially in the form annexed to this Convention and has submitted such authorisation for recordation to the registry authority, that authorisation shall be so recorded.

3. The person in whose favour the authorisation has been issued (the "authorised party") or its certified designee shall be the sole person entitled to exercise the remedies specified in Article 15(1) and may do so only in accordance with the authorisation and applicable aviation safety laws and regulations. Such authorisation may not be revoked by the debtor without the consent in writing of the authorised party. The registry authority shall remove an authorisation from the registry at the request of the authorised party.

4. The registry authority and other administrative authorities in Contracting States shall expeditiously co-operate with and assist the authorised party in the exercise of the remedies specified in Article 15.

## Chapter IV

## The international registration system

### Article 26 — The International Registry

1. An International Registry shall be established for registrations of:

   (a) international interests, prospective international interests and registrable non-consensual rights and interests;

   (b) assignments and prospective assignments of international interests;

   (c) acquisitions of international interests by legal or contractual subrogations under the applicable law;

   (d) notices of national interests; and

   (e) subordinations of interests referred to in any of the preceding sub-paragraphs.

2. For the purposes of this Chapter and Chapter V, the term "registration" includes, where appropriate, an amendment, extension or discharge of a registration.

**Article 27 — The Supervisory Authority**

1. There shall be a Supervisory Authority which shall be the international entity designated by a Resolution adopted by the Diplomatic Conference to Adopt a Mobile Equipment Convention and an Aircraft Protocol.

2. Where the international entity referred to in the preceding paragraph is not able and willing to act as Supervisory Authority, a Conference of Signatory and Contracting States shall be convened to designate another Supervisory Authority.

3. The Supervisory Authority may establish a commission of experts, from among persons nominated by Signatory and Contracting States and having the necessary qualifications and experience, and entrust it with the task of assisting the Supervisory Authority in the discharge of its functions.

4. The Supervisory Authority shall:

(a) establish or provide for the establishment of the International Registry;

(b) appoint and dismiss the Registrar;

(c) ensure that any rights required for the continued effective operation of the International Registry in the event of a change of Registrar will vest in or be assignable to the new Registrar;

(d) after consultation with the Contracting States, make or approve and ensure the publication of regulations dealing with the operation of the International Registry;

(e) establish administrative procedures through which complaints concerning the operation of the International Registry can be made to the Supervisory Authority;

(f) supervise the Registrar and the operation of the International Registry;

(g) at the request of the Registrar, provide such guidance to the Registrar as the Supervisory Authority thinks fit;

(h) set and periodically review the structure of fees to be charged for the services and facilities of the International Registry;

(i) do all things necessary to ensure that an efficient notice-based electronic registration system exists to implement the objectives of this Convention; and

(j) report periodically to Contracting States concerning the discharge of its obligations under this Convention.

5. The Supervisory Authority may enter into any agreement requisite for the performance of its functions, including any agreement referred to in Article 40(3).

6. The Supervisory Authority shall own all proprietary rights in the data bases and archives of the International Registry.

7. The first regulations shall be made by the Supervisory Authority so as to take effect upon the entry into force of the Convention and the Protocol.

## Article 28 — The Registrar

1. The first Registrar shall operate the International Registry for a period of five years from the date of entry into force of the Convention and the Protocol. Thereafter, the Registrar shall be appointed or re-appointed at regular five-yearly intervals by the Supervisory Authority.

2. The Registrar shall ensure the efficient operation of the International Registry and perform the functions assigned to it by this Convention and the regulations.

3. The fees referred to in Article 27(4)(h) shall be determined so as to recover the reasonable costs of establishing, operating and regulating the International Registry and the reasonable costs of the Supervisory Authority associated with the performance of the functions, exercise of the powers, and discharge of the duties contemplated by Article 27(4) of this Convention.

## Article 29 — Designated entry points

1. Subject to paragraph 2, a Contracting State may at any time designate an entity or entities in its territory as the entry point or entry points through which there shall or may be transmitted to the International Registry information required for registration other than registration of a notice of a national interest or a right or interest under Article 53 in either case arising under the laws of another State. A Contracting State making such a designation may specify the requirements, if any, to be satisfied before such information is transmitted to the International Registry.

2. A designation made under the preceding paragraph may permit, but not compel, use of a designated entry point or entry points for information required for registrations in respect of aircraft engines.

## Article 30 — Working hours of the registration facilities

The centralised functions of the International Registry shall be operated and administered by the Registrar on a twenty-four hour basis. The various entry points shall be operated at least during working hours in their respective territories.

# Chapter V

## Modalities of registration

### Article 31 — Registration requirements

1. In accordance with this Convention, the regulations shall specify the requirements, including the criteria for the identification of the aircraft object:

(a) for effecting a registration (which shall include provision for prior electronic transmission of any consent from any person whose consent is required under Article 33);

(b) for making searches and issuing search certificates; and, subject thereto,

(c) for ensuring the confidentiality of information and documents of the International Registry other than information and documents relating to a registration.

2. The Registrar shall not be under a duty to enquire whether a consent to registration under Article 33 has in fact been given or is valid.

3. Where an interest registered as a prospective international interest becomes an international interest, no further registration shall be required provided that the registration information is sufficient for a registration of an international interest.

4. The Registrar shall arrange for registrations to be entered into the International Registry data base and made searchable in chronological order of receipt, and the file shall record the date and time of receipt.

### Article 32 — Validity and time of registration

1. A registration shall be valid only if made in conformity with Article 33.

2. A registration, if valid, shall be complete upon entry of the required information into the International Registry data base so as to be searchable.

3. A registration shall be searchable for the purposes of the preceding paragraph at the time when:

(a) the International Registry has assigned to it a sequentially ordered file number; and

(b) the registration information, including the file number, is stored in durable form and may be accessed at the International Registry.

4. If an interest first registered as a prospective international interest becomes an international interest, that international interest shall be treated as registered from the time of registration of the prospective international interest provided that the registration was still current immediately before the international interest was constituted as provided by Article 10.

5. The preceding paragraph applies with necessary modifications to the registration of a prospective assignment of an international interest.

6. A registration pertaining to an aircraft object shall be searchable in the International Registry data base according to the name of its manufacturer, its manufacturer's serial number and its model designation, supplemented as necessary to ensure uniqueness. Such supplementary information shall be specified in the regulations.

### Article 33 — Consent to registration

1. An international interest, a prospective international interest or an assignment or prospective assignment of an international interest may be registered, and any such registration amended or extended prior to its expiry, by either party with the consent in writing of the other.

2. The subordination of an international interest to another international interest may be registered by or with the consent in writing at any time of the person whose interest has been subordinated.

3. A registration may be discharged by or with the consent in writing of the party in whose favour it was made.

4. The acquisition of an international interest by legal or contractual subrogation may be registered by the subrogee.

5. A registrable non-consensual right or interest may be registered by the holder thereof.

6. A notice of a national interest may be registered by the holder thereof.

### Article 34 — Duration of registration

1. Registration of an international interest remains effective until discharged or until expiry of the period specified in the registration.

2. Registration of a contract of sale remains effective indefinitely. Registration of a prospective sale remains effective unless discharged or until expiry of the period, if any, specified in the registration.

### Article 35 — Searches

1. Any person may, in the manner prescribed by this Convention and the regulations, make or request a search of the International Registry by electronic means concerning interests or prospective international interests registered therein.

2. Upon receipt of a request therefor, the Registrar, in the manner prescribed by the regulations, shall issue a registry search certificate by electronic means with respect to any aircraft object:

(a) stating all registered information relating thereto, together with a statement indicating the date and time of registration of such information; or

(b) stating that there is no information in the International Registry relating thereto.

3. A search certificate issued under the preceding paragraph shall indicate that the creditor named in the registration information has acquired or intends to acquire an international interest in the object but shall not indicate whether what is registered is an international interest or a prospective international interest, even if this is ascertainable from the relevant registration information.

### Article 36 — List of declarations and declared non-consensual rights or interests

The Registrar shall maintain a list of declarations, withdrawals of declarations, and of the categories of non-consensual right or interest communicated to the Registrar by the Depositary as having been declared by Contracting States in conformity with Articles 52 and 53 and the date of each such declaration or withdrawal of declaration. Such list shall be recorded and searchable in the name of the declaring State and shall be made available as provided in this Convention and the regulations to any person requesting it.

### Article 37 — Evidentiary value of certificates

A document in the form prescribed by the regulations which purports to be a certificate issued by the International Registry is prima facie proof:

(a) that it has been so issued; and

(b) of the facts recited in it, including the date and time of a registration.

### Article 38 — Discharge of registration

1. Where the obligations secured by a registered security interest or the obligations giving rise to a registered non-consensual right or interest have been discharged, or where the conditions of transfer of title under a registered title reservation agreement have been fulfilled, the holder of such interest shall, without undue delay, procure the discharge of the registration after written demand by the debtor delivered to or received at its address stated in the registration.

2. Where a prospective international interest or a prospective assignment of an international interest has been registered, the intending creditor or intending assignee shall, without undue delay, procure the discharge of the registration after written demand by the intending debtor or assignor which is delivered to or received at its address stated in the registration before the intending creditor or assignee has given value or incurred a commitment to give value.

3. For the purpose of the preceding paragraph and in the circumstances there described, the holder of a registered prospective international interest or a registered prospective assignment of an international interest or the person in whose favour a prospective sale has been registered shall take such steps as are within its power to procure the discharge of the registration no later than five working days after the receipt of the demand described in such paragraph.

4. Where the obligations secured by a national interest specified in a registered notice of a national interest have been discharged, the holder of such interest shall, without undue delay, procure the discharge of the registration after written demand by the debtor delivered to or received at its address stated in the registration.

5. Where a registration ought not to have been made or is incorrect, the person in whose favour the registration was made shall, without undue delay, procure its discharge or amendment after written demand by the debtor delivered to or received at its address stated in the registration.

### Article 39 — Access to the international registration facilities

No person shall be denied access to the registration and search facilities of the International Registry on any ground other than its failure to comply with the procedures prescribed by this Chapter.

## Chapter VI

## Privileges and immunities of the Supervisory Authority and the Registrar

### Article 40 — Legal personality; immunity

1. The Supervisory Authority shall have international legal personality where not already possessing such personality.

2. The Supervisory Authority and its officers and employees shall enjoy such immunity from legal and administrative process as is provided under the rules applicable to them as an international entity or otherwise.

3. (a) The Supervisory Authority shall enjoy exemption from taxes and such other privileges as may be provided by agreement with the host State.

   (b) For the purposes of this paragraph, "host State" means the State in which the Supervisory Authority is situated.

4. The assets, documents, data bases and archives of the International Registry shall be inviolable and immune from seizure or other legal or administrative process.

5. For the purposes of any claim against the Registrar under Article 41(1) or Article 56, the claimant shall be entitled to access to such information and documents as are necessary to enable the claimant to pursue its claim.

6. The Supervisory Authority may waive the inviolability and immunity conferred by paragraph 4 of this Article.

## Chapter VII

## Liability of the Registrar

### Article 41 — Liability and financial assurances

1. The Registrar shall be liable for compensatory damages for loss suffered by a person directly resulting from an error or omission of the Registrar and its officers and employees or from a malfunction of the international registration system except where the malfunction is caused by an event of an inevitable and irresistible nature, which could not be prevented by using the best practices in current use in the field of electronic registry design and operation, including those related to back-up and systems security and networking.

2. The Registrar shall not be liable under the preceding paragraph for factual inaccuracy of registration information received by the Registrar or transmitted by the Registrar in the form in which it received that information nor for acts or circumstances for which the Registrar and its officers and employees are not responsible and arising prior to receipt of registration information at the International Registry.

3. Compensation under paragraph 1 may be reduced to the extent that the person who suffered the damage caused or contributed to that damage.

4. The Registrar shall procure insurance or a financial guarantee covering the liability referred to in this Article to the extent determined by the Supervisory Authority in accordance with the provisions of this Convention.

5. The amount of the insurance or financial guarantee referred to in the preceding paragraph shall, in respect of each event, not be less than the maximum value of an aircraft object as determined by the Supervisory Authority.

6. Nothing in this Convention shall preclude the Registrar from procuring insurance or a financial guarantee covering events for which the Registrar is not liable under this Article.

## Chapter VIII

## Effects of an international interest as against third parties

### Article 42 — Priority of competing interests

1. A registered interest has priority over any other interest subsequently registered and over an unregistered interest.

2. The priority of the first-mentioned interest under the preceding paragraph applies:

(a) even if the first-mentioned interest was acquired or registered with actual knowledge of the other interest; and

(b) even as regards value given by the holder of the first-mentioned interest with such knowledge.

3. A buyer of an aircraft object under a registered sale acquires its interest in that object free from an interest subsequently registered and from an unregistered interest, even if the buyer has actual knowledge of the unregistered interest.

4. A buyer of an aircraft object acquires its interest in that object subject to an interest registered at the time of its acquisition.

5. A conditional buyer or lessee acquires its interest in or right over that object:

(a) subject to an interest registered prior to the registration of the international interest held by its conditional seller or lessor; and

(b) free from an interest not so registered at that time even if it has actual knowledge of that interest.

6. The priority of competing interests or rights under this Article may be varied by agreement between the holders of those interests, but an assignee of a subordinated interest is not bound by an agreement to subordinate that interest unless at the time of the assignment a subordination had been registered relating to that agreement.

7. Any priority given by this Article to an interest in an aircraft object extends to proceeds.

8. This Convention:

(a) does not affect the rights of a person in an item, other than an aircraft object, held prior to its installation on an aircraft object if under the applicable law those rights continue to exist after the installation; and

(b) does not prevent the creation of rights in an item, other than an aircraft object, which has previously been installed on an aircraft object where under the applicable law those rights are created.

9. Ownership of or another right or interest in an aircraft engine shall not be affected by its installation on or removal from an aircraft.

10. Paragraph 8 of this Article applies to an item, other than an aircraft object, installed on an airframe, aircraft engine or helicopter.

### Article 43 — Effects of insolvency

1. In insolvency proceedings against the debtor an international interest is effective if prior to the commencement of the insolvency proceedings that interest was registered in conformity with this Convention.

2. Nothing in this Article impairs the effectiveness of an international interest in the insolvency proceedings where that interest is effective under the applicable law.

3. Nothing in this Article affects any rules of law applicable in insolvency proceedings relating to the avoidance of a transaction as a preference or a transfer in fraud of creditors or any rules of procedure relating to the enforcement of rights to property which is under the control or supervision of the insolvency administrator.

## Chapter IX

## Assignments of associated rights and international interests; rights of subrogation

### Article 44 — Effects of assignment

1. Except as otherwise agreed by the parties, an assignment of associated rights made in conformity with Article 45 also transfers to the assignee:

(a) the related international interest; and

(b) all the interests and priorities of the assignor under this Convention.

2. Nothing in this Convention prevents a partial assignment of the assignor's associated rights. In the case of such a partial assignment the assignor and assignee may agree as to their respective rights concerning the related international interest assigned under the preceding paragraph but not so as adversely to affect the debtor without its consent.

3. Subject to paragraph 4, the applicable law shall determine the defences and rights of set-off available to the debtor against the assignee.

4. The debtor may at any time by agreement in writing waive all or any of the defences and rights of set-off referred to in the preceding paragraph other than defences arising from fraudulent acts on the part of the assignee.

5. In the case of an assignment by way of security, the assigned associated rights revest in the assignor, to the extent that they are still subsisting, when the obligations secured by the assignment have been discharged.

## Article 45 — Formal requirements of assignment

1. An assignment of associated rights transfers the related international interest only if it:

(a) is in writing;

(b) enables the associated rights to be identified under the contract from which they arise; and

(c) in the case of an assignment by way of security, enables the obligations secured by the assignment to be determined in accordance with this Convention but without the need to state a sum or maximum sum secured.

2. An assignment of an international interest created or provided for by a security agreement is not valid unless some or all related associated rights are also assigned.

3. This Convention does not apply to an assignment of associated rights which is not effective to transfer the related international interest.

## Article 46 — Debtor's duty to assignee

1. To the extent that associated rights and the related international interest have been transferred in accordance with Articles 44 and 45, the debtor in relation to those rights and that interest is bound by the assignment and has a duty to make payment or give other performance to the assignee, if but only if:

(a) the debtor has been given notice of the assignment in writing by or with the authority of the assignor;

(b) the notice identifies the associated rights; and

(c) the debtor has consented in writing, whether or not the consent is given in advance of the assignment or identifies the assignee.

2. Irrespective of any other ground on which payment or performance by the debtor discharges the latter from liability, payment or performance shall be effective for this purpose if made in accordance with the preceding paragraph.

3. Nothing in this Article shall affect the priority of competing assignments.

## Article 47 — Default remedies in respect of assignment by way of security

In the event of default by the assignor under the assignment of associated rights and the related international interest made by way of security, Articles 12, 13 and 15 to 21 apply in the relations between the assignor and the assignee (and, in relation to associated rights, apply in so far as those provisions are capable of application to intangible property) as if references:

(a) to the secured obligation and the security interest were references to the obligation secured by the assignment of the associated rights and the related international interest and the security interest created by that assignment;

(b) to the chargee or creditor and chargor or debtor were references to the assignee and assignor;

(c) to the holder of the international interest were references to the assignee; and

(d) to the aircraft object were references to the assigned associated rights and the related international interest.

**Article 48 — Priority of competing assignments**

1. Where there are competing assignments of associated rights and at least one of the assignments includes the related international interest and is registered, the provisions of Article 42 apply as if the references to a registered interest were references to an assignment of the associated rights and the related registered interest and as if references to a registered or unregistered interest were references to a registered or unregistered assignment.

2. Article 43 applies to an assignment of associated rights as if the references to an international interest were references to an assignment of the associated rights and the related international interest.

**Article 49 — Assignee's priority with respect to associated rights**

1. The assignee of associated rights and the related international interest whose assignment has been registered only has priority under Article 48(1) over another assignee of the associated rights:

(a) if the contract under which the associated rights arise states that they are secured by or associated with the object; and

(b) to the extent that the associated rights are related to an aircraft object.

2. For the purpose of sub-paragraph (b) of the preceding paragraph, associated rights are related to an aircraft object only to the extent that they consist of rights to payment or performance that relate to:

(a) a sum advanced and utilised for the purchase of the aircraft object;

(b) a sum advanced and utilised for the purchase of another aircraft object in which the assignor held another international interest if the assignor transferred that interest to the assignee and the assignment has been registered;

(c) the price payable for the aircraft object;

(d) the rentals payable in respect of the aircraft object; or

(e) other obligations arising from a transaction referred to in any of the preceding sub-paragraphs.

3. In all other cases, the priority of the competing assignments of the associated rights shall be determined by the applicable law.

### Article 50 — Effects of assignor's insolvency

The provisions of Article 43 apply to insolvency proceedings against the assignor as if references to the debtor were references to the assignor.

### Article 51 — Subrogation

1. Subject to paragraph 2, nothing in this Convention affects the acquisition of associated rights and the related international interest by legal or contractual subrogation under the applicable law.

2. The priority between any interest within the preceding paragraph and a competing interest may be varied by agreement in writing between the holders of the respective interests but an assignee of a subordinated interest is not bound by an agreement to subordinate that interest unless at the time of the assignment a subordination had been registered relating to that agreement.

## Chapter X

## Rights or interests subject to declarations by Contracting States

### Article 52 — Rights having priority without registration

1. A Contracting State may at any time, in a declaration deposited with the Depositary of the Protocol declare, generally or specifically:

(a) those categories of non-consensual right or interest (other than a right or interest to which Article 53 applies) which under that State's law have priority over an interest in an aircraft object equivalent to that of the holder of a registered international interest and which shall have priority over a registered international interest, whether in or outside insolvency proceedings; and

(b) that nothing in this Convention shall affect the right of a State or State entity, intergovernmental organisation or other private provider of public services to arrest or detain an aircraft object under the laws of that State for payment of amounts owed to such entity, organisation or provider directly relating to those services in respect of that object or another aircraft object.

2. A declaration made under the preceding paragraph may be expressed to cover categories that are created after the deposit of that declaration.

3. A non-consensual right or interest has priority over an international interest if and only if the former is of a category covered by a declaration deposited prior to the registration of the international interest.

4. Notwithstanding the preceding paragraph, a Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that a right or interest of a category covered by a declaration made under sub-paragraph (a) of paragraph 1 shall have priority over an international interest registered prior to the date of such ratification, acceptance, approval or accession.

### Article 53 — Registrable non-consensual rights or interests

A Contracting State may at any time in a declaration deposited with the Depositary of the Protocol list the categories of non-consensual right or interest which shall be registrable under this Convention as regards any aircraft object as if the right or interest were an international interest and shall be regulated accordingly. Such a declaration may be modified from time to time.

## Chapter XI

## Jurisdiction

### Article 54 — Choice of forum

1. Subject to Articles 55 and 56, the courts of a Contracting State chosen by the parties to a transaction have jurisdiction in respect of any claim brought under this Convention, whether or not the chosen forum has a connection with the parties or the transaction. Such jurisdiction shall be exclusive unless otherwise agreed between the parties.

2. Any such agreement shall be in writing or otherwise concluded in accordance with the formal requirements of the law of the chosen forum.

### Article 55 — Jurisdiction under Article 20

1. The courts of a Contracting State chosen by the parties in conformity with Article 54 and the courts of the Contracting State on the territory of which the aircraft object is situated or in which the aircraft is registered have jurisdiction to grant relief under Article 20(1)(a), (b), (c), and Article 20(8) in respect of that aircraft object or aircraft.

2. Jurisdiction to grant relief under Article 20(1)(d) and (e) or other interim relief by virtue of Article 20(8) may be exercised either:

(a) by the courts chosen by the parties; or

(b) by the courts of a Contracting State on the territory of which the debtor is situated, being relief which, by the terms of the order granting it, is enforceable only in the territory of that Contracting State.

3. A court has jurisdiction under the preceding paragraphs even if the final determination of the claim referred to in Article 20(1) will or may take place in a court of another Contracting State or by arbitration.

**Article 56 — Jurisdiction to make orders against the Registrar**

1. The courts of the place in which the Registrar has its centre of administration shall have exclusive jurisdiction to award damages or make orders against the Registrar.

2. Where a person fails to respond to a demand made under Article 38 and that person has ceased to exist or cannot be found for the purpose of enabling an order to be made against it requiring it to procure discharge of the registration, the courts referred to in the preceding paragraph shall have exclusive jurisdiction, on the application of the debtor or intending debtor, to make an order directed to the Registrar requiring the Registrar to discharge the registration.

3. Where a person fails to comply with an order of a court having jurisdiction under this Convention or, in the case of a national interest, an order of a court of competent jurisdiction requiring that person to procure the amendment or discharge of a registration, the courts referred to in paragraph 1 may direct the Registrar to take such steps as will give effect to that order.

4. Except as otherwise provided by the preceding paragraphs, no court may make orders or give judgments or rulings against or purporting to bind the Registrar.

**Article 57 — Waivers of sovereign immunity**

1. Subject to paragraph 2, a waiver of sovereign immunity from jurisdiction of the courts specified in Article 54 or 55 of this Convention or relating to enforcement of rights and interests relating to an aircraft object under this Convention shall be binding and, if the other conditions to such jurisdiction or enforcement have been satisfied, shall be effective to confer jurisdiction and permit enforcement, as the case may be.

2. A waiver under the preceding paragraph must be in writing and contain a description of the aircraft object.

**Article 58 — Jurisdiction in respect of insolvency proceedings**

The provisions of this Chapter are not applicable to insolvency proceedings.

# Chapter XII

## Relationship with other Conventions

### Article 59 — Relationship with the *United Nations Convention on the Assignment of Receivables in International Trade*

This Convention shall prevail over the *United Nations Convention on the Assignment of Receivables in International Trade*, opened for signature in New York on 12 December 2001, as it relates to the assignment of receivables which are associated rights related to international interests in aircraft objects.

### Article 60 — Relationship with the *Convention on the International Recognition of Rights in Aircraft*

This Convention shall, for a Contracting State that is a Party to the *Convention on the International Recognition of Rights in Aircraft*, signed at Geneva on 19 June 1948, supersede that Convention as it relates to aircraft, as defined in this Convention, and to aircraft objects. However, with respect to rights or interests not covered or affected by the present Convention, the Geneva Convention shall not be superseded.

### Article 61 — Relationship with the *Convention for the Unification of Certain Rules Relating to the Precautionary Attachment of Aircraft*

1. This Convention shall, for a Contracting State that is a Party to the *Convention for the Unification of Certain Rules Relating to the Precautionary Attachment of Aircraft*, signed at Rome on 29 May 1933, supersede that Convention as it relates to aircraft, as defined in this Convention.

2. A Contracting State that is a Party to the above Convention may declare, at the time of ratification, acceptance, approval of, or accession to the Protocol, that it will not apply this Article.

### Article 62 — Relationship with the *UNIDROIT Convention on International Financial Leasing*

This Convention shall supersede the *UNIDROIT Convention on International Financial Leasing*, signed at Ottawa on 28 May 1988, as it relates to aircraft objects.

# Chapter XIII

## Final provisions

### Article 63 — Signature, ratification, acceptance, approval or accession

(See Article 47 of the Convention and Article XXVI of the Protocol)

### Article 64 — Regional Economic Integration Organisations

1. A Regional Economic Integration Organisation which is constituted by sovereign States and has competence over certain matters governed by the Convention and the Protocol may similarly sign, accept, approve or accede to the Convention and the Protocol. The Regional Economic Integration Organisation shall in that case have the rights and obligations of a Contracting State, to the extent that that Organisation has competence over matters governed by the Convention and the Protocol. Where the number of Contracting States is relevant in the Convention and the Protocol, the Regional Economic Integration Organisation shall not count as a Contracting State in addition to its Member States which are Contracting States.

2. The Regional Economic Integration Organisation shall, at the time of signature, acceptance, approval or accession, make a declaration to the Depositary specifying the matters governed by the Convention and the Protocol in respect of which competence has been transferred to that Organisation by its Member States. The Regional Economic Integration Organisation shall promptly notify the Depositary of any changes to the distribution of competence, including new transfers of competence, specified in the declaration under this paragraph.

3. Any reference to a "Contracting State" or "Contracting States" or "State Party" or "States Parties" in the Convention and the Protocol applies equally to a Regional Economic Integration Organisation where the context so requires.

### Article 65 — Entry into force

(See Article 49 of the Convention and Article XXVIII of the Protocol)

### Article 66 — Internal transactions

1. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that this Convention shall not apply to a transaction which is an internal transaction in relation to that State with regard to all types of aircraft objects or some of them.

2. Notwithstanding the preceding paragraph, the provisions of Articles 12(3), 13(1), 26, Chapter V, Article 42, and any provisions of this Convention relating to registered interests shall apply to an internal transaction.

3. Where notice of a national interest has been registered in the International Registry, the priority of the holder of that interest under Article 42 shall not be affected by the fact that such interest has become vested in another person by assignment or subrogation under the applicable law.

**Article 67 — Future Protocols**

(See Article 51 of the Convention)

**Article 68 — Territorial units**

(See Article 52 of the Convention and Article XXIX of the Protocol)

**Article 69 — Determination of courts**

A Contracting State may , at the time of ratification, acceptance, approval of, or accession to the Protocol, declare the relevant "court" or "courts" for the purposes of Article 1 and Chapter XI of this Convention.

**Article 70 — Declarations regarding remedies**

1. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that while the charged aircraft object is situated within, or controlled from its territory the chargee shall not grant a lease of the object in that territory.

2. A Contracting State shall, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare whether or not any remedy available to the creditor under any provision of this Convention which is not there expressed to require application to the court may be exercised only with leave of the court.

**Article 71 — Declarations relating to certain provisions**

1. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that it will apply any one or more of Articles 9, 24 and 25 of this Convention.

2. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that it will apply the provisions of Article 20(2), (3), (5), (7) and (9) wholly or in part. If it so declares with respect to Article 20(2), it shall specify the time-period required thereby. A Contracting State may also declare that it will not apply the provisions of Article 20(1), (4), (6), and (8), and of Article 55, wholly or in part; such declaration shall specify under which conditions the relevant Article will be applied, in case it will be applied partly, or otherwise which other forms of interim relief will be applied.

3. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that it will apply the entirety of Alternative A, or the entirety of Alternative B of Article 23 and, if so, shall specify the types of insolvency proceeding, if any, to which it will apply

Alternative A and the types of insolvency proceeding, if any, to which it will apply Alternative B. A Contracting State making a declaration pursuant to this paragraph shall specify the time-period required by Article 23.

4. The courts of Contracting States shall apply Article 23 in conformity with the declaration made by the Contracting State which is the primary insolvency jurisdiction.

**Article 72 — Reservations and declarations**

1. No reservations may be made to this Convention but declarations authorised by Articles 52, 53, 61, 66, 68, 69, 70, 71, 73, 74 and 76 may be made in accordance with these provisions.

2. Any declaration or subsequent declaration or any withdrawal of a declaration made under this Convention shall be notified in writing to the Depositary.

**Article 73 — Subsequent declarations**

1. A State Party may make a subsequent declaration, other than a declaration authorised under Article 76, at any time after the date on which the Convention and the Protocol have entered into force for it, by notifying the Depositary to that effect.

2. Any such subsequent declaration shall take effect on the first day of the month following the expiration of six months after the date of receipt of the notification by the Depositary. Where a longer period for that declaration to take effect is specified in the notification, it shall take effect upon the expiration of such longer period after receipt of the notification by the Depositary.

3. Notwithstanding the previous paragraphs, this Convention shall continue to apply, as if no such subsequent declarations had been made, in respect of all rights and interests arising prior to the effective date of any such subsequent declaration.

**Article 74 — Withdrawal of declarations**

1. Any State Party having made a declaration under this Convention, other than a declaration authorised under Article 76, may withdraw it at any time by notifying the Depositary. Such withdrawal is to take effect on the first day of the month following the expiration of six months after the date of receipt of the notification by the Depositary.

2. Notwithstanding the previous paragraph, this Convention shall continue to apply, as if no such withdrawal of declaration had been made, in respect of all rights and interests arising prior to the effective date of any such withdrawal.

**Article 75 — Denunciations**

1. Any State Party may denounce the Convention, or the Protocol or both by notification in writing to the Depositary.

2. Any such denunciation shall take effect on the first day of the month following the expiration of twelve months after the date of receipt of the notification by the Depositary.

3. Notwithstanding the previous paragraphs, this Convention shall continue to apply, as if no such denunciation had been made, in respect of all rights and interests arising prior to the effective date of any such denunciation.

## Article 76 — Transitional provisions

1. Unless otherwise declared by a Contracting State at any time, this Convention does not apply to a pre-existing right or interest, which retains the priority it enjoyed under the applicable law before the effective date of the Convention.

2. For the purposes of Article 1(hh) and of determining priority under this Convention:

(a) "effective date of this Convention" means in relation to a debtor the time when the Convention enters into force or the time when the State in which the debtor is situated becomes a Contracting State, whichever is the later; and

(b) the debtor is situated in a State where it has its centre of administration or, if it has no centre of administration, its place of business or, if it has more than one place of business, its principal place of business or, if it has no place of business, its habitual residence.

3. A Contracting State may in its declaration under paragraph 1 specify a date, not earlier than three years after the date on which the declaration becomes effective, when the Convention will become applicable, for the purpose of determining priority, including the protection of any existing priority, to pre-existing rights or interests arising under an agreement made at a time when the debtor was situated in a State referred to in sub-paragraph (b) of the preceding paragraph but only to the extent and in the manner specified in its declaration.

## Article 77 — Review Conferences, amendments and related matters

1. The Depositary, in consultation with the Supervisory Authority, shall prepare reports yearly or at such other time as the circumstances may require for the States Parties as to the manner in which the international regimen established in this Convention has operated in practice. In preparing such reports, the Depositary shall take into account the reports of the Supervisory Authority concerning the functioning of the international registration system.

2. At the request of not less than twenty-five per cent of the States Parties, Review Conferences of States Parties shall be convened from time to time by the Depositary, in consultation with the Supervisory Authority, to consider:

(a) the practical operation of this Convention and its effectiveness in facilitating the asset-based financing and leasing of the aircraft objects covered by its terms;

(b) the judicial interpretation given to, and the application made of the terms of this Convention and the regulations;

(c) the functioning of the international registration system, the performance of the Registrar and its oversight by the Supervisory Authority, taking into account the reports of the Supervisory Authority; and

(d) whether any modifications to this Convention or the arrangements relating to the International Registry are desirable.

3. Subject to paragraph 4, any amendment to the Convention or the Protocol shall be approved by at least a two-thirds majority of States Parties participating in the Conference referred to in the preceding paragraph and shall then enter into force in respect of States which have ratified, accepted or approved such amendment when ratified, accepted, or approved by States in accordance with the provisions of Article 65 relating to their entry into force.

4. Where the proposed amendment to the Convention is intended to apply to more than one category of equipment, such amendment shall also be approved by at least a two-thirds majority of States Parties to each Protocol that are participating in the Conference referred to in paragraph 2.

**Article 78 — Depositary and its functions**

1. Instruments of ratification, acceptance, approval of or accession to the Convention and the Protocol, shall be deposited with the International Institute for the Unification of Private Law (UNIDROIT), which is hereby designated the Depositary.

2. The Depositary shall:

(a) inform all Contracting States of:

(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;

(ii) the date of entry into force of the Convention and the Protocol;

(iii) each declaration made in accordance with this Convention, together with the date thereof;

(iv) the withdrawal or amendment of any declaration, together with the date thereof; and

(v) the notification of any denunciation of the Convention and the Protocol together with the date thereof and the date on which it takes effect;

(b) transmit certified true copies of the Convention and the Protocol to all Contracting States;

(c) provide the Supervisory Authority and the Registrar with a copy of each instrument of ratification, acceptance, approval or accession, together with the date of deposit thereof,

of each declaration or withdrawal or amendment of a declaration and of each notification of denunciation, together with the date of notification thereof, so that the information contained therein is easily and fully available; and

(d) perform such other functions customary for depositaries.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorised, have signed the Convention and the Protocol.

**Annex**

## FORM OF IRREVOCABLE DE-REGISTRATION AND EXPORT REQUEST AUTHORISATION

Annex referred to in Article 25

[Insert Date]

To: [Insert Name of Registry Authority]

Re: Irrevocable De-Registration and Export Request Authorisation

The undersigned is the registered [operator] [owner]* of the [insert the airframe/helicopter manufacturer name and model number] bearing manufacturer's serial number [insert manufacturer's serial number] and registration [number] [mark] [insert registration number/mark] (together with all installed, incorporated or attached accessories, parts and equipment, the "aircraft").

This instrument is an irrevocable de-registration and export request authorisation issued by the undersigned in favour of [insert name of creditor] ("the authorised party") under the authority of Article 25 of this Convention. In accordance with that Article, the undersigned hereby requests:

(i) recognition that the authorised party or the person it certifies as its designee is the sole person entitled to:

(a) procure the de-registration of the aircraft from the [insert name of aircraft register] maintained by the [insert name of registry authority] for the purposes of Chapter III of the *Convention on International Civil Aviation*, signed at Chicago, on 7 December 1944; and

(b) procure the export and physical transfer of the aircraft from [insert name of country]; and

(ii) confirmation that the authorised party or the person it certifies as its designee may take the action specified in clause (i) above on written demand without the consent of the undersigned and that, upon such demand, the authorities in [insert name of country] shall co-operate with the authorised party with a view to the speedy completion of such action.

The rights in favour of the authorised party established by this instrument may not be revoked by the undersigned without the written consent of the authorised party.

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* Select the term that reflects the relevant nationality registration criterion.

Please acknowledge your agreement to this request and its terms by appropriate notation in the space provided below and lodging this instrument in [insert name of registry authority].

[insert name of operator/owner]

_____

Agreed to and lodged this
[insert date]

By: [insert name of signatory]
Its: [insert title of signatory]

_____
[insert relevant notational details]

## RESOLUTION NO. 2

## RELATING TO THE ESTABLISHMENT OF THE SUPERVISORY AUTHORITY AND THE INTERNATIONAL REGISTRY FOR AIRCRAFT OBJECTS

*THE CONFERENCE*,

*HAVING ADOPTED* the *Convention on International Interests in Mobile Equipment* and the *Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment*;

*HAVING REGARD* to Article XVII, paragraph 1 of the Protocol;

*CONSCIOUS* of the need to undertake preparatory work regarding the establishment of the International Registry in order to ensure that it is operational by the time the Convention and the Protocol enter into force;

*CONSIDERING* that the Council of the International Civil Aviation Organization (ICAO), following a recommendation made by the 31st Session of its Legal Committee, decided during its 161st Session to accept, in principle, the role of Supervisory Authority of the International Registry for the purpose of the Protocol, and to defer further decisions on this matter until after the Diplomatic Conference;

*RESOLVES:*

*TO INVITE* ICAO to accept the functions of Supervisory Authority upon the entry into force of the Convention and the Protocol;

*TO INVITE* ICAO to establish a Commission of Experts consisting of not more than 15 members appointed by the ICAO Council from among persons nominated by the Signatory and Contracting States to the Convention and to the Protocol, having the necessary qualifications and experience, with the task of assisting the Supervisory Authority, upon the entry into force of the Convention and the Protocol;

*TO SET UP*, pending the entry into force of the Convention and the Protocol, a Preparatory Commission to act with full authority as Provisional Supervisory Authority for the establishment of the International Registry, under the guidance and supervision of the ICAO Council. Such Preparatory Commission shall be composed of persons, having the necessary qualifications and experience, nominated by the following States: Argentina, Brazil, Canada, China, Cuba, Egypt, France, Germany, India, Ireland, Kenya, Nigeria, Russian Federation, Senegal, Singapore, Switzerland, South Africa, Tonga, United Arab Emirates, and United States.

*TO DIRECT* the Preparatory Commission to carry out, under the guidance and supervision of the ICAO Council, the following functions:

(1) to ensure that the international registration system be set up, in accordance with an objective, transparent and fair selection process, and that it become ready to be operated with a target date of one year from the adoption of the Convention and the Protocol, and at the latest by the time of the entry into force of the Convention and the Protocol;

(2) to ensure the necessary liaison and co-ordination with private industry which will be users of the International Registry; and

(3) to work on such other matters relating to the International Registry as may be required with a view to ensuring the establishment of the International Registry.

*TO URGE* the States participating in the Conference and interested private parties to make available, at the earliest possible date, the necessary start-up funding on a voluntary basis for the tasks of the Preparatory Commission and of ICAO, required under the two preceding resolving clauses, and to entrust ICAO with the task of administering such funds.

## RESOLUTION NO. 3

## PURSUANT TO ARTICLE 2(3)(b) AND (c) OF THE CONVENTION

*THE CONFERENCE,*

*HAVING ADOPTED*, in Article 2(3)(b) and (c) of the Convention, provisions contemplating the adoption of Protocols on Matters specific to Railway Rolling Stock and Space Assets;

*CONSIDERING* that such Protocols will be applied together with the terms of the Convention and are expected also to include analogous provisions to those contained in the Aircraft Protocol;

*CONSIDERING* that considerable progress has already been made in relation to the development of such Protocols and such progress has been welcomed by the Conference;

*CONSIDERING* that the completion of such Protocols is to be expected to confer significant benefits on the international community as a whole, in particular for developing States; and

*CONSIDERING IT DESIRABLE* to involve as wide a range of States as possible in the process for the adoption of such Protocols and to keep the costs of such adoption to a reasonable minimum;

*RESOLVES:*

*TO INVITE* the negotiating States to work towards expeditious adoption of the draft Protocols under preparation in respect of those objects falling within Article 2(3)(b) and (c);

*TO INVITE* the International Institute for the Unification of Private Law (UNIDROIT) to use its good offices to facilitate such objective;

*TO INVITE* UNIDROIT to give all Member States of UNIDROIT and Member States of the United Nations which are not members of UNIDROIT an opportunity to participate in the negotiation and adoption of such Protocols in a cost-effective manner; and

*TO INVITE* the competent bodies of UNIDROIT to consider favourably the implementation of an expedited procedure for the adoption of such Protocols, and in particular to consider the diplomatic Conference required for their adoption being as short as possible consistently with the need for States to give such Protocol proper consideration.

## RESOLUTION NO. 4

## RELATING TO TECHNICAL ASSISTANCE WITH REGARD TO THE IMPLEMENTATION AND THE USE OF THE INTERNATIONAL REGISTRY

*THE CONFERENCE,*

*MINDFUL* of the objectives of the *Convention on International Interests in Mobile Equipment* and the *Protocol to the Convention on Matters specific to Aircraft Equipment*;

*DESIROUS* of facilitating the implementation of the Convention and the Protocol as well as the prompt implementation and use of the International Registry;

*RESOLVES:*

*TO ENCOURAGE* all negotiating States, international Organisations, as well as private parties, such as the aviation and financial industries, to assist the developing negotiating States in any appropriate way, including facilities and know-how necessary to use the International Registry, so as to allow them to benefit from the Convention and the Protocol as early as possible.

## RESOLUTION NO. 5

## RELATING TO THE OFFICIAL COMMENTARY ON THE CONVENTION AND AIRCRAFT PROTOCOL

*THE CONFERENCE,*

*HAVING ADOPTED* the *Convention on International Interests in Mobile Equipment* and the *Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment*;

*CONSCIOUS* of the need for an official commentary on these texts as an aid for those called upon to work with these documents;

*RECOGNISING* the increasing use of commentaries of this type in the context of modern, technical commercial law instruments; and

*MINDFUL* that the Explanatory Report and Commentary (DCME-IP/2) provides a sound starting point for the further development of this official commentary;

*RESOLVES:*

*TO REQUEST* the preparation of a draft official commentary on these texts by the Chairman of the Drafting Committee, in close co-operation with the ICAO and UNIDROIT Secretariats, and in co-ordination with the Chairman of the Commission of the Whole, the Chairman of the Final Clauses Committee and interested members of the Drafting Committee and observers that participated in its work;

*TO REQUEST* that such draft be circulated by the two Secretariats to all negotiating States and participating observers as soon as practicable after the conclusion of the Conference inviting comments thereon; and

*TO REQUEST* that a revised final version of the official commentary be transmitted by the two Secretariats to all negotiating States and participating observers as soon as practicable after the conclusion of the Conference.

IN WITNESS WHEREOF the Delegates,

GRATEFUL to the Government of the Republic of South Africa for having invited the Conference to South Africa and for its generous hospitality,

HAVE SIGNED this Final Act.

DONE at Cape Town on the sixteenth day of November of the year two thousand and one in two originals of which the English, Arabic, Chinese, French, Russian and Spanish languages are equally authentic. The Convention and the Protocol shall be deposited with the International Institute for the Unification of Private Law. A certified copy of each instrument shall be delivered by the said Organisation to the Governments of each of the negotiating States.

## Note on Reproduction

**No unauthorised reproduction of the texts of the Convention on International Interests in Mobile Equipment, the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment and the Consolidated text, other than for personal use, is permitted. Any requests for such permission should be addressed to the UNIDROIT Secretariat and the Director of the Bureau of Administration and Services of the International Civil Aviation Organization (ICAO).**