Extra No. 11

©

सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. LXVI] THURSDAY, JUNE 26, 2025 / ASHADHA 5, 1947

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President

LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 26th June, 2025

No. RPB/Act-17/2025/E:- The Following Act of Parliament is republished for general information:-

Government of India
Ministry of Law and Justice
Legislative Department

New Delhi, the 16th April, 2025/Chaitra 26, 1947 (Saka)

The following Act of Parliament has received the assent of the President on the 16th April, 2025 is hereby published for general information:-

THE PROTECTION OF INTERESTS IN AIRCRAFT OBJECTS ACT, 2025

No. 17 of 2025

[16*th April,* 2025.]

An Act to provide for protection of interests in aircraft objects and to implement 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 signed at Cape Town on 16th November, 2001 and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-sixth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Protection of Interests in Aircraft Objects Act, 2025.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. (*1*) In this Act, unless the context otherwise requires,—

(*a*) "agreement" shall have the meaning assigned to it in Article 1(*a*) of the Convention;

(*b*) "aircraft" shall have the meaning assigned to it in Article I (*2*)(*a*) of the Protocol;

(*c*) "aircraft objects" shall have the meaning assigned to it in Article I (*2*)(*c*) of the Protocol;

(*d*) "Article" means an Article of the Convention or the Protocol;

(*e*) "Convention" means the Convention on International Interests in Mobile Equipment signed at Cape Town on 16th November, 2001, as set out in the First Schedule to this Act;

(*f*) "creditor" shall have the meaning assigned to it in Article 1(*i*) of the Convention;

(*g*) "debtor" shall have the meaning assigned to it in Article 1(*j*) of the Convention;

(*h*) "declaration" means a declaration made by India under the Convention or the Protocol, as set out in the Second Schedule to this Act;

(*i*) "declared default" means the date on which the registry authority is notified by the creditor of the occurrence of default;

(*j*) "international interest" shall have the meaning assigned to it in Article 1(*o*) of the Convention;

(*k*) "prescribed" means prescribed by rules made under this Act;

(*l*) "Protocol" means the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment signed at Cape Town on 16th November, 2001, as set out in the Third Schedule to this Act;

(*m*) "registry authority" means the Directorate General of Civil Aviation constituted under section 3 of the Bharatiya Vayuyan Adhiniyam, 2024. 16 of 2024.

(*2*) The words and expressions used and not defined in this Act, but defined in the Convention or the Protocol or the regulations made thereunder, shall have the meanings respectively assigned to them in the Convention, Protocol or regulations made thereunder.

Application of Convention and Protocol in India.

3. Subject to the provisions of this Act, the Convention and Protocol shall have the force of law in India, in respect of the aircraft objects and in accordance with the declarations deposited by India.

Power of registry authority to issue directions.

4. The registry authority may issue necessary directions, for implementation of the provisions of the Convention and Protocol, including the provisions given force of law under section 3, in such manner as may be prescribed.

Obligation of debtor and creditor to an agreement.

5. (*1*) A debtor shall maintain and submit to the registry authority, records of dues arising from, related to or owed in regard to the ownership or use by the owner or operator of the aircraft object, in such form and manner as may be prescribed.

(*2*) A creditor shall not be entitled to exercise any remedy under the Convention or Protocol unless such creditor declares the occurrence of default by notifying the registry authority, in such form and manner as may be prescribed.

Remedies on insolvency.

6. The provisions of Article XI of the Protocol, subject to the declaration deposited by India, shall apply, *mutatis mutandis*, for remedies on insolvency under any law for the time being in force:

Provided that—

(*a*) the debtor of the agreement is a—

(*i*) body corporate or firm, incorporated or registered in India; or

(*ii*) person, domiciled in or has his principal place of business in India;

(*b*) the international interest of the agreement has been registered in accordance with the Convention and Protocol; and

(*c*) the debtor and creditor have not by written agreement excluded the application of this section.

16 of 2024.

De-registration and export request authorisation.

7. Subject to the provisions of the Bharatiya Vayuyan Adhiniyam, 2024, or any rules made thereunder, the provisions of Article XIII of the Protocol shall apply to the de-registration and export request.

Jurisdiction.

8. Notwithstanding anything in any other law for the time being in force, the High Court having territorial jurisdiction shall be the relevant court for the purposes of Article 53 of the Convention.

Provisions of Act to have overriding effect.

9. (*1*) In the case of any inconsistency between a provision of this Act and any other law for the time being in force, the provisions of this Act shall prevail to the extent of such inconsistency.

(*2*) Save as otherwise provided in this Act, the provisions of this Act shall be in addition to, and not in derogation of any other law for the time being in force.

(*3*) The provisions of this Act or the Convention or the Protocol shall not affect the rights of the Central Government or any entity thereof, or other provider of public services in India, or any intergovernmental organisation in which India is a member, to arrest or detain an aircraft object under any law for the time being in force, for payment of any amount due to the Government of India or any such entity or provider of public services or organisation, directly relating to the service or services provided by it in respect of that aircraft objects.

Power of Central Government to make rules.

10. (*1*) The Central Government may, by notification in the Official Gazette, make rules, as may be considered necessary and expedient, for carrying out the provisions of this Act or implementation of the provisions of the Convention or Protocol.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) manner to issue directions under section 4;

(*b*) form and manner under sub-sections (*1*) and (*2*) of section 5.

(*3*) The power to make rules under this section is subject to the condition of the rules being made after previous publication:

Provided that the Central Government may, in the public interest, by order in writing, dispense with the condition of previous publication in any case.

(*4*) Every rule made under this Act shall be laid, as soon as may be, after it is made before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of Central Government in respect of declarations.

11. (*1*) The Central Government may make, amend or withdraw any declaration, or any subsequent declaration in accordance with the provisions of the Convention or Protocol.

(*2*) The Central Government, to give effect to any declaration or subsequent declaration made, amended or withdrawn under the Convention or the Protocol, may, by notification in the Official Gazette, amend the Second Schedule to this Act.

Removal of difficulties.

12. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.

(*2*) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

THE FIRST SCHEDULE

[*See* clause (*e*) of sub-section (*1*) of section 2]

PROVISIONS OF THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT WHICH SHALL HAVE THE FORCE OF LAW

CHAPTER I

SPHERE OF APPLICATION AND GENERAL PROVISIONS

Article 1

Definitions

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*) "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;

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

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

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

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

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

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

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

(*j*) "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 object is burdened by a registrable non-consensual right or interest;

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

(*l*) "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 re-organisation or liquidation;

(*m*) "interested persons" means:

(*i*) the debtor;

(*ii*) any person who, for the purpose of assuring performance of any of the obligations in favour of the creditor, gives or issues a suretyship or demand guarantee or a stand by letter of credit or any other form of credit insurance;

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

(*n*) "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 object located (as specified in the Protocol), 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 50(*1*);

(*o*) "international interest" means an interest held by a creditor to which article 2 applies;

(*p*) "international registry" means the international registration facilities established for the purposes of this Convention or the Protocol;

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

(*r*) "national interest" means an interest held by a creditor in an object and created by an internal transaction covered by a declaration under Article 50 (*1*);

(*s*) "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 39 to secure the performance of an obligation, including an obligation to a State, State entity or an intergovernmental or private organisation;

(*t*) "notice of a national interest" means notice registered or to be registered in the international registry that a national interest has been created;

(*u*) "object" means an object of a category to which Article 2 applies;

(*v*) "pre-existing right or interest" means a right or interest of any kind in or over an object created or arising before the effective date of this Convention as defined by Article 60(*2*)(*a*);

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

(*x*) "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;

(*y*) "prospective international interest" means an interest that is intended to be created or provided for in an 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 object), whether or not the occurrence of the event is certain;

(*z*) "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;

(*aa*) "Protocol" means, in respect of any category of object and associated rights to which this Convention applies, the Protocol in respect of that category of object and associated rights;

(*bb*) "registered" means registered in the international registry pursuant to Chapter V;

(*cc*) "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;

(*dd*) "registrable non-consensual right or interest" means a non-consensual right or interest registrable pursuant to a declaration deposited under Article 40;

(*ee*) "Registrar" means, in respect of the Protocol, the person or body designated by that Protocol or appointed under Article 17(*2*)(*b*);

(*ff*) "regulations" means regulations made or approved by the supervisory authority pursuant to the Protocol;

(*gg*) "sale" means a transfer of ownership of an object pursuant to a contract of sale;

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

(*ii*) "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 object to secure the performance of any existing or future obligation of the chargor or a third person;

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

(*kk*) "Supervisory Authority" means, in respect of the Protocol, the Supervisory Authority referred to in Article 17(*1*);

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

(*mm*) "unregistered interest" means a consensual interest or non-consensual right or interest (other than an interest to which Article 39 applies) which has not been registered, whether or not it is registrable under this Convention; and

(*nn*) "writing" means a record of information (including information communicated by teletransmission) which is intangible 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 certain categories of mobile equipment and associated rights.

2. For the purposes of this Convention, an international interest in mobile equipment is an interest, constituted under Article 7, in a uniquely identifiable object of a category of such objects listed in paragraph 3 and designated in the Protocol:

(*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 categories referred to in the preceding paragraphs are:

(*a*) airframes, aircraft engines and helicopters;

(*b*) railway rolling stock; and

(*c*) space assets.

4. The applicable law determines whether an interest to which paragraph 2 applies falls within sub-paragraphs (*a*), (*b*) or (*c*) of that paragraph.

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

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 center 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

Relationship between the Convention and the Protocol

1. This Convention and the Protocol shall be read and interpreted together as a single instrument.

2. To the extent of any inconsistency between this Convention and the Protocol, the Protocol shall prevail.

CHAPTER II

CONSTITUTION OF AN INTERNATIONAL INTEREST

Article 7

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 object of which the chargor, conditional seller or lessor has power to dispose;

(*c*) enables the object to be identified in conformity with the Protocol; 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.

CHAPTER III

DEFAULT REMEDIES

Article 8

Remedies of chargee

1. In the event of default as provided in Article 11, 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 54, exercise any one or more of the following remedies:

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

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

(*c*) collect or receive any income or profits arising from the management or use of any such 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. Any remedy set out in sub-paragraphs (*a*), (*b*) or (*c*) of paragraph 1 or by Article 13 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 security agreement except where such a provision is manifestly unreasonable.

4. A chargee proposing to sell or grant a lease of an 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(*m*)(*i*) and (*ii*); and

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

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 9

Vesting of object in satisfaction; redemption

1. At any time after default as provided in Article 11, the chargee and all the interested persons may agree that ownership of (or any other interest of the chargor in) any 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 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 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 under Article 11 and before sale of the charged 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 8(*1*)(*b*) or ordered under Article 8(*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 8(*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 29.

Article 10

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 11, 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 54, terminate the agreement and take possession or control of any object to which the agreement relates; or

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

Article 11

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 8 to 10 and 13.

2. Where the debtor and the creditor have not so agreed, "default" for the purposes of Articles 8 to 10 and 13 means a default which substantially deprives the creditor of what it is entitled to expect under the agreement.

Article 12

Additional remedies

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 15.

Article 13

Relief pending final determination

1. Subject to any declaration that it may make under Article 55, 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 object and its value;

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

(*c*) immobilisation of the object; and

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

2. In making any order under the preceding paragraph, 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 the Protocol; or

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

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

4. Nothing in this Article affects the application of Article 8(*3*) or limits the availability of forms of interim relief other than those set out in paragraph 1.

Article 14

Procedural requirements

Subject to Article 54(*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 15

Derogation

In their relations with each other, any two or more of the parties referred to in this Chapter may at any time, by agreement in writing, derogate from or vary the effect of any of the preceding provisions of this Chapter except Articles 8(*3*) to (*6*), 9(*3*) and (*4*),13(*2*) and 14.

CHAPTER IV

THE INTERNATIONAL REGISTRATION SYSTEM

Article 16

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. Different international registries may be established for different categories of object and associated rights.

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

Article 17

The Supervisory Authority and the Registrar

1. There shall be a supervisory authority as provided by the Protocol.

2. The supervisory authority shall:

(*a*) establish or provide for the establishment of the international registry;

(*b*) except as otherwise provided by the Protocol, 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 pursuant to the Protocol 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 the Protocol; and

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

3. The supervisory authority may enter into any agreement requisite for the performance of its functions, including any agreement referred to in Article 27(*3*).

4. The supervisory authority shall own all proprietary rights in the databases and archives of the International Registry.

5. The Registrar shall ensure the efficient operation of the international registry and perform the functions assigned to it by this Convention, the Protocol and the regulations.

CHAPTER V

OTHER MATTERS RELATING TO REGISTRATION

Article 18

Registration requirements

1. The Protocol and regulations shall specify the requirements, including the criteria for the identification of the 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 20);

(*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 20 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 database and made searchable in chronological order of receipt, and the file shall record the date and time of receipt.

5. The Protocol may provide that a Contracting State may designate an entity or entities in its territory as the entry point or entry points through which the information required for registration shall or may be transmitted to the International Registry. 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.

Article 19

Validity and time of registration

1. A registration shall be valid only if made in conformity with Article 20.

2. A registration, if valid, shall be complete upon entry of the required information into the International Registry database 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 7.

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

6. A registration shall be searchable in the International Registry database according to the criteria prescribed by the Protocol.

Article 20

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 21

Duration of registration

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

Article 22

Searches

1. Any person may, in the manner prescribed by the Protocol and 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 Protocol and regulations, shall issue a registry search certificate by electronic means with respect to any 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 23

List of declarations and declared non-consensual rights or interests

The Registrar shall maintain a list of declarations, withdrawals of declaration 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 39 and 40 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 the Protocol and regulations to any person requesting it.

Article 24

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 25

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. 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.

4. 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 26

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 27

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 or administrative process as is specified in the Protocol.

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, databases 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 28(*1*) or Article 44, 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.

CHAPTER VII

LIABILITY OF THE REGISTRAR

Article 28

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 Protocol.

CHAPTER VIII

EFFECTS OF AN INTERNATIONAL INTEREST AS AGAINST THIRD PARTIES

Article 29

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. The buyer of an object acquires its interest in it,—

(*a*) subject to an interest registered at the time of its acquisition of that interest; and

(*b*) free from an unregistered interest even if it has actual knowledge of such an interest.

4. The 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.

5. 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.

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

7. This Convention,—

(*a*) does not affect the rights of a person in an item, other than an object, held prior to its installation on an 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 object, which has previously been installed on an object where under the applicable law those rights are created.

Article 30

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,—

(*a*) 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

(*b*) 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 31

Effects of assignment

1. Except as otherwise agreed by the parties, an assignment of associated rights made in conformity with Article 32 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 32

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 the Protocol 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 also are assigned.

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

Article 33

Debtor's duty to assignee

1. To the extent that associated rights and the related international interest have been transferred in accordance with Articles 31 and 32, 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; and

(*b*) the notice identifies the associated rights.

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 34

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 8, 9 and 11 to 14 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 object were references to the assigned associated rights and the related international interest.

Article 35

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 29 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 30 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 36

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 35(*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 object.

2. For the purposes of sub-paragraph (*b*) of the preceding paragraph, associated rights are related to an 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 object;

(*b*) a sum advanced and utilised for the purchase of another 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 object;

(*d*) the rentals payable in respect of the 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 37

Effects of assignor's insolvency

The provisions of Article 30 apply to insolvency proceedings against the assignor as if references to the debtor were references to the assignor.

Article 38

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 39

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 40 applies) which under that State's law have priority over an interest in an 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 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 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 40

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 category of 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

APPLICATION OF THE CONVENTION TO SALES

Article 41

Sale and prospective sale

This Convention shall apply to the sale or prospective sale of an object as provided for in the Protocol with any modifications therein.

CHAPTER XII

JURISDICTION

Article 42

Choice of forum

1. Subject to Articles 43 and 44, 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 43

Jurisdiction under Article 13

1. The courts of a Contracting State chosen by the parties and the courts of the Contracting State on the territory of which the object is situated have jurisdiction to grant relief under Article 13(*1*)(*a*), (*b*), (*c*) and Article 13(*4*) in respect of that object.

2. Jurisdiction to grant relief under Article 13(*1*)(*d*) or other interim relief by virtue of Article 13(*4*) 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 13(*1*) will or may take place in a court of another Contracting State or by arbitration.

Article 44

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 25 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 45

Jurisdiction in respect of insolvency proceedings

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

CHAPTER XIII

RELATIONSHIP WITH OTHER CONVENTIONS

Article 45 bis

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, railway rolling stock and space assets.

Article 46

Relationship with the UNIDROIT Convention on International Financial Leasing

The Protocol may determine the relationship between this Convention and the UNIDROIT Convention on International Financial Leasing, signed at Ottawa on 28 May 1988.

CHAPTER XIV

FINAL PROVISIONS

Article 47

Signature, ratification, acceptance, approval or accession

1. This Convention shall be open for signature in Cape Town on 16 November 2001 by States participating in the Diplomatic Conference to Adopt a Mobile Equipment Convention and an Aircraft Protocol held at Cape Town from 29 October to 16 November 2001. After 16 November 2001, the Convention shall be open to all States for signature at the Headquarters of the International Institute for the Unification of Private Law (UNIDROIT) in Rome until it enters into force in accordance with Article 49.

2. This Convention shall be subject to ratification, acceptance or approval by States which have signed it.

3. Any State which does not sign this Convention may accede to it at any time.

4. Ratification, acceptance, approval or accession is effected by the deposit of a formal instrument to that effect with the Depositary.

Article 48

Regional Economic Integration Organisations

1. A Regional Economic Integration Organisation which is constituted by sovereign States and has competence over certain matters governed by this Convention may similarly sign, accept, approve or accede to this Convention. 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 this Convention. Where the number of Contracting States is relevant in this Convention, 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 this Convention 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 this Convention applies equally to a Regional Economic Integration Organisation where the context so requires.

Article 49

Entry into force

1. This Convention enters into force on the first day of the month following the expiration of three months after the date of the deposit of the third instrument of ratification, acceptance, approval or accession but only as regards a category of objects to which a Protocol applies:

(*a*) as from the time of entry into force of that Protocol;

(*b*) subject to the terms of that Protocol; and

(*c*) as between States Parties to this Convention and that Protocol.

2. For other States this Convention enters into force on the first day of the month following the expiration of three months after the date of the deposit of their instrument of ratification, acceptance, approval or accession but only as regards a category of objects to which a Protocol applies and subject, in relation to such Protocol, to the requirements of sub-paragraphs (*a*), (*b*) and (*c*) of the preceding paragraph.

Article 50

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 objects or some of them.

2. Notwithstanding the preceding paragraph, the provisions of Articles 8(*4*), 9(*1*), 16, Chapter V, Article 29, 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 29 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 51

Future Protocols

1. The Depositary may create working groups, in co-operation with such relevant non-governmental organisations as the Depositary considers appropriate, to assess the feasibility of extending the application of this Convention, through one or more Protocols, to objects of any category of high-value mobile equipment, other than a category referred to in Article 2(*3*), each member of which is uniquely identifiable, and associated rights relating to such objects.

2. The Depositary shall communicate the text of any preliminary draft Protocol relating to a category of objects prepared by such a working group to all States Parties to this Convention, all member States of the Depositary, member States of the United Nations which are not members of the Depositary and the relevant intergovernmental organisations, and shall invite such States and organisations to participate in intergovernmental negotiations for the completion of a draft Protocol on the basis of such a preliminary draft Protocol.

3. The Depositary shall also communicate the text of any preliminary draft Protocol prepared by such a working group to such relevant non-governmental organisations as the Depositary considers appropriate.Such non-governmental organisations shall be invited promptly to submit comments on the text of the preliminary draft Protocol to the Depositary and to participate as observers in the preparation of a draft Protocol.

4. When the competent bodies of the Depositary adjudge such a draft Protocol ripe for adoption, the Depositary shall convene a diplomatic conference for its adoption.

5. Once such a Protocol has been adopted, subject to paragraph 6, this Convention shall apply to the category of objects covered thereby.

6. Article 45 bis of this Convention applies to such a Protocol only if specifically provided for in that Protocol.

Article 52

Territorial units

1. If a Contracting State has territorial units in which different systems of law are applicable in relation to the matters dealt with in this Convention, it may, at the time of ratification, acceptance, approval or accession, declare that this Convention is to extend to all its territorial units or only to one or more of them and may modify its declaration by submitting another declaration at any time.

2. Any such declaration shall state expressly the territorial units to which this Convention applies.

3. If a Contracting State has not made any declaration under paragraph 1, this Convention shall apply to all territorial units of that State.

4. Where a Contracting State extends this Convention to one or more of its territorial units, declarations permitted under this Convention may be made in respect of each such territorial unit, and the declarations made in respect of one territorial unit may be different from those made in respect of another territorial unit.

5. If by virtue of a declaration under paragraph 1, this Convention extends to one or more territorial units of a Contracting State:

(*a*) the debtor is considered to be situated in a Contracting State only if it is incorporated or formed under a law in force in a territorial unit to which this Convention applies or if it has its registered office or statutory seat, centre of administration, place of business or habitual residence in a territorial unit to which this Convention applies;

(*b*) any reference to the location of the object in a Contracting State refers to the location of the object in a territorial unit to which this Convention applies; and

(*c*) any reference to the administrative authorities in that Contracting State shall be construed as referring to the administrative authorities having jurisdiction in a territorial unit to which this Convention applies.

Article 53

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 XII of this Convention.

Article 54

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 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 55

Declarations regarding relief pending final determination

A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that it will not apply the provisions of Article 13 or Article 43, or both, wholly or in part. The 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.

Article 56

Reservations and declarations

1. No reservations may be made to this Convention but declarations authorised by Articles 39, 40, 50, 52, 53, 54, 55, 57, 58 and 60 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 57

Subsequent declarations

1. A State Party may make a subsequent declaration, other than a declaration authorised under Article 60, at any time after the date on which this Convention has 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 58

Withdrawal of declarations

1. Any State Party having made a declaration under this Convention, other than a declaration authorised under Article 60, 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 59

Denunciations

1. Any State Party may denounce this Convention 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 on which notification is received 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 60

Transitional provisions

1. Unless otherwise declared by a Contracting State at any time, the 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 this Convention.

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

(*a*) "effective date of this Convention" means in relation to a debtor the time when this 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 this Convention and the Protocol 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 61

Review Conferences, amendments and related matters

1. The Depositary 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 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 this Convention 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 three States in accordance with the provisions of Article 49 relating to its entry into force.

4. Where the proposed amendment to this 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 62

Depositary and its functions

1. Instruments of ratification, acceptance, approval or accession 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 this Convention;

(*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 this Convention together with the date thereof and the date on which it takes effect;

(*b*) transmit certified true copies of this Convention 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.

THE SECOND SCHEDULE

[*See* clause (*i*) of sub-section (*1*) of section 2]

DECLARATIONS LODGED BY THE REPUBLIC OF INDIA UNDER THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT AT THE TIME OF THE DEPOSIT OF ITS INSTRUMENT OF ACCESSION

(*i*) Form No. 1 [Specific declaration under Article 39(*1*)(*a*)]

The following categories of non-consensual right or interest have priority under its laws over an interest in an aircraft object equivalent to that of the holder of a registered international interest and shall have priority over a registered international interest, whether in or outside insolvency proceedings, namely:—

(*a*) liens in favour of airline employees for unpaid wages arising since the time of a declared default by that airline under a contract to finance or lease and aircraft object;

(*b*) liens or other rights of an authority of India relating to taxes or other unpaid charges arising from or related to the use of that aircraft object and owed by the owner or operator of that aircraft object, arising since the time of a default by that owner or operator under a contract to finance or lease that aircraft object; and

(*c*) liens in favour of repairers of an aircraft object in their possession to the extent of service or services performed on and value added to that aircraft object.

(*ii*) Form No. 4 [General declaration under Article 39(*1*)(*b*)]

Nothing in the Convention shall affect its right or that of any entity thereof, or any intergovernmental organisation in which India is a member, or other private provider of public services in India, to arrest or detain an aircraft object under its laws for payment of amounts owed to the Government of India, any such entity, organisation or provider directly relating to the service or services provided by it in respect of that object or another aircraft object.

(*iii*) Form No. 6 (Declaration under Article 40)

The following categories of non-consensual right or interest shall be registrable under the Convention as regards any category of aircraft object as if the right or interest were an international interest and shall be regulated accordingly, namely:—

(*a*) liens in favour of airline employees for unpaid wages arising prior to the time of a declared default by that airline under a contract to finance or lease an aircraft object;

(*b*) liens or other rights of an authority of India relating to taxes or other unpaid charges arising from or related to the use of an aircraft object and owed by the owner or operator of that aircraft object, arising prior to the time of a declared default by that owner or operator under a contract to finance or lease that aircraft object; and

(*c*) rights of a person obtaining a court order permitting attachment of an aircraft object in partial or full satisfaction of a legal judgment.

(*iv*) Form No. 10 (General declaration under Article 52)

The Convention shall apply to all its territorial units.

(*v*) Form No. 11 (Declaration under Article 53)

All the High Courts within their respective territorial jurisdiction are the relevant courts for the purposes of Article 1 and Chapter XII of the Convention.

(*vi*) Form No. 13 [Mandatory declaration under Article 54(*2*)]

Any and all remedies available to the creditor under the Convention which are not expressed under the relevant provision thereof to require application to the court may be exercised without court action and without leave of the court.

DECLARATIONS LODGED BY THE REPUBLIC OF INDIA UNDER THE PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO AIRCRAFT EQUIPMENT AT THE TIME OF THE DEPOSIT OF ITS INSTRUMENT OF ACCESSION

(*i*) Form No. 19 [Declaration under Article XXX(*1*) in respect of Article VIII]

India will apply Article VIII.

(*ii*) Form No. 21 [Declaration under Article XXX(*2*) in respect of Article X providing for the application of the entirety of Article X]

India will apply Article X of the Protocol in its entirety and the number of working days to be used for the purposes of the time limit laid down in Article X(*2*) of the Protocol shall be that equal to no more than:

(*a*) ten (*10*) working days in respect of the remedies specified in Article 13(*1*)(*a*), (*b*) and (*c*) of the Convention (respectively, preservation of aircraft objects and their value; possession, control or custody of aircraft objects; and, immobilization of aircraft objects); and

(*b*) thirty (*30*) working days in respect of the remedies specified in Article 13(*1*) (*d*) and (*e*) of the Convention (respectively, lease or management of aircraft objects and the income thereof; and, sale and application of proceeds from aircraft objects).

(*iii*) Form No. 23 [General declaration under Article XXX(*3*) in respect of Article XI providing for the application of Alternative A in its entirety to all types of insolvency proceeding]

India will apply Article XI, Alternative A, of the Protocol in its entirety to all types of insolvency proceedings, and that the waiting period for the purposes of Article XI(*3*) of that Alternative shall be two (*2*) calendar months.

(*iv*) Form No.26 [Declaration under Article XXX(*1*) in respect of Article XII]

India will apply Article XII.

(*v*) Form No. 27 [Declaration under Article XXX(*1*) in respect of Article XIII]

India will apply Article XIII.

THE THIRD SCHEDULE

[*See* clause (*m*) of sub-section (*1*) of section 2]

PROVISIONS OF THE PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT ON MATTERS SPECIFIC TO AIRCRAFT EQUIPMENT WHICH SHALL HAVE THE FORCE OF LAW

CHAPTER I

Sphere of application and general provisions

Article I

Defined terms

1. In this Protocol, except where the context otherwise requires, terms used in it have the meanings set out in the Convention.

2. In this Protocol the following terms are employed with the meanings set out below:

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

(*b*) "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;

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

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

(*e*) "airframes" means airframes (other than those used in military, customs or 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;

(*f*) "authorised party" means the party referred to in Article XIII(*3*);

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

(*h*) "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;

(*i*) "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;

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

(*k*) "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;

(*l*) "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;

(*m*) "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 the Convention is prevented or suspended by law or State action;

(*n*) "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;

(*o*) "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; and

(*p*) "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.

Article II

Application of Convention as regards aircraft objects

1. The Convention shall apply in relation to aircraft objects as provided by the terms of this Protocol.

2. The Convention and this Protocol shall be known as the Convention on International Interests in Mobile Equipment as applied to aircraft objects.

Article III

Application of Convention to sales

The following provisions of the 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 16(*1*)(*a*); Article 19(*4*); Article 20(*1*) (as regards registration of a contract of sale or a prospective sale); Article 25(*2*) (as regards a prospective sale); and Article 30.

In addition, the general provisions of Article 1, Article 5, Chapters IV to VII, Article 29 [other than Article 29(*3*) which is replaced by Articles XIV(*1*) and (*2*)], Chapter X, Chapter XII (other than Article 43), Chapter XIII and Chapter XIV (other than Article 60) shall apply to contracts of sale and prospective sales.

Article IV

Sphere of application

1. Without prejudice to Article 3(*1*) of the Convention, the 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.

2. For the purposes of the definition of "internal transaction" in Article 1 of the 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.

3. The parties may, by agreement in writing, exclude the application of Article XI and, in their relations with each other, derogate from or vary the effect of any of the provisions of this Protocol except Article IX(*2*)-(*4*).

Article V

Formalities, effects and registration of contracts of sale

1. For the purposes of this Protocol, 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 Protocol.

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

3. 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 VI

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 the Convention.

Article VII

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 object for the purposes of Article 7(*c*) of the Convention and Article V(*1*)(*c*) of this Protocol.

Article VIII

Choice of law

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

Default remedies, priorities and assignments

Article IX

Modification of default remedies provisions

1. In addition to the remedies specified in Chapter III of the Convention, the creditor may, to the extent that the debtor has at any time so agreed and, in the circumstances, specified in that Chapter:

(*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. Article 8(*3*) of the Convention shall not apply to aircraft objects. Any remedy given by the 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.

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 Article 8(*4*) of the Convention. The foregoing shall not prevent a chargee and a chargor or a guarantor from agreeing to a longer period of prior notice.

5. 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.

6. 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(*m*)(*i*) and (*ii*) of the Convention; and

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

Article X

Modification of provisions regarding relief pending final determination

1. This Article applies only where a Contracting State has made a declaration under Article XXX(*2*) and to the extent stated in such declaration.

2. For the purposes of Article 13(*1*) of the Convention, "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. Article 13(*1*) of the Convention applies with the following being added immediately after sub-paragraph (*d*): "(*e*) if at any time the debtor and the creditor specifically agree, sale and application of proceeds therefrom", and Article 43(*2*) applies with the insertion after the words "Article 13(*1*)(*d*)" of the words "and (*e*)".

4. Ownership or any other interest of the debtor passing on a sale under the preceding paragraph is free from any other interest over which the creditor's international interest has priority under the provisions of Article 29 of the Convention.

5. The creditor and the debtor or any other interested person may agree in writing to exclude the application of Article 13(*2*) of the Convention.

6. With regard to the remedies in Article IX(*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 IX(*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 the 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.

7. Paragraphs 2 and 6 shall not affect any applicable aviation safety laws and regulations.

Article XI

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 XXX(*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 IX(*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 the 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 the Convention or this Protocol 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 39(*1*), shall have priority in insolvency proceedings over registered interests.

13. The Convention as modified by Article IX of this Protocol 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 XXX(*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 XII

Insolvency assistance

1. This Article applies only where a Contracting State has made a declaration pursuant to Article XXX(*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 XI.

Article XIII

De-registration and export request authorisation

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

2. Where the debtor has issued an irrevocable de-registration and export request authorisation substantially in the form annexed to this Protocol 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 IX(*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 IX.

Article XIV

Modification of priority provisions

1. 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.

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

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

4. Article 29(*7*) of the Convention applies to an item, other than an object, installed on an airframe, aircraft engine or helicopter.

Article XV

Modification of assignment provisions

Article 33(*1*) of the Convention applies as if the following were added immediately after sub-paragraph (*b*): "and (*c*) the debtor has consented in writing, whether or not the consent is given in advance of the assignment or identifies the assignee.".

Article XVI

Debtor provisions

1. In the absence of a default within the meaning of Article 11 of the Convention, the debtor shall be entitled to the quiet possession and use of the 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 29(*4*) of the Convention or, in the capacity of buyer, Article XIV(*1*) of this Protocol, 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 29(*4*) of the Convention or, in the capacity of buyer, Article XIV(*2*) of this Protocol, but only to the extent, if any, that such holder has agreed.

2. Nothing in the Convention or this Protocol 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.

CHAPTER III

Registry provisions relating to international interests in aircraft objects

Article XVII

The Supervisory Authority and the Registrar

1. The Supervisory Authority 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 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.

4. 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.

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

Article XVIII

First regulations

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

Article XIX

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 40 in either case arising under the laws of another State.

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 XX

Additional modifications to Registry provisions

1. For the purposes of Article 19(*6*) of the Convention, the search criteria for an aircraft object shall be 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.

2. For the purposes of Article 25(*2*) of the Convention 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.

3. The fees referred to in Article 17(*2*)(*h*) of the Convention 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 17(*2*) of the Convention.

4. 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.

5. The amount of the insurance or financial guarantee referred to in Article 28(*4*) of the Convention 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 the Convention shall preclude the Registrar from procuring insurance or a financial guarantee covering events for which the Registrar is not liable under Article 28 of the Convention.

CHAPTER IV

Jurisdiction

Article XXI

Modification of jurisdiction provisions

For the purposes of Article 43 of the Convention and subject to Article 42 of the Convention, a court of a Contracting State also has jurisdiction where the object is a helicopter, or an airframe pertaining to an aircraft, for which that State is the State of registry.

Article XXII

Waivers of sovereign immunity

1. Subject to paragraph 2, a waiver of sovereign immunity from jurisdiction of the courts specified in Article 42 or Article 43 of the Convention or relating to enforcement of rights and interests relating to an aircraft object under the 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.

CHAPTER V

Relationship with other conventions

Article XXIII

Relationship with the Convention on the International Recognition of Rights in Aircraft

The 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 Protocol, 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 XXIV

Relationship with the Convention for the Unification of Certain Rules Relating to the Precautionary Attachment of Aircraft

1. The 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 Protocol.

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

Article XXV

Relationship with the UNIDROIT Convention on International Financial Leasing

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

CHAPTER VI

Final provisions

Article XXVI

Signature, ratification, acceptance, approval or accession

1. This Protocol shall be open for signature in Cape Town on 16 November 2001 by States participating in the Diplomatic Conference to Adopt a Mobile Equipment Convention and an Aircraft Protocol held at Cape Town from 29 October to 16 November 2001. After 16 November 2001, this Protocol shall be open to all States for signature at the Headquarters of the International Institute for the Unification of Private Law (UNIDROIT) in Rome until it enters into force in accordance with Article XXVIII.

2. This Protocol shall be subject to ratification, acceptance or approval by States which have signed it.

3. Any State which does not sign this Protocol may accede to it at any time.

4. Ratification, acceptance, approval or accession is effected by the deposit of a formal instrument to that effect with the Depositary.

5. A State may not become a Party to this Protocol unless it is or becomes also a Party to the Convention.

Article XXVII

Regional Economic Integration Organisations

1. A Regional Economic Integration Organisation which is constituted by sovereign States and has competence over certain matters governed by this Protocol may similarly sign, accept, approve or accede to this 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 this Protocol. Where the number of Contracting States is relevant in this 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 this 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 this Protocol applies equally to a Regional Economic Integration Organisation where the context so requires.

Article XXVIII

Entry into force

1. This Protocol enters into force on the first day of the month following the expiration of three months after the date of the deposit of the eighth instrument of ratification, acceptance, approval or accession, between the States which have deposited such instruments.

2. For other States this Protocol enters into force on the first day of the month following the expiration of three months after the date of the deposit of its instrument of ratification, acceptance, approval or accession.

Article XXIX

Territorial units

1. If a Contracting State has territorial units in which different systems of law are applicable in relation to the matters dealt with in this Protocol, it may, at the time of ratification, acceptance, approval or accession, declare that this Protocol is to extend to all its territorial units or only to one or more of them and may modify its declaration by submitting another declaration at any time.

2. Any such declaration shall state expressly the territorial units to which this Protocol applies.

3. If a Contracting State has not made any declaration under paragraph 1, this Protocol shall apply to all territorial units of that State.

4. Where a Contracting State extends this Protocol to one or more of its territorial units, declarations permitted under this Protocol may be made in respect of each such territorial unit, and the declarations made in respect of one territorial unit may be different from those made in respect of another territorial unit.

5. If by virtue of a declaration under paragraph 1, this Protocol extends to one or more territorial units of a Contracting State:

(*a*) the debtor is considered to be situated in a Contracting State only if it is incorporated or formed under a law in force in a territorial unit to which the Convention and this Protocol apply or if it has its registered office or statutory seat, centre of administration, place of business or habitual residence in a territorial unit to which the Convention and this Protocol apply;

(*b*) any reference to the location of the object in a Contracting State refers to the location of the object in a territorial unit to which the Convention and this Protocol apply; and

(*c*) any reference to the administrative authorities in that Contracting State shall be construed as referring to the administrative authorities having jurisdiction in a territorial unit to which the Convention and this Protocol apply and any reference to the national register or to the registry authority in that Contracting State shall be construed as referring to the aircraft register in force or to the registry authority having jurisdiction in the territorial unit or units to which the Convention and this Protocol apply.

Article XXX

Declarations relating to certain provisions

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

2. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare that it will apply Article X of this Protocol, wholly or in part. If it so declares with respect to Article X(*2*), it shall specify the time-period required thereby.

3. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare that it will apply the entirety of Alternative A, or the entirety of Alternative B of Article XI 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 XI.

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

5. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare that it will not apply the provisions of Article XXI, wholly or in part. The 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.

Article XXXI

Declarations under the Convention

Declarations made under the Convention, including those made under Articles 39, 40, 50, 53, 54, 55, 57, 58 and 60 of the Convention, shall be deemed to have also been made under this Protocol unless stated otherwise.

Article XXXII

Reservations and declarations

1. No reservations may be made to this Protocol but declarations authorised by Articles XXIV, XXIX, XXX, XXXI, XXXIII and XXXIV may be made in accordance with these provisions.

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

Article XXXIII

Subsequent declarations

1. A State Party may make a subsequent declaration, other than a declaration made in accordance with Article XXXI under Article 60 of the Convention, at any time after the date on which this Protocol has 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 Protocol 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 XXXIV

Withdrawal of declaration

1. Any State Party having made a declaration under this Protocol, other than a declaration made in accordance with Article XXXI under Article 60 of the Convention, 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 Protocol 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 XXXV

Denunciations

1. Any State Party may denounce this Protocol 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 Protocol 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 XXXVI

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 regime established in the Convention as amended by this Protocol 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 the 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 the Convention as amended by this Protocol and its effectiveness in facilitating the asset-based financing and leasing of the objects covered by its terms;

(*b*) the judicial interpretation given to, and the application made of the terms of this Protocol 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 Protocol or the arrangements relating to the International Registry are desirable.

3. Any amendment to this 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 it has been ratified, accepted or approved by eight States in accordance with the provisions of Article XXVIII relating to its entry into force.

Article XXXVII

Depositary and its functions

1. Instruments of ratification, acceptance, approval or accession 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 this Protocol;

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

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

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

(*b*) transmit certified true copies of this 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.

Sd/-

DR. RAJIV MANI,
Secretay to the Government of India.

By order and in the name of the Governor of Gujarat,

Sd/-

K. M. LALA,
Secretary to Government.

Signature Not Verified
Signed by:BHOLUSINGHJ THAKUR
Date: 2025.07.04 21:02:15 +05:30
Reason: Validate Document
Location: Government Central Press, Gandhinagar