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# INTERNATIONAL CONVENTIONS

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**CHAPTER I**

**CONVENTION ON INTERNATIONAL CIVIL AVIATION  
SIGNED AT CHICAGO ON 7<sup>TH</sup> DECEMBER, 1944  
(THE CHICAGO CONVENTION, 1944)**

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**CHAPTER I**

**CONVENTION ON INTERNATIONAL CIVIL AVIATION**

**SIGNED AT CHICAGO ON 7<sup>TH</sup> DECEMBER, 1944\***

**(THE CHICAGO CONVENTION, 1944)**

**PREAMBLE**

WHEREAS the future development of international civil aviation can greatly help to create and preserve friendship and understanding among the nations and peoples of the world, yet its abuse can become a threat to the general security; and

WHEREAS it is desirable to avoid friction and to promote that cooperation between nations and peoples upon which the peace of the world depends;

THEREFORE, the undersigned governments having agreed on certain principles and arrangements in order that international civil aviation may be developed in a safe and orderly manner and that international air transport services may be established on the basis of equality of opportunity and operated soundly and economically;

Have accordingly concluded this Convention to that end.

**PART I**

**AIR NAVIGATION**

**CHAPTER I**

**GENERAL PRINCIPLE AND**

**APPLICATION OF THE**

**CONVENTION**

**Article 1**

***Sovereignty***

The contracting States recognize that every

State has complete and exclusive sovereignty over the airspace above its territory.

**Article 2**

***Territory***

For the purposes of this Convention the territory of a State shall be deemed to be the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or mandate of such State.

**Article 3**

***Civil and state aircraft***

(a) This Convention shall be applicable only to civil aircraft, and shall not be applicable to state aircraft.

(b) Aircraft used in military, customs and police services shall be deemed to be state aircraft.

(c) No state aircraft of a contracting State shall fly over the territory of another State or land thereon without authorization by special agreement or otherwise, and in accordance with the terms thereof.

(d) The contracting States undertake when issuing regulations for their state aircraft, that they will have due regard for the safety of navigation of civil aircraft.

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\* Came into force on 4th April, 1947, the thirtieth day after deposit with the Government of the United States of America of the twenty sixth instrument of ratification thereof or notification of adherence thereto, in accordance with Article 91(b). As on 30 June, 2003 there were 188 contracting States party to it. India ratified it on 1 March, 1947.

### **Article 3 bis\***

(a) The contracting States recognize that every State must refrain from resorting to the use of weapons against civil aircraft in flight and that, in case of interception, the lives of persons on board and the safety of aircraft must not be endangered. This provision shall not be interpreted as modifying in any way the rights and obligations of States set forth in the Charter of the United Nations.

(b) The contracting States recognize that every State, in the exercise of its sovereignty, is entitled to require the landing at some designated airport of a civil aircraft flying above its territory without authority or if there are reasonable grounds to conclude that it is being used for any purpose inconsistent with the aims of this Convention; it may also give such violations. For this purpose, the contracting States may resort to any appropriate means consistent with relevant rules of international law, including the relevant provisions of this Convention, specifically paragraph (a) of this Article. Each contracting State agrees to publish its regulations in force regarding the interception of civil aircraft.

(c) Every civil aircraft shall comply with an order given in conformity with paragraph (b) of this Article. To this end each contracting State shall establish all necessary provisions in its national laws or regulations to make such compliance mandatory for any civil aircraft registered in that State or operated by an operator who has his principal place of business or permanent residence in that State. Each contracting State shall make any violation of such applicable laws or regulations punishable by severe penalties and shall submit the case to its competent authorities in accordance with its laws or regulations.

(d) Each contracting State shall take appropriate measures to prohibit the deliberate

use of any civil aircraft registered in that State or operated by an operator who has his principal place of business or permanent residence in that State for any purpose inconsistent with the aims of this Convention. This provision shall not affect paragraph (a) or derogate from paragraphs (b) and (c) of this Article.

### **Article 4**

#### ***Misuse of civil aviation***

Each contracting state agrees not to use civil aviation for any purpose inconsistent with the aims of this Convention.

## **CHAPTER II**

### **FLIGHTS OVER TERRITORY OF CONTRACTING STATES**

### **Article 5**

#### ***Right of non-scheduled flight***

Each contracting State agrees that all aircraft of the other contracting States, being aircraft not engaged in scheduled international air services shall have the right, subject to the observance of the terms of this Convention, to make flights into or in transit non-stop across its territory and to make stops for non-traffic purposes without the necessity of obtaining prior permission, and subject to the right of the State flown over to require landing. Each contracting State nevertheless reserves the right, for reasons of safety of flight, to require aircraft desiring to proceed over regions which are inaccessible or without adequate air navigation facilities to follow prescribed routes, or to obtain special permission for such flights.

Such aircraft, if engaged in the carriage of passengers, cargo, or mail for remuneration or hire on other than scheduled international air services, shall also, subject to the provisions of Article 7, have the privilege of taking on or

\*\* On 10 May, 1984, the Assembly amended the Convention by adopting the Protocol introducing Article 3 bis. Under Article 94(a) of the Convention, the amendment came into force on 1 October, 1998, in respect of States which ratified it. There were 125 States party to it as on 30 June, 2003. India has not ratified it.

discharging passengers, cargo, or mail, subject to the right of any State where such embarkation or discharge takes place to impose such regulations, conditions or limitations as it may consider desirable.

## **Article 6**

### ***Scheduled air services***

No scheduled international air service may be operated over or into the territory of a contracting State, except with the special permission or other authorization of that State, and in accordance with the terms of such permission or authorization.

## **Article 7**

### ***Cabotage***

Each contracting State shall have the right to refuse permission to the aircraft of other contracting States to take on in its territory passengers, mail and cargo carried for remuneration or hire and destined for another point within its territory. Each contracting State undertakes not to enter into any arrangements which specifically grant any such privilege on an exclusive basis to any other State or an airline of any other State, and not to obtain any such exclusive privilege from any other State.

## **Article 8**

### ***Pilotless aircraft***

No aircraft capable of being flown without a pilot shall be flown without a pilot over the territory of a contracting State without special authorization by that State and in accordance with the terms of such authorization. Each contracting State undertakes to insure that the flight of such aircraft without a pilot in regions open to civil aircraft shall be so controlled as to obviate danger to civil aircraft.

## **Article 9**

### ***Prohibited areas***

(a) Each contracting State may, for reasons of military necessity or public safety, restrict or prohibit uniformly the aircraft of other States

from flying over certain areas of its territory, provided that no distinction in this respect is made between the aircraft of the State whose territory is involved, engaged in international scheduled airline services, and the aircraft of the other contracting States likewise engaged. Such prohibited areas shall be of reasonable extent and location so as not to interfere unnecessarily with air navigation. Descriptions of such prohibited areas in the territory of a contracting State, as well as any subsequent alterations therein, shall be communicated as soon as possible to the other contracting States and to the International Civil Aviation Organization.

(b) Each contracting State reserves also the right, in exceptional circumstances or during a period of emergency, or in the interest of public safety, and with immediate effect, temporarily to restrict or prohibit flying over the whole or any part of its territory, on condition that such restriction or prohibition shall be applicable without distinction of nationality to aircraft of all other States.

(c) Each contracting State, under such regulations as it may prescribe, may require any aircraft entering the areas contemplated in sub-paragraphs (a) or (b) above to effect a landing as soon as practicable thereafter at some designated airport within its territory.

## **Article 10**

### ***Landing at customs airport***

Except in a case where, under the terms of this Convention or a special authorization, aircraft are permitted to cross the territory of a contracting State without landing, every aircraft which enters the territory of a contracting State shall, if the regulations of that State so require, land at an airport designated by that State for the purpose of customs and other examination. On departure from the territory of a contracting State, such aircraft shall depart from a similarly designated customs airport. Particulars of all designated customs airports shall be published by the State and transmitted to the International Civil Aviation Organization established under

Part II of this Convention for communication to all other contracting States.

### **Article 11**

#### ***Applicability of air regulations***

Subject to the provisions of this Convention, the laws and regulations of a contracting State relating to the admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of all contracting States without distinction as to nationality, and shall be complied with by such aircraft upon entering or departing from or while within the territory of that State.

### **Article 12**

#### ***Rules of the air***

Each contracting State undertakes to adopt measures to insure that every aircraft flying over or maneuvering within its territory and that every aircraft carrying its nationality mark, wherever such aircraft may be, shall comply with the rules and regulations relating to the flight and maneuver of aircraft there in force. Each contracting State undertakes to keep its own regulations in these respects uniform, to the greatest possible extent, with those established from time to time under this Convention. Over the high seas, the rules in force shall be those established under this Convention. Each contracting State undertakes to insure the prosecution of all persons violating the regulations applicable.

### **Article 13**

#### ***Entry and clearance regulations***

The laws and regulations of a contracting State as to the admission to or departure from its territory of passengers, crew or cargo of aircraft, such as regulations relating to entry, clearance, immigration, passports, customs, and quarantine shall be complied with by or on behalf of such passengers, crew or cargo upon entrance into or departure from, or while within the territory of that State.

### **Article 14**

#### ***Prevention of spread of disease***

Each contracting State agrees to take effective measures to prevent the spread by means of air navigation of cholera, typhus (epidemic), smallpox, yellow fever, plague, and such other communicable diseases as the contracting States shall from time to time decide to designate, and to that end contracting States will keep in close consultation with the agencies concerned with international regulations relating to sanitary measures applicable to aircraft. Such consultation shall be without prejudice to the application of any existing international convention on this subject to which the contracting States may be parties.

### **Article 15**

#### ***Airport and similar charges***

Every airport in a contracting State which is open to public use by its national aircraft shall likewise, subject to the provisions of Article 68, be open under uniform conditions to the aircraft of all the other contracting States. The like uniform conditions shall apply to the use, by aircraft of every contracting State, of all air navigation facilities, including radio and meteorological services, which may be provided for public use for the safety and expedition of air navigation.

Any charges that may be imposed or permitted to be imposed by a contracting State for the use of such airports and air navigation facilities by the aircraft of any other contracting State shall not be higher.

- (a) As to aircraft not engaged in scheduled international air services, than those that would be paid by its national aircraft of the same class engaged in similar operations, and
- (b) As to aircraft engaged in scheduled international air services, than those that would be paid by its national aircraft engaged in similar international air services.



All such charges shall be published and communicated to the International Civil Aviation Organization,; provided that, upon representation by an interested contracting State, the charges imposed for the use of airports and other facilities shall be subject to review by the Council, which shall report and make recommendations thereon for the consideration of the State or States concerned. No fees, dues or other charges shall be imposed by any contracting State in respect solely of the right of transit over or entry into or exit from its territory of any aircraft of a contracting State or persons or property thereon.

### **Article 16**

#### *Search of aircraft*

The appropriate authorities of each of the contracting States shall have the right, without unreasonable delay, to search aircraft of the other contracting States on landing or departure, and to inspect the certificates and other documents prescribed by this Convention.

## **CHAPTER III**

### **NATIONALITY OF AIRCRAFT**

#### **Article 17**

#### *Nationality of aircraft*

Aircraft have the nationality of the State in which they are registered.

#### **Article 18**

#### *Dual registration*

An aircraft cannot be validly registered in more than one State, but its registration may be changed from one State to another.

#### **Article 19**

#### *National laws governing registration*

The registration or transfer of registration of aircraft in any contracting State shall be made in accordance with its laws and regulations.

#### **Article 20**

#### *Display of marks*

Every aircraft engaged in international air navigation shall bear its appropriate nationality and registration marks.

### **Article 21**

#### *Report of registrations*

Each contracting State undertakes to supply to any other contracting State or to the International Civil Aviation Organization, on demand, information concerning the registration and ownership of any particular aircraft registered in that State. In addition, each contracting State shall furnish reports to the International Civil Aviation Organization, under such regulations as the latter may prescribe, giving such pertinent data as can be made available concerning the ownership and control of aircraft registered in that State and habitually engaged in international air navigation. The data thus obtained by the International Civil Aviation Organization shall be made available by it on request to the other contracting States.

## **CHAPTER IV**

### **MEASURES TO FACILITATE AIR NAVIGATION**

#### **Article 22**

#### *Facilitation of formalities*

Each contracting State agrees to adopt all practicable measures, through the issuance of special regulations or otherwise, to facilitate and expedite navigation by aircraft between the territories of contracting States, and to prevent unnecessary delays to aircraft, crews, passengers and cargo, especially in the administration of the laws relating to immigration, quarantine, customs and clearance.

#### **Article 23**

#### *Customs and immigration procedures*

Each contracting State undertakes, so far as it may find practicable, to establish customs and immigration procedures affecting international air navigation in accordance with the practices which may be established or recommended from time to time, pursuant to this Convention. Nothing in this Convention shall be construed as preventing the establishment of customs-free airports.

**Article 24*****Customs duty***

(a) Aircraft on a flight to, from, or across the territory of another contracting State shall be admitted temporarily free of duty, subject to the customs regulations of the State, Fuel, lubricating oils, spare parts, regular equipment and aircraft stores on board an aircraft of a contracting State, on arrival in the territory of another contracting State and retained on board on leaving the territory of that State shall be exempt from customs duty, inspection fees or similar national or local duties and charges. This exemption shall not apply to any quantities or articles unloaded, except in accordance with the customs regulations of the State, which may require that they shall be kept under customs supervision.

(b) Spare parts and equipment imported into the territory of a contracting State for incorporation in or use on an aircraft of another contracting State engaged in international air navigation shall be admitted free of customs duty, subject to compliance with the regulations of the State concerned, which may provide that the articles shall be kept under customs supervision and control.

**Article 25*****Aircraft in distress***

Each contracting State undertakes to provide such measures of assistance to aircraft in distress in its territory as it may find practicable, and to permit, subject to control by its own authorities, the owners of the aircraft or authorities of the State in which the aircraft is registered to provide such measures of assistance as may be necessitated by the circumstances. Each contracting State, when undertaking search for missing aircraft, will collaborate in coordinated measures which may be recommended from time to time pursuant to this Convention.

**Article 26*****Investigation of accidents***

In the event of an accident to an aircraft of a contracting State occurring in the territory of another contracting State, and involving death or serious injury, or indicating serious technical defect in the aircraft or air navigation facilities, the State in which the accident occurs will institute an inquiry into the circumstances of the accident, in accordance, so far as its laws permit, with the procedure which may be recommended by the International Civil Aviation Organization. The State in which the aircraft is registered shall be given the opportunity to appoint observers to be present at the inquiry and the State holding the inquiry shall communicate the report and findings in the matter to that State.

**Article 27*****Exemption from seizure on patent claims***

(a) While engaged in international air navigation, any authorized entry of aircraft of a contracting State into the territory of another contracting State or authorized transit across the territory of such State with or without landings shall not entail any seizure or detention of the aircraft or any claim against the owner or operator thereof or any other interference therewith by or on behalf of such State or any person therein, on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is an infringement of any patent, design, or model duly granted or registered in the State whose territory is entered by the aircraft, it being agreed that no deposit of security in connection with the foregoing exemption from seizure or detention of the aircraft shall in any case be required in the State entered by such aircraft.

(b) The provisions of paragraph (a) of this Article shall also be applicable to the storage of spare parts and spare equipment for the aircraft and the right to use and install the same

in the repair of an aircraft of a contracting State in the territory of any other contracting State, provided that any patented part or equipment so stored shall not be sold or distributed internally in or exported commercially from the contracting State entered by the aircraft.

(c) The benefits of this Article shall apply only to such States, parties to this Convention, as either (1) are parties to the International Convention for the Protection of Industrial Property and to any amendments thereof; or (2) have enacted patent laws which recognize and give adequate protection to inventions made by the nationals of the other States parties to this Convention.

### **Article 28**

#### ***Air navigation facilities and standard systems***

Each contracting State undertakes, so far as it may find practicable, to:

- (a) Provide, in its territory, airports, radio services, meteorological services and other air navigation facilities to facilitate international air navigation, in accordance with the standards and practices recommended or established from time to time, pursuant to this Convention;
- (b) Adopt and put into operation the appropriate standard systems of communications procedure, codes, markings, signals, lighting and other operational practices and rules which may be recommended or established from time to time, pursuant to this Convention;
- (c) Collaborate in international measures to secure the publication of aeronautical maps and charts in accordance with standards which may be recommended or established from time to time, pursuant to this Convention.

## **CHAPTER V CONDITIONS TO BE FULFILLED WITH RESPECT TO AIRCRAFT**

### **Article 29**

#### ***Documents carried in aircraft***

Every aircraft of a contracting State, engaged in international navigation, shall carry the following documents in conformity with the conditions prescribed in this Convention:

- (a) Its certificate of registration;
- (b) Its certificate of airworthiness;
- (c) The appropriate licences for each member of the crew;
- (d) Its journey log book;
- (e) If it is equipped with radio apparatus, the aircraft radio station licence;
- (f) If it carries passengers, a list of their names and places of embarkation and destination;
- (g) If it carries cargo, a manifest and detailed declarations of the cargo.

### **Article 30**

#### ***Aircraft radio equipment***

(a) Aircraft of each contracting State may, in or over the territory of other contracting States, carry radio transmitting apparatus only if a licence to install and operate such apparatus has been issued by the appropriate authorities of the State in which the aircraft is registered. The use of radio transmitting apparatus in the territory of the contracting State whose territory is flown over shall be in accordance with the regulations prescribed by that State.

(b) Radio transmitting apparatus may be used only by members of the flight crew who are provided with a special licence for the purpose, issued by the appropriate authorities of the State in which the aircraft is registered.

**Article 31***Certificates of airworthiness*

Every aircraft engaged in international navigation shall be provided with a certificate of airworthiness issued or rendered valid by the State in which it is registered.

**Article 32***Licences of personnel*

(a) The pilot of every aircraft and the other members of the operating crew of every aircraft engaged in international navigation shall be provided with certificates of competency and licences issued or rendered valid by the State in which the aircraft is registered.

(b) Each contracting State reserves the right to refuse to recognize, for the purpose of flight above its own territory, certificates of competency and licences granted to any of its nationals by another contracting State.

**Article 33***Recognition of certificates and licences*

Certificates of airworthiness and certificate of competency and licences issued or rendered valid by the contracting State in which the aircraft is registered, shall be recognized as valid by the other contracting States, provided that the requirements under which such certificates or licences were issued or rendered valid are equal to or above the minimum standards which may be established from time to time pursuant to this Convention.

**Article 34***Journey log books*

There shall be maintained in respect of every aircraft engaged in international navigation a journey log book in which shall be entered particulars of the aircraft, its crew and of each journey, in such form as may be prescribed from time to time pursuant to this Convention.

**Article 35***Cargo restrictions*

(a) No munitions of war or implements of war may be carried in or above the territory of a State in aircraft engaged in international navigation, except by permission of such State. Each State shall determine by regulations what constitutes munitions of war or implements of war for the purposes of this Article, giving due consideration, for the purposes of uniformity, to such recommendations as the International Civil Aviation Organization may from time to time make.

(b) Each contracting State reserves the right, for reasons of public order and safety, to regulate or prohibit the carriage in or above its territory of articles other than those enumerated in paragraph (a): provided that no distinction is made in this respect between its national aircraft engaged in international navigation and the aircraft of the other States so engaged; and provided further that no restriction shall be imposed which may interfere with the carriage and use on aircraft of apparatus necessary for the operation or navigation of the aircraft or the safety of the personnel or passengers.

**Article 36***Photographic apparatus*

Each contracting State may prohibit or regulate the use of photographic apparatus in aircraft over its territory.

**CHAPTER VI****INTERNATIONAL STANDARDS  
AND RECOMMENDED PRACTICES****Article 37***Adoption of international standards and procedures*

Each contracting State undertakes to collaborate in securing the highest practicable

degree of uniformity in regulations, standards, procedures, and organization in relation to aircraft, personnel, airways and auxiliary services in all matters in which such uniformity will facilitate and improve air navigation.

To this end the International Civil Aviation Organization shall adopt and amend from time to time, as may be necessary, international standards and recommended practices and procedures dealing with:

- (a) Communications systems and air navigation aids, including ground marking;
- (b) Characteristics of airport and landing areas;
- (c) Rules of the air and air traffic control practices;
- (d) Licensing of operating and mechanical personnel;
- (e) Airworthiness of aircraft;
- (f) Registration and identification of aircraft;
- (g) Collection and exchange of meteorological information;
- (h) Log books;
- (i) Aeronautical maps and charts;
- (j) Customs and immigration procedures;
- (k) Aircraft in distress and investigation of accidents;

and such other matters concerned with the safety, regularity, and efficiency of air navigation as may from time to time appear appropriate.

### **Article 38**

#### ***Departures from international standards and procedures***

Any State which finds it impracticable to comply in all respects with any such international standard or procedure, or to bring its own regulations or practices into full accord with any international standard or procedure after amendment of the latter, or which deems it necessary to adopt regulations or practices

differing in any particular respect from those established by an international standard, shall give immediate notification to the International Civil Aviation Organization of the differences between its own practice and that established by the International standard. In the case of amendments to international standards, any State which does not make the appropriate amendments to its own regulations or practices shall give notice to the Council within sixty days of the adoption of the amendment to the international standard, or indicate the action which it proposes to take. In any such case, the Council shall make immediate notification to all other states of the difference which exists between one or more features of an international standard and the corresponding national practice of that State.

### **Article 39**

#### ***Endorsement of certificates and licences***

(a) Any aircraft or part thereof with respect to which there exists an international standard of airworthiness or performance, and which failed in any respect to satisfy that standard at the time of its certification, shall have endorsed on or attached to its airworthiness certificate a complete enumeration of the details in respect of which it so failed.

(b) Any person holding a licence who does not satisfy in full the conditions laid down in the international standard relating to the class of licence or certificate which he holds shall have endorsed on or attached to his licence a complete enumeration of the particulars in which he does not satisfy such conditions.

### **Article 40**

#### ***Validity of endorsed certificates and licences***

No aircraft or personnel having certificates or licences so endorsed shall participate in international navigation, except with the permission of the State or States whose territory is entered. The registration or use of any such aircraft, or of any certificated aircraft part, in any State other than that in which it was originally certificated shall be at the discretion of the State into which the aircraft or part is imported.

**Article 41*****Recognition of existing standards of airworthiness***

The provisions of this Chapter shall not apply to aircraft and aircraft equipment of types of which the prototype is submitted to the appropriate national authorities for certification prior to a date three years after the date of adoption of an international standard of airworthiness for such equipment.

**Article 42*****Recognition of existing standards of competency of personnel***

The provisions of this Chapter shall not apply to personnel whose licences are originally issued prior to a date one year after initial adoption of an international standard of qualification for such personnel; but they shall in any case apply to all personnel whose licences remain valid five years after the date of adoption of such standard.

**PART II****THE INTERNATIONAL CIVIL AVIATION ORGANIZATION****CHAPTER VII****THE ORGANIZATION****Article 43*****Name and composition***

An organization to be named the International Civil Aviation Organization is formed by the Convention. It is made up of an Assembly, a Council, and such other bodies as may be necessary.

**Article 44*****Objectives***

The aims and objectives of the Organization are to develop the principles and techniques of international air navigation and to foster the planning and development of international air transport so as to :

- (a) Insure the safe and orderly growth of international civil aviation throughout the world;
- (b) Encourage the arts of aircraft design and operation for peaceful purposes;
- (c) Encourage the development of airways, airports, and air navigation facilities for international civil aviation;
- (d) Meet the needs of the peoples of the world for safe, regular, efficient and economical air transport;
- (e) Prevent economic waste caused by unreasonable competition;
- (f) Insure that the right of contracting States are fully respected and that every contracting State has a fair opportunity to operate international airlines;
- (g) Avoid discrimination between contracting States;
- (h) Promote safety of flight in international air navigation;
- (i) Promote generally the development of all aspects of international civil aeronautics.

**Article 45 \******Permanent seat***

The permanent seat of the Organization shall be at such place as shall be determined at the final meeting of the Interim Assembly of the Provisional International Civil Aviation

\* Signed on 14 June, 1954. Entered into force on 16 May, 1958.

As on 30 June, 2003 there were 133 contracting States party to it. India ratified it on 19 January, 1955.

The original unamended text of the Convention reads as follows:

“ The permanent seat of the organization shall be at such place as shall be determined at the final meeting of the Interim Assembly of the Provisional International Civil Aviation Organization set up by the Interim Agreement on International Civil Aviation signed at Chicago on December 7, 1944. The seat may be temporarily transferred elsewhere by decision of the Council.”

Organization set up by the Interim Agreement on International Civil Aviation signed at Chicago on December 7, 1944. The seat may be temporarily transferred elsewhere by decision of the Council, and otherwise than temporarily by decisions of the Assembly, such decision to be taken by the number of votes specified by the Assembly. The number of votes so specified will not be less than three-fifths of the total number of contracting States.

### **Article 46**

#### ***First meeting of Assembly***

The first meeting of the Assembly shall be summoned by the interim Council of the above mentioned Provisional Organization as soon as the Convention has come into force, to meet at a time and place to be decided by the Interim Council.

### **Article 47**

#### ***Legal Capacity***

The Organization shall enjoy in the territory of each contracting State such legal capacity as may be necessary for the performance of its functions. Full juridical personality shall be granted wherever compatible with the constitution and laws of the State concerned.

## **CHAPTER VIII THE ASSEMBLY**

### **Article 48**

#### ***Meetings of Assembly and voting***

(a) The Assembly shall meet not less than once in three years and shall be convened by

the Council at a suitable time and place. An extraordinary meeting of the Assembly may be held at any time upon the call of the Council or at the request of not less than one-fifth of the total number of contracting States addressed to the Secretary General.\*

(b) All Contracting States shall have an equal right to be represented at the meetings of the Assembly and each contracting State shall be entitled to one vote. Delegates representing contracting States may be assisted by technical advisers who may participate in the meetings but shall have no vote.

(c) A majority of the contracting States is required to constitute a quorum for the meetings of the Assembly. Unless otherwise provided in this Convention, decisions of the Assembly shall be taken by a majority of the votes cast.

### **Article 49**

#### ***Powers and duties of Assembly***

The powers and duties of the Assembly shall be to:

- (a) Elect at each meeting its President and other officers;
- (b) Elect the contracting States to be represented on the Council, in accordance with the provisions of Chapter IX;
- (c) Examine and take appropriate action on the reports of the Council and decide on any matter referred to it by the Council;

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\* This is the text of the Article as amended by the 14th Session of the Assembly on 14 September, 1962. It entered into force on 11 September, 1975. Under Article 94(a) of the Convention, the amended text is in force in respect of those States which have ratified the amendment. As on 30 June, 2003 there were 111 contracting States party to this. India ratified it on 6 October, 1970. The previous text of this Article as amended by the 8th Session of the Assembly on 14 June, 1954 and which entered into force on 12 December, 1956 reads as follows:

“(a) The Assembly shall meet not less than once in three years and shall be convened by the Council at a suitable time and place. Extraordinary meetings of the Assembly may be held at any time upon the call of the council or at the request of any ten contracting States addressed to the Secretary General.”

As on 30 June, 2003 it has been ratified by 136 States.

India ratified it on 19 January, 1955.

The original unamended text of the Convention reads as follows:

“(a) The Assembly shall meet annually and shall be convened by the Council at a suitable time and place. Extraordinary meetings of the Assembly may be held at any time upon the call of the Council or at the request of any ten contracting States addressed to the Secretary General.

- (d) Determine its own rules of procedure and establish such subsidiary commissions as it may consider to be necessary or desirable;
- (e) Vote annual budgets and determine the financial arrangements of the Organization, in accordance with the provisions of Chapter XII; \*
- (f) Review expenditures and approve the accounts of the Organization;
- (g) Refer, at its discretion, to the Council, to subsidiary commissions, or to any other body any matter within its sphere of action;
- (h) Delegate to the Council the powers and authority necessary or desirable for the discharge of the duties of the Organization and revoke or modify the delegations of authority at any time;
- (i) Carry out the appropriate provisions of Chapter XIII;
- (j) Consider proposals for the modification or amendment of the provisions of this Convention and, if it approves of the proposals, recommend them to the contracting States in accordance with the provisions of Chapter XXI;
- (k) Deal with any matter within the sphere of action of the Organization not specifically assigned to the Council.

## CHAPTER IX

### THE COUNCIL

#### Article 50

##### *Composition and election of Council*

(a) The Council shall be a permanent body responsible to the Assembly. It shall be composed of thirty-six contracting States elected by the Assembly. An election shall be held at the first meeting of the Assembly and thereafter every three years, and the members of the Council so elected shall hold office until the next following election. \*\*

(b) In electing the members of the Council, the Assembly shall give adequate representation to (1) the States of chief importance in air transport; (2) the States not otherwise included which make the largest contribution to the provision of facilities for international civil air navigation; and (3) the States not otherwise included whose designation will insure that all the major geographic areas of the world are represented on the Council. Any vacancy on the Council shall be filled by the Assembly as soon as possible; any contracting State so elected to the Council shall hold office for the

\* *This is the text of the Article as amended by the Eighth Session of the Assembly on 14 June, 1954. It entered into force on 12 December, 1956. Under Article 94(a) of the Convention, the amended text is in force in respect of those States which have ratified the amendment.*

*As on 30 June, 2003 there were 136 contracting States party to this.*

*India ratified it on 19 January, 1955.*

*In respect of the States which have not ratified the amendment, the original text is still in force and, therefore, that text is reproduced below :*

*“(e) Vote an annual budget and determine the financial arrangements of the Organization, in accordance with the provisions of Chapter XII;”.*

\*\* *This is the text of the Article as amended by the 21st Session of the Assembly on 16 October 1974. It entered into force on 15 February, 1980. The original text of the Convention provided for twenty-one Members of the Council. The text was subsequently amended at the 13th (Extraordinary) Session of the Assembly on 19 June, 1961; that amendment entered into force on 17 July, 1962 and provided for twenty-seven Members of the Council: a further amendment was approved by the 17th (A) (Extraordinary) Session of the Assembly on 12 March, 1971 providing for thirty Members of the Council; this amendment entered into force on 16 January, 1973. This had 125 parties as on 30 June, 2003.*

*India ratified it on 15 June, 1971.*

*Next amendment signed on 26 October, 1990 at Montreal which entered into force on 28 November, 2002.*

*As on June, 2003 there were 117 contracting States party to this.*

*India ratified it on 9 July, 1992.*



unexpired portion of its predecessor's term of office.

(c) No representative of a contracting State on the Council shall be actively associated with the operation of an international air service or financially interested in such a service.

### **Article 51**

#### ***President of Council***

The Council shall elect its President for a term of three years. He may be reelected. He shall have no vote. The Council shall elect from among its members one or more Vice Presidents who shall retain their right to vote when serving as acting President. The President need not be selected from among the representatives of the members of the Council but, if a representative is elected, his seat shall be deemed vacant and it shall be filled by the State which he represented. The duties of the President shall be to:

- (a) Convene meetings of the Council, the Air Transport Committee, and the Air Navigation Commission;
- (b) Serve as representative of the Council; and
- (c) Carry out on behalf of the Council the functions which the Council assigns to him.

### **Article 52**

#### ***Voting in Council***

Decisions by the Council shall require approval by a majority of its members. The Council may delegate authority with respect to any particular matter to a committee of its members. Decisions of any committee of the Council may be appealed to the Council by any interested contracting State.

### **Article 53**

#### ***Participation without a vote***

Any contracting State may participate, without a vote, in the consideration by the

Council and by its committees and commissions of any question which especially affects its interests. No member of the Council shall vote in the consideration by the Council of a dispute to which it is a party.

### **Article 54**

#### ***Mandatory functions of Council***

The Council shall :

- (a) Submit annual reports to the Assembly;
- (b) Carry out the directions of the Assembly and discharge the duties and obligations which are laid on it by this Convention;
- (c) Determine its organization and rules of procedure;
- (d) Appoint and define the duties of an Air Transport Committee, which shall be chosen from among the representatives of the members of the Council, and which shall be responsible to it;
- (e) Establish an Air Navigation Commission, in accordance with the provisions of Chapter X;
- (f) Administer the Finances of the Organization in accordance with the provisions of Chapters XII and XV;
- (g) Determine the emoluments of the President of the Council;
- (h) Appoint a chief executive officer who shall be called the Secretary General, and make provision for the appointment of such other personnel as may be necessary, in accordance with the provisions of Chapter XI;
- (i) Request, collect, examine and publish information relating to the advancement of air navigation and the operation of international air services, including information about the costs of operation and particulars of subsidies paid to airlines from public funds;
- (j) Report to contracting States any infraction of this Convention, as well as

- any failure to carry out recommendations or determinations of the Council;
- (k) Report to the Assembly any infraction of this Convention where a contracting State has failed to take appropriate action within a reasonable time after notice of the infraction;
- (l) Adopt, in accordance with the provisions of Chapter VI of this Convention, international standards and recommended practices; for convenience, designate them as Annexes to this Convention; and notify all contracting States of the action taken;
- (m) Consider recommendations of the Air navigation Commission for amendment of the Annexes and take action in accordance with the provisions of Chapter XX;
- (n) Consider any matter relating to the Convention which any contracting State refers to it.
- at any time;
- (c) Conduct research into all aspects of air transport and air navigation which are of international importance, communicate the results of its research to the contracting States, and facilitate the exchange of information between contracting States on air transport and air navigation matters;
- (d) Study any matters affecting the organization and operation of international air transport, including the international ownership and operation of international air services on trunk routes, and submit to the Assembly plans in relation thereto;
- (e) Investigate, at the request of any contracting State, any situation which may appear to present avoidable obstacles to the development of international air navigation; and, after such investigation, issue such report as may appear to it desirable.

### Article 55

#### *Permissive functions of Council*

The Council may :

- (a) Where appropriate and as experience may show to be desirable, create subordinate air transport commissions on a regional or other basis and define groups of states or airlines with or through which it may deal to facilitate the carrying out of the aims of this Convention;
- (b) Delegate to the Air Navigation Commission duties additional to those set forth in the Convention and revoke or modify such delegations of authority

### CHAPTER X

#### THE AIR NAVIGATION COMMISSION

### Article 56

#### *Nomination and appointment of Commission*

The Air Navigation Commission shall be composed of fifteen members appointed by the Council from among persons nominated by contracting States. These persons shall have suitable qualifications and experience in the science and practice of aeronautics. The Council shall request all contracting States to submit nominations. The President of the Air Navigation Commission shall be appointed by the Council.\*

\* *This is the text of the Article as amended at the 18th Session of the Assembly on 7 July, 1971. It entered into force on 19 December, 1974. The original text of the Convention provided for twelve members of the Air Navigation Commission. As on 30 June, 2003 there were 127 States party to it. India ratified it on 21 December, 1971. Next amendment was carried out on 6 October, 1989. This has not been entered into force due to insufficient number of ratifications. As on 30 June, 2003 there were 96 States party to it. India ratified it on 1 September, 1992.*

## Article 57

### *Duties of Commission*

The Air Navigation Commission shall :

- (a) Consider, and recommend to the Council for adoption, modifications of the Annexes to this Convention;
- (b) Establish technical subcommissions on which any contracting State may be represented, if it so desires;
- (c) Advise the Council concerning the collection and communication to the contracting States of all information which it considers necessary and useful for the advancement of air navigation.

## CHAPTER XI

### PERSONNEL

## Article 58

### *Appointment of personnel*

Subject to any rules laid down by the Assembly and to the provisions of this Convention, the Council shall determine the method of appointment and of termination of appointment, the training, and the salaries, allowances, and conditions of service of the Secretary General and other personnel of the Organization, and may employ or make use of the services of nationals of any contracting State.

## Article 59

### *International character of personnel*

The President of the Council, the Secretary General, and other personnel shall not seek or receive instructions in regard to the discharge of their responsibilities from any authority

external to the Organization. Each contracting State undertakes fully to respect the international character of the responsibilities of the personnel and not to seek to influence any of its nationals in the discharge of their responsibilities.

## Article 60

### *Immunities and privileges of personnel*

Each contracting State undertakes, so far as possible under its constitutional procedure, to accord to the President of the Council, the Secretary General, and the other personnel of the Organization, the immunities and privileges which are accorded to corresponding personnel of the public international organizations. If a general international agreement on the immunities and privileges of international civil servants is arrived at, the immunities and privileges accorded to the President, the Secretary General, and the other personnel of the Organization shall be the immunities and privileges accorded under that general international agreement.

## CHAPTER XII

### FINANCE

## Article 61 \*

### *Budget and apportionment of expenses*

The Council shall submit to the Assembly annual budgets, annual statements of accounts and estimates of all receipts and expenditures. The Assembly shall vote the budgets with whatever modification it sees fit to prescribe, and, with the exception of assessments under Chapter XV to States consenting thereto, shall apportion the expenses of the Organization among the contracting States on the basis which it shall from time to time determine.

\* This is the text of the Article as amended by the Eighth Session of the Assembly on 14 June 1954; it entered into force on 12 December, 1956. As on 30 June, 2003 there were 136 contracting States party to this. India ratified it on 19 January, 1955. Under Article 94(a) of the Convention, the amended text is in force in respect of those States which have ratified the amendment. In respect of the States which have not ratified the amendment, the original text is still in force and, therefore, that text is reproduced below :

“The Council shall submit to the Assembly an annual budget, annual statements of accounts and estimates of all receipts and expenditures. The Assembly shall vote the budget with whatever modification it sees fit to prescribe, and, with the exception of assessments under Chapter XV to States consenting thereto, shall apportion the expenses of the Organization among the contracting States on the basis which it shall from time to time determine.”

**Article 62*****Suspension of voting power***

The Assembly may suspend the voting power in the Assembly and in the Council of any contracting State that fails to discharge within a reasonable period its financial obligations to the Organization.

**Article 63*****Expenses of delegations and other representatives***

Each contracting State shall bear the expenses of its own delegation to the Assembly and the remuneration, travel, and other expenses of any person whom it appoints to serve on the Council, and of its nominees or representatives on any subsidiary committees or commissions of the Organization.

**CHAPTER XIII****OTHER INTERNATIONAL  
ARRANGEMENTS****Article 64*****Security arrangements***

The Organization may, with respect to air matters within its competence directly affecting world security, by vote of the Assembly enter into appropriate arrangements with any general organization set up by the nations of the world to preserve peace.

**Article 65*****Arrangements with other international bodies***

The Council, on behalf of the Organization, may enter into agreements with other international bodies for the maintenance of common services and for common arrangements concerning personnel and, with the approval of the Assembly, may enter into such other arrangements as may facilitate the work of the Organization.

**Article 66*****Functions relating to other agreements***

(a) The Organization shall also carry out the functions placed upon it by the International

Air Services Transit Agreement and by the Inter-national Air Transport Agreement drawn up at Chicago on December 7, 1944, in accordance with the terms and conditions there in set forth.

(b) Members of the Assembly and the Council who have not accepted the International Air Services Transit Agreement of the International Air Transport Agreement drawn up at Chicago on 7 December 1944 shall not have the right to vote on any questions referred to the Assembly or Council under the provisions of the relevant Agreement.

**PART III****INTERNATIONAL AIR TRANSPORT****CHAPTER XIV****INFORMATION AND REPORTS****Article 67*****File reports with Council***

Each contracting State undertakes that its international airlines shall, in accordance with requirements laid down by the Council, file with the Council traffic reports, cost statistics and financial statements showing among other things all receipts and the sources thereof.

**CHAPTER XV****AIRPORTS AND OTHER AIR  
NAVIGATION FACILITIES****Article 68*****Designation of routes and airports***

Each contracting State may, subject to the provisions of this Convention, designate the route to be followed within its territory by any international air service and the airports which any such service may use.

**Article 69*****Improvement of air navigation facilities***

If the Council is of the opinion that the airports or other air navigation facilities, including radio and meteorological services,

of a contracting State are not reasonably adequate for the safe, regular, efficient, and economical operation of international air services, present or contemplated, the Council shall consult with the State directly concerned, and other States affected, with a view to finding means by which the situation may be remedied, and may make recommendations for that purpose. No contracting State shall be guilty of an infraction of this Convention if it fails to carry out these recommendations.

### **Article 70**

#### ***Financing of air navigation facilities***

A contracting State, in the circumstances arising under the provisions of Article 69, may conclude an arrangement with the Council for giving effect to such recommendations. The State may elect to bear all of the costs involved in any such arrangement. If the State does not so elect, the Council may agree, at the request of the State, to provide for all or a portion of the costs.

### **Article 71**

#### ***Provision and maintenance of facilities by Council***

If a contracting State so request, the Council may agree to provide, man, maintain, and administer any or all of the airports and other air navigation facilities including radio and meteorological services, required in its territory for the safe, regular, efficient and economical operation of the international air services of the other contracting States, and may specify just and reasonable charges for the use of the facilities provided.

### **Article 72**

#### ***Acquisition or use of land***

Where land is needed for facilities financed in whole or in part by the Council at the request of a contracting State, that State shall either provide the land itself, retaining title if it wishes, or facilitate the use of the land by the Council on just and reasonable terms and in accordance with the laws of the State concerned.

### **Article 73**

#### ***Expenditure and assessment of funds***

Within the limit of the funds which may be made available to it by the Assembly under Chapter XII, the Council may make current expenditures for the purposes of this Chapter from the general funds of the Organization. The Council shall assess the capital funds required for the purposes of this Chapter in previously agreed proportions over a reasonable period of time to the contracting State consenting thereto whose airlines use the facilities. The Council may also assess to States that consent any working funds that are required.

### **Article 74**

#### ***Technical assistance and utilization of revenues***

When the Council, at the request of a contracting State, advances funds or provides airports or other facilities in whole or in part, the arrangement may provide, with the consent of that State, for technical assistance in the supervision and operation of the airports and other facilities, and for the payment, from the revenues derived from the operation of the airports and other facilities of the operating expenses of the airports and the other facilities, and of interest and amortization charges.

### **Article 75**

#### ***Taking over of facilities from Council***

A contracting State may at any time discharge any obligation into which it has entered under Article 70, and take over airports and other facilities which the Council has provided in its territory pursuant to the provisions of Articles 71 and 72, by paying to the Council an amount which in the opinion of the Council is reasonable in the circumstances. If the State considers that the amount fixed by the Council is unreasonable it may appeal to the Assembly against the decision of the Council and the Assembly may confirm or amend the decision of the Council.

**Article 76*****Return of funds***

Funds obtained by the Council through reimbursement under Article 75 and from receipts of interest and amortization payments under Article 74 shall, in the case of advances originally financed by States under Article 73, be returned to the States which were originally assessed in the proportion of their assessments, as determined by the Council.

**CHAPTER XVI****JOINT OPERATING  
ORGANIZATIONS AND  
POOLED SERVICES****Article 77*****Joint operating organizations permitted***

Nothing in this Convention shall prevent two or more contracting States from constituting joint air transport operating organizations or international operating agencies and from pooling their air services on any routes or in any regions, but such organization or agencies and such pooled services shall be subject to all the provisions of this Convention, including those relating to the registration of agreements with the Council. The Council shall determine in what manner the provisions of this Convention relating to nationality of aircraft shall apply to aircraft operated by international operating agencies.

**Article 78*****Function of Council***

The Council may suggest to contracting States concerned that they form joint organizations to operate air services on any routes or in any regions.

**Article 79*****Participation in operating organizations***

A State may participate in joint operating organizations or in pooling arrangements, either through its government or through an airline company or companies designated by its

government. The companies may, at the sole discretion of the State concerned, be state-owned or party state-owned or privately owned.

**PART IV****FINAL PROVISIONS****CHAPTER XVII****OTHER AERONAUTICAL  
AGREEMENTS AND  
ARRANGEMENTS****Article 80*****Paris and Habana Conventions***

Each contracting State undertakes, immediately upon the coming into force of this Convention, to give notice of denunciation of the Convention relating to the Regulation of Aerial Navigation signed at Paris on October 13, 1919 or the Convention on Commercial Aviation signed at Habana on February 20, 1928, if it is a party to either. As between contracting States, this Convention supersedes the Conventions of Paris and Habana previously referred to.

**Article 81*****Registration of existing agreements***

All aeronautical agreements which are in existence on the coming into force of this Convention, and which are between a contracting State and any other State or between an airline of a contracting State and any other State or the airline of any other State, shall be forthwith registered with the Council.

**Article 82*****Abrogation of inconsistent arrangements***

The contracting States accept this Convention as abrogating all obligations and understandings between them which are inconsistent with its terms, and undertake not to enter into any such obligations and understandings. A contracting State which, before becoming a member of the Organization has undertaken any obligations toward a non-contracting State or a national of a contracting

State or a non-contracting State inconsistent with the terms of this Convention, shall take immediate steps to procure its release from the obligations. If an airline of any contracting State has entered into any such inconsistent obligations, the State of which it is a national shall use its best efforts to secure their termination forth with and shall in any event cause them to be terminated as soon as such action can lawfully be taken after the coming into force of this Convention.

### **Article 83**

#### ***Registration of new arrangements***

Subject to the provisions of the preceding Article, any contracting State may make arrangements not inconsistent with the provisions of this Convention. Any such arrangement shall be forthwith registered with the Council, which shall make it public as soon as possible.

### **Article 83 bis \***

#### ***Transfer of certain functions and duties***

(a) Notwithstanding the provisions of Article 12, 30, 31 and 32(a) when an aircraft registered in a contracting State is operated pursuant to an agreement for the lease, charter or interchange of the aircraft or any similar arrangement by an operator who has his principal place of business or, if he has no such place of business, his permanent residence in another contracting State, the State of registry may, by agreement with such other State, transfer to it all or part of its functions and duties as State of registry in respect of that aircraft under Articles 12, 30, 31 and 32(a). The State of registry shall be relieved of responsibility in respect of the functions and duties transferred.

(b) The transfer shall not have effect in respect of other contracting States before either the agreement between States in which it is embodied has been registered with the Council and made public pursuant to Article 83 or the existence and scope of the agreement have been directly communicated to the authorities of the other contracting State or States concerned by a State party to the agreement.

(c) The provisions of paragraph (a) and (b) above shall also be applicable to cases covered by Article 77.

## **CHAPTER XVIII**

### **DISPUTES AND DEFAULT**

#### **Article 84**

#### ***Settlement of disputes***

If any disagreement between two or more contracting States relating to the interpretation or application of this Convention and its Annexes cannot be settled by negotiation, it shall, on the application of any State concerned in the disagreement, be decided by the Council. No member of the Council shall vote in the consideration by the Council of any dispute to which it is a party. Any contracting State may, subject to Article 85, appeal from the decision of the Council to an ad hoc arbitral tribunal agreed upon with the other parties to the dispute or to the Permanent Court of International Justice. Any such appeal shall be notified to the Council within sixty days of receipt of notification of the decision of the Council.

#### **Article 85**

#### ***Arbitration procedure***

If any contracting State party to a dispute in which the decision of the Council is under

\* On 6 October 1980 the Assembly decided to amend the Chicago Convention by introducing Article 83 bis. Under Article 94(a) of the Convention the amendment came into force on 20 June 1997 in respect of States which ratified it.

As on 30 June, 2003 there were 139 contracting States party to it.

India ratified it on 5 August, 1994.

Next amendment was signed at Montreal on 10 May, 1984 which entered into force on 1 October, 1998. This has 125 States as party to it

India has not ratified it.

appeal has not accepted the Statute of the Permanent Court of International Justice and the contracting States parties to the dispute cannot agree on the choice of the arbitral tribunal, each of the contracting States parties to the dispute shall name a single arbitrator who shall name an umpire. If either contracting State party to the dispute fails to name an arbitrator within a period of three months from the date of the appeal, an arbitrator shall be named on behalf of that State by the President of the Council from a list of qualified and available persons maintained by the Council. If, within thirty days, the arbitrators cannot agree on an umpire, the President of the Council shall designate an umpire from the list previously referred to. The arbitrators and the umpire shall then jointly constitute an arbitral tribunal. Any arbitral tribunal established under this or the preceding Article shall settle its own procedure and give its decisions by majority vote, provided that the Council may determine procedural questions in the event of any delay which in the opinion of the Council is excessive.

### **Article 86**

#### *Appeals*

Unless the Council decides otherwise any decision by the Council on whether an international airline is operating in conformity with the provisions of this Convention shall remain in effect unless reversed on appeal. On any other matter, decisions of the Council shall, if appealed from, be suspended until the appeal is decided. The decisions of the Permanent Court of International Justice and of an arbitral tribunal shall be final and binding.

### **Article 87**

#### *Penalty for non-conformity of airline*

Each contracting State undertakes not to allow the operation of an airline of a contracting State through the airspace above its territory if the Council has decided that the airline concerned is not conforming to a final decision rendered in accordance with the previous Article.

### **Article 88**

#### *Penalty for non-conformity by State*

The Assembly shall suspend the voting power in the Assembly and in the Council of any contracting State that is found in default under the provisions of this Chapter.

## **CHAPTER XIX**

### **WAR**

### **Article 89**

#### *War and emergency conditions*

In case of war, the provisions of this Convention shall not affect the freedom of action of any of the contracting States affected, whether as belligerents or as neutrals. The same principle shall apply in the case of any contracting State which declares a state of national emergency and notifies the fact to the Council.

## **CHAPTER XX**

### **ANNEXES**

### **Article 90**

#### *Adoption and amendment of Annexes*

- (a) The adoption by the Council of the Annexes described in Article 54, subparagraph (1), shall require the vote of two-thirds of the Council at a meeting called for that purpose and shall then be submitted by the Council to each contracting State. Any such Annex or any amendment of an Annex shall become effective within three months after its submission to the contracting States or at the end of such longer period of time as the Council may prescribe, unless in the meantime a majority of the contracting States register their disapproval with the Council.
- (b) The Council shall immediately notify all contracting States of the coming into force of any Annex or amendment thereto.



**CHAPTER XXI****Article 93****RATIFICATIONS, ADHERENCES,  
AMENDMENTS, AND  
DENUNCIATIONS*****Admission of other States*****Article 91**

States other than those provided for in Articles 91 and 92 (a) may, subject to approval by any general international organization set up by the nations of the world to preserve peace, be admitted to participation in this Convention by means of a four-fifths vote of the Assembly and on such conditions as the Assembly may prescribe: provided that in each case the assent of any State invaded or attacked during the present war by the State seeking admission shall be necessary.

***Ratification of Convention***

(a) This Convention shall be subject to ratification by the signatory States. The instruments of ratification shall be deposited in the archives of the Government of the United States of America, which shall give notice of the date of the deposit to each of the signatory and adhering States.

**Article 93 bis \***

(b) As soon as this Convention has been ratified or adhered to by twenty-six States it shall come into force between them on the thirtieth day after deposit of the twenty-sixth instrument. It shall come into force for each State ratifying thereafter on the thirtieth day after the deposit of its instrument of ratification.

(a) Notwithstanding the provisions of Article 91, 92 and 93 above:

(c) It shall be the duty of the Government of the United States of America to notify the government of each of the signatory and adhering States of the date on which this Convention comes into force.

(1) A State whose government the General Assembly of the United Nations has recommended be debarred from membership in international agencies established by or brought into relationship with the United Nations shall automatically cease to be a member of the International Civil Aviation Organization;

**Article 92**

(2) A State which has been expelled from membership in the United Nations shall automatically cease to be a member of the International Civil Aviation Organization unless the General Assembly of the United Nations attaches to its act of expulsion a recommendation to the contrary.

***Adherence to Convention***

(a) This Convention shall be open for adherence by members of the United Nations and States associated with them, and States which remained neutral during the present world conflict.

(b) A State which ceases to be a member of the International Civil Aviation Organization as a result of the provisions of paragraph (a) above may, after approval by the General Assembly of the United Nations, be readmitted to the International Civil Aviation Organization upon application and upon approval by a majority of the Council.

(b) Adherence shall be effected by a notification addressed to the Government of the United States of America and shall take effect as from the thirtieth day from the receipt of the notification by the Government of the United States of America, which shall notify all the contracting States.

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\* Signed on 27 May, 1947. Came into force on 20 March, 1961  
As on 30 June, 2003 there were 105 contracting States party to this.  
India ratified it on 15 December, 1947.

(c) Members of the Organization which are suspended from the exercise of the right and privileges of membership in the United Nations shall, upon the request of the latter, be suspended from the rights and privileges of membership in this Organization.

### Article 94

#### *Amendment of Convention*

(a) Any proposed amendment to this Convention must be approved by a two-thirds vote of the Assembly and shall then come into force in respect of States which have ratified such amendment when ratified by the number of contracting States specified by the Assembly. The number so specified shall not be less than two-thirds of the total number of contracting States.

(b) If in its opinion the amendment is of such a nature as to justify this course, the Assembly in its resolution recommending adoption may provide that any State which has not ratified within a specified period after the amendment has come into force shall thereupon cease to be a member of the Organization and a party to the Convention.

### Article 95

#### *Denunciation of Convention*

(a) Any contracting State may give notice of denunciation of this Convention three years after its coming into effect by notification addressed to the Government of the United States of America, which shall at once inform each of the contracting States.

(b) Denunciation shall take effect one year from the date of the receipt of the notification and shall operate only as regards the State effecting the denunciation.

## CHAPTER XXII

### DEFINITIONS

#### Article 96

*For the purpose of this Convention the expression:*

- (a) "Air service" means any scheduled air service performed by aircraft for the public transport of passengers, mail or cargo.
- (b) "International air service" means an air service which passes through the air space over the territory of more than one State.
- (c) "Airline" means any air transport enterprise offering or operating an international air service.
- (d) "Stop for non-traffic purposes" means a landing for any purpose other than taking on or discharging passengers, cargo or mail.

### SIGNATURE OF CONVENTION

IN WITNESS WHEREOF, the undersigned plenipotentiaries, having been duly authorized, sign this Convention on behalf of their respective governments on the dates appearing opposite their signatures.

DONE at Chicago the seventh day of December 1944, in the English language. A text drawn up in the English, French and Spanish languages, each of which shall be of equal authenticity. These texts shall be deposited in the archives of the Government of the United States of America, and certified copies shall be transmitted by that Government to the governments of all the States which may sign or adhere to this Convention. This Convention shall be open for signature at Washington, D.C.\*

\* *This is the text of the final paragraph as amended by the 22nd Session of the Assembly on 30 September, 1977. It entered into force on 17 August, 1999. Under Article 94(a) of the Convention, the amended text is in force in respect of those States which have ratified the amendment. In respect of the States which have not ratified the amendment, the original text is still in force and, therefore, that text is reproduced below:*

*"DONE at Chicago the seventh day of December, 1944, in the English language. A text drawn up in the English, French and Spanish languages, each of which shall be of equal authenticity, shall be open for signature at Washington, D.C. Both texts shall be deposited in the archives of the Government of the United States of America, and certified copies shall be transmitted by that Government to the governments of all the States which may sign or adhere to this Convention."*

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**CHAPTER II**

**THE INTERNATIONAL AIR SERVICES  
TRANSIT AGREEMENT, 1944**

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## CHAPTER II

### THE INTERNATIONAL AIR SERVICES TRANSIT AGREEMENT\*

**SIGNED AT CHICAGO ON 7TH DECEMBER, 1944**

The States which sign and accept this International Air Services Transit Agreement, being members of the International Civil Aviation Organization, declare as follows :

#### Article I

##### Section 1

Each Contracting State grants to the other contracting States the following freedoms of the air in respect of scheduled international air services :

- (1) The privilege to fly across its territory without landing;
- (2) The privilege to land for non-traffic purposes.

The privileges of this section shall not be applicable with respect to airports utilized for military purposes to the exclusion of any scheduled international air services. In areas of active hostilities or of military occupation, and in time of war along the supply routes leading to such areas, the exercise of such privileges shall be subject to the approval of the competent military authorities.

##### Section 2

The exercise of the foregoing privileges shall be in accordance with the provisions of the Interim Agreement on International Civil Aviation and, when it comes into force, with the provisions of the Convention on

International Civil Aviation, both drawn up at Chicago on December 7, 1944.

##### Section 3

A Contracting State granting to the airlines of another Contracting State the privilege to stop for non-traffic purposes may require such airlines to offer reasonable commercial service at the points at which such stops are made.

Such requirement shall not involve any discrimination between airlines operating on the same route, shall take into account the capacity of the aircraft, and shall be exercised in such a manner as not to prejudice the normal operations of the international air services concerned or the rights and obligations of a Contracting State.

##### Section 4

Each Contracting State may, subject to the provisions of this Agreement,

- (1) designate the route to be followed within its territory by any international air service and the airports which any such service may use;
- (2) impose or permit to be imposed on any such service just and reasonable charges for the use of such airports and other facilities; these charges shall not be higher than would be paid for the use of such airports and facilities by its national aircraft engaged in similar international services provided that, upon represen-

\* *The Final Act of the International Civil Aviation Conference (Chicago, 1944) includes, inter alia, the International Air Services Transit Agreement by which non-traffic rights for scheduled services are exchanged multilaterally.*

*As on 30 June, 2002, 118 contracting States are parties to this Agreement.*

*India ratified it on 2 May, 1945*

tation by an interested Contracting State, the charges imposed for the use of airports and other facilities shall be subject to review by the Council of the International Civil Aviation Organization established under the above mentioned Convention, which shall report and make recommendations thereon for the consideration of the State or States concerned.

### *Section 5*

Each Contracting State reserves the right to withhold or revoke a certificate or permit to an air transport enterprise of another State in any case where it is not satisfied that substantial ownership and effective control are vested in nationals of a Contracting State, or in case of failure of such air transport enterprise to comply with the laws of the State over which it operates, or to perform its obligations under this Agreement.

## **Article II**

### *Section 1*

A Contracting State which deems that action by another Contracting State under this Agreement is causing injustice or hardship to it, may request the Council to examine the situation. The Council shall thereupon inquire into the matter, and shall call the States concerned into consultation. Should such consultation fail to resolve the difficulty, the Council may make appropriate findings and recommendations to the Contracting States concerned. If thereafter a Contracting State concerned shall in the opinion of the Council unreasonably fail to take suitable corrective action, the Council may recommend to the Assembly of the above-mentioned Organization that such Contracting State be suspended from its rights and privileges under this Agreement until such action has been taken. The Assembly by a two-thirds vote may so suspend such Contracting State for such period of time as it may deem proper or until the Council shall find that corrective action has been taken by such State.

## **Section 2**

If any disagreement between two or more Contracting States relating to the interpretation or application of this Agreement cannot be settled by negotiation, the provisions of Chapter XVIII of the above-mentioned Convention shall be applicable in the same manner as provided therein with reference to any disagreement relating to the interpretation or application of the above-mentioned Convention.

## **Article III**

This Agreement shall remain in force as long as the above-mentioned Convention; provided, however, that any Contracting State, a party to the present Agreement, may denounce it on one year's notice given by it to the Government of the United States of America, which shall at once inform all other contracting States of such notice and withdrawal.

## **Article IV**

Pending the coming into force of the above mentioned Convention, all references to it herein, other than those contained in Article II, Section 2, and Article V, shall be deemed to be references to the Interim Agreement on International Civil Aviation drawn up at Chicago on December 7, 1944; and references to the International Civil Aviation Organization, the Assembly, and the Council shall be deemed to be references to the Provisional International Civil Aviation Organization, the Interim Assembly, and Interim Council respectively.

## **Article V**

For the purposes of this Agreement "territory" shall be defined as in Article 2 of the above-mentioned Convention.

## **Article VI**

The undersigned delegates to the International Civil Aviation Conference, convened in Chicago on November 1, 1944, have affixed their signatures to this Agreement with the understanding that the Government of

the United States of America shall be informed at the earliest possible date by each of the governments on whose behalf the Agreement has been signed whether signature on its behalf shall constitute an acceptance of the Agreement by that government and an obligation binding upon it.

Any State a member of the International Civil Aviation Organization may accept the present Agreement as an obligation binding upon it by notification of its acceptance to the Government of the United States, and such acceptance shall become effective upon the date of the receipt of such notification by that Government.

This Agreement shall come into force as between Contracting States upon its acceptance by each of them. Thereafter it shall become binding as to each other State indicating its acceptance to the Government of the United States on the date of the receipt of the acceptance by that Government. The

Government of the United States shall inform all signatory and accepting States of the date of all acceptances of the Agreement, and of the date on which it comes into force for each accepting State.

IN WITNESS WHEREOF, the undersigned having been duly authorized, sign this agreement on behalf of their respective governments on the dates appearing opposite their respective signatures.

DONE at Chicago the seventh day of December, 1944, in the English language. A text drawn up in the English, French and Spanish languages, each of which shall be of equal authenticity,\* shall be opened for signature at Washington, D.C. Both texts shall be deposited in the archives of the Government of the United States of America, and certified copies shall be transmitted by that Government to the governments of all the States which may sign or accept this Agreement.

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\* *The Arrangement was signed in English at the International Civil Aviation Conference which took place at Chicago from 1 November to 7 December, 1944. No trilingual text has been opened for signature provided for in the Agreement.*

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**CHAPTER III**

**THE INTERNATIONAL AIR TRANSPORT  
AGREEMENT, 1944**

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## CHAPTER III

# THE INTERNATIONAL AIR TRANSPORT AGREEMENT\*

## SIGNED AT CHICAGO ON 7 DECEMBER, 1944

The States which sign and accept this International Air Transport Agreement, being members of the International Civil Aviation Organization, declare as follows :

### Article I

#### Section 1

Each contracting State grants to the other Contracting States the following freedoms of the air in respect of scheduled international air services:

1. The privilege to fly across its territory without landing;
2. The privilege to land for non-traffic purposes;
3. The privilege to put down passengers, mail and cargo taken on in the territory of the State whose nationality the aircraft possesses;
4. The privilege to take on passengers, mail and cargo destined for the territory of the State whose nationality the aircraft possesses;
5. The privilege to take on passengers, mail and cargo destined for the territory of any other Contracting State and the privilege to put down passengers, mail and cargo coming from any such territory.

With respect to the privileges specified under paragraphs (3), (4), and (5) of this section, the undertaking of each Contracting State relates only to through services on a route constituting a reasonably, direct line out from and back to the homeland of the State whose nationality the aircraft possesses.

The privileges of this section shall not be applicable with respect to airports utilized for military purposes to the exclusion of any scheduled international air services. In areas of active hostilities or of military occupation, and in time of war along the supply routes leading to such areas, the exercise of such privileges shall be subject to the approval of the competent military authorities.

#### Section 2

The exercise of the foregoing privileges shall be in accordance with the provisions of the Interim Agreement on International Civil Aviation and, when it comes into force, with the provisions of the Convention on International Civil Aviation, both drawn up at Chicago on December 7, 1944.

#### Section 3

A Contracting State granting to the airlines of another Contracting State the privilege to stop for non traffic purposes may require such airlines to offer reasonable commercial service at the points at which such stops are made.

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\* *The Final Act of the International Civil Aviation Conference (Chicago, 1944) also included the International Air Transport Agreement. This agreement for the multilateral exchange of rights came into force in 1945 for 19 States, 8 of which subsequently denounced it. One more State has since ratified the Agreement, making a total of 12 parties to the Agreement as on 30 June, 2002. India has not ratified this agreement. The text was drawn up in the English language and no translation has been formally adopted. The French, Spanish and Russian versions have been translated by the ICAO Secretariat.*

Such requirement shall not involve any discrimination between airlines operating on the same route, shall take into account the capacity of the aircraft, and shall be exercised in such a manner as not to prejudice the normal operations of the international air services concerned or the rights and obligations of any Contracting State.

#### ***Section 4***

Each Contracting State shall have the right to refuse permission to the aircraft of other Contracting States to take on in its territory passengers, mail and cargo carried for remuneration or hire and destined for another point within its territory. Each Contracting State undertakes not to enter into any arrangements which specifically grant any such privilege on an exclusive basis to any other State or an airline of any other State, and not to obtain any such exclusive privilege from any other State.

#### ***Section 5***

Each Contracting State may, subject to the provisions of this Agreement,

- (1) Designate the route to be followed within its territory by any international air service and the airports which any such service may use;
- (2) Impose or permit to be imposed on any such service just and reasonable charges for the use of such airports and other facilities; these charges shall not be higher than would be paid for the use of such airports and facilities by its national aircraft engaged in similar international services: provided that, upon representation by an interested Contracting State, the charges imposed for the use of airports and other facilities shall be subject to review by the Council of the International Civil Aviation Organization established under the above-mentioned Convention, which shall report and make recommendations thereon for the consideration of the State or States concerned.

#### ***Section 6***

Each Contracting State reserves the right to withhold or revoke a certificate or permit to an air transport enterprise of another State in any case where it is not satisfied that substantial ownership and effective control are vested in nationals of a contracting state, or in case of failure of such air transport enterprise to comply with the laws of the State over which it operates, or to perform its obligations under this Agreement.

### **Article II**

#### ***Section 1***

The Contracting States accept this Agreement as abrogating all obligations and understandings between them which are inconsistent with its terms, and undertake not to enter into any such obligations and understandings. A Contracting State which has undertaken any other obligations inconsistent with this Agreement shall take immediate steps to procure its release from the obligations. If an airline of any Contracting State has entered into any such inconsistent obligations, the State of which it is a national shall use its best efforts to secure their termination forthwith and shall in any event cause them to be terminated as soon as such action can lawfully be taken after the coming into force of this Agreement.

#### ***Section 2***

Subject to the provisions of the preceding section, any contracting State may make arrangements concerning international air services not inconsistent with this Agreement. Any such arrangement shall be forthwith registered with the Council, which shall make it public as soon as possible.

### **Article III**

Each Contracting State undertakes that in the establishment and operation of through services due consideration shall be given to the interests of the other Contracting States so as not to interfere unduly with their regional services or to hamper the development of their through services.

## **Article IV**

### ***Section 1***

Any Contracting State may by reservation attached to this Agreement at the time of signature or acceptance elect not to grant and receive the rights and obligations of Article 1, section 1, paragraph (5), and may at any time after acceptance, on six months' notice given by it to the Council, withdraw itself from such rights and obligations. Such Contracting state may on six months' notice to the Council assume or resume, as the case may be, such rights and obligations. No Contracting State shall be obliged to grant any rights under the said paragraph to any Contracting State not bound thereby.

### ***Section 2***

A Contracting State which deems that action by another Contracting State under this Agreement is causing injustice or hardship to it, may request the Council to examine the situation. The Council shall thereupon inquire into the matter, and shall call the States concerned into consultation. Should such consultation fail to resolve the difficulty, the Council may make appropriate findings and recommendations to the Contracting States concerned. If thereafter a Contracting State concerned shall in the opinion of the Council unreasonably fail to take suitable corrective action, the Council may recommend to the Assembly of the above - mentioned Organisation that such Contracting State be suspended from its rights and privileges under this Agreement until such action has been taken. The Assembly by a two-thirds vote may so suspend such Contracting State for such period of time as it may deem proper or until the Council shall find that corrective action has been taken by such State.

### ***Section 3***

If any disagreement between two or more Contracting States relating to the interpretation or application of this Agreement cannot be

settled by negotiation, the provisions of Chapter XVIII of the above-mentioned Convention shall be applicable in the same manner as provided therein with reference to any disagreement relating to the interpretation or application of the above-mentioned Convention.

## **ARTICLE V**

This Agreement shall remain in force as long as the above-mentioned Convention; provided, however, that any Contracting State, a party to the present Agreement, may denounce it on one year's notice given by it to the Government of the United States of America, which shall at once inform all other Contracting States of such notice and withdrawal.

## **Article VI**

Pending the coming into force of the above-mentioned Convention, all references to it herein other than those contained in Article IV, section 3, and Article VII shall be deemed to be references to the Interim Agreement on International Civil Aviation drawn up at Chicago on December 7, 1944; and references to the International Civil Aviation Organization, the Assembly, and the Council shall be deemed to be references to the Provisional International Civil Aviation Organization, the Interim Assembly, and the Interim Council, respectively.

## **Article VII**

For the purposes of this Agreement, "territory" shall be defined as in Article 2 of the above-mentioned Convention.

## **Article VIII**

### **Signatures and Acceptances of Agreement**

The undersigned Delegates to the International Civil Aviation Conference, convened in Chicago on November 1, 1944, have affixed their signatures to this Agreement with the understanding that the Government of the United States of America shall be informed at the earliest possible date of each of the

governments on whose behalf the Agreement has been signed whether signature on its behalf shall constitute an acceptance of the Agreement by that government and an obligation binding upon it.

Any State a member of the International Civil Aviation Organization may accept the present Agreement as an obligation binding upon it by notification of its acceptance to the Government of the United States, and such acceptance shall become effective upon the date of the receipt of such notification by that Government.

This Agreement shall come into force as between Contracting States upon its acceptance by each of them. Thereafter it shall become binding as to each other State indicating its acceptance to the Government of the United States on the date of the receipt of the acceptance by that Government. The Government of the United States shall inform all signatory and accepting States of the date of all acceptances of the Agreement, and of the date on which it comes into force for each accepting State.

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**CHAPTER IV**

**THE PROTOCOL ON THE AUTHENTIC TRILINGUAL  
TEXT OF THE CONVENTION ON INTERNATIONAL  
CIVIL AVIATION, 1944  
SIGNED AT BUENOS AIRES ON 24 SEPTEMBER, 1968**

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## CHAPTER IV

### THE PROTOCOL ON THE AUTHENTIC TRILINGUAL TEXT OF THE CONVENTION ON INTERNATIONAL CIVIL AVIATION (CHICAGO, 1944)\*

**SIGNED AT BUENOS AIRES ON 24 SEPTEMBER, 1968**

#### THE UNDERSIGNED GOVERNMENTS

CONSIDERING that the last paragraph of the Convention on International Civil Aviation, hereinafter called “the Convention”, provides that a text of the Convention, drawn up in the English, French and Spanish languages, each of which shall be of equal authenticity, shall be open for signature;

CONSIDERING that the Convention was opened for signature, at Chicago, on the seventh day of December 1944, in a text in the English language;

CONSIDERING, accordingly, that it is appropriate to make the necessary provision for the text to exist in three languages as contemplated in the Convention;

CONSIDERING that in making such provision, it should be taken into account that there exist amendments to the Convention in the English, French and Spanish languages, and that the text of the Convention in the French and Spanish languages should not incorporate those amendments because, in accordance with Article 94(a) of the Convention, each such amendment can come into force only in respect of any State which has ratified it;

HAVE AGREED as follows:

#### Article I

The text of the Convention in the French and Spanish languages annexed to this

Protocol, together with the text of the Convention in the English language, constitutes the text equally authentic in the three languages as specifically referred to in the last paragraph of the Convention.

#### Article II

If a State party to this Protocol has ratified or in the future ratifies any amendment made to the Convention in accordance with Article 94(a) thereof, then the text of such amendment in the English, French and Spanish languages shall be deemed to refer to the text, equally authentic in the three languages, which results from this Protocol.

#### Article III

(1) The States members of the International Civil Aviation Organization may become parties to this Protocol either by:

- (a) signature without reservation as to acceptance, or
- (b) signature with reservation as to acceptance followed by acceptance, or
- (c) acceptance.

(2) This Protocol shall remain open for signature at Buenos Aires until the twenty seventh day of September 1968 and thereafter at Washington, D.C.

\* Came into force on 24 October 1968.  
As on 30 June, 2002 there were 146 parties to it.  
India ratified it on 29 December, 1969.

(3) Acceptance shall be effected by the deposit of an instrument of acceptance with the Government of the United States of America.

(4) Adherence to or ratification or approval of this Protocol shall be deemed to be acceptance thereof.

#### **Article IV**

(1) This Protocol shall come into force on the thirtieth day after twelve States shall, in accordance with the provisions of Article III, have signed it without reservation as to acceptance or accepted it.

(2) As regards any State which shall subsequently become a party to this Protocol, in accordance with Article III, the Protocol shall come into force on the date of its signature without reservation as to acceptance or of its acceptance.

#### **Article V**

Any future adherence of a State to the Convention shall be deemed to be acceptance of this Protocol.

#### **Article VI**

As soon as this Protocol comes into force, it shall be registered with the United Nations and with the International Civil Aviation Organization by the Government of the United States of America.

#### **Article VII**

(1) This Protocol shall remain in force so long as the Convention is in force.

(2) This Protocol shall cease to be in force for a State only when that State ceases to be a party to the Convention.

#### **Article VIII**

The Government of the United States of America shall give notice to all States members of the International Civil Aviation Organization and to the Organization itself :

- (a) of any signature of this Protocol and the date thereof, with an indication whether the signature is with or without reservation as to acceptance;
- (b) of the deposit of any instrument of acceptance and the date thereof;
- (c) of the date on which this Protocol comes into force in accordance with the provisions of Article IV, paragraph 1.

#### **Article IX**

This Protocol, drawn up in the English, French and Spanish languages, each text being equally authentic, shall be deposited in the archives of the Government of the United States of America, which shall transmit duly certified copies thereof to the Government of the States members of the International Civil Aviation Organization.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, duly authorized, have signed this Protocol.

DONE AT Buenos Aires this twenty-fourth day of September, one thousand nine hundred and sixty-eight.

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**CHAPTER V**

**THE PROTOCOL ON THE AUTHENTIC  
QUADRILINGUAL TEXT OF THE CONVENTION ON  
INTERNATIONAL CIVIL AVIATION, 1968  
SIGNED AT MONTREAL ON 30 SEPTEMBER, 1977**

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## CHAPTER V

# THE PROTOCOL ON THE AUTHENTIC QUADRILINGUAL TEXT OF THE CONVENTION ON INTERNATIONAL CIVIL AVIATION (CHICAGO, 1944) \*

SIGNED AT MONTREAL ON 30 SEPTEMBER, 1977

### THE UNDERSIGNED GOVERNMENTS

CONSIDERING that the 21st Session of the Assembly of the International Civil Aviation Organization requested the Council of this Organization “to undertake the necessary measures for the preparation of the authentic text of the Convention on International Civil Aviation in the Russian language, with the aim of having it approved not later than the year 1977”;

CONSIDERING that the English text of the Convention on International Civil Aviation was opened for signature at Chicago on 7th December 1944;

CONSIDERING that, pursuant to the Protocol signed at Buenos Aires on 24 September 1968 on the authentic trilingual text of the Convention on International Civil Aviation done at Chicago, 7 December 1944, the text of the Convention on International Civil Aviation (hereinafter called the Convention) was adopted in the French and Spanish languages and, together with the text of the Convention in the English language, constitutes the text equally authentic in the three languages as provided for in the final clause of the Convention

CONSIDERING, accordingly, that it is appropriate to make the necessary provision for the text of the Convention to exist in the Russian language;

CONSIDERING that in making such provision account must be taken of the existing amendments to the Convention in the English, French and Spanish languages, the texts of which are equally authentic and that, according to Article 94(a) of the Convention, any amendment can come into force only in respect of any State which has ratified it;

HAVE AGREED as follows:

### Article I

The text of the Convention and of the amendments thereto in the Russian language annexed to this Protocol, together with the text of the Convention and of the amendments thereto in English, French and Spanish languages, constitutes the text equally authentic in the four languages.

### Article II

If a State party to this Protocol has ratified or in the future ratifies any amendment made to the Convention in accordance with Article 94(a) thereof, then the text of such amendment in the Russian, English, French and Spanish languages shall be deemed to refer to the text equally authentic in the four languages, which results from this Protocol.

### Article III

1. The States members of the International Civil Aviation Organization may become parties to this Protocol either by:

\* Came into force on 16 September, 1999.

As on 30 June, 2003 there were 77 contracting States party to it this.

India ratified it on 31 January, 1985.

- (a) signature without reservation as to acceptance, or
- (b) signature with reservation as to acceptance followed by acceptance, or
- (c) acceptance.

2. This Protocol shall remain open for signature at Montreal until the 5th of October 1977 and thereafter at Washington, D.C.

3. Acceptance shall be effected by the deposit of an instrument of acceptance with the Government of the United States of America.

4. Adherence to or ratification or approval of this Protocol shall be deemed to be acceptance thereof.

#### **Article IV**

1. This Protocol shall come into force on the thirtieth day after twelve States shall, in accordance with the provisions of Article III, have signed it without reservation as to acceptance or accepted it and after entry into force of the amendment to the final clause of the Convention, which provides that the text of the Convention in the Russian language is of equal authenticity.

2. As regards any State which shall subsequently become a party to this Protocol, in accordance with Article III, the Protocol shall come into force on the date of its signature without reservation as to acceptance or of its acceptance.

#### **Article V**

Any future adherence of a State to the Convention after this Protocol has entered into force shall be deemed to be acceptance of this Protocol.

#### **Article VI**

Acceptance by a State of this Protocol shall not be regarded as ratification by it of any amendment to this Convention.

#### **Article VII**

As soon as this Protocol comes into force, it shall be registered with the United Nations and with the International Civil Aviation Organization by the Government of the United States of America.

#### **Article VIII**

1. This Protocol shall remain in force so long as the Convention is in force.

2. This Protocol shall cease to be in force for a State only when that State ceases to be a party to the Convention.

#### **Article IX**

The Government of the United States of America shall give notice to all States members of the International Civil Aviation Organization and to the Organization itself :

- (a) of any signature of this Protocol and the date thereof, with an indication whether the signature is with or without reservation as to acceptance;
- (b) of the deposit of any instrument of acceptance and the date thereof;
- (c) of the date on which this Protocol comes into force in accordance with the provisions of Article IV, paragraph 1.

#### **Article X**

This Protocol, drawn up in the English, French, Russian and Spanish languages, each text being equally authentic, shall be deposited in the archives of the Government of the United States of America, which shall transmit duly certified copies thereof to the Government of the States members of the International Civil Aviation Organization.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, duly authorized, have signed this Protocol.

DONE AT Montreal this thirtieth day of September, one thousand nine hundred and seventy-seven.

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**CHAPTER VI**

**CONVENTION FOR THE UNIFICATION OF CERTAIN RULES  
RELATING TO INTERNATIONAL CARRIAGE BY AIR  
SIGNED AT WARSAW ON 12TH OCTOBER, 1929  
(THE WARSAW CONVENTION , 1929)**

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**CHAPTER VI**

**CONVENTION FOR THE UNIFICATION  
OF CERTAIN RULES RELATING TO  
INTERNATIONAL CARRIAGE BY AIR\***  
**SIGNED AT WARSAW ON 12TH OCTOBER, 1929**  
**(THE WARSAW CONVENTION , 1929)**

**CHAPTER I**  
**SCOPE—DEFINITIONS**

**Article 1**

1. This Convention applies to all international carriage of persons, luggage or goods performed by aircraft for reward. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.

2. For the purposes of this Convention the expression “international carriage” means any carriage in which, according to the contract made by the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the territories of two High Contracting Parties, or within the territory of single High Contracting Party, if there is an agreed stopping place within a territory subject to the sovereignty, suzerainty, mandate or authority of another Power, even though that Power is not a party to this Convention. A carriage without such an agreed stopping place between territories subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party is not deemed to be international for the purposes of this Convention.

3. A carriage to be performed by several successive air carriers is deemed, for the purposes of this Convention, to be one undivided carriage, if it has been regarded by the parties as a single operation, whether it had

been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within a territory subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party.

**Article 2**

1. This Convention applies to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.

2. This Convention does not apply to carriage performed under the terms of any international postal Convention.

**CHAPTER II**  
**DOCUMENTS OF CARRIAGE**

**Section 1 – Passenger Ticket**

**Article 3**

1. For the carriage of passengers the carrier must deliver a passenger ticket which shall contain the following particulars:—

- (a) the place and date of issue;
- (b) the place of departure and of destination;
- (c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right, the alteration shall not have the

\* *This Convention came into force on 13 February, 1933.  
As on 30 June, 2003 there were 157 States party to it.*

effect of depriving the carriage of its international character;

- (d) the name and address of the carrier of carriers;
- (e) a statement that the carriage is subject to the rules relating to liability established by this Convention.

2. The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage, which shall none the less be subject to the rules of this Convention. Nevertheless, if the carrier accepts a passenger without a passenger ticket having been delivered he shall not be entitled to avail himself of those provisions of this Convention which exclude or limit his liability.

## **Section 2 – Luggage Ticket**

### **Article 4**

1. For the carriage of luggage, other than small personal objects of which the passenger takes charge himself, the carrier must deliver a luggage ticket.

2. The luggage ticket shall be made out in duplicate, one part for the passenger and the other part for the carrier.

3. The luggage ticket shall contain the following particulars :—

- (a) the place and date of issue;
- (b) the place of departure and of destination;
- (c) the name and address of the carrier or carriers;
- (d) the number of the passenger ticket;
- (e) a statement that delivery of the luggage will be made to the bearer of the luggage ticket;
- (f) the number and weight of the packages;
- (g) the amount of the value declared in accordance with Article 22(2);
- (h) a statement that the carriage is subject to the rules relating to liability established by this Convention.

4. The absence, irregularity or loss of the luggage ticket does not affect the existence or

the validity of the contract of carriage, which shall none the less be subject to the rules of this Convention. Nevertheless, if the carrier accepts luggage without a luggage ticket having been delivered, or if the luggage ticket does not contain the particulars set at (d), (f) and (h) above, the carriers shall not be entitled to avail himself of those provisions of the Convention which exclude or limit his liability.

## **Section 3 – Air Consignment Note**

### **Article 5**

1. Every carrier of goods has the right to require the consignor to make out and hand over to him a document called an “air consignment note”; every consignor has the right to require the carrier to accept this document.

2. The absence, irregularity or loss of this document does not affect the existence or the validity of the contract of carriage which shall, subject to the provisions of Article 9, be none the less governed by the rules of this Convention.

### **Article 6**

1. The air consignment note shall be made out by the consignor in three original parts and be handed over with the goods.

2. This first part shall be marked “for the carrier”, and shall be signed by the consignor. The second part shall be marked “for the consignee; it shall be signed by the consignor and by the carrier and shall accompany the goods. The third part shall be signed by the carrier and handed by him to the consignor after the goods have been accepted.

3. The carrier shall sign on acceptance of goods.

4. The signature of the carrier may be stamped; that of the consignor may be printed or stamped.

5. If, at the request of the consignor, the carrier makes out the air consignment note, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the Consignor.

### Article 7

The carrier of goods has the right to require the consignor to make out separate consignments notes when there is more than one package.

### Article 8

The air consignment note shall contain the following particulars:—

- (a) the place and date of its execution;
- (b) the place of departure and of destination;
- (c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right the alteration shall not have the effect of depriving the carriage of its international character;
- (d) the name and address of the consignor;
- (e) the name and address of the first carrier;
- (f) the name and address of the consignee, if the case so requires;
- (g) the nature of the goods;
- (h) the number of the packages, the method of packing and the particular marks or number upon them;
- (i) the weight, the quantity and the volume or dimensions of the goods;
- (j) the apparent condition of the goods and of the packing;
- (k) the freight, if it has been agreed upon, the date and place of payment, and the person who is to pay it;
- (l) if the goods are sent for payment on delivery, the price of the goods, and, if the case so requires, the amount of the expenses incurred;
- (m) the amount of the value declared in accordance with Article 22(2);
- (n) the number of parts of the air consignment note;
- (o) the documents handed to the carrier to accompany the air consignment note;

(p) the time fixed for the completion of the carriage and a brief note of the route to be followed, if these matters have been agreed upon;

(q) a statement that the carriage is subject to the rules relating to liability established by this Convention.

### Article 9

If the carrier accepts goods without an air consignment note having been made out, or if the air consignment note does not contain all the particulars set out in Article 8(a) to (i) inclusive and (q), the carrier shall not be entitled to avail himself of the provisions of this Convention which exclude or limit his liability.

### Article 10

1. The consignor is responsible for the correctness of the particulars and statements relating to the goods which he inserts in the air consignment note.

2. The consignor will be liable for all damage suffered by the carrier or any other person by reason of the irregularity, incorrectness or in-completeness of the said particulars and statements.

### Article 11

1. The air consignment note is prima facie evidence of the conclusion of the contract, of the receipt of the goods and of the conditions of carriage.

2. The statement in the air consignment note relating to the weight, dimensions and packing of the goods, as well as those relating to the number of packages, are prima facie evidence of the facts stated; those relating to the quantity, volume and condition of the goods do not constitute evidence against the carrier except so far as they both have been, and are stated in the air consignment note to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the goods.

### Article 12

1. Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the goods by withdrawing them at the aerodrome of departure or destination, or by stopping them in the course of the journey on any landing, or by calling for them to be delivered at the place of destination or in the course of the journey to a person other than the consignee named in the air consignment note, or by requiring them to be returned to the aerodrome of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier occasioned by the exercise of this right.

2. If it is impossible to carry out the orders of the consignor the carrier must so inform him forth with.

3. If the carrier obeys the orders of the consignor for, the disposition of the goods without requiring the production of the part of the air consignment note delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of air consignment note.

4. The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13. Nevertheless, if the consignee declines to accept the consignment note or the goods, or if he cannot be communicated with, the consignor resumes his right of disposition.

### Article 13

1. Except in the circumstances set out in the preceding Article, the consignee is entitled, on arrival of the goods at the place of destination to require the carrier to hand over to him the air consignment note and to deliver the goods to him, on payment of the charges due and on complying with the conditions of carriage set out in the air consignment note.

2. Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the goods arrive.

3. If the carrier admits the loss of the goods, or if the goods have not arrived at the expiration of seven days after the date on which they ought to have arrived, the consignee is entitled to put into force against the carrier the right which flow from the contract of carriage.

### Article 14

The consignor and the consignee can respectively enforce all the rights given them by Article 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

### Article 15

1. Article 12, 13 and 14 do not affect either the relations of the consignor or the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.

2. The provisions of Article 12, 13 and 14 can only be varied by express provision in the air consignment note.

### Article 16

1. The consignor must furnish such information and attach to the air consignment note such document as are necessary to meet the formalities of customs, octroi or police before the goods can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents unless the damage is due to the fault of the carrier or his agents.

2. The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

## CHAPTER III

### LIABILITY OF THE CARRIER

#### Article 17

The carrier is liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused

the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

### **Article 18**

1. The carrier is liable for damage sustained in the event of the destruction or loss of, or of damage to, any registered luggage or any goods, if the occurrence which caused the damage so sustained took place during the carriage by air.

2. The carriage by air within the meaning of the preceding paragraph comprises the period during which the luggage or goods are in charge of the carrier, whether in an aerodrome or on board an aircraft, or, in the case of a landing outside an aerodrome, in any place whatsoever.

3. The period for the carriage by air does not extend to any carriage by land, by sea or by river performed outside an aerodrome. If, however, such a carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.

### **Article 19**

The carrier is liable for damage occasioned by delay in the carriage by air of passengers, luggage or goods.

### **Article 20**

1. The carrier is not liable if he proves that he and his agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

2. In the carriage of goods and luggage the carrier is not liable if he proves that the damage was occasioned by negligent pilotage or negligence in the handling of the aircraft or in navigation and that in all other respects, he and his agents have taken all necessary measures to avoid the damage.

### **Article 21**

If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person the Court may, in accordance with the provisions of its own law, exonerate the carrier wholly or partly from his liability.

### **Article 22**

1. In the carriage of passengers the liability of the carrier for each passenger is limited to the sum of 125,000 francs. Where, in accordance with the law of the Court seized of the case, damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed 125,000 francs. Nevertheless, by special contract, the carrier and the passenger may, agree to a higher limit of liability.

2. In the carriage of registered luggage and of goods, the liability of the carrier is limited to a sum of 250 francs per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of the value at delivery and has paid a supplementary sum if the case so require on that case the carrier will be liable to pay a sum not exceeding the declared sum unless he proves that that sum is greater than the actual value to the consignor at delivery.

3. As regard objects of which the passenger takes charge himself the liability of the carrier is limited to 5,000 francs per passenger.

4. The sums mentioned above shall be deemed to refer to the French francs consisting of 65½ milligrams gold of millesimal fineness 900. These sums may be converted into any national currency in round figures.

### **Article 23**

Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the

whole contract, which shall remain subject to the provisions of this Convention.

### **Article 24**

1. In the cases covered by Article 18 and 19 any action for damages, however founded, can only be brought subject to the conditions and limits set out in this Convention.

2. In the cases covered by Article 17 the provisions of the preceding paragraph also apply, without prejudice to the questions as to who are the person who have the right to bring suit and what are their respective right.

### **Article 25**

1. The carrier shall not be entitled to avail him self of the provisions of this Convention which exclude or limit his liability, if the damage is caused by his wilful misconduct or by such default on his part as, in accordance with the law of the Court seized of the case, is considered to be equivalent to wilful misconduct.

2. Similarly the carrier shall not be entitled to avail himself of the said provision, if the damage is caused as aforesaid by any agent of the carrier acting within the scope of his employment.

### **Article 26**

1. Receipt by the person entitled to delivery of luggage or goods without complaint is prima facie evidence that the same have been delivered in good condition and in accordance with the document of carriage.

2. In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within three days from the date of receipt in the case of luggage and seven days from the date of receipt in the case of goods. In the case of delay the complaint must be made at the latest within fourteen days from the date on which the luggage or goods have been placed at his disposal.

3. Every complaint must be made in writing upon the document of carriage or by separate

notice in writing despatched within the times aforesaid.

4. Failing complaint within the times aforesaid no action shall lie against the carrier, save in the case of fraud on his part.

### **Article 27**

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his estate.

### **ARTICLE 28**

1. An action for damages must be brought, at the option of the plaintiff, in the territory of one of the High Contracting Parties, either before the Court having jurisdiction where the carrier is ordinarily resident, or has his principal place of business, or has an establishment by which the contract has been made or before the Court having jurisdiction at the place of destination.

2. Questions of procedure shall be governed by the law of the Court seized of the case.

### **Article 29**

1. The right to damages shall be extinguished if an action is not brought within two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

2. The method of calculating the period of limitation shall be determined by the law of the Court seized of case.

### **Article 30**

1. In the case of carriage to be performed by various successive carriers and falling within the definition set out in the third paragraph of Article 1, each carrier who accepts passengers, luggage or goods is subjected to the rules set out in this Convention of the contracting parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under his supervision.

2. In the case of carriage of this nature, the passenger or his representative can take action only against the carrier who performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assured liability for the whole journey.

3. As regards luggage or goods, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier who performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

#### CHAPTER IV

### PROVISIONS RELATING TO COMBINED CARRIAGE

#### Article 31

1. In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Convention apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.

2. Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

#### CHAPTER V

### GENERAL AND FINAL PROVISIONS

#### Article 32

Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be

applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the carriage of goods arbitration clauses are allowed, subject to this Convention, if the arbitration is to take place within one of the jurisdictions referred to in the first paragraph of Article 28.

#### Article 33

Nothing contained in this Convention shall prevent the carrier either from refusing to enter into any contract of carriage, or from making regulations which do not conflict with the provisions of the Convention.

#### Article 34

This Convention does not apply to international carriage by air performed by way of experimental trial by air navigation undertakings with the view to the establishment of a regular line of air navigation, nor does it apply to carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business.

#### Article 35

The expression "days" when used in the Convention means current days not working days.

#### Article 36

The Convention is drawn up in French in a single copy which shall remain deposited in the archives of the Ministry for Foreign Affairs of Poland and of which one duly certified copy shall be sent by the Polish Government to the Government of each of the High Contracting Parties.

#### Article 37

1. This Convention shall be ratified. The instruments of ratification shall be deposited in the archives of the Ministry for Foreign Affairs of Poland, which will notify the deposit to the Government of each of the High Contracting Parties.

2. As soon as this Convention shall have been ratified by five of the High Contracting

Parties it shall come into force as between them on the ninetieth day after the deposit of the fifth ratification. Thereafter it shall come into force between the High Contracting Parties who shall have ratified and the High Contracting Party who deposits his instrument of ratification on the ninetieth day after the deposit.

3. It shall be the duty of the Government the Republic of Poland to notify to the Government of each of the High Contracting Parties the date on which this Convention comes into force as well as the date of the deposit of each ratification.

### **Article 38**

1. This Convention shall, after it has come into force, remain open for accession by any State.

2. The accession shall be effected by a notification addressed to the Government of the Republic of Poland, which will inform the Government of each of the High Contracting Parties thereof.

3. The accession shall take effect as from the ninetieth day after the notification made to the Government of the Republic of Poland.

### **Article 39**

1. Any one of the High Contracting Parties may denounce this Convention by a notification addressed to the Government of the Republic of Poland, which will at once inform the Government of each of the High Contracting Parties.

2. Denunciation shall take effect six months after the notification of denunciation, and shall operate only as regards the Party who shall have proceeded to denunciation.

### **Article 40**

1. Any High Contracting Party may, at the time of signature or of deposit of ratification or of accession declare that the acceptance which he gives to this Convention does not

apply to all or any of his colonies, protectorates, territories under mandate or any other territory subject to his sovereignty or his authority, or any territory under his suzerainty.

2. Accordingly any High Contracting Party may subsequently accede separately in the name of all or any of his colonies, protectorates, territories under mandate or any other territory subject to his sovereignty or to his authority or any territory under his suzerainty which has been thus excluded by his original declaration.

3. Any High Contracting Party may denounce this Convention, in accordance with its provisions, separately or for all or any of his colonies, protectorates, territories under mandate or any other territory subject to his sovereignty or to his authority, or any other territory under his suzerainty.

### **Article 41**

Any High Contracting Party shall be entitled not earlier than two years after the coming into force of this Convention to call for the assembling of a new international Conference in order to consider any improvements which may be made in this Convention. To this end he will communicate with the Government of the French Republic which will take the necessary measures to make preparations for such Conference.

This Convention done at Warsaw on the 12th October, 1929, shall remain open for signature until the 31st January, 1930.

### **ADDITIONAL PROTOCOL**

(With reference of Article 2)

The High Contracting Parties reserve to themselves the right to declare at the time of ratification or of accession that the first paragraph of Article 2 of this Convention shall not apply to international carriage by air performed directly by the State, its colonies, protectorates or mandated territories by any other territory under its sovereignty, suzerainty or authority.



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**CHAPTER VII**

**THE PROTOCOL SIGNED AT THE HAGUE ON  
28TH SEPTEMBER, 1955 TO AMEND THE CONVENTION  
FOR THE UNIFICATION OF CERTAIN RULES RELATING  
TO INTERNATIONAL CARRIAGE BY AIR  
SIGNED AT WARSAW ON 12 OCTOBER, 1929**

**(THE HAGUE PROTOCOL, 1955)**

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## CHAPTER VII

### THE PROTOCOL SIGNED AT THE HAGUE ON 28TH SEPTEMBER, 1955 TO AMEND THE CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR

SIGNED AT WARSAW ON 12 OCTOBER, 1929

(THE HAGUE PROTOCOL, 1955) \*

THE GOVERNMENTS UNDERSIGNED

CONSIDERING that it is desirable to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12 October,

HAVE AGREED as follows:

#### CHAPTER I

#### AMENDMENTS TO THE CONVENTION

##### Article I

Article 1 of the Convention —

(a) paragraph 2 shall be deleted and replaced by the following:—

“2. For the purpose of this Convention, the expression *international carriage* means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the territories of two High Contracting Parties or within the territory of a single High Contracting Party if there is an agreed stopping place within the territory of another State, even if that State is not a High Contracting Party. Carriage between two points within the territory of a single High Contracting

Party without an agreed stopping place within the territory of another State is not international carriage for the purposes of this Convention.”

(b) paragraph 3 shall be deleted and replaced by the following:—

“3. Carriage to be performed by several successive air carriers is deemed, for the purposes of this Convention, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within the territory of the same State.”

##### Article II

In Article 2 of the Convention —

paragraph 2 shall be deleted and replaced by the following:—

“2. This Convention shall not apply to carriage of mail and postal packages.”

##### Article III

In Article 3 of the Convention —

(a) paragraph 1 shall be deleted and replaced by the following :—

\* *Treaty Series No.11 (1933), Cmd. 4284. Entered into force on 1 January, 1963*  
*As on 30 June, 2002 there were 133 States party to it.*  
*India has ratified it*

“1. In respect of the carriage of passengers a ticket shall be delivered containing:

- (a) an indication of the places of departure and destination;
- (b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;
- (c) a notice to the effect that, if the passenger’s journey involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers for death or personal injury and in respect of loss of or damage to baggage”.

(b) paragraph 2 shall be deleted and replaced by the following:—

“2. The passenger ticket shall constitute *prima facie* evidence of the conclusion and conditions of the contract of carriage. The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to the rules of this Convention. Nevertheless, if with the consent of the carrier, the passenger embarks without a passenger ticket having been delivered, or if the ticket does not include the notice required by paragraph 1(c) of this Article, the carrier shall not be entitled to avail him-self of the provisions of Article 22.”

#### Article IV

In Article 4 of the Convention —

(a) paragraphs 1,2 and 3 shall be deleted and replaced by the following :—

“1. In respect of the carriage of registered baggage, a baggage check shall be delivered, which, unless combined with or incorporated in a passenger ticket which complies with the provision of Article 3, paragraph 1, shall contain:

- (a) an indication of the places of departure and destination;
- (b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;
- (c) a notice to the effect that, if the carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers in respect of loss of or damage to baggage.”

(b) paragraph 4 shall be deleted and replaced by the following :—

“2. The baggage check shall constitute *prima facie* evidence of the registration of the baggage and of the conditions of the contract of carriage. The absence, irregularity or loss of the baggage check does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to the rules of this Convention. Nevertheless, if the carrier takes charge of the baggage without a baggage check having been delivered or if the baggage check (unless combined with or incorporated in the passenger ticket which complies with the provisions of Article 3, paragraph 1(c) does not include the notice required by paragraph 1(c) of this Article, he shall not be entitled to avail himself of the provisions of Article 22, paragraph 2.”

#### Article V

In Article 6 of the Convention —

paragraph 3 shall be deleted and replaced by the following :—

“3. The carrier shall sign prior to the loading of the cargo on board the aircraft.”

**Article VI**

Article 8 of the Convention shall be deleted and replaced by the following:—

“The air way bill shall contain;

- (a) an indication of the places of departure and destination;
- (b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;
- (c) a notice to the consignor to the effect that, if the carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers in respects of loss of or damage to cargo.”

**Article VII**

Article 9 of the Convention shall be deleted and replaced by the following:—

“If, with the consent of the carrier, cargo is loaded on board the aircraft without an air waybill having been made out, or if the air waybill does not include the notice required by Article 8, paragraph (c), the carrier shall not be entitled to avail himself of the provisions of Article 22, paragraph 2.”

**Article VIII**

In Article 10 of the Convention —

paragraph 2 shall be deleted and replaced by the following :—

- “2. The consignor shall indemnify the carrier against all damage suffered by him, or any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor.”

**Article IX**

To Article 15 of the Convention —

the following paragraph shall be added:—

- “3. Nothing in this Convention prevents the issue of a negotiable air waybill.”

**Article X**

Paragraph 2 of Article 20 of the Convention shall be deleted.

**Article XI**

Article 22 of the Convention shall be deleted and replaced by the following :—

“Article 22

1. In the carriage of persons the liability of the carrier for each passenger is limited to the sum of two hundred and fifty thousand francs. Where, in accordance with the law of court seised of the case, damages may be awarded in the form of periodical payments, the equivalent capital value of the said payment shall not exceed two hundred and fifty thousand francs. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.
- 2.(a) In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of two hundred and fifty francs per kilogram, unless the passenger or consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that sum is greater than the passenger’s or consignor’s actual interest in delivery at destination.
- (b) In the case of loss, damage or delay of part of registered baggage or cargo, or of any object contained therein, the

weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of a part of the registered baggage or cargo, or of an object contained therein, affects the value of other packages covered by the same baggage check or the same air waybill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

3. As regards objects of which the passenger takes charge himself the liability of the carrier is limited the liability of the carrier is limited to five thousand francs per passenger.
4. The limits prescribed in this article shall not prevent the court from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff. The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.
5. The sums mentioned in francs in this Article shall be deemed to refer to a currency unit consisting of sixty-five and a half milligrams of gold of millesimal fineness nine hundred. These sums may be converted into national currencies in round figures. Conversion of the sums into national currencies other than gold shall, in case of judicial proceedings be made according to the gold value of such currencies at the date of the judgment."

## Article XII

In Article 23 of the Convention, the existing provision shall be renumbered as paragraph 1 and another paragraph shall be added as follows:—

- "2. Paragraph 1 of this Article shall not apply to provisions governing loss or damage resulting from the inherent defect, quality or vice of the cargo carried."

## Article XIII

In Article 25 of the Convention —

Paragraphs 1 and 2 shall be deleted and replaced by the following:—

"The limits of liability specified in Article 22 shall not apply if it is proved that the damage resulted from an act or omission of the carrier, his servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result: provided that, in the case of such act or omission of a servant or agent, it is also proved that he was acting within the scope of his employment."

## Article XIV

After Article 25 of the Convention, the following article shall be inserted :—

*"Article 25 A*

1. If an action is brought against a servant or agent of the carrier arising out of damage to which this Convention relates, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the limits of liability which that carrier himself is entitled to invoke under Article 22.
2. The aggregate of the amounts recoverable from the carrier, his servants and agents, in that case, shall not exceed the said limits.

3. The provisions of paragraphs 1 and 2 of this article shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.”

### **Article XV**

In Article 26 of the Convention —

paragraph 2 shall be deleted and replaced by the following :—

- “2. In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within seven days from the date of receipt in the case of baggage and fourteen days from the date of receipt in the case of cargo. In the case of delay the complaint, must be made at the latest within twenty-one days from the date on which the baggage or cargo have been placed at his disposal.”

### **Article XVI**

Article 34 of the Convention shall be deleted and replaced by the following:—

“The provisions of Article 3 to 9 inclusive relating to documents of carriage shall not apply in the case of carriage performed in extra ordinary circumstances outside the normal scope of an air carrier’s business.”

### **Article XVII**

After Article 40 of the Convention, the following Article shall be inserted:—

“Article 40 A

1. In Article 37, paragraph 2 and Article 40, paragraph 1, the expression *High Contracting Party* shall mean *State*. In all other cases, the expression *High Contracting Party* shall mean a State whose ratification of or adherence to the Convention has become effective

and whose denunciation thereof has not become effective.

2. For the purpose of the Convention the word *territory* means not only the metropolitan territory of State but also all other territories for the foreign relations of which that State is responsible.”

## **CHAPTER II**

### **SCOPE OF APPLICATION OF THE CONVENTION AS AMENDED**

#### **Article XVIII**

The Convention as amended by this Protocol shall apply to international carriage as defined in Article 1 of the Convention, provided that the places of departure and destination referred to in that Article are situated either in the territories of two parties to this Protocol or within the territory of a single party to this Protocol with an agreed stopping place within the territory of an other State.

## **CHAPTER III**

### **FINAL CLAUSES**

#### **Article XIX**

As between the Parties to this Protocol, the Convention and the Protocol shall be read and interpreted together as one single instrument and shall be known as the *Warsaw Convention as amended* at The Hague, 1955.

#### **Article XX**

Until the date on which this Protocol comes into force in accordance with the provisions of Article XXII, paragraph 1, it shall remain open for signature on behalf of any State which up to that date has ratified or adhered to the Convention or which has participated in the Conference at which this Protocol was adopted.

#### **Article XXI**

1. This Protocol shall be subject to ratification by the signatory States.

2. Ratification of this Protocol by any State which is not a Party to the Convention shall have the effect of adherence to the Convention as amended by this Protocol.

3. The instruments of ratification shall be deposited with the Government of the People's Republic of Poland.

### **Article XXII**

1. As soon as thirty signatory States have deposited their instruments of ratification of this Protocol, it shall come into force between them on the ninetieth day after the deposit of the thirtieth instrument of ratification\*. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this Protocol comes into force it shall be registered with the United Nations by the Government of the People's Republic of Poland.

### **Article XXIII**

1. This Protocol shall, after it has come into force, be open for adherence by any non-signatory State.

2. Adherence to this Protocol by any State which is not a Party to the Convention shall have the effect of adherence to the Convention as amended by this Protocol.

3. Adherence shall be effected by the deposit of an instrument of adherence with the Government of the People's Republic of Poland and shall take effect on the ninetieth day after the deposit.

### **Article XXIV**

1. Any Party to this Protocol may denounce the Protocol by notification addressed to the Government of the People's Republic of Poland.

2. Denunciation shall take effect six months after the date of receipt by the Government of the People's Republic of Poland of the notification of denunciation.

3. As between of Parties to this Protocol, denunciation by any of them of the Convention in accordance with Article 39 thereof shall not be construed in any way as a denunciation of the Convention as amended by this Protocol.

### **Article XXV**

1. This Protocol shall apply to all territories for the foreign relations of which a State Party to this Protocol is responsible, with the exception of territories in respect of which a declaration has been made in accordance with paragraph 2 of this Article.

2. Any State may, at the time of deposit of its instrument of ratification or adherence, declare that its acceptance of this Protocol does not apply to any one or more of the territories for the foreign relations of which such State is responsible.

3. Any State may subsequently, by notification to the Government of the People's Republic of Poland, extend to application of this Protocol to any or all of the territories regarding which it has made a declaration in accordance with paragraph 2 of this Article. The notification shall take effect on the ninetieth day after its receipt by that Government.

4. Any State Party to this Protocol may denounce it, in accordance with the provisions of Article XXIV, paragraph 1, separately for any or all of the territories for the foreign relations of which such State is responsible.

### **Article XXVI**

No reservation may be made to this Protocol except that a State may at any time declare by notification addressed to the Government of the People's Republic of Poland that the Convention as amended by this Protocol shall not apply to the carriage of persons, cargo and baggage for its military authorities on aircraft, registered in that State, the whole capacity of which has been reserved by or on behalf of such authorities.

\* The protocol came into force on 1 August, 1963.



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**Article XXVII**

The Government of the People's Republic of Poland shall give immediate notice to the Governments of all States signatories to the Convention or this Protocol, all States Parties to the Convention or this Protocol, and all States Members of the International Civil Aviation Organization or of the United Nations and to the International Civil Aviation Organization:

- (a) of any signature of this Protocol and the date thereof;
- (b) of the deposit of any instrument or ratification or adherence in respect of this Protocol and the date thereof;
- (c) of the date on which this protocol comes into force in accordance with Article XXII, paragraph I;
- (d) of the receipt of any notification of denunciation and the date thereof;
- (e) of the receipt of any declaration or notification made under Article XXV and the date thereof; and

(f) of the receipt of any notification made under Article XXVI and the date thereof.

In WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

DONE at The Hague on the twenty-eighth day of the month of September of the year one Thousand Nine Hundred and Fifty-five, in three authentic texts in the English, French and Spanish languages. In the case of any inconsistency, the text in the French language, in which language the Convention was drawn up, shall prevail.

This Protocol shall be deposited with the Government of the People's Republic of Poland with which, in accordance with Article XX, it shall remain open for signature, and that Government shall send certified copies thereof to the Government of all States signatories to the Convention or this Protocol, all States Parties to the Convention or this Protocol, and all States Members of the International Civil Aviation Organization or of the United Nations, and to the International Civil Aviation Organization.

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## CHAPTER VIII

**THE PROTOCOL SIGNED AT GUATEMALA CITY ON  
8TH MARCH, 1971, TO AMEND THE CONVENTION  
FOR THE UNIFICATION OF CERTAIN RULES RELATING TO  
INTERNATIONAL CARRIAGE BY AIR SIGNED AT WARSAW  
ON 12 OCTOBER, 1929 AS AMENDED BY THE PROTOCOL  
DONE AT THE HAGUE ON 28 SEPTEMBER, 1955  
(THE GUATEMALA CITY PROTOCOL, 1971)**

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## CHAPTER VIII

# THE PROTOCOL SIGNED AT GUATEMALA CITY ON 8TH MARCH, 1971, TO AMEND THE CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR SIGNED AT WARSAW ON 12 OCTOBER, 1929 AS AMENDED BY THE PROTOCOL DONE AT THE HAGUE ON 28 SEPTEMBER, 1955 \*

(THE GUATEMALA CITY PROTOCOL, 1971)

THE GOVERNMENTS UNDERSIGNED

Considering that it is desirable to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12 October 1929 as amended by the Protocol done at The Hague on 28 September 1955.

Have agreed as follows:

### CHAPTER I

### AMENDMENTS TO THE CONVENTION

#### Article I

The Convention which the provision of the present Chapter modify is the Warsaw Convention as amended at The Hague in 1955.

#### Article II

Article 3 of the Convention shall be deleted and replaced by the following :—

*“Article 3*

1. In respect of the carriage of passengers an individual or collective document of carriage shall be delivered containing:

(a) an indication of the places of departure and destination;

(b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place.

2. Any other means which would preserve a record of the information indicated in (a) and (b) of the foregoing paragraph may be substituted for the delivery of the document referred to in that paragraph.

3. Non-compliance with the provisions of the foregoing paragraphs shall not affect the existence or the validity of the contract of carriage, which shall, none the less, be subject to the rules of this Convention including those relating to limitation of liability.”

#### Article III

Article 4 of the Convention shall be deleted and replaced by following :—

*“Article 4*

1. In respect of the carriage of checked baggage, a baggage check shall be delivered,

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\* *This Convention is not in force. There are 30 ratifications are required to come in force. As on 30 June, 2003 only 7 ratifications have been recieved. India has not ratified it*

which, unless combined with or incorporated in a document of carriage, which complies with the provisions of Article 3, paragraph 1, shall contain:

- (a) an indication of the places of departure and destination;
- (b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place.

2. Any other means which would preserve a record of the information indicated in (a) and (b) of the forgoing paragraph may be substituted for the delivery of the baggage check referred to in that paragraph.

(3) Non-compliance with the provisions of the foregoing paragraphs shall not affect the existence or the validity of the contract of carriage, which shall, none the less, be subject to the rules of this Convention including those relating to limitation of liability.”

#### **Article IV**

Article 17 of the Convention shall be deleted and replaced by the following :-

##### *“Article 17*

1. The carrier is liable for damage sustained in case of death or personal injury of a passenger upon condition only that the event which caused the death or injury took place on board the aircraft or in the course of any of the operations of embarking or disembarking. However, the carrier is not liable if the death or injury resulted solely from the state of health of the passenger.

2. The carrier is liable for damage sustained in case of destruction or loss of, or of damage to, baggage upon condition only that the event which caused the destruction, loss or damage took place on board the aircraft or in the course of any of the operations of embarking or disembarking or during any period within which the baggage was in charge of the carrier. However, the carrier is not liable if the damage

resulted solely from the inherent defect, quality or vice of the baggage.

3. Unless otherwise specified in this Convention the term “baggage” means both checked baggage and objects carried by the passenger.”

#### **Article V**

In Article 18 of the Convention, paragraphs 1 and 2 shall be deleted and replaced by the following :—

“1. The carrier is liable for damage sustained in the event of the destruction or loss of, or of damage to, any cargo, if the occurrence which caused the damage so sustained took place during the carriage by air.

2. The carriage by air within the meaning of the preceding paragraph comprises the period during which the cargo is in charge of the carrier, whether in an airport or on board an aircraft, or, in the case of a landing outside an airport, in any place whatsoever.”

#### **Article VI**

Article 20 of the Convention shall be deleted and replaced by the following:—

##### *“Article 20*

1. In the carriage of passengers and baggage the carrier shall not be liable for damage occasioned by delay if he proves that he and his servants and agents have taken all necessary measures to avoid the damage or that it was impossible for them to take such measures.

2. In the carriage of cargo the carrier shall not be liable for damage resulting from destruction, loss, damage or delay if he proves that he and his servants and agents have taken all necessary measures to avoid the damage or that it was impossible for them to take such measures.”

#### **Article VII**

Article 21 of the Convention shall be deleted and replaced by the following :—

*“Article 21*

If the carrier proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of the person claiming compensation the carrier shall be wholly or partly exonerated from his liability to such person to the extent that such negligence or wrongful act or omission caused or contributed to the damage. When by reason of the death or injury if a passenger compensation is claimed by a person other than the passenger, the carrier shall likewise be wholly or partly exonerated from his liability to the extent that he proves that the damage was caused or contributed to by his negligence or other wrongful act or omission of that passenger.”

**Article VIII**

Article 22 of the Convention shall be deleted and replaced by the following:—

*“Article 22*

1. (a) In the carriage of persons the liability of the carrier is limited to the sum of one millions five hundred thousand francs for the aggregate of the claims, however founded, in respect of damage suffered as a result of the death or personal injury of each passenger. Where, in accordance with the law of the court seised of the case, damages maybe awarded in the form of periodic payments, the equivalent capital value of the said payments shall not exceed one million five hundred thousand francs.

(b) In the case of delay in the carriage of persons the liability of the carrier for each passenger is limited to sixty two thousand five hundred francs.

(c) In the carriage of baggage the liability of the carrier in the case of destruction, loss, damage or delay is limited to fifteen thousand francs for each passenger.

2. (a) In the carriage of cargo, the liability of the carrier is limited to a sum of two hundred and fifty francs per kilogram, unless the consignor has made, at the time when the

package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that sum is greater than the consignor’s actual interest in delivery at destination.

(b) In the case of loss, damage or delay of part of the cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier’s liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of a part of the cargo, or of an object contained therein, affects the value of other packages covered by the same air waybill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

3. (a) The courts of the High Contracting Parties which are not authorised under their law to award the costs of the action, including lawyers’ fees, shall, in actions to which this Convention applies, have the power to award, in their discretion, to the claimant the whole or part of the costs of the action, including lawyers’ fees which the court considers reasonable.

(b) The cost of the action including lawyers’ fees shall be awarded in accordance with subparagraph (a) only if the claimant gives a written notice to the carrier of the amount claimed including the particulars of the calculation of that amount and the carrier does not make, within a period of six months after his receipt of such notice, a written offer of settlement in an amount at least equal to the compensation awarded within the applicable limit. This period will be extended until the time of commencement of the action if that is later.

(c) The costs of the action including lawyers’ fees shall not be taken into account in applying the limit under this Article.

4. The sums mentioned in francs in this Article and Article 42 shall be deemed to refer to a currency units consisting of sixty-five and a half milligrams of gold of millesimal fineness nine hundred. These sums may be converted into national currencies in round figures. Conversion of sums into national currencies other than gold shall, in case of judicial proceedings, be made according to the gold value of such currencies at the date of the judgment.”

### **Article IX**

Article 24 of the Convention shall be deleted and replaced by the following :-

#### *“Article 24*

1. In the carriage of cargo, any action for damages, however founded, can only be brought subject to the conditions and limits set out in this Convention.

2. In the carriage of passengers and baggage any action for damages, however founded, whether under this Convention or in contract or in tort or otherwise, can only be brought subject to the conditions and limits of liability set out in this Convention without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights. Such limits of liability constitute maximum limits and may not be exceeded whatever the circumstances which gave rise to the liability.”

### **Article X**

Article 25 of the Convention shall be deleted and replaced by the following :-

#### *“Article 25*

The limit of liability specified in paragraph 2 of Article 22 shall not apply if it is proved that the damage resulted from an act or omission of the carrier, his servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent it is also proved that he

was acting within the scope of his employment.”

### **Article XI**

In Article 25-A of the Convention, paragraphs 1 and 3 shall be deleted and replaced by the following :-

“1. If an action is brought against a servant or agent of the carrier arising out of damage to which the Convention relates, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the limits of liability which that carrier himself is entitled to invoke under this Convention.

3. The provisions of paragraphs 1 and 2 of this Article shall not apply to the carriage of cargo if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.”

### **Article XII**

In Article 28 of the Convention, the present paragraph 2 shall be renumbered as paragraph 3 and a new paragraph 2 shall be inserted as follows :-

“2. In results of damage resulting from the death, injury or delay of a passenger or the destruction, loss, damage or delay of baggage, the action may be brought before one of the Courts mentioned in paragraph 1 of this Article, or in the territory of one of the High Contracting Parties, before the Court within the jurisdiction of which the carrier has an establishment if the passenger has his domicile or permanent residence in the territory of the same High Contracting Party.”

### **Article XIII**

After Article 30 of the Convention, the following Article shall be inserted:-

#### *“Article 30-A*

Nothing in this Convention shall prejudice the question whether a person liable for damage



in accordance with its provisions has a right of recourse against any other person.”

### **Article XIV**

After Article 35 of the Convention, the following Article shall be inserted :—

#### *“Article 35-A*

No provision contained in this Convention shall prevent a State from establishing and operating within its territory a system to supplement the compensation payable to claimants under the Convention in respect of death, or personal injury, of passengers. Such a system shall fulfil the following conditions :—

- (a) it shall not in any circumstances impose upon the carrier, his servants or agents any liability in addition to that provided under this Convention;
- (b) it shall not impose upon the carrier any financial or administrative burden other than collecting in that State contributions from passengers if required so to do;
- (c) it shall not give rise to any discrimination between carriers with regard to the passengers concerned and the benefits available to the said passengers under the system shall be extended to them regardless of the carrier whose service they have used;
- (d) if a passenger has contributed to the system, any person suffering damage as a consequence of death or personal injury of such passenger shall be entitled to the benefits of the system.”

### **Article XV**

After Article 41 of the Convention, the following Article shall be inserted:—

#### *“Article 42*

1. Without prejudice to the provisions of Article 41, Conferences of the Parties to the Protocol done at Guatemala City on the eighth

March 1971 shall be convened during the fifth and tenth years respectively after the date of entry into force of the said Protocol for the purpose of reviewing the limit established in Article 22, paragraph 1(a) of the Convention as amended by that Protocol.

2. At each of the Conferences mentioned in paragraph 1 of this Article the limit of liability in Article 22, paragraph 1(a) in force at the respective dates of these Conferences shall not be increased by an amount exceeding one hundred and eighty-seven thousand five hundred francs.

3. Subject to paragraph 2 of this Article, unless before the thirty first December of the fifth and tenth years after the date of entry into force of the Protocol referred to in paragraph 1 of this Article the aforesaid Conferences decide otherwise by a two-thirds majority vote of the Parties present and voting, the limit of liability in Article 22, paragraph 1(a) in force at the respective dates of these Conferences shall on those dates be increased by one hundred and eighty-seven thousand five hundred francs.

4. The applicable limit shall be that which, in accordance with the preceding paragraphs, is in effects on the date of the event which caused the death or personal injury of the passenger.”

## **CHAPTER II**

### **SCOPE OF APPLICATION OF THE CONVENTION AS AMENDED**

#### **Article XVI**

The Warsaw Convention as amended at the Hague in 1955 and by this Protocol shall apply to international carriage as defined in Article 1 of the Convention, provided that the places of departure and destination referred to in that Article are situated either in the territories, of two Parties to this Protocol or within the territory of a single Party to this Protocol with an agreed stopping place in the territory of another State.

## CHAPTER III FINAL CLAUSES

### Article XVII

As between the Parties to this Protocol, the Warsaw Convention as amended at The Hague in 1955 and this Protocol shall be read and interpreted together as one single instrument and shall be known as the *Warsaw Convention as amended at The Hague, 1955, and at Guatemala City 1971*.

### Article XVIII

Until the date on which this Protocol enters into force in accordance with the provisions of Article XX, it shall remain open for signature by all States Members of the United Nations or of any of the Specialized Agencies or of the International Atomic Energy Agency or Parties to the Statute of the International Court of Justice, and by any other State invited by the General Assembly of the United Nations to become a Party to this Protocol.

### Article XIX

1. This Protocol shall be subject to ratification by the signatory States.

2. Ratification of this Protocol by any State which is not a Party to the Warsaw Convention or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, shall have the effect of accession to the *Warsaw Convention as amended at The Hague, 1955, and at Guatemala City, 1971*.

3. The instruments of ratification shall be deposited with the International Civil Aviation Organization.

### Article XX

1. This Protocol shall enter into force on the ninetieth day after the deposit of the thirtieth instrument of ratification on the condition, however, that the total international scheduled air traffic, expressed in passenger-kilometers, according to the statistics for the year 1970 published by the International Civil Aviation

Organization of the airlines of five States which have ratified this Protocol, represents at least 40% of the total international scheduled air traffic of the airlines of member States of the International Civil Aviation Organization in that year. If, at the time of deposit of the thirtieth instrument of ratification, this condition has not been fulfilled, the Protocol shall not come into force until the ninetieth day after this condition shall have been satisfied. This Protocol shall come into force for each State ratifying after the deposit of the last instrument of ratification necessary for entry into force of this Protocol on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this Protocol comes into force it shall be registered with the United Nations by the International Civil Aviation Organization.

### Article XXI

1. After the entry into force of this Protocol it shall be open for accession by any State referred to in Article XVIII.

2. Accession to this Protocol by any State which is not a Party to the Warsaw Convention or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, shall have the effect of accession to the *Warsaw Convention as amended at The Hague, 1955, and at Guatemala City, 1971*.

3. Accession shall be effected by the deposit of an instrument of accession with the International Civil Aviation Organization and shall take effect on the ninetieth day after the deposit.

### Article XXII

1. Any Party to this Protocol may denounce the Protocol by notification addressed to the International Civil Aviation Organization.

2. Denunciation shall take effect six months after the date of receipt by the International Civil Aviation Organization of the notification of denunciation.

3. As between the Parties to this Protocol, denunciation by any of them of the Warsaw Convention in accordance with Article 39 thereof or of the Hague Protocol in accordance with Article XXIV thereof shall not be construed in any way as a denunciation of the *Warsaw Convention as amended at The Hague, 1955, and at Guatemala City, 1971*.

### **Article XXIII**

1. Only the following reservations may be made to this Protocol:—

(a) a State whose courts are not authorized under its law to award the costs of the action including lawyers' fees may at any time by a notification addressed to the International Civil Aviation Organization declare that Article 22, paragraph 3(a) shall not apply to its courts; and

(b) a State at any time declare by a notification addressed to the International Civil Aviation Organization that the *Warsaw Convention as amended at The Hague, 1955 and at Guatemala, City 1971* shall not apply to the carriage of persons, baggage and cargo for its military authorities on aircraft, registered in that State, the whole capacity of which has been reserved by or on behalf of such authorities.

2. Any State having made a reservation in accordance with the preceding paragraph may at any time withdraw such reservation by notification to the International Civil Aviation Organization.

### **Article XXIV**

The International Civil Aviation Organization shall promptly inform all signatory or acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of entry into force of this Protocol, and other relevant information.

### **Article XXV**

As between the Parties to this Protocol which are also Parties to the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person other than the contracting Carrier signed at Guadalajara on 18 September, 1961 (hereinafter referred to as the "Guadalajara Convention") any reference to the "Warsaw Convention" contained in the Guadalajara Convention shall include reference to the *Warsaw Convention as amended at The Hague, 1955, and at Guatemala City, 1971*, in cases where the carriage under the agreement referred to in Article 1, paragraph (b) of the Guadalajara Convention is governed by this Protocol.

### **Article XXVI**

This Protocol shall remain open, until 30 September 1971, for signature by any State referred to in Article XVIII, at the Ministry of External Relations of the Republic of Guatemala and thereafter, until it enters into force in accordance with Article XX, at the International Civil Aviation Organization. The Government of the Republic of Guatemala shall promptly inform the International Civil Aviation Organization of any signature and the date thereof during the time that the Protocol shall be open for signature in Guatemala.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

DONE at Guatemala City on the eighth day of the month of March of the year One Thousand Nine Hundred and Seventy one in three authentic texts in the English, French and Spanish languages. The International Civil Aviation Organization shall establish an authentic text of this Protocol in the Russian language. In the case of any inconsistency, the text in the French language, in which language the Warsaw Convention of 12 October 1929 was drawn up, shall prevail.

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**CHAPTER IX**

**ADDITIONAL PROTOCOL NO. 1, 1975**

**SIGNED AT MONTREAL ON 25TH SEPTEMBER, 1975 TO  
AMEND THE CONVENTION FOR THE UNIFICATION OF  
CERTAIN RULES RELATING TO INTERNATIONAL  
CARRIAGE BY AIR SIGNED AT WARSAW  
ON 12 OCTOBER, 1929**

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## CHAPTER IX

### ADDITIONAL PROTOCOL NO. 1, 1975

#### SIGNED AT MONTREAL ON 25TH SEPTEMBER, 1975 TO AMEND THE CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR SIGNED AT WARSAW ON 12 OCTOBER, 1929 \*

THE GOVERNMENTS UNDERSIGNED

Considering that it is desirable to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12 October 1929

Have agreed as follows:

#### CHAPTER I

#### AMENDMENTS TO THE CONVENTION

##### Article I

The Convention which the provisions of the present Chapter modify is the Warsaw Convention, 1929.

##### Article II

Article 22 of the Convention shall be deleted and replaced by the following:—

*“Article 22*

1. In the carriage of passengers the liability of the carrier for each passenger is limited to the sum of 8300 Special Drawing Rights. Where, in accordance with the law of the court seized of the case, damages may be awarded in the form of periodic payments, the equivalent capital value of the said payments shall not exceed this limit. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

2. In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of 17 Special Drawing Rights per kilogramme, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that, that sum is greater than the consignor's actual interest in delivery at destination.

3. As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 332 Special Drawing Rights per passenger.

4. The sums mentioned in terms of the Special Drawing Right in this Article shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgment. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is a Member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary

\* Entered into force on 15 February, 1996.

As on 30 June, 2003 there are 48 contracting States party to it.

India has not ratified it

Fund, in effect at the date of the judgment, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that High Contracting Party.

Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraphs 1, 2 and 3 of Article 22 may, at the time of ratification or accession or at any time thereafter, declare that the limit of liability of the carrier in judicial proceedings in their territories is fixed at a sum of 125 000 monetary units per passenger with respect to paragraph 1 of Article 22; 250 monetary units per kilogramme with respect to paragraph 2 of Article 22; and 5,000 monetary units per passenger with respect to paragraph 3 of Article 22. The monetary unit corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. These sums may be converted into the national currency concerned in round figures. The conversion of these sums into national currency shall be made according to the law of the State concerned.”

## CHAPTER II

### SCOPE OF APPLICATION OF THE CONVENTION AS AMENDED

#### Article III

The Warsaw Convention as amended by this Protocol shall apply to international carriage as defined in Article 1 of the Convention, provided that the place of departure and destination referred to in that Article are situated either in the territories of two Parties to this Protocol, or within the territory of a single Party to this Protocol with an agreed stopping place in the territory of another State.

## CHAPTER III FINAL CLAUSES

### Article IV

As between the Parties to this Protocol, the Convention and the Protocol shall be read and interpreted together as one single instrument and shall be known as the *Warsaw Convention as amended by Additional Protocol No. 1 of Montreal, 1975*.

### Article V

Until the date on which this Protocol comes into force in accordance with the provisions of Article VII, it shall remain open for signature by any State.

### Article VI

1. This Protocol shall be subject to ratification by the signatory States.

2. Ratification of this Protocol by any State which is not a Party to the Warsaw Convention shall have the effect of accession to the Convention as amended by this Protocol.

3. The instruments of ratification shall be deposited with the Government of the Polish People's Republic.

### Article VII

1. As soon as thirty signatory States have deposited their instruments of ratification of this Protocol, it shall come into force between them on the ninetieth day after the deposit of the thirtieth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this Protocol comes into force it shall be registered with the United Nations by the Government of the Polish People's Republic.



**Article VIII**

1. This Protocol, after it has come into force, shall be open for accession by any non-signatory State.

2. Accession to this Protocol by any State which is not a Party to the Convention shall have the effect of accession to the Convention as amended by this Protocol.

3. Accession shall be effected by the deposit of an instrument of accession with the Government of the Polish People's Republic and shall take effect on the ninetieth day after the deposit.

**Article IX**

1. Any Party to this Protocol may denounce the Protocol by notification addressed to the Government of the Polish People's Republic.

2. Denunciation shall take effect six months after the receipt by the Government of the Polish People's Republic of the notification of denunciation.

3. As between the Parties to this Protocol, denunciation by any of them of the Convention in accordance with Article 39 thereof shall not be construed in any way as a denunciation of the Convention as amended by this Protocol.

**Article X**

No reservation may be made to this Protocol.

**Article XI**

The Government of the Polish People's Republic shall promptly inform all States Parties to the Warsaw Convention or of that Convention as amended, all signatory or acceding States to the present Protocol, as well as the International Civil Aviation Organization, of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of coming into force of this Protocol, and other relevant information.

**Article XII**

As between the Parties to this Protocol which are also Parties to the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air performed by a person other than the contracting Carrier, signed at Guadalajara on 18 September 1961 (hereinafter referred to as the "Guadalajara Convention") any reference to the "Warsaw Convention" contained in the Guadalajara Convention shall include reference to the *Warsaw Convention as amended by Additional Protocol No. 1 of Montreal, 1975*, in cases where the carriage under the agreement referred to in Article 1, paragraph b) of the Guadalajara Convention is governed by this Protocol.

**Article XIII**

This Protocol shall remain open for signature until 1 January 1976 at the Headquarters of the International Civil Aviation Organization and thereafter until it comes into force in accordance with Article VII at the Ministry for Foreign Affairs of the Polish People's Republic. The International Civil Aviation Organization shall promptly inform the Government of the Polish People's Republic of any signature and the date thereof during the time that the Protocol shall be open for signature at the Headquarters of the International Civil Aviation Organization.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

DONE at Montreal on the twenty fifth day of the month of September of the year One Thousand Nine Hundred and Seventy five in four authentic text in the English, French, Russian and Spanish languages. In the case of any inconsistency, the text in the French language, in which language the Warsaw Convention of 12 October 1929 was drawn up, shall prevail.

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**CHAPTER X**

**ADDITIONAL PROTOCOL NO. 2, 1975**

**SIGNED AT MONTREAL ON 25TH SEPTEMBER, 1975  
TO AMEND THE CONVENTION FOR THE UNIFICATION  
OF CERTAIN RULES RELATING TO INTERNATIONAL  
CARRIAGE BY AIR SIGNED AT WARSAW ON 12  
OCTOBER, 1929 AS AMENDED BY THE PROTOCOL  
DONE AT THE HAGUE ON 28 SEPTEMBER, 1955**

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## CHAPTER X

### ADDITIONAL PROTOCOL NO. 2, 1975

#### SIGNED AT MONTREAL ON 25TH SEPTEMBER, 1975 TO AMEND THE CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR SIGNED AT WARSAW ON 12 OCTOBER, 1929 AS AMENDED BY THE PROTOCOL DONE AT THE HAGUE ON 28 SEPTEMBER, 1955 \*

THE GOVERNMENTS UNDERSIGNED

Considering that it is desirable to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12 October 1929 as amended by the Protocol done at The Hague on 28 September 1955,

Have agreed as follows:

#### CHAPTER I

#### AMENDMENTS TO THE CONVENTION

##### Article I

The Convention which the provisions of the present Chapter modify if the Warsaw Convention as amended at The Hague in 1955.

##### Article II

Article 22 of the Convention shall be deleted and replaced by the following:—

*“Article 22*

1. In the carriage of persons the liability of the carrier for each passenger is limited to the sum of 16 600 Special Drawing Rights. Where, in accordance with the law of the court seised

of the case, damages may be awarded in the form of periodic payments, the equivalent capital value of the said payments shall not exceed this limit. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

2. (a) In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of 17 Special Drawing Rights per kilogramme, unless the passenger or consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that, that sum is greater than the passenger's or consignor's actual interest in delivery at destination.

(b) In the case of loss, damage or delay of part of registered baggage or cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of a part of the registered baggage or cargo, or of an object contained

\* Entered into force on 15 February, 1996.  
As on 30 June, 2003 there are 49 contracting States party to it.  
India has not ratified it

therein, affects the value of other packages covered by the same baggage check or the same air way bill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

3. As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 332 Special Drawing Rights per passenger.

4. The limit prescribed in this Article shall not prevent the court from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff. The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

5. The sums mentioned in terms of the Special Drawing Right in this Article shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgment. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is a Member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund, in effect at the date of the judgment, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that High Contracting Party.

Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraphs 1, 2 (a) and 3 of Article 22 may at the time of ratification or accession or at any time thereafter, declare that the limit of liability of the carrier in judicial proceedings in their territories is fixed at a sum of 250 000 monetary units per passenger with respect to paragraph 1 of Article 22; 250 monetary units per kilogramme with respect to paragraph 2 (a) of Article 22; and 5 000 monetary units per passenger with respect to paragraph 3 of Article 22. This monetary unit corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. These sums may be converted into the national currency concerned in round figures. The conversion of these sums into national currency shall be made according to the law of the State concerned.”

## **CHAPTER II**

### **SCOPE OF APPLICATION OF THE CONVENTION AS AMENDED**

#### **Article III**

The Warsaw Convention as amended at The Hague in 1955 and by this Protocol shall apply to international carriage as defined in Article 1 of the Convention, provided that the places of departure and destination referred to in that Article are situated either in the territories of two Parties to this Protocol or within the territory of a single party to this Protocol with an agreed stopping place in territory of another State.

## **CHAPTER III**

### **FINAL CLAUSES**

#### **Article IV**

As between the Parties to this Protocol, the Warsaw Convention as amended at The Hague in 1955 and this Protocol shall be read and

interpreted together as one single instrument and shall be known as the *Warsaw Convention as amended at The Hague, 1955, and by Additional Protocol No. 2 of Montreal, 1975.*

### **Article V**

Until the date on which this Protocol comes into force in accordance with the provisions of Article VII, it shall remain open for signature by any State.

### **Article VI**

1. The Protocol shall be subject to ratification by the signatory States.

2. Ratification of this Protocol by any State which is not a party to the Warsaw Convention or by any state which is not a Party to the Warsaw Convention as amended at The Hague, 1955, shall have the effect of accession to the *Warsaw Convention as amended at The Hague, 1955, and by Additional Protocol No. 2 of Montreal, 1975.*

3. The instruments of ratification shall be deposited with the Government of the Polish People's Republic.

### **Article VII**

1. As soon as thirty signatory States have deposited their instruments of ratification of this protocol, it shall come into force between them on the ninetieth day after the deposit of the thirtieth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this Protocol comes into force it shall be registered with the United Nations by the Government of the Polish People's Republic.

### **Article VIII**

1. This Protocol, after it has come into force, shall be open for accession by any non-signatory State.

2. Accession to this Protocol by any state which is not a Party to the Warsaw Convention

or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, shall have the effect of accession to the *Warsaw Convention as amended at The Hague, 1955, and by Additional Protocol No. 2 of Montreal, 1975.*

3. Accession shall be effected by the deposit of an instrument of accession with the Government of the Polish People's Republic and shall take effect on the ninetieth day after the deposit.

### **Article IX**

1. Any Party to this Protocol may denounce the Protocol by notification addressed to the Government of the Polish People's Republic.

2. Denunciation shall take effect six months after the date of receipt by the Government of the Polish People's Republic of the notification of denunciation.

3. As between the Parties to this Protocol, denunciation by any of them of the Warsaw Convention in accordance with Article 39 thereof or of the Hague Protocol in accordance with Article XXIV thereof shall not be construed in any way as a denunciation of the *Warsaw Convention as amended at The Hague, 1955, and by Additional protocol No. 2 of Montreal, 1975.*

### **Article X**

No reservation may be made to this Protocol except that a State may at any time declare by a notification addressed to the Government of the Polish People's Republic that the Convention as amended by this Protocol shall not apply to the carriage of persons, cargo and baggage for its military authorities on aircraft, registered in that State, the whole capacity of which has been reserved by or on behalf of such authorities.

### **Article XI**

The Government of the Polish People's Republic shall promptly inform all State Parties to the Warsaw Convention or to that

Convention as amended, all signatory or acceding States to the present protocol, as well as the International Civil Aviation Organization, of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of coming into force of this Protocol, and other relevant information.

### **Article XII**

As between the Parties to this Protocol which are also Parties to the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air performed by a person other than the Contracting Carrier, signed at Guadalajara on 18 September 1961 (hereinafter referred to as the "Guadalajara Convention") any reference to the Warsaw Convention" contained in the Guadalajara Convention shall include reference to the *Warsaw Convention as amended at The Hague, 1955, and by Additional Protocol No. 2 of Montreal, 1975*, in cases where the carriage under the agreement referred to in Article 1, paragraph b) of the Guadalajara Convention is governed by this Protocol.

### **Article XIII**

This Protocol shall remain open for signature until 1 January 1976 at the Headquarters of the International Civil Aviation Organization and thereafter until it comes into force in accordance with Article VII at the Ministry for Foreign Affairs of the Polish People's Republic. The International Civil Aviation Organization shall promptly inform the Government of the Polish People's Republic of any signature and the date thereof during the time that the Protocol shall be open for signature at the Headquarters of the International Civil Aviation Organization.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

DONE at Montreal on the twenty fifth day of the month of September of the year One Thousand Nine Hundred and seventy five in four authentic texts in the English, French, Russian and Spanish languages. In the case of any inconsistency, the text in the French language, in which language the Warsaw Convention of 12 October 1929 was drawn up, shall prevail.



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## CHAPTER XI

### ADDITIONAL PROTOCOL NO. 3, 1975

**SIGNED AT MONTREAL ON 25TH SEPTEMBER, 1975  
TO AMEND THE CONVENTION FOR THE UNIFICATION  
OF CERTAIN RULES RELATING TO INTERNATIONAL  
CARRIAGE BY AIR SIGNED AT WARSAW ON  
12 OCTOBER, 1929 AS AMENDED BY THE PROTOCOLS  
DONE AT THE HAGUE ON 28 SEPTEMBER, 1955 AND  
AT GUATEMALA CITY ON 8 MARCH, 1971**

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## CHAPTER XI

### ADDITIONAL PROTOCOL NO. 3, 1975

#### SIGNED AT MONTREAL ON 25TH SEPTEMBER, 1975 TO AMEND THE CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR SIGNED AT WARSAW ON 12 OCTOBER, 1929 AS AMENDED BY THE PROTOCOLS DONE AT THE HAGUE ON 28 SEPTEMBER, 1955 AND AT GUATEMALA CITY ON 8 MARCH, 1971 \*

THE GOVERNMENTS UNDERSIGNED

Considering that it is desirable to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12 October 1929 as amended by the protocols done at The Hague on 28 September 1955, and at Guatemala City on 8 March 1971.

Have agreed as follows:

#### CHAPTER I AMENDMENTS TO THE CONVENTION

##### Article I

The Convention which the provisions of the present Chapter modify is the Warsaw Convention as amended at The Hague in 1955, and at Guatemala City in 1971.

##### Article II

Article 22 of the Convention shall be deleted and replaced by the following:—

*“Article 22*

1. (a) In the carriage of persons the liability of the carrier is limited to the sum of 100 000 Special Drawing Rights for the aggregate of the claims, however founded, in respect of damage suffered as a result of the death or personal injury of each passenger. Where, in accordance with the law of the court seised of the

case, damages may be awarded in the form of periodic payments, the equivalent capital value of the said payments shall not exceed 100 000 Special Drawing Rights.

(b) In the case of delay in the carriage of persons the liability of the carrier for each passenger is limited to 4 150 Special Drawing Rights.

(c) In the carriage of baggage of liability of the carrier in the case of destruction, loss, damage or delay is limited to 1 000 Special Drawing Rights for each passenger.

2. (a) In the carriage of cargo, the liability of the carrier is limited to a sum of 17 Special Drawing Rights per kilogramme, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that, that sum is greater than the consignor's actual interest in delivery at destination.

(b) In the case of loss, damage or delay of part of the cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of a part of the cargo, or of an object contained therein, affects the value of other packages covered by the same air waybill, the total weight of such package

\* *Has not entered into force.*

*As on 30 June, 2003 there are only 23 contracting States party to it.*

*India has not ratified it*

or packages shall also be taken into consideration in determining the limit of liability.

3. (a) The courts of the High Contracting Parties which are not authorized under their law to award the costs of the action, including lawyers' fees, shall, in actions to which this Convention applies, have the power to award, in their discretion, to the claimant the whole or part of the costs of the action, including lawyers' fees which the court considers reasonable.

(b) The costs of the action including lawyers' fees shall be awarded in accordance with sub paragraph (a) only if the claimant gives a written notice to the carrier of the amount claimed including the particulars of the calculation of that amount and the carrier does not make, within a period of six months after his receipt of such notice, a written offer of settlement in an amount at least equal to the compensation awarded within the applicable limit. This period will be extended until the time of commencement of the action if that is later.

(c) The costs of the action including lawyers' fees shall not be taken into account in applying the limits under this Article.

4. The sums mentioned in terms of Special Drawing Rights in this Article and Article 42 shall be deemed to refer to the Special Drawing Rights as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Rights at the date of the judgment. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is a Member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund, in effect at the date of the judgment, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Rights, of a High Contracting Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that High Contracting Party.

Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraphs 1 and 2 (a) of Article 22 may, at the time of ratification or accession or at any time thereafter, declare that the limit of liability of the carrier in judicial proceedings in their territories is fixed at a sum of 1500000 monetary units per passenger with respect to paragraph 1 (a) of Article

22; 62 500 monetary units per passenger with respect to paragraph 1 (b) of Article 22; 15 000 monetary units per passenger with respect to paragraph 1 (c) of Article 22; and 250 monetary units per kilogramme with respect to paragraph 2 (a) of Article 22. A State applying the provisions of this paragraph may also declare that the sum referred to in paragraphs 2 and 3 of Article 42 shall be the sum of 187 500 monetary units. This monetary unit corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. These sums may be converted into the national currency concerned in round figures. The conversion of these sums into national currency shall be made according to the law of the State concerned."

### **Article III**

In Article 42 of the Convention – paragraphs 2 and 3 shall be deleted and replaced by the following:–

"2. At each of the Conferences mentioned in paragraph 1 of this Article the limit of liability in Article 22, paragraph 1 (a) in force at the respective dates of these Conferences shall not be increased by an amount exceeding 12 500 Special Drawing Rights.

3. Subject to paragraph 2 of this Article, unless before the thirty first December of the fifth and tenth year after the date of entry into force of the Protocol referred to in paragraph 1 of this Article the aforesaid Conferences decide otherwise by a two thirds majority vote of the Parties present and voting, the limit of liability in article 22, paragraph 1(a) in force at the respective dates of these Conferences shall on those dates be increased by 12 500 Special Drawing Rights."

## **CHAPTER II**

### **SCOPE OF APPLICATION OF THE CONVENTION AS AMENDED**

#### **Article IV**

The Warsaw Convention as amended at The Hague in 1955, and at Guatemala City in 1971 and by the protocol shall apply to international carriage as defined in Article 1 of the Convention provided that the places of departure and destination referred to in that Article are situated either in the territories of two Parties to this Protocol or within the territory of a single Party to this Protocol with an agreed stopping place in the territory of another State.

## **CHAPTER III FINAL CLAUSES**

### **Article V**

As between the Parties to this Protocol, the Warsaw Convention as amended at The Hague in 1955 and at Guatemala City in 1971, and this Protocol shall be read and interpreted together as one single instrument and shall be known as the *Warsaw Convention as amended at The Hague, 1955, at Guatemala City, 1971, and by the Additional Protocol No. 3 of Montreal, 1975.*

### **Article VI**

Until the date on which this protocol comes into force in accordance with the provisions of Article VIII, it shall remain open for signature by any State.

### **Article VII**

1. This Protocol shall be subject to ratification by the signatory States.

2. Ratification of this Protocol by any State which is not a Party to the Warsaw Convention or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, and at Guatemala City, 1971, shall have effect of accession to the *Warsaw Convention as amended at The Hague, 1955, at Guatemala City, 1971, and by the Additional Protocol No. 3 of Montreal, 1975.*

3. The instruments of ratification shall be deposited with the Government of the Polish People's Republic.

### **Article VIII**

1. As soon as thirty signatory States have deposited their instruments of ratification of this Protocol, it shall come into force between them on the ninetieth day after the deposit of the thirtieth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this Protocol comes into force it shall be registered with the United Nations by the Government of the Polish People's Republic.

### **Article IX**

1. This Protocol, after it has come into force, shall be open for accession by any non-signatory State.

2. Accession to this Protocol by any State which is not a Party to the Warsaw Convention or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, or by any State not a Party to the Warsaw Convention as amended at The Hague, 1955, and at Guatemala City, 1971, shall have the effect of accession to the *Warsaw Convention as amended at The Hague, 1955, at Guatemala City, 1971, and by the additional Protocol No. 3 of Montreal, 1975.*

3. Accession shall be effected by the deposit of an instrument of accession with the Government of the Polish People's Republic and shall take effect on the ninetieth day after the deposit.

### **Article X**

1. Any Party to this Protocol may denounce the protocol by notification addressed to the Government of the Polish People's Republic

2. Denunciation shall take effect six months after the date of receipt by the Government of the Polish People's Republic of the notification of denunciation.

3. As between the Parties to this protocol, denunciation by any of them of the Warsaw Convention in accordance with Article 39 thereof or of The Hague Protocol in accordance with Article XXIV thereof or of the Guatemala City Protocol in accordance with Article XXII thereof shall not be construed in any way as a denunciation of the *Warsaw Convention as amended at The Hague, 1955, at Guatemala City, 1971, and by the Additional protocol No. 3 of Montreal, 1975.*

### **Article XI**

1. Only the following reservations may be made to this Protocol:—

- (a) any State whose courts are not authorized under its law to award the costs of the action including lawyers' fees may at any time by a notification addressed to the Government of the Polish People's Republic declare that Article 22, paragraph 3 (a) shall not apply to its courts;
- (b) any State may at any time declare by a notification addressed to the Government of the Polish People's Republic that the *Warsaw Convention as amended at The Hague, 1955, at Guatemala City, 1971, and by the Additional Protocol No. 3 of Montreal, 1975*, shall not apply to the carriage of persons, baggage and cargo for its military authorities on aircraft, registered in that State, the whole capacity of which has been reserved by or on behalf of such authorities; and
- (c) any State may declare at the time of ratification of or accession to the Montreal Protocol No. 4 of 1975, or at any time thereafter, that it is not bound by the provisions of the *Warsaw Convention as amended at The Hague, 1955, at Guatemala City, 1971, and by the Additional Protocol No. 3 of Montreal, 1975*, in so far as they relate to the carriage of cargo, mail and postal packages. Such declaration shall have effect ninety days after the date of receipt by the Government of the Polish People's Republic of the declaration.

2. Any State having made a reservation in accordance with the preceding paragraph may at any time withdraw such reservation by notification to the Government of the Polish People's Republic.

### Article XII

The Government of the Polish People's Republic shall promptly inform all States Parties to the Warsaw Convention or to that Convention as amended, all signatory or acceding States to the present Protocol, as well as the International Civil Aviation Organization, of the date of each signature, the

date of deposit of each instrument of ratification or accession, the date of coming into force of this Protocol, and other relevant information.

### Article XIII

As between the Parties to this Protocol which are also Parties to the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a person other than the Contracting Carrier, signed at Guadalajara on 18 September 1961 (hereinafter referred to as the "Guadalajara Convention") any reference to the "Warsaw Convention" contained in the Guadalajara Convention shall include reference to the *Warsaw Convention as amended at The Hague, 1955, at Guatemala City, 1971, and by the Additional protocol No. 3 of Montreal, 1975*, in cases where the carriage under the agreement referred to in Article 1, paragraph (b) of the Guadalajara Convention is governed by this Protocol.

### Article XIV

This Protocol shall remain open for signature until 1 January 1976 at the Headquarters of the International Civil Aviation Organization and thereafter until it comes into force in accordance with Article VIII at the Ministry for Foreign Affairs of the Polish People's Republic. The International Civil Aviation Organization shall promptly inform the Government of the Polish People's Republic of any signature and the date thereof during the time that the Protocol shall be open for signature at the Headquarters of the International Civil Aviation Organization.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

DONE at Montreal on the twenty-fifth day of September of the year One Thousand Nine Hundred and Seventy five in four authentic texts in the English, French, Russian and Spanish languages. In the case of any inconsistency, the text in the French language, in which language the Warsaw Convention of 12 October 1929 was drawn up, shall prevail.

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## CHAPTER XII

### ADDITIONAL PROTOCOL NO. 4, 1975

**SIGNED AT MONTREAL ON 25TH SEPTEMBER, 1975 TO  
AMEND THE CONVENTION FOR THE UNIFICATION OF  
CERTAIN RULES RELATING TO INTERNATIONAL  
CARRIAGE BY AIR SIGNED AT WARSAW ON 12  
OCTOBER, 1929 AS AMENDED BY THE PROTOCOL  
DONE AT THE HAGUE ON 28 SEPTEMBER, 1955  
(THE MONTREAL PROTOCOL NO. 4, 1975)**

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## CHAPTER XII

### ADDITIONAL PROTOCOL NO. 4, 1975

**SIGNED AT MONTREAL ON 25TH SEPTEMBER, 1975 TO  
AMEND THE CONVENTION FOR THE UNIFICATION OF  
CERTAIN RULES RELATING TO INTERNATIONAL  
CARRIAGE BY AIR SIGNED AT WARSAW ON 12  
OCTOBER, 1929 AS AMENDED BY THE PROTOCOL  
DONE AT THE HAGUE ON 28 SEPTEMBER, 1955 \***  
**(THE MONTREAL PROTOCOL NO. 4, 1975)**

#### THE GOVERNMENTS UNDERSIGNED

Considering that it is desirable to amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12 October 1929 as amended by the Protocol done at The Hague on 28 September 1955.

Have agreed as follows:

#### CHAPTER I

#### AMENDMENTS TO THE CONVENTION

##### Article I

The Convention which the provisions of the present Chapter modify is the Warsaw Convention as amended at The Hague in 1955.

##### Article II

In Article 2 of the Convention —

Paragraph 2 shall be deleted and replaced by the following :—

“2. In the carriage of postal items the carrier shall be liable only to the relevant postal administration in accordance with the rules

applicable to the relationship between the carriers and the postal administrations.

3. Except as provided in paragraph 2 of this Article, the provisions of this Convention shall not apply to the carriage of postal items.”

##### Article III

In Chapter II of the Convention —

Section III (Articles 5 to 16) shall be deleted and replaced by the following :—

“ *Section III.— Documentation relating to cargo*

##### ARTICLE 5

1. In respect of the carriage of cargo an air way bill shall be delivered.

2. Any other means which would preserve a record of the carriage to be performed may, with the consent of the consignor, be substituted for the delivery of an air way bill. If such other means are used, the carrier shall, if so requested by the consignor, deliver to the consignor a receipt for the cargo permitting identification of the consignment and access to the information contained in the record preserved by such other means.

\* Entered into force on 14 June, 1998.

As on 30 June, 2003 there are only 52 contracting States party to it.  
India has not ratified it.

3. The impossibility of using, at points of transit and destination, the other means which would preserve the record of the carriage referred to in paragraph 2 of this Article does not entitle the carrier to refuse to accept the cargo for carriage.

*Article 6*

1. The air way bill shall be made out by the consignor in three original parts.

2. The first part shall be marked "for the carrier"; it shall be signed by the consignor. The second part shall be marked "for the consignee"; it shall be signed by the consignor and by the carrier. The third part shall be signed by the carrier and handed by him to the consignor after the cargo has been accepted.

3. The signature of the carrier and that of the consignor may be printed or stamped.

4. If, at the request of the consignor, the carrier makes out the air waybill, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

*Article 7*

When there is more than one package:

- (a) the carrier of cargo has the right to require the consignor to make out separate air waybills;
- (b) the consignor has the right to require the carrier to deliver separate receipts when the other means referred to in paragraph 2 of Article 5 are used.

*Article 8*

The air waybill and the receipt for the cargo shall contain:

- (a) an indication of the places of departure and destination;
- (b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place; and

(c) an indication of the weight of the consignment.

*Article 9*

Non-compliance with the provisions of Article 5 to 8 shall not affect the existence or the validity of the contract of carriage, which shall, none the less, be subject to the rules of this Convention including those relating to limitation of liability.

*Article 10*

1. The consignor is responsible for the correctness of the particulars and statements relating to the cargo inserted by him or on his behalf in the air waybill or furnished by him or on his behalf to the carrier for insertion in the receipt for the cargo or for insertion in the record preserved by the other means referred to in paragraph 2 of Article 5.

2. The consignor shall indemnify the carrier against all damage suffered by him, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor or on his behalf.

3. Subject to the provisions of paragraphs 1 and 2 of this Article, the carrier shall indemnify the consignor against all damage suffered by him, or by any other person to whom the consignor is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements inserted by the carrier or on his behalf in the receipt for the cargo or in the record preserved by the other means referred to in paragraph 2 of Article 5.

*Article 11*

1. The air waybill or the receipt for the cargo is *prima facie* evidence of the conclusion of the contract, of the acceptance of the cargo and of the conditions of carriage mentioned therein.

2. Any statement in the air waybill or the receipt for the cargo relating to the weight,

dimensions and packing of the cargo, as well as those relating to the number of packages, are *prima facie* evidence of the facts stated; those relating to the quantity, volume and condition of the cargo do not constitute evidence against the carrier except so far as they both have been, and stated in the air waybill to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the cargo.

#### *Article 12*

1. Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the cargo by withdrawing it at the airport of departure or destination, or by stopping it in the course of the journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee originally designated, or by requiring it to be returned to the airport of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.

2. If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.

3. If the carrier obeys the orders of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill or the receipt for the cargo delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill or the receipt for the cargo.

4. The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13. Nevertheless, if the consignee declines to accept the cargo, or if he cannot be communicated with, the consignor resumes his right of disposition.

#### *Article 13*

1. Except when the consignor has exercised his right under Article 12, the consignee is entitled, on arrival of the cargo at the place of destination, to require the carrier to deliver the cargo to him, on payment of the charges due and on complying with the conditions of carriage.

2. Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.

3. If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of seven days after the date on which it ought to have arrived, the consignee is entitled to enforce against the carrier the rights which flow from the contract of carriage.

#### *Article 14*

The consignor and the consignee can respectively enforce all the rights given them by Articles 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract of carriage.

#### *Article 15*

1. Articles 12, 13 and 14 do not affect either the relations of the consignor and the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.

2. The provisions of Articles 12, 13 and 14 can only be varied by express provision in the air waybill or the receipt for the cargo.

#### *Article 16*

1. The consignor must furnish such information and such documents as are necessary to meet the formalities of customs, octroi or police before the cargo can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the

damage is due to the fault of the carrier, his servants or agents.

2. The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.”

#### **Article IV**

Article 18 of the Convention shall be deleted and replaced by the following :—

##### *“Article 18*

1. The carrier is liable for damage sustained in the event of the destruction or loss of, or damage to, any registered baggage, if the occurrence which caused the damage so sustained took place during the carriage by air.

2. The carrier is liable for damage sustained in the event of the destruction or loss of, or damage to, cargo upon condition only that the occurrence which caused the damage so sustained took place during the carriage by air.

3. However, the carrier is not liable if he proves that the destruction, loss of, or damage to, the cargo resulted solely from one or more of the following :

- (a) inherent defect, quality or vice of that cargo;
- (b) defective packing of that cargo performed by a person other than the carrier or his servants or agents;
- (c) an act of war or an armed conflict;
- (d) an act of public authority carried out in connection with the entry, exit or transit of the cargo.

4. The carriage by air within the meaning of the preceding paragraphs of this Article comprises the period during which the baggage or cargo is in the charge of the carrier, whether in an airport or on board an aircraft, or in the case of a landing outside an airport, in any place whatsoever.

5. The period of the carriage by air does not extend to any carriage by land, by sea or by

river performed outside an airport. If, however, such carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.”

#### **Article V**

Article 20 of the Convention shall be deleted and replaced by the following:—

##### *“Article 20*

In the carriage of passengers and baggage, and in the case of damage occasioned by delay in the carriage of cargo, the carrier shall not be liable if he proves that he and his servants and agents have taken all necessary measures to avoid the damage or that it was impossible for them to take such measures.”

#### **Article VI**

Article 21 of the Convention shall be deleted and replaced by the following:—

##### *“Article 21*

1. In the carriage of passengers and baggage, if the carrier proves that the damage was caused by or contributed to by the negligence of the person suffering the damage the Court may, in accordance with the provisions of its own law, exonerate the carrier wholly or partly from his liability.

2. In the carriage of cargo, if the carrier proves that the damage was caused by or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, or the person from whom he derives his rights, the carrier shall be wholly or partly exonerated from his liability to the claimant to the extent that such negligence or wrongful act or omission caused or contributed to the damage.”

#### **Article VII**

In Article 22 of the Convention –

- (a) in paragraph 2 a) the words “and of cargo” shall be deleted.

(b) after paragraph 2 a) the following paragraph shall be inserted:—

“b) In the carriage of cargo, the liability of the carrier is limited to a sum of 17 Special Drawing Rights per kilogramme, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that the sum is greater than the consignor’s actual interest in delivery at destination.”

(c) paragraph 2 b) shall be designated as paragraph 2c).

(d) after paragraph 5 the following paragraph shall be inserted:—

“6. The sums mentioned in terms of the Special Drawing Right in this Article shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgment. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is a Member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund, in effect at the date of the judgment, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right,

of a High Contracting Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that High Contracting Party.

Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 2 b) of Article 22 may, at the time of ratification or accession or at any time thereafter, declare that the limit of liability of the carrier in judicial proceedings in their territories is fixed at a sum of two hundred and fifty monetary units per kilogramme. This monetary unit corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. This sum may be converted into the national currency concerned in round figures. The conversion of this sum into the national currency shall be made according to the law of the State concerned.”

### **Article VIII**

Article 24 of the Convention shall be deleted and replaced by the following:—

#### *“Article 24*

1. In the carriage of passengers and baggage, any action for damages, however founded, can only be brought subject to the conditions and limits set out in this Convention, without prejudice to the questions as to who are the persons who have the right to bring suit and what are their respective rights.

2. In the carriage of cargo, any action for damages, however founded, whether under this Convention or in contract or in tort or otherwise, can only be brought subject to the conditions and limits of liability set out in this Convention without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights. Such limits of liability constitute maximum limits and may not be exceeded whatever the circumstances which gave rise to the liability.”

### **Article IX**

Article 25 of the Convention shall be deleted and replaced by the following:—

*“Article 25*

In the carriage of passengers and baggage, the limits of liability specified in Article 22 shall not apply if it is proved that the damage resulted from an act or omission of the carrier, his servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent, it is also proved that he was acting within the scope of his employment.”

### **Article X**

In Article 25 A of the Convention —

paragraph 3 shall be deleted and replaced by the following:—

“3. In the carriage of passengers and baggage, the provisions of paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.”

### **Article XI**

After Article 30 of the Convention, the following Article shall be inserted:—

*“Article 30 A*

Nothing in this Convention shall prejudice the question whether a person liable for damage in accordance with its provisions has a right of recourse against any other person.”

### **Article XII**

Article 33 of the Convention shall be deleted and replaced by the following:—

*“Article 33*

Except as provided in paragraph 3 of Article 5, nothing in this Convention shall prevent the carrier either from refusing to enter into any contract of carriage or from making regulations

which do not conflict with the provisions of this Convention.”

### **Article XIII**

Article 34 of the Convention shall be deleted and replaced by the following:—

*“Article 34*

The provisions of Article 3 to 8 inclusive relating to documents of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of an air carrier’s business.”

## **CHAPTER II**

### **SCOPE OF APPLICATION OF THE CONVENTION AS AMENDED**

#### **Article XIV**

The Warsaw Convention as amended at The Hague in 1955 and by this Protocol shall apply to international carriage as defined in Article 1 of the Convention, provided that the places of departure and destination referred to in that Article are situated either in the territories of two Parties to this Protocol or within the territory of a single Party to this Protocol with an agreed stopping place in the territory of another State.

## **CHAPTER III**

### **FINAL CLAUSES**

#### **Article XV**

As between the Parties to this Protocol, the Warsaw Convention as amended at The Hague in 1955 and this Protocol shall be read and interpreted together as one single instrument and shall be known as the *Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975*.

#### **Article XVI**

Until the date on which this Protocol comes into force in accordance with the provisions of Article XVIII, it shall remain open for signature by any State.

### Article XVII

1. This Protocol shall be subject to ratification by the signatory States.

2. Ratification of this Protocol by any State which is not a Party to the Warsaw Convention or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, shall have the effect of accession to the *Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975*.

3. The instruments of ratification shall be deposited with the Government of the Polish People's Republic.

### ARTICLE XVIII

1. As soon as thirty signatory States have deposited their instruments of ratification of this Protocol, it shall come into force between them on the ninetieth day after the deposit of the thirtieth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this protocol comes into force it shall be registered with the United Nations by the Government of the Polish People's Republic.

### Article XIX

1. This Protocol, after it has come into force, shall be open for accession by any non-signatory State.

2. Accession to this Protocol by any State which is not a Party to the Warsaw Convention or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, shall have the effect of accession to the *Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975*.

3. Accession shall be effected by the deposit of an instrument of accession with the Government of the Polish People's Republic

and shall take effect on the ninetieth day after the deposit.

### Article XX

1. Any Party to this Protocol may denounce the protocol by notification addressed to the Government of the Polish People's Republic.

2. Denunciation shall take effect six months after the date of receipt by the Government of the Polish people's Republic of the notification of denunciation.

3. As between the Parties to this protocol, denunciation by any of them of the Warsaw Convention in accordance with Article 39 thereof or of The Hague Protocol in accordance with Article XXIV thereof shall not be construed in any way as a denunciation of the *Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975*.

### Article XXI

1. Only the following reservations may be made to this Protocol:—

(a) a State may at any time declare by a notification addressed to the Government of the Polish People's Republic that the *Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975*, shall not apply to the carriage of persons, baggage and cargo for its military authorities on aircraft, registered in that State, the whole capacity of which has been reserved by or on behalf of such authorities; and

(b) any State may declare at the time of ratification of or accession to the Additional Protocol No. 3 of Montreal, 1975, or at any time thereafter, that it is not bound by the provisions of the *Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975*, in so far as they relate to the carriage of passengers and

baggage. Such declaration shall have effect ninety days after the date of receipt of the declaration by the Government of the Polish People's Republic.

2. Any State having made a reservation in accordance with the preceding paragraph may at any time withdraw such reservation by notification to the Government of the Polish People's Republic.

### **Article XXII**

The Government of the Polish People's Republic shall promptly inform all States Parties to the Warsaw Convention or to that Convention as amended, all signatory or acceding States to the present Protocol, as well as the International Civil Aviation Organization, of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of coming into force of this Protocol, and other relevant information.

### **Article XXIII**

As between the Parties to this Protocol which are also Parties to the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules relating to International Carriage by Air performed by a person other than the Contracting Carrier, signed at Guadalajara on 18 September 1961 (hereinafter referred to as the "Guadalajara Convention") any reference to the "Warsaw Convention" contained in the Guadalajara Convention shall include reference to the *Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975*, in cases where the carriage under the agreement referred to in Article 1, paragraph b) of the Guadalajara Convention is governed by this Protocol.

### **Article XXIV**

If two or more States are Parties both to this Protocol and to the Guatemala City Protocol, 1971, or to the Additional Protocol No. 3 of

Montreal, 1975, the following rules shall apply between them:

- (a) the provisions resulting from the system established by this Protocol, concerning cargo and postal items, shall prevail over the provisions resulting from the system established by the Guatemala City Protocol, 1971, or by the Additional Protocol No. 3 of Montreal, 1975;
- (b) the provisions resulting from the system established by the Guatemala City Protocol, 1971, or by the Additional Protocol No. 3 of Montreal, 1975, concerning passengers and baggage, shall prevail over the provisions resulting from the system established by this protocol.

### **Article XXV**

This Protocol shall remain open for signature until 1 January 1976 at the Headquarters of the International Civil Aviation Organization and thereafter until it comes into force in accordance with Article XVIII at the Ministry for Foreign Affairs of the Polish People's Republic. The International Civil Aviation Organization shall promptly inform the Government of the Polish People's Republic of any signature and the date thereof during the time that the Protocol shall be open for signature at the Headquarters of the International Civil Aviation Organization.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

DONE AT MONTREAL on the twenty-fifth day of September of the year One Thousand Nine Hundred and Seventy-five in four authentic texts in the English, French, Russian and Spanish languages. In the case of any inconsistency, the text in the French language, in which language the Warsaw Convention of 12 October 1929 was drawn up, shall prevail.



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**CHAPTER XIII**

**CONVENTION SIGNED AT GUADALAJARA ON 18TH  
SEPTEMBER, 1961, SUPPLEMENTARY TO THE WARSAW  
CONVENTION FOR THE UNIFICATION OF CERTAIN  
RULES RELATING TO INTERNATIONAL CARRIAGE BY  
AIR PERFORMED BY A PERSON OTHER THAN  
THE CONTRACTING CARRIER  
(THE GUADALAJARA CONVENTION, 1961)**

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## CHAPTER XIII

# CONVENTION SIGNED AT GUADALAJARA ON 18TH SEPTEMBER, 1961, SUPPLEMENTARY TO THE WARSAW CONVENTION, FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR PERFORMED BY A PERSON OTHER THAN THE CONTRACTING CARRIER \* (THE GUADALAJARA CONVENTION, 1961)

### THE STATES SIGNATORY TO THE PRESENT CONVENTION

Nothing that the Warsaw Convention does not contain particular rules relating to international carriage by air performed by a person who is not a party to the agreement for carriage.

CONSIDERING that it is therefore desirable to formulate rules to apply in such circumstances.

Have agreed as follows :

### Article I

In this Convention :

- (a) "Warsaw Convention" means the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12 October 1929, or the Warsaw Convention as amended at The Hague, 1955, according to whether the carriage under the agreement referred to in paragraph (b) is governed by the one or by the other;
- (b) "contracting carrier" means a person who as a principal makes an agreement

for carriage governed by the Warsaw Convention with a passenger or consignor or with a person acting on behalf of the passenger or consignor;

- (c) "actual carrier" means a person, other than the contracting carrier, who, by virtue of authority from the contracting carrier, performs the whole or part of the carriage contemplated in paragraph (b) but who is not with respect to such part a successive carrier within the meaning of the Warsaw Convention. Such authority is presumed in the absence of proof to the contrary.

### Article II

If an actual carrier performs the whole or part of carriage which, according to the agreement referred to in Article I, paragraph (b), is governed by the Warsaw Convention, both the contracting carrier and the actual carrier shall except, otherwise provided in this Convention, be subject to the rules of the Warsaw Convention, the former for the whole of the carriage contemplated in the agreement, the latter solely for the carriage which he performs.

\* Entered into force on 1 May, 1964.

As on 30 June, 2003 there are only 82 contracting States party to it.  
India has not ratified it.

**Article III**

1. The acts and omissions of the actual carrier and of his servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the contracting carrier.

2. The acts and omissions of the contracting carrier and of his servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the actual carrier. Nevertheless, no such act or omission shall subject the actual carrier to liability exceeding the limits specified in Article 22 of the Warsaw Convention. Any special agreement under which the contracting carrier assumes obligations not imposed by the Warsaw Convention or any waiver of rights conferred by that Convention or any special declaration of interest in delivery at destination contemplated in Article 22 of the said Convention, shall not affect the actual carrier unless agreed to by him.

**Article IV**

Any complaint to be made or order to be given under the Warsaw Convention to the carrier shall have the same effect whether addressed to the contracting carrier or to the actual carrier. Nevertheless, orders referred to in Article 12 of the Warsaw Convention shall only be effective if addressed to the contracting carrier.

**Article V**

In relation to the carriage performed by the actual carrier, any servant or agent of that carrier or of the contracting carrier shall, if he proves that he acted within the scope of his employment, be entitled to avail himself of the limits of liability which are applicable under this Convention to the carrier whose servant or agent he is unless it is proved that he acted in a manner which under the Warsaw Convention, prevents the limits of liability from being invoked.

**Article VI**

In relation to the carriage performed by the actual carrier the aggregate of amounts recoverable from that carrier and the contracting carrier, and from their servants and agents acting within the scope of their employment, shall not exceed the highest amount which could be awarded against either the contracting carrier or the actual carrier under this Convention, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to him.

**Article VII**

In relation to the carriage performed by the actual carrier, an action for damages may be brought, at the option of the plaintiff, against that carrier or the contracting carrier, or against both together or separately. If the action is brought against only one of those carriers, that carrier shall have the right to require the other carrier to be joined in the proceedings, the procedure and effects being governed by the law of the court seized of the case.

**Article VIII**

Any action for damages contemplated in Article VII of this Convention must be brought, at the option of the plaintiff, either before a court in which an action may be brought against the contracting carrier, as provided in Article 28 of the Warsaw Convention, or before the court having jurisdiction at the place where the actual carrier is ordinarily resident or has his principal place of business.

**Article IX**

1. Any contractual provision tending to relieve the contracting carrier or the actual carrier of liability under this Convention or to fix a lower limit than that which is applicable according to this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole agreement, which shall remain subject to the provisions of this Convention.

2. In respect of the carriage performed by the actual carrier, the preceding paragraph shall not apply to contractual provisions governing loss or damage resulting from the inherent defect, quality or vice of the cargo carried.

3. Any clause contained in an agreement for carriage and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless, for the carriage of cargo arbitration clauses are allowed, subject to this Convention, if the arbitration is to take place in one of the jurisdictions referred to in Article VIII.

### **Article X**

Except as provided in Article VII, nothing in this Convention shall affect the rights and obligations of the two carriers between themselves.

### **Article XI**

Until the date on which this Convention comes into force in accordance with the provisions of Article XIII, it shall remain open for signature on behalf of any State which at that date is a Member of the United Nations or of any of the Specialized Agencies.

### **Article XII**

1. This Convention shall be subject to ratification by the signatory States.

2. The instruments of ratification shall be deposited with the Government of the United States of Mexico.

### **Article XIII**

1. As soon as five of the signatory States have deposited their instruments of ratification of this Convention, it shall come into force between them on the ninetieth day after the date of the deposit of the fifth instrument of ratification. It shall come into force for each

State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this Convention comes into force, it shall be registered with the United Nations and the International Civil Aviation Organization by the Government of the United States of Mexico.

### **Article XIV**

1. This Convention shall, after it has come into force, be open for accession by any State Member of the United Nations or of any of the Specialized Agencies.

2. The accession of a State shall be effected by the deposit of an instrument of accession with the Government of the United States of Mexico and shall take effect as from the ninetieth day after the date of such deposit.

### **Article XV**

1. Any Contracting State may denounce this Convention by notification addressed to Government of the United States of Mexico.

2. Denunciation shall take effect six months after the date of receipt by the Government of the United States of Mexico of the notification of denunciation.

### **Article XVI**

1. Any Contracting State may at the time of its ratification or accession to this Convention or at any time thereafter declare by notification to the Government of the United States of Mexico that the Convention shall extend to any of the territories for whose international relations it is responsible.

2. The Convention shall, ninety days after the date of the receipt of such notification by the Government of the United States of Mexico, extend to the territories names herein.

3. Any Contracting State may denounce this Convention, in accordance with the provisions of Article XV, separately for any or all of the territories for the international relations of which such State is responsible.

**Article XVII**

No reservation may be made to this Convention.

**Article XVIII**

The Government of the United States of Mexico shall give notice to the International Civil Aviation Organization and to all States Members of the United Nations or of any of the Specialized Agencies :

- (a) of any signature of this convention and the date thereof;
- (b) of the deposit of any instrument of ratification or accession and the date thereof;
- (c) of the date on which this Convention comes into force in accordance with Article XIII, paragraph 1;
- (d) of the receipt of any notification of denunciation and the date thereof;
- (e) of the receipt of any declaration or

notification made under Article XVI and the date thereof.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized have signed this Convention.

DONE at Gaudalajara on the eighteenth day of September, One Thousand Nine Hundred and Sixty-one in three authentic texts drawn up in the English, French and Spanish languages. In case of any inconsistency, the text in the French language, in which language the Warsaw Convention of 12 October 1929 was drawn up, shall prevail. The Government of the United States of Mexico will establish an official translation of the text of the Convention in the Russian language.

The Convention shall be deposited with the Government of the United States of Mexico with which, in accordance with Article XI, it shall remain open for signature, and that Government shall send certified copies thereof to the International Civil Aviation Organization and to all States Members of the United Nations or of any Specialized Agency.

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**CHAPTER XIV**

**CONVENTION ON THE INTERNATIONAL  
RECOGNITION OF RIGHTS IN AIRCRAFT  
SIGNED AT GENEVA ON 19TH JUNE, 1948  
(THE GENEVA CONVENTION, 1948)**

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## CHAPTER XIV

# CONVENTION ON THE INTERNATIONAL RECOGNITION OF RIGHTS IN AIRCRAFT SIGNED AT GENEVA ON 19TH JUNE, 1948 \*

## (THE GENEVA CONVENTION, 1948)

Whereas the International Civil Aviation Conference, held at Chicago in November-December 1944, recommended the early adoption of a Convention dealing with the transfer of title to aircraft.

Whereas it is highly desirable in the interest of the future expansion of International Civil Aviation that rights in aircraft be recognised internationally.

The undersigned, duly authorized, Have Agreed, on behalf of their respective Governments, As follows :

### Article I

1. The Contracting States undertake to recognise :

- (a) rights of property in aircraft;
- (b) rights to acquire aircraft by purchase coupled with possession of the aircraft;
- (c) rights to possession of aircraft under leases of six months or more;
- (d) mortgages, hypothèques and similar rights in aircraft which are contractually created as security for payment of an indebtedness:

Provided that such rights

- (i) have been constituted in accordance with the law of the Contracting State in

which the aircraft was registered as to nationality at the time of their constitution, and

- (ii) are regularly recorded in a public record of the Contracting State in which the aircraft is registered as to nationality.

The regularity of successive recordings in different Contracting States shall be determined in accordance with the law of the State where the aircraft was registered as to nationality at the time of each recording.

2. Nothing in this Convention shall prevent the recognition of any rights in aircraft under the law of any Contracting State; but Contracting States shall not admit or recognise any right as taking priority over the rights mentioned in paragraph (1) of this Article.

### Article II

1. All recording relating to a given aircraft must appear in the same record.

2. Except as otherwise provided in this Convention, the effects of the recording of any right mentioned in Article I, paragraph (1) with regard to third parties shall be determined according to the law of the Contracting State where it is recorded.

3. A Contracting State may prohibit the recording of any right which cannot validly be constituted according to its national law.

\* Entered into force on 17 September, 1953.

As on 30 June, 2003 there are only 87 contracting States party to it.  
India has not ratified it.

### Article III

1. The address of the authority responsible for maintaining the record must be shown on every aircraft's certificate of registration as to nationality.

2. Any person shall be entitled to receive from the authority duly certified copies or extracts of the particulars recorded. Such copies or extracts shall constitute *prima facie* evidence of the contents of the record.

3. If the law of a Contracting State provides that the filling of a document for recording shall have the same effect as the recording, it shall have same effect for the purposes of this Convention. In that case adequate provision shall be made to ensue that such document is open to the public.

4. Reasonable charges may be made for services performed by the authority maintaining the record.

### Article IV

1. In the event that any claims in respect of:

- (a) compensation due for salvage of the aircraft, or
- (b) extraordinary expenses indispensable for the preservation of the aircraft give rise, under the law of the Contracting State where the operations of salvage or preservation were terminated, to a right conferring a charge against the aircraft, such right shall be recognised by Contracting States and shall take priority over all other rights in the aircraft.

2. The rights enumerated in paragraph (1) shall be satisfied in the inverse order of the dates of the incidents in connexion with which they have arisen.

3. Any of the said rights may, within three months from the date of the termination of the salvage or preservation operations, be noted on the record.

4. The said rights shall not be recognised in other Contracting States after expiration of the three months mentioned in paragraph (3) unless, within this period;

- (a) the right has been noted on the record in conformity with paragraph (3), and
- (b) the amount has been agreed upon or judicial action on the right has been commenced. As far as judicial action is concerned, the law of the forum shall determine the contingencies upon which the three months period may be interrupted or suspended.

5. This article shall apply notwithstanding the provisions of Article I, paragraph (2).

### Article V

The priority of a right mentioned in Article 1, paragraph (1) (d), extends to all sums thereby secured. However, the amount of interest included shall not exceed that accrued during the three years prior to the execution proceedings together with that accrued during the execution proceedings.

### Article VI

In case of attachment or sale of an aircraft in execution, or of any right therein, the Contracting States shall not be obliged to recognise, as against the attaching or executing creditor or against the purchaser, any right mentioned in Article I, paragraph (1), or the transfer of any such right, if constituted or effected with knowledge of the sale or execution proceedings by the person against whom the proceedings are directed.

### Article VII

1. The proceedings of a sale of an aircraft in execution shall be determined by the law of the Contracting State where the sale takes place.

2. The following provisions shall however be observed:

- (a) The date and place of the sale shall be fixed at least six weeks in advance.

- (b) The executing creditor shall supply to the Court or other competent authority a certified extract of the recordings concerning the aircraft. He shall give public notice of the sale at the place where the aircraft is registered as to nationality, in accordance with the law there applicable, at least one month before, the day fixed, and shall concurrently notify by registered letter, if possible by air mail, the recorded owner and the holders of recorded rights in the aircraft and of rights noted on the record under Article IV, paragraph (3), according to their addresses as shown on the record.
3. The consequences of failure to observe the requirements of paragraph (2) shall be as provided by the law of the Contracting State where the sale takes place. However, any sale taking place in contravention of the requirements of that paragraph may be annulled upon demand made, within six months from the date of the sale by any person suffering damage as the result of such contravention.
4. No sale in execution can be effected unless all rights having priority over the claim of the executing creditor in accordance with this Convention which are established before the competent authority, are covered by the proceeds of sale or assumed by the purchaser.
5. When injury or damage is caused to persons or property on the surface of the Contracting State where the execution sale takes place by any aircraft subject to any right referred to in Article I held as security for an indebtedness, unless adequate and effective insurance by a State or an insurance undertaking in any State has been provided by or on behalf of the operator to cover such injury or damage, the national law of such Contracting State may provide in case of the seizure of such aircraft or any other aircraft owned by the same person and encumbered with any similar right held by the same creditor :
- (a) that the provisions of paragraph (4) above shall have no effects with regard to the person suffering such injury or damage or his representative if he is an executing creditor;
- (b) that any right referred to in Article I held as security for an indebtedness encumbering the aircraft may not be set up against any person suffering such injury or damage or his representative in excess of an amount equal to 80% of the sale price.
- In the absence of other limit established by the law of the Contracting State where the execution sale takes place, the insurance shall be considered adequate within the meaning of the present paragraph if the amount of the insurance corresponds to the value when new of the aircraft seized in execution.
6. Costs legally chargeable under the law of the Contracting State where the sale takes place, which are incurred in the common interest of creditors in the course of execution proceedings leading to sale, shall be paid out of the proceeds of sale before any claims, including those given preference by Article IV.

### **Article VIII**

Sale of an aircraft in execution in conformity with the provisions of Article VII shall effect the transfer of the property in such aircraft free from all rights which are not assumed by the purchaser.

### **Article IX**

Except in the case of a sale in execution in conformity with the provisions of Article VII, no transfer of an aircraft from the nationality register or the record of a Contracting State to that of another Contracting State shall be made, unless all holders of recorded rights have been satisfied or consent to the transfer.

### **Article X**

1. If a recorded right in an aircraft of the nature specified in Article 1, and held as security for the payment of an indebtedness, extends, in conformity with the law of the Contracting State where the aircraft is registered, to spare parts stored in a specified place or places, such right shall be recognised by all Contracting States, as long as the spare parts remain in the place or places specified, provided that an appropriate public notice, specifying the description of the right, the name and address of the holder of this right, and the record in which such right is recorded is exhibited at the place where the spare parts are located, so as to give due notification to third parties that such spare parts are encumbered.

2. A statement indicating the character and the approximate number of such spare parts shall be annexed to or included in the recorded document. Such parts may be replaced by similar parts without affecting the right of the creditor.

3. The provisions of Article VII, paragraphs (1) and (4), and of Article VIII shall apply to a sale of spare parts in execution. However, where the executing creditor is an unsecured creditor, paragraph 4 of Article VII in its application to such a sale shall be construed so as to permit the sale to take place if a bid is received in an amount not less than two-third of the value of the spare parts as determined by experts appointed by the authority responsible for the sale. Further, in the distribution of the proceeds of sale, the competent authority may, in order to provide for the claim of the executing creditor, limit the amount payable to holders of prior rights to two-thirds of such proceeds of sale after payment of the costs referred to in Article VII, paragraph (6).

4. For the purpose of this Article the term "spare parts" means parts of aircraft, engines, propellers, radio apparatus, instruments, appliances, furnishings, parts of any of the foregoing, and generally any other articles of whatever description maintained for installation

in aircraft in substitution for parts articles removed.

### **Article XI**

1. The provisions of this Convention shall in each Contracting State apply to all aircraft registered as to nationality in another Contracting State.

2. Each Contracting State shall also apply to aircraft there registered as to nationality :

- (a) The provisions of Article II, III, IX and
- (b) The provisions of Article IV, unless the salvage or preservation operations have been terminated within its own territory.

### **Article XII**

Nothing in this Convention shall prejudice the right of any Contracting State to enforce against an aircraft its national laws relating to immigration, customs or air navigation.

### **Article XIII**

This Convention shall not apply to aircraft used in military, customs or police services.

### **Article XIV**

For the purpose of this Convention, the competent judicial and administrative authorities of the Contracting States may, subject to any contrary provision in their national law, correspond directly with each other.

### **Article XV**

The Contracting States shall take such measures as are necessary for the fulfilment of the provisions of this Convention and shall forthwith inform the Secretary General of the International Civil Aviation Organization of these measures.

### **Article XVI**

For the purposes of this Convention the term "air-craft" shall include the airframe, engines, propellers, radio apparatus, and all other articles intended for use in the aircraft

whether installed therein or temporarily separated therefrom.

### **Article XVII**

If a separate register of aircraft for purposes of nationality is maintained in any territory for whose foreign relations a Contracting State is responsible, references in this Convention to the law of the Contracting State shall be construed as references to the law of that territory.

### **Article XVIII**

This Convention shall remain open for signature until it comes into force in accordance with the provisions of Article XX.

### **Article XIX**

1. This Convention shall be subject to ratification by the signatory States.

2. The instruments of ratification shall be deposited in the archives of the International Civil Aviation Organization, which shall give notice of the date of deposit to each of the signatory and adhering States.

### **Article XX**

1. As soon as two of the signatory States have deposited their instruments of ratification of this Convention, it shall come into force between them on the ninetieth day after the date of the deposit of the second instrument of ratification. It shall come into force, for each State which deposit its instrument of ratification after that date on the ninetieth day after the deposit of its instrument of ratification.

2. The International Civil Aviation Organization shall give notice to each signatory State of the date on which this Convention comes into force.

3. As soon as this Convention comes into force it shall be registered with the United Nations by the Secretary General of the International Civil Aviation Organization.

### **Article XXI**

1. This Convention shall, after it has come into force, be open for adherence by non-signatory States.

2. Adherence shall be effected by the deposit of an instrument of adherence in the archives of the International Civil Aviation Organization, which shall give notice of the date of the deposit to each signatory and adhering State.

3. Adherence shall take effect as from the ninetieth day after the date of the deposit of the instrument of adherence in the archives of the International Civil Aviation Organization.

### **Article XXII**

1. Any Contracting State may denounce this Convention by notification of denunciation to the International Civil Aviation Organization, which shall give notice of the date of receipt of such notification to each signatory and adhering State.

2. Denunciation shall take effect six months after the date of receipt by the International Civil Aviation Organization of the notification of denunciation.

### **Article XXIII**

1. Any State may at the time of deposit of its instrument of ratification of adherence, declare that its acceptance of this Convention does not apply to any one or more of the territories for the foreign relations of which such State is responsible.

2. The International Civil Aviation Organization shall give notice of any such declaration to each signatory and adhering State.

3. With the exception of territories in respect of which a declaration has been made in accordance with paragraph (1) of this Article, this Convention shall apply to all territories for the foreign relations of which a Contracting State is responsible.

4. Any State may adhere to this Convention separately on behalf of all or any of the territories regarding which it has made a declaration in accordance with paragraph (1) of this Article and the provisions of paragraphs (2) and (3) of Article XXI shall apply to such adherence.

5. Any Contracting State may denounce this Convention, in accordance with the provisions of Article XXII, separately for all or any of the territories for the foreign relations of which such State is responsible.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized have signed this Convention.

DONE at Geneva, on the nineteenth day of the month of June of the year one thousand nine hundred and forty-eight in the English, French and Spanish languages, each text being of equal authenticity.

This Convention shall be deposited in the archives of the International Civil Aviation Organization where in accordance with Article XVIII, it shall remain open for signature.

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**CHAPTER XV**

**CONVENTION ON DAMAGE CAUSED BY FOREIGN  
AIRCRAFT TO THIRD PARTIES ON THE SURFACE  
SIGNED AT ROME ON 7 OCTOBER, 1952  
(THE ROME CONVENTION, 1952)**

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**CHAPTER XV**

**CONVENTION ON DAMAGE CAUSED BY FOREIGN  
AIRCRAFT TO THIRD PARTIES ON THE SURFACE  
SIGNED AT ROME ON 7 OCTOBER, 1952 \***

**(THE ROME CONVENTION, 1952)**

THE STATES SIGNATORY to this Convention :

MOVED by a desire to ensure adequate compensation for persons who suffer damage caused on the surface by foreign aircraft, while limiting in a reasonable manner the extent of the liabilities incurred for such damage in order not to hinder the development of international civil air transport, and also

CONVINCED of the need for unifying to the greater extent possible, through an international convention, the rules applying in the various countries of the world to the liabilities incurred for such damage.

HAVE APPOINTED to such effect the undersigned Plenipotentiaries who, duly authorised,

HAVE AGREED AS FOLLOWS :

**CHAPTER I**

**PRINCIPLES OF LIABILITY**

**Article 1**

1. Any person who suffers damage on the surface shall, upon proof only that the damage was caused by an aircraft in flight or by any person or thing falling therefrom, be entitled to compensation as provided by this Convention. Nevertheless there shall be no right to compensation if the damage is not a direct consequence of the incident giving rise thereto, or if the damage results from the mere fact of passage of the aircraft through the airspace in conformity with existing air traffic regulations.

2. For the purpose of this Convention, an aircraft is considered to be in flight from the moment when power is applied for the purpose of actual take-off until the moment when the landing run ends. In the case of an aircraft lighter than air, the expression "in flight" relates to the period from the moment when it becomes detached from the surface until it becomes again attached thereto.

**Article 2**

1. The liability for compensation contemplated by Article 1 of this Convention shall attach to the operator of the aircraft.

2. (a) For the purposes of this Convention the term "operator" shall mean the person, who was making use of the aircraft at the time the damage was caused, provided that if control of the navigation of the aircraft was retained by the person from whom the right to make use of the aircraft was derived, whether directly or indirectly, that person shall be considered the operator.

(b) A person shall be considered to be making use of an aircraft when he is using it personally or when his servants or agents are using the aircraft in the course of their employment, whether or not within the scope of their authority.

3. The registered owner of the aircraft shall be presumed to be the operator and shall be liable as such unless, in the proceedings for the determination of his liability, he proves that

\* Entered into force on 4 February, 1958.

As on 30 June, 2003 there are only 45 contracting States party to it.

India has not ratified it.

some other person was the operator and, in so far as legal procedures permit, takes appropriate measures to make that other person a party in the proceedings.

### **Article 3**

If the person who was the operator at the time the damage was caused had not the exclusive right to use the aircraft for a period of more than fourteen days dating from the moment when the right to use commenced, the person from whom such right was derived shall be liable jointly and severally with the operator, each of them being bound under the provisions and within the limits of liability of this Convention.

### **Article 4**

If a person makes use of an aircraft without the consent of the person entitled to its navigational control, the latter, unless he proves that he has exercised due care to prevent such use, shall be jointly and severally liable with the unlawful user for damage giving right to compensation under Article 1, each of them being bound under the provisions and within the limits of liability of this Convention.

### **Article 5**

Any person who would otherwise be liable under the provisions of this Convention shall not be liable if the damage is the direct consequence of armed conflict or civil disturbance, or if such person has been deprived of the use of the aircraft by act of public authority.

### **Article 6**

1. Any person who would otherwise be liable under the provisions of the Convention shall not be liable for damage if he proves that the damage was caused solely through the negligence or other wrongful act or omission of the person who suffers the damage or of the latter's servants or agents. If the person liable proves that the damage was contributed to by the negligence or other wrongful act or omission of the person who suffers the damage, or of his servants or agents, the compensation shall be reduced to the extent to which such negligence

or wrongful act or omission contributed to the damage. Nevertheless there shall be no such exoneration or reduction if, in the case of the negligence or other wrongful act or omission of a servant or agent, the person who suffers the damage proves that his servant or agent was acting outside the scope of his authority.

2. When an action is brought by one person to recover damages arising from the death or injury of another person, the negligence or other wrongful act or omission of such other person, or of his servants or agents, shall also have the effect provided in the preceding paragraph.

### **Article 7**

When two or more aircraft have collided or interfered with each other in flight and damage for which a right to compensation as contemplated in Article 1 results, or when two or more aircraft have jointly caused such damage, each of the aircraft concerned shall be considered to have caused the damage and the operator of each aircraft shall be liable, each of them being bound under the provisions and within the limits of liability of this Convention.

### **Article 8**

The persons referred to in paragraph 3 of Article 2 and in Article 3 and 4 shall be entitled to all defences which are available to an operator under the provisions of this Convention.

### **Article 9**

Neither the operator, the owner, any person liable under Article 3 or Article 4, nor their respective servants or agents, shall be liable for damage on the surface caused by an aircraft in flight or any person or thing falling therefrom otherwise than as expressly provided in this Convention. This rule shall not apply to any such person who is guilty of a deliberate act or omission done with intent to cause damage.

### **Article 10**

Nothing in this Convention shall prejudice the question whether a person liable for damage

in accordance with its provisions has a right of recourse against any other person.

## CHAPTER II

### EXTENT OF LIABILITY

#### Article 11

1. Subject to the provisions of Article 12, the liability for damage giving a right to compensation under Article 1, for each aircraft and incident, in respect of all persons liable under this Convention, shall not exceed :

- (a) 500,000 francs for aircraft weighing 1000 Kilograms or less ;
- (b) 500,000 francs plus 400 francs per Kilogram over 1000 Kilograms for aircraft weighing more than 1000 but not exceeding 6000 Kilograms;
- (c) 2,500,000 francs plus 250 francs per Kilogram over 6000 Kilograms for aircraft weighing more than 6000 but not exceeding 20,000 Kilograms;
- (d) 6,000,000 francs plus 150 francs per Kilogram over 20,000 Kilograms for aircraft weighing more than 20,000 but not exceeding 50,000 Kilograms;
- (e) 10,500,000 francs plus 100 francs per Kilogram over 50,000 Kilograms for aircraft weighing more than 50,000 Kilograms.

2. The liability in respect of loss of life or personal injury shall not exceed 500,000 francs per person killed or injured.

3. "Weight" means the maximum weight of the aircraft authorised by the certificate of airworthiness for take-off, excluding the effect of lifting gas when used.

4. The sums mentioned in francs in this Article refer to a currency until consisting of 65½ milligrams of gold of millesimal fineness 900. These sums may be converted into national currencies in round figures. Conversion of the sums into national currencies other than gold shall, in case of judicial proceeding, be made according to the gold value such currencies at

the date of the judgment, or, in cases cover by Article 14, at the date of the allocation.

#### Article 12

1. If the person who suffers damage proves that it was caused by a deliberate act or omission of the operator, his servants or agents, done with intent to cause, damage, the liability of the operator shall be unlimited; provided that in the case of such act or omission of such servant or agent, it is also proved that he was acting in the course of his employment and within the scope of his authority.

2. If a person wrongfully takes and makes use of an aircraft without the consent of the person entitled to use it, his liability shall be unlimited.

#### Article 13

1. Whenever, under the provisions of Article 3 or Article 4, two or more persons are liable for damage or a registered owner who was not the operator is made liable as such as provided in paragraph 3 of Article 2, the persons who suffer damage shall not be entitled to total compensation greater than the highest indemnity which may be awarded under the provisions of this Convention against any one of the persons liable.

2. When the provisions of Article 7 are applicable, the person who suffers the damage shall be entitled to be compensated up to the aggregate of the limits applicable with respect to each of the aircraft involved, but no operator shall be liable for a sum in excess of the limit applicable to his aircraft unless his liability is unlimited under the terms of Article 12.

#### Article 14

If the total amount of the claims established exceeds the limit of liability applicable under the provisions of this Convention, the following rules shall apply, taking into account the provisions of paragraph 2 of Article 11.

- (a) If the claims are exclusively in respect of loss of life or personal injury or exclusively in respect of damage to

property, such claims shall be reduced in proportion to their respective amounts.

- (b) If the claims are both in respect of loss of life or personal injury and in respect of damage to property, one half of the total sum distributable shall be appropriated preferentially to meet claims in respect of loss of life and personal injury and, if insufficient, shall be distributed proportionately, between the claims concerned. The remainder of the total sum distributable shall be distributed proportionately among the claims in respect of damage to property and the portion not already covered of the claims in respect of loss of life and personal injury.

### CHAPTER III

## SECURITY FOR OPERATOR'S LIABILITY

### Article 15

1. Any Contracting State may require that the operator of an aircraft registered in another Contracting State shall be insured in respect of his liability for damage sustained in its territory for which a right to compensation exists under Article 1 by means of insurance up to the limits applicable according to the provisions of Article 11.

2. (a) The insurance shall be accepted as satisfactory if it conforms to the provisions of this Convention and has been effected by an insurer authorised to effect such insurance under the laws of the State where the aircraft is registered or of the State where the insurer has his residence or principal place of business, and whose financial responsibility has been verified by either of those States.

(b) If insurance has been required by any State under paragraph 1 of this Article, and a final judgment in that State, is not satisfied by payment in the currency of that State any Contracting State may refuse to accept the insurer as financially responsible until such payment, if demanded, has been made.

3. Notwithstanding the last preceding paragraph the State overflown may refuse to accept as satisfactory insurance effected by an insurer who is not authorised for that purpose in a Contracting State.

4. Instead of insurance, any of the following securities shall be deemed satisfactory if the security conforms to Article 17.

- (a) a cash deposit in a depository maintained by the Contracting State where the aircraft is registered or with a bank authorised to act as a depository by that State;
- (b) a guarantee given by a bank authorised to do so by the Contracting State where the aircraft is registered, and whose financial responsibility has been verified by that State;
- (c) a guarantee given by the Contracting State where the aircraft is registered, if the State undertakes that it will not claim immunity from suit in respect of that guarantee.

5. Subject to paragraph 6 of this Article, the State overflown may also require that the aircraft shall carry a certificate issued by the insurer certifying that insurance has been effected in accordance with the provisions of this Convention, and specifying the person or persons whose liability is secured thereby, together with a certificate or endorsement issued by the appropriate authority in the State where the aircraft is registered or in the State where the insurer has his residence or principal place of business certifying the financial responsibility of the insurer. If other security is furnished in accordance with the provisions of paragraph 4 of this Article a certificate to that effect shall be issued by the appropriate authority in the State where the aircraft is registered.

6. The certificate referred to in paragraph 5 of this Article need not be carried in the aircraft if a certified copy has been filed with the appropriate authority designated by the State overflown or, if the International Civil Aviation

Organization agrees, with that organization, which shall furnish a copy of the certificate to each contracting State.

7. (a) Where the State overflown has reasonable grounds for doubting the financial responsibility of the insurer, or of the bank which issues a guarantee under paragraph 4 of this Article, that State may request additional evidence of financial responsibility, and if any question arises as to the adequacy of that evidence, the dispute affecting the States concerned shall at the request of one of those States, be submitted to an arbitral tribunal which shall be either the Council of the International Civil Aviation Organization or a person or body mutually agreed by the parties.

(b) Until this tribunal has given its decision the insurance or guarantee shall be considered provisionally valid by the State overflown.

8. Any requirements imposed in accordance with this Article shall be notified to the Secretary General to the International Civil Aviation Organization who shall inform each Contracting State thereof.

9. For the purpose of this Article, the term “insurer” includes a group of insurers, and for the purpose of paragraph 5 of this Article, the phrase “appropriate authority in a State” includes the appropriate authority in the highest political sub-division thereof which regulates the conduct of business by the insurer.

## Article 16

1. The insurer or other person providing security required under Article 15 for the liability of the operator may, in addition to the defences available to the operator, and the defence of forgery, set up only the following defences against claims based on the application of this Convention:

(a) that the damage occurred after the security ceased to be effective. However, if the security expires during a flight, it shall be continued in force until the next landing specified in the flight plan, but no longer than twenty four hours;

and if the security ceases to be effective for any reason other than the expiration of its term, or a change of operator it shall be continued until fifteen days after notification to the appropriate authority of the State which certifies the financial responsibility of the insurer or the guarantor that the security has ceased to be effective, or until effective withdrawal of the certificate of the insurer or the certificate of guarantee if such a certificate has been required under paragraph 5 of Article 15, whichever is the earlier;

(b) that the damage occurred outside the territorial limit provided for by the security, unless flight outside of such limits was caused by *force majeure*, assistance justified by the circumstances, or an error in piloting, operation or navigation.

2. The State which has issued or endorsed a certificate pursuant to paragraph 5 of Article 15 shall notify the termination or cessation, otherwise than by the expiration of its term, of the insurance or other security to the interested contracting States as soon as possible.

3. Where a certificate of insurance or other security is required under paragraph 5 of Article 15 and, the operator is changed during the period of the validity of the security, the security shall apply to the liability under this Convention of the new operator, unless he is already covered by other insurance or security or is an unlawful user, but not beyond fifteen days from the time when the insurer or guarantor notifies the appropriate authority of the State where the certificate was issued that the security has become ineffective or until the effective withdrawal of the certificate of the insurer if such a certificate has been required under paragraph 5 of Article 15, whichever is the shorter period.

4. The continuation in force of the security under the provisions of paragraph 1 of this Article shall apply only for the benefit of the person suffering damage.

5. Without prejudice to any right of direct action which he may have under the law governing the contract of insurance or guarantee, the person suffering damage may bring a direct action against the insurer or guarantor only in the following cases :

- (a) where the security is continued in force under the provisions of paragraph 1 (a) and (b) of this Article;
- (b) the bankruptcy of the operator.

6. Excepting the defences specified in paragraph 1 of this Article, the insurer or other person providing security may not, with respect to direct actions brought by the person suffering damage based upon application of this Convention, avail himself of any grounds of nullity or any right or retroactive cancellation.

7. The provisions of this Article shall not prejudice the question whether the insurer or guarantor has a right of recourse against any other person.

### **Article 17**

1. If security is furnished in accordance with paragraph 4 of Article 15, it shall be specifically and preferentially assigned to payment of claims under the provisions of this Convention.

2. The security shall be deemed sufficient if, in the case of an operator of one aircraft, it is for an amount equal to the limit applicable according to the provisions of Article 11, and in the case of an operator of several aircraft, if it is for an amount not less than the aggregate of the limits of liability applicable to the two aircraft subject to the highest limits.

3. As soon as notice of a claim has been given to the operator, the amount of the security shall be increased up to a total sum equivalent to the aggregate of :

- (a) the amount of the security then required by paragraph 2 of this Article, and
- (b) the amount of the claim not exceeding the applicable limit of liability.

This increased security shall be maintained until every claim has been disposed of.

### **Article 18**

Any sums due to an operator from an insurer shall be exempt from seizure and execution by creditors of the operator until claims of third parties under this Convention have been satisfied.

## **CHAPTER IV**

### **RULES OF PROCEDURE AND LIMITATION OF ACTION**

#### **Article 19**

If a claimant has not brought an action to enforce his claim or if notification of such claim has not been given to the operator within a period of six months from the date of the incident which gave rise to the damage, the claimant shall only be entitled to compensation out of the amount for which the operator remains liable after all claims made within that period have been met in full.

#### **Article 20**

1. Actions under the provisions of this Convention may be brought only before the courts of the Contracting State where the damage occurred. Nevertheless, by agreement between any one or more claimants and any one or more defendants, such claimants may take action before the courts of any other Contracting State, but no such proceedings shall have the effect of prejudicing in any way the rights of persons who brings actions in the State where the damage occurred. The parties may also agree to submit disputes to arbitration in any Contracting State.

2. Each Contracting State shall take all necessary measures to ensure that the defendant and all other parties interested are notified of any proceedings concerning them and have a fair and adequate opportunity to defend their interests.

3. Each Contracting State shall so far as possible ensure that all actions arising from a

single incident and brought in accordance with paragraph 1 of this Article are consolidated for disposal in a single proceeding before the same court.

4. Where any final judgment, including judgement by default, is pronounced by a court competent in conformity with this Convention, on which execution can be issued according to the procedural law of the court, the judgment shall be enforceable upon compliance with the formalities prescribed by the laws of the Contracting State, or of any territory, State or province thereof, where execution is applied for;

- (a) in the Contracting State where the judgment debtor has his residence or principal place of business, or
- (b) if the assets available in that State and in the State where the judgment was pronounced are insufficient to satisfy the judgment, in any other Contracting State where the judgment debtor has assets.

5. Notwithstanding the provisions of paragraph 4 of this Article, the court to which application is made for execution may refuse to issue execution if it is proved that any of the following circumstances exist :

- (a) the judgment was given by default and the defendant did not acquire knowledge of the proceedings in sufficient time to act upon it;
- (b) the defendant was not given a fair and adequate opportunity to defend his interests;
- (c) the judgment is in respect of a cause of action which has already, as between the same parties, formed the subject of a judgment or an arbitral award which, under the law of the State where execution is sought, is recognised as final and conclusive;
- (d) the judgment has been obtained by fraud of any of the parties;

(e) the right to enforce the judgment is not vested in the person by whom the application for execution is made.

6. The merits of the case may not be reopened in proceedings for execution under paragraph 4 of this Article.

7. The court to which application for execution is made may also refuse to issue execution if the judgment concerned is contrary to the public policy of the State in which execution is requested.

8. If, in proceedings brought according to paragraph 4 of this Article execution of any judgment is refused on any of the grounds referred to in sub-paragraphs (a), (b) or (d) of paragraph 5 or paragraph 7 of this Article, the claimant shall be entitled to bring a new action before the courts of the State where execution has been refused. The judgement rendered in such new action may not result in the total compensation awarded exceeding the limits applicable under the provisions of this Convention. In such new action the previous judgment shall be a defence only to the extent to which it has been satisfied. The previous judgment shall cease to be enforceable as soon as the new action has been started.

The judgment rendered in such new action may not result in the total compensation awarded exceeding the limits applicable under the provisions of this Convention. In such new action the previous judgment shall be a defence only to the extent to which it has been satisfied. The previous judgment shall cease to be enforceable as soon as the new action has been started.

The right to bring a new action under this paragraph shall, notwithstanding the provisions of Article 21, be subject to a period of limitation of one year from the date on which the claimant has received notification of the refusal to execute the judgment.

9. Notwithstanding the provisions of paragraph 4 of this Article, the court to which application for execution is made shall refuse

execution of any judgment rendered by a court of a State other than that in which the damage occurred until all the judgments rendered in that State have been satisfied.

The court applied to shall also refuse to issue execution until final judgment has been given on all action filed in the State where the damage occurred by those persons who have complied with the time limit referred to in Article 19, if the judgment debtor proves that the total amount of compensation which might be awarded by such judgements might exceed the applicable limit of liability under the provisions of this Convention.

Similarly such court shall not grant execution when in the case of actions brought in the State where the damage occurred by those persons who have complied with the time limit referred to in Article 19, the aggregate of the judgment exceeds the applicable limit of liability, until such judgments have been reduced in accordance with Article 14.

10. Where a judgment is rendered enforceable under this Article, payment of costs recoverable under the judgement shall also be enforceable. Nevertheless the court applied to for execution may, on the application of the judgment debtor, limit the amount of such costs to a sum equal to ten per centum of the amount for which the judgment is rendered enforceable. The limits of liability prescribed by this Convention shall be exclusive of costs.

11. Interest not exceeding four per centum per annum may be allowed on the judgment debt from the date of the judgement in respect of which execution is granted.

12. An application for execution of a judgement to which paragraph 4 of this Article applies must be made within five years from the date when such judgment became final.

### **Article 21**

1. Actions under this Convention shall be subject to a period of limitation of two years from the date of the incident which caused the damage.

2. The grounds for suspension or

interruption of the period referred to in paragraph 1 of this Article shall be determined by the law of the court trying the action; but in any case the right to institute an action shall be extinguished on the expiration of three years from the date of the incident which caused the damage.

### **Article 22**

In event of the death of the person liable, an action in respect of liability under the provisions of this Convention shall lie against those legally responsible for his obligations.

## **CHAPTER V**

### **APPLICATION OF THE CONVENTION AND GENERAL PROVISIONS**

### **Article 23**

1. This Convention applies to damage contemplated in Article 1 caused in the territory of Contracting State by an aircraft registered in the territory of another Contracting State.

2. For the purpose of this Convention a ship or aircraft on the high seas shall be regarded as part of the territory of the State in which it is registered.

### **Article 24**

This Convention shall not apply to damage caused to an aircraft in flight, or to persons or goods on board such aircraft.

### **Article 25**

This Convention shall not apply to damage on the surface if liability for such damage is regulated either by a contract between the person who suffers such damage and the operator or the person entitled to use the aircraft at the time the damage occurred, or by the law relating to workmen's compensation applicable to a contract of employment between such persons.

### **Article 26**

This Convention shall not apply to damage caused by military, customs or police aircraft.



**Article 27**

Contracting States will, as far as possible facilitate payment of compensation under the provisions of this Convention in the currency of the State where the damage occurred.

**Article 28**

If legislative measures are necessary in any Contracting State to give effect to this Convention, the Secretary General of the International Civil Aviation Organization shall be informed forthwith of the measures so taken.

**Article 29**

As between Contracting States which have also ratified the International Convention for the Unification of Certain Rules relating to Damage caused by Air craft to Third Parties on the Surface opened for signature at Rome on the 29th May, 1933, the present Convention upon its entry into force shall supersede the said Convention of Rome.

**Article 30**

For the purposes of this Convention :

- “Person” means any natural or legal person including a State.
- “Contracting State” means any State which has ratified or adhered to this Convention and whose denunciation thereof has not become effective.
- “Territory of a State” means the metropolitan territory of a State and all territories for the foreign relations of which that State is responsible, subject to the provisions of Article 36.

**CHAPTER VI****FINAL PROVISIONS****Article 31**

This Convention shall remain open for signature on behalf of any State until it comes into force in accordance with the provisions of Article 33.

**Article 32**

1. This Convention shall be subject to ratification by the signatory States,

2. The instruments of ratification shall be deposited with the International Civil Aviation Organization.

**Article 33**

1. As soon as five of the signatory States have deposited their instruments of ratification of this Convention, it shall come into force between them on the ninetieth day after the date of the deposit of the fifth instrument of ratification. It shall come into force, for each State which deposits its instrument of ratification after that date, on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this Convention comes into force, it shall be registered with the United Nations by the Secretary General of the International Civil Aviation Organization.

**Article 34**

1. This Convention shall, after it has come into force, be open for adherence by any non-signatory State.

2. The adherence of a State shall be effected by the deposit of an instrument of adherence with the International Civil Aviation Organization and shall take effect as from the ninetieth day after the date of the deposit.

**Article 35**

1. Any Contracting State may denounce this convention by notification of denunciation to the International Civil Aviation Organization.

2. Denunciation shall take effect six months after the date of receipt by the International Civil Aviation Organization of the notification of denunciation; nevertheless, in respect of damage contemplated in Article 1 arising from an incident which occurred before the expiration of the six months period, the Convention shall continue to apply as if the denunciation had not been made.

### Article 36

1. This Convention shall apply to all territories for the foreign relations of which a Contracting State is responsible, with the exception of territories in respect of which a declaration has been made in accordance with paragraph 2 of this Article or paragraph 3 of Article 37.

2. Any State may at the time of deposit of its instrument of ratification or adherence, declare that its acceptance of this Convention does not apply to any one or more of the territories for the foreign relations of which such State is responsible.

3. Any Contracting State may subsequently, by notification to the International Civil Aviation Organization, extend the application of this Convention to any or all of the territories regarding which it has made a declaration in accordance with paragraph 2 of this Article or paragraph 3 of Article 37. The notification shall take effect as from the ninetieth day after its receipt by the Organization.

4. Any Contracting State may denounce this Convention, in accordance with the provisions of Article 35, separately for any or all of the territories for the foreign relations of which such State is responsible.

### Article 37

1. When the whole or part of the territory of a Contracting State is transferred to a non-contracting State, this Convention shall cease to apply to the territory so transferred, as from the date of the transfer.

2. When part of the territory of a Contracting State becomes an independent State responsible for its own foreign relations, this Convention shall cease to apply to the territory which becomes an independent State, as from the date on which it becomes independent.

3. When the whole or part of the territory of another State is transferred to a Contracting State, the Convention shall apply to the territory so transferred as from the date of the transfer; provided that, if the territory transferred does not become part of the metropolitan territory

of the Contracting State concerned, that Contracting State may, before or at the time of the transfer, declare by notification to the International Civil Aviation Organization that the Convention shall not apply to the territory transferred unless a notification is made under paragraph 3 of Article 36.

### Article 38

The Secretary General of the International Civil Aviation Organization shall give notice to all signatory and adhering States and to all States Members of the Organization or of the United Nations :

- (a) of the deposit of any instrument of ratification or adherence and the date thereof, within thirty days from the date of the deposit, and
- (b) of the receipt of any denunciation or of any declaration or notification made under Article 36 or 37 and the date thereof, within thirty days from the date of the deposit, and

The Secretary General of the Organization shall also notify these States of the date on which the convention comes into force in accordance with paragraph 1 of Article 33.

### Article 39

No reservations may be made to this Convention

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorised, have signed this Convention

DONE at Rome on the Seventh day of the month of October of the year One Thousand Nine Hundred and Fifty Two in the English, French and Spanish languages, each text being of equal authenticity.

The Convention shall be deposited with the International Civil Aviation Organization where in accordance with Article 31, it shall remain open for signature, and the Secretary General of the Organization shall send certified copies thereof to all signatory and adhering States and to all States Members of the Organization of the United Nations.

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**CHAPTER XVI**

**CONVENTION ON OFFENCES AND CERTAIN  
OTHER ACTS COMMITTED ON BOARD AIRCRAFT  
SIGNED AT TOKYO ON 14 SEPTEMBER, 1963  
(THE TOKYO CONVENTION, 1963)**

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**CHAPTER XVI**

**CONVENTION ON OFFENCES AND CERTAIN  
OTHER ACTS COMMITTED ON BOARD AIRCRAFT  
SIGNED AT TOKYO ON 14 SEPTEMBER, 1963 \***

**(THE TOKYO CONVENTION, 1963)**

THE STATES Parties to this Convention.

HAVE AGREED as follows :

**CHAPTER I**

**SCOPE OF THE CONVENTION**

**Article I**

1. This Convention shall apply in respect of :

- (a) offences against penal law;
- (b) acts which, whether or not they are offences, may or do jeopardize the safety of the aircraft or of persons or property therein or which jeopardize good order and discipline on board.

2. Except as provided in Chapter III, this Convention shall apply in respect of offences committed or acts done by a person on board any aircraft registered in a Contracting State, while that aircraft is in flight or on the surface of the high seas or of any other area outside the territory of any State.

3. For the purposes of this Convention, an aircraft is considered to be in flight from the moment when power is applied for the purpose of take-off until the moment when the landing run ends.

4. This Convention shall not apply to aircraft used in military, customs or police services.

**Article 2**

Without prejudice to the provisions of Article 4 and except when the safety of the aircraft or of persons or property on board so requires no provision of this Convention shall be interpreted as authorizing or requiring any action in respect of offences against penal laws of a political nature or those based on racial or religious discrimination.

**CHAPTER II**

**JURISDICTION**

**Article 3**

1. The State of registration of the aircraft is competent to exercise jurisdiction over offences and acts committed on board.

2. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction as the State of registration over offences committed on board aircraft registered in such State.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

**Article 4**

A Contracting State which is not the State of registration may not interfere with an aircraft in flight in order to exercise its criminal jurisdiction over an offence committed on board except in the following cases :

\* *Entered into force on 4 December, 1969.*

*As on 30 June, 2003 there are only 176 contracting States party to it.*

*India ratified it on 22 July 1975.*

- (a) the offence has effect on the territory of such State;
- (b) the offence has been committed by or against a national or permanent resident of such State;
- (c) the offence is against the security of such State;
- (d) the offence consists of a breach of any rules or regulations relating to the flight or manoeuvre of aircraft in force in such State;
- (e) the exercise of jurisdiction is necessary to ensure the observance of any obligation of such State under a multilateral international agreement.

### **CHAPTER III**

## **POWERS OF THE AIRCRAFT COMMANDER**

### **Article 5**

1. The provisions of this Chapter shall not apply to offences and acts committed or about to be committed by a person on board an aircraft in flight in the air-space of the State of registration or over the high seas or any other area outside the territory of any State unless the last point of take-off or the next point of intended landing is situated in a State other than that of registration, or the aircraft subsequently flies in the air-space of a State other than that of registration with such person still on board.

2. Notwithstanding the provisions of Article 1, paragraph 3, an aircraft shall for the purposes of this Chapter, be considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing, the provisions of this Chapter shall continue to apply with respect to offences and acts committed on board until competent authorities of a State take over the responsibility for the aircraft and for the persons and property on board.

### **Article 6**

1. The aircraft commander may, when he has reasonable grounds to believe that a person has committed or is about to commit, on board the aircraft an offence or act contemplated in Article 1 paragraph 1, impose upon such person reasonable measures including restraint which are necessary :

- (a) to protect the safety of the aircraft or of persons of property therein; or
- (b) to maintain good order and discipline on board; or
- (c) to enable him to deliver such person to competent authorities or to disembark him in accordance with the provisions of this Chapter.

2. The aircraft commander may require or authorize the assistance of other crew members and may request or authorize, but not require, the assistance of passengers to restrain any person whom he is entitled to restrain. Any crew member or passenger may also take reasonable preventive measures without such authorization when he has reasonable grounds to believe that such action is immediately necessary to protect the safety of the aircraft, or of persons of property therein.

### **Article 7**

1. Measures of restraint imposed upon a person in accordance with Article 6 shall not be continued beyond any point at which the aircraft lands unless :

- (a) such point is in the territory of a non-Contracting State and its authorities refuse to permit disembarkation of that person or those measures have been imposed in accordance with Article 6, paragraph 1(c) in order to enable his delivery to competent authorities;
- (b) the aircraft makes a forced landing and the aircraft commander is unable to deliver that person to competent authorities; or

(c) that person agrees to onward carriage under restraint.

2. The aircraft commander shall as soon as practicable, and if possible before landing in the territory of a State with a person on board who has been placed under restraint in accordance with the provisions of Article 6, notify the authorities of such State of the fact that a person on board is under restraint and of the reasons for such restraint.

### **Article 8**

1. The aircraft commander may, in so far as it is necessary for the purpose of subparagraph (a) or (b) of paragraph 1 of Article 6, disembark in the territory of any State in which the aircraft lands any person who he has reasonable grounds to believe has committed, or is about to commit, on board the aircraft an act contemplated in Article 1, paragraph 1(b).

2. The aircraft commander shall report to the authorities of the State in which he disembarks any person pursuant to this Article, the fact of, and the reasons for, such embarkation.

### **Article 9**

1. The aircraft commander may deliver to the competent authorities of any Contracting State in the territory of which the aircraft lands any person who he has reasonable grounds to believe has committed on board the aircraft an act which, in his opinion, is a serious offence according to the penal law of the State registration of the aircraft.

2. The aircraft commander shall as soon as practicable and if possible before landing in the territory of a Contracting State with a person on board whom the aircraft commander intends to deliver in accordance with the preceding paragraph, notify the authorities of such State of his intention to deliver such person and the reasons therefor.

3. The aircraft commander shall furnish the authorities to whom any suspected offender is delivered in accordance with the provisions of this Article with evidence and information

which under the law of the State of registration of the aircraft, are lawfully in his possession.

### **Article 10**

For actions taken in accordance with this Convention, neither the aircraft commander, any other member of the crew, any passenger, the owner or operator of the aircraft, nor the person on whose behalf the flight was performed shall be held responsible in any proceeding on account of the treatment undergone by the person against whom the actions were taken.

## **CHAPTER IV**

### **UNLAWFUL SEIZURE OF AIRCRAFT**

#### **Article 11**

1. When a person on board has unlawfully committed by force of threat thereof an act of interference seizure, or other wrongful exercise of control of an aircraft in flight or when such an act is about to be committed, Contracting States shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft.

2. In the cases contemplated in the preceding paragraph, the Contracting State in which the aircraft land shall permit its passengers and crew to continue their journey as soon as practicable and shall return the aircraft and its cargo to the person lawfully entitled to possession.

## **CHAPTER V**

### **POWERS AND DUTIES OF STATES**

#### **Article 12**

Any Contracting State shall allow the commander of an aircraft registered in another Contracting State to disembark any person pursuant to Article 8, paragraph 1.

#### **Article 13**

1. Any Contracting State shall take delivery of any person whom the aircraft commander delivers pursuant to Article 9, paragraph 1.

2. Upon being satisfied that the circumstances so warrant, any Contracting State shall take custody or other measures to ensure the presence of any person suspected of an act contemplated in Article 11, paragraph 1 and of any person of whom it has taken delivery. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is reasonably necessary to enable any criminal or extradition proceedings to be instituted.

3. Any person in custody pursuant to the previous paragraph shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is national.

4. Any Contracting State, to which a person is delivered pursuant to Article 9, paragraph 1, or in whose territory an aircraft lands following the commission of an act contemplated in Article 11, paragraph 1, shall immediately make a preliminary enquiry into the facts.

5. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the State of registration of the aircraft and the State of nationality of the detained person and, if it considers it advisable, any other interested State of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 4 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

#### **Article 14**

1. When any person has been disembarked in accordance with Article 8, paragraph 1, or delivered in accordance with Article 9, paragraph 1, has disembarked after committing an act contemplated in Article 11, paragraph 1, and when such person cannot or does not desire to continue his journey and the State of

landing refuses to admit him, that State may, if the person in question is not a national or permanent resident of that State, return him to the territory of the State of which he is a national or permanent resident or to the territory of the State in which he began his journey by air.

2. Neither disembarkation, nor delivery, nor the taking of custody or other measures contemplated in Article 13, paragraph 2, nor return of the person concerned, shall be considered as admission to the territory of the Contracting State concerned for the purpose of its law relating to entry or admission of persons and nothing in this Convention shall affect the law of a Contracting State relating to the expulsion of persons from its territory.

#### **Article 15**

1. Without prejudice to Article 14, any person who has been disembarked in accordance with Article 8, paragraph 1, or delivered in accordance with Article 9, paragraph 1, or delivered in accordance with Article 9, paragraph 1, or has disembarked after committing an act contemplated in Article 11, paragraph 1, and who desires to continue his journey shall be at liberty as soon as practicable to proceed to any destination of his choice unless his presence is required by the law of the State of landing for the purpose of extradition of criminal proceedings.

2. Without prejudice to its law as to entry and admission to, and extradition and expulsion from its territory, a Contracting State in whose territory a person has been disembarked in accordance with Article 8, paragraph 1, or delivered in accordance with Article 9, paragraph 1 or has disembarked and is suspected of having committed an act contemplated in Article 11, paragraph 1, shall accord to such person treatment which is no less favourable for his protection and security than that accorded to nationals of such Contracting State in like circumstances.



## CHAPTER VI OTHER PROVISIONS

### Article 16

1. Offences committed on aircraft registered in a Contracting State shall be treated, for the purpose of extradition, as if they had been committed not only in the place in which they have occurred but also in the territory of the State of registration of the aircraft.

2. Without prejudice to the provisions of the preceding paragraph, nothing in this Convention shall be deemed to create an obligation to grant extradition.

### Article 17

In taking any measures for investigation or arrest or otherwise exercising jurisdiction in connection with any offence committed on board an aircraft the Contracting State shall pay due regard to the safety and other interests of air navigation and shall so act as to avoid unnecessary delay of the aircraft, passengers crew or cargo.

### Article 18

If Contracting States establish joint air transport operating organizations or international operating agencies, which operate aircraft not registered in any one State those States shall, according to the circumstances of the case, designate the State among them which for the purposes of this Convention, shall be considered as the State of registration and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States parties to this Convention.

## CHAPTER VII FINAL CLAUSES

### Article 19

Until the date on which this Convention comes into force in accordance with the provisions of Article 21, it shall remain open for signature on behalf of any State which at

that date is a Member of the United Nations or of any of the Specialized Agencies.

### Article 20

1. This Convention shall be subject to ratification by the signatory States in accordance with their constitutional procedures.

2. The instruments of ratification shall be deposited with the International Civil Aviation Organization.

### Article 21

1. As soon as twelve of the signatory States have deposited their instruments of ratification of this Convention, it shall come into force between them on the ninetieth day after the date of the deposit of the twelfth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this Convention comes into force, it shall be registered with the Secretary-General of the United Nations by the International Civil Aviation Organization.

### Article 22

1. This Convention shall, after it has come into force, be open for accession by any State Member of the United Nations or of any of this Specialized Agencies.

2. The accession of a State shall be effected by the deposit of an instrument of accession with the International Civil Aviation Organization and shall take effect on the ninetieth day after the date of such deposit.

### Article 23

1. Any Contracting state may denounce this Convention by notification addressed to the International Civil Aviation Organization.

2. Denunciation shall take effect six months after the date of receipt by the International Civil Aviation Organization of the notification of denunciation.

**Article 24**

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.

3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the International Civil Aviation Organization.

**Article 25**

Except as provided in Article 24 no reservation may be made to this Convention.

**Article 26**

The International Civil Aviation Organization shall give notice to all States Members of the United Nations or of any of the Specialized Agencies :

- (a) of any signature of this Convention and the date thereof;
- (b) of the deposit of any instrument of ratification or accession and the date thereof;
- (c) of the date on which this Convention comes into force in accordance with Article 21, para-graph 1;
- (d) of the receipt of any notification of denunciation and the date thereof; and
- (e) of the receipt of any declaration or notification made under Article 24 and the date thereof.

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

DONE at Tokyo on the fourteenth day of September One Thousand Nine Hundred and Sixtythree in three authentic texts drawn up in the English, French and Spanish languages.

This Convention shall be deposited with the International Civil Aviation Organization with which, in accordance with Article 19, it shall remain open for signature and the said Organization shall send certified copies thereof to all States Members of the United Nations or of any Specialized Agency.

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**CHAPTER XVII**

**CONVENTION FOR THE SUPPRESSION OF  
UNLAWFUL SEIZURE OF AIRCRAFT  
SIGNED AT THE HAGUE ON 16TH DECEMBER, 1970  
(THE HAGUE CONVENTION, 1970)**

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**CHAPTER XVII**

**CONVENTION FOR THE SUPPRESSION OF  
UNLAWFUL SEIZURE OF AIRCRAFT**

**SIGNED AT THE HAGUE ON 16TH DECEMBER, 1970 \***

**(THE HAGUE CONVENTION, 1970)**

**PREAMBLE**

THE STATE PARTIES TO THIS  
CONVENTION

CONSIDERING that unlawful acts of seizure or exercise of control of aircraft in flight jeopardize the safety of persons and property, seriously affect the operation of air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;

CONSIDERING that the occurrence of such acts is a matter of grave concern;

CONSIDERING that for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

HAVE AGREED AS FOLLOWS :

**Article 1**

Any person who on board an aircraft in flight:

- (a) unlawfully, by force or threat thereof, or by any other form of intimidation seizes, or exercises control of, that aircraft, or attempts to perform any such act, or
- (b) is an accomplice of a person who performs or attempts to perform any such act

commits an offence (hereinafter referred to as "the offence").

**Article 2**

Each Contracting State undertakes to make the offence punishable by severe penalties.

**Article 3**

1. For the purposes of this Convention, an aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board.

2. This Convention shall not apply to aircraft used in military, customs or police services.

3. This Convention shall apply only if the place of take off or the place of actual landing of the aircraft on board which the offence is committed is situated outside the territory of the State of registration of that aircraft; it shall be immaterial whether the aircraft is engaged in an international or domestic flight.

4. In the cases mentioned in Article 5, this Convention shall not apply if the place of take-

\* Entered into force on 14 October, 1971.

As on 30 June, 2003 there are only 177 contracting States party to it.  
India has ratified it.

off and the place of actual landing of the aircraft on board which the offence is committed are situated within the territory of the same State where that State is one of those referred to in that Article.

5. Notwithstanding paragraph 3 and 4 of this Article, Article 6,7,8 and 10 shall apply whatever the place of take-off or the place of actual landing of the aircraft, if the offender or the alleged offender is found in the territory of a State other than the State of registration of that aircraft.

#### **Article 4**

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offence and any other act of violence against passengers or crew committed by the alleged offender in connection with the offence in the following cases :

- (a) when the offence is committed on board an aircraft registered in that State;
- (b) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;
- (c) when the offence is committed on board an aircraft leased without crew to a lessee who has his principal place of business, if the lessee has no such place of business or his permanent residence, in that State.

2. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offence in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

#### **Article 5**

The Contracting States which establish joint air transport operating organizations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registration for the purpose of this Convention and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

#### **Article 6**

1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the offender or the alleged offender is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this Article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.

4. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the State of registration of the aircraft, the State mentioned in Article 4, paragraph 1(c), the State of nationality of the detained person and, if it considers it advisable, any other interested States of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated

in paragraph 2 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

### **Article 7**

The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

### **Article 8**

1. The offence shall be deemed to be included as an extraditable offence in any extradition treaty existing between Contracting States. Contracting States undertake to include the offence as an extraditable offence in every extradition treaty to be concluded between them.

2. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offence. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. Contracting States which do not make extradition conditional on the existence of a treaty shall recognize the offence as an extraditable offence between themselves subject to the conditions provided by the law of the requested State.

4. The offence shall be treated, for the purpose of extradition between Contracting States, as if it had been committed not only in the place in which it occurred but also in territories of the States required to establish

their jurisdiction in accordance with Article 4, paragraph 1.

### **Article 9**

1. When any of the acts mentioned in Article 1(a) has occurred or is about to occur, Contracting States shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft.

2. In the cases contemplated by the preceding paragraph any Contracting State in which the aircraft or its passengers or crew are present shall facilitate the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.

### **Article 10**

1. Contracting States shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect to the offence and other acts mentioned in Article 4. The law of the State requested shall apply in all cases.

2. The provision of paragraph 1 of this Article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern in whole or in part mutual assistance in criminal matters.

### **Article 11**

Each Contracting State shall in accordance with its national law report to the Council of the International Civil Aviation Organization as promptly as possible any relevant information in its possession concerning :

- (a) the circumstances of the offence;
- (b) the action taken pursuant to Article 9;
- (c) the measures taken in relating to the offender or the alleged offender, and in particular, the results of any extradition proceedings or other legal proceedings.

### Article 12

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.

3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary Governments.

### Article 13

1. This Convention shall be open for signature at The Hague on 16 December 1970, by State participating in the International Conference on Air Law held at The Hague from 1 to 16 December 1970 (herein after referred to as The Hague Conference). After 31 December 1970, the Convention shall be open to all States for signature in Moscow, London and Washington. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Convention shall be subject to ratification by the signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern

Ireland, and the United States of America, which are hereby designated the Depositary Governments.

3. This Convention shall enter into force thirty days following the date of the deposit of instruments of ratification by ten States signatory to this Convention which participated in The Hague Conference.

4. For other States, this Convention shall enter into force on the date of entry into force of this Convention in accordance with paragraph 3 of the this Article, or thirty days following the date of deposit of their instruments of ratification or accession, whichever is later.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of entry into force of the Convention, and other notices.

6. As soon as this Convention comes into force, it shall be registered by the Depositary Governments pursuant to Article 102 of the Chapter of the United Nations and pursuant to Article 83 of the Convention of International Civil Aviation (Chicago, 1944).

### Article 14

1. Any Contracting State may denounce this Convention by written notification to the Depositary Governments.

2. Denunciation shall take effect six months following the date on which notification is received by the Depositary Governments.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorised thereto by their Governments have signed this convention.

DONE at The Hague, this sixteenth day of December, one thousand nine hundred and seventy, in three originals, each being drawn up in four authentic texts in the English, French, Russian and Spanish languages.



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**CHAPTER XVIII**

**CONVENTION ON THE SUPPRESSION OF UNLAWFUL  
ACTS AGAINST THE SAFETY OF CIVIL AVIATION  
SIGNED AT MONTREAL ON 23RD SEPTEMBER, 1971.  
(THE MONTREAL CONVENTION, 1971)**

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## CHAPTER XVIII

# CONVENTION ON THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF CIVIL AVIATION SIGNED AT MONTREAL ON 23RD SEPTEMBER, 1971 \* (THE MONTREAL CONVENTION, 1971)

THE STATES PARTIES TO THIS  
CONVENTION

CONSIDERING that unlawful acts against the safety of civil aviation jeopardize the safety of persons and property, seriously affect the operation of air services, and undermine the confidence of the peoples of the world in the safety of civil aviation;

CONSIDERING that occurrence of such acts is a matter of grave concern;

CONSIDERING that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

HAVE AGREED AS FOLLOWS:

### Article 1

Any person commits an offence if he unlawfully and intentionally :-

- (a) performs an act of violence against a person on board an aircraft in flight if the act is likely to endanger the safety of that aircraft; or
- (b) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or
- (c) places or causes to be placed on an aircraft in service, by any means

whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or

- (d) destroys or damages air navigation facilities or interferes with their operation if any such act is likely to endanger the safety of aircraft in flight; or
- (e) communicates information which he knows to be false, thereby endangering safety of an aircraft in flight.

Any person also commits an offence if he:

- (a) attempts to commit any of the offences mentioned in paragraph 1 of this Article; or
- (b) is an accomplice of a person who commits or attempts to commit any such offence.

### Article 2

For the purposes of this convention :

- (a) an aircraft is considered to be in flight at any time from the moment when all the external doors are closed following embarkation until the moment when any such door is opened for disembarkation; in the case of a forced landing, the flight

\* Entered into force on 26 January, 1973.

As on 30 June, 2002 there were only 179 contracting States party to it.  
India has ratified it.

shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board;

- (b) an aircraft is considered to be in service from the beginning of the preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight as defined in paragraph (a) of this Article.

### Article 3

Each Contracting State undertakes to make the offences mentioned in Article 1 punishable by severe penalties.

### Article 4

1. This Convention shall not apply to aircraft used in military, customs or police services.

2. In the case contemplated in subparagraphs (a), (b), (c) and (e) of paragraph 1 of Article 1, this Convention shall apply, irrespective of whether the aircraft is engaged in an international or domestic flight, only if:

- (a) the place of take-off or landing, actual or intended, of the aircraft is situated outside territory of the State of registration of that aircraft; or
- (b) the offence is committed in the territory of a State other than the State of registration of the aircraft.

3. Notwithstanding paragraph 2 of this Article, in the cases contemplated in subparagraphs (a), (b), (c) and (e) of paragraph 1 of Article 1, this convention shall also apply if the offender or the alleged offender is found in the territory of a State other than the State of registration of the aircraft.

4. With respect to the States mentioned in Article 9 and in cases mentioned in subparagraph (a), (b), (c) and (e) of paragraph 1 of Article 1, this Convention shall not apply if the

places referred to in subparagraph (a) of paragraph 2 of this Article are situated within the territory of the same State where that State is one of those referred to in Article 9, unless the offence is committed or the offender or alleged offender is found in the territory of a State other than that State.

5. In the cases contemplated in subparagraph (d) of paragraph 1 of Article 1, this Convention shall apply only if the air navigation facilities are used in international air navigation.

6. The provisions of paragraphs 2, 3, 4, and 5 of this Article shall also apply in the cases contemplated in paragraph 2 of Article 1.

### Article 5

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the offences in the following cases:

- (a) when the offence is committed in the territory of that State;
- (b) when the offence is committed against or on board an aircraft registered in that State;
- (c) when the aircraft on board which the offence is committed lands in its territory with the alleged offender still on board;
- (d) when the offence is committed against or on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in that State.

2. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offences mentioned in Article 1, paragraph 1(a), (b) and (c), and in Article 1, paragraph 2, in so far as that paragraph relates to those offences in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this Article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

### **Article 6**

1. Upon being satisfied that the circumstances so warrant, any Contracting State in the territory of which the offender or the alleged offender is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may only be continued for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this Article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.

4. When a State, pursuant to this Article, has taken a person into custody, it shall immediately notify the State mentioned in Article 5, paragraph 1, the State of nationality of the detained person and, if it considers it advisable, any other interested States of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this Article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

### **Article 7**

The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State.

### **Article 8**

1. The offences shall be deemed to be included as extraditable offences in any extradition treaty existing between Contracting States. Contracting States undertake to include the offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. Contracting States which do not make extradition conditional on the existence of a treaty shall recognize the offences as extraditable between themselves subject to the conditions provided by the law of the requested State.

4. Each of the offences shall be treated, for the purpose of extradition between Contracting States, as if it has been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with Article 5, paragraph 1(b), (c) and (d).

### **Article 9**

The Contracting States which establish joint air transport operating organizations or international operating agencies, which operate aircraft which are subject to joint or international registration shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction and have the attributes of the State of registration for the purpose of this Convention and shall give notice thereof to the International Civil Aviation Organization which shall communicate the notice to all States Parties to this Convention.

### Article 10

1. Contracting States shall, in accordance with international and national law, endeavour to take all practicable measures for the purpose of preventing the offences mentioned in Article 1.

2. When, due to the commission of one of the offences mentioned in Article 1, a flight has been delayed or interrupted, any Contracting State in whose territory the aircraft or passengers or crew are present shall facilitate the continuation of the journey of the passengers and crew as soon as practicable, and shall without delay return the aircraft and its cargo to the persons lawfully entitled to possession.

### Article 11

1. Contracting States shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 of this Article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

### Article 12

Any Contracting State having reason to believe that one of the offences mentioned in Article 1 will be committed shall, in accordance with its national law, furnish any relevant information in its possession to those States which it believes would be the States mentioned in Article 5, paragraph 1.

### Article 13

Each Contracting State shall in accordance with its national law report to the Council of the International Civil Aviation Organization as promptly as possible any relevant information in its possession concerning :

(a) the circumstances of the offence;

(b) the action taken pursuant to Article 10, paragraph 2;

(c) the measures taken in relation to the offender or the alleged offender and, in particular, the results of any extradition proceedings or other legal proceedings.

### Article 14

1. Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other Contracting States shall not be bound by the preceding paragraph with respect to any Contracting State having made such a reservation.

3. Any Contracting State having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary Governments.

### Article 15

1. This Convention shall be open for signature at Montreal on 23 September 1971, by States participating in the International Conference on Air Law held at Montreal from 8 to 23 September 1971 (herein after referred to as the Montreal Conference). After 10 October 1971, the Convention shall be open to all States for signature in Moscow, London and Washington. Any State which does not sign this Convention before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. The convention shall be subject to ratification by the signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, which are hereby designated the Depositary Governments.

3. This Convention shall enter into force thirty days following the date of deposit of instrument of ratification by ten states signatory this convention which participated in the Montreal Conference.

4. For other States, this Convention shall enter into force on the date of entry into force of this Convention in accordance with paragraph 3 of this Article, of thirty days following the date of deposit of their instruments of ratification or accession, whichever is later.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or

accession, the date of entry into force of this Convention, and other notices.

6. As soon as this Convention comes into force, it shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations and pursuant to Article 83 of the Convention on International Civil Aviation (Chicago, 1944).

### **Article 16**

1. Any Contracting State may denounce this Convention by written notification to the Depositary Governments.

2. Denunciation shall take effect six months following the date on which notification is received by the Depositary Governments.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto and their Governments, have signed this Convention.

DONE at Montreal, this twenty-third day of September, one thousand nine hundred and seventy-one in three originals, each being drawn up in four authentic texts in the English, French, Russian and Spanish languages.

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**CHAPTER XIX**

**PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL  
ACTS OF VIOLENCE AT AIRPORTS SERVING  
INTERNATIONAL CIVIL AVIATION, SIGNED AT  
MONTREAL ON 24 FEBRUARY, 1988 SUPPLEMENTARY  
TO THE CONVENTION FOR THE SUPPRESSION  
OF UNLAWFUL ACTS AGAINST THE SAFETY  
OF CIVIL AVIATION, DONE AT MONTREAL  
ON 23 SEPTEMBER, 1971**

**(THE MONTREAL PROTOCOL, 1988)**

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## CHAPTER XIX

# PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION, SIGNED AT MONTREAL ON 24 FEBRUARY, 1988 SUPPLEMENTARY TO THE CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF CIVIL AVIATION, DONE AT MONTREAL ON 23 SEPTEMBER, 1971\* (THE MONTREAL PROTOCOL, 1988)

THE STATES PARTIES TO THIS PROTOCOL

CONSIDERING that unlawful acts of violence which endanger or are likely to endanger the safety of persons at airports serving international civil aviation or which jeopardize the safe operation of such airports undermine the confidence of the peoples of the world in safety at such airports and disturb the safe and orderly conduct of civil aviation for all States;

CONSIDERING that the occurrence of such acts is a matter of grave concern to the international community and that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

CONSIDERING that it is necessary to adopt provisions supplementary to those of the Convention for the Suppression of unlawful Acts against the safety of Civil Aviation, done at Montreal on 23 September 1971, to deal with such unlawful acts of violence at airports serving international civil aviation;

HAVE AGREED AS FOLLOWS:

### Article I

This Protocol supplements the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971 (hereinafter referred to as "the Convention"), and, as between the Parties to this Protocol, the Convention and the Protocol shall

be read and interpreted together as one single instrument.

### Article II

1. In Article 1 of the Convention, the following shall be added as new paragraph 1 *bis* :

"1 *bis*. Any person commits an offence if he unlawfully and intentionally, using any device, substance or weapon:

- (a) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or
- (b) destroys or seriously damages the facilities of an airport serving international civil aviation or aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at that airport."

2. In paragraph 2(a) of Article 1 of the Convention, the following words shall be inserted after the words "paragraph 1":

"or paragraph 1 *bis*".

### Article III

In Article 5 of the Convention, the following shall be added as paragraph 2 *bis* :

"2 *bis*. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offences mentioned in Article 1, paragraph 1 *bis*, and in Article 1, paragraph 2, in so

\* Entered into force on 6 August, 1989.

As on 30 June, 2003 there were only 134 contracting States party to it.

India has ratified it on 22 March 1995.

far as that paragraph relates to those offences, in the case where the alleged offender is present in its territory and it does not extradite him pursuant to Article 8 to the State mentioned in paragraph 1(a) of this Article.”

#### **Article IV**

This Protocol shall be open for signature at Montreal on 24 February 1988 by States participating in the International Conference on Air Law held at Montreal from 9 to 24 February 1988. After 1 March 1988, the Protocol shall be open for signature to all States in London, Moscow, Washington and Montreal, until it enters into force in accordance with Article VI.

#### **Article V**

1. This Protocol shall be subject to ratification by the signatory States.

2. Any State which is not a Contracting State to the Convention may ratify this Protocol if at the same time it ratifies or accedes to the Convention in accordance with Article 15 thereof.

3. Instruments of ratification shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and United States of America or with the International Civil Aviation Organization, which are hereby designated the Depositaries.

#### **Article VI**

1. As soon as ten of the signatory States have deposited their instruments of ratification of this Protocol, it shall enter into force between them on the thirtieth day after the date of the deposit of the tenth instrument of ratification. It shall enter into force for each State which deposits its instrument of ratification after that date on the thirtieth day after deposit of its instrument of ratification.

2. As soon as this Protocol enters into force, it shall be registered by the Depositaries pursuant to Article 102 of the Charter of the United Nations and pursuant to Article 83 of the Convention on International Civil Aviation (Chicago, 1944).

#### **Article VII**

1. This Protocol shall, after it has entered into force, be open for accession by any non-signatory State.

2. Any State which is not a Contracting State to the Convention may accede to this protocol if at the same time it ratifies or accedes to the Convention in accordance with Article 15 thereof.

3. Instruments of accession shall be deposited with the Depositaries and accession shall take effect on the thirtieth day after the deposit.

#### **Article VIII**

1. Any Party to this Protocol may denounce it by written notification addressed to the Depositaries.

2. Denunciation shall take effect six months following the date on which notification is received by the Depositaries.

3. Denunciation of this Protocol shall not of itself have the effect of denunciation of the Convention.

4. Denunciation of the Convention by a Contracting State to the Convention as supplemented by the Protocol shall also have the effect of denunciation of this Protocol.

#### **Article IX**

1. The Depositaries shall promptly inform all signatory and acceding States to this Protocol and all signatory and acceding States to the Convention :

- (a) of the date of each signature and the date of deposit of each instrument of ratification of, or accession to, this Protocol, and
- (b) of the receipt of any notification of denunciation of this Protocol and the date thereof.

2. The Depositaries shall also notify the States referred to in paragraph 1 of the date on which this Protocol enters into force in accordance with Article VI.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their Governments, have signed this Protocol.

DONE at Montreal on the twenty fourth day of February of the year One Thousand Nine Hundred and Eighty-eight, in four originals, each being drawn up in four authentic texts in the English, French, Russian and Spanish languages.

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**CHAPTER XX**

**CONVENTION ON THE MARKING OF PLASTIC  
EXPLOSIVES FOR THE PURPOSE OF DETECTION  
SIGNED AT MONTREAL ON 1ST MARCH, 1991  
(THE MONTREAL CONVENTION, 1991)**

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## CHAPTER XX

# CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES FOR THE PURPOSE OF DETECTION SIGNED AT MONTREAL ON 1ST MARCH, 1991 (THE MONTREAL CONVENTION, 1991)

THE STATES PARTIES TO THIS CONVENTION,

CONSCIOUS of the implications of acts of terrorism of international security ;

EXPRESSING deep concern regarding terrorist acts aimed at destruction of aircraft, other means of transportation and other targets;

CONCERNED that plastic explosives have been used for such terrorist acts;

CONSIDERING that the marking of such explosives for the purpose of detection would contribute significantly to the prevention of such unlawful acts;

RECOGNIZING that for the purpose of deterring such unlawful acts there is an urgent need for an international instrument obliging States to adopt appropriate measures to ensure that plastic explosives are duly marked;

CONSIDERING United Nations Security Council Resolution 635 of 14 June 1989, and United Nations General Assembly Resolution 44/29 of 4 December 1989 urging the International Civil Aviation Organization to intensify its work on devising an international regime for the marking of plastic or sheet explosives for the purpose of detection;

BEARING IN MIND Resolution A-27-8 adopted unanimously by the 27th Session of the Assembly of the International Civil Aviation

Organization which endorsed with the highest and overriding priority the preparation of a new international instrument regarding the marking of plastic or sheet explosives for detection;

NOTING with satisfaction the role played by the Council of the International Civil Aviation Organization in the preparation of the Convention as well as its willingness to assume functions related to its implementation;

HAVE AGREED AS FOLLOWS :

### Article I

For the purpose of this Convention :

1. "Explosives" means explosive products, commonly known as "plastic explosives", including explosives in flexible or elastic sheet form, as described in the Technical Annex to this Convention.

2. "Detection agent" means a substance as described in the Technical Annex to this Convention which is introduced into an explosive to render it detectable.

3. "Marking" means introducing into an explosive a detection agent in accordance with the Technical Annex to this Convention.

4. "Manufacture" means any process, including reprocessing, that produces explosives.

\* Entered into force on 21 June, 1998.

As on 30 June, 2003 there were only 94 contracting States party to it.

India has ratified it on 16 November, 1999.

5. "Duly authorized military devices" include, but are not restricted to, shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades and perforators manufactured exclusively for military or police purpose according to the laws and regulations of the State Party concerned.

6. "Producer State" means any State in whose territory explosives are manufactured.

## Article II

Each State Party shall take the necessary and effective measures to prohibit and prevent the manufacture in its territory of unmarked explosives.

## Article III

1. Each State Party take the necessary and effective measures to prohibit and prevent the movement into or out of its territory of unmarked explosives.

2. The preceding paragraph shall not apply in respect of movements for purposes not inconsistent with the objectives of this Convention, by authorities of a State Party performing military or police functions, of unmarked explosives under the control of that state Party in accordance with paragraph 1 of Article IV.

## Article IV

1. Each State Party shall take the necessary measures to exercise strict and effective control over the possession and transfer of possession of unmarked explosives which have been manufactured in or brought into its territory prior to the entry into force of this Convention in respect of that State, so as to prevent their diversion or use for purposes inconsistent with the objectives of this Convention.

2. Each State Party shall take the necessary measures to ensure that all stocks of those explosives referred to in paragraph 1 of this article not held by its authorities performing military or police functions are destroyed or consumed for purposes not inconsistent with

the objectives of this Convention, marked or rendered permanently ineffective, within a period of three years from the entry into force of this Convention in respect of that State.

3. Each State Party shall take the necessary measures to ensure that all stocks of those explosives referred to in paragraph 1 of this Article held by its authorities performing military or police functions and that are not incorporated as an integral part of duly authorized military devices are destroyed or consumed for purposes not inconsistent with the objectives of this Convention, marked or rendered permanently ineffective, within a period of fifteen years from the entry into force of this Convention in respect of that State.

4. Each State Party shall take the necessary measures to ensure the destruction, as soon as possible, in its territory of unmarked explosives which may be discovered therein and which are not referred to in the preceding paragraphs of this Article, other than stocks of unmarked explosives held by its authorities performing military or police functions and incorporated as an integral part of duly authorized military devices at the date of the entry into force of this Convention in respect of that State.

5. Each State Party shall take the necessary measures to exercise strict and effective control over the possession and transfer of possession of the explosives referred to in paragraph II of Part 1 of the Technical Annex of this Convention so as to prevent their diversion or use for purposes inconsistent with the objectives of this convention.

6. Each State Party shall take the necessary measures to ensure the destruction, as soon as possible, in its territory of unmarked explosives manufactured since the coming into force of this Convention in respect of that State that are not incorporated as specified in paragraph II d) of Part 1 of the Technical Annex to this Convention and of unmarked explosives which no longer fall within the scope of any other sub-paragraphs of the said paragraph II.



## Article V

1. There is established by this Convention an International Explosives Technical Commission (hereinafter referred to as “the Commission”) consisting of not less than fifteen nor more than nineteen members appointed by the Council of the International Civil Aviation Organization (hereinafter referred to as “the Council”) from among persons nominated by States Parties to this Convention.

2. The members of the Commission shall be experts having direct and substantial experience in matters relating to the manufacture or detection of, or research in, explosives.

3. Members of the Commission shall serve for a period of three years and shall be eligible for re-appointment.

4. Sessions of the Commission shall be convened, at least once a year at the Headquarters of the International Civil Aviation Organization, or at such places and times as may be directed or approved by the Council.

5. The Commission shall adopt its rules or procedure, subject to the approval of the Council.

## Article VI

1. The Commission shall evaluate technical developments relating to the manufacture, marking and detection of explosives.

2. The Commission, through the Council, shall report its findings to the States Parties and international organizations concerned.

3. Whenever necessary, the Commission shall make recommendations to the Council for amendments to the Technical Annex to this Convention. The Commission shall endeavour to take its decisions on such recommendations by consensus. In the absence of consensus the Commission shall take such decisions by a two thirds majority vote of its members.

4. The Council may, on the recommendation of the Commission, propose to States Parties

amendments to the technical Annex to this Convention.

## Article VII

1. Any State Party may, within ninety days from the date of notification of a proposed amendment to the Technical Annex to this Convention, transmit to the Council its comments. The Council shall communicate these comments to the Commission as soon as possible for its consideration. The Council shall invite any State Party which comments on or objects to the proposed amendment to consult the Commission.

2. The Commission shall consider the views of States Parties made pursuant to the preceding paragraph and report to the Council. The Council, after consideration of the Commission’s report, and taking into account the nature of the amendment and the comments of States Parties, including producer States, may propose the amendment to all States Parties for adoption.

3. If a proposed amendment has not been objected to by five or more States Parties by means of written notification to the Council within ninety days from the date of notification of the amendment by the Council, it shall be deemed to have been adopted, and shall enter into force one hundred and eighty days thereafter or after such other period as specified in the proposed amendment for States Parties not having expressly objected thereto.

4. States Parties having expressly objected to the proposed amendment may, subsequently, by means of the deposit of an instrument of acceptance or approval, express their consent to be bound by the provisions of the amendment.

5. If five or more State Parties have objected to the proposed amendment, the Council shall refer it to the Commission for further consideration.

6. If the proposed amendment has not been adopted in accordance with paragraph 3 of this Article, the Council may also convene a conference of all States Parties.

### **Article VIII**

1. States Parties shall, if possible, transmit to the Council information that would assist the Commission in the discharge of its functions under paragraph 1 of Article VI.

2. States Parties shall keep the Council informed of measures they have taken to implement the provisions of this Convention. The Council shall communicate such information to all States Parties and international organizations concerned.

### **Article IX**

The Council shall, in co-operation with State Parties and international organization concerned, take appropriate measures to facilitate the implementation of this Convention, including the provision of technical assistance and measures for the exchange of information relating to technical developments in the marking and detection of explosives.

### **Article X**

The Technical Annex to this Convention shall form an integral part of this Convention.

### **Article XI**

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may, at the time of signature, ratification, acceptance or approval of this Convention or accession thereto, declare that it does not consider itself bound by the preceding paragraph. The other States Parties shall not be bound by the preceding paragraph with respect to any State Party having made

such a reservation.

3. Any State Party having made a reservation in accordance with the preceding paragraph may at any time withdraw this reservation by notification to the Depositary.

### **Article XII**

Except as provided in Article XI no reservation may be made to this Convention.

### **Article XIII**

1. This Convention shall be open for signature in Montreal on 1 March 1991 by States participating in the International Conference on Air Law held at Montreal from 12 February to 1 March 1991. After 1 March 1991 the Convention shall be open to all States for signature at the Headquarters of the International Civil Aviation Organization in Montreal until it enters into force in accordance with paragraph 3 of this Article. Any State which does not sign this Convention may accede to it at any time.

2. This Convention shall be subject to ratification, acceptance, approval or accession by States. Instruments of ratification, acceptance, approval or accession shall be deposited with the International Civil Aviation Organization, which is hereby designated the Depositary. When depositing its instrument of ratification, acceptance, approval or accession, each State shall declare whether or not it is a producer state.

3. This Convention shall enter into force on the sixtieth day following the date of deposit of the thirty-fifth instrument of ratification, acceptance, approval or accession with the Depositary, provided that no fewer than five States have declared pursuant to paragraph 2 of this Article that they are producer States. Should thirty five such instruments be deposited prior to the deposit of their instruments by five producer States, this Convention shall enter into force on the sixtieth day following the date of deposit of the instrument of ratification, acceptance, approval or accession of the fifth producer State.

4. For other States, this Convention shall enter into force sixty days following the date of deposit of their instrument of ratification, acceptance, approval or accession.

As soon as this Convention comes into force, it shall be registered by the Depositary pursuant to Article 102 of the Chapter of the United Nations and pursuant to Article 83 of the Convention on International Civil Aviation (Chicago, 1944).

#### **Article XIV**

The Depositary shall promptly notify all signatories and States Parties of :

1. each signature of this Convention and date thereof;
2. each deposit of an instrument of ratification, acceptance, approval or accession and date thereof, giving special reference to whether the State has identified itself as a producer State;
3. the date of entry into force of this Convention;
4. the date of entry into force of any amendment to this Convention or its Technical Annex;
5. any denunciation made under Article XV; and
6. any declaration made under paragraph 2 of Article XI.

#### **Article XV**

1. Any State Party may denounce this Convention by written notification to the Depositary.

2. Denunciation shall take effect one hundred and eighty days following the date on which notification is received by the Depositary.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their Governments, have signed this Convention.

DONE at Montreal, this first day of March, one thousand nine hundred and ninety-one in one original, drawn up in five authentic texts in the English, French, Russian, Spanish and Arabic languages.

### **TECHNICAL ANNEX**

#### **PART 1**

#### **DESCRIPTION OF EXPLOSIVES**

1. The explosives referred to in paragraph 1 of Article 1 of this Convention are those that:

- (a) are formulated with one or more high explosives which in their pure form have a vapour pressure less than  $10^{-4}$  Pa at a temperature of  $25^{\circ}$  C;
- (b) are formulated with a binder material; and
- (c) are, as a mixture, malleable or flexible at normal room temperature.

II. The following explosives, even though meeting the description of explosives in paragraph I of this Part, shall not be considered to be explosives as long as they continue to be held or used for the purposes specified below or remain incorporated as there specified, namely those explosives that :

- (a) are manufactured, or held, in limited quantities solely for use in duly authorized research, development or testing of new or modified explosives;
- (b) are manufactured, or held, in limited quantities solely for use in duly authorized training in explosives detection and/or development or testing of explosives detection equipment;
- (c) are manufactured, or held, in limited quantities solely for duly authorized forensic science purposes; or
- (d) are destined to be and are incorporated as an integral part of duly authorized military devices in the territory of the producer State within the year after the

coming into force of this Convention in respect of that State. Such devices produced in this period of three years shall be deemed to be duly authorized military devices within paragraph 4 of Article IV of this Convention.

III. In this Part :

“duly authorized” in paragraph II (a), (b) and (c) means permitted according to the laws and regulations of the State Party concerned; and

“high explosives” include but are not restricted to cyclotetramethylenetetranitramine (HMX), pentaerythritol tetranitrate (PETN) and cyclotrimethylenetrinitramine (RDX).

## PART 2

### DETECTION AGENTS

A detection agent is any one of those substances set out in the following Table. Detection agents described in this Table are intended to be used to enhance the detectability of explosives by vapour detection means. In each case, the introduction of a detection agent into an explosive shall be done in such a manner as to achieve homogeneous distribution in the finished product. The minimum concentration of a detection agent in the finished product at the time of manufacture shall be as shown in the said Table.

**TABLE**

Name of detection agent	Molecular formula	Molecular weight	Minimum Concentration
Ethylene glycol dinitrate (EGDN)	$C_2H_4(NO_3)_2$	152	0.2% by mass
2-3-Dimethy 1-2-3-dinitrobutane (DMNB)	$C_6H_{12}(NO_2)_2$	176	0.1% by mass
para-Mononitrotoluene (p-MNT)	$C_7H_7NO_2$	137	0.5% by mass
ortho-Mononitrotoluene (o-MNT)	$C_7H_7NO_2$	137	0.5% by mass

Any explosive which, as a result of its normal formulation, contains any of the designated

detection agents at or above the required minimum concentration level shall be deemed to be marked.

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**CHAPTER XXI**

**CONVENTION FOR THE UNIFICATION OF  
CERTAIN RULES FOR INTERNATIONAL CARRIAGE BY  
AIR SIGNED AT MONTREAL ON 28 MAY 1999  
(THE MONTREAL CONVENTION, 1999)**

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## CHAPTER XXI

# CONVENTION FOR THE UNIFICATION OF CERTAIN RULES FOR INTERNATIONAL CARRIAGE BY AIR SIGNED AT MONTREAL ON 28 MAY 1999 \* (THE MONTREAL CONVENTION, 1999)

### THE STATES PARTIES TO THIS CONVENTION

RECOGNIZING the significant contribution of the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed in Warsaw on 12 October 1929, hereinafter referred to as the “Warsaw Convention”, and other related instruments to the harmonization of private international air law;

RECOGNIZING the need to modernize and consolidate the Warsaw Convention and related instruments;

RECOGNIZING the importance of ensuring protection of the interests of consumers in international carriage by air and the need for equitable compensation based on the principle of restitution;

REAFFIRMING the desirability of an orderly development of international air transport operations and the smooth flow of passengers, baggage and cargo in accordance with the principle and objectives of the Convention on International Civil Aviation, done at Chicago on 7 December 1944;

CONVINCED that collective State action for further harmonization and codification of certain rules governing international carriage by air through a new Convention is the most adequate means of achieving an equitable balance of interests;

HAVE AGREED AS FOLLOWS:

### CHAPTER 1

#### GENERAL PROVISIONS

##### Article 1

##### *Scope of Application*

1. This Convention applies to all international carriage of persons, baggage or cargo performed by aircraft for reward. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.

2. For the purpose of this Convention, the expression international carriage means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or transshipment, are situated either within the territories of two States Parties, or within the territory of a single State Party if there is an agreed stopping place within the territory of another State, even if that State is not a State Party. Carriage between two points within the territory of a single State Party without an agreed stopping place within the territory of another State is not international carriage for the purposes of this Convention.

3. Carriage to be performed by several successive carriers is deemed, for the purposes of this Convention, to be one undivided carriage if it has been regarded by the parties as a single operation, either it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a

\* *Has not entered into force. It requires 30 ratifications to come into force. As on 30 June, 2003 there are only 29 contracting States party to it. India has not ratified it.*

series of contracts is to be performed entirely within the territory of the same State.

4. This Convention applies also to carriage as set out in Chapter V, subject to the terms contained therein.

## **Article 2**

### ***Carriage Performed by State and Carriage of Postal Items***

1. This Convention applies to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.

2. In the carriage of postal items, the carrier shall be liable only to the relevant postal administration in accordance with the rules applicable to the relationship, between the carriers and the postal administrations.

3. Except as provided in paragraph 2 of this Article, the provisions of this Convention shall not apply to the carriage of postal items.

## **CHAPTER II**

### **DOCUMENTATION AND DUTIES OF THE PARTIES RELATING TO THE CARRIAGE OF PASSENGERS, BAGGAGE AND CARGO**

## **Article 3**

### ***Passengers and Baggage***

1. In respect of carriage of passengers, an individual or collective document of carriage shall be delivered containing:

- (a) an indication of the places of departure and destination;
- (b) if the places of departure and destination are within the territory of a single State Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place.

2. Any other means which preserves the information indicated in paragraph 1 may be substituted for the delivery of the document referred to in that paragraph. If any such other means is used, the carrier shall offer to deliver

to the passenger a written statement of the information so preserved.

3. The carrier shall deliver to the passenger a baggage identification tag for each piece of checked baggage.

4. The passenger shall be given written notice to the effect that where this Convention is applicable it governs and may limit the liability of carriers in respect of death or injury and for destruction or loss of, or damage to, baggage, and for delay.

5. Non-compliance with the provisions or the foregoing paragraphs shall not affect the existence or the validity of the contract of carriage, which shall, nonetheless, be subject to the rules of this Convention including those relating to limitation of liability.

## **Article 4**

### ***Cargo***

1. In respect of the carriage of cargo, an air waybill shall be delivered.

2. Any other means which preserves a record of the carriage to be performed may be substituted for the delivery of an air waybill. If such other means are used, the carrier shall, if so requested by the consignor, deliver to the consignor a cargo receipt permitting identification of the consignment and access to the information contained, in the record preserved by such other means.

## **Article 5**

### ***Contents of Air Waybill or Cargo Receipt***

The air waybill or the cargo receipt shall include:

- (a) an indication of the places of departure and destination;
- (b) if the places of departure and destination are within the territory of a single State Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place; and
- (c) an indication of the weight of the consignment.



## Article 6

### *Document Relating to the Nature of the Cargo*

The consignor may be required, if necessary, to meet the formalities of customs, police and similar public authorities to deliver a document indicating the nature of the cargo. This provision creates for the carrier no duty, obligation or liability resulting therefrom.

## Article 7

### *Description of Air Way Bill*

1. The air way bill shall be made out by the consignor in three original parts.
2. The first part shall be marked “for the carrier”; it shall be signed by the consignor. The second part shall be marked “For the consignee”; it shall be signed by the consignor and by the carrier. The third part shall be signed by the carrier who shall hand it to the consignor after the cargo has been accepted.
3. The signature of the carrier and that of the consignor may be printed or stamped.
4. If, at the request of the consignor, the carrier makes out the air waybill, the carrier shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

## Article 8

### *Documentation for Multiple Packages*

When there is more than one package:

- (a) the carrier of cargo has the right to require the consignor to make out separate air waybills;
- (b) the consignor has the right to require the carrier to deliver separate cargo receipts when the other means referred to in paragraph 2 of Article 4 are used.

## Article 9

### *Non-compliance with Documentary Requirements*

Non-compliance with the provisions of Articles 4 to 8 shall not affect the existence or the validity of the contract of carriage, which shall, nonetheless, be subject to the rules of this Convention including those relating to limitation of liability.

## Article 10

### *Responsibility for Particulars of Documentation*

1. The consignor is responsible for the correctness of the particulars and statements relating to the cargo inserted by it or on its behalf in the air waybill or furnished by it or on its behalf to the carrier for insertion in the cargo receipt or for insertion in the record preserved by the other means referred to in paragraph 2 of Article 4. The foregoing shall also apply where the person acting on behalf of the consignor is also the agent of the carrier.
2. The consignor shall indemnify the carrier against all damage suffered by it, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor or on its behalf.
3. Subject to the provisions of paragraphs 1 and 2 of this Article, the carrier shall indemnify the consignor against all damage suffered by it, or by any other person to whom the consignor is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements inserted by the carrier or on its behalf in the cargo receipt or in the record preserved by the other means referred to in paragraph 2 of Article 4.

## Article 11

### *Evidentiary Value of Documentation*

1. The air waybill or the cargo receipt is prima facie evidence of the conclusion of the contract, of the acceptance of the cargo and of the conditions of carriage mentioned therein.
2. Any statements in the air waybill or the cargo receipt relating to the weight, dimensions and packing of the cargo, as well as those relating to the number of packages, are prima facie evidence of the facts stated; those relating to the quantity, volume and condition of the cargo do not constitute evidence against the carrier except so far as they both have been, and are stated in the air waybill or the cargo receipt to have been, checked by it in the presence of the consignor, or relate to the apparent condition of the cargo.

## Article 12

### *Right of Disposition of Cargo*

1. Subject to its liability to carry out all its obligations under the contract of carriage, the consignor has the right to dispose of the cargo by withdrawing it at the airport of departure or destination, or by stopping it in the course of the journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee originally designated, or by requiring it to be returned to the airport of departure. The consignor must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and must reimburse any expenses occasioned by the exercise of this right.

2. If it is impossible to carry out the instructions of the consignor, the carrier must so inform the consignor forthwith.

3. If the carrier carries out the instructions of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill or the cargo receipt delivered to the latter, the carrier will be liable, without prejudice to its right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill or the cargo receipt.

4. The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13. Nevertheless, if the consignee declines to accept the cargo, or cannot be communicated with, the consignor resumes its right of disposition.

## Article 13

### *Delivery of the Cargo*

1. Except when the consignor has exercised its right under Article 12, the consignee is entitled, on arrival of the cargo at the place of destination, to require the carrier to deliver the cargo to it, on payment of the charges due and on complying with the conditions of carriage.

2. Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.

3. If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of seven days after the date on which it ought to have arrived, the consignee is entitled to enforce against the carrier the rights which flow from the contract of carriage.

## Article 14

### *Enforcement of the Rights of Consignor and Consignee*

The consignor and the consignee can respectively enforce all the rights given to them by Articles 12 and 13, each in its own name, whether it is acting in its own interest or in the interest of another, provided that it carries out the obligations imposed by the contract of carriage.

## Article 15

### *Relations of Consignor and Consignee or Mutual Relations of Third Parties*

1. Articles 12, 13 and 14 do not affect either the relations of the consignor and the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.

2. The provisions of Articles 12, 13 and 14 can only be varied by express provision in the air waybill or the cargo receipt.

## Article 16

### *Formalities of Customs, Police or Other Public Authorities*

1. The consignor must furnish such information and such documents as are necessary to meet the formalities of customs, police and any other public authorities before the cargo can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier, its servants or agents.

2. The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

### CHAPTER III

## LIABILITY OF THE CARRIER AND EXTENT OF COMPENSATION FOR DAMAGE

### Article 17

#### *Death and Injury of Passengers – Damage to Baggage*

1. The carrier is liable for damage sustained in case of death or bodily injury of a passenger upon condition only that the accident which caused the death or injury took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

2. The carrier is liable for damage sustained in case of destruction or loss of, or of damage to, checked baggage upon condition only that the event which caused the destruction, loss or damage took place on board the aircraft or during any period within which the checked baggage was in the charge of the carrier. However, the carrier is not liable if and to the extent that the damage resulted from the inherent defect, quality or vice of the baggage. In the case of unchecked baggage, including personal items, the carrier is liable if the damage resulted from its fault or that of its servants or agents.

3. If the carrier admits the loss of the checked baggage, or if the checked baggage has not arrived at the expiration of twenty-one days after the date on which it ought to have arrived, the passenger is entitled to enforce against the carrier the rights which flow from the contract of carriage.

4. Unless otherwise specified, in this Convention the term “baggage” means both checked baggage and unchecked baggage.

### Article 18

#### *Damage to Cargo*

1. The carrier is liable for damage sustained in the event of the destruction or loss of, or

damage to, cargo upon condition only that the event which caused the damage so sustained took place during the carriage by air.

2. However, the carrier is not liable if and to the extent it proves that the destruction, or loss of, or damage to, the cargo resulted from one or more of the following:

- (a) inherent defect, quality or vice of that cargo;
- (b) defective packing of that cargo performed by a person other than the carrier or its servants or agents;
- (c) an act of war or an armed conflict;
- (d) an act of public, authority carried out in connection with the entry, exit or transit of the cargo.

3. The carriage by air within the meaning of paragraph 1 of this Article comprises the period during which the cargo is in the charge of the carrier.

4. The period of the carriage by air does not extend to any carriage by land, by sea or by inland waterway performed outside an airport. If, however, such carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air. If a carrier, without the consent of the consignor, substitutes carriage by another mode of transport for the whole or part of a carriage intended by the agreement between the parties to be carriage by air, such carriage by another mode of transport is deemed to be within the period of carriage by air.

### Article 19

#### *Delay*

The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo. Nevertheless, the carrier shall not be liable for damage occasioned by delay if it proves that it and its servants and agents took all measures that could reasonably be required to avoid the damage or that it was impossible for it or them to take such measures.

## Article 20

### *Exoneration*

If the carrier proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, or the person from whom he or she derives his or her rights, the carrier shall be wholly or partly exonerated from its liability to the claimant to the extent that such negligence or wrongful act or omission caused or contributed to the damage. When by reason of death or injury of a passenger compensation is claimed by a person other than the passenger, the carrier shall likewise be wholly or partly exonerated from its liability to the extent that it proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of that passenger. This Article applies to all the liability provisions in this Convention, including paragraph 1 of Article 21.

## Article 21

### *Compensation in Case of Death or Injury of Passengers*

1. For damages arising under paragraph 1 of Article 17 not exceeding 100000 Special Drawing Rights for each passenger, the carrier shall not be able to exclude or limit its liability.

2. The carrier shall not be liable for damages arising under paragraph 1 of Article 17 to the extent that they exceed for each passenger 100000 Special Drawing Rights if the carrier proves that:

- (a) such damage was not due to the negligence or other wrongful act or omission of the carrier or its servants or agents; or
- (b) such damage was solely due to the negligence or other wrongful act or omission of a third party.

## Article 22

### *Limits of Liability in Relation to Delay, Baggage and Cargo*

1. In the case of damage caused by delay as specified in Article 19 in the carriage of

persons, the liability of the carrier for each passenger is limited to 4,150 Special Drawing Rights.

2. In the carriage of baggage, the liability of the carrier in the case of destruction, loss, damage or delay is limited to 1,000 Special Drawing Rights for each passenger unless the passenger has made, at the time when the checked baggage was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the passenger's actual interest in delivery at destination.

3. In the carriage of cargo, the liability of the carrier in the case of destruction, loss, damage or delay is limited to a sum of 17 Special Drawing Rights per kilogramme, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the consignor's actual interest in delivery at destination.

4. In the case of destruction, loss, damage or delay of part of the cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the destruction, loss, damage or delay of a part of the cargo, or of an object contained therein, affects the value of other packages covered by the same air waybill, or the same receipt or, if they were not issued, by the same record preserved by the other means referred to in paragraph 2 of Article 4, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

5. The foregoing provisions of paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or

omission of the carrier, its servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent, it is also proved that such servant or agent was acting within the scope of its employment.

6. The limits prescribed in Article 21 and in this Article shall not prevent the court from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff, including interest. The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

### **Article 23**

#### *Conversion of Monetary Units*

1. The sums mentioned in terms of Special Drawing Right in this Convention shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgement. The value of a national currency, in terms of the Special Drawing Right, of a State Party which is a Member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund, in effect at the date of the judgement, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a State Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that State.

2. Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the

application of the provisions of paragraph 1 of this Article may, at International time of ratification or accession or at any time thereafter, decline that the limit of liability of the carrier prescribed in Article 21 is fixed at a sum of 1,500,000 monetary units per passenger in judicial proceedings in their territories; 62,500 monetary units per passenger with respect to paragraph 1 of Article 22; 15,000 monetary units per passenger with respect to paragraph 2 of Article 22; and 250 monetary units per kilogramme with respect paragraph 3 of Article 22. This monetary unit corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. These sums may be converted into the national currency concerned in round figures. The conversion of these sums into national currency shall be made according to the law of the State concerned.

3. The calculation mentioned in the last sentence of paragraph 1 of this Article and the conversion method mentioned in paragraph 2 of this Article shall be made in such manner as to express in the national currency of the State Party as far as possible the same real value for the amounts in Articles 21 and 22 as would result from the application of the first three sentences of paragraph 1 of this Article. State Parties shall communicate to the depositary the manner of calculation pursuant to paragraph 1 of this Article, or the result of the conversion in paragraph 2 of this Article as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.

### **Article 24**

#### *Review of Limits*

1. Without prejudice to the provisions of Article 25 of this Convention subject to paragraph 2 below, the limits of liability prescribed in Articles 21, 22 and 23 shall be reviewed by the Depositary at five-year intervals, the first such review to take place at the end of the fifth year following the date of entry into force of this convention, or if the Convention does not enter into force within five years of date it is first open for signature,

within the first year of its entry into force, by reference to an inflation factor which corresponds to the accumulated rate of inflation since the previous revision or in the first instance since the date of entry into force of the Convention. The measure of the rate of inflation to be used in determining the inflation factor shall be the weighted average of the annual rates of increase or decrease in the Consumer Price Indices of the States whose currencies comprise the Special Drawing Right mentioned in paragraph 1 of Article 23.

2. If the review referred to in the preceding paragraph concludes that the inflation factor has exceeded 10 percent, the Depository shall notify States Parties of a revision of the limits of liability. Any such revision shall become effective six months after its notification to the States Parties. If within three months after its notification to the States Parties a majority of the States Parties register their disapproval, the revision shall not become effective and the Depository shall refer the matter to a meeting of the States Parties. The Depository shall immediately notify all States Parties or the coming into force of any revision.

3. Notwithstanding paragraph 1 of this Article, the procedure referred to in paragraph 2 of this Article shall be applied at any time provided that one-third of the States Parties express a desire to that effect and upon condition that the inflation factor referred to in paragraph 1 has exceeded 30 per cent since the previous revision or since the date of entry into force of this Convention there has been no previous revision. Subsequent reviews using the procedure described in paragraph 1 of this Article will take place at five-year intervals starting at the end of the Fifth year following the date of the reviews under the present paragraph.

### **Article 25**

#### ***Stipulation on Limits***

A carrier may stipulate that the contract of carriage shall be subject to higher limits of liability than those provided for in this Convention or to no limits of liability

whatsoever.

### **Article 26**

#### ***Invalidity of Contractual Provisions***

Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.

### **Article 27**

#### ***Freedom to Contract***

Nothing contained in this Convention shall prevent the carrier from refusing to enter into any contract of carriage, from waiving any defences available under the Convention, or from laying down conditions which do not conflict with the provisions of this Convention.

### **Article 28**

#### ***Advance Payments***

In the case of aircraft accidents resulting in death or injury of passengers, the carrier shall, if required by its national law, make advance payments without delay to a natural person or persons who are entitled to claim compensation in order to meet the immediate economic needs of such persons. Such advance payments shall not constitute a recognition of liability and may be offset against any amounts subsequently paid as damages by the carrier.

### **Article 29**

#### ***Basis of Claims***

In the carriage of passengers, baggage and cargo, any action for damages, however founded, whether under this Convention or in contract or in tort or otherwise, can only be brought subject to the conditions and such limits of liability as are set out in this Convention without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights. In any such action, punitive, exemplary or any other non-compensatory damages shall not be recoverable.

### Article 30

#### *Servants, Agents – Aggregation of Claims*

1. If an action is brought against a servant or agent of the carrier arising out of damage to which the Convention relates, such servant or agent, if they prove that they acted within the scope of their employment, shall be entitled to avail themselves of the conditions and limits of liability which the carrier itself is entitled to invoke under this Convention.

2. The aggregate of the amount recoverable from the carrier, its servants and agents, in that case shall not exceed the said limits.

3. Save in respect of the carriage of cargo, the provisions of paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

### Article 31

#### *Timely Notice of Complaints*

1. Receipt by the person entitled to delivery of checked baggage or cargo without complaint is prima facie evidence that the same has been delivered in good condition and in accordance with the document of carriage or with the record preserved by the other means referred to in paragraph 2 of Article 3 and paragraph 2 of Article 4.

2. In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within seven days from the date of receipt in the case of checked baggage and fourteen days from the date of receipt in the case of cargo. In the case of delay, the complaint must be made at the latest within twenty-one days from the date on which the baggage or cargo have been placed at his or her disposal.

3. Every complaint must be made in writing and given or dispatched within the times aforesaid.

4. If no complaint is made within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on its part.

### Article 32

#### *Death of Person Liable*

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his or her estate.

### Article 33

#### *Jurisdiction*

1. An action for damages must be brought, at the option of the plaintiff, in the territory of one of the States Parties, either before the court of the domicile of the carrier or of its principal place of business, or where it has a place of business through which the conduct has been made or before the court at the place of destination.

2. In respect of damage resulting from the death or injury of a passenger, an action may be brought before one of the courts mentioned in paragraph 1 of this Article, or in the territory of a State Party in which at the time of the accident the passenger has his or her principal and permanent residence and to or from which the carrier operates services for the carriage of passengers by air, either on its own aircraft, or on another carrier's aircraft pursuant to a commercial agreement, and in which that carrier conducts its business of carriage of passengers by air from premises leased or owned by the carrier itself or by another carrier with which it has a commercial agreement.

3. For the purposes of paragraph 2,

(a) "commercial agreement" means an agreement, other than an agency agreement, made between carriers and relating to the provision of their joint services for carriage of passengers by air;

(b) "principal and permanent residence" means the one fixed and permanent abode of the passenger at the time of the accident. The nationality of the passenger shall not be the determining factor in this regard.

4. Questions of procedure shall be governed by the law of the court seised of the case.

### **Article 34**

#### ***Arbitration***

1. Subject to the provisions of this Article, the parties to the contract of carriage for cargo may stipulate that any dispute relating to the liability of the carrier under this Convention shall be settled by arbitration. Such agreement shall be in writing.

2. The arbitration proceedings shall, at the option of the claimant, take place within one of the jurisdictions referred to in Article 33.

3. The arbitrator or arbitration tribunal shall apply the provisions of this Convention.

4. The provisions of paragraphs 2 and 3 of this Article shall be deemed to be part of every arbitration clause or agreement, and any term of such clause or agreement which is inconsistent therewith shall be null and void.

### **Article 35**

#### ***Limitation of Actions***

1. The right to damages shall be extinguished if an action is not brought within a period of two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

2. The method of calculating that period shall be determined by the law of the court seised of the case.

### **Article 36**

#### ***Successive Carriage***

1. In the case of carriage to be performed by various successive carriers and falling within the definition set out in paragraph 3 of Article 1, each carrier which accepts passengers, baggage or cargo is subject to the rules set out in this Convention and is deemed to be one of the parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under its supervision.

2. In the case of carriage of this nature, the passenger or any person entitled to compensation in respect of him or her can take action only against the carrier which performed the carriage during which the accident or the

delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

3. As regards baggage or cargo, the passenger or consignor will have the right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier which performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

### **Article 37**

#### ***Right or Recourse against Third Parties***

Nothing in this Convention shall prejudice the question whether a person liable for damage in accordance with its provisions has a right of recourse against any other person.

## **CHAPTER IV**

### **COMBINED CARRIAGE**

#### **Article 38**

#### ***Combined Carriage***

1. In the case of combined carriage performed partly by air and partly by any other mode of Carriage, the provisions of this Convention shall, subject to paragraph 4 of Article 18, apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.

2. Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

## **CHAPTER V**

### **CARRIAGE BY AIR PERFORMED BY A PERSON OTHER THAN THE CONTRACTING CARRIER**

#### **Article 39**

#### ***Contracting Carrier – Actual Carrier***

The Provision of this chapter apply when a person (hereinafter referred to as “the



contracting carrier”) as a principal makes a contract of carriage governed by this convention with a passenger or consignor or with a person acting on behalf of the passenger or consignor, and another person (hereinafter referred to as “the actual carrier”) performs, by virtue of authority from the contracting carrier, the whole or part of the carriage, but is not with respect to such part a successive carrier within the meaning of this Convention. Such authority shall be presumed in the absence of proof to the contrary.

### **Article 40**

#### ***Respective Liability of Contracting and Actual Carriers***

If an actual carrier performs the whole or part of carriage which, according to the contract referred to in Article 39, is governed by this Convention, both the contracting carrier and the actual carrier shall, except as otherwise provided in this Chapter, be subject to the rules of this Convention, the former for the whole of the carriage contemplated in the contract, the latter solely for the carriage which it performs.

### **Article 41**

#### ***Mutual Liability***

1. The acts and omissions of the actual carrier and of its servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the contracting carrier.

2. The acts and omissions of the contracting carrier and of its servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the actual carrier. Nevertheless, no such act or omission shall subject the actual carrier to liability exceeding the amounts referred to in Articles 21, 22, 23 and 24. Any special agreement under which the contracting carrier assumes obligations not imposed by this Convention or any waiver of rights or defences conferred by this Convention or any special

declaration of interest in delivery at destination contemplated in Article 22 shall not affect the actual carrier unless agreed to by it.

### **Article 42**

#### ***Addressee of Complaints and Instructions***

Any complaint to be made or instruction to be given under this Convention to the carrier shall have the same effect whether addressed to the contracting carrier or to the actual carrier. Nevertheless, instructions referred to in Article 12 shall only be effective if addressed to the contracting carrier.

### **Article 43**

#### ***Servants and Agents***

In relation to the carriage performed by the actual carrier, any servant or agent of that carrier or of the contracting carrier shall, if they prove that they acted within the scope of their employment, be entitled to avail themselves of the conditions and limits of liability which are applicable under this Convention to the carrier whose servant or agent they are, unless it is proved that they acted in a manner that prevents the limits of liability from being invoked in accordance with this Convention.

### **Article 44**

#### ***Aggregation of Damages***

In relation to the carriage performed by the actual carrier, the aggregate of the amounts recoverable from that carrier and the contracting carrier, and from their servants and agents acting within the scope of their employment, shall not exceed the highest amount which could be awarded against either the contracting carrier or the actual carrier under this Convention, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to that person.

### **Article 45**

#### ***Addressee of Claims***

In relation to the carriage performed by the actual carrier, an action for damages may be brought, at the option of the plaintiff, against

that carrier or the contracting carrier, or against both together or separately.

If the action is brought against only one of those carriers shall have the right to require the other carrier to be joined in the proceedings, the procedure and effects being governed by the law of the court seised of the case.

### **Article 46**

#### ***Additional Jurisdiction***

Any action for damages contemplated in Article 45 must be brought, at the option of the plaintiff, in the territory of one of the States Parties, either before a court in which an action may be brought against the contracting carrier, as provided in Article 33, or before the court having jurisdiction at the place where the actual carrier has its domicile or its principal place of business.

### **Article 47**

#### ***Invalidity of Contractual Provisions***

Any contractual provision tending to relieve the contracting carrier or the actual carrier of liability under this Chapter or to fix a lower limit than that which is applicable according to this Chapter shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Chapter.

### **Article 48**

#### ***Mutual Relations of Contracting and Actual Carriers***

Except as provided in Article 45, nothing in this Chapter shall affect the rights and obligations of the carriers between themselves, including any right of recourse or indemnification.

## **CHAPTER VI**

### **OTHER PROVISIONS**

### **Article 49**

#### ***Mandatory Application***

Any clause contained in the contract of carriage and all special agreements entered

into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void.

### **Article 50**

#### ***Insurance***

States Parties shall require their carriers to maintain adequate insurance covering their liability under this Convention. A carrier may be required by the State Party into which it operates to furnish evidence that it maintains adequate insurance covering its liability under this Convention.

### **Article 51**

#### ***Carriage Performed in Extraordinary Circumstances***

The provision of Articles 3 to 5, 7 and 8 relating to the documentation of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of a carrier's business.

### **Article 52**

#### ***Definition of Days***

The expression "days" when used in this Convention means calendar days, not working days.

## **CHAPTER VII**

### **FINAL CLAUSES**

### **Article 53**

#### ***Signature, Ratification and Entry into Force***

1. This Convention shall be open for signature in Montreal on 28 May 1999 by States participating in the International Conference on Air Law held at Montreal from 10 to 28 May 1999. After 28 May 1999, the Convention shall be open to all States for signature at the Headquarters of the International Civil Aviation Organization in Montreal until it enters into force in accordance with paragraph 6 of this Article.

2. This Convention shall similarly be open for signature by Regional Economic Integration

Organisations. For the purpose of this Convention, a “Regional Economic Integration Organisation” means any organisation which is constituted by sovereign States of a given region which has competence in respect of certain matters governed by this Convention and has been duly authorized to sign and to ratify, accept, approve or accede to this Convention. A reference to a “State Party” or “States Parties” in this Convention, otherwise than in paragraph 2 of Article 1, paragraph 1(b) of Article 3, paragraph (b) of Article 5, Articles 23, 33, 46 and paragraph (b) of Article 57, applies equally to a Regional Economic Integration Organisation. For the purpose of Article 24, the references to “a majority of the States Parties” and “one-third of the States Parties” shall not apply to a Regional Economic Integration Organisation.

3. This Convention shall be subject to ratification by States and by Regional Economic Integration Organisations which have signed it.

4. Any State or Regional Economic Integration Organisation which does not sign this Convention may accept, approve or accede to it at any time.

5. Instruments of ratification, acceptance, approval or accession shall be deposited with the International Civil Aviation Organization, which is hereby designated the Depository.

6. This Convention shall enter into force on the sixtieth day following the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession with the Depository between the States which have deposited such instrument. An instrument deposited by a Regional Economic Integration Organisation shall not be counted for the purpose of this paragraph.

7. For other States and for other Regional Economic Integration Organisations, this Convention shall take effect sixty days following the date of deposit of the instrument of ratification, acceptance, approval or accession.

8. The Depository shall promptly notify all signatories and States Parties of:

- (a) each signature of this Convention and date thereof;
- (b) each deposit of an instrument of ratification, acceptance, approval or accession and date thereof;
- (c) the date of entry into force of this Convention;
- (d) the date of the coming into force of any revision of the limits of liability established under this Convention;
- (e) any denunciation under Article 54.

## **Article 54**

### *Denunciation*

1. Any State Party may denounce this Convention by written notification to the Depository.

2. Denunciation shall take effect one hundred and eighty days following the date on which notification is received by the Depository.

## **Article 55**

### *Relationship with other Warsaw Convention Instruments*

This Convention shall prevail over any rules which apply to international carriage by air:

1. between States Parties to this Convention by virtue of those States commonly being Party to

- (a) the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929 (hereinafter called the Warsaw Convention);
- (b) the Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929 Done at The Hague on 28 September 1955 (hereinafter called The Hague Protocol);

- (c) the convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air performed by a Person Other than the Contracting Carrier, signed at Guadalajara on 18 September 1961 (hereinafter called the Guadalajara Convention);
- (d) the protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929 as Amended by the Protocol Done at The Hague on 28 September 1955 Signed at Guatemala City on 8 March 1971 (hereinafter called the Guatemala City Protocol);
- (e) Additional Protocol Nos. 1 to 3 and Montreal Protocol No. 4 to amend the Warsaw Convention as amended by The Hague Protocol or the Warsaw Convention as amended by both The Hague Protocol and the Guatemala City Protocol Signed at Montreal on 25 September 1975 (hereinafter called the Montreal Protocols); or
2. within the territory of any single State Party to this Convention by virtue of that State being Party to one or more of the instruments referred to in sub-paragraphs (a) to (e) above.

### **Article 56**

#### ***States with more than one System of Law***

1. If a State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.
2. Any such declaration shall be notified to the Depositary and shall state expressly the territorial units to which the Convention applies.

3. In relation to a State Party which has made such a declaration:

- (a) references in Article 23 to “national currency” shall be construed as referring to the currency of the relevant territorial unit of that State; and
- (b) the reference in Article 28 to “national law” shall be construed as referring to the law of the relevant territorial unit of that State.

### **Article 57**

#### ***Reservations***

No reservation may be made to this Convention except that a State Party may at any time declare by a notification addressed to the Depositary that this Convention shall not apply to:

- (a) international carriage by air performed and operated directly by that State Party for non-commercial purposes in respect to its functions and duties as a sovereign State; and/or
- (b) the carriage of persons, cargo and baggage for its military authorities on aircraft registered in or leased by that State Party, the whole capacity of which has been reserved by or on behalf of such authorities.

IN WITNESS WHERE OF the undersigned Plenipotentiaries, having been duly authorized, have signed this Convention.

DONE at Montreal on the 28th day of May of the year one thousand nine hundred and ninety-nine in the English, Arabic, Chinese, French, Russian and Spanish language, all texts being equally authentic. This Convention shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Depositary to all States Parties to this Convention, as well as to all States Parties to the Warsaw Convention, The Hague Protocol, the Guadalajara Convention, the Guatemala City Protocol, and the Montreal Protocols.

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**CHAPTER XXII**

**CONVENTION ON INTERNATIONAL  
INTERESTS IN MOBILE EQUIPMENT  
SIGNED AT CAPE TOWN ON 16 NOVEMBER 2001  
(THE CAPE TOWN CONVENTION, 2001)**

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**CHAPTER XXII**

**CONVENTION ON INTERNATIONAL INTERESTS  
IN MOBILE EQUIPMENT SIGNED AT CAPE TOWN  
ON 16 NOVEMBER 2001 \***

**(THE CAPE TOWN CONVENTION, 2001)**

The STATES PARTIES TO THIS CONVENTION,

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

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

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

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

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

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

TAKING INTO CONSIDERATION the objectives and principles enunciated in existing Conventions relating to such equipment,

HAVE AGREED upon the following provisions:

**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;

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\* *Has not entered into force  
Requires 3 ratifications to enter into force  
India has not ratified it.*

- (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 reorganisation 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 reorganisation 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 standby 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), in the same Contracting State at the time of the conclusion of the contract and where the interest created by the transaction has been registered in a national registry in that Contracting State which has made a declaration under Article 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 (the lessor) grants a right to possession or control of an object (with or without an option to purchase) to another person (the lessee) 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 in tangible or other form and is capable of being reproduced in tangible form on a subsequent occasion and which indicates by reasonable means a person’s approval of the record.

## Article 2

### *The international interest*

1. This Convention provides for the constitution and effects of an international interest in 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-paragraph (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 centre of administration; or
- (d) where it has its place of business.

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

## Article 5

### *Interpretation and applicable law*

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

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

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

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

## Article 6

### *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-paragraph (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 in 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 subparagraphs (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 data bases 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 data base 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 data base so as to be searchable.

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

- (a) the International Registry has assigned to it a sequentially ordered file number; and
- (b) the registration information, including the file number, is stored in durable form and may be accessed at the International Registry.

4. If an interest first registered as a prospective international interest becomes an international interest, that international interest shall be treated as registered from the time of registration of the prospective international interest provided that the registration was still

current immediately before the international interest was constituted as provided by Article 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 data base 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 thereof, 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, data bases and archives of the International Registry shall be inviolable and immune from seizure or other legal or administrative process.

5. For the purposes of any claim against the Registrar under Article 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 inter-governmental 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.

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

DONE at Cape Town, this sixteenth day of November, two thousand and one, in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic, such authenticity to take effect upon verification by the Joint Secretariat of the Conference under the authority of the President of the Conference within ninety days hereof as to the conformity of the texts with one another.

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**CHAPTER XXIII**

**PROTOCOL TO THE CONVENTION ON INTERNATIONAL  
INTERESTS IN MOBILE EQUIPMENT ON MATTERS  
SPECIFIC TO AIRCRAFT EQUIPMENT**

**(THE CAPE TOWN PROTOCOL, 2001)**

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**CHAPTER XXIII**

**PROTOCOL TO THE CONVENTION ON INTERNATIONAL  
INTERESTS IN MOBILE EQUIPMENT ON MATTERS  
SPECIFIC TO AIRCRAFT EQUIPMENT  
(THE CAPE TOWN PROTOCOL, 2001)**

THE STATES PARTIES TO THIS PROTOCOL

CONSIDERING it necessary to implement the Convention on International Interests in Mobile Equipment (hereinafter referred to as the Convention) as it relates to aircraft equipment, in the light of the purposes set out in the preamble to the Convention,

MINDFUL of the need to adapt the Convention to meet the particular requirements of aircraft finance and to extend the sphere of application of the Convention to include contracts of sale of aircraft equipment,

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

HAVE AGREED upon the following provisions relating to aircraft equipment:

**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

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\* *Has not entered into force.  
Requires 8 ratifications to enter into force  
India has not ratified it.*

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 Article XIV(1)), 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 Articles 7(c) and 32(1)(b) 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 under the Convention, 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 I 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 to that effect 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 LX(1) is granted or, in the case of relief granted by a foreign court, recognised by a court of that Contracting State, and that the creditor is entitled to procure those remedies in accordance with this Convention; and
- (b) the applicable authorities shall expeditiously co-operate with and assist the creditor in the exercise of such remedies in conformity with the applicable aviation safety laws and regulations.,

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 the insolvency 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 he has declared that he 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 interests 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(6) 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):

“(c) is consented to in writing by the debtor, 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 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 and Article XTV(1) 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 paragraph 1 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 criterion 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 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(2) 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/or 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 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, the 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 XXV111.

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, the 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 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 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 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 Protocol apply and any reference to the national registry or to the registry authority in that Contracting State shall be construed as referring to

the aircraft registry in force or to the registry authority having jurisdiction in the territorial unit or units to which the Convention and 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 (i.e. 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 the 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 that 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 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 the 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 declarations***

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.

### **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 the 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 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.
- (ii) the date of entry into force of this Protocol;
- (iii) each declaration made in accordance with this Protocol, 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 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.

### **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;

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

DONE at Cape Town, this sixteenth day of November, two thousand and one, in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic, such authenticity to take effect upon verification by the Joint Secretariat of the Conference under the authority of the President of the Conference within ninety days hereof as to the conformity of the texts with one another.

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

[Insert Date]

To : [Insert name of Registry Authority]

Re: Irrevocable De-registration and Export Request Authorisation

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

This instrument is an irrevocable de-registration and export request authorisation issued by the undersigned in favour of [insert name of creditor] ("the authorised party") under the authority of Article XIII of the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment. In accordance with that Article, the undersigned hereby requests:

- (i) recognition that the authorised party or the person it certifies as its designee is the sole person entitled to:
  - (a) procure the de-registration of the aircraft from the [insert name of aircraft register] maintained by the [insert name of registry authority] for the purposes of Chapter III of the Convention on International Civil Aviation, signed at Chicago, on 7 December 1944, and
  - (b) procure the export and physical transfer of the aircraft from [insert name of country], and
- (ii) confirmation that the authorised party or the person it certifies as its designee may take the action specified in clause (i) above on written demand without the consent of the undersigned and that, upon such demand, the authorities in [insert name of country] shall co-operate with the authorised party with a view to the speedy completion of such action.

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

[insert name of operator/owner]

Agreed to and lodged this

[insert date]

[insert relevant notational details].

By: [insert name of signatory]

Its: [insert title of signatory]

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

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**CHAPTER XXIV**

**CONSOLIDATED TEXT OF 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 16 NOVEMBER 2001**

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## CHAPTER XXIV

# THE CONSOLIDATED TEXT OF 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 16 NOVEMBER 2001

THE STATES PARTIES,

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

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

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

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

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

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

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

HAVE AGREED upon the following provisions

## CHAPTER I

### SPHERE OF APPLICATION AND GENERAL PROVISIONS

#### Article 1

##### *Definitions*

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

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

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

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

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

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

550 rated take-off shaft horsepower or its equivalent,

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

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

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

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

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

(ii) goods in excess of 2750 kilograms,

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

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

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

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

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

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

(l) “common mark registering authority” means the authority maintaining a register in accordance with Article 77 of the Chicago

Convention as implemented by the Resolution adopted on 14 December 1967 by the Council of the International Civil Aviation Organization on nationality and registration of aircraft operated by international operating agencies;

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

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

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

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

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

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

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

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

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

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

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

(ii) goods in excess of 450 kilograms,

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

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

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

(y) “insolvency-related event” means:

(i) the commencement of the insolvency proceedings; or

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

(z) “interested persons” means:

(i) the debtor;

(ii) any guarantor;

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

(aa) “internal transaction” means a transaction of a type listed in Article 2(2)(a) to (c) where the centre of the main interests of all parties to such transaction is situated, and the relevant aircraft object under Article 3(4) is located, in the same Contracting State at the time of the conclusion of the contract and where the interest created by the transaction

has been registered in a national registry in that Contracting State which has made a declaration under Article 66(1);

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

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

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

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

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

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

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

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

(jj) “proceeds” means money or non-money proceeds of an aircraft object arising from the total or partial loss or physical destruction of

the aircraft object or its total or partial confiscation, condemnation or requisition;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Article 2

### *The international interest*

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

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



- (a) granted by the chargor under a security agreement;
- (b) vested in a person who is the conditional seller under a title reservation agreement; or
- (c) vested in a person who is the lessor under a leasing agreement.

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

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

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

### **Article 3**

#### ***Sphere of application***

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

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

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

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

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

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

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

### **Article 4**

#### ***Where debtor is situated***

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

- (a) under the law of which it is incorporated or formed;
- (b) where it has its registered office or statutory seat;
- (c) where it has its centre of administration; or
- (d) where it has its place of business.

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

### **Article 5**

#### ***Interpretation and applicable law***

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

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

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

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

rule, the law of the territorial unit with which the case is most closely connected shall apply.

### **Article 6**

#### ***Application to sale and prospective sale***

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

Articles 3 and 4;

Article 26(1 )(a);

Article 32(4);

Article 33(1) (as regards registration of a contract of sale or a prospective sale);

Article 38(2) (as regards a prospective sale); and

Article 43.

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

### **Article 7**

#### ***Representative capacities***

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

### **Article 8**

#### ***Description of aircraft objects***

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

### **Article 9**

#### ***Choice of law***

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

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

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

## **CHAPTER II**

### **CONSTITUTION OF AN INTERNATIONAL INTEREST; CONTRACTS OF SALE**

#### **Article 10**

##### ***Formal requirements***

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

(a) is in writing;

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

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

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

#### **Article 11**

##### ***Formalities and effects of contracts of sale***

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

(a) is in writing;

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

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

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

### **CHAPTER III DEFAULT REMEDIES**

#### **Article 12**

##### *Remedies of chargee*

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

- (a) take possession or control of any aircraft object charged to it;
- (b) sell or grant a lease of any such aircraft object;
- (c) collect or receive any income or profits arising from the management or use of any such aircraft object.

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

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

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

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

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

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

#### **Article 13**

##### *Vesting of aircraft object in satisfaction; redemption*

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

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

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

4. At any time after default as provided in Article 17 and before sale of the charged aircraft object or the making of an order under paragraph 2, the chargor or any interested person may discharge the security interest by paying in full the amount secured, subject to any lease granted

by the chargee under Article 12(1)(b) or ordered under Article 12(2). Where, after such default, the payment of the amount secured is made in full by an interested person other than the debtor, that person is subrogated to the rights of the chargee.

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

### **Article 14**

#### ***Remedies of conditional seller or lessor***

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

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

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

### **Article 15**

#### ***Additional remedies of creditor***

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

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

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

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

3. The registry authority in a Contracting State shall, subject to any applicable safety

laws and regulations, honour a request for de-registration and export if:

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

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

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

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

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

### **Article 16**

#### ***Additional remedies under applicable law***

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

### **Article 17**

#### ***Meaning of default***

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

2. Where the debtor and the creditor have not so agreed, "default" for the purposes of

Articles 12 to 15 and 20 means a default which substantially deprives the creditor of what it is entitled to expect under the agreement.

### **Article 18**

#### ***Debtor provisions***

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

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

Article 42(5) or, in the capacity of buyer. Article 42(4) of this Convention, but only to the extent, if any, that such holder has agreed.

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

### **Article 19**

#### ***Standard for exercising remedies***

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

### **Article 20**

#### ***Relief pending final determination***

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

such one or more of the following orders as the creditor requests:

- (a) preservation of the aircraft object and its value;
- (b) possession, control or custody of the aircraft object;
- (c) immobilisation of the aircraft object;
- (d) lease or, except where covered by sub-paragraphs (a) to (c), management of the aircraft object and the income therefrom; and
- (e) if at any time the debtor and the creditor specifically agree, sale and application of proceeds therefrom.

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

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

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

- (a) in implementing any order granting such relief, fails to perform any of its obligations to the debtor under this Convention; or
- (b) fails to establish its claim, wholly or in part, on the final determination of that claim.

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

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

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

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

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

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

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

## **Article 21**

### ***Procedural requirements***

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

## **Article 22**

### ***Derogation***

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

## **Article 23**

### ***Remedies on insolvency***

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

### ***Alternative A***

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

- (a) the end of the waiting period; and
- (b) the date on which the creditor would be entitled to possession of the aircraft object if this Article did not apply.

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

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

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

- (a) the insolvency administrator or the debtor, as applicable, shall preserve the aircraft object and maintain it and its value in accordance with the agreement; and
- (b) the creditor shall be entitled to apply for any other forms of interim relief available under the applicable law.

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

7. The insolvency administrator or the debtor, as applicable, may retain possession of the aircraft object where, by the time specified in paragraph 2, it has cured all defaults other than a default constituted by the opening of insolvency proceedings and has agreed to

perform all future obligations under the agreement. A second waiting period shall not apply in respect of a default in the performance of such future obligations.

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

- (a) they shall be made available by the registry authority and the administrative authorities in a Contracting State, as applicable, no later than five working days after the date on which the creditor notifies such authorities that it is entitled to procure those remedies in accordance with this Convention; and
- (b) the applicable authorities shall expeditiously co-operate with and assist the creditor in the exercise of such remedies in conformity with the applicable aviation safety laws and regulations.

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

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

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

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

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

### ***Alternative B***

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

- (a) cure all defaults other than a default constituted by the opening of insolvency proceedings and agree to perform all future obligations, under the agreement and related transaction documents; or
- (b) give the creditor the opportunity to take possession of the aircraft object, in accordance with the applicable law.

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

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

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

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

## **Article 24**

### ***Insolvency assistance***

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

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

## **Article 25**

### ***De-registration and export request authorisation***

1. This Article applies only where a

Contracting State has made a declaration pursuant to Article 71(1).

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

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

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

## CHAPTER IV THE INTERNATIONAL REGISTRATION SYSTEM

### Article 26

#### *The International Registry*

An International Registry shall be established for registrations of:

- (a) international interests, prospective international interests and registrable non-consensual rights and interests;
- (b) assignments and prospective assignments of international interests;
- (c) acquisitions of international interests by legal or contractual subrogations under the applicable law;
- (d) notices of national interests; and
- (e) subordinations of interests referred to in any of the preceding sub-paragraphs.

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

### Article 27

#### *The Supervisory Authority*

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

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

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

4 The Supervisory Authority shall:

- (a) establish or provide for the establishment of the International Registry;
- (b) appoint and dismiss the Registrar;
- (c) ensure that any rights required for the continued effective operation of the International Registry in the event of a change of Registrar will vest in or be assignable to the new Registrar;
- (d) after consultation with the Contracting States, make or approve and ensure the publication of regulations dealing with the operation of the International Registry;
- (e) establish administrative procedures through which complaints concerning the operation of the International Registry can be made to the Supervisory Authority;
- (f) supervise the Registrar and the operation of the International Registry;
- (g) at the request of the Registrar, provide



such guidance to the Registrar as the Supervisory Authority thinks fit;

- (h) set and periodically review the structure of fees to be charged for the services and facilities of the International Registry;
- (i) do all things necessary to ensure that an efficient notice-based electronic registration system exists to implement the objectives of this Convention; and
- (j) report periodically to Contracting States concerning the discharge of its obligations under this Convention.

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

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

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

## **Article 28**

### ***The Registrar***

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

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

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

## **Article 29**

### ***Designated entry points***

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

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

## **Article 30**

### ***Working hours of the registration facilities***

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

## **CHAPTER V MODALITIES OF REGISTRATION**

### **Article 31**

#### ***Registration requirements***

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

- (a) for effecting a registration (which shall include provision for prior electronic transmission of any consent from any person whose consent is required under Article 33);
- (b) for making searches and issuing search certificates; and, subject thereto,

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

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

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

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

### **Article 32**

#### ***Validity and time of registration***

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

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

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

- (a) the International Registry has assigned to it a sequentially ordered file number; and
- (b) the registration information, including the file number, is stored in durable form and may be accessed at the International Registry.

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

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

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

### **Article 33**

#### ***Consent to registration***

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

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

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

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

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

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

### **Article 34**

#### ***Duration of registration***

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

2. Registration of a contract of sale remains effective indefinitely. Registration of a prospective sale remains effective unless

discharged or until expiry of the period, if any, specified in the registration.

### **Article 35**

#### *Searches*

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

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

- (a) stating all registered information relating thereto, together with a statement indicating the date and time of registration of such information; or
- (b) stating that there is no information in the International Registry relating thereto.

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

### **Article 36**

#### *List of declarations and declared non-consensual rights or interests*

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

### **Article 37**

#### *Evidentiary value of certificates*

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

- (a) that it has been so issued; and
- (b) of the facts recited in it, including the date and time of a registration.

### **Article 38**

#### *Discharge of registration*

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

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

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

4. Where the obligations secured by a national interest specified in a registered notice of a national interest have been discharged, the holder of such interest shall, without undue delay,

procure the discharge of the registration after written demand by the debtor delivered to or received at its address stated in the registration.

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

### **Article 39**

#### *Access to the international registration facilities*

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

## **CHAPTER VI**

### **PRIVILEGES AND IMMUNITIES OF THE SUPERVISORY AUTHORITY AND THE REGISTRAR**

#### **Article 40**

##### *Legal personality; immunity*

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

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

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

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

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

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

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

## **CHAPTER VII**

### **LIABILITY OF THE REGISTRAR**

#### **Article 41**

##### *Liability and financial assurances*

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

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

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

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

5. The amount of the insurance or financial guarantee referred to in the preceding paragraph

shall, in respect of each event, not be less than the maximum value of an aircraft object as determined by the Supervisory Authority.

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

## **CHAPTER VIII**

### **EFFECTS OF AN INTERNATIONAL INTEREST AS AGAINST THIRD PARTIES**

#### **Article 42**

##### *Priority of competing interests*

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

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

- (a) even if the first-mentioned interest was acquired or registered with actual knowledge of the other interest; and
- (b) even as regards value given by the holder of the first-mentioned interest with such knowledge.

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

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

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

- (a) subject to an interest registered prior to the registration of the international interest held by its conditional seller or lessor; and
- (b) free from an interest not so registered at that time even if it has actual knowledge of that interest.

6. The priority of competing interests or rights under this Article may be varied by

agreement between the holders of those interests, but an assignee of a subordinated interest is not bound by an agreement to subordinate that interest unless at the time of the assignment a subordination had been registered relating to that agreement.

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

8. This Convention:

- (a) does not affect the rights of a person in an item, other than an aircraft object, held prior to its installation on an aircraft object if under the applicable law those rights continue to exist after the installation; and
- (b) does not prevent the creation of rights in an item, other than an aircraft object, which has previously been installed on an aircraft object where under the applicable law those rights are created.

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

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

#### **Article 43**

##### *Effects of insolvency*

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

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

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

**CHAPTER IX**  
**ASSIGNMENTS OF ASSOCIATED**  
**RIGHTS AND INTERNATIONAL**  
**INTERESTS; RIGHTS OF SUBROGATION**

**Article 44**

*Effects of assignment*

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

- (a) the related international interest; and
- (b) all the interests and priorities of the assignor under this Convention.

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

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

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

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

**Article 45**

*Formal requirements of assignment*

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

- (a) is in writing;
- (b) enables the associated rights to be identified under the contract from which they arise; and

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

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

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

**Article 46**

*Debtor's duty to assignee*

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

- (a) the debtor has been given notice of the assignment in writing by or with the authority of the assignor;
- (b) the notice identifies the associated rights; and
- (c) the debtor has consented in writing, whether or not the consent is given in advance of the assignment or identifies the assignee.

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

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

**Article 47**

*Default remedies in respect of assignment by way of security*

In the event of default by the assignor under the assignment of associated rights and the related

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

- (a) to the secured obligation and the security interest were references to the obligation secured by the assignment of the associated rights and the related international interest and the security interest created by that assignment;
- (b) to the chargee or creditor and chargor or debtor were references to the assignee and assignor;
- (c) to the holder of the international interest were references to the assignee; and (d) to the aircraft object were references to the assigned associated rights and the related international interest.

### **Article 48**

#### ***Priority of competing assignments***

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

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

### **Article 49**

#### ***Assignee's priority with respect to associated rights***

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

- (a) if the contract under which the associated rights arise states that they are secured by or associated with the object; and
- (b) to the extent that the associated rights are related to an aircraft object.

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

- (a) a sum advanced and utilised for the purchase of the aircraft object;
- (b) a sum advanced and utilised for the purchase of another aircraft object in which the assignor held another international interest if the assignor transferred that interest to the assignee and the assignment has been registered;
- (c) the price payable for the aircraft object;
- (d) the rentals payable in respect of the aircraft object; or
- (e) other obligations arising from a transaction referred to in any of the preceding sub-paragraphs.

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

### **Article 50**

#### ***Effects of assignor's insolvency***

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

### **Article 51**

#### ***Subrogation***

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

2. The priority between any interest within the preceding paragraph and a competing interest may be varied by agreement in writing between the holders of the respective interests

but an assignee of a subordinated interest is not bound by an agreement to subordinate that interest unless at the time of the assignment a subordination had been registered relating to that agreement.

## **CHAPTER X**

### **RIGHTS OR INTERESTS SUBJECT TO DECLARATIONS BY CONTRACTING STATES**

#### **Article 52**

##### *Rights having priority without registration*

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

- (a) those categories of non-consensual right or interest (other than a right or interest to which Article 53 applies) which under that State's law have priority over an interest in an aircraft object equivalent to that of the holder of a registered international interest and which shall have priority over a registered international interest, whether in' or outside insolvency proceedings; and
- (b) that nothing in this Convention shall affect the right of a State or State entity, intergovernmental organisation or other private provider of public services to arrest or detain an aircraft object under the laws of that State for payment of amounts owed to such entity, organisation or provider directly relating to those services in respect of that object or another aircraft object.

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

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

4. Notwithstanding the preceding paragraph, a Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that a right

or interest of a category covered by a declaration made under sub-paragraph (a) of paragraph 1 shall have priority over an international interest registered prior to the date of such ratification, acceptance, approval or accession.

#### **Article 53**

##### *Registrable non-consensual rights or interests*

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

## **CHAPTER XI**

### **JURISDICTION**

#### **Article 54**

##### *Choice of forum*

1. Subject to Articles 55 and 56, the courts of a Contracting State chosen by the parties to a transaction have jurisdiction in respect of any claim brought under this Convention, whether or not the chosen forum has a connection with the parties or the transaction. Such jurisdiction shall be exclusive unless otherwise agreed between the parties. 2. Any such agreement shall be in writing or otherwise concluded in accordance with the formal requirements of the law of the chosen forum.

#### **Article 55**

##### *Jurisdiction under Article 20*

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

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



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

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

### **Article 56**

#### ***Jurisdiction to make orders against the Registrar***

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

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

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

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

### **Article 57**

#### ***Waivers of sovereign immunity***

1. Subject to paragraph 2, a waiver of sovereign immunity from jurisdiction of the

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

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

### **Article 58**

#### ***Jurisdiction in respect of insolvency proceedings***

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

## **CHAPTER XII**

### **RELATIONSHIP WITH OTHER CONVENTIONS**

#### **Article 59**

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

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

#### **Article 60**

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

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

### **Article 61**

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

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

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

### **Article 62**

#### ***Relationship with the UNIDROIT Convention on International Financial Leasing***

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

## **CHAPTER XIII**

### **FINAL PROVISIONS**

### **Article 63**

#### ***Signature, ratification, acceptance, approval or accession***

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

### **Article 64**

#### ***Regional Economic Integration Organisations***

1. A Regional Economic Integration Organisation which is constituted by sovereign States and has competence over certain matters governed by the Convention and the Protocol may similarly sign, accept, approve or accede to the Convention and the Protocol. The Regional Economic Integration Organisation shall in that case have the rights and obligations of a Contracting State, to the extent that that Organisation has competence over matters governed by the Convention and the Protocol. Where the number of Contracting States is

relevant in the Convention and the Protocol, the Regional Economic Integration Organisation shall not count as a Contracting State in addition to its Member States which are Contracting States.

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

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

### **Article 65**

#### ***Entry into force***

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

### **Article 66**

#### ***Internal transactions***

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

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

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

person by assignment or subrogation under the applicable law.

### **Article 67**

#### *Future Protocols*

(See Article 51 of the Convention)

### **Article 68**

#### *Territorial units*

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

### **Article 69**

#### *Determination of courts*

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

### **Article 70**

#### *Declarations regarding remedies*

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

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

### **Article 71**

#### *Declarations relating to certain provisions*

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

2. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that it will apply the provisions of Article 20(2), (3), (5), (7) and (9) wholly or in part. If it so declares with respect to Article 20(2), it shall specify the time-period

required thereby. A Contracting State may also declare that it will not apply the provisions of Article 20(1), (4), (6), and (8), and of Article 55, wholly or in part; such declaration shall specify under which conditions the relevant Article will be applied, in case it will be applied partly, or otherwise which other forms of interim relief will be applied.

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

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

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

### **Article 72**

#### *Reservations and declarations*

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

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

### **Article 73**

#### *Subsequent declarations*

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

2. Any such subsequent declaration shall take effect on the first day of the month following the expiration of six months after

the date of receipt of the notification by the Depositary. Where a longer period for that declaration to take effect is specified in the notification, it shall take effect upon the expiration of such longer period after receipt of the notification by the Depositary.

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

### **Article 74**

#### ***Withdrawal of declarations***

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

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

### **Article 75**

#### ***Denunciations***

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

2. Any such denunciation shall take effect on the first day of the month following the expiration of twelve months after the date of receipt of the notification by the Depositary. 3. Notwithstanding the previous paragraphs, this Convention shall continue to apply, as if no such denunciation had been made, in respect of all rights and interests arising prior to the effective date of any such denunciation.

### **Article 76**

#### ***Transitional provisions***

1. Unless otherwise declared by a Contracting State at any time, this Convention does not apply

to a pre-existing right or interest, which retains the priority it enjoyed under the applicable law before the effective date of the Convention.

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

- (a) “effective date of this Convention” means in relation to a debtor the time when the Convention enters into force or the time when the State in which the debtor is situated becomes a Contracting State, whichever is the later; and
- (b) the debtor is situated in a State where it has its centre of administration or, if it has no centre of administration, its place of business or, if it has more than one place of business, its principal place of business or, if it has no place of business, its habitual residence.

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

### **Article 77**

#### ***Review Conferences, amendments and related matters***

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

2. At the request of not less than twenty-five per cent of the States Parties, Review Conferences of States Parties shall be convened

from time to time by the Depositary, in consultation with the Supervisory Authority, to consider:

- (a) the practical operation of this Convention and its effectiveness in facilitating the asset-based financing and leasing of the aircraft objects covered by its terms;
- (b) the judicial interpretation given to, and the application made of the terms of this Convention and the regulations;
- (c) the functioning of the international registration system, the performance of the Registrar and its oversight by the Supervisory Authority, taking into account the reports of the Supervisory Authority; and
- (d) whether any modifications to this Convention or the arrangements relating to the International Registry are desirable.

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

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

### **Article 78**

#### ***Depositary and its functions***

1. Instruments of ratification, acceptance, approval of or accession to the Convention

and the Protocol, shall be deposited with the International Institute for the Unification of Private Law (UNIDROIT), which is hereby designated the Depositary.

2. The Depositary shall:

- (a) inform all Contracting States of:
  - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;
  - (ii) the date of entry into force of the Convention and the Protocol;
  - (iii) each declaration made in accordance with this Convention, together with the date thereof;
  - (iv) the withdrawal or amendment of any declaration, together with the date thereof; and
  - (v) the notification of any denunciation of the Convention and the Protocol together with the date thereof and the date on which it takes effect;
- (b) transmit certified true copies of the Convention and the Protocol to all Contracting States;
- (c) provide the Supervisory Authority and the Registrar with a copy of each instrument of ratification, acceptance, approval or accession, together with the date of deposit thereof, of each declaration or withdrawal or amendment of a declaration and of each notification of denunciation, together with the date of notification thereof, so that the information contained therein is easily and fully available; and
- (d) perform such other functions customary for depositaries.

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

Annex

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

Annex referred to in Article 25

[Insert Date]

To: [Insert Name of Registry Authority]

Re: Irrevocable De-Registration and Export Request Authorisation

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

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

- (i) recognition that the authorised party or the person it certifies as its designee is the sole person entitled to:
  - (a) procure the de-registration of the aircraft from the [insert name of aircraft register] maintained by the [insert name of registry authority] for the purposes of Chapter III of the Convention on International Civil Aviation, signed at Chicago, on 7 December 1944; and
  - (b) procure the export and physical transfer of the aircraft from [insert name of country]; and
- (ii) confirmation that the authorised party or the person it certifies as its designee may take the action specified in clause (i) above on written demand without the consent of the undersigned and that, upon such demand, the authorities in [insert name of country] shall co-operate with the authorised party with a view to the speedy completion of such action.

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

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

[insert name of operator/owner]

Agreed to and lodged this

[insert date]

[insert relevant notational details].

By: [insert name of signatory]

Its: [insert title of signatory]