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INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW
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DECLARATIONS MEMORANDUM

THE SYSTEM OF DECLARATIONS UNDER THE CONVENTION ON INTERNATIONAL
INTERESTS IN MOBILE EQUIPMENT AND THE PROTOCOL THERETO ON MATTERS
SPECIFIC TO AIRCRAFT EQUIPMENT:

AN EXPLANATORY MEMORANDUM FOR THE ASSISTANCE OF STATES AND
REGIONAL ECONOMIC INTEGRATION ORGANISATIONS IN THE COMPLETING OF
DECLARATIONS

(PREPARED BY THE UNIDROIT SECRETARIAT, AS DEPOSITARY)

TABLE OF CONTENTS

PART I - COMMENTARY

Introduction	1
Background	1
Types of declarations	1
Introduction	1
Mandatory declaration (Contracting States)	2
Opt-in declarations	2
Opt-out declarations	2
Declarations relating to a Contracting State's own laws	2
Declaration relating to territorial units	3
Mandatory declarations (Regional Economic Integration Organisations)	3
Guide to the use of declaration forms	3
Role of Depositary, Supervisory Authority and Registrar	3
Declaration forms for States: introduction	4
Use of declaration forms	4
Selection of alternative forms	4
Compatibility of declarations	5
Declaration forms for Regional Economic Integration Organisations	5
Language of declarations	6
Subsequent declarations, withdrawal of declarations, and timing considerations	6
Presentation of declaration forms	6

PART II – MODEL DECLARATION FORMS FOR USE BY STATES UNDER THE CONVENTION

Form No. 1 – Specific declaration under Article 39(1)(a)	8
Form No. 2 – General declaration under Article 39(1)(a)	9
Form No. 3 – Specific declaration under Article 39(1)(b)	10
Form No. 4 – General declaration under Article 39(1)(b)	11
Form No. 6 – Declaration under Article 40	12
Form No. 7 – Specific declaration under Article 50	13
Form No. 8 – General declaration under Article 50	14
Form No. 9 – Specific declaration under Article 52	15
Form No. 10 – General declaration under Article 52	16
Form No. 11 – Declaration under Article 53	17
Form No. 12 – Declaration under Article 54(1)	18
Form No. 13-A – Mandatory declaration under Article 54(2) applicable to all relevant remedies	19
Form No. 13-B – Mandatory declaration under Article 54(2) requiring leave of the court in relation to specified relevant remedies	20
Form No. 14 – Declaration under Article 55 providing for the partial exclusion of the application of Article 13	21
Form No. 15 – Declaration under Article 55 providing for the total exclusion of the application of Article 13	22
Form No. 16 – Declaration under Article 55 providing for partial exclusion of the application of Article 43	23
Form No. 17 – Declaration under Article 55 providing for the total exclusion of the application of Article 43	24
Form No. 18 – Declaration under Article 60(1)	25

**PART III – MODEL DECLARATION FORMS FOR USE BY STATES UNDER
THE AIRCRAFT PROTOCOL**

Form No. 19 – Declaration under Article XXX(1) in respect of Article VIII	26
Form No. 20 – Declaration under Article XXX(2) in respect of Article X providing for partial application of Article X	27
Form No. 21– Declaration under Article XXX(2) in respect of Article X providing for the application of the entirety of Article X	28
Form No. 22 – Specific declaration under Article XXX(3) in respect of Article XI providing for the application of Alternative A in its entirety to certain types of insolvency proceeding	29
Form No. 23 – General declaration under Article XXX(3) in respect of Article XI providing for the application of Alternative A in its entirety to all types of insolvency proceeding	30
Form No. 24 – Specific declaration under Article XXX(3) in respect of Article XI providing for the application of Alternative B in its entirety to certain types of insolvency proceeding	31
Form No. 25 – General declaration under Article XXX(3) in respect of Article XI providing for the application of Alternative B in its entirety to all types of insolvency proceeding	32
Form No. 26 – Declaration under Article XXX(1) in respect of Article XII	33
Form No. 27 – Declaration under Article XXX(1) in respect of Article XIII	34
Form No. 28-A – Declaration under Article XIX(1) providing for the designation of entry points for compulsory use as transmitters of registration information for airframes and helicopters, and for optional use as transmitters of registration information for aircraft engines, to the International Registry	35
Form No. 28-B – Declaration under Article XIX(1) providing for the designation of entry points for compulsory use as transmitters of registration information for airframes and helicopters to the International Registry	36
Form No. 29 – Declaration under Article XIX(1) providing for the designation of entry points for optional use as transmitters of registration information to the International Registry	37
Form No. 30 – Declaration under Article XXX(5) providing for the partial application of Article XXI	38
Form No. 31 – Declaration under Article XXX(5) providing for the exclusion of the application of Article XXI in its entirety	39
Form No. 32 – Declaration under Article XXIV(2)	40
Form No. 33 – Specific declaration under Article XXIX	41
Form No. 34 – General declaration under Article XXIX	42

**PART IV – MODEL DECLARATION FORMS FOR USE BY REGIONAL ECONOMIC
INTEGRATION ORGANISATIONS UNDER THE CONVENTION AND THE
AIRCRAFT PROTOCOL**

Form No. 35 – Mandatory declaration under Article 48(2)
Form No. 36 – Mandatory declaration under Article XXVII(2)

**APPENDIX 1 – TABLE OF DECLARATIONS THAT MAY BE MADE UNDER THE
CONVENTION AND AIRCRAFT PROTOCOL**

PART I - COMMENTARY

Introduction

1. This memorandum has been prepared by the UNIDROIT Secretariat to assist States and Regional Economic Integration Organisations in their preparation of declarations under the *Convention on International Interests in Mobile Equipment* (the Convention) and the *Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment* (the Aircraft Protocol).

2. The Convention and Aircraft Protocol provide for the making of declarations by Contracting States and Regional Economic Integration Organisations.¹ The complexity of the system of declarations, and the fact that declarations affect the rights and obligations of Contracting States, mean that particular care must be exercised by Contracting States in making their declarations. This Memorandum is intended to ensure that Contracting States are able to make their declarations in full compliance with the terms of the Convention and the Aircraft Protocol. A table of all of the declarations that may be made by Contracting States and Regional Economic Integration Organisations under the Convention and Aircraft Protocol is found at **Appendix 1**.

Background

3. During the development of the Convention and the Aircraft Protocol it became clear that the solutions advocated for some of their provisions might run so counter to the legal traditions of certain States as to make those provisions potentially unacceptable to those States. One example was the default provisions permitting the exercise of extra-judicial remedies, although these provisions were also generally seen as crucial to making the benefits of asset-based financing and leasing more widely available under the new international system. The solution adopted was to give Contracting States the possibility of making choices in respect of these matters under the Convention and the Aircraft Protocol through a system of declarations.

4. The system of declarations provided for under the Convention and the Aircraft Protocol is an essential element in the decisions to be taken by Contracting States regarding the policy objectives, and in particular the commercial policy objectives, that they see fit to pursue in the matter of the acquisition of aircraft equipment.

Types of declarations

Introduction

5. The declarations provided for under Article 54(2) of the Convention, and Articles 48(2) of the Convention and XXVII(2) of the Aircraft Protocol,² are mandatory declarations. All

¹ Except where the context indicates otherwise, references in this Memorandum to Contracting States also includes Regional Economic Integration Organisations.

² The declarations provided for under Article 48(2) of the Convention and Article XXVII(2) of the Aircraft Protocol are addressed to Regional Economic Integration Organisations.

other declarations provided for under the Convention and the Aircraft Protocol are optional in nature.

Mandatory declaration (Contracting States)

6. The Convention provides for one mandatory declaration to be made by Contracting States. This is the declaration, provided for by Article 54(2) of the Convention, as to whether or not certain remedies may only be exercised with leave of the court. Article 54(2) of the Convention provides that this declaration *must* be made at the time of a Contracting State's ratification, acceptance, approval of, or accession to, the Aircraft Protocol. For this reason, instruments of ratification, acceptance, approval of, or accession to, the Aircraft Protocol will not be able to be accepted by the Depositary unless they are accompanied by the mandatory declaration under Article 54(2) of the Convention.

7. However, a Contracting State that has previously deposited a declaration under Article 54(2) of the Convention upon its ratification of, or accession to, the Luxembourg Protocol,³ is not required to deposit another declaration under Article 54(2) upon its subsequent ratification of, or accession to, the Aircraft Protocol.⁴

Opt-in declarations

8. Opt-in declarations are those declarations which must be lodged by a Contracting State in order for a provision of the Convention, as implemented by the Aircraft Protocol, to have effect in relation to that State. The provisions of the Convention and Aircraft Protocol in respect of which opt-in declarations may be made are:

- Convention: Article 60; and
- Aircraft Protocol: Articles VIII, X, XI, XII, and XIII.

Opt-out declarations

9. Opt-out declarations are those declarations which must be lodged by a Contracting State in order for a provision of the Convention, as implemented by the Aircraft Protocol, *not* to have effect within that State. The provisions of the Convention and Aircraft Protocol in respect of which opt-out declarations may be made are:

- Convention: Articles: 8(1)(b), 13, 43, and 50; and
- Aircraft Protocol: XXI and XXIV(2).

Declarations relating to a Contracting State's Own Laws

10. Certain optional declarations, which relate to a Contracting States own laws, are neither opt-in nor opt-out. These are the declarations which may be made in respect of the following provisions:

³ The *Luxembourg Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock*, signed in Luxembourg on 23 February 2007.

⁴ Article XXXI of the Aircraft Protocol provides that declarations made under the Convention shall be deemed to have been also made under the Aircraft Protocol unless stated otherwise.

- Convention: Articles: 39, 40, and 53; and
- Aircraft Protocol: XIX and XXIX.

Declaration relating to territorial units

11. There is one declaration relating to the application of the Convention to territorial units which does not fall within any of the above categories, namely:

- Convention: Article 52.

Mandatory declarations (Regional Economic Integration Organisations)

12. Article 48(2) of the Convention provides for a mandatory declaration to be made by Regional Economic Integration Organisations, at the time of their signature, acceptance, approval or accession, specifying the matters governed by the Convention in respect of which competence has been transferred to that Organisation by its Member States. Article XXVII(2) of the Aircraft Protocol provides for a mandatory declaration to be made by Regional Economic Integration Organisations, at the time of their signature, acceptance, approval or accession, specifying the matters governed by the Aircraft Protocol in respect of which competence has been transferred to that Organisation by its Member States.

Guide to the use of declaration forms

(a) *Role of Depositary, Supervisory Authority and Registrar*

13. Under Article 62 of the Convention and Article XXXVII of the Aircraft Protocol, instruments of ratification, acceptance, approval or accession are to be deposited with UNIDROIT, which is designated the Depositary. Under Article 56(2) of the Convention and Article XXXII(2) of the Aircraft Protocol, any declaration or subsequent declaration or any withdrawal of a declaration made under the Convention is to be notified in writing to UNIDROIT, as Depositary.

14. Under Article 62 of the Convention and Article XXXVII of the Aircraft Protocol, UNIDROIT, as Depositary, has the duty *inter alia* of providing the Supervisory Authority and the Registrar (established in accordance with Article 17 of the Convention) with a copy of each instrument of ratification, acceptance, approval or accession and each declaration or withdrawal or amendment of a declaration. UNIDROIT further has the duty of informing the Supervisory Authority and the Registrar of the date on which each such instrument and each such declaration or withdrawal or amendment of a declaration are deposited, so that the information contained therein may be easily and fully available.⁵

15. Under Article 23 of the Convention, the Registrar is required to maintain a list of declarations, withdrawals of declaration and 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 a declaration.

⁵ Convention, Article 62(2)(c); Aircraft Protocol, Article XXXVII(2).

(b) *Declaration forms for Contracting States: introduction*

16. Article 56 of the Convention provides that no reservations may be made thereto but that declarations authorised by Articles 39, 40, 50, 52, 53, 54, 55, 57, 58 and 60 may be made in accordance with those provisions. Article XXXII of the Aircraft Protocol provides that no reservations may be made thereto but that declarations authorised by Articles XXIV, XXIX, XXX, XXXI, XXXIII and XXXIV may be made in accordance with those provisions. Declaration forms are provided for all of these declarations, except declarations authorised by Articles 57 and 58 of the Convention and Articles XXXIII and XXXIV of the Aircraft Protocol.⁶

(c) *Use of the declaration forms*

17. Contracting States may lodge declarations in any form that complies with the requirements of the Convention and Aircraft Protocol. However UNIDROIT, as Depositary, encourages all Contracting States to base their declarations on the declaration forms in this memorandum so as to ensure that their declarations comply with the requirements of the Convention and Aircraft Protocol.

18. Except for the *mandatory* declaration provided for under Article 54(2) of the Convention, all the declarations under the Convention and Aircraft Protocol are optional, so that Contracting States are under no *obligation* to complete any of the forms relating to these declarations.

(d) *Selection of alternative forms*

19. Contracting States that choose to make one or more of the optional declarations under the Convention and the Aircraft Protocol should consider that for the declarations in respect of some of the Articles there are *alternative* forms, reflecting the different possibilities permitted under the provisions in question.

20. For example, Form No. 1 deals with the case where a State wishes to make a *specific* declaration in relation to Article 39(1)(a) of the Convention (that is, declaring specific categories of non-consensual right or interest). Form No. 2 deals with the case where a State wishes to make a *general* declaration in relation to Article 39(1)(a) of the Convention. It follows that a State wishing to make a declaration in relation to Article 39(1)(a) should select only one of the alternative forms.

21. Another example arises in relation to Forms Nos. 20 and 21. Form No. 20 deals with the case where a State wishes to make a declaration that it will apply Article X of the Aircraft Protocol only in part. Form No. 21 deals with the case where that State wishes to make a declaration that it will apply Article X in its entirety. It follows that a State wishing to make a declaration in relation to Article X should select only one of the alternative forms.

⁶ Declarations under Articles 57 of the Convention and Article XXXIII of the Aircraft Protocol relate to declarations which are made after the entry into force of the the Convention and Aircraft Protocol for a Contracting State – Contracting States making subsequent declarations should use the relevant forms provided in this memorandum. Article 58 of the Convention and Article XXXIV of the Aircraft Protocol provide for the notification of withdrawal of a declaration (except a declaration under Article 60 of the Convention, which may not be withdrawn): there is no standard form for such withdrawals.

(e) *Compatibility of declarations*

22. Contracting States should ensure that their declarations are compatible with each other. For example, a non-consensual right or interest may be the subject of a declaration in relation to either Article 39 of the Convention (when its effects do not depend on registration) or under Article 40 of the Convention (where registration is required) but not both. Contracting States should therefore ensure that the specific categories of non-consensual right or interest that are included in any declaration that is made in relation to Article 39(1)(a) (Form No. 1 or No. 2) are exclusive of any categories of non-consensual right or interest that are included in any declaration under Article 40 (Form No. 6).

23. Another example arises in relation to the declaration that a Contracting State may make in relation to Article 55 of the Convention (not to apply the provisions of Article 13 or Article 43 or both, wholly or in part) (Forms No. 14-17). If a Contracting State were to make a declaration under Article 55 that excluded Article 43 in its entirety but did not exclude Article 13, this would create a gap in the important issue of jurisdiction to grant relief under Article 13.

24. In relation to Article XI of the Aircraft Protocol (Remedies on insolvency), a Contracting State wishing to make a declaration in relation to that Article may opt for Alternative A in its entirety or Alternative B in its entirety; however, a declaration may not be made covering only a part of either of the alternatives, and nor may a declaration be made combining selected elements of Alternative A and Alternative B. (If a Contracting State does not make a declaration in respect to Article XI of the Aircraft Protocol, its domestic insolvency law will continue to apply.)

(f) *Declaration forms for Regional Economic Integration Organisations*

25. Under Article 48(1) of the Convention and Article XXVII(1) of the Aircraft Protocol, Regional Economic Integration Organisations which are constituted by sovereign States and have competence over certain matters governed by the Convention and Aircraft Protocol may sign, accept, approve or accede to those instruments in the same way as States and, where they do so, under Article 48(3) of the Convention and Article XXVII(3) of the Aircraft Protocol, all references in the Convention and Aircraft Protocol to “Contracting State” or “Contracting States” or “State Party” or “State Parties” are to apply equally to such Organisations where the context so requires.

26. Under Article 48(2) of the Convention and Article XXVII(2) of the Aircraft Protocol, such a Regional Economic Integration Organisation must lodge declarations with the Depositary at the time of its signature, acceptance, approval or accession, specifying the matters governed by the Convention and Aircraft Protocol in respect of which competence has been transferred to that Organisation by its member States. Pursuant to the same provision, such an Organisation is also under an obligation to notify the Depositary promptly of any changes to the distribution of competence, including any new transfers of competence, specified in its declaration.

27. Thus, once a Regional Economic Integration Organisation has signed, accepted, approved or acceded to the Convention and Aircraft Protocol and lodged such declarations with the Depositary in accordance with Article 48(1) and (2) of the Convention and Article XXVII(1) and (2) of the Aircraft Protocol, that Organisation in effect takes over the role of its member States for the purposes of the making of the declarations authorised under the

Convention and Aircraft Protocol as regards those matters in respect of which competence has been transferred to it, as specified in its declaration.

28. The declarations for which declaration forms are provided in this memorandum concern the declarations that may be made under Article 48(2) of the Convention and Article XXVII(2) of the Luxembourg Protocol, both of which declarations are mandatory in nature.

(g) *Language of declarations*

29. Given that Contracting States' declarations under the Convention and Aircraft Protocol play an essential part in the operation of the international registration system and given the complexity of the issues involved in these declarations, and in particular the important consequences that will therefore flow from a Contracting State's precise choice of words in the framing of each such declaration, the interest of guaranteeing efficiency in the operation of the international registration system militates strongly in favour of the employment of the minimum number of languages possible in the framing of such declarations. **Especial significance therefore attaches to the decision taken by the UNIDROIT Governing Council at its 81st session (September 2002), and confirmed by resolution of the General Assembly of Unidroit Member States (December 2002) to urge Contracting States to the Convention to ensure that, when they submit declarations under the Convention, that they do so in one or other of the Institute's working languages, English and French.**

(h) *Subsequent declarations, withdrawal of declarations, and timing considerations*

30. Article 57 of the Convention and Article XXXIII of the Aircraft Protocol provide for a Contracting State to make subsequent declarations after the date on which the Convention and Aircraft Protocol have entered into force for that Contracting State. Article 58 of the Convention and Article XXXIV of the Aircraft Protocol provide for the withdrawal by Contracting States of their declarations. The following points should be noted in relation to the making of subsequent declarations, and the withdrawal of declarations:

- (i) By virtue of the mandatory nature of the declaration under Article 54(2) of the Convention, which must be made at the time of a Contracting State's ratification of, or accession to, the Aircraft Protocol, a Contracting State would be able to withdraw its declaration under Article 54(2) of the Convention only if that withdrawal were to be accompanied by a subsequent declaration under Article 54(2) of the Convention and taking effect at the same time as withdrawal.
- (ii) One effect of Article 57 of the Convention and Article XXXIII of the Aircraft Protocol is to permit declarations, other than the mandatory declaration under Article 54(2) of the Convention, to be made at any time, even where a provision is expressed to permit declarations to be made at the time of ratification or accession to the Convention or the Aircraft Protocol.

(i) *Presentation of declaration forms*

31. UNIDROIT, as Depositary to the Convention and Aircraft Protocol, has prepared model forms that Contracting States and Regional Economic Integration Organisations may refer to when drafting their declarations under the Convention and Aircraft Protocol. These forms are organised as follows:

- Model Declaration Forms for Use by States Under the Convention (Part II);
- Model Declaration Forms for Use by States Under the Aircraft Protocol (Part III);
- Model Declaration Forms for Use by Regional Economic Integration Organisations under the Convention and Aircraft Protocol (Part IV).

Form No. 2
General declaration under Article 39(1)(a)¹²

(Name of the State)declares that all categories of non-consensual right or interest which under its law have [*and will in the future have*]¹³ priority over an interest in an object equivalent to that of the holder of a registered international interest shall have priority over a registered international interest, whether in or outside insolvency proceedings [*and whether registered before or after (name of the State)'s (ratification) (acceptance) (approval) (accession)*].¹⁴

¹² A Contracting State should use this form if it wishes to lodge a general declaration that all categories of non-consensual right or interest which under its law have priority over the equivalent of a registered international interest are to have priority over a registered international interest, whether in or outside insolvency proceedings. For a declaration covering specific categories only, Form No. 1 should be used.

¹³ The words “and will in the future have” should be struck out if the declaration is not intended to extend to categories to be created after the deposit of the declaration pursuant to Article 39(2).

¹⁴ Strike out the words “and whether registered before or after (name of the State)’s (ratification) (acceptance) (approval) (accession)” if the specified categories of non-consensual right or interest will not have priority over an international interest registered prior to the date of the ratification, acceptance, approval (cf. Article 39(4)). If the words are not struck out, the name of the State and that State’s mode of becoming a Contracting State (i.e. by ratification, acceptance, approval or accession) should be specified.

Form No. 3
Specific declaration under Article 39(1)(b)¹⁵

(Name of the State)declares that nothing in the Convention shall affect its right or that of *(list the names of any relevant State entities, intergovernmental Organisations or other private providers of public services)*
.....
.....
to arrest or detain an object under its laws for payment of amounts owed to it or to any such State entity, Organisation or provider directly relating to the services provided by it in respect of that object or another object *(strike out the words “or another object” if not wishing the declaration to apply in relation to rights under the State’s laws to arrest or detain an object for payment of amounts owed in respect of another object).*

¹⁵ A Contracting State should use this form if it wishes to list specific State entities, intergovernmental Organisations or other providers of public services the right of which under its laws to arrest or detain an object for payment of amounts owed to it or to such State entities, intergovernmental Organisations or providers is not to be affected by anything in the Convention. Where entities generally are to be covered, Form No. 4 should be used.

Form No. 4¹⁶
General declaration under Article 39(1)(b)¹⁷

(Name of the State)declares that nothing in the Convention shall affect its right or that of any State entity, any intergovernmental Organisation or other private provider of public services to arrest or detain an object under its laws for payment of amounts owed to it or to any such State entity, Organisation or provider directly relating to the services provided by it in respect of that object or another object.

¹⁶ The next form in Form No. 6. There is no Form No. 5.

¹⁷ A Contracting State should use this form if it wishes generally to provide that nothing in the Convention is to affect its right or the right of any State entities, intergovernmental Organisations or other providers of public services under its laws to arrest or detain an object for payment of amounts owed to it or to such entities, intergovernmental Organisations or providers. If the declaration is to be confined to specific categories of State entities, intergovernmental Organisations or providers, Form No. 3 should be used.

Form No. 6¹⁸
Declaration under Article 40

(*Name of the State*)declares that the following categories of non-consensual right or interest (*list the relevant categories*)¹⁹

 shall be registrable under the Convention as regards any category of object as if the right or interest were an international interest and shall be regulated accordingly.²⁰

¹⁸ The previous form is Form No. 4. There is no Form No. 5.

¹⁹ A Contracting State that uses this form to list categories of non-consensual right or interest must ensure that those categories of non-consensual right or interest are exclusive of any categories of non-consensual right or interest that are included in a declaration made under Article 39(1)(a) (Form No. 1).

²⁰ Such a declaration may be modified from time to time (cf. Article 40).

Form No. 7
Specific declaration under Article 50²¹

(Name of the State)declares that the Convention shall not, subject to Article 50(2) thereof, apply to a transaction which is an internal transaction in relation to itself with regard to the following types of object (*list the relevant types of object*)
.....

²¹ A Contracting State should use this form if it wishes to exclude the application of the Convention, with the exception of those provisions referred to in Article 50(2), in respect of certain specific types of object that are the subject of a transaction that is an internal transaction in relation to that State. For a general declaration covering all types of objects, Form No. 8 should be used.

Form No. 8
General declaration under Article 50²²

(Name of the State)declares that the Convention shall not, subject to Article 50(2) thereof, apply to a transaction which is an internal transaction in relation to itself with regard to all types of object.

²² A Contracting State should use this form if it wishes to exclude the application of the Convention, with the exception of those provisions referred to in Article 50(2), in respect of all objects that are the subject of a transaction that is an internal transaction in relation to that State. For a declaration covering only specific types of objects, Form No. 7 should be used.

Form No. 9
Specific declaration under Article 52²³

(Name of the State)declares that the Convention shall apply
to the following of its territorial units (*list the relevant territorial unit or units*)^{24 25 26}

.....

²³ A Contracting State should use this form if it wishes the Convention to apply to less than all its territorial units. For a declaration relating to all territorial units, Form No. 10 should be used.

²⁴ A State extending the application of the Convention to territorial units other than those listed in Form No. 9 may make separate declarations for each such other units under each of the declarations authorised under the Convention; cf. Article 52(4).

²⁵ A Contracting State having made a declaration under Article 52 may modify that declaration by submitting another declaration at any time; cf. Article 52(1).

²⁶ Where a Contracting State has not made any declaration under Article 52(1) the Convention will automatically apply to all territorial units of that State; cf. Article 52(3).

Form No. 10
General declaration under Article 52²⁷

(Name of the State) declares that the Convention shall apply to all its territorial units.^{28 29}

²⁷ A Contracting State should use this form if it wishes the Convention to apply to all its territorial units. For a declaration relating to less than all of a Contracting State's territorial units, Form No. 9 should be used.

²⁸ A Contracting State having made a declaration under Article 52 may modify that declaration by submitting another declaration at any time; cf. Article 52(1).

²⁹ Where a Contracting State has not made any declaration under Article 52(1) the Convention will automatically apply to all territorial units of that State; cf. Article 52(3).

Form No. 11
Declaration under Article 53

(Name of the State) declares that the following
court(s)
.....
..... is/are (*strike out whichever is inapplicable*) the
relevant court(s) for the purposes of Article 1 and Chapter XII of the Convention.

Form No. 12
Declaration under Article 54(1)

(Name of the State)declares 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.

Form No. 13-A
Mandatory declaration under Article 54(2) applicable to all relevant remedies³⁰

(Name of the State)declares that all remedies available to the creditor under the Convention which are not expressed under the relevant provision thereof to require application to the court may be exercised without / only with [*strike out either the word “without” or the words “only with”*] leave of the court.³¹

³⁰ A Contracting State should use this form if it wishes the scope of its declaration to apply in relation to all remedies that are available to the creditor under the Convention and which are not expressed under the relevant provision of the Convention to require application to the Court. For a declaration relating to some, but not all, such remedies, Form 13-B should be used.

³¹ The declarations of some Contracting States have replaced the phrase “ [without] leave of the court” with the phrase “without court action and without leave of the court”.

Form No. 13-B
Mandatory declaration under Article 54(2) requiring leave of the court in relation to specified relevant remedies³²

(Name of the State)declares that the following remedies available to the creditor under the Convention which are not expressed under the relevant provision thereof to require application to the court may be exercised only with leave of the court³³ (*list the relevant remedies*)

³² A Contracting State should use this form if it wishes some, but not all, of the remedies that are available to the creditor under the Convention and which are not expressed under the relevant provision of the Convention to require application to the Court. For a declaration relating to all such remedies, Form 13-A should be used.

³³ The declarations of some Contracting States have replaced the phrase “ [without] leave of the court” with the phrase “without court action and without leave of the court”.

Form No. 14
Declaration under Article 55 providing for the partial exclusion of Article 13^{34 35}

(Name of the State)declares that it will not apply
the following provisions of Article 13 (*list the relevant provisions*)
.....
.....
and that it will apply the remaining provisions of that Article under the following conditions
(*list the relevant conditions*)³⁶
.....

³⁴ A Contracting State should use this form if it wishes Article 13 to be excluded only in part. For a declaration excluding all provisions of Article 13, Form No. 15 should be used.

³⁵ A Contracting State should take care to ensure that any declaration that it may make under Article 55 concerning Article 13 is consistent with any declaration that it may make under Article 55 concerning Article 43, and vice-versa. For example, a Contracting State making a declaration excluding Article 13 would also want to exclude Article 43.

³⁶ The words “under the following conditions” are intended to be interpreted as referring to the cases in which the State in question will apply Article 13.

Form No. 15
Declaration under Article 55 providing for the total exclusion of the application of
Article 13^{37 38}

(Name of the State)declares that it will not apply any of the provisions of Article 13 and that the following other forms of interim relief will be available under its law (*list the relevant other forms of interim relief*)
.....

³⁷ A Contracting State should use this form if it wishes to exclude the application of all provisions of Article 13. For a declaration relating to the partial exclusion of the provisions of Article 13, Form No. 14 should be used.

³⁸ A Contracting State should take care to ensure that any declaration that it may make under Article 55 concerning Article 13 is consistent with any declaration that it may make under Article 55 concerning Article 43 and vice-versa. For example, a Contracting State making a declaration excluding Article 13 would also want to exclude Article 43.

Form No. 16
Declaration under Article 55 providing for the partial exclusion of Article 43^{39 40}

(Name of the State) declares that it will not
apply the following provisions of Article 43 (*list the relevant provisions*)
.....
and that it will apply the remaining provisions of that Article under the following conditions
(*list the relevant conditions*)⁴¹
.....

³⁹ A Contracting State should use this form if it wishes Article 43 to be excluded only in part. For a declaration excluding all provisions of Article 43, Form No. 17 should be used.

⁴⁰ A Contracting State should take care to ensure that any declaration that it may make under Article 55 concerning Article 13 is consistent with any declaration that it may make under Article 55 concerning Article 43 and vice-versa. For example, a Contracting State making a declaration excluding Article 13 would also want to exclude Article 43.

⁴¹ The words “under the following conditions” are intended to be interpreted as referring to the cases in which the State in question will apply Article 43.

Form No. 17
Declaration under Article 55 providing for the total exclusion of the application of
Article 43^{42 43}

(Name of the State) declares that it will not
apply any of the provisions of Article 43 and that the following other forms of interim relief
will be available under its law (*list the relevant other forms of interim relief*)
.....
.....

⁴² A Contracting State should use this form if it wishes to exclude the application of all provisions of Article 43. For a declaration relating to the partial exclusion of the provisions of Article 43, Form No. 16 should be used.

⁴³ A Contracting State should take care to ensure that any declaration that it may make under Article 55 concerning Article 13 is consistent with any declaration that it may make under Article 55 concerning Article 43 and vice-versa. For example, a Contracting State making a declaration excluding Article 13 would also want to exclude Article 43.

Form No. 18
Declaration under Article 60(1)

(Name of the State)declares that the Convention will become applicable to a pre-existing right or interest for the purpose of determining priority, including the protection of any existing priority, on *(specify the date chosen)*⁴⁴ but only to the following extent and in the following manner *(specify the extent and the manner of the Convention's application to such a right or interest)*⁴⁵
.....
.....

⁴⁴ Such date cannot be earlier than three years after the date on which the declaration becomes effective; cf. Article 60(3).

⁴⁵ For instance, whether the declaration is limited to certain types of pre-existing right or interest or to pre-existing rights or interests that already enjoy priority under the Contracting State's law.

PART III

**MODEL DECLARATION FORMS FOR USE BY STATES
UNDER THE AIRCRAFT PROTOCOL**

Form No. 19

Declaration under Article XXX(1) in respect of Article VIII

(Name of the State) declares that it will apply
Article VIII.

Form No. 20
Declaration under Article XXX(2) in respect of Article X
providing for partial application of Article X⁴⁶

(Name of the State)declares that it will apply only the following provisions of Article X (*specify the relevant provisions*)and (*where these include Article X(2)*) that the number of working days to be used for the purposes of the time-limit laid down in Article X(2) shall be (*specify the number of working days*)⁴⁷

⁴⁶ A Contracting State should use this form if it wishes to apply only certain provisions of Article X. For a declaration relating to the application of Article X in its entirety, Form No. 21 should be used.

⁴⁷ Some Contracting States may wish to also refer to a unit of time other than working days, and in such cases those Contracting States should incorporate an explanation of the connection between working days and that other unit of time. For example, a Contracting State wishing to refer to calendar days might state in its declaration: “..[shall be] the number of working days equivalent to (insert number) of calendar days.”.

Form No. 21
Declaration under Article XXX(2) in respect of Article X
providing for the application of the entirety of Article X⁴⁸

(Name of the State)declares that it will apply Article X in its entirety and that the number of working days to be used for the purposes of the time-limit laid down in Article X(2) shall be (*specify the number of working days*)⁴⁹

⁴⁸ A Contracting State should use this form if it wishes to apply all provisions of Article X. For a declaration relating to the application of only certain provisions of Article X, Form No. 20 should be used.

⁴⁹ Some Contracting States may wish to refer to a unit of time other than working days, and in such cases those Contracting States may consider incorporating an explanation of the connection between working days and that other unit of time. For example, a Contracting State wishing to refer to calendar days might state in its declaration: “..[shall be] the number of working days equivalent to (insert number) of calendar days.”.

Form No. 22
Specific declaration under Article XXX(3) in respect of Article XI providing for the application of Alternative A in its entirety to certain types of insolvency proceeding⁵⁰

(Name of the State)declares that it will apply Article XI, Alternative A in its entirety to the following types of insolvency proceeding *(specify the relevant types of insolvency proceeding)*
.....
and that the waiting period for the purposes of Article XI(3) of that Alternative shall be
.....

⁵⁰ A Contracting State should use this form if it wishes to apply Alternative A of Article XI and if it wishes to apply that Alternative to only certain types of insolvency proceeding. For declarations relating to the application of Alternative A of Article XI to all types of insolvency proceeding, Form No. 23 should be used. For declarations relating to the application of Alternative B of Article XI, either Form No. 24 or Form No. 25 should be used.

Form No. 23
General declaration under Article XXX(3) in respect of Article XI providing for the application of Alternative A in its entirety to all types of insolvency proceeding⁵¹

(Name of the State)declares that it will apply Article XI, Alternative A in its entirety to all types of insolvency proceeding and that the waiting period for the purposes of Article XI(3) of that Alternative shall be
.....

⁵¹ A Contracting State should use this form if it wishes to apply Alternative A of Article XI and if it wishes to apply that Alternative to all types of insolvency proceeding. For declarations relating to the application of Alternative A of Article XI to only certain types of insolvency proceedings, Form No. 22 should be used. For declarations relating to the application of Alternative B of Article XI, either Form No. 24 or Form No. 25 should be used.

Form No. 24
Specific declaration under Article XXX(3) in respect of Article XI providing for the application of Alternative B in its entirety to certain types of insolvency proceeding⁵²

(Name of the State)declares that it will apply Article XI, Alternative B in its entirety to the following types of insolvency proceeding *(specify the relevant types of insolvency proceeding)*
.....
and that the time-period for the purposes of Article XI(2) of that Alternative shall be and shall commence not earlier than the time when the insolvency administrator or the debtor receives the creditor’s request under Article XI(2) of that Alternative.⁵³

⁵² A Contracting State should use this form if it wishes to apply Alternative B of Article XI and if it wishes to apply that Alternative to only certain types of insolvency proceeding. For declarations relating to the application of Alternative B of Article XI to all types of insolvency proceedings, Form No. 25 should be used. For declarations relating to the application of Alternative A of Article XI, either Form No. 22 or Form No. 23 should be used

⁵³ It is recommended that Contracting States using this form should retain the words “and shall commence ... under Article XI(2) of that Alternative”, since, under Article XI(2) of Alternative B, the insolvency administrator or the debtor is not required to take any action unless and until requested to do so by the creditor.

Form No. 25
General declaration under Article XXX(3) in respect of Article XI providing for the application of Alternative B in its entirety to all types of insolvency proceeding⁵⁴

(Name of the State) declares that it will apply Article XI, Alternative B in its entirety to all types of insolvency proceeding and that the time-period for the purposes of Article XI(2) of that Alternative shall be and shall commence not earlier than the time when the insolvency administrator or the debtor receives the creditor’s request under Article XI(2) of that Alternative.⁵⁵

⁵⁴ A Contracting State should use this form if it wishes to apply Alternative B of Article XI and if it wishes to apply that Alternative to all types of insolvency proceeding. For declarations relating to the application of Alternative B of Article XI to only certain types of insolvency proceedings, Form No. 24 should be used. For declarations relating to the application of Alternative A of Article XI, either Form No. 22 or Form No. 23 should be used.

⁵⁵ It is recommended that Contracting States using this form should retain the words “and shall commence ... under Article XI(2) of that Alternative”, since, under Article XI(2) of Alternative B, the insolvency administrator or the debtor is not required to take any action unless and until requested to do so by the creditor.

Form No. 26
Declaration under Article XXX(1) in respect of Article XII

(Name of the State) declares that it will apply
Article XII.

Form No. 27
Declaration under Article XXX(1) in respect of Article XIII

(Name of the State)declares that it will apply
Article XIII.

Form No. 28-A
Declaration under Article XIX(1) providing for the designation of entry points for compulsory use as transmitters of registration information for airframes and helicopters, and for optional use as transmitters of registration information for aircraft engines, to the International Registry)^{56 57 58 59}

(Name of the State)designates the following entity or entities (*list the relevant entity or entities*)
in its territory as the entry point or entry points through which there shall be transmitted, and in respect of aircraft engines 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 of the Convention in either case arising under the laws of another State.

-
- ⁵⁶ Article XIX(1) authorises a Contracting State at any time to “designate” an entity or entities in its territory as the entry point or points for the transmission to the International Registry of the information required for registrations, with two exceptions. Such designation was intended by the authors of the Convention and the Aircraft Protocol to be via the lodging of a declaration by the State in question and to be governed by the provisions of the Convention and the Aircraft Protocol regarding declarations in general.
- ⁵⁷ Designation by a Contracting State of an entity or entities in its territory as the entry point or points for the transmission to the International Registry of the information required for registrations may not, however, be made compulsory for aircraft engines, for which there is no system of nationality registration.
- ⁵⁸ A Contracting State should use this form only if it wishes the designated entry point or points to serve as both (a) the compulsory transmitter or transmitters to the International Registry of registration information not relating to aircraft engines, and (b) an optional transmitter or transmitter of registration information in relation to aircraft engines. If use of the designated entry point is not to cover aircraft engines Form No. 28-B should be used. If use of the designated entry point is not to be compulsory for any category of registration information, Form No. 29 should be used.
- ⁵⁹ The *Regulations and Procedures for the International Registry*, made by the International Civil Aviation Organization in its capacity as Supervisory Authority, provide in Section 12.3 of the Regulations that: “A Contracting State designating an entry point shall notify the Depositary and the Supervisory Authority thereof, indicating whether such entry point is an authorizing or direct entry point. The Supervisory Authority shall keep the Registrar informed of such designations, and the Registrar shall maintain a current list thereof that is electronically accessible to users.”. The terms “authorizing entry point” and “direct entry point” are defined in Regulation 12.1 of the Regulations.

Form No. 28-B

Declaration under Article XIX(1) providing for the designation of entry points for compulsory use as transmitters of registration information for airframes and helicopters to the International Registry^{60 61 62 63}

(Name of the State)designates the following entity or entities (list the relevant entity or entities)
.....in its territory as the entry point or entry points through which there shall 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 of the Convention in either case arising under the laws of another State, and other than information required for registration in respect of aircraft engines.

⁶⁰ Article XIX(1) authorises a Contracting State at any time to “designate” an entity or entities in its territory as the entry point or points for the transmission to the International Registry of the information required for registrations, with two exceptions. Such designation was intended by the authors of the Convention and the Aircraft Protocol to be via the lodging of a declaration by the State in question and to be governed by the provisions of the Convention and the Aircraft Protocol regarding declarations in general.

⁶¹ Designation by a Contracting State of an entity or entities in its territory as the entry point or points for the transmission to the International Registry of the information required for registrations may not, however, be made compulsory for aircraft engines, for which there is no system of nationality registration.

⁶² A Contracting State should use this form if it wishes the designated entry point or points to serve as the compulsory transmitter or transmitters of registration information for the purposes of the relevant registrations to the International Registry, but not to serve as the optional transmitter or transmitters of registration information in relation to aircraft engines. Where the latter are to be included, Form No. 28-A should be used. Where the use of the designated entry point is not to be compulsory for any category of registration information, Form No. 29 should be used.

⁶³ The *Regulations and Procedures for the International Registry*, made by the International Civil Aviation Organization in its capacity as Supervisory Authority, provide in Section 12.3 of the Regulations that: “A Contracting State designating an entry point shall notify the Depositary and the Supervisory Authority thereof, indicating whether such entry point is an authorizing or direct entry point. The Supervisory Authority shall keep the Registrar informed of such designations, and the Registrar shall maintain a current list thereof that is electronically accessible to users.”. The terms “authorizing entry point” and “direct entry point” are defined in Regulation 12.1 of the Regulations.

Form No. 29
Declaration under Article XIX(1) providing for the designation of entry points
for optional use as transmitters of registration information to
the International Registry^{64 65 66}

(Name of the State)designates the following
entity or entities (*list the relevant entity or entities*)
.....
.....in its territory as the entry point or entry points
through which there 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 of the Convention in either case arising under the laws of another State.

⁶⁴ Article XIX(1) authorises a Contracting State at any time to “designate” an entity or entities in its territory as the entry point or points for the transmission to the International Registry of the information required for registrations, with two exceptions. Such designation was intended by the authors of the Convention and the Aircraft Protocol to be via the lodging of a declaration by the State in question and to be governed by the provisions of the Convention and the Aircraft Protocol regarding declarations in general.

⁶⁵ A Contracting State should use this form if it wishes the designated entry point or points to serve as an optional transmitter or as optional transmitters of registration information for the purposes of the relevant registrations to the International Registry. Where use of the designated entry point is to be both (a) compulsory for registration information not relating to aircraft engines, and (b) optional for registration information relating to aircraft engines, Form No. 28-A should be used. Where use of the designated entry point is to be compulsory but is not to cover aircraft engines, Form No. 28-B should be used.

⁶⁶ The *Regulations and Procedures for the International Registry*, made by the International Civil Aviation Organization in its capacity as Supervisory Authority, provide in Section 12.3 of the Regulations that: “A Contracting State designating an entry point shall notify the Depositary and the Supervisory Authority thereof, indicating whether such entry point is an authorizing or direct entry point. The Supervisory Authority shall keep the Registrar informed of such designations, and the Registrar shall maintain a current list thereof that is electronically accessible to users.”. The terms “authorizing entry point” and “direct entry point” are defined in Regulation 12.1 of the Regulations.

Form No. 30

Declaration under Article XXX(5) providing for the partial application of Article XXI⁶⁷

(Name of the State) declares that it will not
 apply Article XXI as regards the following (*specify which part of Article XXI is not to be
 applied*)

 and that it will apply that Article under the following conditions (*specify the relevant
 conditions*)⁶⁸

 or apply the following other forms of interim relief (*list the relevant other forms of interim
 relief*).....

⁶⁷ A Contracting State should use this form if it wishes to apply Article XXI only in part.
 For a declaration to exclude in its entirety Article XXI, Form No. 31 should be used.

⁶⁸ The words “under the following conditions” are intended to be interpreted as referring to
 the cases in which the State in question will apply Article XXI.

Form No. 31
Declaration under Article XXX(5) providing for the exclusion of the
application of Article XXI in its entirety⁶⁹

(Name of the State)declares that it will not apply Article XXI, wholly or in part.

⁶⁹ A Contracting State should use this form if it wishes to exclude Article XXI in its entirety. For a declaration relating to the partial application of Article XXI, Form No. 30 should be used.

Form No. 32
Declaration under Article XXIV(2)

(Name of the State) declares that it will not
apply Article XXIV.

Form No. 33
Specific declaration under Article XXIX⁷⁰

(Name of the State) declares that the Aircraft Protocol shall apply to the following of its territorial units (*list the relevant territorial unit or units*)^{71 72}

.....

⁷⁰ A Contracting State should use this form if it wishes the Aircraft Protocol to apply to less than all its territorial units. For declarations relating to the application of the Aircraft Protocol to all territorial units, Form No. 34 should be used.

⁷¹ A State extending the application of the Aircraft Protocol to others of its territorial units than those listed in Form No. 33 may make separate declarations for each such other unit or units under each of the declarations authorised under the Aircraft Protocol; cf. Article XXIX(4).

⁷² Where a Contracting State has not made any declaration under Article 52(1) the Convention will automatically apply to all territorial units of that State; cf. Article 52(3).

Form No. 34
General declaration under Article XXIX⁷³

(Name of the State) declares that the Aircraft Protocol shall apply to all its territorial units.^{74 75}

⁷³ A Contracting State should use this form if it wishes to make a declaration that the Aircraft Protocol will apply to all its territorial units. For a declaration relating to the application of the Aircraft Protocol to less than all of a Contracting State's territorial units, Form No. 33 should be used.

⁷⁴ A Contracting State having made such a declaration may modify the latter by submitting another declaration at any time; cf. Article XXIX(1).

⁷⁵ Where a Contracting State has not made any declaration under Article XXIX(1) the Aircraft Protocol will automatically apply to all territorial units of that State; cf. Article XXIX(3).

PART IV

**MODEL DELCARATION FORMS FOR USE BY REGIONAL
ECONOMIC INTEGRATION ORGANISATIONS
UNDER THE CONVENTION AND THE AIRCRAFT PROTOCOL**

**Form No. 35
Mandatory declaration under Article 48(2)**

(Name of the Organisation)declares that
competence has been transferred to it by its member States in respect of the following matters
governed by the Convention (*specify the matters concerned*)
.....
.....

Form No. 36
Mandatory declaration under Article XXVII(2)

(Name of the Organisation).....declares that
competence has been transferred to it by its member States in respect of the following matters
governed by the Aircraft Protocol (*specify the matters concerned*)
.....
.....

APPENDIX 1

Table of Declarations That May Be Made Under the Convention and Aircraft Protocol

CONVENTION

Related Article	Description	Form
39(1)(a) / 39(4)	Priority of non-consensual rights and interests without registration	1, 2
39(1)(b)	Preservation of right of providers of public services to arrest or detain	3, 4
40	Registrable non-consensual rights or interests	6
48(2)	Competence of Regional Economic Integration Organisation	35
50	Application of Convention to internal transactions	7, 8
52	Application of Convention in relation to territorial units	9, 10
53	Determination of courts	11
54(1)	Granting of lease over charged object by chargee	12
54(2)	Exercise of remedies with leave of the court	13-A, 13-B
55	Relief pending final determination	14, 15, 16, 17
60	Transitional	18

PROTOCOL

Related Article	Description	Form
VIII	Choice of law	19
X	Relief pending final determination	20, 21
XI	Remedies on insolvency	22, 23, 24, 25
XII	Insolvency assistance	26
XIII	De-registration and export request authorisation	27
XIX	Designation of entry point	28-A, 28-B, 29
XXI	Relief pending final determination	30, 31
XXIV	Relationship with 1933 Rome Convention	32
XXVII(2)	Competence of Regional Economic Integration Organisation	36
XXIX	Application of Protocol in relation to territorial units	33, 34