



INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW
INSTITUT INTERNATIONAL POUR L'UNIFICATION DU DROIT PRIVE

**Convention on International Interests in
Mobile Equipment
Protocol to the Convention on International
Interests in Mobile Equipment on Matters
Specific to Aircraft Equipment**

UNIDROIT 2008
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DEPOSITARY REPORT

1 March 2006 – 31 December 2006

Introduction

1. 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) were both opened for signature on 16 November 2001 at the conclusion of a Diplomatic Conference held under the joint auspices of the International Civil Aviation Organization (ICAO) and the International Institute for the Unification of Private Law (UNIDROIT).

2. The Convention as applied to aircraft objects, and the Aircraft Protocol, entered into force on 1 March 2006. Article 49 of the Convention provides for the Convention to enter 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. Article XXVIII of the Aircraft Protocol provides for the Aircraft Protocol to enter 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. The eighth instrument of ratification, acceptance, approval or accession was deposited by Malaysia on 2 November 2005.

3. The Convention establishes an international legal regime for the creation, enforcement, registration and priority of security interests and interests held by chargees, conditional sellers and lessors in three categories of high-value, uniquely-identifiable mobile equipment: (a) airframes, aircraft engines, and helicopters; (b) railway rolling stock; and (c) space assets.¹ The Convention is a framework convention, and for each of the three categories of mobile equipment it can apply only through separate Protocols. The Aircraft Protocol provides for the application of the Convention in relation to aircraft objects, and modifies the operation of the Convention to the particular requirements of transactions involving those categories of equipment.

4. The economic principles underlying the Convention are straightforward. In asset-based financing, in the event of default, a creditor's ability to have prompt recourse to the underlying assets is central to how the transaction's risks, and overall costs, are calculated. Where national legal rules for the recognition and enforcement of security interests present impediments to such prompt recourse, or are materially different, this can increase the risks (or perceived risks) for the creditor, particularly if, as in the case of aircraft objects, the object will be moving through different jurisdictions and possibly become subject to such national legal rules at the time of default. The costs of finance are higher due to these risks.

5. The Convention establishes an international legal framework for the creation, recognition, registration and enforcement of "international interests" in high-value mobile equipment. It provides certainty about the rules that will be applied in the event of default, and thereby reduces both the risks described in the previous paragraph and the costs of the parties in financing transactions.

Basis of the report

6. This report has been prepared by UNIDROIT, in its capacity as Depositary of the Convention and Aircraft Protocol, pursuant to Article 61(1) of the Convention and Article XXXVI(1) of the Aircraft Protocol.

¹ Article 51 of the Convention provides that the Depositary may create working groups to assess the feasibility of extending the application of the Convention, through one or more Protocols, to objects of any category of high-value mobile equipment.

7. Article 61(1) of the Convention provides:

The Depositary shall prepare reports yearly or at such other times 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.

8. Article XXXVI(1) of the Aircraft Protocol provides:

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

The Reporting Period

9. This report covers both the Convention and Aircraft Protocol for the period from the entry into force of the Aircraft Protocol, and the Convention as applied to aircraft objects, on 1 March 2006, to 31 December 2006 (the Reporting Period). Subsequent annual reports will cover full calendar-year periods from 1 January to 31 December.

Depositary Activity during the Reporting Period

10. On the commencement of the Reporting Period, the following States were Contracting States to the Convention and Aircraft Protocol: Ethiopia, Ireland, Malaysia, Nigeria, Oman, Pakistan, Panama, and the United States of America.

11. The following States became Contracting States to the Convention and Aircraft Protocol during the Reporting Period: Afghanistan, Angola, and Senegal.

12. The following States lodged their instruments of ratification or accession to the Convention and Aircraft Protocol during the Reporting Period, but had not become Contracting States to the Convention and Aircraft Protocol by the end of the Reporting Period: Kenya, and Mongolia.

13. Appendix A shows the status of the Convention and Aircraft Protocol as at the end of the Reporting Period, including details of all signatures, ratifications, accessions, declarations, and dates of entry into force.

14. During the Reporting Period, the Government of Malaysia notified Unidroit pursuant to Article XXXIV of the Aircraft Protocol of the withdrawal of its declaration under Article XXX(3) of the Aircraft Protocol, and of the making of a substitute declaration under Article XXX(3).

Operation of the Convention and Aircraft Protocol in practice during the Reporting Period

15. In February 2007 the Depositary advised Contracting States to the Convention and the Aircraft Protocol that it would be grateful to receive from them information as to the manner in which the international regime established by the Convention and Aircraft Protocol had operated in practice.

16. A report of the Supervisory Authority to Contracting States, covering the period 1 March 2006 to 31 December 2007, and made pursuant to Article 17(2)(j) of the Convention, was received by UNIDROIT in April 2008. That report is required by Article 61(1) of the Convention to be taken into account in the preparation of this report. The matters dealt with in the report included:

- the establishment of the Commission of Experts of the Supervisory Authority of the International Registry (CESAIR), and the holding of the first meeting of CESAIR on 6 to 8 November 2006 which formulated Rules of Procedure for CESAIR and recommended a number of amendments to the *Regulations and Procedures for the International Registry*²;
- monitoring activities by the Supervisory Authority, including meetings and communications with the International Registry and receipt and processing of information received from the Depositary; and
- the costs of the Supervisory Authority during the first 12 months of the operation of the International Registry.

17. A report of the International Registry of International Interests in Aircraft Equipment, *Annual Statistical Report 1 February 2006 – 31 December 2006*, was published in July 2007.³ That report notes that during the period 1 February 2006 (when the International Registry began issuing digital certificates to administrators) and 31 December 2006:

- Approximately 7,500 administrators and users had been approved to act on behalf of user entities;
- 15,000 objects had 33,000 interests registered against them in 10,200 registration sessions; and
- Almost 33,500 search sessions had been conducted.

The report also details transaction volumes and transaction revenues by type, geography, and month, as well as changes to the Registry system and information about complaints made to the Registrar.

18. The Depositary is not aware of any national court or tribunal decisions during the Reporting Period involving the Convention or Aircraft Protocol.

Review Conferences

Article 61(2) of the Convention and Article XXXVI(2) of the Aircraft Protocol provide for the convening of Review Conferences at the request of not less than twenty-five percent of the States Parties. During the Reporting Period the Depositary received no requests for the convening of a Review Conference pursuant to Article 61(2) of the Convention and Article XXXVI(2) of the Aircraft Protocol.

² ICAO DOC 9864, available from the ICAO internet site: www.icao.org.

³ The report is available via the internet site of the International Registry: www.internationalregistry.aero

APPENDIX A

CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT
CONVENTION RELATIVE AUX GARANTIES INTERNATIONALES
PORTANT SUR DES MATERIELS D'EQUIPEMENT MOBILES

Adoption:		Place: Cape Town / <i>Lieu</i> : Le Cap Date: 16.11.2001		
Entry into force / <i>Entrée en vigueur</i>:		Date: 01.04.2004 (ex Art. 49(1))		
Depositary / <i>Dépositaire</i>:		UNIDROIT		
<i>STATE / ETAT</i>	<i>SIGNATURE</i>	<i>RATIFICATION (RT)</i> <i>ACCEPTANCE / ACCEPTATION (AC)</i> <i>APPROVAL / APPROBATION (AP)</i> <i>ACCESSION / ADHESION (AS)</i>	<i>DECLARATIONS</i>	<i>ENTRY INTO FORCE /</i> <i>ENTREE EN VIGUEUR</i>
Afghanistan		25.07.2006 (AS)	Arts. 39(1)(a), 39(1)(b), 40, 52, 53, 54(2)	01.11.2006
Angola		30.04.2006 (AS)	Arts. 39(1)(a), 40, 54(2)	01.08.2006
Burundi	16.11.2001			
Canada	31.03.2004			
Chile / <i>Chili</i>	16.11.2001			
China / <i>Chine</i>	16.11.2001			
Congo	16.11.2001			
Cuba	16.11.2001			
Ethiopia / <i>Ethiopie</i>	16.11.2001	21.11.2003 (RT)	Arts. 39(1)(a), 40, 54(2)	01.04.2004
France	16.11.2001			
Germany / <i>Allemagne</i> (with declaration at signature / <i>avec déclaration à la signature</i>)	17.09.2002			
Ghana	16.11.2001			
Ireland / <i>Irlande</i>		29.07.2005 (AS)	Arts. 39(1)(a), 39(1)(b), 54(2)	01.11.2005
Italy / <i>Italie</i>	06.12.2001			
Jamaica / <i>Jamaïque</i>	16.11.2001			
Jordan / <i>Jordanie</i>	16.11.2001			
Kenya	16.11.2001	13.10.2006 (RT)	Arts. 39(1)(a), 39(1)(b), 40, 53, 54(2)	01.02.2007
Lesotho	16.11.2001			
Malaysia / <i>Malaisie</i>		02.11.2005 (AS)	Arts. 39(1)(a), 39(1)(b), 40, 53, 54(2)	01.03.2006
Mongolia / <i>Mongolie</i>		19.10.2006 (AS)	Arts. 39(1)(a), 39(1)(b), 53, 54(2)	01.02.2007
Nigeria	16.11.2001	16.12.2003 (RT)	Art. 54(2)	01.04.2004

Oman		21.03.2005 (AS)	Arts. 39(1)(a), 39(1)(b), 40, 52, 53, 54(2)	01.07.2005
Pakistan		22.01.2004 (AS)	Arts. 39(1)(a), 39(1)(b), 39(4), 40, 52, 53, 54(2)	01.05.2004
Panama	11.09.2002	28.07.2003 (RT)	Arts. 39(1)(a), 39(1)(b), 39(4), 50, 53, 54(2)	01.04.2004
Saudi Arabia / Arabie saoudite	12.03.2003			
Senegal / Sénégal	02.04.2002	09.01.2006 (RT)	Arts. 39(1)(a), 39(1)(b), 40, 52, 53, 54(2)	01.05.2006
Sudan / Soudan	16.11.2001			
Switzerland / Suisse	16.11.2001 <i>ad referendum</i>			
Tanzania / Tanzanie	16.11.2001			
Tonga	16.11.2001			
Turkey / Turquie	16.11.2001			
Ukraine	09.03.2004			
United Kingdom / Royaume-Uni (with declaration at signature / <i>avec déclaration à la signature</i>)	16.11.2001			
United States of America / <i>Etats- Unis d'Amérique</i>	09.05.2003	28.10.2004 (RT)	Arts. 39(1)(a), 39(1)(b), 54(2)	01.02.2005

**PROTOCOL TO THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT
ON MATTERS SPECIFIC TO AIRCRAFT EQUIPMENT**
**PROTOCOLE PORTANT SUR LES QUESTIONS SPECIFIQUES AUX MATERIELS D'EQUIPEMENT
AERONAUTIQUES A LA CONVENTION RELATIVE AUX GARANTIES INTERNATIONALES
PORTANT SUR DES MATERIELS D'EQUIPEMENT MOBILES**

Adoption:		Place: Cape Town / <i>Lieu</i> : Le Cap Date: 16-11-2001		
Entry into force: Entrée en vigueur:		Date: 01.03.2006 (<i>ex Art. XXVIII(1)</i>)		
Depositary / Dépositaire:		UNIDROIT		
<i>STATE / ETAT</i>	<i>SIGNATURE</i>	<i>RATIFICATION (RT) ACCEPTANCE / ACCEPTATION (AC) APPROVAL / APPROBATION (AP) ACCESSION / ADHESION (AS)</i>	<i>DECLARATIONS</i>	<i>ENTRY INTO FORCE / ENTREE EN VIGUEUR</i>
Afghanistan		25.07.2006 (AS)	Arts. XXIX, XXX(1), (2), (3)	01.11.2006
Angola		30.04.2006 (AS)	Art. XXX(1), (2), (3)	01.08.2006
Burundi	16.11.2001			
Canada	31.03.2004			
Chile / <i>Chili</i>	16.11.2001			
China / <i>Chine</i>	16.11.2001			
Congo	16.11.2001			
Cuba	16.11.2001			
Ethiopia / <i>Ethiopie</i>	16.11.2001	21.11.2003 (RT)	Art. XXX(1), (2), (3)	01.03.2006
France	16.11.2001			
Germany / <i>Allemagne</i> (with declaration at signature / <i>avec déclaration à la signature</i>)	17.09.2002			
Ghana	16.11.2001			
Ireland / <i>Irlande</i>		23.08.2005 (AS)	Art. XXX(1), (2)	01.03.2006
Italy / <i>Italie</i>	06.12.2001			
Jamaica / <i>Jamaïque</i>	16.11.2001			
Jordan / <i>Jordanie</i>	16.11.2001			
Kenya	16.11.2001	13.10.2006 (RT)	Art. XXX(1), (2), (3)	01.02.2007
Lesotho	16.11.2001			
Malaysia / <i>Malaisie</i>		02.11.2005 (AS)	Art. XXX(1), (2), (3)	01.03.2006
Mongolia / <i>Mongolie</i>		19.10.2006 (AS)	Art. XXX(1), (2), (3)	01.02.2007
Nigeria	16.11.2001	16.12.2003 (RT)		01.03.2006

Oman		21.03.2005 (AS)	Arts. XXIX, XXX(1), (2), (3)	01.03.2006
Pakistan		22.01.2004 (AS)	Arts. XXIX, XXX(1), (2), (3)	01.03.2006
Panama	11.09.2002	28.07.2003 (RT)	Art. XXX(1), (2), (3)	01.03.2006
Saudi Arabia / <i>Arabie saoudite</i>	12.03.2003			
Senegal / <i>Sénégal</i>	02.04.2002	09.01.2006 (RT)	Arts. XXIX, XXX(1), (2), (3)	01.05.2006
Sudan / <i>Soudan</i>	16.11.2001			
Switzerland / <i>Suisse</i>	16.11.2001 <i>ad referendum</i>			
Tanzania / <i>Tanzanie</i>	16.11.2001			
Tonga	16.11.2001			
Turkey / <i>Turquie</i>	16.11.2001			
Ukraine	03.03.2004			
United Kingdom / <i>Royaume-Uni</i> (with declaration at signature / <i>avec déclaration à la signature</i>)	16.11.2001			
United States of America / <i>Etats-Unis d'Amérique</i>	09.05.2003	28.10.2004 (RT)	Arts. XIX(1), XXX(1)	01.03.2006