



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

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**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 January 2007 – 31 December 2007

## 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.<sup>1</sup> 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.

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<sup>1</sup> 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 1 January 2007 to 31 December 2007 (the Reporting Period).

### **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: Afghanistan, Angola, Ethiopia, Ireland, Malaysia, Nigeria, Oman, Pakistan, Panama, Senegal and the United States of America.

11. The following States became Contracting States to the Convention and Aircraft Protocol during the Reporting Period: Colombia, Indonesia, Kenya, Mexico, Mongolia, South Africa and Syria.<sup>2</sup>

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: Albania and Cape Verde.

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 Nigeria notified UNIDROIT pursuant to Articles 57(1) and 58(1) of the Convention of the withdrawal of its declaration under Article 54(2) of the Convention, and of the making of a substitute declaration under Article 54(2) of the Convention. During the Reporting Period the Government of Nigeria also notified UNIDROIT pursuant to Article XXXIII(1) of the Aircraft Protocol of the making of subsequent declarations under Articles XXX(1), XXX(2) and XXX(3) of the Aircraft Protocol.

15. During the Reporting Period, the Government of Kenya notified UNIDROIT pursuant to Articles 57(1) and 58(1) of the Convention of the withdrawal of its declaration under Article 39(1)(a) of the Convention, and of the making of a substitute declaration under Article 39(1)(a) of the Convention.

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<sup>2</sup> Syria became a Contracting State to the Convention only.

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

16. 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. One Contracting State provided information indicating that a number of transactions subject to the Convention and Aircraft Protocol, and involving the acquisition of aircraft and aircraft equipment, had been successfully completed and that the international interests arising from those transactions had been registered pursuant to the International Registry.

17. 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 holding of the second meeting the Commission of Experts of the Supervisory Authority of the International Registry (CESAIR) on 17 to 18 December 2007, which recommended a number of innovations to the Registry involving amendments to the Regulations and Procedures for the International Registry; and
- monitoring activities by the Supervisory Authority, including meetings and communications with the International Registry and receipt and processing of information received from the Depositary.

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

## APPENDIX A

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

<b>Adoption:</b>		Place: Cape Town / <i>Lieu</i> : Le Cap Date: 16.11.2001		
<b>Entry into force / <i>Entrée en vigueur</i>:</b>		Date: 01.03.2006 (ex Art. 49(1))		
<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
Albania / <i>Albanie</i>		30.10.2007 (AS)	Arts. 39(1)(a), 39(1)(b), 54(2)	01.02.2008
Angola		30.04.2006 (AS)	Arts. 39(1)(a), 40, 54(2)	01.08.2006
Burundi	16.11.2001			
Canada	31.03.2004			
Cape Verde / <i>Cap-Vert</i>		26.09.2007 (AS)	Arts. 39(1)(a), 40, 53, 54(2)	01.01.2008
Chile / <i>Chili</i>	16.11.2001			
China / <i>Chine</i>	16.11.2001			
Colombia / <i>Colombie</i>		19.02.2007 (AS)	Arts. 39(1)(a), 54(2)	01.06.2007
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)	01.04.20 04
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			
Indonesia / <i>Indonésie</i>		16.03.2007 (AS)	Arts. 39(1)(a), 39(1)(b), 40, 53, 54(2)	01.07.2007
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
Mexico / <i>Mexique</i>		31.07.2007 (AS)	Arts. 39(1)(a), 39(1)(b), 50, 53, 54(2), 60	01.11.2007
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)	Arts. 39(1)(a),* 40,* 53,* 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 / <i>Arabie saoudite</i>	12.03.2003			
Senegal / <i>Sénégal</i>	02.04.2002	09.01.2006 (RT)	Arts. 39(1)(a), 39(1)(b), 40, 52, 53, 54(2)	01.05.2006
South Africa / <i>Afrique du sud</i>	16.11.2001	18.01.2007 (RT)	Arts. 39(1)(a), 39(1)(b), 40, 54(2)	01.05.2007
Sudan / <i>Soudan</i>	16.11.2001			
Switzerland / <i>Suisse</i>	16.11.2001 <i>ad referendum</i>			
Syrian Arab Republic / <i>République arabe syrienne</i>		07.08.2007 (AS)		01.12.2007
Tanzania / <i>Tanzanie</i>	16.11.2001			
Tonga	16.11.2001			
Turkey / <i>Turquie</i>	16.11.2001			
Ukraine	09.03.2004			
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. 39(1)(a), 39(1)(b), 54(2)	01.02.2005

\* Affected by withdrawal and/or subsequent declaration. / *Fait l'objet d'un retrait et/ou d'une déclaration subséquente.*

**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**

<b>Adoption:</b>	Place: Cape Town / <i>Lieu</i> : Le Cap Date: 16-11-2001			
<b>Entry into force:</b> <i>Entrée en vigueur:</i>	Date: 01.03.2006 ( <i>ex Art.</i> XXVIII(1))			
<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
Albania / <i>Albanie</i>		30.10.2007 (AS)	Arts. XIX, XXX(1)	01.02.2008
Angola		30.04.2006 (AS)	Art. XXX(1), (2), (3)	01.08.2006
Burundi	16.11.2001			
Canada	31.03.2004			
Cape Verde / <i>Cap-Vert</i>		26.09.2007 (AS)	Art. XXX(1), (2), (3)	01.01.2008
Chile / <i>Chili</i>	16.11.2001			
China / <i>Chine</i>	16.11.2001			
Colombia / <i>Colombie</i>		19.02.2007 (AS)	Art. XXX(1), (2), (3)	01.06.2007
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			
Indonesia / <i>Indonésie</i>		16.03.2007 (AS)	Art. XXX(1), (2), (3)	01.07.2007
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
Mexico / <i>Mexique</i>		31.07.2007 (AS)	Arts. XIX, XXX(1), (3)	01.11.2007
Mongolia / <i>Mongolie</i>		19.10.2006 (AS)	Art. XXX(1), (2), (3)	01.02.2007
Nigeria	16.11.2001	16.12.2003 (RT)	Art. XXX(1), * (2), * (3)*	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
South Africa / <i>Afrique du sud</i>	16.11.2001	18.01.2007 (RT)	Arts. XXX(1), (2), (3)	01.05.2007
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, XXX(1)	01.03.2006

\* Affected by withdrawal and/or subsequent declaration. / *Fait l'objet d'un retrait et/ou d'une déclaration subséquente.*