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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 SPACE ASSETS

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 declaration	2
Introduction	2
Mandatory declaration (Contracting States)	2
Opt-in declarations	3
Opt-out declarations	3
Declarations relating to a Contracting State's own laws	3
Declaration relating to territorial units	3
Mandatory declarations (Regional Economic Integration Organisations)	4
Guide to the use of declaration forms	4
Role of Depositary, Supervisory Authority and Registrar	4
Declaration forms for Contracting States: introduction	4
Use of the declaration forms	5
Selection of alternative forms	5
Compatibility of declarations	5
Declaration forms for Regional Economic Integration Organisations	6
Language of declarations	6
Subsequent declarations, withdrawal of declarations and timing considerations	7
Presentation of declaration forms	7
Choices in relation to declarations	7
Decisions relating to declarations determined by Contracting States	7
Information about laws and policies relating to the matters covered by the Convention and Space Protocol	8

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

Form No. 1 – Specific declaration under Article 39(1)(a)	9
Form No. 2 – General declaration under Article 39(1)(a)	10
Form No. 3 – Specific declaration under Article 39(1)(b)	11
Form No. 4 – General declaration under Article 39(1)(b)	12
Form No. 5 – Declaration under Article 40	13
Form No. 6 – Specific declaration under Article 50	14
Form No. 7 – General declaration under Article 50	15
Form No. 8 – Specific declaration under Article 52	16
Form No. 9 – General declaration under Article 52	17
Form No. 10 – Declaration under Article 53	18
Form No. 11 – Declaration under Article 54(1)	19
Form No. 12-A – Mandatory declaration under Article 54(2) applicable to all relevant remedies	20
Form No. 12-B – Mandatory declaration under Article 54(2) requiring leave of the court in relation to specified relevant remedies	21
Form No. 13 – Declaration under Article 55 providing for the partial exclusion of the application of Article 13	22
Form No. 14 – Declaration under Article 55 providing for the total exclusion of the application of Article 13	23
Form No. 15 – Declaration under Article 55 providing for partial exclusion of the application of Article 43	24
Form No. 16 – Declaration under Article 55 providing for the total exclusion of the application of Article 43	25

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

Form No. 17 –	Declaration under Article XXXI providing for the designation of entry points for compulsory use as transmitters of registration information to the International Registry	26
Form No. 18 –	Declaration under Article XXXI providing for the designation of entry points for optional use as transmitters of registration information to the International Registry	27
Form No. 19 –	Specific declaration under Article XXXIX	28
Form No. 20 –	General declaration under Article XXXIX	29
Form No. 21 –	Declaration under Article XLI(1) in respect of Article XXVII(4)	30
Form No. 22 –	Declaration under Article XLI(2)(a) in respect of Article VIII	31
Form No. 23 –	Declaration under Article XLI(2)(b) in respect of Article XXII	32
Form No. 24 –	Declaration under Article XLI(3) in respect of Article XX providing for partial application of Article XX	33
Form No. 25 –	Declaration under Article XLI(3) in respect of Article XX providing for the application of the entirety of Article XX	34
Form No. 26 –	Specific declaration under Article XLI(4) in respect of Article XXI providing for the application of Alternative A in its entirety to certain types of insolvency proceeding	35
Form No. 27 –	General declaration under Article XLI(4) in respect of Article XXI providing for the application of Alternative A in its entirety to all types of insolvency proceeding	36
Form No. 28 –	Specific declaration under Article XLI(4) in respect of Article XXI providing for the application of Alternative B in its entirety to certain types of insolvency proceeding	37
Form No. 29 –	General declaration under Article XLI(4) in respect of Article XXI providing for the application of Alternative B in its entirety to all types of insolvency proceeding	38

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

Form No. 30 –	Mandatory declaration under Article 48(2)	39
Form No. 31 –	Mandatory declaration under Article XXXVII(2)	40

**APPENDIX 1 – TABLE OF DECLARATIONS CAPABLE OF BEING MADE UNDER  
THE CONVENTION AND SPACE 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 Space Assets* (the Space Protocol).

2. The Convention and Space Protocol provide for the making of declarations by Contracting States and Regional Economic Integration Organisations.<sup>1</sup> 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 Space Protocol. A table of all the declarations that may be made by Contracting States and Regional Economic Integration Organisations under the Convention and Space Protocol is found in **Appendix 1**.

### Background

3. During the development of the Convention and the Aircraft Protocol,<sup>2</sup> both of which were opened to signature at a diplomatic Conference in Cape Town on 16 November 2001, 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. This approach was once again adopted during the development of the Luxembourg Protocol,<sup>3</sup> though with a number of significant differences from the declarations capable of being made under the Aircraft Protocol. Given the general success of this system of declarations, the approach was also adopted under the Space Protocol.

4. The system of declarations provided for under the Convention and the Space 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 space assets.

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

<sup>2</sup> *Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment*.

<sup>3</sup> *Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock*, opened to signature in Luxembourg on 23 February 2007.

## Types of declaration

### *Introduction*

5. The declarations provided for under Articles 48(2) and 54(2) of the Convention and those provided for under Articles XXVII(4), XXXVII(2), and XLI(3) of the Space Protocol,<sup>4</sup> are mandatory declarations. All other declarations provided for under the Convention and the Space Protocol are optional in nature. There is also a category of declarations which can be made in respect of a Contracting State's own laws and which are neither mandatory nor of an opt-in or opt-out nature.

### *Mandatory declarations (Contracting States)*

6. The Convention provides for a 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 Space Protocol. For this reason, instruments of ratification, acceptance, approval of, or accession to, the Space 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, either the Aircraft Protocol or the Luxembourg Protocol, is not required to deposit another declaration under Article 54(2) upon its subsequent ratification of, or accession to, the Space Protocol.<sup>5</sup>

8. The Space Protocol also provides for one other mandatory declaration to be made by a Contracting State: under Article XLI(1) of the Space Protocol, and pursuant to Article XXVII(4) therein, a Contracting State must specify a time period – not less than three months nor more than six months – during which time a creditor holding an interest in a space asset that is the subject of a public service notice<sup>6</sup> may not, in the event of default, exercise any of the remedies provided in Chapter III of the Convention or Chapter II of the Space Protocol that would make the space asset unavailable for the provision of the relevant public service prior to the expiration of the time period specified in the declaration.

9. The mandatory declaration provided for by the Space Protocol under Article XLI(1) in respect of Article XXVII(4) is novel and unique to this Protocol. It is designed to balance the interests of the creditor – ensuring that its asset will not continue to be available without payment – against the interests of the Contracting State in ensuring that the exercise of a remedy by a creditor over a space asset does not result in a discontinuity in the provision of a public service.<sup>7</sup>

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<sup>4</sup> The declarations provided for under Article 48(2) of the Convention and Article XXXVII(2) of the Space Protocol are addressed to Regional Economic Integration Organisations.

<sup>5</sup> Article XLII of the Space Protocol provides that declarations made under the Convention shall be deemed to have been also made under the Space Protocol unless stated otherwise.

<sup>6</sup> Article XXVII(2)(a) of the Space Protocol provides that a "public service notice" means "a notice in the International Registry describing, in accordance with the regulations, the services which under the contract are intended to support the provision of a public service recognized as such under the laws of the relevant Contracting State at the time of registration". The "regulations" referred to are those that are to be promulgated under the Space Protocol by the Supervisory Authority for the future international registration system (cf. Article XXIX of the Space Protocol).

<sup>7</sup> The effects of a declaration under Article XXVII(4) are triggered by the registration of a public service notice, which can be done only by agreement of the Contracting State and the parties to the public service contract. Upon registration of the public service notice, the creditor may not exercise remedies that would make the space asset unavailable during the suspension period, which begins with the registration by the creditor of a

10. It is worth noting that, under the Space Protocol, certain declarations by a Contracting State are required to set out information without which the declaration cannot be accepted by the Depositary. The required information is to be provided by way of additional declarations which are mandatory only insofar as the corresponding declarations are made. The declarations that provide the required information are the applicable declaration under Article XX(2), which must be made when a declaration has been made under Article XLI(3) in respect of Article XX, and the applicable declaration under Article XXI, which must be made when a declaration has been made under Article XLI(4) in respect of Article XXI.

#### *Opt-in declarations*

11. 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 Space Protocol, to have effect in relation to that State. The provisions of the Space Protocol in respect of which opt-in declarations may be made are:

- Space Protocol: Articles XX, XXI, and XXII.

12. Article 60 of the Convention is also subject to an opt-in declaration but, under Article XL(1) of the Space Protocol, Article 60 does not apply in relation to space assets. The consequence of this provision is that a declaration under Article 60 may only be made in respect of the Aircraft and Luxembourg Protocols.

#### *Opt-out declarations*

13. 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 Space Protocol, *not* to have effect within that State. The provisions of the Convention and Space Protocol in respect of which opt-out declarations may be made are:

- Convention: Articles 8(1)(b), 13, 43, and 50; and
- Space Protocol: Article VIII.

#### *Declarations relating to a Contracting State's own laws*

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

- Convention: Articles 39, 40, and 53; and
- Space Protocol: Articles XXXI and XXXIX.

#### *Declaration relating to territorial units*

15. 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.

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notice that it will or may exercise default remedies if the debtor does not cure its default within the suspension period. The creditor must promptly notify the debtor and the public services provider of the date of registration of its notice and of the date of expiry of the suspension period. A Contracting State making a declaration under Article XXVII(4) may benefit from giving consideration to how the suspension of remedies for the time period declared under Article XXVII(4) may be waived under the circumstances provided for under Article XXVII(9).

### *Mandatory declarations (Regional Economic Integration Organisations)*

16. 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 XXXVII(2) of the Space 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 Space Protocol in respect of which competence has been transferred to that Organisation by its Member States.

## **Guide to the use of declaration forms**

### *Role of Depositary, Supervisory Authority and Registrar*

17. Under Article 62 of the Convention and Article XLVIII of the Space 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 XLIII(2) of the Space Protocol, any declaration or subsequent declaration or any withdrawal of a declaration made under the Convention or the Space Protocol is to be notified in writing to UNIDROIT, as Depositary.

18. Under Article 62 of the Convention and Article XLVIII of the Space 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.<sup>8</sup>

19. 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.

### *Declaration forms for Contracting States: introduction*

20. 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 XLIII(1) of the Space Protocol provides that no reservations may be made thereto but that declarations authorised by Articles XXXIX, XLI, XLII and XLIV may be made in accordance with those provisions. Declaration forms are provided herein for all these declarations, except for declarations authorised by Articles 57 and 58 of the Convention and Articles XLIV and XLV of the Space Protocol.<sup>9</sup>

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<sup>8</sup> Convention, Article 62(2)(c); Space Protocol, Article XLVIII(2)(c).

<sup>9</sup> Declarations under Article 57 of the Convention and Article XLIV of the Space Protocol relate to declarations which are made after the entry into force of the Convention and Space 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 XLV of the Space Protocol provide for the notification of withdrawal of a declaration: there is no standard form for such withdrawals. It should be noted that a declaration under Article 60 of the Convention may not be withdrawn, bearing in mind that this Article, under Article XL(1) of the Space Protocol, does not apply to space assets.

### *Use of the declaration forms*

21. Contracting States may lodge declarations in any form that complies with the requirements of the Convention and Space 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 Space Protocol.

22. Except for the *mandatory* declarations provided for under Article 54(2) of the Convention and Article XLI(1) of the Space Protocol, all the declarations under the Convention and Space Protocol are optional, so that Contracting States are under no *obligation* to complete any of the forms relating to these declarations.

23. Certain declaration forms include a choice between words or phrases, accompanied by instructions to strike out one of them. Where one has two options followed by the instruction to "strike out" an option, to "strike out" means to draw a line through the word or phrase that one wishes *not* to apply to that sentence; this has the effect of removing the word or phrase and its application from the sentence. Thus, the word or phrase which remains (the one not struck out) is the one that applies to the sentence and thus to the given declaration.

### *Selection of alternative forms*

24. Contracting States that choose to make one or more of the optional declarations under the Convention and the Space 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.

25. 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.

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

### *Compatibility of declarations*

27. 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. 5).

28. 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 Nos 13-16). 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.

29. In relation to Article XXI of the Space 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 (Forms Nos 22-25); however, a declaration may not be made covering only a part of either of the alternatives, nor may a declaration be made combining selected elements of Alternative A and Alternative B. (If a Contracting State does not make a declaration under Article XLI(4) of the Space Protocol in respect of Article XXI, its domestic insolvency law will continue to apply.)

#### *Declaration forms for Regional Economic Integration Organisations*

30. Under Article 48(1) of the Convention and Article XXXVII(1) of the Space Protocol, Regional Economic Integration Organisations which are constituted by sovereign States and have competence over certain matters governed by the Convention and Space Protocol may sign, accept, approve or accede to those instruments in the same way as States. Where they do so, under Article 48(3) of the Convention and Article XXXVII(3) of the Space Protocol, all references in the Convention and Space 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.

31. Under Article 48(2) of the Convention and Article XXXVII(2) of the Space Protocol, such a Regional Economic Integration Organisation must lodge declarations with the Depository at the time of its signature, acceptance, approval or accession, specifying the matters governed by the Convention and Space 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 Depository promptly of any changes to the distribution of competence, including any new transfers of competence, specified in its declaration.

32. Thus, once a Regional Economic Integration Organisation has signed, accepted, approved or acceded to the Convention and Space Protocol and lodged such declarations with the Depository in accordance with Article 48(1) and (2) of the Convention and Article XXXVII(1) and (2) of the Space Protocol, that Organisation may make the declarations authorised under the Convention and Space Protocol as regards those matters in respect of which competence has been transferred to it, as specified in its declaration. The capacity of the member States of the Organisation to make the declarations as regards those matters for which competence has been transferred to the Organisation will also be affected (on this matter see also paragraphs 37-42).

33. 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 XXXVII(2) of the Space Protocol, both of which declarations are mandatory in nature.

#### *Language of declarations*

34. The Contracting States' declarations under the Convention and Space Protocol play an essential part in the operation of the international registration system. Given the complexity of the issues involved in these declarations, and in particular the important consequences that will flow from a Contracting State's precise choice of words in the framing of each declaration, the efficient operation of the international registration system militates strongly in favour of employing 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 81<sup>st</sup> session (September 2002), and confirmed by resolution of the General Assembly of UNIDROIT Member States (December 2002), to urge Contracting States to ensure that they submit declarations under the Convention and its Protocols in one or other of the Institute's working languages, English and French.

#### *Subsequent declarations, withdrawal of declarations and timing considerations*

35. Article 57 of the Convention and Article XLIV of the Space Protocol provide for a State Party to make subsequent declarations after the date on which the Convention and Space Protocol have

entered into force for that State. Article 58 of the Convention and Article XLV of the Space Protocol provide for the withdrawal by States Parties 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 Space 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 that same Article and taking effect at the same time as withdrawal.
- (ii) One effect of Article 57 of the Convention and Article XLIV of the Space Protocol is to permit declarations, other than the mandatory declarations under Article 54(2) of the Convention and Article XLI(1) of the Space Protocol, 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 Space Protocol.

### *Presentation of declaration forms*

36. UNIDROIT, as Depositary of the Convention and Space Protocol, has prepared Model Declaration Forms that Contracting States and Regional Economic Integration Organisations may refer to when drafting their declarations under the Convention and Space 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 Space Protocol (Part III);
- Model Declaration Forms for Use by Regional Economic Integration Organisations under the Convention and Space Protocol (Part IV).

## **Choices in relation to declarations**

### *Decisions relating to declarations determined by Contracting States*

37. The question as to which declarations a Contracting State will make under the Convention and Space Protocol is one for each Contracting State to determine in accordance with its own circumstances.<sup>10</sup> Further, UNIDROIT, in its capacity of Depositary under the Convention and Space Protocol, has no role in evaluating the competence of a Contracting State (having regard, for example, to its internal constitutional arrangements or its membership within a Regional Economic Integration Organisation) to make a declaration. UNIDROIT will therefore accept any declaration that is deposited with it in compliance with the requirements of the Convention and Space Protocol.

38. There are many reasons why a Contracting State may decide not to make a declaration in relation to a particular Article of the Convention or Space Protocol. For example:

- in the case of an "opt-out" declaration - a Contracting State may want the relevant Article to apply to it and therefore not want to make a declaration that would exclude the application of the Article;

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<sup>10</sup> The exceptions are the mandatory declaration under Article 54(2) of the Convention and the mandatory declaration under Article XXVII(4) of the Space Protocol, which must be made at the time of a Contracting State's ratification of, or accession to, the Space Protocol. UNIDROIT is not able to accept the deposit of an instrument of ratification or accession in relation to the Space Protocol if the relevant State has not also submitted that declaration.

- in the case of an “opt-in” declaration – a Contracting State might regard the making of the declaration as being unnecessary if the laws and policies already applicable in the Contracting State achieve the same effect as would be achieved by the making of the declaration;
- a Contracting State may be a member of a Regional Economic Integration Organisation that has signed, accepted, approved, or acceded to the Convention (pursuant to Article 48 of the Convention) and the Space Protocol (pursuant to Article XXXVII of the Space Protocol), and the internal arrangements of that Organisation may affect the capacity of the Contracting State to make a declaration in relation to a particular Article.

*Information about laws and policies relating to the matters covered by the Convention and Space Protocol*

39. As noted above in paragraph 17, declarations under the Convention and Space Protocol must be notified in writing to the Depositary (Convention Article 56(2) and Space Protocol Article XLVIII(2)). In accordance with Article 62(2) of the Convention and Article XLVIII(2) of the Protocol, information about the declarations made by each Contracting State under the Convention and Space Protocol is formally communicated by the Depositary to all other Contracting States, to the Supervisory Authority and to the Registrar of the International Registry. Information about the declarations is also made available on the UNIDROIT website.<sup>11</sup> Other information, including information which could potentially promote understanding of the application of the Convention and Space Protocol in a particular Contracting State, is welcomed by the Depositary but is not required to be provided by Contracting States.

40. UNIDROIT welcomes information that a Contracting State may choose to provide about their laws and policies relating to the matters covered by the Convention and Space Protocol. Contracting States are not required to provide any such information, which, if provided, would be provided at the discretion of the particular Contracting State. Any such information would be separate and distinct from any declarations that the Contracting State might make under the Convention and Space Protocol. The following format is recommended for the transmission of any such information to UNIDROIT:

*(Name of State)* ..... makes available to UNIDROIT the following information about the laws and policies relating to the matters covered by the Convention and Space Protocol: *(provide the relevant information here)*  
 .....

41. The information, which may include references to, or copies of, laws and policies and which may be either general or specific to a particular topic or issue covered by the Convention and Space Protocol, is made available on the UNIDROIT website in order to provide Contracting States with an opportunity to promote understanding of the situation with respect to their rights and obligations under the Convention and Space Protocol.

<sup>11</sup> <http://www.unidroit.org/status-2012-space>

## PART II

# MODEL DECLARATION FORMS FOR USE BY STATES UNDER THE CONVENTION

### Form No. 1 Specific declaration under Article 39(1)(a)<sup>12</sup>

*(Name of the State)* ..... declares that the following categories of non-consensual right or interest *(list the relevant categories)* <sup>13</sup> <sup>14</sup> <sup>15</sup> .....

.....

..... have priority under its law over an interest in an object equivalent to that of the holder of a registered international interest and shall have priority over a registered international interest, whether in or outside insolvency proceedings *[and whether registered before or after (name of the State)'s (ratification) (acceptance) (approval) (accession)]*.<sup>16</sup>

<sup>12</sup> A Contracting State should use this form if it wishes to list the specific categories of non-consensual right or interest which under its law have priority over the equivalent of a registered international interest and which are to have priority over a registered international interest, whether in or outside insolvency proceedings. For a general declaration covering all categories of non-consensual right or interest, Form No. 2 should be used.

<sup>13</sup> The categories to be listed by a Contracting State cannot be broader, but may be narrower, than the categories which, under the law of the Contracting State, have priority without registration over an interest equivalent to that of the holder of an international interest.

<sup>14</sup> These categories may include specific categories to be created by the relevant Contracting State after the deposit of its declaration (cf. Article 39(2)).

<sup>15</sup> A Contracting State that uses this form to list specific categories of non-consensual right or interest must ensure that those specific 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 40 (Form No. 5).

<sup>16</sup> 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 or accession (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. 2**  
**General declaration under Article 39(1)(a)**<sup>17</sup>

*(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]*<sup>18</sup> 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)]*.<sup>19</sup>

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<sup>17</sup> 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.

<sup>18</sup> 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).

<sup>19</sup> 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)** <sup>20</sup>

(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*).

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<sup>20</sup> 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. 4**  
**General declaration under Article 39(1)(b)** <sup>21</sup>

*(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.

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<sup>21</sup> 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. 5**  
**Declaration under Article 40**

(Name of the State) ..... declares that the following categories of non-consensual right or interest (*list the relevant categories*)<sup>22</sup> ..... 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.<sup>23</sup>

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<sup>22</sup> 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).

<sup>23</sup> Such a declaration may be modified from time to time (cf. Article 40).

**Form No. 6**  
**Specific declaration under Article 50**<sup>24</sup>

(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*)  
.....  
.....

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<sup>24</sup> 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 object, Form No. 7 should be used.

**Form No. 7**  
**General declaration under Article 50**<sup>25</sup>

*(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.

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<sup>25</sup> 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 object, Form No. 6 should be used.

**Form No. 8**  
**Specific declaration under Article 52**<sup>26</sup>

(Name of the State) ..... declares that the Convention shall apply to the following of its territorial units (*list the relevant territorial unit or units*)<sup>27</sup> <sup>28</sup> <sup>29</sup> .....

.....

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<sup>26</sup> 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. 9 should be used.

<sup>27</sup> A State extending the application of the Convention to territorial units other than those listed in Form No. 8 may make separate declarations for each such other units under each of the declarations authorised under the Convention; cf. Article 52(4).

<sup>28</sup> 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).

<sup>29</sup> 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. 9**  
**General declaration under Article 52**<sup>30</sup>

(*Name of the State*) ..... declares that the Convention shall apply to all its territorial units.<sup>31 32</sup>

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<sup>30</sup> 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 a Contracting State's territorial units, Form No. 8 should be used.

<sup>31</sup> 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).

<sup>32</sup> 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**  
**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. 11**  
**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. 12-A**  
**Mandatory declaration under Article 54(2) applicable to all relevant remedies**<sup>33</sup>

(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.<sup>34</sup>

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<sup>33</sup> A Contracting State should use this form if it wishes 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 No. 12-B should be used.

<sup>34</sup> 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. 12-B**  
**Mandatory declaration under Article 54(2) requiring leave of the court in**  
**relation to specified relevant remedies <sup>35</sup>**

(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 court (*list the relevant remedies*)  
.....  
.....

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<sup>35</sup> A Contracting State should use this form if it wishes its declaration to apply in relation to 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 No. 12-A should be used.

**Form No. 13**  
**Declaration under Article 55 providing for the partial exclusion**  
**of Article 13** <sup>36 37</sup>

(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*) <sup>38</sup> .....  
.....

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<sup>36</sup> 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. 14 should be used.

<sup>37</sup> 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.

<sup>38</sup> 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. 14**  
**Declaration under Article 55 providing for the total exclusion of the application of Article 13** <sup>39 40</sup>

(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*) .....

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<sup>39</sup> 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. 13 should be used.  
<sup>40</sup> 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. 15**  
**Declaration under Article 55 providing for the partial exclusion of Article 43<sup>41 42</sup>**

(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*) <sup>43</sup> .....

.....

.....

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<sup>41</sup> 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. 16 should be used.

<sup>42</sup> 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.

<sup>43</sup> 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. 16**  
**Declaration under Article 55 providing for the total exclusion of the application of Article 43** <sup>44 45</sup>

(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*) .....

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<sup>44</sup> 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. 15 should be used.  
<sup>45</sup> 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.

## PART III

# MODEL DECLARATION FORMS FOR USE BY STATES UNDER THE SPACE PROTOCOL

### Form No. 17

## Declaration under Article XXXI providing for the designation of entry points for compulsory use as transmitters of registration information to the International Registry <sup>46</sup>

(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 national interest or a right or interest under Article 40 of the Convention in either case arising under the laws of another State.

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<sup>46</sup> A Contracting State should use this form only if it wishes the designated entry point or points to serve as the compulsory transmitter or transmitters to the International Registry of information required for the relevant registration. If use of the designated entry point or entry points is to be optional, Form No. 18 should be used.

**Form No. 18**  
**Declaration under Article XXXI providing for the designation of entry**  
**points for optional use as transmitters of registration information to**  
**the International Registry**<sup>47</sup>

(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.

---

<sup>47</sup> A Contracting State should use this form only if it wishes the designated entry point or points to serve as an optional transmitter or optional transmitters to the International Registry of information required for the relevant registration. If use of the designated entry point or entry points is to be compulsory, Form No. 17 should be used.

**Form No. 19**  
**Specific declaration under Article XXXIX**<sup>48</sup>

(Name of the State) ..... declares that the Space Protocol shall apply to the following of its territorial units (*list the relevant territorial unit*).....

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<sup>48</sup> A Contracting State should use this form if it wishes the Space Protocol to apply to less than all its territorial units. For a declaration relating to the application of the Space Protocol to all territorial units, Form No. 20 should be used.

**Form No. 20**  
**General declaration under Article XXXIX**<sup>49</sup>

*(Name of the State)* ..... declares that the Space Protocol shall apply to all its territorial units.<sup>50 51</sup>

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<sup>49</sup> A Contracting State should use this form if it wishes the Space Protocol to apply to all its territorial units. For a declaration relating to the application of the Space Protocol to less than all a Contracting State's territorial units, Form No. 19 should be used.

<sup>50</sup> Where a Contracting State has not made any declaration under Article XXXIX(1) the Space Protocol will automatically apply to all territorial units of that State; cf. Article XXXIX(3).

<sup>51</sup> Having made such a declaration under Article XXXIX, a Contracting State may modify its declaration by submitting another declaration at any time; cf. Article XXXIX(1).

**Form No. 21**  
**Declaration under Article XLI(1) in respect of Article XXVII(4) <sup>52</sup>**

(Name of the State) ..... declares that, pursuant to Article XXVII(4), the period to be applied for the purposes of Article XXVII(3) shall be (*specify the time period*) ..... <sup>53</sup>

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<sup>52</sup> Instruments of ratification, acceptance, approval of, or accession to the Space Protocol will not be able to be accepted by the Depositary unless they are accompanied by the mandatory declaration under Article XXVII(4) of the Space Protocol.

<sup>53</sup> The time period to be declared under Article XXVII(4) must be no less than three months and no greater than six months.

**Form No. 22**  
**Declaration under Article XLI(2)(a) in respect of Article VIII**

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

**Form No. 23**  
**Declaration under Article XLI(2)(b) in respect of Article XXII**

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

**Form No. 24**  
**Declaration under Article XLI(3) in respect of Article XX**  
**providing for partial application of Article XX**<sup>54</sup>

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

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<sup>54</sup> A Contracting State should use this form if it wishes to apply only certain provisions of Article XX. For a declaration relating to the application of Article XX in its entirety, Form No. 25 should be used.

**Form No. 25**  
**Declaration under Article XLI(3) in respect of Article XX**  
**providing for the application of the entirety of Article XX**<sup>55</sup>

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

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<sup>55</sup> A Contracting State should use this form if it wishes to apply all provisions of Article XX. For a declaration relating to the application of only certain provisions of Article XX, Form No. 24 should be used.

**Form No. 26**  
**Specific declaration under Article XLI(4) in respect of Article XXI**  
**providing for the application of Alternative A in its entirety to certain**  
**types of insolvency proceeding**<sup>56</sup>

(Name of the State) ..... declares that it will apply Article XXI, 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 XXI(4) of that Alternative shall be (*specify the waiting period*) .....

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<sup>56</sup> A Contracting State should use this form if it wishes to apply Alternative A of Article XXI 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 XXI to all types of insolvency proceeding, Form No. 27 should be used. For declarations relating to the application of Alternative B of Article XXI, either Form No. 28 or Form No. 29 should be used.

**Form No. 27**  
**General declaration under Article XLI(4) in respect of Article XXI**  
**providing for the application of Alternative A in its entirety to all types of**  
**insolvency proceeding**<sup>57</sup>

*(Name of the State)* ..... declares that it will apply Article XXI, Alternative A in its entirety to all types of insolvency proceeding and that the waiting period for the purposes of Article XXI(4) of that Alternative shall be (*specify the waiting period*) .....

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<sup>57</sup> A Contracting State should use this form if it wishes to apply Alternative A of Article XXI 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 XXI to only certain types of insolvency proceedings, Form No. 26 should be used. For declarations relating to the application of Alternative B of Article XXI, either Form No. 28 or Form No. 29 should be used.

**Form No. 28**  
**Specific declaration under Article XLI(4) in respect of Article XXI**  
**providing for the application of Alternative B in its entirety to certain**  
**types of insolvency proceeding**<sup>58</sup>

(Name of the State) ..... declares that it will apply Article XXI, Alternative B in its entirety to the following types of insolvency proceeding (*specify the relevant types of insolvency proceeding*) .....  
 .....and that the time specified for the purposes of Article XXI(2) of that Alternative shall be (*specify the time period*) .....  
 and shall commence not earlier than the time when the insolvency administrator or the debtor receives the creditor's request under Article XXI(2) of that Alternative.<sup>59</sup>

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<sup>58</sup> A Contracting State should use this form if it wishes to apply Alternative B of Article XXI 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 XXI to all types of insolvency proceedings, Form No. 29 should be used. For declarations relating to the application of Alternative A of Article XXI, either Form No. 26 or Form No. 27 should be used.

<sup>59</sup> It is recommended that Contracting States using this form should retain the words "and shall commence ... under Article XXI(2) of that Alternative", since, under Article XXI(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. 29**  
**General declaration under Article XLI(4) in respect of Article XXI**  
**providing for the application of Alternative B in its entirety to all types of**  
**insolvency proceeding**<sup>60</sup>

(*Name of the State*) ..... declares that it will apply Article XXI, Alternative B in its entirety to all types of insolvency proceeding and that the time specified for the purposes of Article XXI(2) of that Alternative shall be (*specify the time period*) ..... and shall commence not earlier than the time when the insolvency administrator or the debtor receives the creditor's request under Article XXI(2) of that Alternative.<sup>61</sup>

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<sup>60</sup> A Contracting State should use this form if it wishes to apply Alternative B of Article XXI 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 XXI to only certain types of insolvency proceedings, Form No. 28 should be used. For declarations relating to the application of Alternative A of Article XXI, either Form No. 26 or Form No. 27 should be used.

<sup>61</sup> It is recommended that Contracting States using this form should retain the words "and shall commence ... under Article XXI(2) of that Alternative", since, under Article XXI(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.

**PART IV**

**MODEL DECLARATION FORMS FOR USE BY REGIONAL  
ECONOMIC INTEGRATION ORGANISATIONS  
UNDER THE CONVENTION AND THE SPACE PROTOCOL**

**Form No. 30  
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. 31**  
**Mandatory declaration under Article XXXVII(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 Space Protocol (specify the matters concerned) .....

.....

.....

**APPENDIX 1****Table of Declarations Capable of Being Made Under  
the Convention and Space Protocol****CONVENTION**

<b>Related Article</b>	<b>Description</b>	<b>Form</b>
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	5
48(2)	Competence of Regional Economic Integration Organisations	30
50	Application of Convention to internal transactions	6, 7
52	Application of Convention in relation to territorial units	8, 9
53	Determination of courts	10
54(1)	Granting of lease over charged object by chargee	11
54(2)	Exercise of remedies with leave of the court	12-A, 12-B
55	Relief pending final determination	13, 14, 15, 16

**SPACE PROTOCOL**

<b>Related Article</b>	<b>Description</b>	<b>Form</b>
VIII	Choice of law	22
XX	Relief pending final determination	24, 25
XXI	Remedies on insolvency	26, 27, 28, 29
XXII	Insolvency assistance	23
XXVII(4)	Limitations on remedies in respect of public service	21
XXXI	Designation of entry points	18, 19
XXXVII(2)	Competence of Regional Economic Integration Organisations	31
XXXIX	Territorial units	28, 29