

**ADMINISTRATIVE PACKAGE
FOR RATIFICATION OF OR ACCESSION TO
THE CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT
AND
THE PROTOCOL THERETO ON MATTERS SPECIFIC TO AIRCRAFT EQUIPMENT**

SIGNED AT CAPE TOWN ON 16 NOVEMBER 2001

1) **Full Names of Instruments:**

*Convention on International Interests in Mobile Equipment,
signed at Cape Town on 16 November 2001* (Doc 9793)

*Protocol to the Convention on International Interests in Mobile Equipment on Matters specific
to Aircraft Equipment,
signed at Cape Town on 16 November 2001* (Doc 9794)

2) **History:**

The Diplomatic Conference to Adopt a Mobile Equipment Convention and an Aircraft Protocol held under the joint auspices of the International Civil Aviation Organization (ICAO) and the International Institute for the Unification of Private Law (UNIDROIT) held at Cape Town from 29 October to 16 November 2001.

3) **Summary:**

According to Article 6(1) of the Convention, the Convention and the Protocol are to be read and interpreted together as a single instrument. Accordingly, the Diplomatic Conference endorsed in its Resolution No. 1 the *Consolidated Text* (Doc 9795) with a view to facilitating the implementation of the rules contained in the Convention and the Protocol in a user-friendly manner.

The Convention and the Protocol are designed principally to overcome the problem of obtaining secure and readily enforceable rights in high-value aircraft objects, namely airframes, aircraft engines and helicopters, which by their nature have no one fixed location. This problem derives essentially from the widely differing approaches taken by legal systems to security, title reservation and leasing rights, engendering uncertainty amongst intending financiers as to the efficacy of their rights. The result is to inhibit the extension of finance in respect of such high-value aircraft objects and to increase borrowing costs.

The Convention and the Protocol break new ground in laying down a set of substantive rules governing speedy relief pending final determination of a creditor's claim and the priority of competing interests in mobile equipment and competing assignments of such interests. An international regime which provides proper protection for security interests and title-retention rights should reduce risks for creditors, and consequently borrowing costs for debtors, and facilitate the extension of credit for the acquisition of aircraft objects. At the same time the two instruments embody a range of safeguards for debtors to ensure that remedies are exercised in a commercially reasonable fashion, that a debtor against whom an order for interim relief is made is protected in the event that the creditor's claim is ultimately unsuccessful, and that debtors who

are honouring their obligations are given a right of quiet possession against their creditors and third parties whose rights are subordinate to their own.

According to Article 16(1) of the Convention, an International Registry is to be established for registrations of, first, international interests, prospective international interests and registrable non-consensual rights and interests, secondly, assignments and prospective assignments of international interests, thirdly, acquisitions of international interests by legal or contractual subrogations under the applicable law, fourthly, notices of national interests and, finally, subordinations of any of the aforementioned interests. Pursuant to Article 41 of the Convention, sales and prospective sales may also be registered in the International Registry to be established for aircraft objects, in accordance with Article III of the Aircraft Protocol. The importance of registration under the new international regimen ushered in by the Convention and the Aircraft Protocol is brought out in Chapter VIII (Effects of an international interest against third parties) of the Convention, and in particular by Article 29 (Priority of competing interests), paragraph 1 of which provides that “a registered interest has priority over any other interest subsequently registered and over an unregistered interest”.

4) **Main reasons for ratification:**

The advantages that States may expect to derive from becoming Parties to the Convention and the Aircraft Protocol are both legal and economic in nature.

Legal advantages — Through the creation of a new uniform international regimen governing the taking of security in high-value mobile equipment, based on the creation of an international interest in such categories of equipment that is to be recognised in all Contracting States and on the establishment of an electronic international registration system for the registration of such interests, the Convention and the Protocol will greatly improve predictability as to the enforceability of security, title reservation and leasing rights in aircraft objects.

Economic advantages — The creation of this new international regimen facilitating the creation, perfection and enforceability of security, title reservation and leasing rights in aircraft objects will provide confidence to lenders and institutional investors, making it possible to convert illiquid loans into liquid securities and to attract domestic and foreign capital in respect of such equipment. It will improve opportunities for asset-based financing of high-value aircraft equipment. By virtue of the improved legal predictability that it will permit, it should reduce risks for creditors and consequently borrowing costs for debtors and facilitate the extension of credit for the acquisition of high-value aircraft equipment. It is to be noted that, in so far as financing is typically a condition to the acquisition and use of aircraft and aircraft engines, the Convention and the Aircraft Protocol will contribute to improved safety by assisting airlines in many jurisdictions in their efforts to modernise and upgrade their fleets.

5) **Entry into force:**

The Aircraft Protocol and the Cape Town Convention as applied to aircraft equipment entered into force on 1 March 2006.

6) **Depositary:**

The International Institute for the Unification of Private Law (UNIDROIT)
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Important:

Please consult the depositary's website or contact the depositary for information with regard to:

- Model instruments of ratification or accession;
- Explanatory memorandum for the assistance in the completing of declarations; and
- Designation of entry points.